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#### Restrictions are prohibitions --- the aff is distinct

Jean Schiedler-Brown 12, Attorney, Jean Schiedler-Brown & Associates, Appellant Brief of Randall Kinchloe v. States Dept of Health, Washington, The Court of Appeals of the State of Washington, Division 1, http://www.courts.wa.gov/content/Briefs/A01/686429%20Appellant%20Randall%20Kincheloe%27s.pdf

3. The ordinary definition of the term "restrictions" also does not include the reporting and monitoring or supervising terms and conditions that are included in the 2001 Stipulation.

Black's Law Dictionary, 'fifth edition,(1979) defines "restriction" as;

A limitation often imposed in a deed or lease respecting the use to which the property may be put. The term "restrict' is also cross referenced with the term "restrain." Restrain is defined as; To limit, confine, abridge, narrow down, restrict, obstruct, impede, hinder, stay, destroy. To prohibit from action; to put compulsion on; to restrict; to hold or press back. To keep in check; to hold back from acting, proceeding, or advancing, either by physical or moral force, or by interposing obstacle, to repress or suppress, to curb.

In contrast, the terms "supervise" and "supervisor" are defined as; To have general oversight over, to superintend or to inspect. See Supervisor. A surveyor or overseer. . . In a broad sense, one having authority over others, to superintend and direct. The term "supervisor" means an individual having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but required the use of independent judgment.

Comparing the above definitions, it is clear that the definition of "restriction" is very different from the definition of "supervision"-very few of the same words are used to explain or define the different terms. In his 2001 stipulation, Mr. Kincheloe essentially agreed to some supervision conditions, but he did not agree to restrict his license.

#### Restrictions on authority are distinct from conditions

William Conner 78, former federal judge for the United States District Court for the Southern District of New York United States District Court, S. D. New York, CORPORACION VENEZOLANA de FOMENTO v. VINTERO SALES, http://www.leagle.com/decision/19781560452FSupp1108\_11379

Plaintiff next contends that Merban was charged with notice of the restrictions on the authority of plaintiff's officers to execute the guarantees. Properly interpreted, the "conditions" that had been imposed by plaintiff's Board of Directors and by the Venezuelan Cabinet were not "restrictions" or "limitations" upon the authority of plaintiff's agents but rather conditions precedent to the granting of authority. Essentially, then, plaintiff's argument is that Merban should have known that plaintiff's officers were not authorized to act except upon the fulfillment of the specified conditions.

#### “In the area” means all of the activities

UN 13, United Nations Law of the Sea Treaty, http://www.un.org/depts/los/convention\_agreements/texts/unclos/part1.htm

PART I¶ INTRODUCTION¶ Article 1

Use of terms and scope¶ 1. For the purposes of this Convention: (1) "Area" means the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction; (2) "Authority" means the International Seabed Authority; (3) "activities in the Area" means all activities of exploration for, and exploitation of, the resources of the Area;

#### Vote neg---

#### Neg ground---only prohibitions on particular authorities guarantee links to every core argument like flexibility and deference

#### Limits---there are an infinite number of small hoops they could require the president to jump through---overstretches our research burden

### Off

#### War powers authority is enumerated in prior statutes---restrictions need to be on a specified source of authority

Curtis Bradley 10, Richard A. Horvitz Professor of Law and Professor of Public Policy Studies, Duke Law School, Curtis, “CLEAR STATEMENT RULES AND EXECUTIVE WAR POWERS” http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=2730&context=faculty\_scholarship

The scope of the President’s independent war powers is **notoriously unclear**, and courts are understandably reluctant to issue constitutional rulings that might deprive the federal government as a whole of the flexibility needed to respond to crises. As a result, courts often look for signs that Congress has either supported or opposed the President’s actions and rest their decisions on statutory grounds. This is essentially the approach outlined by Justice Jackson in his concurrence in Youngstown.1 For the most part, the Supreme Court has also followed this approach in deciding executive power issues relating to the war on terror. In Hamdi v. Rumsfeld, for example, Justice O’Connor based her plurality decision, which allowed for military detention of a U.S. citizen captured in Afghanistan, on Congress’s September 18, 2001, Authorization for Use of Military Force (AUMF).2 Similarly, in Hamdan v. Rumsfeld, the Court grounded its disallowance of the Bush Administration’s military commission system on what it found to be congressionally imposed restrictions.3 The Court’s decision in Boumediene v. Bush4 might seem an aberration in this regard, but it is not. Although the Court in Boumediene did rely on the Constitution in holding that the detainees at Guantanamo have a right to seek habeas corpus re‐ view in U.S. courts, it did not impose any specific restrictions on the executive’s detention, treatment, or trial of the detainees.5 In other words, Boumediene was more about preserving a role for the courts than about prohibiting the executive from exercising statutorily conferred authority.

#### express Congressional authorization is key

Curtis Bradley 10, Richard A. Horvitz Professor of Law and Professor of Public Policy Studies, Duke Law School, Curtis, “CLEAR STATEMENT RULES AND EXECUTIVE WAR POWERS” <http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=2730&context=faculty_scholarship>

Nevertheless, the contextual considerations outlined above support a requirement of more express congressional authorization for the Al‐Marri situation, for several reasons. First, his‐ torical practice is less helpful to the executive in the Al‐Marri context than in Hamdi: When one moves away from individuals connected to the fighting in Afghanistan, one is moving towards something more like indefinite detention, not just detention during active combat. To then apply nontraditional detention authority to individuals residing in U.S. territory is an additional step that further suggests the desirability of multi‐ branch deliberation.

Second,  considerations  of  functional  necessity  also  seem  low here: al‐Marri was already going to be tried in civilian court, and he was a class of one in terms of so‐called enemy combatants currently detained in the United States.44 More‐ over, this class has had a total of only three people during the war on terror, one of whom (Hamdi) was released and the other of whom (Padilla) was eventually tried in a regular ci‐ vilian court. With these facts, it is far from clear that a domes‐ tic military detention authority was necessary in order to fight  the war on terror effectively.

Third, there is also a reasonable argument that Congress had already attempted to regulate the al‐Marri situation in the Pa‐ triot Act because the Act contains provisions that allow for de‐ tention of alien residents suspected of being connected with terrorism, while also disallowing indefinite detention.45 Fourth, the amount of time that had elapsed since the enactment of the AUMF is also relevant, both because a variety of issues have arisen that probably were not anticipated by Congress and because the executive branch has had plenty of time to work with  Congress to obtain more specific legislation.

Finally, although the executive could argue that the deten‐ tion relates to a Commander‐in‐Chief power—interacting with  the enemy—and that Congress had identified al Qaeda as the  enemy, the enemy class is much more uncertain here than in  traditional wars. The al Qaeda organization is a decentralized  and  amorphous  collection  of  groups  with  no  clear  chain  of  command, and affiliation with that organization is both non‐ obvious and varies in extent from individual to individual.

Pushing this issue to Congress would likely produce more guidance for the courts about how to define the enemy class, a difficult issue once one moves beyond a traditional battlefield context. To put it differently, there is a good case here for a “democracy‐forcing” construction of the AUMF, similar to what the Court did in Hamdan.46

What this analysis ultimately suggests is that deciding issues of executive war powers requires contextual and pragmatic judgment rather than resort to abstract classifications, whether they are liberal or conservative in character, some‐ thing that Justice Jackson recognized in his justifiably famous Youngstown concurrence. Jackson’s concurrence is now so celebrated that it is becoming almost de rigueur among legal academics to criticize it, and some aspects of his three‐tiered framework are certainly vulnerable to criticism.47 Neverthe‐ less, as a starting point for the application of judicial review in  cases involving challenges to executive war powers, it still has  much to commend it.

#### Vote neg---

#### Limits---allowing restrictions on potential authorities blows the lid off the topic---makes adequate preparation and clash impossible --- also kills precision

### Off

#### The United States Federal government should limit the war power authority of the President for self-defense assassinations to outside an armed conflict.

#### Language of TK’s causes an inevitable slide towards accepting state violence---the CP’s an important historical investigation

Craig Jones 13, PhD student at the University of British Columbia, Vancouver. Department of Geography. Scholar at the Liu Institute for Global Issues at UBC. Legitimate target?, warlawspace.com/tag/targeted-killing/

Targeted killing is both an anesthetising discourse and a euphemistic one. Israel invented modern targeted killing as a name and a practice: it was the first state to ever publically acknowledge that its armed forces carried out targeted killings as a matter of official policy. When Israel began this policy it was opposed vehemently by the international community. British Foreign Secretary Jack Straw claimed that the assassinations were “unlawful, unjustified and self-defeating“. The E.U. said the policy amounted to “extrajudicial killings” while the U.S. said such action was “heavy-handed”. Even George Bush opined that such behaviour did not “contribute to peace in the Middle East“. Israel continued and indeed still continues its policy of targeting and killing Palestinians: since 2000 over 430 have been killed by this method, 3/4 of them in Gaza, according to Israeli human rights group B’Tselem.

It is extraordinary to think that just 10 years ago, and even after 9/11, the U.S. government was opposed targeted killings, at least on the official record. We know that the CIA have been involved in numerous assassinations and assassination attempts (for an overview of which you can see a little-known but immensely revealing report published by the U.S. Senate in 1977) but the key difference in 2000 was that Israel took the unprecedented step of taking full responsibility for conducting an assassination. It didn’t call it that, or at least it didn’t call it that for long. Israel immediately stopped using the word “assassination”, and dropped all terms which carry a negative and illegal connotation. In 2001, Attorney General Elyakim Rubinstein pointed out that the term “liquidation” damages Israel’s image and proposed that it was better to use the phrase “targeted killing” to describe the policy. The change in terminology is immensely significant because it changes the act of killing from one that is always-already illegal to one that is, if not persuasively, then at least plausibly, legal and permissible. If the plausibility clause could survive, then the legalization of targeted killing could take place through a number of legal fora, political statements and – with time – state practice and customary international law.

The lawyers and the leaders moved fast. On 3 July 2001, the “kitchen cabinet” gave the Israeli army “a broader license to liquidate Palestinian terrorists” and allowed the army “to act against known terrorists even if they are not on the verge of committing a major attack”. In February 2002, the Judge Advocate General of the Israeli army issued further guidelines legitimizing assassinations and the policy was justified publicly as part of a “war of commandment” by the highest religious authorities in Israel. Targeted killing had been sanctioned from on high in the Israeli legal and religious elite.

But contrary to what I have led my readers to believe, assassination and its transformation into targeted killing is only one small part of my proposed research. What I am really interested in is the law of targeted killing, and looking at the parallels – and differences – between assassination and targeted killing provide one avenue through which we can examine the historical contours of targeted killing law. But I have gone on for too long and I haven’t even reached the interesting bit yet.

### Off

#### The affirmative’s acquiescence to the law cements epistemologically suspect juridical warfare---that naturalizes global preemptive violence

John Morrissey 11, Lecturer in Political and Cultural Geography, National University of Ireland, Galway; has held visiting research fellowships at University College Cork, City University of New York, Virginia Tech and the University of Cambridge. Liberal Lawfare and Biopolitics: US Juridical Warfare in the War on Terror, Geopolitics, Volume 16, Issue 2, 2011

Foucault’s envisioning of a more governmentalized and securitized modernity, framed by a ubiquitous architecture of security, speaks on various levels to the contemporary US military’s efforts in the war on terror, but I want to mention three specifically, which I draw upon through the course of the paper. First, in the long war in the Middle East and Central Asia, the US military actively seeks to legally facilitate both the ‘circulation’ and ‘conduct’ of a target population: its own troops. This may not be commonly recognized in biopolitical critiques of the war on terror but, as will be seen later, the Judge Advocate General Corps has long been proactive in a ‘juridical’ form of warfare, or lawfare, that sees US troops as ‘technical-biopolitical’ objects of management whose ‘operational capabilities’ on the ground must be legally enabled. Secondly, as I have explored elsewhere, the US military’s ‘grand strategy of security’ in the war on terror — which includes a broad spectrum of tactics and technologies of security, including juridical techniques — has been relentlessly justified by a power/knowledge assemblage in Washington that has successfully scripted a neoliberal political economy argument for its global forward presence.’9 Securitizing economic volatility and threat and regulating a neoliberal world order for the good of the global economy are powerful discursive touchstones registered perennially on multiple forums in Washington — from the Pentagon to the war colleges, from IR and Strategic Studies policy institutes to the House and Senate Armed Services Committees — and the endgame is the legitimization of the military’s geopolitical and biopolitical technologies of power overseas,20 Finally, Foucault’s conceptualization of a ‘society of security’ is marked by an urge to ‘govern by contingency’, to ‘anticipate the aleatory’, to ‘allow for the evental’.2’ It is a ‘security society’ in which the very language of security is promissory, therapeutic and appealing to liberal improvement. The lawfare of the contemporary US military is precisely orientated to plan for the ‘evental’, to anticipate a 4 series of future events in its various ‘security zones’ — what the Pentagon terms ‘Areas of Responsibility’ or ‘AORs’ (see figure 1)•fl These AORs equate, in effect, to what Foucault calls “spaces of security”, comprising “a series of possible events” that must be securitized by inserting both “the temporal” and “the uncertain”. And it is through preemptive juridical securitization ‘beyond the battlefield’ that the US military anticipates and enables the necessary biopolitical modalities of power and management on the ground for any future interventionary action.

AORs and the ‘milieu’ of security

For CENTCOM Commander General David Petraeus, and the other five US regional commanders across the globe, the population’ of primary concern in their respective AORs is the US military personnel deployed therein. For Petraeus and his fellow commanders, US ground troops present perhaps less a collection of “juridical-political” subjects and more what Foucault calls “technical- political” objects of “management and government”.25 In effect, they are tasked with governing “spaces of security” in which “a series of uncertain elements” can unfold in what Foucault terms the “milieu”.26 What is at stake in the milieu’ is “the problem of circulation and causality”, which must be anticipated and pLanned for in terms of “a series of possible events” that need to “be regulated within a multivalent and transformable framework”.27 And the “technical problem” posed by the eighteenth-century town planners Foucault has in mind is precisely the same technical problem of 5 space, population and regulation that US military strategists and Judge Advocate General Corps (JAG) personnel have in the twenty-first century.

For US military JAGs, their endeavours to legally securitize the AORs of their regional commanders are ultimately orientated to “fabricate, organize, and plan a milieu” even before ground troops are deployed (as in the case of the first action in the war on terror, which I return to later: the negotiation by CENTCOM JAGs of a Status of Forces Agreement with Uzbekistan in early October 2OO1).2 JAGs play a key role in legally conditioning the battlefield, in regulating the circulation of troops, in optimizing their operational capacities, and in sanctioning the privilege to kill. The JAG’s milieu is a “field of intervention”, in other words, in which they are seeking to “affect, precisely, a population”.29 To this end, securing the aleatory or the uncertain is key. As Michael Dillon argues, central to the securing of populations are the “sciences of the aleatory or the contingent” in which the “government of population” is achieved by the regulation of “statistics and probability”.30 As he points out elsewhere, you “cannot secure anything unless you know what it is”, and therefore securitization demands that “people, territory, and things are transformed into epistemic objects”.3’ And in planning the milieu of US ground forces overseas, JAGs translate regional AORs into legally-enabled grids upon which US military operations take place. This is part of the production of what Matt Hannah terms “mappable landscapes of expectation”;32 and to this end, the aleatory is anticipated by planning for the ‘evental’ in the promissory language of securitization.

The ontology of the event’ has recently garnered wide academic engagement. Randy Martin, for example, has underlined the evental discursive underpinnings of US military strategy in the war on terror; highlighting how the risk of future events results in ‘preemption’ being the tactic of their securitization.33 Naomi Klein has laid bare the powerful event-based logic of disaster capitalism’;34 while others have pointed out how an ascendant logic of premediation’. in which the future is already anticipated and mediated”. is a marked feature of the “post-9/1 I cultural landscape”.35 But it was Foucault who first cited the import of the evental’ in the realm of biopolitics. He points to the “anti-scarcity system” of seventeenth-century Europe as an early exemplar of a new ‘evental’ biopolitics in which “an event that could take place” is prevented before it “becomes a reality”.36 To this end, the figure of ‘population’ becomes both an ‘object’, “on which and towards which mechanisms are directed in order to have a particular effect on it”, but also a ‘subject’, “called upon to conduct itself in such and such a fashion”.37 Echoing Foucault, David Nally usefully argues that the emergence of the “era of bio-power” was facilitated by “the ability of ‘government’ to seize, manage and control individual bodies and whole populations”.38 And this is part of Michael Dillon’s argument about the “very operational heart of the security dispositif of the biopolitics of security”, which seeks to ‘strategize’, ‘secure’. ‘regulate’ and ‘manipulate’ the “circulation of species Iife”.3 For the US military, it is exactly the circulation and regulation of life that is central to its tactics of lawfare to juridically secure the necessary legal geographies and biopolitics of its overseas ground presence.

#### The affirmatives spatialization of law fails to recognize that the state of emergency has become permanent and all-encompassing---the 1ac is a tool of liberal lawfare used to sanitize expansive violence

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Security, not liberty: the ‘permanent emergency’ of the security society

The US military’s evident disdain for international law, indifference to the pain of ‘Others’ and endless justifying of its actions via the language of ‘emergency’ have prompted various authors to reflect on Giorgio Agamben’s work, in particular, on bare life and the state of exception in accounting for the functioning of US sovereign power in the contemporary world.111 Claudio Minca, for example, has used Agamben to attempt to lay bare US military power in the spaces of exception of the global war on terror; for Minca, “it is precisely the absence of a theory of space able to inscribe the spatialisation of exception that allows, today, such an enormous, unthinkable range of action to sovereign decision”.112 This critique speaks especially to the excessive sovereign violence of our times, all perpetrated in the name of a global war on terror.113 Minca’s argument is that geography as a discipline has failed to geo-graph and theorise the spatialization of the ‘pure’ sovereign violence of legitimated geopolitical action overseas. He uses the notion of the camp to outline the spatial manifestation and endgame of a new global biopolitical ‘nomos’ that has unprecedented power to except bare life.114

In the ‘biopolitical nomos’ of camps and prisons in the Middle East and elsewhere, managing detainees is an important element of the US military project. As CENTCOM Commander General John Abizaid made clear to the Senate Armed Services Committee in 2006, “an essential part of our combat operations in both Iraq and Afghanistan entails the need to detain enemy combatants and terrorists”.115 However, it is a mistake to characterize as ‘exceptional’ the US military’s broader biopolitical project in the war on terror. Both Minca’s and Agamben’s emphasis on the notion of ‘exception’ is most convincing when elucidating how the US military has dealt with the ‘threat’ of enemy combatants, rather than how it has planned for, legally securitized and enacted, its ‘own’ aggression against them. It does not account for the proactive juridical warfare of the US military in its forward deployment throughout the globe, which rigorously secures classified SOFAs with host nations and protects its armed personnel from transfer to the International Criminal Court. Far from designating a ‘space of exception’, the US does this to establish normative parameters in its exercise of legally sanctioned military violence and to maximize its ‘operational capacities of securitization’.

A bigger question, of course, is what the US military practices of lawfare and juridical securitization say about our contemporary moment. Are they essentially ‘exceptional’ in character, prompted by the so-called exceptional character of global terrorism today? Are they therefore enacted in ‘spaces of exceptions’ or are they, in fact, simply contemporary examples of Foucault’s ‘spaces of security’ that are neither exceptional nor indeed a departure from, or perversion of, liberal democracy? As Mark Neocleous so aptly puts it, has the “liberal project of ‘liberty’” not always been, in fact, a “project of security”?116 This ‘project of security’ has long invoked a powerful political dispositif of ‘executive powers’, typically registered as ‘emergency powers’, but, as Neocleous makes clear, of the permanent kind.117 For Neocleous, the pursuit of ‘security’ – and more specifically ‘capitalist security’ – marked the very emergence of liberal democracies, and continues to frame our contemporary world. In the West at least, that world may be endlessly registered as a liberal democracy defined by the ‘rule of law’, but, as Neocleous reminds us, the assumption that the law, decoupled from politics, acts as the ultimate safeguard of democracy is simply false – a key point affirmed by considering the US military’s extensive waging of liberal lawfare. As David Kennedy observes, the military lawyer who “carries the briefcase of rules and restrictions” has long been replaced by the lawyer who “participate[s] in discussions of strategy and tactics”.118

The US military’s liberal lawfare reveals how the rule of law is simply another securitization tactic in liberalism’s ‘pursuit of security’; a pursuit that paradoxically eliminates fundamental rights and freedoms in the ‘name of security’.119 This is a ‘liberalism’ defined by what Michael Dillon and Julian Reid see as a commitment to waging ‘biopolitical war’ for the securitization of life – ‘killing to make live’.120 And for Mark Neocleous, (neo)liberalism’s fetishization of ‘security’ – as both a discourse and a technique of government – has resulted in a world defined by anti-democratic technologies of power.121 In the case of the US military’s forward deployment on the frontiers of the war on terror – and its juridical tactics to secure biopolitical power thereat – this has been made possible by constant reference to a neoliberal ‘project of security’ registered in a language of ‘endless emergency’ to ‘secure’ the geopolitical and geoeconomic goals of US foreign policy.122 The US military’s continuous and indeed growing military footprint in the Middle East and elsewhere can be read as a ‘permanent emergency’,123 the new ‘normal’ in which geopolitical military interventionism and its concomitant biopolitical technologies of power are necessitated by the perennial political economic ‘need’ to securitize volatility and threat.

Conclusion: enabling biopolitical power in the age of securitization

“Law and force flow into one another. We make war in the shadow of law, and law in the shadow of force” – David Kennedy, Of War and Law 124

Can a focus on lawfare and biopolitics help us to critique our contemporary moment’s proliferation of practices of securitization – practices that appear to be primarily concerned with coding, quantifying, governing and anticipating life itself? In the context of US military’s war on terror, I have argued above that it can. If, as David Kennedy points out, the “emergence of a global economic and commercial order has amplified the role of background legal regulations as the strategic terrain for transnational activities of all sorts”, this also includes, of course, ‘warfare’; and for some time, the US military has recognized the “opportunities for creative strategy” made possible by proactively waging lawfare beyond the battlefield.125 As Walter Benjamin observed nearly a century ago, at the very heart of military violence is a “lawmaking character”.126 And it is this ‘lawmaking character’ that is integral to the biopolitical technologies of power that secure US geopolitics in our contemporary moment. US lawfare focuses “the attention of the world on this or that excess” whilst simultaneously arming “the most heinous human suffering in legal privilege”, redefining horrific violence as “collateral damage, self-defense, proportionality, or necessity”.127 It involves a mobilization of the law that is precisely channelled towards “evasion”, securing 23 classified Status of Forces Agreements and “offering at once the experience of safe ethical distance and careful pragmatic assessment, while parcelling out responsibility, attributing it, denying it – even sometimes embracing it – as a tactic of statecraft and war”.128

Since the inception of the war on terror, the US military has waged incessant lawfare to legally securitize, regulate and empower its ‘operational capacities’ in its multiples ‘spaces of security’ across the globe – whether that be at a US base in the Kyrgyz Republic or in combat in Iraq. I have sought to highlight here these tactics by demonstrating how the execution of US geopolitics relies upon a proactive legal-biopolitical securitization of US troops at the frontiers of the American ‘leasehold empire’. For the US military, legal-biopolitical apparatuses of security enable its geopolitical and geoeconomic projects of security on the ground; they plan for and legally condition the ‘milieux’ of military commanders; and in so doing they render operational the pivotal spaces of overseas intervention of contemporary US national security conceived in terms of ‘global governmentality’.129 In the US global war on terror, it is lawfare that facilitates what Foucault calls the “biopolitics of security” – when life itself becomes the “object of security”.130 For the US military, this involves the eliminating of threats to ‘life’, the creating of operational capabilities to ‘make live’ and the anticipating and management of life’s uncertain ‘future’.

Some of the most key contributions across the social sciences and humanities in recent years have divulged how discourses of ‘security’, ‘precarity’ and ‘risk’ function centrally in the governing dispositifs of our contemporary world.131 In a society of (in)security, such discourses have a profound power to invoke danger as “requiring extraordinary action”.132 In the ongoing war on terror, registers of emergency play pivotal roles in the justification of military securitization strategies, where ‘risk’, it seems, has become permanently binded to ‘securitization’. As Claudia Aradau and Rens Van Munster point out, the “perspective of risk management” seductively effects practices of military securitization to be seen as necessary, legitimate and indeed therapeutic.133 US tactics of liberal lawfare in the long war – the conditioning of the battlefield, the sanctioning of the privilege of violence, the regulating of the conduct of troops, the interpreting, negating and utilizing 24 of international law, and the securing of SOFAs – are vital security dispositifs of a broader ‘risk- securitization’ strategy involving the deployment of liberal technologies of biopower to “manage dangerous irruptions in the future”.134 It may well be fought beyond the battlefield in “a war of the pentagon rather than a war of the spear”,135 but it is lawfare that ultimately enables the ‘toxic combination’ of US geopolitics and biopolitics defining the current age of securitization.

#### The impact is militarism

Smith 2 – prof of phil @ U of South Florida

(Thomas, International Studies Quarterly 46, The New Law of War: Legitimizing Hi-Tech and Infrastructural Violence)

The role of military lawyers in all this has, according to one study, “changed irrevocably” ~Keeva, 1991:59!. Although liberal theorists point to the broad normative contours that law lends to international relations, the Pentagon wields law with technical precision. During the Gulf War and the Kosovo campaign, JAGs opined on the legal status of multinational forces, the U.S. War Powers Resolution, rules of engagement and targeting, country fly-overs, maritime interceptions, treatment of prisoners, hostages and “human shields,” and methods used to gather intelligence. Long before the bombing began, lawyers had joined in the development and acquisition of weapons systems, tactical planning, and troop training. In the Gulf War, the U.S. deployed approximately 430 military lawyers, the allies far fewer, leading to some amusing but perhaps apposite observations about the legalistic culture of America ~Garratt, 1993!. Many lawyers reviewed daily Air Tasking Orders as well as land tactics. Others found themselves on the ground and at the front. According to Colonel Rup- pert, the idea was to “put the lawyer as far forward as possible” ~Myrow, 1996–97!. During the Kosovo campaign, lawyers based at the Combined Allied Operations Center in Vicenza, Italy, and at NATO headquarters in Brussels approved every single targeting decision. We do not know precisely how decisions were taken in either Iraq or Kosovo or the extent to which the lawyers reined in their masters. Some “corrections and adjustments” to the target lists were made ~Shot- well, 1993:26!, but by all accounts the lawyers—and the law—were extremely accommodating. The exigencies of war invite professional hazards as military lawyers seek to “find the law” and to determine their own responsibilities as legal counselors. A 1990 article in Military Law Review admonished judge advocates not to neglect their duty to point out breaches of the law, but not to become military ombuds- men either. The article acknowledged that the JAG faces pressure to demonstrate that he can be a “force multiplier” who can “show the tactical and political soundness of his interpretation of the law” ~Winter, 1990:8–9!. Some tension between law and necessity is inevitable, but over the past decade the focus has shifted visibly from restraining violence to legitimizing it. The Vietnam-era perception that law was a drag on operations has been replaced by a zealous “client culture” among judge advocates. Commanding officers “have come to realize that, as in the relationship of corporate counsel to CEO, the JAG’s role is not to create obstacles, but to find legal ways to achieve his client’s goals—even when those goals are to blow things up and kill people” ~Keeva, 1991:59!. Lt. Col. Tony Montgomery, the JAG who approved the bombing of the Belgrade television studios, said recently that “judges don’t lay down the law. We take guidance from our government on how much of the consequences they are willing to accept” ~The Guardian, 2001!. Military necessity is undeterred. In a permissive legal atmosphere, hi-tech states can meet their goals and remain within the letter of the law. As noted, humanitarian law is firmest in areas of marginal military utility. When opera- tional demands intrude, however, even fundamental rules begin to erode. The Defense Department’s final report to Congress on the Gulf War ~DOD, 1992! found nothing in the principle of noncombatant immunity to curb necessity. Heartened by the knowledge that civilian discrimination is “one of the least codified portions” of the law of war ~p. 611!, the authors argued that “to the degree possible and consistent with allowable risk to aircraft and aircrews,” muni- tions and delivery systems were chosen to reduce collateral damage ~p. 612!. “An attacker must exercise reasonable precautions to minimize incidental or collat- eral injury to the civilian population or damage to civilian objects, consistent with mission accomplishments and allowable risk to the attacking forces” ~p. 615!. The report notes that planners targeted “specific military objects in populated areas which the law of war permits” and acknowledges the “commingling” of civilian and military objects, yet the authors maintain that “at no time were civilian areas as such attacked” ~p. 613!. The report carefully constructed a precedent for future conflicts in which human shields might be deployed, noting “the presence of civilians will not render a target immune from attack” ~p. 615!. The report insisted ~pp. 606–607! that Protocol I as well as the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons “were not legally applicable” to the Gulf War because Iraq as well as some Coalition members had not ratified them. More to the point that law follows practice, the report claimed that certain provisions of Protocol I “are not a codification of the customary practice of nations,” and thus “ignore the realities of war” ~p. 616!. Nor can there be any doubt that a more elaborate legal regime has kept pace with evolving strategy and technology. Michael Ignatieff details in Virtual War ~2000! how targets were “developed” in 72-hour cycles that involved collecting and reviewing aerial reconnaissance, gauging military necessity, and coding antici- pated collateral damage down to the directional spray of bomb debris. A judge advocate then vetted each target in light of the Geneva Conventions and calcu- lated whether or not the overall advantage to be gained outweighed any expected civilian spillover. Ignatieff argues ~2000:198–199! that this elaborate symbiosis of law and technology has given birth to a “veritable casuistry of war.” Legal fine print, hand-in-hand with new technology, replaced deeper deliberation about the use of violence in war. The law provided “harried decision-makers with a critical guarantee of legal coverage, turning complex issues of morality into technical issues of legality.” Astonishingly fine discrimination also meant that unintentional civilian casualties were assumed to have been unintentional, not foreseen tragedies to be justified under the rule of double effect or the fog of war. The crowning irony is that NATO went to such lengths to justify its targets and limit collateral damage, even as it assured long-term civilian harm by destroy- ing the country’s infrastructure. Perhaps the most powerful justification was provided by law itself. War is often dressed up in patriotic abstractions—Periclean oratory, jingoistic newsreels, or heroic memorials. Bellum Americanum is cloaked in the stylized language of law. The DOD report is padded with references to treaty law, some of it obscure, that was “applicable” to the Gulf War, as if a surfeit of legal citation would convince skeptics of the propriety of the war. Instances of humane restraint invariably were presented as the rule of law in action. Thus the Allies did not gas Iraqi troops, torture POWs, or commit acts of perfidy. Most striking is the use of legal language to justify the erosion of noncombatant immunity. Hewing to the legal- isms of double effect, the Allies never intentionally targeted civilians as such. As noted, by codifying double effect the law artificially bifurcates intentions. Har- vard theologian Bryan Hehir ~1996:7! marveled at the Coalition’s legalistic word- play, noting that the “briefers out of Riyadh sounded like Jesuits as they sought to defend the policy from any charge of attempting to directly attack civilians.” The Pentagon’s legal narrative is certainly detached from the carnage on the ground, but it also oversimplifies and even actively obscures the moral choices involved in aerial bombing. Lawyers and tacticians made very deliberate decisions about aircraft, flight altitudes, time of day, ordnance dropped, confidence in intelligence, and so forth. By expanding military necessity to encompass an extremely prudential reading of “force protection,” these choices were calculated to protect pilots and planes at the expense of civilians on the ground, departing from the just war tradition that combatants assume greater risks than civilians. While it is tempting to blame collateral damage on the fog of war, much of that uncertainty has been lifted by technology and precision law. Similarly, in Iraq and in Yugoslavia the focus was on “degrading” military capabilities, yet a loose view of dual use spelled the destruction of what were essentially social, economic, and political targets. Coalition and NATO officials were quick to apologize for accidental civilian casualties, but in hi-tech war most noncombatant suffering is by design. Does the law of war reduce death and destruction? International law certainly has helped to delegitimize, and in rare cases effectively criminalize, direct attacks on civilians. But in general humanitarian law has mirrored wartime practice. On the ad bellum side, the erosion of right authority and just cause has eased the path toward war. Today, foreign offices rarely even bother with formal declara- tions of war. Under the United Nations system it is the responsibility of the Security Council to denounce illegal war, but for a number of reasons its mem- bers have been extremely reluctant to brand states as aggressors. If the law were less accommodating, greater effort might be devoted to diplomacy and war might be averted. On the in bello side the ban on direct civilian strikes remains intact, but double effect and military demands have been contrived to justify unnecessary civilian deaths. Dual use law has been stretched to sanction new forms of violence against civilians. Though not as spectacular as the obliteration bombing to which it so often is favorably compared, infrastructural war is far deadlier than the rhetoric of a “clean and legal” conflict suggests. It is true that rough estimates of the ratio of bomb tonnage to civilian deaths in air attacks show remarkable reductions in immediate collateral damage. There were some 40.83 deaths per ton in the bombing of Guernica in 1937 and 50.33 deaths per ton in the bombing of Tokyo in 1945. In the Kosovo campaign, by contrast, there were between .077 and .084 deaths per ton. In Iraq there were a mere .034 ~Thomas, 2001:169!. According to the classical definition of collateral damage, civilian protection has improved dramatically, but if one takes into account the staggering long-term effects of the war in Iraq, for example, aerial bombing looks anything but humane. For aerial bombers themselves modern war does live up to its clean and legal image. While war and intervention have few steadfast constituents, the myth of immaculate warfare has eased fears that intervening soldiers may come to harm, which polls in the U.S., at least, rank as being of great public concern, and even greater military concern. A new survey of U.S. civilian and military attitudes found that soldiers were two to four times more casualty-averse than civilians thought they should be ~Feaver and Kohn, 2001!. By removing what is perhaps the greatest restraint on the use of force—the possibility of soldiers dying—law and technology have given rise to the novel moral hazards of a “postmodern, risk-free, painless war” ~Woollacott, 1999!. “We’ve come to expect the immacu- late,” notes Martin Cook, who teaches ethics at the U.S. Army War College in Carlisle, PA. “Precision-guided munitions make it very much easier to go to war than it ever has been historically.” Albert Pierce, director of the Center for the Study of Professional Military Ethics at the U.S. Naval Academy argues, “standoff precision weapons give you the option to lower costs and risks . . . but you might be tempted to do things that you might otherwise not do” ~Belsie, 1999!. Conclusion The utility of law to legitimize modern warfare should not be underestimated. Even in the midst of war, legal arguments retain an aura of legitimacy that is missing in “political” justifications. The aspirations of humanitarian law are sound. Rather, it is the instrumental use of law that has oiled the skids of hi-tech violence. Not only does the law defer to military necessity, even when very broadly defined, but more importantly it bestows on those same military demands all the moral and psychological trappings of legality. The result has been to legalize and thus to justify in the public mind “inhumane military methods and their consequences,” as violence against civilians is carried out “behind the protective veil of justice” ~af Jochnick and Normand, 1994a:50!. Hi-tech states can defend hugely destructive, essentially unopposed, aerial bombardment by citing the authority of seemingly secular and universal legal standards. The growing gap between hi- and low-tech means may exacerbate inequalities in moral capital as well, as the sheer barbarism of “premodern” violence committed by ethnic cleansers or atavistic warlords makes the methods employed by hi-tech warriors seem all the more clean and legal by contrast. This fusion of law and technology is likely to propel future American interventions. Despite assurances that the campaign against terrorism would differ from past conflicts, the allied air war in Afghanistan, marked by record numbers of unmanned drones and bomber flights at up to 35,000 feet, or nearly 7 miles aloft, rarely strayed from the hi-tech and legalistic script. While the attack on the World Trade Center confirmed a thousand times over the illegality and inhu- manity of terrorism, the U.S. response has raised further issues of legality and inhumanity in conventional warfare. Civilian deaths in the campaign have been substantial because “military objects” have been targeted on the basis of extremely low-confidence intelligence. In several cases targets appear to have been chosen based on misinformation and even rank rumor. A liberal reading of dual use and the authorization of bombers to strike unvetted “targets of opportunity” also increased collateral damage. Although 10,000 of the 18,000 bombs, missiles, and other ordnance used in Afghanistan were precision-guided munitions, the war resulted in roughly 1000 to 4000 direct civilian deaths, and, according to the UNHCR, produced 900,000 new refugees and displaced persons. The Pentagon has nevertheless viewed the campaign as “a more antiseptic air war even than the one waged in Kosovo” ~Dao, 2001!. General Tommy Franks, who commanded the campaign, called it “the most accurate war ever fought in this nation’s history” ~Schmitt, 2002!.9 No fundamental change is in sight. Governments continue to justify collateral damage by citing the marvels of technology and the authority of international law. One does see a widening rift between governments and independent human rights and humanitarian relief groups over the interpretation of targeting and dual-use law. But these disputes have only underscored the ambiguities of human- itarian law. As long as interventionist states dominate the way that the rules of war are crafted and construed, hopes of rescuing law from politics will be dim indeed.

#### Their terrorism advantage is epistemologically suspect---the ballot is crucial to reject state-sponsored knowledge that legitimizes global violence

Raphael 9—IR, Kingston University (Sam, Critical terrorism studies, ed. Richard Jackson, 49-51) ellipses in orig.

Over the past thirty years, a small but politically-significant academic field of ‘terrorism studies’ has emerged from the relatively disparate research efforts of the 1960s and 1970s, and consolidated its position as a viable subset of ‘security studies’ (Reid, 1993: 22; Laqueur, 2003: 141). Despite continuing concerns that the concept of ‘terrorism’, as nothing more than a specific socio-political phenomenon, is not substantial enough to warrant an entire field of study (see Horgan and Boyle, 2008), it is nevertheless possible to identify a core set of scholars writing on the subject who together constitute an ‘epistemic community’ (Haas, 1992: 2–3). That is, there exists a ‘network of knowledge-based experts’ who have ‘recognised expertise and competence in a particular domain and an authoritative claim to policy-relevant knowledge within that domain’. This community, or ‘network of productive authors’, has operated by establishing research agendas, recruiting new members, securing funding opportunities, sponsoring conferences, maintaining informal contacts, and linking separate research groups (Reid, 1993, 1997). Regardless of the largely academic debate over whether the study of terrorism should constitute an independent field, the existence of a clearly-identifiable research community (with particular individuals at its core) is a social fact.2¶ Further, this community has traditionally had significant influence when it comes to the formulation of government policy, particularly in the United States. It is not the case that the academic field of terrorism studies operates solely in the ivory towers of higher education; as noted in previous studies (Schmid and Jongman, 1988: 180; Burnett and Whyte, 2005), it is a community which has intricate and multifaceted links with the structures and agents of state power, most obviously in Washington. Thus, many recognised terrorism experts have either had prior employment with, or major research contracts from, the Pentagon, the Central Intelligence Agency, the State Department, and other key US Government agencies (Herman and O’Sullivan, 1989: 142–190; RAND, 2004). Likewise, a high proportion of ‘core experts’ in the field (see below) have been called over the past thirty years to testify in front of Congress on the subject of terrorism (Raphael, forthcoming). Either way, these scholars have fed their ‘knowledge’ straight into the policymaking process in the US.3¶ The close relationship between the academic field of terrorism studies and the US state means that it is critically important to analyse the research output from key experts within the community. This is particularly the case because of the aura of objectivity surrounding the terrorism ‘knowledge’ generated by academic experts. Running throughout the core literature is a positivist assumption, explicitly stated or otherwise, that the research conducted is apolitical and objective (see for example, Hoffman, 1992: 27; Wilkinson, 2003). There is little to no reflexivity on behalf of the scholars, who see themselves as wholly dissociated from the politics surrounding the subject of terrorism. This reification of academic knowledge about terrorism is reinforced by those in positions of power in the US who tend to distinguish the experts from other kinds of overtly political actors. For example, academics are introduced to Congressional hearings in a manner which privileges their nonpartisan input:¶ Good morning. The Special Oversight Panel on Terrorism meets in open session to receive testimony and discuss the present and future course of terrorism in the Middle East. . . . It has been the Terrorism Panel’s practice, in the interests of objectivity and gathering all the facts, to pair classified briefings and open briefings. . . . This way we garner the best that the classified world of intelligence has to offer and the best from independent scholars working in universities, think tanks, and other institutions . . .¶ (Saxton, 2000, emphasis added)¶ The representation of terrorism expertise as ‘independent’ and as providing ‘objectivity’ and ‘facts’ has significance for its contribution to the policymaking process in the US. This is particularly the case given that, as we will see, core experts tend to insulate the broad direction of US policy from critique. Indeed, as Alexander George noted, it is precisely because ‘they are trained to clothe their work in the trappings of objectivity, independence and scholarship’ that expert research is ‘particularly effective in securing influence and respect for’ the claims made by US policymakers (George, 1991b: 77).¶ Given this, it becomes vital to subject the content of terrorism studies to close scrutiny. Based upon a wider, systematic study of the research output of key figures within the field (Raphael, forthcoming), and building upon previous critiques of terrorism expertise (see Chomsky and Herman, 1979; Herman, 1982; Herman and O’Sullivan, 1989; Chomsky, 1991; George, 1991b; Jackson, 2007g), this chapter aims to provide a critical analysis of some of the major claims made by these experts and to reveal the ideological functions served by much of the research. Rather than doing so across the board, this chapter focuses on research on the subject of terrorism from the global South which is seen to challenge US interests. Examining this aspect of research is important, given that the ‘threat’ from this form of terrorism has led the US and its allies to intervene throughout the South on behalf of their national security, with profound consequences for the human security of people in the region.¶ Specifically, this chapter examines two major problematic features which characterise much of the field’s research. First, in the context of anti-US terrorism in the South, many important claims made by key terrorism experts simply replicate official US government analyses. This replication is facilitated primarily through a sustained and uncritical reliance on selective US government sources, combined with the frequent use of unsubstantiated assertion. This is significant, not least because official analyses have often been revealed as presenting a politically-motivated account of the subject. Second, and partially as a result of this mirroring of government claims, the field tends to insulate from critique those ‘counterterrorism’ policies justified as a response to the terrorist threat. In particular, the experts overwhelmingly ‘silence’ the way terrorism is itself often used as a central strategy within US-led counterterrorist interventions in the South. That is, ‘counterterrorism’ campaigns executed or supported by Washington often deploy terrorism as a mode of controlling violence (Crelinsten, 2002: 83; Stohl, 2006: 18–19).¶ These two features of the literature are hugely significant. Overall, the core figures in terrorism studies have, wittingly or otherwise, produced a body of work plagued by substantive problems which together shatter the illusion of ‘objectivity’. Moreover, the research output can be seen to serve a very particular ideological function for US foreign policy. Across the past thirty years, it has largely served the interests of US state power, primarily through legitimising an extensive set of coercive interventions in the global South undertaken under the rubric of various ‘war(s) on terror’. After setting out the method by which key experts within the field have been identified, this chapter will outline the two main problematic features which characterise much of the research output by these scholars. It will then discuss the function that this research serves for the US state.

#### Security is a psychological construct—the aff’s scenarios for conflict are products of paranoia that project our violent impulses onto the other

Mack 91 – Doctor of Psychiatry and a professor at Harvard University (John, “The Enemy System” http://www.johnemackinstitute.org/eJournal/article.asp?id=23 \*Gender modified)

**The** **threat of nuclear annihilation** has stimulated us to try to **understand what it is about (hu)mankind that has led to** such self-destroying behavior. Central to this inquiry is an exploration of the adversarial relationships between ethnic or national groups. It is out of such enmities that war, including nuclear war should it occur, has always arisen. Enmity between groups of people stems from the interaction of psychological, economic, and cultural elements. These include fear and hostility (which are often closely related), competition over perceived scarce resources,[3] the need for individuals to identify with a large group or cause,[4] a tendency to disclaim and assign elsewhere responsibility for unwelcome impulses and intentions, and a peculiar susceptibility to emotional manipulation by leaders who play upon our more savage inclinations in the name of national security or the national interest. A full understanding of the "enemy system"[3] requires insights from many specialities, including psychology, anthropology, history, political science, and the humanities. In their statement on violence[5] twenty social and behavioral scientists, who met in Seville, Spain, to examine the roots of war, declared that there was **no scientific basis for regarding (hu)man(s) as** an **innately aggressive** animal, inevitably committed to war. The Seville statement implies that we have real choices. It also points to a hopeful paradox of the nuclear age: threat of nuclear war may have provoked our capacity for fear-driven polarization but at the same time it has inspired unprecedented efforts towards cooperation and settlement of differences without violence. The Real and the Created Enemy Attempts to **explore the psychological roots of enmity** are frequently met with responses on the following lines: "**I can accept psychological explanations of things,** but my enemy is real. The Russians [or Germans, Arabs, Israelis, Americans] are armed, threaten us, and intend us harm. Furthermore, there are real differences between us and our national interests, such as competition over oil, land, or other scarce resources, and genuine conflicts of values between our two nations. It is essential that we be strong and maintain a balance or superiority of **military and political power**, lest the other side take advantage of our weakness". This argument does not address the distinction between the enemy threat and one's own contribution to that threat-**by distortions of perception**, provocative words, and actions. In short, the enemy is real, but **we have not learned to understand how** we have created that enemy, or how the threatening image we hold of the enemy relates to its actual intentions. "We never see our enemy's motives and we never labor to assess his will, with anything approaching objectivity".[6] Individuals may have little to do with the choice of national enemies. Most Americans, for example, know only what has been reported in the mass media about the Soviet Union. We are largely unaware of the forces that operate within our institutions, affecting the thinking of our leaders and ourselves, and which determine how the Soviet Union will be represented to us. Ill-will and a desire for revenge are transmitted from one generation to another, and **we are not taught to** think critically **about how** our assigned enemies are selected for us. In the relations between potential adversarial nations there will have been, inevitably, real grievances that are grounds for enmity. But the attitude of one people towards another is usually determined by leaders who manipulate the minds of citizens for domestic political reasons which are generally unknown to the public. As Israeli sociologist Alouph Haveran has said, in times of conflict between nations **historical accuracy is the first victim**.[8] The Image of the Enemy and How We Sustain It Vietnam veteran William Broyles wrote: "War begins in the mind, with the idea of the enemy."[9] But to sustain that idea in war and peacetime a nation's leaders must maintain public support for the massive expenditures that are required. Studies of enmity have revealed susceptibilities, though not necessarily recognized as such by the governing elites that provide raw material upon which the leaders may draw to sustain the image of an enemy.[7,10] Freud[11] in his examination of mass psychology identified the proclivity of individuals to **surrender personal responsibility to the leaders of large groups**. This surrender takes place in both totalitarian and democratic societies, and without coercion. Leaders can therefore designate outside enemies and take actions against them with little opposition. Much further research is needed to understand the psychological mechanisms that impel individuals to kill or allow killing in their name, often with little questioning of the **morality or consequences** of such actions. Philosopher and psychologist Sam Keen asks why it is that in virtually every war "The enemy is seen as less than human? He's faceless. He's an animal"." Keen tries to answer his question: "The image of the enemy is not only the soldier's most powerful weapon; it is society's most powerful weapon. **It enables people en masse to** participate in acts of violence they would never consider doing as individuals".[12] National leaders become skilled in presenting the adversary in dehumanized images. The mass media, taking their cues from the leadership, contribute powerfully to the process.

#### Bioterror threat discourse is a self-fulfilling prophecy---degrades structural violence in an incessant atmosphere of paranoia

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The meat of the book arrives in its final fifty pages. In the penultimate chapter, Clark turns to the book’s subtitle to examine ‘‘the politics of bioterrorism in America’’ and asks, ‘‘How did we arrive at our current national posture regarding bioterrorism?’’ Answering this question should have been given significantly more pages than the eleven Clark dedicates to it. The answer is provided by a too-brief survey of developments between 1985 and 2001. (Presumably because it is targeted at a general reader, the book also contains only a short reference section. If the book appears in a second edition, it should expand the sources provided and correct a small number of technical errors. For example, the destruction of the U.S. BW stockpile took place in 1970 and 1971, before the 1972 signature of the BWC, not between signature in 1972 and ratification in 1975.)

To explain the situation after 2001, Clark quotes terrorism expert Bruce Hoffman:

[Bioterrorism] was where the funding was, and people were sticking their hands in the pot. It was the sexiest of all the terrorism threats and it was becoming a cash cow. So the threat of bioterrorism became a kind of self-fulfilling prophecy. It was archetypical Washington politics in the sense that you generate an issue and it takes on a life of its own. 29

The depiction is valid, although a bit expressionistic, but much more substantive detail should have been provided, such as the instrumental role of Vice President Dick Cheney, described briefly below. Clark’s final chapter, ‘‘Assessing the Threat,’’ examines the lessons of the Rajneeshshee, Aum Shinrikyo, and Amerithrax events and why these respectively failed or succeeded. He again reviews the specific pathogens usually considered likely candidates for illegitimate use and considers who might carry out a bioterrorist attack. He compares the potential consequences of such an event to natural disease mortality (specifically HIV/AIDS mortality in the United States). Clark concludes:

It’s time . . . to refocus our attention\*and our resources and creative energies\*more specifically toward some of nature’s own threats, rather than depending on spin-offs from our concern about bioterrorism. . . . The social and economic disruptions accompanying a bioterrorist attack do not even show up as a single pixel on the screen of what will happen when the world’s glaciers are gone and sea levels have risen by twenty feet.

This even-keeled assessment is a very far cry from that reached in another 2008 book, Bioviolence: Preventing Biological Terror and Crime, which author Barry Kellman of DePaul University says is based on ‘‘the realization that no other problem facing humanity is so potentially cataclysmic and has been so inadequately addressed.’’ 30

The intellectual history of touting the bioterrorist threat is a dubious one. It began in 1986 with an attack on the validity of the BWC by Douglas Feith, then an assistant to Richard Perle in President Ronald Reagan’s Defense Department and more recently undersecretary of defense for policy until August 2005. Feith introduced the idea that advances in the microbiological sciences and the global diffusion of the relevant technology heighten the threat of BW use. Though advances in molecular genetics and globalization increased drastically by 2008 in comparison to 1986, the number of states that maintain offensive BW programs has not. And despite the global diffusion of knowledge and technology, the threat of terrorist networks creating BW is low. But the invocation of overly alarmist themes continues. In 2005, Tara O’Toole, chief executive officer and director of the Center for Biosecurity at the University of Pittsburgh Medical Center, said, ‘‘This is not science fiction. The age of Bioterror is now.’’ 31 It hardly comes as a surprise to learn that the office of Vice President Cheney was the driving force behind the Bush administration’s emphasis on bioterrorism. 32 But one vital point missed by Clark is that Cheney was influenced by, among other things, the very same ‘‘Dark Winter’’ scenario with which Clark opens his book. The other influences on Cheney were a veritable hysteria of fears and phantoms in the White House following the 9/11 and the Amerithrax attacks, several of which concerned the potential of terrorist use of BW and which reportedly led Cheney to believe he might soon become a victim. 33

What must be noted is that although Al Qaeda’s interest in BW failed, the group’s efforts were specifically provoked by the severely overheated discussion in the United States about the imminent dangers of bioterrorism. A message from Ayman al-Zawahiri to his deputy on April 15, 1999, noted that ‘‘we only became aware of them [BW] when the enemy drew our attention to them by repeatedly expressing concerns that they can be produced simply with easily available materials.’’ 34 (In a similar vein, terrorism expert Brian Jenkins of the RAND Corporation has been at pains to point out that, ‘‘We invented nuclear terror.’’) 35 If in the coming decades we do see a successful attempt by a terrorist organization to use BW, **blame for it can be** in large part **pinned on** the **incessant scaremongering** about bioterrorism in the United States, which has emphasized and reinforced its desirability to terrorist organizations.

In a recent book written by former national security advisers Brent Scowcroft and Zbigniew Brzezinski, Scowcroft refers to the propagation of an ‘‘environment of fear’’ in the United States, which Brzezinski adds has made us ‘‘more susceptible to demagogy’’ which ‘‘distorts your sense of reality’’ and ‘‘channels your resources into areas which perhaps are not of first importance.’’ He continues:

We have succumbed to a fearful paranoia that the outside world is conspiring through its massive terrorist forces to destroy us. Is that a real picture of the world, or is it a classic paranoia that’s become rampant and has been officially abetted? If I fault our high officials for anything, it is for the deliberate propagation of fear. 3

I know of no statistical survey, but warnings regarding the bioterrorist threat have certainly been one of the major components in producing that ‘‘environment of fear.’’ A major contribution to that has been the work of a few, very determined, and very vocal nongovernmental purveyors of the bioterrorism threat, backed by one or two private foundations. The Sloan Foundation has also funded at least fourteen conferences in the United States and overseas; four of these were held by Interpol and three by the Department of Homeland Security. 37 Building on the fear emerging from the 9/11 and the Amerithrax attacks, this movement has generated $57 billion in federal budget authority to date, a large federal bureaucracy, strong congressional advocates, multiple research institutes and journals, and a thriving contractor industry\*the same ‘‘stakeholders’’ who now call for the continuation of efforts to fight and prevent bioterrorism.

In October 2008, David Koplow, professor of law at Georgetown University Law Center and a former deputy legal counsel in the Department of Defense, wrote:

It’s bad enough when an important federal government program designed to deal with a pressing national security threat turns out to be mostly a waste of money; it’s worse when that program also turns out to distract people and agencies from the more serious and fruitful approaches to the problem; it’s worst of all if that program actually contributes to making the problem even worse than it otherwise would be. The current bioterrorism program, tragically, accomplishes all three of these. . . .

[F]ar too little has been done to address the genuine biological threats to Americans and to suffering people around the world\*the quotidian scourges of AIDS, tuberculosis, malaria, measles, and cholera\*that not just ‘‘threaten’’ us in the abstract, but that actually kill and incapacitate millions of people annually. The most pressing public health threat to our national well-being might be the annual surge of ordinary influenza, but it has not benefited from the same sort of political anguish, emergency funding, and public attention that the national security entrepreneurs have discovered in the ever-looming fear of international bioterrorism. . . .

Bioterrorism is a serious, important danger, one that deserves serious, focused attention. But empowering a bioterrorism-industrial complex, and fostering a needless climate of fear, paranoia, and helplessness cannot lead to fashioning reliable, long-term solutions. Rational policy requires a genuine, level-headed risk assessment, and a sustained, balanced approach, not a knee-jerk public relations drama. 38

That same month, a World Health Organization report noted that, ‘‘Disproportionate investment in a limited number of disease programmes considered as global priorities in countries that are dependent on external support has diverted the limited energies of ministries of health away from their primary role.’’ 39 Attempting to convince ministries of health in African countries to make bioterrorism a primary concern, as Barry Kellman has advocated, can only divert them further from their primary role. Nor is this a concern only in the developing world. Even as the United States authorized $57 billion since 2001 to defend against select agents, U.S. life expectancy stood at forty-second in the world, and child mortality ranked twenty-ninth\*despite the fact that the United States spends more on health care per person than any other country. 40

#### Environmental apocalypticism causes eco-authoritarianism and mass violence against those deemed environmental threats---also causes political apathy which turns case

Buell 3Frederick—cultural critic on the environmental crisis and a Professor of English at Queens College and the author of five books, *From Apocalypse To Way of Life,* pages 185-186

Looked at critically, then, crisis discourse thus suffers from a number of liabilities. First, it seems to have become a political liability almost as much as an asset. It calls up a fierce and effective opposition with its predictions; worse, its more specific predictions are all too vulnerable to refutation by events. It also exposes environmentalists to being called grim doomsters and antilife Puritan extremists. Further, concern with crisis has all too often tempted people to try to find a “total solution” to the problems involved— a phrase that, as an astute analyst of the limitations of crisis discourse, John Barry, puts it, is all too reminiscent of the Third Reich’s infamous “final solution.”55 A total crisis of society—environmental crisis at its gravest—threatens to translate despair into inhumanist authoritarianism; more often, however, it helps keep merely dysfunctional authority in place. It thus leads, Barry suggests, to the belief that only elite- and expert-led solutions are possible.56 At the same timeit depoliticizes people, inducing them to accept their impotence as individuals; this is something that has made many people today feel, ironically and/or passively, that since it makes no difference at all what any individual does on his or her own, one might as well go along with it. Yet another pitfall for the full and sustained elaboration of environmental crisis is, though least discussed, perhaps the most deeply ironic. A problem with deep cultural and psychological as well as social effects, it is embodied in a startlingly simple proposition: the worse one feels environmental crisis is, the more one is tempted to turn one’s back on the environment. This means, preeminently, turning one’s back on “nature”—on traditions of nature feeling, traditions of knowledge about nature (ones that range from organic farming techniques to the different departments of ecological science), and traditions of nature-based activism. If nature is thoroughly wrecked these days, people need to delink from nature and live in postnature—a conclusion that, as the next chapter shows, many in U.S. society drew at the end of the millenium. Explorations of how deeply “nature” has been wounded and how intensely vulnerable to and dependent on human actions it is can thus lead, ironically, to further indifference to nature-based environmental issues, not greater concern with them. But what quickly becomes evident to any reflective consideration of the difficulties of crisis discourse is that all of these liabilities are in fact bound tightly up with one specific notion of environmental crisis—with 1960s- and 1970s-style environmental apocalypticism. Excessive concern about them does not recognize that crisis discourse as a whole has significantly changed since the 1970s. They remain inducements to look away from serious reflection on environmental crisis only if one does not explore how environmental crisis has turned of late from apocalypse to dwelling place. The apocalyptic mode had a number of prominent features: it was preoccupied with running out and running into walls; with scarcity and with the imminent rupture of limits; with actions that promised and temporally predicted imminent total meltdown; and with (often, though not always) the need for immediate “total solution.” **Thus doomsterism was its reigning mode;** eco-authoritarianism was a grave temptation; and as crisis was elaborated to show more and more severe deformations of nature, temptation increased to refute it, or give up, or even cut off ties to clearly terminal “nature.”

#### Our alternative is to refuse the discursive trap of the 1ac---resistance to machinic frameworks of law and security can reinvigorate agency and space for the political

Anthony Burke 2, Senior Lecturer in International Relations at the University of New South Wales, Sydney, Alternatives 27

It is perhaps easy to become despondent, but as countless struggles for freedom, justice, and social transformation have proved, a sense of seriousness can be tempered with the knowledge that many tools are already available - and where they are not, the effort to create a productive new critical sensibility is well advanced. There is also a crucial political opening within the liberal problematic itself, in the sense that it assumes that power is most effective when it is absorbed as truth, consented to and desired - which creates an important space for refusal. As Colin Gordon argues, Foucault thought that the very possibility of governing was conditional on it being credible to the governed as well as the governing. This throws weight onto the question of how security works as a technology of subjectivity. It is to take up Foucault's challenge, framed as a reversal of the liberal progressive movement of being we have seen in Hegel, not to discover who or what we are so much as to refuse who we are. Just as security rules subjectivity as both a totalizing and individualizing blackmail and promise, it is at these levels that we can intervene. We can critique the machinic frameworks of possibility represented by law, policy, economic regulation, and diplomacy, while challenging the way these institutions deploy language to draw individual subjects into their consensual web. This suggests, at least provisionally, a dual strategy. The first asserts the space for agency, both in challenging available possibilities for being and their larger socioeconomic implications. Roland Bleiker formulates an idea of agency that shifts away from the lone (male) hero overthrowing the social order in a decisive act of rebellion to one that understands both the thickness of social power and its "fissures," "fragmentation," and "thinness." We must, he says, "observe how an individual may be able to escape the discursive order and influence its shifting boundaries ... by doing so, discursive terrains of dissent all of a sudden appear where forces of domination previously seemed invincible." Pushing beyond security requires tactics that can work at many levels - that empower individuals to recognize the larger social, cultural, and economic implications of the everyday forms of desire, subjection, and discipline they encounter, to challenge and rewrite them, and that in turn contribute to collective efforts to transform the larger structures of being, exchange, and power that sustain (and have been sustained by) these forms. As Derrida suggests, this is to open up aporetic possibilities that transgress and call into question the boundaries of the self, society, and the international that security seeks to imagine and police. The second seeks new ethical principles based on a critique of the rigid and repressive forms of identity that security has heretofore offered. Thus writers such as Rosalyn Diprose, William Connolly, and Moria Gatens have sought to imagine a new ethical relationship that thinks difference not on the basis of the same but on the basis of a dialogue with the other that might allow space for the unknown and unfamiliar, for a "debate and engagement with the other's law and the other's ethics" - an encounter that involves a transformation of the self rather than the other. Thus while the sweep and power of security must be acknowledged, it must also be refused: at the simultaneous levels of individual identity, social order, and macroeconomic possibility, it would entail another kind of work on "ourselves" - a political refusal of the One, the imagination of an other that never returns to the same. It would be to ask if there is a world after security, and what its shimmering possibilities might be.

## Case

## Drones Adv

### No solve

#### Obama will circumvent the plan --- empirics prove

Levine 12 - Law Clerk; J.D., May 2012, University of Michigan Law School (David Levine, 2013 SURVEY OF BOOKS RELATED TO THE LAW: BOOK NOTICE: A TIME FOR PRESIDENTIAL POWER? WAR TIME AND THE CONSTRAINED EXECUTIVE, 111 Mich. L. Rev. 1195)

Both the Declare War Clause n49 and the War Powers Resolution n50 give Congress some control over exactly when "wartime" exists. While the U.S. military was deployed to Libya during the spring and summer of 2011, the Obama Administration advanced the argument that, under the circumstances, it was bound by neither clause. n51 If Dudziak is worried about "war's presence as an ongoing feature of American democracy" (p. 136), Libya is a potent case study with implications for the use of force over the coming decades.

Article I, Section 8 of the U.S. Constitution grants to Congress the power to "declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water." n52 Although there is substantial debate on the precise scope of these powers, n53 this clause at least provides some measure of congressional control over significant commitments of U.S. forces to battle. However, it has long been accepted that presidents, acting pursuant to the commander-in-chief power, may "introduce[] armed forces into situations in which they encounter[], or risk[] encountering, hostilities, but which [are] not "wars' in either the common meaning or the [\*1207] constitutional sense." n54 Successive administrations have adopted some variant of that view and have invariably deployed U.S. forces abroad in a limited manner based on this inherent authority. n55

The Obama Administration has adopted this position - that a president has inherent constitutional authority to deploy forces outside of war - and even sought to clarify it. In the Office of Legal Counsel's ("OLC") memo to President Obama on the authority to use military force in Libya, n56 the Administration acknowledged that the Declare War Clause is a "possible constitutionally-based limit on ... presidential authority to employ military force." n57 The memo reasoned that the Constitution speaks only to Congress's ability to shape engagements that are "wars," and that presidents have deployed forces in limited contexts from the earliest days of the Union. n58 Acknowledging those facts, the memo concluded that the constitutional limit on congressional power must be the conceptual line between war and not war. In locating this boundary, the memo looked to the "anticipated nature, scope, and duration" of the conflict to which President Obama was introducing forces. n59 OLC found that the "war" standard "will be satisfied only by prolonged and substantial military engagements, typically involving exposure of U.S. military personnel to significant risk over a substantial period." n60

The Obama Administration's position was not out of sync with previous presidential practice - the Declare War Clause did not require congressional approval prior to executive deployment of troops. In analyzing the "nature, scope, and duration" questions, the memo looked first to the type of missions that U.S. forces would be engaged in. The air missions envisioned for the Libya operation did not pose the threat of withdrawal difficulty or escalation risk that might indicate "a greater need for approval [from Congress] at the outset." n61 The nature of the mission, then, was not similar to full "war." Similarly, the scope of the intended operation was primarily limited, at the time the memo was written, to enforcing a no-fly zone. n62 Consequently, [\*1208] the operation's expected duration was not long. Thus, concluded OLC, "the use of force by the United States in Libya [did not rise] to the level of a "war' in the constitutional sense." n63 While this conclusion may have been uncontroversial, it highlights Dudziak's concerns over the manipulation of the idea of "wartime," concerns that were heightened by the Obama Administration's War Powers Resolution analysis. Congress passed the War Powers Resolution in 1973 in an attempt to rein in executive power in the wake of the Vietnam War. n64 The resolution provides that the president shall "in every possible instance ... consult with Congress before introducing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances." n65 Additionally, when the president sends U.S. forces "into hostilities or into situations where imminent involvement in hostilities is clearly indicated," the resolution requires him to submit a report to Congress describing the circumstances of the deployment and the expected involvement of U.S. troops in the "hostilities." n66 Within sixty days of receiving that report, Congress must either declare war or in some other way extend the deployment; in the absence of some ratifying action, the resolution requires that the president withdraw U.S. forces. n67 Though eschewing the plainly confrontational route of directly challenging Congress's power under the War Powers Resolution, the Obama Administration implicitly challenged Congress's ability to affect future operations. In declining to withdraw forces, despite Congress's lack of approving legislation, President Obama claimed that the conflict in Libya could not be deemed "hostilities" as that term is used in the resolution. This argument was made both in a letter to Congress during the summer of 2011 n68 and in congressional testimony given by Harold Koh, the State Department Legal Advisor under the Obama Administration. n69 [\*1209] Koh's testimony provides the most complete recitation of the Obama Administration's analysis and focuses on four factors that distinguish the fighting in Libya (or at least the United States' participation) from "hostilities": the scope of the mission, the exposure of U.S. forces, the risk of escalation, and the nature of the tactics to be used. First, "the mission is limited." n70 That is, the objectives of the overall campaign led by the North American Treaty Organization ("NATO") were confined to a "civilian protection operation ... implementing a U.N. Security Council resolution." n71 Second, the "exposure" of the U.S. forces involved was narrow - the conflict did not "involve active exchanges of fire with hostile forces" in ways that would endanger U.S. service members' safety. n72 Third, the fact that the "risk of escalation [was] limited" weighed in favor of not categorizing the conflict as "hostilities." n73 Finally, the "military means" the United States used in Libya were limited in nature. n74 The majority of missions were focused on "providing intelligence capabilities and refueling assets." n75 Those American flights that were air-to-ground missions were a mix of suppression-of-enemy-air-defenses operations to enforce a no-fly zone and strikes by armed Predator drones. n76 As a point of comparison, Koh noted that "the total number of U.S. munitions dropped has been a tiny fraction of the number dropped in Kosovo." n77 With the exception of this final factor, these considerations are quite similar to the factors that define whether a conflict is a "war" for constitutional purposes. n78

The result of this reasoning is a substantially relaxed restraint on presidential authority to use force abroad going forward. As armed drones begin [\*1210] to make up a larger portion of the United States' arsenal, n79 and as other protective technologies, such as standoff munitions n80 and electronic warfare techniques, gain traction, it is far more likely that the "exposure" of U.S. forces will decrease substantially. The force used in Yemen and the Horn of Africa is illustrative of this new paradigm where U.S. service members are not "involved [in] active exchanges of fire with hostile forces," n81 but rather machines use force by acting as human proxies. To the same point, if the "military means" used in Libya are markers of something short of "hostilities," the United States is only likely to see the use of those means increase in the coming decades. Pressing the logic of Koh's testimony, leeway for unilateral executive action will increase as the makeup of our arsenal continues to modernize. n82

Dudziak worries about the invocation of "wartime" as an argument for the perpetual exercise of extraordinary powers. The Libya scenario, of course, is somewhat different - the president has argued that the absence of "war" leaves him a residuum of power such that he may use force abroad without congressional input. The two positions are of a piece, though. Dudziak argues that legacy conceptions of "wartime" and "peacetime" have left us vulnerable to the former's use, in and of itself, as a reason for increased executive power. Such literal thinking - that "war" is something specific or that the word "hostilities" has certain limits - also opens the door to the Obama Administration's defense of its position on Libya. And looking at the substance of that position leaves much to be desired.

Both Koh's testimony and the OLC memo pay lip service to the idea that the policy considerations underlying their position are consistent with the policy considerations of the Framers with respect to the Declare War Clause and Congress with respect to the War Powers Resolution. But the primary, if not the only, consideration mentioned is the loss of U.S. forces. That concern is front and center when analyzing the "exposure" of service [\*1211] members, n83 and it is also on display with respect to discussions about the nature and scope of an operation. n84 This is not the only policy consideration that one might intuit from those two provisions, however. Using lethal force abroad is a very serious matter, and the U.S. polity might rationally want input from the more representative branch in deciding when, where, and how that force is used in its name. In that same vein, permitting one individual to embroil the nation in foreign conflicts - limited or otherwise - without the input of another coequal branch of government is potentially dangerous. n85

As Dudziak's framework highlights the limits of the Obama Administration's argument for expansive power, so does the Administration's novel dissection of "hostilities" illustrate the limits of Dudziak's analysis. Dudziak presents a narrative arc bending toward the expansion of wartime and, as a result, increased presidential power. That is not the case with Libya: the president finds power in "not war" rather than in "wartime." If the American public is guilty, as Dudziak asserts, of using the outmoded and misleadingly concrete terminology of "wartime" to describe an increasingly complex phenomenon, Dudziak herself is guilty of operating within a paradigm where wartime necessarily equals more executive power (than does "not war"), a paradigm that has been supplanted by a more nuanced reality. Although [\*1212] Dudziak identifies the dangers of manipulating the boundaries of wartime, her catalog of manipulations remains incomplete because of the inherent limits of her framework.

This realization does not detract from Dudziak's warnings about the perils of endless wartime, however. Indeed, the powers that President Obama has claimed seem, perhaps, more palatable after a decade in which war has been invoked as an argument for many executive powers that would, in other eras, seem extraordinary. Though he has not explicitly invoked war during the Libya crisis, President Obama has certainly shown a willingness to manipulate its definition in the service of expanded executive power in ways that seem sure to increase "war's presence as an ongoing feature of American democracy" (p. 136).

Conclusion Dudziak presents a compelling argument and supports it well. War Time is potent as a rhetorical device and as a way to frame decisionmaking. This is especially so for the executive branch of the U.S. government, for which wartime has generally meant increased, and ever more expansive, power. As the United States continues to transit an era in which the lines between "war" and "peace" become increasingly blurred and violent adversaries are a constant, the temptation to claim wartime powers - to render the extraordinary ordinary - is significant.

This Notice has argued that, contrary to Dudziak's concerns, the temptation is not absolute. Indeed, in some instances - notably, detention operations in Iraq and Afghanistan - we are still able to differentiate between "war" and "peace" in ways that have hard legal meaning for the actors involved. And, importantly, the executive still feels compelled to abide by these distinctions and act in accordance with the law rather than claim wartime exceptionalism.

That the temptation is not absolute, however, does not mean that it is not real or that Dudziak's concerns have not manifested themselves. This detachment of expansive power from temporally bound periods has opened the door for, and in some ways incentivized, limiting wartime rather than expanding it. While President Obama has recognized the legal constraints that "war" imposes, he has also followed in the footsteps of executives who have attempted to manipulate the definition of "war" itself (and now the definition of "hostilities") in order to evade those constraints as much as possible. To the extent he has succeeded in that evasion, he has confirmed what seems to be Dudziak's greatest fear: that "military engagement no longer seems to require the support of the American people, but instead their inattention" (p. 132).

#### Drones don’t solve terrorism or power projection

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

Yet the evidence that drones inhibit the operational latitude of terrorist groups and push them towards collapse is more ambiguous than these accounts suggest. 57 In Pakistan, the ranks of Al-Qaeda have been weakened significantly by drone strikes, but its members have hardly given up the fight. Hundreds of Al-Qaeda members have fled to battlefields in Yemen, Somalia, Iraq, Syria and elsewhere. 58 These operatives bring with them the skills, experience and weapons needed to turn these wars into fiercer, and perhaps longer-lasting, conflicts. 59 In other words, pressure from drone strikes may have scattered Al-Qaeda militants, but it does not neutralize them. Many Al-Qaeda members have joined forces with local insur - gent groups in Syria, Mali and elsewhere, thus deepening the conflicts in these states. 60 In other cases, drones have fuelled militant movements and reordered the alliances and positions of local combatants. Following the escalation of drone strikes in Yemen, the desire for revenge drove hundreds, if not thousands, of Yemeni tribesmen to join Al-Qaeda in the Arabian Peninsula (AQAP), as well as smaller, indigenous militant networks. 61 Even in Pakistan, where the drone strikes have weakened Al-Qaeda and some of its affiliated movements, they have not cleared the battlefield. In Pakistan, other Islamist groups have moved into the vacuum left by the absence of Al-Qaeda, and some of these groups, particularly the cluster of groups arrayed under the name Tehrik-i-Taliban Pakistan (TTP), now pose a greater threat to the Pakistani government than Al-Qaeda ever did. 62 Drone strikes have distinct political effects on the ecology of militant networks in these countries, leaving some armed groups in a better position while crippling others. It is this dynamic that has accounted for the US decision gradually to expand the list of groups targeted by drone strikes, often at the behest of Pakistan. Far from concentrating exclusively on Al-Qaeda, the US has begun to use drone strikes against Pakistan’s enemies, including the TTP, the Mullah Nazir group, the Haqqani network and other smaller Islamist groups. 63 The result is that the US has weakened its principal enemy, Al-Qaeda, but only at the cost of earning a new set of enemies, some of whom may find a way to strike back. 64 The cost of this expansion of targets came into view when the TTP inspired and trained Faisal Shahzad to launch his attack on Times Square. 65 Similarly, the TTP claimed to be involved, possibly with Al-Qaeda, in attacking a CIA outpost at Camp Chapman in the Khost region of Afghanistan on 30 December 2009.66

### AT: Terrorism – Nuclear

#### No scenario for nuclear terror---consensus of experts

Matt Fay 13, PhD student in the history department at Temple University, has a Bachelor’s degree in Political Science from St. Xavier University and a Master’s in International Relations and Conflict Resolution with a minor in Transnational Security Studies from American Military University, 7/18/13, “The Ever-Shrinking Odds of Nuclear Terrorism”, webcache.googleusercontent.com/search?q=cache:HoItCUNhbgUJ:hegemonicobsessions.com/%3Fp%3D902+&cd=1&hl=en&ct=clnk&gl=us&client=firefox-a

For over a decade now, one of the most oft-repeated threats raised by policymakers—the one that in many ways justified the invasion of Iraq—has been that of nuclear terrorism. Officials in both the Bush and Obama administrations, including the presidents themselves, have raised the specter of the atomic terrorist. But beyond mere rhetoric, how likely is a nuclear terrorist attack really?¶ While pessimistic estimates about America’s ability to avoid a nuclear terrorist attack became something of a cottage industry following the September 11th attacks, a number of scholars in recent years have pushed back against this trend. Frank Gavin has put post-9/11 fears of nuclear terrorism into historical context (pdf) and argued against the prevailing alarmism. Anne Stenersen of the Norwegian Defence Research Establishment has challenged the idea that al Qaeda was ever bound and determined to acquire a nuclear weapon. John Mueller ridiculed the notion of nuclear terrorism in his book Atomic Obsessions and highlighted the numerous steps a terrorist group would need to take—all of which would have to be successful—in order to procure, deliver, and detonate an atomic weapon. And in his excellent, and exceedingly even-handed, treatment of the subject, On Nuclear Terrorism, Michael Levi outlined the difficulties terrorists would face building their own nuclear weapon and discussed how a “system of systems” could be developed to interdict potential materials smuggled into the United States—citing a “Murphy’s law of nuclear terrorism” that could possibly dissuade terrorists from even trying in the first place.¶ But what about the possibility that a rogue state could transfer a nuclear weapon to a terrorist group? That was ostensibly why the United States deposed Saddam Hussein’s regime: fear he would turnover one of his hypothetical nuclear weapons for al Qaeda to use.¶ Enter into this discussion Keir Lieber and Daryl Press and their article in the most recent edition of International Security, “Why States Won’t Give Nuclear Weapons to Terrorists.” Lieber and Press have been writing on nuclear issues for just shy of a decade—doing innovative, if controversial work on American nuclear strategy. However, I believe this is their first venture into the debate over nuclear terrorism. And while others, such as Mueller, have argued that states are unlikely to transfer nuclear weapons to terrorists, this article is the first to tackle the subject with an empirical analysis.¶ The title of their article nicely sums up their argument: states will not turn over nuclear weapons terrorists. To back up this claim, Lieber and Press attack the idea that states will transfer nuclear weapons to terrorists because terrorists operate of absent a “return address.” Based on an examination of attribution following conventional terrorist attacks, the authors conclude:¶ [N]either a terror group nor a state sponsor would remain anonymous after a nuclear attack. We draw this conclusion on the basis of four main findings. First, data on a decade of terrorist incidents reveal a strong positive relationship between the number of fatalities caused in a terror attack and the likelihood of attribution. Roughly three-quarters of the attacks that kill 100 people or more are traced back to the perpetrators. Second, attribution rates are far higher for attacks on the U.S. homeland or the territory of a major U.S. ally—97 percent (thirty-six of thirty-seven) for incidents that killed ten or more people. Third, tracing culpability from a guilty terrorist group back to its state sponsor is not likely to be difficult: few countries sponsor terrorism; few terrorist groups have state sponsors; each sponsor terrorist group has few sponsors (typically one); and only one country that sponsors terrorism, has nuclear weapons or enough fissile material to manufacture a weapon. In sum, attribution of nuclear terror incidents would be easier than is typically suggested, and passing weapons to terrorists would not offer countries escape from the constraints of deterrence.¶ From this analysis, Lieber and Press draw two major implications for U.S. foreign policy: claims that it is impossible to attribute nuclear terrorism to particular groups or potential states sponsors undermines deterrence; and fear of states transferring nuclear weapons to terrorist groups, by itself, does not justify extreme measures to prevent nuclear proliferation.¶ This is a key point. While there are other reasons nuclear proliferation is undesirable, fears of nuclear terrorism have been used to justify a wide-range of policies—up to, and including, military action. Put in its proper perspective however—given the difficulty in constructing and transporting a nuclear device and the improbability of state transfer—nuclear terrorism hardly warrants the type of exertions many alarmist assessments indicate it should.

### AT: Russia War

#### No impact

David E. Hoffman 12, contributing editor to Foreign Policy and the author of The Dead Hand: The Untold Story of the Cold War Arms Race and Its Dangerous Legacy, which won the 2010 Pulitzer Prize for general non-fiction, 10/22, "Hey, Big Spender," Foreign Policy, www.foreignpolicy.com/articles/2012/10/22/hey\_big\_spender?page=full

Despite tensions that flare up, the United States and Russia are no longer enemies; **the chance of nuclear war or surprise attack is nearly zero**. We trade in each other's equity markets. Russia has the largest audience of Facebook users in Europe, and is open to the world in a way the Soviet Union never was.

## Legal Regimes

### AT: Norms

#### No causal link between U.S. drone doctrine and other’ countries choices---means can’t set a precedent

Kenneth Anderson 11, Professor of International Law at American University, 10/9/11, “What Kind of Drones Arms Race Is Coming?,” <http://www.volokh.com/2011/10/09/what-kind-of-drones-arms-race-is-coming/#more-51516>

New York Times national security correspondent Scott Shane has an opinion piece in today’s Sunday Times predicting an “arms race” in military drones. The methodology essentially looks at the US as the leader, followed by Israel – countries that have built, deployed and used drones in both surveillance and as weapons platforms. It then looks at the list of other countries that are following fast in US footsteps to both build and deploy, as well as purchase or sell the technology – noting, correctly, that the list is a long one, starting with China. The predicament is put this way:

Eventually, the United States will face a military adversary or terrorist group armed with drones, military analysts say. But what the short-run hazard experts foresee is not an attack on the United States, which faces no enemies with significant combat drone capabilities, but the political and legal challenges posed when another country follows the American example. The Bush administration, and even more aggressively the Obama administration, embraced an extraordinary principle: that the United States can send this robotic weapon over borders to kill perceived enemies, even American citizens, who are viewed as a threat.

“Is this the world we want to live in?” asks Micah Zenko, a fellow at the Council on Foreign Relations. “Because we’re creating it.”

By asserting that “we’re” creating it, this is a claim that there is an arms race among states over military drones, and that it is a consequence of the US creating the technology and deploying it – and then, beyond the technology, changing the normative legal and moral rules in the international community about using it across borders. In effect, the combination of those two, technological and normative, forces other countries in strategic competition with the US to follow suit. (The other unstated premise underlying the whole opinion piece is a studiously neutral moral relativism signaled by that otherwise unexamined phrase “perceived enemies.” Does it matter if they are not merely our “perceived” but are our actual enemies? Irrespective of what one might be entitled to do to them, is it so very difficult to conclude, even in the New York Times, that Anwar al-Awlaki was, in objective terms, our enemy?)

It sounds like it must be true. But is it? There are a number of reasons to doubt that moves by other countries are an arms race in the sense that the US “created” it or could have stopped it, or that something different would have happened had the US not pursued the technology or not used it in the ways it has against non-state terrorist actors. Here are a couple of quick reasons why I don’t find this thesis very persuasive, and what I think the real “arms race” surrounding drones will be.

Unmanned aerial vehicles have clearly got a big push from the US military in the way of research, development, and deployment. But the reality today is that the technology will transform civil aviation, in many of the same ways and for the same reasons that another robotic technology, driverless cars (which Google is busily plying up and down the streets of San Francisco, but which started as a DARPA project). UAVs will eventually move into many roles in ordinary aviation, because it is cheaper, relatively safer, more reliable – and it will eventually include cargo planes, crop dusting, border patrol, forest fire patrols, and many other tasks. There is a reason for this – the avionics involved are simply not so complicated as to be beyond the abilities of many, many states. Military applications will carry drones many different directions, from next-generation unmanned fighter aircraft able to operate against other craft at much higher G stresses to tiny surveillance drones. But the flying-around technology for aircraft that are generally sizes flown today is not that difficult, and any substantial state that feels like developing them will be able to do so.

But the point is that this was happening anyway, and the technology was already available. The US might have been first, but it hasn’t sparked an arms race in any sense that absent the US push, no one would have done this. That’s just a fantasy reading of where the technology in general aviation was already going; Zenko’s ‘original sin’ attribution of this to the US opening Pandora’s box is not a credible understanding of the development and applications of the technology. Had the US not moved on this, the result would have been a US playing catch-up to someone else. For that matter, the off-the-shelf technology for small, hobbyist UAVs is simple enough and available enough that terrorists will eventually try to do their own amateur version, putting some kind of bomb on it.

Moving on from the avionics, weaponizing the craft is also not difficult. The US stuck an anti-tank missile on a Predator; this is also not rocket science. Many states can build drones, many states can operate them, and crudely weaponizing them is also not rocket science. The US didn’t spark an arms race; this would occur to any state with a drone. To the extent that there is real development here, it lies in the development of specialized weapons that enable vastly more discriminating targeting. The details are sketchy, but there are indications from DangerRoom and other observers (including some comments from military officials off the record) that US military budgets include amounts for much smaller missiles designed not as anti-tank weapons, but to penetrate and kill persons inside a car without blowing it to bits, for example. This is genuinely harder to do – but still not all that difficult for a major state, whether leading NATO states, China, Russia, or India. The question is whether it would be a bad thing to have states competing to come up with weapons technologies that are … more discriminating.

### AT: Bioweapons

#### No impact

O’Neill 4O’Neill 8/19/2004 [Brendan, “Weapons of Minimum Destruction” http://www.spiked-online.com/Articles/0000000CA694.htm]

David C Rapoport, professor of political science at University of California, Los Angeles and editor of the Journal of Terrorism and Political Violence, has examined what he calls 'easily available evidence' relating to the historic use of chemical and biological weapons. He found something surprising - such weapons do not cause mass destruction. Indeed, whether used by states, terror groups or dispersed in industrial accidents, they tend to be far less destructive than conventional weapons. 'If we stopped speculating about things that might happen in the future and looked instead at what has happened in the past, we'd see that our fears about WMD are misplaced', he says. Yet such fears remain widespread. Post-9/11, American and British leaders have issued dire warnings about terrorists getting hold of WMD and causing mass murder and mayhem. President George W Bush has spoken of terrorists who, 'if they ever gained weapons of mass destruction', would 'kill hundreds of thousands, without hesitation and without mercy' (1). The British government has spent £28million on stockpiling millions of smallpox vaccines, even though there's no evidence that terrorists have got access to smallpox, which was eradicated as a natural disease in the 1970s and now exists only in two high-security labs in America and Russia (2). In 2002, British nurses became the first in the world to get training in how to deal with the victims of bioterrorism (3). The UK Home Office's 22-page pamphlet on how to survive a terror attack, published last month, included tips on what to do in the event of a 'chemical, biological or radiological attack' ('Move away from the immediate source of danger', it usefully advised). Spine-chilling books such as Plague Wars: A True Story of Biological Warfare, The New Face of Terrorism: Threats From Weapons of Mass Destruction and The Survival Guide: What to Do in a Biological, Chemical or Nuclear Emergency speculate over what kind of horrors WMD might wreak. TV docudramas, meanwhile, explore how Britain might cope with a smallpox assault and what would happen if London were 'dirty nuked' (4). The term 'weapons of mass destruction' refers to three types of weapons: nuclear, chemical and biological. A chemical weapon is any weapon that uses a manufactured chemical, such as sarin, mustard gas or hydrogen cyanide, to kill or injure. A biological weapon uses bacteria or viruses, such as smallpox or anthrax, to cause destruction - inducing sickness and disease as a means of undermining enemy forces or inflicting civilian casualties. We find such weapons repulsive, because of the horrible way in which the victims convulse and die - but they appear to be less 'destructive' than conventional weapons. 'We know that nukes are massively destructive, there is a lot of evidence for that', says Rapoport. But when it comes to chemical and biological weapons, 'the evidence suggests that we should call them "weapons of minimum destruction", not mass destruction', he says. Chemical weapons have most commonly been used by states, in military warfare. Rapoport explored various state uses of chemicals over the past hundred years: both sides used them in the First World War; Italy deployed chemicals against the Ethiopians in the 1930s; the Japanese used chemicals against the Chinese in the 1930s and again in the Second World War; Egypt and Libya used them in the Yemen and Chad in the postwar period; most recently, Saddam Hussein's Iraq used chemical weapons, first in the war against Iran (1980-1988) and then against its own Kurdish population at the tail-end of the Iran-Iraq war. In each instance, says Rapoport, chemical weapons were used more in desperation than from a position of strength or a desire to cause mass destruction. 'The evidence is that states rarely use them even when they have them', he has written. 'Only when a military stalemate has developed, which belligerents who have become desperate want to break, are they used.' (5) As to whether such use of chemicals was effective, Rapoport says that at best it blunted an offensive - but this very rarely, if ever, translated into a decisive strategic shift in the war, because the original stalemate continued after the chemical weapons had been deployed. He points to the example of Iraq. The Baathists used chemicals against Iran when that nasty trench-fought war had reached yet another stalemate. As Efraim Karsh argues in his paper 'The Iran-Iraq War: A Military Analysis': 'Iraq employed [chemical weapons] only in vital segments of the front and only when it saw no other way to check Iranian offensives. Chemical weapons had a negligible impact on the war, limited to tactical rather than strategic [effects].' (6) According to Rapoport, this 'negligible' impact of chemical weapons on the direction of a war is reflected in the disparity between the numbers of casualties caused by chemicals and the numbers caused by conventional weapons. It is estimated that the use of gas in the Iran-Iraq war killed 5,000 - but the Iranian side suffered around 600,000 dead in total, meaning that gas killed less than one per cent. The deadliest use of gas occurred in the First World War but, as Rapoport points out, it still only accounted for five per cent of casualties. Studying the amount of gas used by both sides from1914-1918 relative to the number of fatalities gas caused, Rapoport has written: 'It took a ton of gas in that war to achieve a single enemy fatality. Wind and sun regularly dissipated the lethality of the gases. Furthermore, those gassed were 10 to 12 times as likely to recover than those casualties produced by traditional weapons.' (7) Indeed, Rapoport discovered that some earlier documenters of the First World War had a vastly different assessment of chemical weapons than we have today - they considered the use of such weapons to be preferable to bombs and guns, because chemicals caused fewer fatalities. One wrote: 'Instead of being the most horrible form of warfare, it is the most humane, because it disables far more than it kills, ie, it has a low fatality ratio.' (8) 'Imagine that', says Rapoport, 'WMD being referred to as more humane'. He says that the contrast between such assessments and today's fears shows that actually looking at the evidence has benefits, allowing 'you to see things more rationally'. According to Rapoport, even Saddam's use of gas against the Kurds of Halabja in 1988 - the most recent use by a state of chemical weapons and the most commonly cited as evidence of the dangers of 'rogue states' getting their hands on WMD - does not show that unconventional weapons are more destructive than conventional ones. Of course the attack on Halabja was horrific, but he points out that the circumstances surrounding the assault remain unclear. 'The estimates of how many were killed vary greatly', he tells me. 'Some say 400, others say 5,000, others say more than 5,000. The fighter planes that attacked the civilians used conventional as well as unconventional weapons; I have seen no study which explores how many were killed by chemicals and how many were killed by firepower. We all find these attacks repulsive, but the death toll may actually have been greater if conventional bombs only were used. We know that conventional weapons can be more destructive.' Rapoport says that terrorist use of chemical and biological weapons is similar to state use - in that it is rare and, in terms of causing mass destruction, not very effective. He cites the work of journalist and author John Parachini, who says that over the past 25 years only four significant attempts by terrorists to use WMD have been recorded. The most effective WMD-attack by a non-state group, from a military perspective, was carried out by the Tamil Tigers of Sri Lanka in 1990. They used chlorine gas against Sri Lankan soldiers guarding a fort, injuring over 60 soldiers but killing none. The Tamil Tigers' use of chemicals angered their support base, when some of the chlorine drifted back into Tamil territory - confirming Rapoport's view that one problem with using unpredictable and unwieldy chemical and biological weapons over conventional weapons is that the cost can be as great 'to the attacker as to the attacked'. The Tigers have not used WMD since.

### AT: Environment

#### Modern warfare not enough for global environment collapse

#### No impact to the environment and no solvency

Holly Doremus 2k Professor of Law at UC Davis, "The Rhetoric and Reality of Nature Protection: Toward a New Discourse," Winter 2000 Washington & Lee Law Review 57 Wash & Lee L. Rev. 11, lexis

Reluctant to concede such losses, tellers of the ecological horror story highlight how close a catastrophe might be, and how little we know about what actions might trigger one. But the apocalyptic vision is **less credible today than it seemed in the 1970s.** Although it is clear that the earth is experiencing a mass wave of extinctions, n213 the **complete elimination of life on earth seems unlikely.** n214 **Life is remarkably robust**. **Nor is human extinction probable** any time soon. Homo sapiens is **adaptable to nearly any environment**. Even if the world of the future includes far fewer species, it likely will hold people. n215 One response to this credibility problem tones the story down a bit, arguing not that humans will go extinct but that ecological disruption will bring economies, and consequently civilizations, to their knees. n216 But this too may be **overstating the case**. Most ecosystem functions are **performed by multiple species**. This **functional redundancy** means that **a high proportion of species can be lost without precipitating a collapse**. n217 Another response drops the horrific ending and returns to a more measured discourse of the many material benefits nature provides humanity. Even these more plausible tales, though, suffer from an important limitation. They call for nature protection only at a high level of generality. For example, human-induced increases in atmospheric carbon dioxide levels may cause rapid changes in global temperatures in the near future, with drastic consequences for sea levels, weather patterns, and ecosystem services. n218 Similarly, the loss of large numbers of species undoubtedly reduces the genetic library from which we might in the future draw useful resources. n219 But it is difficult to translate these insights into convincing arguments against any one of the small local decisions that contribute to the problems of global warming or biodiversity loss. n220 It is easy to argue that **the** material **impact of any individual decision to increase** carbon **emissions slightly or to destroy a small amount of habitat will be small.** It is difficult to identify the specific straw that will break the camel's back. Furthermore, **no unilateral action at the local or even national level can solve these global problems**. Local decisionmakers may feel paralyzed by the scope of the problems, or may conclude that any sacrifices they might make will go unrewarded if others do not restrain their actions. In sum, at the local level at which most decisions affecting nature are made, the material discourse provides little reason to save nature. Short of the ultimate catastrophe, the material benefits of destructive decisions frequently will exceed their identifiable material costs. n221

# Block

## K

### Impact

#### **this mindset is important – our consciousness of war guarantees endless violence that ensures planetary destruction and structural violence**

Lawrence 9 (Grant, “Military Industrial "War" Consciousness Responsible for Economic and Social Collapse,” OEN—OpEdNews, March 27)

As a presidential candidate, [Barack Obama](http://obama.senate.gov/) called [Afghanistan](http://en.wikipedia.org/wiki/War_in_Afghanistan_%282001%E2%80%93present%29) ''the war we must win.'' He was absolutely right. Now it is time to win it... Senators [John McCain](http://www.imdb.com/name/nm0564587/) and Joseph Lieberman [calling](http://www.miamiherald.com/opinion/inbox/story/960269.html) for an expanded war in Afghanistan "How true it is that war can destroy everything of value." Pope Benedict XVI [decrying](http://www.google.com/hostednews/afp/article/ALeqM5iuue8kE-e0lYZVFpt4RlbX4M_IEw) the suffering of Africa Where troops have been quartered, brambles and thorns spring up. In the track of great armies there must follow lean years. Lao Tzu on [War](http://www.sacred-texts.com/tao/salt/salt09.htm) As Americans we are raised on the utility of war to conquer every problem. We have a drug problem so we wage war on it. We have a cancer problem so we wage war on it. We have a crime problem so we wage war on it. Poverty cannot be dealt with but it has to be warred against. Terror is another problem that must be warred against. In the [United States](http://maps.google.com/maps?ll=38.8833333333,-77.0166666667&spn=10.0,10.0&q=38.8833333333,-77.0166666667%20%28United%20States%29&t=h), solutions can only be found in terms of wars. In a society that functions to support a massive military industrial war machine and empire, it is important that the terms promoted support the conditioning of its citizens. We are conditioned to see war as the solution to major social ills and major political disagreements. That way when we see so much of our resources devoted to war then we don't question the utility of it. The term "war" excites mind and body and creates a fear mentality that looks at life in terms of attack. In war, there has to be an attack and a must win attitude to carry us to victory. But is this war mentality working for us? In an age when nearly half of our tax money goes to support the war machine and a good deal of the rest is going to support the elite that control the war machine, we can see that our present war mentality is not working. Our values have been so perverted by our war mentality that we see sex as sinful but killing as entertainment. Our society is dripping violence. The violence is fed by poverty, social injustice, the break down of family and community that also arises from economic injustice, and by the managed media. The cycle of violence that exists in our society exists because it is useful to those that control society. It is easier to sell the war machine when your population is conditioned to violence. Our military industrial consciousness may not be working for nearly all of the life of the planet but it does work for the very few that are the master manipulators of our values and our consciousness. Rupert Murdoch, the media monopoly man that runs the "Fair and Balanced" [Fox Network](http://www.fox.com/), Sky Television, and [News Corp](http://www.newscorp.com/) just to name a few, [had](http://en.wikipedia.org/wiki/Rupert_Murdoch) all of his 175 newspapers editorialize in favor of the [Iraq war](http://en.wikipedia.org/wiki/Iraq_War). Murdoch snickers when [he says](http://www.newscorpse.com/ncWP/?p=341) "we tried" to manipulate public opinion." The Iraq war was a good war to Murdoch [because,](http://www.americanprogress.org/issues/2004/07/b122948.html) "The death toll, certainly of Americans there, by the terms of any previous war are quite minute." But, to the media manipulators, the phony politicos, the military industrial elite, a million dead Iraqis are not to be considered. War is big business and it is supported by a war consciousness that allows it to prosper. That is why more war in Afghanistan, the war on Palestinians, and the other wars around the planet in which the [military industrial complex](http://en.wikipedia.org/wiki/Military-industrial_complex) builds massive wealth and power will continue. The military industrial war mentality is not only killing, maiming, and destroying but it is also contributing to the present social and economic collapse. As mentioned previously, the massive wealth transfer that occurs when the American people give half of their money to support death and destruction is money that could have gone to support a just society. It is no accident that after years of war and preparing for war, our society is crumbling. Science and technological resources along with economic and natural resources have been squandered in the never-ending pursuit of enemies. All of that energy could have been utilized for the good of humanity, ¶ instead of maintaining the power positions of the very few super wealthy. So the suffering that we give is ultimately the suffering we get. Humans want to believe that they can escape the consciousness that they live in. But that consciousness determines what we experience and how we live. As long as we choose to live in "War" in our minds then we will continue to get "War" in our lives. When humanity chooses to wage peace on the world then there will be a flowering of life. But until then we will be forced to live the life our present war consciousness is creating.

### 2NC FW

#### Our framework is necessary to reclaim the political from state-focused methods that constrict democratic dialogue. Error replication is inevitable without interrogating the ethical foundations of the 1ac

Shampa Biswas 7 Prof of Politics @ Whitman “Empire and Global Public Intellectuals: Reading Edward Said as an International Relations Theorist” Millennium 36 (1) p. 117-125

The recent resuscitation of the project of Empire should give International Relations scholars particular pause.1 For a discipline long premised on a triumphant Westphalian sovereignty, there should be something remarkable about the ease with which the case for brute force, regime change and empire-building is being formulated in widespread commentary spanning the political spectrum. Writing after the 1991 Gulf War, Edward Said notes the US hesitance to use the word ‘empire’ despite its long imperial history.2 This hesitance too is increasingly under attack as even self-designated liberal commentators such as Michael Ignatieff urge the US to overcome its unease with the ‘e-word’ and selfconsciously don the mantle of imperial power, contravening the limits of sovereign authority and remaking the world in its universalist image of ‘democracy’ and ‘freedom’.3 Rashid Khalidi has argued that the US invasion and occupation of Iraq does indeed mark a new stage in American world hegemony, replacing the indirect and proxy forms of Cold War domination with a regime much more reminiscent of European colonial empires in the Middle East.4 The ease with which a defence of empire has been mounted and a colonial project so unabashedly resurrected makes this a particularly opportune, if not necessary, moment, as scholars of ‘the global’, to take stock of our disciplinary complicities with power, to account for colonialist imaginaries that are lodged at the heart of a discipline ostensibly interested in power but perhaps far too deluded by the formal equality of state sovereignty and overly concerned with security and order. Perhaps more than any other scholar, Edward Said’s groundbreaking work in Orientalism has argued and demonstrated the long and deep complicity of academic scholarship with colonial domination.5 In addition to spawning whole new areas of scholarship such as postcolonial studies, Said’s writings have had considerable influence in his own discipline of comparative literature but also in such varied disciplines as anthropology, geography and history, all of which have taken serious and sustained stock of their own participation in imperial projects and in fact regrouped around that consciousness in a way that has simply not happened with International Relations.6 It has been 30 years since Stanley Hoffman accused IR of being an ‘American social science’ and noted its too close connections to US foreign policy elites and US preoccupations of the Cold War to be able to make any universal claims,7 yet there seems to be a curious amnesia and lack of curiosity about the political history of the discipline, and in particular its own complicities in the production of empire.8 Through what discourses the imperial gets reproduced, resurrected and re-energised is a question that should be very much at the heart of a discipline whose task it is to examine the contours of global power. Thinking this failure of IR through some of Edward Said’s critical scholarly work from his long distinguished career as an intellectual and activist, this article is an attempt to politicise and hence render questionable the disciplinary traps that have, ironically, circumscribed the ability of scholars whose very business it is to think about global politics to actually think globally and politically. What Edward Said has to offer IR scholars, I believe, is a certain kind of global sensibility, a critical but sympathetic and felt awareness of an inhabited and cohabited world. Furthermore, it is a profoundly political sensibility whose globalism is predicated on a cognisance of the imperial and a firm non-imperial ethic in its formulation. I make this argument by travelling through a couple of Said’s thematic foci in his enormous corpus of writing. Using a lot of Said’s reflections on the role of public intellectuals, I argue in this article that IR scholars need to develop what I call a ‘global intellectual posture’. In the 1993 Reith Lectures delivered on BBC channels, Said outlines three positions for public intellectuals to assume – as an outsider/exile/marginal, as an ‘amateur’, and as a disturber of the status quo speaking ‘truth to power’ and self-consciously siding with those who are underrepresented and disadvantaged.9 Beginning with a discussion of Said’s critique of ‘professionalism’ and the ‘cult of expertise’ as it applies to International Relations, I first argue the importance, for scholars of global politics, of taking politics seriously. Second, I turn to Said’s comments on the posture of exile and his critique of identity politics, particularly in its nationalist formulations, to ask what it means for students of global politics to take the global seriously. Finally, I attend to some of Said’s comments on humanism and contrapuntality to examine what IR scholars can learn from Said about feeling and thinking globally concretely, thoroughly and carefully. IR Professionals in an Age of Empire: From ‘International Experts’ to ‘Global Public Intellectuals’ One of the profound effects of the war on terror initiated by the Bush administration has been a significant constriction of a democratic public sphere, which has included the active and aggressive curtailment of intellectual and political dissent and a sharp delineation of national boundaries along with concentration of state power. The academy in this context has become a particularly embattled site with some highly disturbing onslaughts on academic freedom. At the most obvious level, this has involved fairly well-calibrated neoconservative attacks on US higher education that have invoked the mantra of ‘liberal bias’ and demanded legislative regulation and reform10, an onslaught supported by a well-funded network of conservative think tanks, centres, institutes and ‘concerned citizen groups’ within and outside the higher education establishment11 and with considerable reach among sitting legislators, jurists and policy-makers as well as the media. But what has in part made possible the encroachment of such nationalist and statist agendas has been a larger history of the corporatisation of the university and the accompanying ‘professionalisation’ that goes with it. Expressing concern with ‘academic acquiescence in the decline of public discourse in the United States’, Herbert Reid has examined the ways in which the university is beginning to operate as another transnational corporation12, and critiqued the consolidation of a ‘culture of professionalism’ where academic bureaucrats engage in bureaucratic role-playing, minor academic turf battles mask the larger managerial power play on campuses and the increasing influence of a relatively autonomous administrative elite and the rise of insular ‘expert cultures’ have led to academics relinquishing their claims to public space and authority.13 While it is no surprise that the US academy should find itself too at that uneasy confluence of neoliberal globalising dynamics and exclusivist nationalist agendas that is the predicament of many contemporary institutions around the world, there is much reason for concern and an urgent need to rethink the role and place of intellectual labour in the democratic process. This is especially true for scholars of the global writing in this age of globalisation and empire. Edward Said has written extensively on the place of the academy as one of the few and increasingly precarious spaces for democratic deliberation and argued the necessity for public intellectuals immured from the seductions of power.14 Defending the US academy as one of the last remaining utopian spaces, ‘the one public space available to real alternative intellectual practices: no other institution like it on such a scale exists anywhere else in the world today’15, and lauding the remarkable critical theoretical and historical work of many academic intellectuals in a lot of his work, Said also complains that ‘the American University, with its munificence, utopian sanctuary, and remarkable diversity, has defanged (intellectuals)’16. The most serious threat to the ‘intellectual vocation’, he argues, is ‘professionalism’ and mounts a pointed attack on the proliferation of ‘specializations’ and the ‘cult of expertise’ with their focus on ‘relatively narrow areas of knowledge’, ‘technical formalism’, ‘impersonal theories and methodologies’, and most worrisome of all, their ability and willingness to be seduced by power.17 Said mentions in this context the funding of academic programmes and research which came out of the exigencies of the Cold War18, an area in which there was considerable traffic of political scientists (largely trained as IR and comparative politics scholars) with institutions of policy-making. Looking at various influential US academics as ‘organic intellectuals’ involved in a dialectical relationship with foreign policy-makers and examining the institutional relationships at and among numerous think tanks and universities that create convergent perspectives and interests, Christopher Clement has studied US intervention in the Third World both during and after the Cold War made possible and justified through various forms of ‘intellectual articulation’.19 This is not simply a matter of scholars working for the state, but indeed a larger question of intellectual orientation. It is not uncommon for IR scholars to feel the need to formulate their scholarly conclusions in terms of its relevance for global politics, where ‘relevance’ is measured entirely in terms of policy wisdom. Edward Said’s searing indictment of US intellectuals – policy-experts and Middle East experts - in the context of the first Gulf War20 is certainly even more resonant in the contemporary context preceding and following the 2003 invasion of Iraq. The space for a critical appraisal of the motivations and conduct of this war has been considerably diminished by the expertise-framed national debate wherein certain kinds of ethical questions irreducible to formulaic ‘for or against’ and ‘costs and benefits’ analysis can simply not be raised. In effect, what Said argues for, and IR scholars need to pay particular heed to, is an understanding of ‘intellectual relevance’ that is larger and more worthwhile, that is about the posing of critical, historical, ethical and perhaps unanswerable questions rather than the offering of recipes and solutions, that is about politics (rather than techno-expertise) in the most fundamental and important senses of the vocation.21

#### The role of the judge is to investigate the aff’s extension of war beyond the battlefield---only critical analysis of the circuits that connect discourses and violent identity formation to the contemporary war on terror can effectuate political change and solve violence

David Grondin 11, School of Political Studies, University of Ottawa, Ontario, Canada, INTRODUCTION TO THE SPECIAL ISSUE OF GEOPOLITICS: WAR BEYOND THE BATTLEFIELD IN THE WAR ON TERROR, Geopolitics, 16:253–279, 2011

In his first days as President, Obama declared the ‘end’ to the ‘War on Terror’ – or so it was said in the media. If, in so doing, Obama was trying to get Americans to come to terms with the War on Terror as past, to refer to it in the past, it is granted that it is not an easy process and that it will meet reluctance, by Republicans especially. If Khrushchev had to wait Stalin’s death before purging the Soviet Union from Stalinism, Obama cannot wait till George W. Bush is dead – and he has not done so, as his inaugural address made clear – nor can he sit idly by with regard to what he and many Americans see as the infamous Bush era plagued by the excesses of the War on Terror (e.g., torture, Guantanamo, Abu Ghraib, states and spaces of exception, absolute executive powers, etc.). Hence, as Germans learned after WWII, dealing with an ugly past is a daunting challenge and, in reference to their own dealing with their Nazi era and the Holocaust, they even created a word for it: ‘Vergangenheitbewältigung’, which literally means ‘Past [Vergangenheit] / Coming to terms with [Bewältigung]’and which is better translated as ‘trying to or struggling to come to terms with the past.’ To enter in such process, while campaigning in 2008, Obama said he would do everything in his power to see the US ‘[get] out of Iraq and onto the right battlefield in Afghanistan and Pakistan.’1 This was his first attempt at changing the course of US war- making enterprises in the War on Terror. Ever since he has been in power, he has set himself to get the US to abandon this ‘metaphorical war’ and at the end of March 2009, his administration decided to substitute the label ‘Global War on Terror’ with ‘Overseas Contingency Operations’ to refer to the ongoing wars and military operations in Iraq and Afghanistan. Again, any attempt at coming to terms with the past, especially a recent one, will face resistance and this one makes no exception, as the War on Terror still rages, discursively and institutionally at the very least, albeit in varying degrees.

Our intentions here are less grandiose and do not seek to offer prognoses on whether the ‘War on Terror’ has really ended and what is to be expected by the Obama administration’s taking over what was associated (in terms of programs, practices, and discourses) with the idea of the War on Terror. Instead, more humbly, in trying to assess the nature of the War on Terror – rendered as an open-ending venture and as a ‘war’ by the George W. Bush administration – we aim to make sense of understanding war beyond the battlefield in the ‘new’ strategic environment set forth by the matrix that became the War on Terror. War is a social phenomenon that generally happens and that takes place on a battlefield. But the battlefield made possible by the global information technology rests on a different register of spatialities and temporalities. In a revolutionary way, one such space is a mobile and global one, one that has also transformed the nature of warfare itself, as Paul Virilio rightfully pointed out a while ago:

The battlefield is at first local, then it becomes worldwide and finally global; which is to say expanded to the level of orbit with the invention of video and reconnaissance satellites. Thus we have a development of the battlefield corresponding to the development of the field of perception made possible by technical advancements, successively through the technologies of geometrical optics: that of the telescope, of wave-optics, of electro-optics; that of the electromagnetic transmission of a signal in video; and, of course, computer graphics, that is to say the new multimedia. Henceforth the battlefield is global. It is no longer worldwide [mondialisée] in the sense of the First or Second World Wars. It is global in the sense of the planet. For every war implicates the rotundity of the earth, the sphere, the geosphere.2

The focus is therein given on the impacts of war more than on the conduct of war by its main protagonists on the battlefield.

This special issue seeks to interrogate and discuss the new spaces, theaters, and realities of war beyond the battlefield that the politics of war involved in the War on Terror has enacted. Through a Foucauldian understanding of war as politics, authors in this special issue see the War on Terror as a spatialized framework where the boundaries of war and politics collide. Accordingly, this special issue on the ‘war’ on terror is not your traditional strategic analysis of war nor is it a neoclassical geopolitical analysis; it is actually less interested in what happens or has happened on the battlefield – traditionally represented as theater of operations where war is waged – than it is on assessing what happens when the battlefield is morphed into new spaces and when it is displaced, when it becomes a semiotic space for making sense of the politics of war and of war as politics. In focusing on war beyond the battlefield, it is not that the battlefield as the place where war is waged has gone in smoke or has born out of importance, it is rather the case that the battlefield has been dis-placed, re-designed, re-shaped and rethought through new spatializing practices of warfare. These new spaces of war – new in the sense that they are not traditionally thought of as spaces where war takes place or is brought to – are television screens, cellular phones and bandwidth, George W. Bush’s ranch in Crawford, Texas, videogames, popular culture sites, news media, blogs, and so on. These spaces of war beyond the battlefield are crucial to understanding what goes on the battlefield, in Iraq, Afghanistan, or in other fronts of the War on Terror – to understand how terror has globally been waged beyond the battlefield.3

This collective effort builds on the footsteps of recent work in critical geopolitics, notably two recent collections, Rachel Pain and Susan Smith’s Fear: Critical Geopolitics and Everyday Life4 and Klaus Dodds and Alan Ingram’s Spaces of Security and Insecurity: Geographies of the War on Terror5. In Pain and Smith’s edited volume, what is rightly underscored is how the very notion of the War on Terror does not bring in a ‘new’ fear, but rather how emotional landscapes of everyday life are construed through fear so as to appear as breaking through with the past. As they assert, with September 11, 2001, ‘it was not the dawn of a new era, either for the nexus of international relations and everyday life or for the spatial politics of fear. The historicized and ground-truthed accounts of fear which we present in this collection make the continuities clear ’6 (original emphasis). In Klaus Dodds and Alan Ingram’s collection, the spaces of security and insecurity that the War on Terror has contributed in erecting are situated on a critical geopolitical plane. Like this special issue, its interdisciplinary focus bridges the fields of critical security studies, critical geopolitics, and critical geography, as well as critical and feminist International Relations in order to expose how security has been conceived of as governmentality of the homeland, of borders, of citizenship, and the numerous spaces gazed by sovereign and biopolitical power in the War on Terror. What it especially brings to the fore is how specific geographies and practices of securitization have woven geopolitics and security together ‘at specific sites and through scalar processes, and particularly in relation to mobile or transnational populations or entities.’7

In thinking war beyond the battlefield, we are also led to highlight the explosion of popular cultural analysis in both IR and critical geopolitics, and more prosaically on the representations of war and global politics.8 Jason Dittmer’s latest monograph, Popular Culture, Geopolitics, and Identity9 then reveals as a worthy addition to the literature on popular geopolitics and it represents a successful attempt at bringing critical geopolitics further along in its effort to study popular culture to account for geopolitical issues. As a work of popular geopolitics, it does steer critical geopolitics towards a better understanding of everyday life practices and its attempt to better connect both the affect that comes with consuming popular culture and the critical attitude that a critical geopolitical stance commends is successful. In this respect, the term he has coined of ‘performative consumption’ pictures this very well. It describes the double-ness of engaging with popular media – not only are you consuming, for instance, a war movie and constructing meaning from the dialogue and images, but you are also performing an identity when you do so. For instance, you could be watching the movie with a sense of gung ho excitement, or you could be watching it ironically, laughing at the one-liners that are meant to be inspirational. Thus, engaging popular media is not just passive, as many critics of TV or pop music would have it – it’s also active in that you shape the ways in which you are oriented to that popular medium.10

In a like-minded spirit, whereas Dittmer gets us to rethink the War on Terror through popular culture, this special issue is interested in deciphering the multiple realities that the very efforts of thinking ‘war beyond the battlefield’ make visible, the pluralist ways that war gets represented, framed, and understood, and the contexts and consequences of the actions and decisions that policy oriented analyses either take for granted or rule out as not being worth investigating further. While the War on Terror and the ensuing War in Iraq set the context, subtext, and text of the analyses comprising this special issue, the authors are here engaged in recreating the contexts of certain actions and decisions, in evoking imagined and real consequences of this global war as new normalcy in contemporary global politics, and in making possible a critique of the War on Terror and the systems of representations that made its occurrence possible. We have all witnessed and lived through the War on Terror and watched the on-screen unfolding of the War in Iraq and Afghanistan, and, yet, there is still so much about these events and their effects on the world we have already forgotten or simply are unaware (like how the liberal way of war and the liberal way of rule work as corollary modalities of biopower in our current global predicament).11 Somewhat akin to what Fraser Macdonald, Rachel Hughes, and Klaus Dodds, the editors of the recent study Observant States: Geopolitics and Visual Culture, which introduces visual studies to critical geopolitics, aimed to achieve in their prescription against an aestheticized view of September 11 that would befall from ‘“the visual grammar” of display [which] […] mobilize political action through the affect of the visual’, in its treatment of images and events this special issue has deliberately avoided treating the conventional analysis of war on the battlefield or its visuality of the battlefield and rather sought to make war beyond the battlefield visible.12

THINKING WAR BEYOND THE BATTLEFIELD IN THE WAR ON TERROR

The United States of America led by the George W. Bush administration was not an innocent bystander in the September 11, 2001 attacks – as this would be tantamount to not taking notice of the strong resentment of US hegemony abroad, especially in the Middle East countries and in the Muslim regions prior to these events. The connection of two seemingly different military operations in the guise of the US military operations Enduring Freedom in Afghanistan and Iraqi Freedom in Iraq as part of the same ongoing global military war effort aimed at countering and defeating a global Jihad bewildered many and generated questions about the new governmentalities produced by the War on Terror. With the US branding of the War on Terror as the war for civilization, as the ‘just war’ humanity should be ready to fight, it then came as no surprise that the extension of the War on Terror in Iraq provided a new breeding ground for Al Qaeda and Islamic terrorists to fuel their rage against American interests and what they saw as the global projection of Western hegemonic power and ideals.

The War on Terror has so far required lots of sacrifices on all sides and its extension in Iraq and Afghanistan has meant even more – and the US state leaders’ deceit was certainly seen as being part of the problem more than the solution. Now that what became the ‘war effort’ in Iraq has become somewhat of a ‘successful’ surge, allowing the Obama administration to opt for an exit strategy in 2010 in order to shift its attention to Afghanistan (and Pakistan) instead, it may yet be time to try to assess the nature of the War on Terror as it unfolded beyond the battlefield in the wake of September 11, 2001.

GOVERNING WAR AS POLITICS: THE LANGUAGE OF WAR

As critical geopolitics scholarship taught us, geopolitical and strategic ‘realities’ are produced by language, and in its study of geopolitics, ‘critical geopolitics encompassed various ways of unpacking the geographical assumptions in politics, asking how the cartographic imagination of here and there, inside and outside, them and us, states, blocs, zones, regions, or other geographical specifications, worked to both facilitate some political possibilities and actions and exclude and silence others.’13 Hence, to study geopolitics, one studies how the world is thought, said, written and how, once inserted into narratives, such narratives constitute discourses that (re)produce ‘reality’ – where discourses are ways of producing something from the ‘real world’ as real, as identifiable, knowable, and meaningful.14 From the get-go, it is sure that the label itself, ‘War on Terror’, is deeply problematic, as were the expression ‘Cold War’ or ‘equilibrium of terror’ used to describe the geopolitical confrontation between the USA and USSR and the nuclear logic of annihilation that rested on mutual assured destruction between them. In and of itself, a signifier such as ‘War on Terror’ is woven into the domain of affect, as it speaks of a powerful emotion – terror – that represents an heightened fear, induced so severely that one subject has come to wish to counter, master, conquer, and defeat it by declaring war on it, the United States of America of George W. Bush.15

In many respects, there seems to be an increasingly evident disconnection today between what scholars, politicians, and citizens have to say about war. Today’s War on Terror may not be a war in a traditional sense, but the states’ resources and war-making apparatus are involved as if it were fighting a ‘real’ war. It is exactly what president Bush seemed to mean in the aftermath of September 11, 2001 when he said that the American response would not be a war in the way we were used to think about wars, even though it would include using military force.16 The crucial issue to understand is that ordinary people think of war as a last resort measure involving military means that are only needed to solve a political violence inflicted on their nation/state. However, since the 1980s, policymakers and several scholars have used the conceptual language of war to address social problems of violence. Seen in this scheme are the government’s ‘war on poverty’ and ‘war on drugs’, two metaphors that abhors how problematic the issue of agency and political violence are constructed. Governmentalized wars on poverty and drugs reflect how the intent is to ‘defeat’ a problem as if it were cast as an ‘enemy’. The phrasing of war to engage terrorism also indicates ‘a certain power structure in the relations among discoursing subjects (as well as silenced subjects).’17 As James Der Derian captured it, ‘the war on terror is not new but part of a permanent state of war by which the sovereignty of the most powerful state is reconstituted through the naming of terrorist foe and anti-terrorist friend.’18

In various ways, the Bush administration’s war on terrorism in Afghanistan, Iraq, and on its own homeland reminded us how deeply entrenched is the militarized thinking and the use of military forces to solve problems that appeared more as social and political problems.19 In effect, the war on terrorism metaphor sprung into a galvanized yet renewed effort to wage war when spaces for alternative or critical thinking should have been made possible rather than being marginalized, ignored, or deemed unpatriotic. It is important to understand how the War on Terror has rejuvenated the whole strategic enterprise of US warfighting and military preparedness. As aptly points out Mikkel Rasmussen, ‘it is a cause for concern that much of Western expertise on security issues is simply dismissing the agenda of the ‘war on terror’ as a politically dangerous and intellectually unsustainable project. […] [I]t might also be the case, however, that far from being an anomaly, the ‘war on terror’ is an example of a new practice of security.’20 From the offset, the War on Terror implies an engagement with the issue of risk, of technology, and governmentality for us to assess its perceived and hidden effects in our everyday contemporary life.21

THE WAR ON TERROR AS GOVERNMENTALITY

In trying to conceptually make sense of what the War on Terror actually entails, one has to unpack the new governmentalities at work – thus, address how the War on Terror acts as governmentality. As Foucault taught us, governmentality comprises ‘all the institutions, processes, analyses and reflections, calculations and tactics that allow for the exercise of this specific form of power.’22 What is more, through governmentality, the logic of sovereignty is gradually subsumed as power enacted by the state, as governmentality permits to go beyond the state’s sovereign power, achieved from above, and to exercise power from a more decentralized mode, as well as to foster more efficient forms of management.23 This Foucauldian understanding of dispersed power enables us to address the War on Terror as a matrix and in a more systematic way as a producer of new forms of government of our everyday life. Foucault’s work on liberal governmentality, security dispositifs, and war 6 provide the necessary theoretical background to expose, explore, understand, and critique how new governmentalities geared to secure the homeland actually work and manage the global order. It allows us to examine how it transforms our beings and our ways of relating to space and place, to the world, to the local and the global – to think security ‘at home’.24 We thence propose to formulate a way of understanding the War on Terror that goes beyond the war on terrorism and the War in Iraq even though it remains bound to them, an understanding that also comprises homeland security activities.25

From this account, we may stipulate that the War on Terror is a complex matrix of discourses and institutions configured by practices that are not exclusively military that led to new governmentalities regimenting several types of practices that involve as much policing work as routinized security and military activities that go beyond the turf associated with an exceptional context of war.26 As a result, the War on Terror is as much a war that invokes a battlefield – as it involves military combat operations and strategies in Afghanistan and in Iraq27 – as it is a war defined through a Foucauldian understanding of ‘politics as the continuation of war by other means’ (an inversion of Clausewitz’s famous dictum of war as the continuation of politics). War is also an activity that is long planned, rationalized, and intentionally circumscribed. War will always break from its ‘crafters’, as its unfolding will redirect the political aims that initially issued its implementation in the first place. This one – the War on Terror – has certainly escaped the Bush administration’s original intent. Moreover, the very unpredictable nature of war means that one should factor in this unpredictable character into any supposedly rational decisionmaking process which elects war as a policy tool. Accordingly, focusing on the governmentality of the War on Terror and the unexpected side-effects of this war entail many reflections on the importance of understanding war ‘beyond the battlefield’, where one emphasizes the experiences and effects of the War on Terror as war on societies and individuals.28 In this context, war needs not necessarily be what many see to be the ‘classical’ view, that is, the deliberate application of organized violence by one group of people and where ‘deliberate’ and ‘organized’ presume a planning, rehearsal or simulation, and an orchestration of violence to inflict harm on a target.

War has exploded through information technology and the War on Terror is a prime example showcasing the multifaceted ways that war may govern and transform our lives, especially when it is being cast as the ‘first Internet war.’29 This ‘iWar’, as dubbed by Mark Andrejevic for its interactivity, gave a role to the Americans citizens who would also participate in its self-governance, especially through its micro- and macroscalar deployment on the Internet and other spaces of societal and political life. Surprisingly, this interactive facet of the War on Terror highlighting its governmentality as partly being the governmentality of the self was best rendered by none other than the former Republican senator from Pennsylvania, Rick Santorum. He summarized the War on Terror as being ‘a truly modern war – a war fought not just on the battlefield, but on the Internet, a war decided less by armies and warplanes than by individuals making individual choices,’30 to which Andrejevic added that it was a ‘war to be waged by individuals making the “right” choices.’31 Such account of the War on Terror feeds in the unpredictable aspect of any war and imprints its governmentality with even greater complexity. By all means, this is inescapable, as Chris Hables Gray tells us: ‘War, as a very complex and volatile system, cannot be controlled, it cannot be managed and it cannot be predicted. This is as true of real bloody war as it is of “virtual cyber war”, as if any war that didn’t damage and destroy bodies could really be called a war.’32 The very logic of war is that of irreconcilable contradictions between adversaries; the only way to get rid of the possibility of war would be to break free from an attitude of taking risks. But can humanity really be able to regulate war and impose a legal codification of war that all would adhere to? If, in Clausewitz’ view, war is always inescapably a political instrument – and hence the inverted view of politics as the continuation of war – war must always remain an open possibility, even if an unlikely one. Henceforth, war more than ever is ‘political and not technological […]. [I]t still comes down to what is done with messy bodies.’33 This is true of the War on Terror as well, even though how war connects these bodies into narratives is still up to analysts and scholars to decipher. This special issue is one attempt at inscribing these narratives in other places and spaces of war, beyond the battlefield.

SPATIALIZING THE WAR ON TERROR AS TRANSVERSAL PHENOMENON

This special issue is therefore an exploration of the complex spatial relationships between war and the spaces where one is not used to think of as the battlefield. The War on Terror has led many to reconceptualize the ways armed forces were geared to wage war and were conducting military operations. What’s the influence of the representations of such evolutions in media? In filmic representations? In the context of the War on Terror? In invoking war beyond the battlefield, this special issue focuses on the conflicts that still animate the spaces and places where violence has been launched and that the war has not left untouched. The idea is to bring about a space were the representations of war beyond the battlefield can be revisited and contested, where the global spatial politics of war which still unequally affects us all can be engaged in places and spaces where they are usually not expected nor welcome, where the materiality of conflict and war can be revealed beyond the battlefield. This is obviously done to produce alternative ways to think the geographies and spaces of the War on Terror, as well as the practices of warfare and their impacts that make up the War on Terror.

In this very sense, the War on Terror offers itself as an excellent case in point for what Roland Bleiker calls a ‘transversal phenomenon’, where one construes new spaces by looking at several simultaneous political and social transformations in a stance that ‘not only transgresses national boundaries, but also questions the spatial logic through which these boundaries have come to constitute and frame the conduct of international relations.’34 David Campbell argues that our current global everyday life is best represented ‘as a series of transversal struggles rather than as a complex of inter-national, multi-national or transnational relations.’35 As Campbell explains:

Likewise, neither is ‘everyday life’ a synonym for the local level, for in it global interconnections, local resistances, transterritorial flows, state politics, regional dilemmas, identity formations, and so on are always already present. Everyday life is thus a transversal site of contestations rather than a fixed level of analysis. It is transversal because it ‘cannot be reconciled to a Cartesian interpretation of space.’ And it is transversal because the conflicts manifested there not only transverse all boundaries; they are about those boundaries, their erasure or inscription, and the identity formations to which they give rise.3

In this special issue, authors ask limited questions in a field, searching through events, space and time to make sense and give intelligibility to events transversally inserted in a problematique: experiencing war beyond the battlefield in the War on Terror. The analyses gathered for this collection of essays are more than literary or prosaic exercises; they are critical interventions that ask questions and offer some elements of answers on events that are part of the War on Terror, that make the War on Terror. As such, any utterance of this ‘War’, as lived on the battlefield and beyond, may refer to the same war, but it is a war that will differ according to the subjects living and writing (on) it (e.g., those who fought it and those who suffered from it, those who were drawn into it, and those who analyze it, etc.). So no matter what the conflict is, once played out, each war has its own stories and meanings – waiting to be told, unveiled, or reinterpreted. In a way, this special issue pays heed to sociologist Catherine Lutz who, in her effort to explore ‘how America’s military has affected daily life in this country’, argued we should not ‘imagine the costs of war as exacted only on the battlefield and the bodies of soldiers […], as civilians are now the vast proportion of war’s clotted red harvest’, but strive to make visible the ‘blurred boundaries of the civilian and military worlds’, in other words, we should decipher what happens beyond the battlefield.37

COMING TO TERMS WITH THE PAST OF SEPTEMBER 11, 2001

Almost ten years after September 11, 2001, there is no denying that the War on Terror haunts38 us; we have all witnessed and lived through the War on Terror and the War in Iraq. Given that war as one has imagined it is as much a war as an actualized war,39 it becomes crucial to reflect on its imagination in the same way as on its actualization. In other words, looking through the fictions of war, the simulation of war, the virtualization, or the visualizations of war can teach us as much as what looking at the reality of war can; this is why, for instance, movies and documentaries – as cultural productions – offer good sites of political analyses of the war itself. In effect, through the analytical process, one will be able to sift through the symbolic and imagined representations of worldly situations that are unwittingly tied to the War on Terror and reflect on, say, an agent’s intentions, goals, beliefs, and certitudes as if they were real. As aptly remarks French historian Marc Ferro: ‘This goes with the remembrance of war as war itself: it varies according to the memories; those of the political leaders and chiefs are not necessarily those of the warfighters nor that of those who stayed behind – the memory of the winners is also not that of the losers. There exist zones of memory that survive, others that die, others that remerge in the most unexpected moments.’40

Acknowledging the always contestable character of the constructed narratives about the past, present, and future in their discursive appropriation, these (re)interpretations of the War on Terror – in the experiences of homeland security, of the War in Iraq, or of the political act of dissenting from the war, among others – are open invites to reflection, meditation and reflexive assertions aimed to provoke and generate new questions and discussion about the real that the War on Terror encapsulates, whether one understands it as event, war, politics, matrix, era, or global governmentality.41 Indeed, if ‘[t]he war that has not happened yet is as much history as history,’42 then surely the one we are currently living in the past and in the present is, too.

### 2NC Perm

#### The permutation is a tactic to legitimize the violence of the law---codifying status-quo policy sanitizes expanding state violence---their appeal to juridical legitimation results in malleable legal conventions that are ultimately meaningless

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Nearly two centuries ago, Prussian military strategist, Carl von Clausewitz, observed how war is merely a “continuation of political commerce” by “other means”.70 Today, the lawfare of the US military is a continuation of war by legal means. Indeed, for US Deputy Judge Advocate General, Major General Charles Dunlap, it “has become a key aspect of modern war”.71 For Dunlap and his colleagues in the JAG corps, the law is a “force multiplier”, as Harvard legal scholar, David Kennedy, explains: it “structures logistics, command, and control”; it “legitimates, and facilitates” violence; it “privileges killing”; it identifies legal “openings that can be made to seem persuasive”, promissory, necessary and indeed therapeutic; and, of course, it is “a communication tool” too because defining the battlefield is not only a matter of “privileging killing”, it is also a “rhetorical claim”.72 Viewed in this way, the law can be seen to in fact “contribute to the proliferation of violence rather than to its containment”, as Eyal Weizman has instructively shown in the case of recent Israeli lawfare in Gaza.73

In the US wars in Iraq, Afghanistan and broader war on terror, the Department of Defense has actively sought to legalize its use of biopolitical violence against all those deemed a threat. Harvey Rishikof, the former Chair of the Department of National Security Strategy at the National War College in Washington, recently underlined ‘juridical warfare’ (his preferred designation over ‘lawfare’) as a pivotal “legal instrument” for insurgents in the asymmetric war on terror.74 For Rishikof and his contemporaries, juridical warfare is always understood to mean the legal strategies of the weak ‘against’ the United States; it is never acknowledged as a legal strategy ‘of’ the United States. However, juridical warfare has been a proactive component of US military strategy overseas for some time, and since the September 11 attacks in New York and Washington in 2001, a 15 renewed focus on juridical warfare has occurred, with the JAG Corps playing a central role in reforming, prioritizing and mobilizing the law as an active player in the war on terror.75

Deputy Judge Advocate General, Major General Charles Dunlap, recently outlined some of the key concerns facing his corps and the broader US military; foremost of which is the imposing of unnecessary legal restraints on forward-deployed military personnel.76 For Dunlap, imposing legal restraints on the battlefield as a “matter of policy” merely “play[s] into the hands of those who would use [international law] to wage lawfare against us”.77 Dunlap’s counter-strategy is simply “adhering to the rule of law”, which “understands that sometimes the legitimate pursuit of military objectives will foreseeably – and inevitably – cause the death of noncombatants”; indeed, he implores that “this tenet of international law be thoroughly understood”.78 But ‘the’ rule of international law that Dunlap has in mind is merely a selective and suitably enabling set of malleable legal conventions that legitimate the unleashing of military violence.79 As David Kennedy illuminates so brilliantly in Of War and Law:

We need to remember what it means to say that compliance with international law “legitimates.” It means, of course, that killing, maiming, humiliating, wounding people is legally privileged, authorized, permitted, and justified”.80

The recent ‘special issue on juridical warfare’ in the US military’s flagship journal, Joint Force Quarterly, brought together a range of leading judge advocates, specialists in military law, and former legal counsels to the Chairman of the Joint Chiefs of Staff. All contributions addressed the question of “[w]hich international conventions govern the confinement and interrogation of terrorists and how”.81 The use of the term ‘terrorists’ instead of suspects sets the tone for the ensuing debate: in an impatient defense of ‘detention’, Colonel James Terry bemoans the “limitations inherent in the Detainee Treatment Act of 2005 and the Military Commissions Act of 2006” (which he underlines only address detainees at the US Naval Base at Guantanamo) and asserts that “requirements inherent in the war on terror will likely warrant expansion of habeas 16 corpus limitations”;82 considering ‘rendition’, Colonel Kevin Cieply asks the shocking question “[i]s rendition simply recourse to the beast at a necessary time”;83 Colonel Peter Cullen argues for the necessity of the “role of targeted killing in the campaign against terror”;84 Commander Brian Hoyt contends that it is “time to re-examine U.S. policy on the [international criminal] court, and it should be done through a strategic lens”;85 while Colonel James Terry furnishes an additional concluding essay with the stunningly instructive title ‘The International Criminal Court: A Concept Whose Time Has Not Come’.86 These rather chilling commentaries attest to one central concern of the JAG Corps and the broader military-political executive at the Pentagon: that enemies must not be allowed to exploit “real, perceived, or even orchestrated incidents of law-of-war violations being employed as an unconventional means of confronting American military power”.87 And such thinking is entirely consistent with the defining National Defense Strategy of the Bush administration, which signalled the means to win the war on terror as follows: “we will defeat adversaries at the time, place, and in the manner of our choosing”.88

If US warfare in the war on terror is evidently underscored by a ‘manner of our choosing’ preference – both at the Pentagon and in the battlefield – this in turn prompts an especially proactive ‘juridical warfare’ that must be simultaneously pursued to legally capacitate, regulate and maximize any, and all, military operations. The 2005 National Defense Strategy underlined the challenge thus:

Many of the current legal arrangements that govern overseas posture date from an earlier era. Today, challenges are more diverse and complex, our prospective contingencies are more widely dispersed, and our international partners are more numerous. International agreements relevant to our posture must reflect these circumstances and support greater operational flexibility.89 It went on to underline its consequent key juridical tactic and what I argue is a critical weapon in the US military-legal arsenal in the war on terror: the securing of ‘Status of Forces Agreements’ – 17 to “provide legal protections” against “transfers of U.S. personnel to the International Criminal Court”.90

### Tism

#### Allison is obsessed with worst case fantasies --- he’s been making the same predictions for the last 20 years

Mueller 7—Woody Hayes Chair of National Security Studies, Mershon Center Professor of Political Science at Ohio State University (John, REACTIONS AND OVERREACTIONS TO TERRORISM: THE ATOMIC OBSESSION, http://polisci.osu.edu/faculty/jmueller/APSA2007.PDF; [Ellipses in original])

Quoting from Governor Kean's Commission report, Allison has ascribed the fact that the United States was surprised on 9/11 to a "failure of imagination" (2006, 36). After exercising his own imagination and examining the nuclear terrorism issue, he proclaims his own "considered judgment" in his book: "on the current path, a nuclear terrorist attack on America in the decade ahead is more likely than not" (2004, 15). He repeats that judgment in an article published two years later **without reducing the terminal interval to compensate**--**apparently the end date is an ever-receding target** (2006, 39).3 Actually, he had been in the prediction business on this issue at least as early as 1995 when his imagination induced him boldly to pronounce, "In the absence of a determined program of action, we have every reason to anticipate acts of nuclear terrorism against American targets before this decade is out." If there was a failure to exercise imaginations before the 9/11 attacks, this defect was substantially reversed in the aftermath. Notes Allison, "no one" in the American national security community considered that disaster to be an "isolated occurrence" (2004, 6), and it was apparently inconceivable that the country would go over five years (and counting) without a some sort of repetition. Or even three: it was in 2004 that Charles Krauthammer characterized the post-9/11 period as one in which, "contrary to every expectation and prediction" (and, one might add, fantasy) the second shoe never dropped (2004a). As Rudy Giuliani, New York's mayor on 9/11, reflected in 2005, "Anybody--any one of these security experts, including myself--would have told you on September 11, 2001, we're looking at dozens and dozens and multiyears of attacks like this. It hasn't been quite that bad" (CNN, 22 July 2005). No, not nearly. Precisely what Giuliani's "security experts" were basing their expert opinion on is not entirely clear, but there certainly was no failure--or at any rate, lack--of imagination. There have been plenty of imaginative predictors on other issues as well. World War III is always, and will always remain, possible. However, a prediction in the aftermath of World War II that the planet would go 60 years and more without a repetition of that experience would have been met with derision by the thoughtful alarmists of the time like the imaginative historian Arnold Toynbee: "In our recent Western history war has been following war in an ascending order of intensity; and today it is already apparent that the War of 1939-45 was not the climax of this crescendo movement" (1950, 4). Or by the imaginative futurist H. G. Wells: "the end of everything we call life is close at hand and cannot be evaded" (Wagar 1961, 13n). Or by the imaginative dictator Josef Stalin: "We shall recover in fifteen or twenty years and then we'll have another go at it" (Djilas 1962, 114-15). Or by the imaginative scientist Albert Einstein: "Unless we are able, in the near future, to abolish the mutual fear of military aggression, we are doomed" (1960, 533). Or by the imaginative publishers of Bulletin of the Atomic Scientists who have sported a "doomsday clock" on the cover that has pointedly--and, some might irreverently suggest, pointlessly--remained frozen at a few minutes before midnight for the better part of a century now (see also Mueller 1989, 97-99). Allison's bold, imaginative, and alarming prediction of 2004 may, unlike the one he issued in 1995, prove right. But it also might end up there with that of the imaginative scientist/novelist who assured us nearly 50 years ago that if "the nuclear arms race between the United States and the U.S.S.R. not only continues but accelerates...within, at the most, ten years, some of those bombs are going off" (Snow 1961, 259); or with that of the imaginative University of Chicago political scientist who in 1979 proclaimed, "The world is moving ineluctably towards a third world war--a strategic nuclear war" (Hans J. Morgenthau in Boyle 1985, 73); or with that of the imaginative Harvard pundit who confidently assured us in May 2004 that "we can confidently expect that terrorists will attempt to tamper with our election in November" (Ignatieff 2004, 48). As this experience suggests, it is clearly possible to have a surfeit of imagination and to **become obsessed with** what Bernard Brodie once labeled in somewhat different context, "**worst case fantasies**" (1978, 68). Peter Zimmerman and Jeffrey Lewis pointedly conclude a 2006 article by declaring, "just because a nuclear terrorist attack hasn't happened shouldn't give us the false comfort of thinking it won't" (2006, 39). However, just because something terrible is possible shouldn't send us into hysterics thinking it will surely come about. If there has been a "failure of imagination," perhaps it has been in the inability or unwillingness to consider the difficulties confronting the atomic terrorist. Terrorist groups seem to have exhibited only limited desire and even less progress in going atomic. This may be because, after brief exploration, they have discovered that the tremendous effort required is scarcely likely to be successful.

### LOAC

Tayyab Mahmud 10, Professor of Law and Director, Center for Global Justice, Seattle University School of Law. ARTICLE: COLONIAL CARTOGRAPHIES, POSTCOLONIAL BORDERS, AND ENDURING FAILURES OF INTERNATIONAL LAW: THE UNENDING WARS ALONG THE AFGHANISTAN-PAKISTAN FRONTIER, 36 Brooklyn J. Int'l L. 1

When the U.S. decided to inject another 30,000 troops into the current Afghan war, now in its ninth year, The New York Times emphasized that "[i]t's not about Afghanistan. It's about a people straddling a border." n5 It went on to explain:

The land is not on any map, but it's where leaders of Al Qaeda and the Taliban both hide. It straddles 1000 miles of the 1600-mile Afghan-Pakistani border. It is inhabited by the ethnic Pashtun, a fiercely independent people that number 12 million on the Afghan side and 27 million on the Pakistani side. They have a language (Pashto), an elaborate traditional code of legal and moral conduct (Pashtunwali), a habit of crossing the largely unmarked border at will, and a centuries-long history of foreign interventions that ended badly for the foreigners. n6

The report adds: "[T]he Pashtun themselves have never paid the boundary much regard since it was drawn by a British diplomat, Mortimer Durand, in 1893. 'They don't recognize the border. They never have. They [\*3] never will.'" n7 An American military officer complains: "The only ones who recognized the border were us, with our G.P.S." n8 Some describe the Durand Line as one "drawn on water." n9 Perhaps, but it has been on fire for over a hundred years.

Fig. 1. The Durand Line and the Pashtun Areas n10

For over a century, the Durand Line and the border region between Afghanistan and Pakistan has been the epicenter of political and military conflicts in the region and beyond. As the current cycle of wars in and around Afghanistan, which started with the Soviet invasion in 1979, n11 enters its thirty-first year, this line continues to both create and aggravate security challenges. The U.S. Army's official history of the war in Afghanistan, covering the period from 2001 to 2005, observes that "the single greatest obstacle to conceptualizing . . . [this war] in a holistic sense was ambivalence . . . about . . . nation-building . . . [in] Afghanistan [\*4] [that] remained a failed state." n12 It bemoans that while "the need for a plan that ...offered a clear vision for this transition should have been obvious," instructions were to "avoid being enmeshed in nation building." n13 It concludes that:

The Afghan experience reinforces the critical point that regardless of the nature of the Army's future campaigns, U.S. soldiers will almost inevitably interact with foreign cultures. If these campaigns are focused on nation building, cultural awareness will become not just a necessary but perhaps a critical skill like marksmanship or land navigation. n14

These observations raise many questions about the relationship between contested borders, nation-building, failed states, cultural difference, and foreign interventions. In particular, they put into contention the elusive search for the "nation-state," a term absent in any English language dictionary before 1950. n15 In response to these vexing questions, we are offered a "bifurcated world . . . inhabited by Hegel's and Fukuyama's Last Man . . . [and] Hobbes' First Man." n16 Binary geographies of danger and safety are deployed that see bloody boundaries between a "functioning core" and a "non-integrating gap," with the "disconnectedness" between the two designated as the "ultimate enemy." n17 An inverted map of the world is unfolded to offer prescriptions for "[g]eostrategic success," namely, "prevent collusion and maintain security dependence among the vassals . . . keep tributaries pliant and protected, and . . . keep the barbarians from coming together." n18 A "new paradigm" is enunciated for a war of "uncertain duration" against "the enemies of civilization." n19 [\*5] One that "renders obsolete [and] . . . quaint" established rules of war. n20 This article argues that the Afghan war, like many of today's international conflicts, is rooted in contested borders that have not stood the test of time. Contested borders require that we "rethink the lazy separations between past, present, and future." n21 Conflicts that appear as new iterations of the binary-divides between civilized versus uncivilized, reason versus faith, and modernity versus fundamentalism, only confirm the "presence of the past." n22 Disruptions of the triumphal march of civilization, reason, and modernity necessitate that we shift our focus from "present futures to present pasts." n23 However, any effort to look back and bring into relief the history that animates the present confronts "a privilege of power too often unseen: the luxury of not having had to know, a parochialism and insularity that those on the margins can neither enjoy nor afford." n24 Often, contemporary ills have their roots in past policies and actions. When faced with intractable conflicts, it is useful to heed to the admonition: "Always historicize!" n25 To understand why the escalating Afghan war remains intractable it is beneficial to inquire into when, why, and how borders, nations, and states took shape in that region. It is also important to understand how modern international law, both in its incipient and mature stages, is implicated in designs that set the region into its current, unhappy course.

This article addresses questions of borders, cultures, nations, states, and foreign interventions underscored by the current war in the Afghanistan-Pakistan region by exploring the genealogy of the Durand Line, its conflict-ridden career, and the attendant role of the law. In this frame, this article interrogates modern law's subscription to a "territorialist epistemology." n26 Part II inventories nineteenth century constructs of international [\*6] law, geography, geopolitics, and borders that formed the scaffolding that made the drawing of the Durand Line possible. It shows that drawing lines, both actual and metaphoric, constitutes modern legal orders, particularly international law. Part III narrates the story of the demarcation of this line in the midst of imperial rivalries and the role it has played in colonial and postcolonial operations of power. It focuses on nation-building and security dilemmas of postcolonial states that are imprisoned in territorial straitjackets bequeathed by colonial cartographies. Part IV examines how international law preserves contested borders bequeathed by colonialism, and thereby precludes imaginative flowerings of self-determination in tune with identities and aspirations of communities located within and beyond received colonial boundaries. Part V draws conclusions about the mutually constitutive role of colonialism and international law in ordering spaces and subjects. It posits that conceptual and doctrinal frames of international law remain tangled in its colonial lineage, and thus accentuate postcolonial dilemmas and conflicts.

II. SCAFFOLDING OF COLONIAL CARTOGRAPHIES

Just as none of us is outside or beyond geography, none of us is completely free from the struggle over geography. That struggle is complex and interesting because it is not only about soldiers and cannons but also about ideas, about form, about images and imaginings. n27

Drawing boundaries is the inaugural gesture of the law, while policing boundaries is its routine function. The genesis of law signals that "[t]he primordial scene of the nomos opens with a drawing of a line in the soil . . . to mark the space of one's own." n28 Modem law's insistent claims of its universality notwithstanding, lines of demarcation that separate legality from illegality often create zones where bodies and spaces are placed on the other side of universality, a "moral and legal no man's land, where universality finds its [\*7] spatial limit." n29 Material and discursive orders that enjoy hegemony in any setting, fashion and enable instruments to draw these lines and carve out such zones. The story of the Durand Line testifies to this phenomenon.

The Durand Line was drawn by a colonial power in the nineteenth century, which was a defining phase in the consolidation of modern regimes of knowledge, along with the suturing of epistemology with the state. n30 Therefore, it is critical to identify the conceptual ensemble that furnished the scaffolding for such a venture. It is the Author's position that the conceptual and discursive apparatus of international law, modern geography, geopolitics, and borders are interwoven in the enabling frame that made the drawing of this conflict-ridden dividing line possible.

[\*8] A. International Law and Differentiated Sovereignty

No sooner was a new world "discovered," than a line, petition del mar oceano, was drawn by the Treaty of Tordesillas on June 7, 1494. n31 This line divided the world beyond Europe between Portugal and Spain, and supplemented Pope Alexander VI's edict Inter caetera divinae of May 4, 1494, with an agreement between sovereigns. n32 The right of two royal houses of Europe over the division of the non-European world as "lords with full, free, and every kind of power, authority and jurisdiction" n33 now stood grounded both in divine sanction and sovereign will and consent. n34 This inaugural act of the incipient global order injected colonialism into the genetic code of modem international law. n35 The "amity lines," initiated by a secret clause of the Treaty of Cateau-Cambresis of 1559, institutionalized a differentiation between the European "sphere of peace and the law of nations from an overseas sphere in which there was neither [\*9] peace nor law." n36 These "amity lines," which mandated peaceful cooperation in the region within their bounds and gave license to unbridled conflict without, gave rise to the maxim: "Beyond the equator there are no sins." n37 In the new global order, "[e]verything that occurred 'beyond the line' remained outside the legal, moral, and political values recognized on this side of the line." n38 In this zone, "beyond the line" and "beyond the equator," doctrines of "discovery," "terra nullius," and "anima nullius" flourished. n39 The career of modem international law is the story of making, maintaining, and managing this enduring line.

[\*10] In the nineteenth century, colonialism animated a decisive turn in the evolution of modern international law, even though "international law consistently attempts to obscure its colonial origins, [and] its connections with the inequalities and exploitation inherent in the colonial encounter." n40 The unquestioned universality of international law "was principally a consequence of the imperial expansion." n41 The development of modern conceptions of sovereignty and the international subject, which are bedrock constructs of modern international law, has little to do with the professed foundational concern of international law, i.e., stability of the relations between sovereign states. n42 Rather, these constructs were fashioned to manage the colonial relations of domination and racial difference. n43

#### Their argument presumes there’s a neutral and universal standpoint from which we can shoehorn all explanations of the world—our links prove their args are wrong

**Grondin 4—**master of pol sci and PHD of political studies @ U of Ottowa(David, “(Re)Writing the “National Security State”: How and Why Realists (Re)Built the(ir) Cold War,” http://www.er.uqam.ca/nobel/ieim/IMG/pdf/rewriting\_national\_security\_state.pdf, AMiles)

In explaining national security conduct, **realist discourses serve the violent** 6 **purposes of the state**, as well as legitimizing its actions and reinforcing its hegemony. This is why we must historicize the practice of the analyst and question the “regimes of truth” constructed by realist discourses. When studying a given discourse, one must also study the socio-historical conditions in which it was produced. Realist analysts are part of the subfield of Strategic Studies associated with the Cold War era. Even though it faced numerous criticisms after the Cold War, especially since it **proved irrelevant in predicting its end**, this subfield retains a significant influence in International Relations – as evidenced, for instance, by the vitality of the journal International Security. Theoretically speaking, Strategic Studies is the field par excellence of realist analyses: it is a way of interpreting the world, which is inscribed in the language of violence, organized in strategy, in military planning, in a military order, and which **seek to shape and preserve world order** (Klein, 1994: 14). Since they are interested in issues of international order, realist discourses study the balancing and bandwagoning behavior of great powers. Realist analysts believe they can separate object from subject: on this view, it would be possible to abstract oneself from the world in which one lives and studies and to use value-free discourse to produce a non-normative analysis. As Stephen Brooks and William Wohlforth assert, “[s]uch arguments [about American moderation and international benevolence that stress the constraints on American power] are unpersuasive, however, because they fail to acknowledge the true nature of the current international system” (Brooks and Wohlforth, 2002: 31). Thus it would seem that Brooks and Wohlforth have the ability to “know” essential “truths”, as they “know” the “true” nature of the international system. From this vantage point it would even be possible “to set aside one’s own subjective biases and values and to confront the world on its own terms, with the hope of gaining mastery of that world through a clear understanding that transcends the limits of such personal determinants as one’s own values, class, gender, race, or emotions” (Klein, 1994: 16). However, it is impossible to speak or write from a neutral or transcendental ground: “there are only interpretations – some stronger and some weaker, to be sure – based on argument and evidence, which seems from the standpoint of the interpreter and his or her interlocutor to be ‘right’ or ‘accurate’ or ‘**useful’ at the moment** of interpretation” (Medhurst, 2000: 10). It is in such realist discourse that Strategic Studies become a technocratic approach determining the foundations of security policies that are **disguised as an academic approach** above all critical reflection (Klein, 1994: 27-28). Committed to an explanatory logic, realist analysts are less interested in the **constitutive processes of states** and state systems than in their functional existence, which they take as given. They are more attentive to regulation, through the military uses of force and strategic practices that establish the internal and external boundaries of the states system. Their main argument is that matters of security are the immutable driving forces of global politics. Indeed, most realists see some strategic lessons as being eternal, such as balance of power politics and the quest for national security. For Brooks and Wohlforth, balance of power politics (which was synonymous with Cold War politics in realist discourses) is the norm: “The result — balancing that is rhetorically grand but substantively weak — is politics as usual in a unipolar world” (Brooks and Wohlforth, 2002: 29). National security discourses constitute the “observed realities” that are the grist of neorealist and neoclassical realist theories. These theories rely upon U.S. material power (the perception of U.S. relative material power for neoclassical realists), balance of power, and the global distribution of power to explain and legitimate American national security conduct. **Their argument is circular since they depict a reality that is constituted by their own discourse, in addition to legitimizing American strategic behavior**. Realists often disagree about the use of force – on military restraint versus military intervention, for example – but the differences pertain to strategies of power, that is, means as opposed to ends. Realist discourses will not challenge the United States’ position as a prominent military power. As Barry Posen maintains, “[o]ne pillar of U.S. hegemony is the vast military power of the United States. […] Observers of the actual capabilities that this effort produces can focus on a favorite aspect of U.S. superiority to make the point that the United States sits comfortably atop the military food chain, and is likely to remain there” (Posen, 2003: 7). Realist analysts “observe” that the U.S. is the world hegemonic power and that no other state can balance that power. In their analyses, they seek to explain how the United States was able to build and lead coalitions in Afghanistan and Iraq with no other power capable of offering military resistance. Barry Posen “neutrally” explains this by emphasizing the United States’ permanent preparation for war: I argue that the United States enjoys command of the commons—command of the sea, space, and air. I discuss how command of the commons supports a hegemonic grand strategy. […] Command means that the United States gets vastly more military use out of the sea, space, and air than do others; that it can credibly threaten to deny their use to others; and that others would lose a military contest for the commons if they attempted to deny them to the United States. Command of the commons is the key military enabler of the U.S. global power position. It allows the United States to exploit more fully other sources of power, including its own economic and military might as well as the economic and military might of its allies. Command of the commons has permitted the United States to wage war on short notice even where it has had little permanent military presence. This was true of the 1991 Persian Gulf War, the 1993 intervention in Somalia, and the 2001 action in Afghanistan (Posen, 2003: 7-9). Moreover, in realist theoretical discourses, transnational non-state actors such as terrorist networks are not yet taken into account. According to Brooks and Wohlforth, they need not be: “Today there is one pole in a system in which the population has trebled to nearly 200” (Brooks and Wohlforth, 2002: 29). In their system, only states are relevant. And what of the Al-Qaida terrorist network? At best, realist discourses accommodate an interstate framework, a “reality” depicted in their writings as **an** **oversimplification of the complex world** in which we now live (Kratochwil, 2000).7 In their theoretical constructs, these analysts do not address national or state identity in any substantive way. Moreover, they do not pay attention to the security culture in which they as individuals are embedded8. They rarely if ever acknowledge their subjectivity as analysts, and they proceed as if they were able to separate themselves from their cultural environment. From a poststructuralist perspective, however, it is impossible to recognize all the ways in which we have been shaped by the culture and environment in which we were raised. We can only think or experience the world through a cultural prism: it is impossible to abstract oneself from one’s interpretive cultural context and experience and describe “the world as it is”. There is always an interpretive dimension to knowledge, an inevitable mediation between the “real world” and its representation. This is why American realist analysts have trouble shedding the Cold War mentality in which they were immersed. Yet some scholars, like Brooks and Wohlforth, consciously want to perpetuate it: “Today the costs and dangers of the Cold War have faded into history, but they need to be kept in mind in order to assess unipolarity accurately” (Brooks and Wohlforth, 2002: 30).

## Terror

### Nuke Tism

#### Officials inflate the threat—terrorists are incompetent

Stephen M. Walt 12, Robert and Renée Belfer professor of international relations at Harvard University, "'America the brittle?'" September 10, Foreign Policy, http://walt.foreignpolicy.com/posts/2012/09/09/inflating\_the\_terrorist\_threat\_again

According to yesterday's New York Times, assorted "senior American officials" are upset that adversaries like al Qaeda, the Taliban, or the Somali pirates are not simply rolling over and dying. Instead, these foes are proving to be "resilient," "adaptable," and "flexible." These same U.S. officials are also worried that the United States isn't demonstrating the same grit, as supposedly revealed by high military suicide rates, increased reports of PTSD, etc. According to Times reporters Thom Shanker and Eric Schmitt, these developments¶ "raise concerns that the United States is losing ground in the New Darwinism of security threats, in which an agile enemy evolves in new ways to blunt America's vast technological prowess with clever homemade bombs and anti-American propaganda that helps supply a steady stream of fighters."¶ Or as Shanker and Schmitt put it (cue the scary music): "Have we become America the brittle?"¶ This sort of pop sociology is not very illuminating, especially when there's no evidence presented to support the various officials' gloomy pronouncements. In fact, the glass looks more than half-full. Let's start by remembering that the Somali pirates and al Qaeda have been doing pretty badly of late. Piracy in the Gulf of Aden is down sharply, Osama bin Laden is dead, and his movement's popularity is lower than ever. Whatever silly dreams he might have had about restoring the caliphate have proven to be just hollow fantasies. And as John Mueller and Mark Stewart showed in an article I linked to a few weeks ago, the actual record of post-9/11 plots against the United States suggests that these supposedly "agile" and "resilient" conspirators are mostly bumbling incompetents. In fact, Lehman Bros. might be the only major world organization that had a worse decade than al Qaeda did.

### Drones

#### Sustaining drones just results in ideological gains for insurgents—that outweighs tactical victories

Groves 13—Major Bryan Groves is currently the Deputy Director of the Combating Terrorism Center at the U.S. Military Academy at West Point. A graduate from Yale University's Masters of Arts in IR program, he is a Special Forces Officer and has served in Iraq and Bosnia [“America's Trajectory in the Long War1: Redirecting Our Efforts Toward Strategic Effects Versus Simply Tactical Gains,” *Studies in Conflict & Terrorism*, Vol. 36, Issue 1, 2013, Taylor & Francis, Accessed through Emory Libraries]

Stuck at the Tactical and Operational Levels

During the Long War the American effort has been stuck at the tactical and operational levels. The reason for this is that American leaders have had their attention focused too narrowly, missing that the “center of gravity” in the struggle resides in the non-fighting populations of both sides. To effect lasting change, America needs to address the ideological battle,

point out inconsistencies in enemy narratives and actions, and stem the flow of new recruits into the terrorist groups.

Instead, the United States has been focused on making a series of changes that have been tactical or operational in scope. One is the significant intelligence collection effort and reorganization among the U.S. intelligence apparatus. President George W. Bush's creation of the Department of Homeland Security (DHS) and alignment of some twenty agencies under it is another. The government's passage of the Patriot Act to authorize more robust counterterrorism measures was a third new counterterrorism measure. Fourth and for better or worse, the United States used the prison facilities at Guantanamo Bay, along with renditions, to handle the difficult aspects of the legal battle against terrorists that democracies face. The primary focus of each of these aspects of the fight has been to keep America safe and prevent terror attacks against U.S. interests.

This objective is strategic in nature, but there has been an ends–means mismatch. The main means by which the government has sought to accomplish its counterterrorism goals have been to kill or capture and prosecute bad guys. By its very nature, gains won through these means are likely to be temporary because of the resilient nature and tremendous regenerative capacity of the enemy. For each operative that America kills or put behind bars, Al Qaeda, Taliban, and other like-minded groups have proven capable in maintaining a rate of new recruits that has the potential to keep pace with their losses. Whether they actually are able to do so depends on a number of factors. Some of the variables include the level of resources the U.S. levies against the group in a particular region, the resonance of their message with the local population, and the host nation's capacity and willingness to counter the organization.

A common way in which terrorist groups are able to maintain their numerical strength is because they have become exceptionally good at the “new media,” which facilitates a steady flow of recruits, their radicalization, and effective mobilization toward violence on behalf of the group's objective. This is especially true of Al Qaeda. Instead of relying on “old media” or traditional television and radio outlets, Al Qaeda has developed the ability to produce and disseminate its own first-rate videos. 28 This allows them to control the message, both in its creation and in its distribution. Recognizing the need to send nuanced versions of their message to different audiences, Al Qaeda has become quite sophisticated in its approach, eclipsing other terrorist organizations and serving as a model for them. 29

The enemy's decentralized network and metamorphosis into an ideological movement (a “network of networks”) are other reasons they have rendered our kinetic victories to be of limited duration. America's military pressure definitely disrupts the enemy's ability to plan, coordinate, and conduct successful attacks—especially spectacular attacks. But they also contribute to further radicalizing elements of the Ummah (global Muslim population), especially when civilian casualties result from military strikes, though inadvertent on the American part, the perception is substantially different among some Muslim segments. Global jihadists view our strikes as a justification for their struggle. They argue their case to illicit fence sitters among the Ummah to join in solidarity with them and recognize armed jihad as the only solution. And, without other efforts to build bridges with Muslim communities domestically, the United States is in danger of furthering a polarizing trend among average Americans that could lead us in an opposite direction of our long-held “melting pot” identity. Government at all levels needs to address this issue to foster greater integration and prevent fracturing along religious, ethnic, or socioeconomic lines. 30

## Legal Regimes

### No norms

#### No ‘global precedent’ is affected by anything the U.S. does---states will inevitably pursue drones

Robert Wright 12, “The Incoherence of a Drone-Strike Advocate,” 11/14/12, http://www.theatlantic.com/international/archive/2012/11/the-incoherence-of-a-drone-strike-advocate/265256/

Naureen Shah of Columbia Law School, a guest on the show, had raised the possibility that America is setting a dangerous precedent with drone strikes. If other people start doing what America does--fire drones into nations that house somebody they want dead--couldn't this come back to haunt us? And haunt the whole world? Shouldn't the U.S. be helping to establish a global norm against this sort of thing? Host Warren Olney asked Boot to respond.

Boot started out with this observation:

I think the precedent setting argument is overblown, because I don't think other countries act based necessarily on what we do and in fact we've seen lots of Americans be killed by acts of terrorism over the last several decades, none of them by drones but they've certainly been killed with car bombs and other means.

That's true--no deaths by terrorist drone strike so far. But I think a fairly undeniable premise of the question was that the arsenal of terrorists and other nations may change as time passes. So answering it by reference to their current arsenal isn't very illuminating. In 1945, if I had raised the possibility that the Soviet Union might one day have nuclear weapons, it wouldn't have made sense for you to dismiss that possibility by noting that none of the Soviet bombs dropped during World War II were nuclear, right?

As if he was reading my mind, Boot immediately went on to address the prospect of drone technology spreading. Here's what he said:

You know, drones are a pretty high tech instrument to employ and they're going to be outside the reach of most terrorist groups and even most countries. But whether we use them or not, the technology is propagating out there. We're seeing Hezbollah operate Iranian supplied drones over Israel, for example, and our giving up our use of drones is not going to prevent Iran or others from using drones on their own. So I wouldn't worry too much about the so called precedent it sets..."

### AT: Enviro

#### No enviro impact – Doremus is great and logical – no reason they’re sufficient

#### Their impact evidence is alarmist and empirically denied

Kaleita 7 Amy Kaleita is an Environmental Studies Fellow and Assistant Professor of agricultural and biosystems engineering at Iowa State University. She holds a PhD in agricultural engineering from the University of Illinois. "Hysteria's History: Environmental Alarmism in Context," Pacific Research Institute, http://www.pacificresearch.org/docLib/20070920\_Hysteria\_History.pdf

Apocalyptic stories about the irreparable, catastrophic damage that humans are doing to the natural environment have been around for a long time. These hysterics often have some basis in reality, but are blown up to illogical and ridiculous proportions. Part of the reason they’re so appealing is that they have the ring of plausibility along with the intrigue of a horror flick.

In many cases, the alarmists identify a legitimate issue, take the possible consequences to an extreme, and advocate action on the basis of these extreme projections. In 1972, the editor of the journal *Nature*pointed out the problem with the typical alarmist approach: “[Alarmists’] most common error is to suppose that the worst will always happen.”82 But of course, if the worst always happened, the human race would have died out long ago.

When alarmism has a basis in reality, the challenge becomes to take appropriate action based on that reality, not on the hysteria. The aftermath of*Silent Spring*offers examples of both sorts of policy reactions: a reasoned response to a legitimate problem and a knee-jerk response to the hysteria.

On the positive side,*Silent Spring* brought an end to the general belief that all synthetic chemicals in use for purposes ranging from insect control to household cleaning were uniformly wonderful, and it ushered in an age of increased caution on their appropriate use. In the second chapter of her famous book, Carson wrote, “It is not my contention that chemical insecticides must never be used. I do contend that… we have allowed these chemicals to be used with little or no advance investigation of their effect on soil, water, wildlife, and man himself.”

Indeed, Carson seemed to advocate reasoned response to rigorous scientific investigation, and in fact this did become the modern approach to environmental chemical licensure and monitoring. An hour-long CBS documentary on pesticides was aired during the height of the furor over*Silent Spring*. In the documentary, Dr. Page Nicholson, a water-pollution expert with the Public Health Service, wasn’t able to answer how long pesticides persist in water once they enter it, or the extent to which pesticides contaminate groundwater supplies. Today, this sort of information is gathered through routine testing of chemicals for use in the environment.

Ironically, rigorous investigation was not used in the decision to ban DDT, primarily due to the hysteria*Silent Spring*generated. In this example, the hysteria took on a life of its own, even trumping the author’s original intent. There was, as we have seen, a more sinister and tragic response to the hysteria generated by*Silent Spring*. Certain developing countries, under significant pressure from the United States, abandoned the use of DDT. This decision resulted in millions of deaths from malaria and other insect-borne diseases. In the absence of pressure to abandon the use of DDT, these lives would have been spared. It would certainly have been possible to design policies requiring caution and safe practices in the use of supplemental chemicals in the environment, without pronouncing a death sentence on millions of people.

A major challenge in developing appropriate responses to legitimate problems is that alarmism catches people’s attention and draws them in. Alarmism is given more weight than it deserves, as policy makers attempt to appease their constituency and the media. It polarizes the debaters into groups of “believers” and “skeptics,” so that reasoned, fact-based compromise is difficult to achieve. Neither of these aspects of alarmism is healthy for the development of appropriate policy.

Further, alarmist responses to valid problems risk foreclosing potentially useful responses based on ingenuity and progress. There are many examples from the energy sector where, in the presence of economic, efficiency, or societal demands, the marketplace has responded by developing better alternatives. That is not to say that we should blissfully squander our energy resources; on the contrary, we should be careful to utilize them wisely. Butenergy-resource hysteria should not lead us to circumvent scientific advancement by cherry-picking and favoring one particular replacement technology at the expense of other promising technologies.

Environmental alarmism should be taken for what it is—a natural tendency of some portion of the public to latch onto the worst, and most unlikely, potential outcome. Alarmism should not be used as the basis for policy. Where a real problem exists, solutions should be based on reality, not hysteria.

#### Environment resilient

Doug Boucher 96 is the director of the Tropical Forest and Climate Initiative at the Union of Concerned Scientists (UCS)"Not with a Bang but a Whimper," Science and Society, Fall 96 Issue, http://www.driftline.org/cgi-bin/archive/archive\_msg.cgi?file=spoon-archives/marxism-international.archive/marxism-international\_1998/marxism-international.9802&msgnum=379&start=32091&end=32412

The political danger of catastrophism is matched by the weakness of its scientific foundation. Given the prevalence of the idea that the entire biosphere will soon collapse, it is remarkable how few good examples ecology can provide of this happening m even on the scale of an ecosystem, let alone a continent or the whole planet. Hundreds of ecological transformations, due to introductions of alien species, pollution, overexploitation, climate change and even collisions with asteroids, have been documented. They often change the functioning of ecosystems, and the abundance and diversity of their animals and plants, in dramatic ways. The effects on human society can be far-reaching, and often extremely negative for the majority of the population. But one feature has been a constant, nearly everywhere on earth: life goes on. Humans have been able to drive thousands of species to extinction, severely impoverish the soil, alter weather patterns, dramatically lower the biodiversity of natural communities, and incidentally cause great suffering for their posterity. They have not generally been able to prevent nature from growing back. As ecosystems are transformed, species are eliminated -- but opportunities are created for new ones. The natural world is changed, but never totally destroyed. Levins and Lewontin put it well: "The warning not to destroy the environment is empty: environment, like matter, cannot be created or destroyed. What we can do is replace environments we value by those we do not like" (Levins and Lewontin, 1994). Indeed, from a human point of viewthe most impressive feature of recorded history is that human societies have continued to grow and develop, despite all the terrible things they have done to the earth. Examples of the collapse of civilizations due to their over- exploitation of nature are few and far between. Most tend to bewell in the past and poorly documented, and further investigation often shows that the reasons for collapse were fundamentally political.

### 1NC: No Impact

#### The worst case scenario happened – no extinction

Dove 12 [Alan Dove, PhD in Microbiology, science journalist and former Adjunct Professor at New York University, “Who’s Afraid of the Big, Bad Bioterrorist?” Jan 24 2012, http://alandove.com/content/2012/01/whos-afraid-of-the-big-bad-bioterrorist/]

The second problem is much more serious. Eliminating the toxins, we’re left with a list of infectious bacteria and viruses. With a single exception, these organisms are probably near-useless as weapons, and history proves it.¶ There have been at least three well-documented military-style deployments of infectious agents from the list, plus one deployment of an agent that’s not on the list. I’m focusing entirely on the modern era, by the way. There are historical reports of armies catapulting plague-ridden corpses over city walls and conquistadors trying to inoculate blankets with Variola (smallpox), but it’s not clear those “attacks” were effective. Those diseases tended to spread like, well, plagues, so there’s no telling whether the targets really caught the diseases from the bodies and blankets, or simply picked them up through casual contact with their enemies.¶ Of the four modern biowarfare incidents, two have been fatal. The first was the 1979 Sverdlovsk anthrax incident, which killed an estimated 100 people. In that case, a Soviet-built biological weapons lab accidentally released a large plume of weaponized Bacillus anthracis (anthrax) over a major city. Soviet authorities tried to blame the resulting fatalities on “bad meat,” but in the 1990s Western investigators were finally able to piece together the real story. The second fatal incident also involved anthrax from a government-run lab: the 2001 “Amerithrax” attacks. That time, a rogue employee (or perhaps employees) of the government’s main bioweapons lab sent weaponized, powdered anthrax through the US postal service. Five people died.¶ That gives us a grand total of around 105 deaths, entirely from agents that were grown and weaponized in officially-sanctioned and funded bioweapons research labs. Remember that.¶ Terrorist groups have also deployed biological weapons twice, and these cases are very instructive. The first was the 1984 Rajneeshee bioterror attack, in which members of a cult in Oregon inoculated restaurant salad bars with Salmonella bacteria (an agent that’s not on the “select” list). 751 people got sick, but nobody died. Public health authorities handled it as a conventional foodborne Salmonella outbreak, identified the sources and contained them. Nobody even would have known it was a deliberate attack if a member of the cult hadn’t come forward afterward with a confession. Lesson: our existing public health infrastructure was entirely adequate to respond to a major bioterrorist attack.¶ The second genuine bioterrorist attack took place in 1993. Members of the Aum Shinrikyo cult successfully isolated and grew a large stock of anthrax bacteria, then sprayed it as an aerosol from the roof of a building in downtown Tokyo. The cult was well-financed, and had many highly educated members, so this release over the world’s largest city really represented a worst-case scenario.¶ Nobody got sick or died. From the cult’s perspective, it was a complete and utter failure. Again, the only reason we even found out about it was a post-hoc confession. Aum members later demonstrated their lab skills by producing Sarin nerve gas, with far deadlier results. Lesson: one of the top “select agents” is extremely hard to grow and deploy even for relatively skilled non-state groups. It’s a really crappy bioterrorist weapon.¶ Taken together, these events point to an uncomfortable but inevitable conclusion: our biodefense industry is a far greater threat to us than any actual bioterrorists.

#### Attack would fail

Mueller 6 - John Mueller, Professor of Political Science and International Relations at Ohio State, 06, Overblown p. 20-22

Properly developed and deployed, biological weapons could indeed, if thus far only in theory, kill hundreds of thousands, perhaps even mil­lions of people. The discussion remains theoretical because biological weapons have scarcely ever been used. **Belligerents have eschewed such weapons with good reason: they are extremely difficult to deploy and to control.** Terrorist groups or rogue states may be able to solve such problems in the future with advances in technology and knowledge, but, notes scientist Russell **Seitz**, while bioterrorism may look easy on paper, ''the learning curve is lethally steep in practice." The record so far is unlikely to be very encouraging. For example, Japan reportedly infected wells in Manchuria and bombed several Chinese cities with plague-infested fleas before and during World War II. These ventures (by a state, not a terrorist group) may have killed thousands of Chinese, but they apparently also caused considerable unintended casualties among Japanese troops and seem to have had little military impact.20

For the most destructive results, biological weapons need to be dis­persed in very low-altitude aerosol clouds. Because aerosols do not appreciably settle, pathogens like anthrax (which is not easy to spread or catch and is not contagious) would probably have to be sprayed near nose level. Moreover, 90 percent of the microorganisms are likely to die during the process of aerosolization, and their effectiveness could be reduced still further by sunlight, smog, humidity, and temperature changes. Explosive methods of dispersion may destroy the organisms, and, except for anthrax spores, long-term storage of lethal organisms in bombs or warheads is difficult: even if refrigerated, most of the organ­isms have a **limited lifetime**. The effects of such weapons can take days or weeks to have full effect, during which time they can be countered with medical and civil defense measures. And their impact is very diffi­cult to predict; in combat situations they may spread back onto the attacker. In the judgment of two careful analysts, delivering microbes and toxins over a wide area in the form most suitable for inflicting mass casualties—as an aerosol that can be inhaled—-requires a delivery system whose development "would outstrip the technical capabilities of all but the most sophisticated terrorist." Even then effective dispersal could easily be disrupted by unfavorable environmental and meteoro­logical conditions.21

After assessing, and stressing, the difficulties a nonstate entity would find in obtaining, handling, growing, storing, processing, and dispersing lethal pathogens effectively, biological weapons expert Milton Leiten-berg compares Ms conclusions with glib pronouncements in the press about how biological attacks can be pulled off by anyone with "a little training and a few glass jars," or how it would be "about as difficult as producing beer." He sardonically concludes, ''The less the commenta­tor seems to know about biological warfare the easier he seems to think the task is."

## T

### Cards

#### Contextual definitions bad – intent to define outweighs

Eric Kupferbreg 87, University of Kentucky, Senior Assistant Dean, Academic & Faculty Affairs at Northeastern University, College of Professional Studies Associate Director, Trust Initiative at Harvard School of Public Health 1987 “Limits - The Essence of Topicality” http://groups.wfu.edu/debate/MiscSites/DRGArticles/Kupferberg1987LatAmer.htm

Often, field contextual definitions are too broad or too narrow for debate purposes. Definitions derived from the agricultural sector necessarily incorporated financial and bureaucratic factors which are less relevant in considering a 'should' proposition. Often subject experts' definitions reflected administrative or political motives to expand or limit the relevant jurisdiction of certain actors. Moreover, field context is an insufficient criteria for choosing between competing definitions. A particularly broad field might have several subsets that invite restrictive and even exclusive definitions. (e.g., What is considered 'long-term' for the swine farmer might be significantly different than for the grain farmer.) Why would debaters accept definitions that are inappropriate for debate? If we admit that debate is a unique context, then additional considerations enter into our definitional analysis.

#### Commander in Chief powers like self-defense are inherent to the prez and war powers are not

Robert Reinstein 09, Professor of Law, Temple University Beasley School of Law, “The Limits of Executive Power,” 59 Am. U.L. Rev. 259, December 2009

Six other prerogatives were delegated to the President, but in substantially limited ways. The Commander-in-Chief power was limited by vesting the war powers and substantial control over the military in Congress. The treaty and appointments powers (including the appointment of ambassadors and other public ministers) were made subject to the prior approval of the Senate, while the veto power was subject to congressional override. The pardoning power could be applied only to a relatively small percentage of criminal cases. Only the power to receive foreign ambassadors and ministers was left intact in the Executive, and no presidential power is greater than its royal counterpart.

#### Commander in chief powers are narrow and don’t involve war powers

Jeremy Telman 07, Assistant Professor, Valparaiso University Law School, “Review Essay: The Foreign Affairs Power: Does the Constitution Matter?: A Review of Peter Irons, War Powers: How the Imperial Presidency Hijacked the Constitution,” 80 Temp. L. Rev. 245

The traditional view that the commander-in-chief power is narrowly circumscribed is buttressed by the constitutional text, which specifies that the President "shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States." n54 The Framers saw standing armies under the control of a powerful executive as a threat to democracy and thus anticipated that there would be no significant federal army. n55 Alexander Hamilton, no enemy of executive power, acknowledged that the President would exercise his commander-in-chief power only in "the direction of war when authorized or begun." n56 Moreover, as Irons indicates in the one area of seventeenth-and eighteenth-century history where he is more thorough than Yoo, the point of the commander-in-chief power traditionally was not to create executive war powers but to subordinate the military to civil authority. n57

#### The framers of the constitution explicitly distinguished between “war powers” and “commander in chief powers”— their interpretation is imprecise and explodes limits

Stephen Heidt 13, A Memorandum on the Topic Area, Georgia State University, http://www.cedadebate.org/forum/index.php?topic=4846.0

First, the topic committee and voters need to understand that Presidential War Power is not Commander in Chief Power. The topic paper, following a trend in legal “scholarship” and news media, blurs the distinction between the categories by alluding to presidential war power as commander in chief power (p9 at note 13). But war power is categorically distinct from commander in chief power. This categorical distinction derives directly from the powers ¶ 2 ¶ enumerated in the Constitution. Those powers can be summarized as Congress declares war, Presidents execute wars. ¶ Constitutional evidence: ¶ Article 1, Section 8: “The Congress shall have the power: To declare war…to raise armies and support armies…to provide and maintain a Navy, to make rules for the Government and Regulation of the land and naval Forces, to provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions; to provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States…” ¶ Article 1, Section 9: “The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public safety may require it.” ¶ Article 1, Section 10 which reads: “No State shall, without the Consent of Congress…engage in War, unless actually invaded, or in such imminent Danger as will not admit delay.” ¶ Article II, Section 2: “The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several states…He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur…” ¶ To summarize: War powers are enumerated in Article 1 of the Constitution. Commander in Chief power is enumerated in Article 2. The framers of the Constitution kept the two entirely distinct, on purpose, as a means for resolving the tension between the danger that a strong president would risk dictatorship and the need for unfettered power of the executive to conduct and win war.

#### Wrecks limits and shifts away from core controversy

Stephen Heidt 13, A Memorandum on the Topic Area, Georgia State University, http://www.cedadebate.org/forum/index.php?topic=4846.0

This evidence hints at the core controversy, the very thing that animated Schlesinger to coin the Imperial Presidency thesis and the hundreds of books and articles that have been written since: When and where does the president have the power to deploy and use military force without Congressional authorization. Schlesinger’s very real concern was that Congress had willfully abdicated its role in providing a check on presidential use of force. As he wrote, “Historically, Congress had preserved the rough balance of the Constitution because it retained three vital powers: the war-making power, the power of the purse, and the power of oversight and investigation” (The Imperial Presidency, New York: First Mariner Books Edition, 2004, 11). “The Founding Fathers made a deliberate effort to divide control of the war powers. They vested in Congress the authority to commence and authorize war, whether that war be declared or undeclared. At the same time, they vested in the Presidency the conduct both of ongoing foreign relations and ongoing war as well as the right to respond to sudden attack when Congress was not in session” (Schlesinger, 54).

As Gerald Astor declared, “the once fine line between the power to declare war and the authority to conduct that war has been smudged, if not erased” (Presidents at War, Hoboken, NJ: Wiley, 2006, 16). The debate community should treat this as the core controversy because it is a controversy that matters. Since World War II, presidents have used military force without Congressional authorization in: Korea, Cuba, Vietnam, Iran, Lebanon, Syria, Grenada, Kuwait, Iraq, Panama, Somalia, Bosnia, the Sudan, Libya, and likely many more (El Salvador, Nicaragua, etc). The president now possesses the unfettered ability to use military force wherever he chooses for an almost indefinite period of time because Congress has abdicated any role in restricting presidential action.

Voting for restrict presidential war power establishes a very narrow topic – commander in chief blows the lid off that restriction. Those of us with gray in our hair may recall the restricting commander in chief power means anything from Congressional control over the president’s medical staff (Kansas) to Congressional control over media pools in wartime (a Bill Newnam Special) and everything in between. Modern versions of the parameters of that type of topic are elaborated in the topic paper when, for example, the authors isolate drones as a core controversy invoking the “president’s legal authority to conduct the war on terror.” This is nonsense for two reasons. First, the AUMF granted the president all the legal authority necessary and, second, the CONDUCT of the war is power reserved for the commander in chief and does not fall under the purview of Congressional war declaration power. There are no constitutional questions related to drone use aside from use on American citizens (without due process). This gross error in the topic paper reflects one of the downsides of using sources like the Idaho Statesman to comment on constitutional issues. The topic paper is correct, however, that Affs could restrict presidential actions to target U.S. citizens, but even that might not be topical if the topic is written as restrict/reduce presidential war power since this goes to a “use” issue and not a “power” issue (and, at best, reflects a violation of the Constitutional order and not an expansion of the Constitutional order – one could argue that ending violations is not a restriction in presidential war power since the president never had the power to act in the first place).

Detainees could also be excluded: “Bush, in claiming the right to detain captives from Afghanistan and Iraq without their access to standard legal procedures, invoked his power as commander in chief” (Astor, 18).

The bottom line: The topic should either be restrict presidential war power (as was voted for) OR restrict commander in chief power – not both. Blurring that distinction risks creating a gigantic mess under which either there is no effective limit to the topic or the community is forced into voting for a list topic.

### Reasonability

#### It’s arbitrary and undermines research

Evan Resnick 1, assistant professor of political science – Yeshiva University, “Defining Engagement,” Journal of International Affairs, Vol. 54, Iss. 2

In matters of national security, establishing a clear definition of terms is a precondition for effective policymaking. Decisionmakers who invoke critical terms in an erratic, ad hoc fashion risk alienating their constituencies. They also risk exacerbating misperceptions and hostility among those the policies target. Scholars who commit the same error undercut their ability to conduct valuable empirical research. Hence, if scholars and policymakers fail rigorously to define "engagement," they undermine the ability to build an effective foreign policy.