### 1NC

### Off

#### Interpretation:

#### 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.

#### Authority is power delegated to an agent by a principle

Kelly 3 Judge for the State of Michigan, JOSEPH ELEZOVIC, Plaintiff, and LULA ELEZOVIC, Plaintiff-Appellant/Cross-Appellee, v. FORD MOTOR COMPANY and DANIEL P. BENNETT, Defendants-Appellees/Cross-Appellants., No. 236749, COURT OF APPEALS OF MICHIGAN, 259 Mich. App. 187; 673 N.W.2d 776; 2003 Mich. App. LEXIS 2649; 93 Fair Empl. Prac. Cas. (BNA) 244; 92 Fair Empl. Prac. Cas. (BNA) 1557, lexis

Applying agency principles, a principal is responsible for the acts of its agents done within the scope of the agent's authority, "even though acting contrary to instructions." Dick Loehr's, Inc v Secretary of State, 180 Mich. App. 165, 168; 446 N.W.2d 624 (1989). This is because, in part, an agency relationship arises where the principal [\*\*\*36]  has the right to control the conduct of the agent. St Clair Intermediate School Dist v Intermediate Ed Ass'n/Michigan Ed Ass'n, 458 Mich. 540, 558 n 18; 581 N.W.2d 707 (1998) (citations omitted). The employer is also liable for the torts of his employee if "'the servant purported to act or to speak on behalf of the principal and there was reliance upon apparent authority, or he was aided in accomplishing the tort by the existence of the agency relation,'" McCann v Michigan, 398 Mich. 65, 71; 247 N.W.2d 521 (1976), quoting Restatement of Agency, 2d § 219(2)(d), p 481; see also Champion v Nation Wide Security, Inc, 450 Mich. 702, 704, 712; 545 N.W.2d 596 (1996), citing Restatement of Agency, 2d § 219(2)(d), p 481 ("the master is liable for the tort of his servant if the servant 'was aided in accomplishing the tort by the existence of the agency relation'"). In Backus v  [\*213]  Kauffman (On Rehearing), 238 Mich. App. 402, 409; 605 N.W.2d 690 (1999), this Court stated: The term "authority" is defined by Black's Law Dictionary to include "the power delegated by a principal to an agent." Black's Law Dictionary (7th ed), p [\*\*\*37]  127. "Scope of authority" is defined in the following manner: "The reasonable power that an agent has been delegated or might foreseeably be delegated in carrying out the principal's business." Id. at 1348.

#### Violation:

#### Ex-post review only determines whether particular targeted killings exceeded authority the government already had---that doesn’t affect the legality of targeted killings at all

Steve Vladeck 13, professor of law and the associate dean for scholarship at American University Washington College of Law, 2/5/13, “What’s Really Wrong With the Targeted Killing White Paper,” http://www.lawfareblog.com/2013/02/whats-really-wrong-with-the-targeted-killing-white-paper/

Many of us wondered, at the time, just where this came from–since it’s hard to imagine what due process could be without at least some judicial oversight. On this point, the white paper again isn’t very helpful. The sum total of its analysis is Section II.C, on page 10, which provides that:¶ [U]nder the circumstances described in this paper, there exists no appropriate judicial forum to evaluate these constitutional considerations. It is well established that “[m]atters intimately related to foreign policy and national security are rarely proper subjects for judicial intervention,” because such matters “frequently turn on standards that defy the judicial application,” or “involve the exercise of a discretion demonstrably committed to the executive or legislature.” Were a court to intervene here, it might be required inappropriately to issue an ex ante command to the President and officials responsible for operations with respect to their specific tactical judgment to mount a potential lethal operation against a senior operational leader of al-Qa’ida or its associated forces. And judicial enforcement of such orders would require the Court to supervise inherently predictive judgments by the President and his national security advisors as to when and how to use force against a member of an enemy force against which Congress has authorized the use of force.¶ There are two enormous problems with this reasoning:¶ First, many of us who argue for at least some judicial review in this context specifically don’t argue for ex ante review for the precise reasons the white paper suggests. Instead, we argue for ex post review–in the form of damages actions after the fact, in which liability would only attach if the government both (1) exceeded its authority; and (2) did so in a way that violated clearly established law. Whatever else might be said about such damages suits, they simply don’t raise the interference concerns articulated in the white paper, and so one would have expected some distinct explanation for why that kind of judicial review shouldn’t be available in this context. All the white paper offers, though, is its more general allusion to the political question doctrine. Which brings me to…¶ Second, and in any event, the suggestion that lawsuits arising out of targeted killing operations against U.S. citizens raise a nonjusticiable political question is almost laughable–and is the one part of this white paper that really does hearken back to the good ole’ days of the Bush Administration (I’m less sold on any analogy based upon the rest of the paper). Even before last Term’s Zivotofsky decision, in which the Supreme Court went out of its way to remind everyone (especially the D.C. Circuit) of just how limited the political question doctrine really should be, it should’ve followed that uses of military force against U.S. citizens neither “turn on standards that defy the judicial application,” nor “involve the exercise of a discretion demonstrably committed to the executive or legislature.” Indeed, in the context of the Guantánamo habeas litigation, courts routinely inquire into the very questions that might well arise in such a damages suit, e.g., whether there is sufficient evidence to support the government’s conclusion that the target is/was a senior operational leader of al Qaeda or one of its affiliates…¶ Don’t get me wrong: Any suit challenging a targeted killing operation, even a post hoc damages action, is likely to run into a number of distinct procedural concerns, including the difficulty of arguing for a Bivens remedy; the extent to which the state secrets privilege might preclude the litigation; etc. But those are the arguments that the white paper should’ve been making–and not a wholly unnuanced invocation of the political question doctrine in a context in which it clearly does not–and should not–apply. ¶ V. A Modest Proposal¶ This all leads me to what I’ve increasingly come to believe is the only real solution here: If folks are really concerned about this issue, especially on the Hill, then Congress should create a cause of action–with nominal damages–for individuals who have been the targets of such operations (or, more honestly, their heirs). The cause of action could be for $1 in damages; it could expressly abrogate the state secrets privilege and replace it with a procedure for the government to offer at least some of its evidence ex parte and in camera; and it could abrogate qualified immunity so that, in every case, the court makes law concerning how the government applies its criteria in a manner consistent with the Due Process Clause of the Fifth Amendment. This wouldn’t in any way resolve the legality of targeted killings, but it would clear the way for courts to do what courts do–ensure that, when the government really is depriving an individual of their liberty (if not their life), it does so in a manner that comports with the Constitution–as the courts, and not just the Executive Branch, interpret it. It’s not a perfect solution, to be sure, but if ever there was a field in which the perfect is the enemy of the good, this is it.

#### Vote neg---

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

#### Precision---only our interpretation defines “restrictions on authority”---that’s key to adequate preparation and policy analysis

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

## Off

#### The 1AC represents a strategy of lawfare - using the law as a means to legitimize and justify an ever-expanding system of 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 impact is militarism and the precursor to atrocities in the name of national security.

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(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 politics necessitate the dissolution of national borders and an expanding desire to survey the world - the impact is genocide and settler colonialism.

**Feldman 11 -** Assistant Professor, Ethnic Studies Department UC Berkley (Keith P, http://www.kengonzalesday.com/press/essays/Feldman.ComparativeAmericanStudies.pdf, Empire Verticality: The AF/Pak Frontier, Visual Culture, and Radicalization from Above, Comparative American Studies, Vol 9, No 4, December 2011, 325-41)

This transmutation and persistent eclipse of national borders by the contemporary US homeland security state has at least two key effects. Felicitously Captured in the classic phrase ‘papers, please. . .’, the ubiquity of borders generates forms of verifica- tion meant to stabilize, make legible, and manage the ineluctable plurality of a population. In doing so, they incite the truth-telling desired by the nation-state of increasingly inscrutable - and increasingly surveilled - subjects of power in sites both beyond and beneath the horizon of the national. At the same time, the extension of bordering processes outside the geography of the nation-state creates flexible bio- political zones capable of traversing the globe, in which certain subjects \_ Whose apogee in this case are the human figures in the [US Government] Situation Room photograph, the operators of the unmanned aerial system, the members of Navy SEAL Team 6, and, if the photograph retains its structure of address, those interpel- lated into its frame \_ are invited to occupy categories of life and wield power over the lives of others, while others are banished from sociality to the point of death­ I submit that this latter figure, of life-in-death, constitutes the kernel of the raciality of the war on terror. While its genealogy emerges out of forms of settler colonial violence that hails indigenous genocide, manifest destiny, and other products of US imperial sovereignty, at its back is what jared Sexton calls the ‘structure of gratuitous violence in which a body is rendered as flesh to be accumulated and exchanged’ - that is, the reproduction of the structure of racial slavery (loro: 38). Junaid Rana calls this the ‘fungibility of comparative racialization’, which moves swiftly in these socio-spatial processes of exchange, from the criminal to the illegal alien to the security threat to the terrorist (loll: 50-57). Considering the production of the figure of life-in-death and its fungibility thus becomes a way to theorize the mutual constitution and effects of national and impe- rial race-making. While the nascent field of border studies has emphasized (though not exclusively) questions of national borders and the transnational space of US/ Mexico, and American Studies has followed the interchange between North American and intercontinental imperial projects, I aim to understand how the ‘domestic’ borders of the US nation-state are transmuted by conceptions of the globalized homeland. I track how the reproduction of biopolitical ‘frontiers’ reenacts older imperial patterns that also remain connected to ‘domestic’ histories and policies of racialization that legitimate the production of targets understood through rubrics of threat, fear, and terror. I take up technologies of visuality in particular in order to contend with one of the more dramatic spectacles of the post-9/11 era: the assassination of Osama Bin Laden in Abhottahad, Pakistan. Building on recent scholarship in critical human geography (Elden, 2009; Graham, 2010; Gregory, 2004; Weizman, 2007), critical race theory (Goldberg, 2008; Lipsitz, 2011), and visual Culture studies (Chow, 2006; Kaplan, 2011), I show how the fungi- bility of comparative racialization operates through a ‘dynamic sociospatial process’ that traverses local, national, and imperial geographies (Pulido, 2000: 13). This traffic across geographic scales has developed a vector of verticality, what I call maialization from above, which Supplements the long history of maializatíon on the ground, whose contours have been well-documented, particularly around US/Mexico. But racializa- tion from above accomplishes what racialization on the ground has been ill-equipped to achieve: it has contorted the temporality of warfare through notions of pre- emption and endurance, recalibrated Orientalist imagined geography through far more porous concepts of proximity that challenge received notions of state territorial- ity and national borders, and fixated on the mystique of ‘precision targeting’ in high- ly ambiguous structures of race and space (Kaplan, 2006). In this way, racialization from above arrays visual technologies along a vertical vector in order to supplement imperial sovereignty’s practices of ubiquitous bordering on the ground. By beginning to chart this vertical vector, I consider how the war on terror’s ‘logistics of percep- tion’ link the sight of imperial visioning with the raciality of the war on terror, before concluding with a glimpse at a counter-archive that asks us to see these processes otherwise (Virilio, 1989).

#### Their method obscures the causes of the war of terror - turns case and causes massive violence in the 3rd world.

Braxi 5 - Professor of Law, University of Warwick; Vice Chancellor, Delhi University (1990-1994); University of South Gujarat, Surat (1982-1985) (Upendra, The War on Terror and the War of Terror: Nomadic Multitudes, Aggressive Incumbents, and the New International Law - Prefactory Remarks on Two Wars, Volume 43, Number 1 Volume 43, Number 1/2 (Spring/Summer 2005) Third World Approaches to International Law After 9/11)

The genealogies and chronologies of these two contemporary wars infinitely complicate understanding of the violent post-9/11 world disordering. Protagonists of both the wars maintain that theirs is a response to prior situations or histories of "terrorism." It is not easy, even as a matter of simple chronology, to say which one comes first. The salient agents of the "war of terror" offer assorted reasons/justifications for this war as a response to an underlying war of "terror," even a series of these. They seem to justify their actions as a response to the recent but still ancient (this awkward phrasing illustrates the complexity of periodization) wrongs unleashed by the previous histories of wars of terror. In contrast, the protagonists of the "war on terror" regard theirs as a "second war," which may not have happened at all without the first (that is, the "war of terror"). The second war, it is loudly said, occurs because the first severely threatens the futures of a global capitalist driven new-human, even post-human, civilization.' The second war has no use for any scrupulous regard for the causes that underscore the first war. By the common consent of "civilized nations" (that is, the newly progressive Eurocentric state formation manifest through the "coalitions of willing states") the existing body of normative legal restraints concerning the use of force do not, as we see later, apply; in their place some newly fangled doctrines of "pre-emptive" war and "regime change" now stand uneasily installed. This second war has scant regard for its own, otherwise endlessly proclaimed, Euroamerican "gift" of human rights with respect to the benighted "failed states," exemplars of what Gayatri Spivak now troublesomely labels "failed decolonization."6 How may philosophical thinking or method help clarify the contending beliefs and performances? To start with, one may describe the situation as posing the problem of causality in a way that enables some preliminary means of describing causes and effects. The old Aristotelian categories of causality may suggest to us the distinction between proximate cause and efficient or final cause. In that case, one may say that 9/11 constituted the proximate cause of the "war on terror" just as the efficient cause is provided, for the protagonists of the "war of terror," by the past histories of "terror." But this language does not altogether avoid a "linear, deterministic, and nondialectical logic of causality," which assumes causes as originally given; following a Hegelian dialectical understanding, Angelica Nuzzo recently concludes that Terrorism (as well as its symbol, 9/11) is ... the true effect or the real consequence of the war against terrorism that the United States has been waging for decades in numerous parts of the world. In other words, war is the true cause of that which it declares it is fighting-namely, terrorism.' Put another way, "dialectic shows that terrorism is an effect, not a cause," with the consequence that "politics aimed at opposing" the war on terror will "have to look to reasons that lead to the exercise of violence and will have to fight the effect along with the causes that produce it."'8 Nuzzo suggests that a dialectical understanding remains "essential if we want to reach a nonideologicial and noninstrumental definition of terrorism" and if we want to "regain the historical-and oppose the fictional-sense of the reality in which we live."9 In this sense, the struggle consists in providing "definitions" that at least speak to aspects of historical and structural domination and denial of human rights and justice perpetuated by the United States as well as the Soviet Union (and their allies) in the twentieth century, and by the colonial and imperialistic Eurocentric global hegemons in the three centuries preceding the current waging of the "war on terror." On the other hand, philosopher Alain Badiou recently offered the insight that the word "terrorist," and the adjective "terrorism," has "no neutral readability," precisely because it "dispenses with a reasoned examination of political situations, of their causes and consequences. "'1 International lawpersons who have struggled over many generations to fashion approaches towards an acceptable normative description of "terrorism" may find this insight congenial.11 However, they know as well as the philosophers the difficulties that attend "reasoned examination of political situations"; there remain at hand many diverse reasoned analyses that frame very different understanding of the causes and consequences of "terrorism." They may, however, feel perplexed by Alain Badiou's accentuation of "reasoned examination," on the one hand, and his further analysis, on the other, of the ways in which the "crime of New York and the following battles" constitute the "disjunctive synthesis of two nihilisms.' 12 The overall result of both the "wars" then, for Badiou, remains a register constituted by the "bloody and nihilistic games of power without purpose and without truth., 13 If so, understanding "terror" in ways that destruct "the circuits of nihilism"'14 constitutes a new task for philosophers, international lawpersons, and human rights activism.

#### The alternative is to raise the question of jus CONTRA bellum—voting negative injects epistemic doubt about militarism into our decision calculus which is the prerequisite to shifting away from violence as the solution.

**Neu 13**—University of Brighton (Michael, “The tragedy of justified war”, International Relations 27(4) 461–480, dml)

Just war theory is not concerned with millions of starving people who could be saved from death and disease with a fraction of the astronomical amount of money that, every year, goes into the US defence budget alone (a budget that could no longer be justified if the United States ran out of enemies one day). It is not interested in exposing the operating mechanisms of a global economic structure that is suppressive and exploitative and may be conducive to outbreaks of precisely the kind of violence that their theory is concerned with. As intellectually impressive as analytical just war accounts are, they do not convey any critical sense of Western moralism. It is as though just war theory were written for a different world than the one we occupy: a world of morally responsible, structurally unconstrained, roughly equal agents, who have non-complex and non-exploitative relationships, relationships that lend themselves to easy epistemic access and binary moral analysis. Theorists write with a degree of confidence that fails to appreciate the moral and epistemic fragility of justified war, the long-term genesis of violent conflict, structural causes of violence and the moralistic attitudes that politicians and the media are capable of adopting. To insist that, in the final analysis, the injustice of wars is completely absorbed by their being justified reflects a way of doing moral philosophy that is frighteningly mechanical and sterile. It does not do justice to individual persons,59 it is nonchalant about suffering of unimaginable proportions and it suffocates a nuanced moral world in a rigid binary structure designed to deliver unambiguous, action-guiding recommendations. According to the tragic conception defended here, justified warfare constitutes a moral evil, not just a physical one – whatever Coates’ aforementioned distinction is supposed to amount to. If we do not recognise the moral evil of justified warfare, we run the risk of speaking the following kind of language when talking to a tortured mother, who has witnessed her child being bombed into pieces, justifiably let us assume, in the course of a ‘just war’: See, we did not bomb your toddler into pieces intentionally. You should also consider that our war was justified and that, in performing this particular act of war, we pursued a valid moral goal of destroying the enemy’s ammunition factory. And be aware that killing your toddler was not instrumental to that pursuit. As you can see, there was nothing wrong with what we did. (OR: As you can see, we only infringed the right of your non-liable child not to be targeted, but we did not violate it.) Needless to say, we regret your loss. This would be a deeply pathological thing to say, but it is precisely what at least some contemporary just war theorists would seem to advise. The monstrosity of some accounts of contemporary just war theory seems to derive from a combination of the degree of certainty with which moral judgements are offered and the ability to regard the moral case as closed once the judgements have been made. One implication of my argument for just theorists is clear enough: they should critically reflect on the one-dimensionality of their dominant agenda of making binary moral judgements about war. If they did, they would become more sympathetic to the pacifist argument, not to the conclusion drawn by pacifists who are also caught in a binary mode of thinking (i.e. never wage war, regardless of the circumstances!) but to the timeless wisdom that forms the essence of the pacifist argument. It is wrong to knowingly kill and maim people, and it does not matter, at least not as much as the adherents of double effect claim, whether the killing is done intentionally or ‘merely’ with foresight. The difference would be psychological, too. Moral philosophers of war would no longer be forced to concede this moral truth; rather, they would be free to embrace it. There is no reason for them to disrespect the essence of pacifism. The just war theorist Larry May implicitly offers precisely such a tragic vision in his sympathetic discussion of ‘Grotius and Contingent Pacifism’. According to May, ‘war can sometimes be justified on the same grounds on which certain forms of pacifism are themselves grounded’.60 If this is correct, just war theorists have good reason to stop calling themselves by their name. They would no longer be just war theorists, but unjust war theorists, confronting politicians with a jus contra bellum, rather than offering them a jus ad bellum. Beyond being that, they would be much ‘humbler in [their] approach to considering the justness of war’ (or, rather, the justifiability), acknowledging that: notions of legitimate violence which appear so vivid and complete to the thinking individual are only moments and snapshots of a wider history concerning the different ways in which humans have ordered their arguments and practices of legitimate violence. Humility in this context does not mean weakness. It involves a concern with the implicit danger of adopting an arrogant approach to the problem of war.61 Binary thinking in just war theory is indeed arrogant, as is the failure to acknowledge the legitimacy of – and need for – ambiguity, agony and doubt in moral thinking about war. Humble philosophers of war, on the contrary, would acknowledge that any talk of justice is highly misleading in the context of war.62 It does not suffice here, in my view, to point out that ‘we’ have always understood what ‘they’ meant (assuming they meant what we think they meant). Fiction aside, there is no such thing as a just war. There is also no such thing as a morally justified war that comes without ambiguity and moral remainders. Any language of justified warfare must therefore be carefully drafted and constantly questioned. It should demonstrate an inherent, acute awareness of the fragility of moral thinking about war, rather than an eagerness to construct unbreakable chains of reasoning. Being uncertain about, and agonised by, the justifiability of waging war does not put a moral philosopher to shame. The uncertainty is not only moral, it is also epistemic. Contemporary just war theorists proceed as if certainty were the rule, and uncertainty the exception. The world to which just war theory applies is one of radical and unavoidable uncertainty though, where politicians, voters and combatants do not always know who their enemies are; whether or not they really exist (and if so, why they exist and how they have come into existence); what weapons the enemies have (if any); whether or not, when, and how they are willing to employ them; why exactly the enemies are fought and what the consequences of fighting or not fighting them will be. Philosophers of war should also become more sensitive to the problem of political moralism. The just war language is dangerous, particularly when spoken by eager, selfrighteous, over-confident moralists trying to make a case. It would be a pity if philosophers of war, despite having the smartest of brains and the best of intentions, effectively ended up delivering rhetorical ammunition to political moralists. To avoid being inadvertently complicit in that sense, they could give public lectures on the dangers of political moralism, that is, on thinking about war in terms of black and white, good and evil and them and us. They could warn us against Euro-centrism, missionary zeal and the emperors’ moralistic clothes. They could also investigate the historical genesis and structural conditionality of large-scale aggressive behaviour in the global arena, deconstructing how warriors who claim to be justified are potentially tied into histories and structures, asking them: Who are you to make that claim? A philosopher determined to go beyond the narrow discursive parameters provided by the contemporary just war paradigm would surely embrace something like Marcus’ ‘second-order regulative principle’, which could indeed lead to ‘“better” policy’.63 If justified wars are unjust and if it is true that not all tragedies of war are authentic, then political agents ought to prevent such tragedies from occurring. This demanding principle, however, may require a more fundamental reflection on how we ‘conduct our lives and arrange our institutions’ (Marcus) in this world. It is not enough to adopt a ‘wait and see’ policy, simply waiting for potential aggressions to occur and making sure that we do not go to war unless doing so is a ‘last resort’. Large-scale violence between human beings has causes that go beyond the individual moral failure of those who are potentially aggressing, and if it turns out that some of these causes can be removed ‘through more careful decision-making’ (Lebow), then this is what ought to be done by those who otherwise deprive themselves, today, of the possibility of not wronging tomorrow.

### Adv 1

#### EX-post review doesnt create legitimacy

Crandall 12 (Carla, Law Clerk – Supreme Court of Missouri, “Ready…Fire…Aim! A Case for Applying American Due Process Principles Before Engaging in Drone Strikes,” Florida Journal of International Law, April, 24 Fla. J. Int'l L. 55, Lexis)

Despite the expanded use of drones, however, the legitimacy of these attacks remains unclear. Most commentators who have addressed the legitimacy of more general targeted killings have examined the issue within the framework of either international humanitarian law (IHL) or international human rights law (IHRL). n6 Those limited few who have [\*57] analyzed the subject through the lens of American due process have limited their scrutiny to the absence of post-deprivation rights. n7 They suggest, for instance, that the United States should implement some sort of Bivens-type action as a remedy for the survivors of erroneous drone strikes. n8¶ As this Article explains, however, none of these approaches yield wholly satisfactory answers as to which framework should govern the use of drones within the context of the war on terror. And though the idea that American due process principles ought to be applied ex post represents a significant contribution to the debate, it too ultimately falls flat. Indeed, such an approach unduly narrows the obligation of U.S. officials to the standard of readying, firing, and then aiming- requiring them to perform a detailed review of the strikes only after the fact. Instead, this Article argues that the United States ought to be held to a higher, ex ante standard-that of "aiming" before firing-and posits that such a standard is practically attainable.¶ In doing so, the Article proceeds as follows. Part II describes the capabilities and current employment of drones and explains why resolving the legitimacy of their use is so critical. Specifically, it highlights that, despite the unsettled nature of the law in this area, targeted killings by drone strikes have increased exponentially in recent years-in some instances against arguably questionable targets. Part III examines current attempts to address the legitimacy of drone assaults and explains why they fail to adequately govern the use of these weapons. While this Part explores the applicability of IHRL and IHL, it does not undertake to resolve the debate as to which regime does or ought to apply to these operations. To the contrary, it argues that limitations within each framework have prevented consensus from forming around the applicability of either. Accordingly, U.S. officials [\*58] must arguably look to other sources to find guiding principles to legitimize targeted killings via drones. Though it is admittedly not entirely clear whether constitutional guarantees apply in the foreign locales where these strikes occur-or to the foreign nationals who are often their target-this Part proposes that American due process principles nevertheless ought to be invoked before such strikes occur, because failing to do so allows the executive to act with impunity in a legal void. Part IV argues that, in Hamdi v. Rumsfeld n9 and Boumediene v. Bush, n10 the Supreme Court signaled the process that may be due before drones are used to eliminate known terrorist targets. In extending the Hamdi and Boumediene analysis to targeted killings by drones, this Part also begins the inquiry into the procedural protections that due process may demand before U.S. officials engage in such actions. Part V concludes.

#### The plan doesn’t restrain the executive’s authority to determine who’s a target---that’s the most relevant objection to current drone policy

Kenneth Anderson 9, Professor of Law, Washington College of Law, American University, and Research Fellow, The Hoover Institution, Stanford University, 5/11/09, “Targeted Killing in U.S. Counterterrorism Strategy and Law,” http://www.brookings.edu/~/media/research/files/papers/2009/5/11%20counterterrorism%20anderson/0511\_counterterrorism\_anderson.pdf

The elephant in the room, so to speak, however, is the standard by which American forces select targets in the first place. This is the core objection to the whole practice, for example, raised by UN special rapporteurs and many others—on what basis does the U.S. conclude that this person is a terrorist? While the substantive standard governing conduct to evaluate a potential targeted killing in relation to innocent third party collateral damage is best drawn from standards in the law of IHL armed conflict, target selection in targeted killing is an intelligence matter. And although military intelligence has much to offer in the way of methodology, military law has much less so. Yet the intelligence community, for many reasons, has had only limited success in picking targets since 9/11—although the quality of target selection in the current campaign of Predator strikes by the CIA in Pakistan has clearly gone up. Congress can impose more demands for information to the intelligence committees and greater monitoring of target selection either before or after an attack, but it faces great limits in doing more than that. Congress cannot make the intelligence judgments. ¶ The concerns over targeted killings are not, of course, limited to targeting and collateral damage questions. Other states, particularly friendly and allied states, have excellent reason to view these policies with political alarm—quite apart from their abstract legal assessments of them. Britain, for example, has a certain number of radical imams who appear directly to influence their followers, among other things, to take up jihad in Pakistan and Afghanistan against the U.S. and NATO allies.97 In purely hypothetical terms, the U.S. might do well to target and kill them in Britain. While the U.S. is obviously not going to do that, it will target al Qaeda with Yemen’s consent in Yemen, and there are circumstances in which it will target terrorist suspects without territorial state consent.

#### Alt causes to legitimacy decline –

#### A. Human rights report –

Carasik 3/12 [Lauren Carasik is Clinical Professor of Law and Director of the International Human Rights Clinic at Western New England University School of Law, Al Jazeera American, 3/12/14, http://america.aljazeera.com/opinions/2014/3/the-us-lacks-moralauthorityonhumanrights.html]

Last month U.S. Secretary of State John Kerry unveiled the State Department’s comprehensive annual assessment of human rights around the globe. It painted a grim picture of pervasive violations. Notably absent from the report, however, was any discussion of Washington’s own record on human rights. The report elicited sharp rebukes from some of the countries singled out for criticism. Many of them questioned the United States’ legitimacy as self-appointed global champion of human rights.¶ China issued its own report, 154 pages long, excoriating the U.S. record on human rights and presenting a list of Washington’s violations. Egypt’s Foreign Ministry called the report “unbalanced and nonobjective” and censured the U.S. for appointing itself the world’s watchdog. Ecuador, Russia and Iran also criticized the report.¶ By signaling that the world cares about human rights violations, the report provides a useful tool for advocates. While the omission of any internal critique is unsurprising, that stance ultimately undermines the State Department’s goals of promoting human rights abroad. Abuses unfolding around the world demand and deserve condemnation. But it is difficult for the U.S. to don the unimpeachable mantle, behave hypocritically and still maintain credibility. North-south schism¶ It is tempting to dismiss the scolding as retaliatory howls by authoritarian states, but their critiques have long been echoed by others. Pointing to simmering divisions over human rights standards, China argued that developing countries face a different set of challenges from their more developed counterparts. This ideological debate has permeated rights discourse and often underscores a north-south schism. The divide has its roots in the history of human rights.¶ In 1945, still reeling from the atrocities of World War II, world powers gathered in Paris to forge a multilateral agreement that would form “the foundation of freedom, justice and peace in the world.” Those principles were enshrined in the nonbinding Universal Declaration of Human Rights (UDHR). The U.N. then adopted two covenants that would have the force of law: one focused on civil and political rights and the other on economic, social and cultural rights. Together with the UDHR, they form the International Bill of Human Rights. The covenants were meant to be universal, interdependent and indivisible and equally treated, but they do not exist in a political vacuum.¶ Although the U.S. was instrumental in creating this international framework, it has resisted conforming to many of the norms for which there is an emerging international consensus. The U.S. holds sacred its commitment to civil and political rights, such as those protected by its robust and revered Bill of Rights and proclaims itself a beacon of freedom and justice in the world. Critics argue that the rhetoric exceeds the reality on the ground. Economic and social rights are far more contested, in part because they require affirmative duties that affect resource allocation: States must take progressive action toward providing housing, food, education, health care and a host of other rights.¶ The U.S. has been singularly unwilling to ratify key international human rights instruments, reinforcing its status as an outlier in the field. ¶ The U.S. purports to be evenhanded. But geopolitical interests influence the tenor and content of its assessments, leading some critics to accuse the U.S. of sacrificing human rights at the altar of political expediency. For example, the U.S. has been accused of blunting its appraisal of allies such as Saudi Arabia, Bahrain, Mexico, Uzbekistan, Honduras and Israel. Economic interests also factor in. Critics decry the sale of arms to countries that by Washington’s own assessment are complicit in human rights abuses. While politically and economically self-interested maneuvering is inevitable, not all countries issue an ostensibly definitive and unvarnished report on the state of global human rights.¶ In December during Human Rights Week, U.S. President Barack Obama issued a proclamation reaffirming the United States’ “unwavering support for the principles enshrined in the Universal Declaration of Human Rights.” Yet global headlines are dominated by high-profile U.S. human rights transgressions — indefinite detention at Guantánamo Bay, torture, extraordinary rendition, extrajudicial assassination by drones that claims the lives of innocents in addition to its targets, the aggressive pursuit of whistle-blowers and data collection that violates privacy both at home and abroad.¶ Advocates criticize a litany of other human rights abuses, such as mass incarceration (the U.S. has 5 percent of the world’s population but 25 percent of its inmates, with disproportionate representation among minority groups), the death penalty (including post-execution revelations that raise serious doubt about already questionable convictions), racial profiling, the disenfranchisement of felons, sentences of life without parole for juvenile offenders, gun violence, solitary confinement, the shackling of pregnant inmates and many others.¶ The New York–based Human Rights Watch says these violations disproportionately affect minority communities. “Victims are often the most vulnerable members of society: racial and ethnic minorities, immigrants, children, the elderly, the poor and prisoners,” it said in its annual report on the U.S. last year.¶ Evading treaties¶ Aside from specific human rights violations, the U.S. has been singularly unwilling to ratify key international human rights instruments, which reinforces its status as an outlier in the field. These include its refusal to ratify the Convention to Eliminate All Forms of Discrimination Against Women (only seven other countries are not parties to it), the International Covenant on Economic, Social and Cultural Rights, the Convention on Rights of the Child (ratified by all states except the U.S., Somalia and South Sudan) and the Convention on the Rights of Persons with Disabilities. The U.S. has also failed to ratify the American Convention on Human Rights, a regional framework on human rights in the Americas. It has ratified only two of the International Labor Organization’s eight fundamental conventions.¶ Washington’s refusal to sign on to the Rome Statute of the International Criminal Court (ICC) has provoked particular consternation. The international community has a profound interest in deterring the most violent abuses by ending impunity for war crimes, crimes against humanity and genocide. The ICC was created to promote accountability for these crimes, which are, for a complex and interrelated constellation of reasons, notoriously difficult to prosecute in domestic courts. But the U.S. will not submit to its jurisdiction, citing a number of concerns, including that the court would be subject to political manipulation and lack accountability to the U.N. and that submitting to it would violate state sovereignty.¶ Some critics claim that it is the U.S. that fears being held to account in the international arena for the global expansion of its military and its possible commission of war crimes. To be fair, the ICC has its critics as well, who contest both its legitimacy and its efficacy. Subjects of complaint include its perceived preoccupation with African criminals, its slow pace of prosecutions and questions about how and when the international community should protect citizens of a sovereign state against atrocities. But the U.S. refusal to sign the Rome Statute, which established the ICC, undermines the principle that each and every country must be accountable to certain universal standards if they are to be rendered meaningful.

#### B. Failure to follow through on Syria red line

CBS, 3/7/14, http://washington.cbslocal.com/2014/03/07/politics-expert-obama-is-perceived-to-be-weak-dealing-with-putin/

WASHINGTON (CBSDC/AP) — President Barack Obama is taking a hit on the world stage.

From Russia, to Syria, to the National SecurityAgency reportedly spying on allies, Obama’s global power has waned from when he first took office in 2009.¶ The president has been fielding criticism recently in regards to international incidents as the Syrian civil war continues to wage after Obama initially threatened military intervention before taking it off the table. Now, Russian Putin rebuff came after he spoke with Obama Thursday by telephone for an hour over Russia’s military intervention in Crimea.¶ “Russia cannot ignore calls for help and it acts accordingly, in full compliance with international law,” Putin said, according to Reuters.¶ In response to Russia’s actions, the White House put new visa restrictions on pro-Russian opponents of the new government in Ukraine and Obama himself issued an executive order to initiate economic sanctions against individuals and businesses that might be undermining Ukraine’s new government.¶ Larry Sabato, director of the Center for Politics at the University of Virginia, told CBSDC that Putin’s actions are allowing Obama to be perceived as weak.¶ “It’s never a good thing for the United States when the president speaks and an adversary doesn’t listen. Power is partly perception, and in circumstances like this, Obama is perceived to be weak,” Sabato said. “Of course, Putin isn’t listening to the other world powers opposed to his move either. Those leaders know that the only potentially effective solution in the short term would be military action — and that’s a nonstarter because of public opinion.”¶ Danielle Pletka, the vice president for foreign and defense policy studies at the American Enterprise Institute, says there is a global perception that the U.S. “is stepping back.”¶ “One of the reasons that you have a large and a capable and a multi-faceted military is not so you can fight; it’s so you don’t have to fight,” she told “Face the Nation” this past Sunday. “And that deterrent power, I think, is being diminished substantially.”¶ Sabato stated that Russia is holding the cards during this crisis in Ukraine.¶ “Obama lucked into winning, of a sort, with Syria. He avoided unpopular military action and yet appeared to have made major progress on the use of chemical weapons,” Sabato told CBSDC. “The president needs some more luck, though Russia holds a large majority of the cards in this dangerous game. Maybe Russia will decide sustaining the invasion is too costly, or will keep only Crimea and cede the status of the rest of Ukraine.”¶ Several Republicans have taken shots at Obama’s foreign policy, blaming his diplomatic strategy for what’s going on in Ukraine right now.¶ “The fundamental problem is that this president doesn’t understand Vladimir Putin,” McCain said on the Senate floor Tuesday. “He does not understand his ambitions. He does not understand that Vladimir Putin is an old KGB colonel bent on restoration of the Soviet empire. This president has never understood it.”¶ McCain added: “This president believes the cold war was over. Vladimir Putin doesn’t believe the cold war is over.”¶ Sen. Lindsey Graham told CNN that Putin is showing that Obama is a “weak and indecisive president.”¶ “Stop going on television and trying to threaten thugs and dictators; it is not your strong suit,” Graham told CNN. “Every time the president goes on national television and threatens Putin or anyone like Putin, everybody’s eyes roll, including mine. We have a weak and indecisive president that invites aggression.”¶ CBS News senior national security analyst Juan Zarate believes it will be “extremely difficult to push the Russians back” on their Ukraine stance.¶ “It will take diplomatic and political capital and sacrifice if we are serious. I’m not sure we or the international community have proven we’re willing to sacrifice much in recent years — even in other cases when the costs are lower and the solutions less complicated,” Zarate told CBS News.¶ Crimea’s parliament has called a March 16 referendum on whether the semi-autonomous region should join Russia outright, a move Obama has called a violation of international law.¶ Putin said Tuesday that Russia has no intention of annexing Crimea, but Valentina Matvienko, the speaker of Russia’s upper house of parliament, made clear that the country would welcome Crimea if it votes in the referendum to join its giant neighbor. About 60 percent of Crimea’s population identifies itself as Russian.¶ Russia President Vladimir Putin is seemingly not taking Obama’s actions seriously on Ukraine.¶ The latest has called Ukraine’s new government “illegitimate” after months of protests upended President Viktor Yanukovych’s rule and sent him fleeing to Russia.

#### C. US legitimacy collapses inevitably- can’t maintain economic strength

Richard Neu [a senior economist at the RAND Corporation and a professor at the Pardee RAND Graduate School] September 16, 2013 U.S. Debt Could Reduce U.S. Global Influence in the Future http://www.rand.org/news/press/2013/09/16.html

The United States still has the economic muscle to shape important aspects of the international environment, but high government debt in the future may undermine its economic instruments of power and its ability to influence global conditions through nonmilitary means, according to a new report from the RAND Corporation. A persistently high level of government debt may threaten future economic growth and may constrain the ability of the government to act in pursuit of both international and domestic goals, according to the study. Efforts to reduce the debt will further constrain government outlays and action. However, if the United States does not act to reduce its debt, the result may be a U.S. economy that is smaller than it could have been and declining U.S. influence globally. “The principal basis for U.S. economic power is the size of the U.S. economy,” said C. Richard Neu, lead author of the report and a senior economist at RAND, a nonprofit research organization. “Evidence is accumulating that high levels of debt can slow economic growth, especially when gross general government debt surpasses 85 percent or 90 percent of the gross domestic product. U.S. government debt crossed that threshold in 2009, and the negative consequences of high debt may still be in the future.” History suggests that countries rarely grow their way out of burdensome debt, Neu said. If the United States wants to reduce its national debt, it's going to have to increase government revenues or constrain spending — or do both.

#### Their legal attempt at securing the promise of U.S. exceptional violence makes all their impacts inevitable and guarantees conflict escalation.

Jones 13—Craig, Department of Geography, University of British Columbia, Vancouver, Travelling Law: Targeted Killing, Lawfare and the Deconstruction of the Battlefield in Shifting Borders: American Studies Between The American Century And The Arab Spring ed. Alex Lubin and Marwan Kraidy, http://warlawspace.files.wordpress.com/2013/04/jones-travelling-law-shifting-borders.pdf, Shree

If all of this clarifies anything about the putative ‘end of the American Century’ and the making of a new geopolitical order it is perhaps that Israel and the U.S. continue to be at the cutting edge of new forms of imperial lawfare and warfare, but also that these strategies and tactics come with intrinsic consequences that signal not strength and vitality but rather the precarity of Israeli and U.S. imperialism. Israel and the U.S. are responding to and are precipitating changes in the way that war is and will be fought in the 21st century. In this regard they have pioneered the way, as well as the technology, the know-how and experience, and (of course) the legal architecture for carrying out a way of war that – at the moment at least – favours themselves and their allies. But while these techno-legal architectures favour those who ‘have’ (inter alia) drones and the capacity for ‘global strike’117 from those who do not, Israel and the U.S. possess neither a technological monopoly nor unique access to the legal regimes that secure the ‘world as battlefield’. Indeed, as many as 87 nations possess some form of drone, and as the Washington Post recently reported: “China uses them to spy on Japan near disputed islands in Asia. Turkey uses them to eyeball Kurdish activity in northern Iraq. Bolivia uses them to spot coca fields in the Andes. Iran reportedly has given them to Syria to monitor opposition rebels.”118 The first drones over Gaza and Afghanistan were also unarmed and while Israel, the U.S. and U.K. may be the only known states to have fired missiles from remotely controlled drones, this will likely not be the case for much longer. And yet, it is not only the spectre of an increasingly difficult-to-regulate global (drone) arms race and drone industry that threatens this putatively ‘western way of war’119. Its legal architecture does too, and by way of closing I’d like to consider a different geography of travelling law(fare). On December 1st 1963 Malcolm X was asked to comment on the assassination of [JFK] John Fitzgerald Kennedy. Choosing his words carefully, he characterized it as an instance of the “chickens coming home to roost”. It was certainly a controversial comment but it was not a flippant one. Kennedy, of course, had been in power during the early years of the CIA assassination campaign of the 1960s and 1970s. Malcolm X referred explicitly to Kennedy and the CIA’s complicity in the murder of Congolese leader Patrice Lumumba and said that Kennedy had “twiddling his thumbs” at the assassination of Vietnemese Presdident Ngo Dinh Nhu. 120 In 1975 the monumental Church Committee Report confirmed that the CIA had both direct and indirect involvement in plots to assassinate several foreign leaders. The following year, President Ford issued a presidential decree banning assassination and several executive orders since (the most recent of them in 2008) have iterated that “No person employed by or acting on behalf of the United States Government shall engage in or conspire to engage in assassination.”121 But all of this has now been undone and as metaphor Malcom X’s comment speaks directly to the notion of travelling law and the future that might come to haunt those who have turned the world into a battlefield. In a letter to President Obama, Kenneth Roth of Human Rights Watch urged Obama in 2010 to avoid setting “dangerous precedents”122. It might now be too late for that. The very same legal arguments that Israel and the U.S. have aggressively been pursuing over the last decade and a half apply to and can also be used against them. For example, by conducting drone strikes, CIA employees as civilians who are participating in hostilities have become what the U.S. once classified as “unlawful combatants”.123 As we know, many labeled thus ended up in places like Guantanamo Bay, indeed many are still in Guantanamo Bay. But even more pointedly, according to the logic of the expansive armed conflict, there is nothing to stop other states and non-states from conducting their own targeted assassinations on Israeli and U.S. military personnel and infrastructure around the world. These could legitimately include Obama himself (as Chief of Staff of the U.S. military) or the thousands of U.S. and Israeli soldiers and ‘unlawful combatants’ in and off military bases around the world. Possible ‘legal’ strikes could also include the IDF defense compound, the Kirya, located in central Tel Aviv. As I type these closing words, I can see the Kirya through the window of the public library. I wonder whether the civilians around me, and those outside in the bustling cafes might not, according to U.S. and Israeli lawfare, be considered legitimate accidental or incidental ‘collateral damage’ if Hamas or Hezbollah attempted to strike the military compound over the road, but missed by a few meters. Those chickens have not yet come home to roost and at least as far as the conduct of warfare and lawfare are concerned it sure continues to be a long twentieth century.124

### Adv 2

#### You don't solve state secrets.

Epps 13 (Feb 16, “Why a Secret Court Won't Solve the Drone-Strike Problem,” The Atlantic, Garrett, http://www.theatlantic.com/politics/archive/2013/02/why-a-secret-court-wont-solve-the-drone-strike-problem/273246/)

Finally, in time of war, there will be occasions when a target emerges and decisions must be made too quickly for even a secret court proceeding. And thus the "drone court" would not be able to rule on some cases; an ambitious president could find many exceptions.¶ In addition, an ambitious executive might also use the secret court as a means to extend the drone-strike authority beyond actions in time of authorized military action. With such a review mechanism in place, the argument might go, there's no danger in ceding the president's authority to use drones against enemies not so designated by Congress.¶ What about after the fact, then? Could there be a secret court that would hear the administration's case for a drone strike and then decide whether that strike had been justified?¶ Not hardly, I think.¶ A court that meets in secret, hears only one side of a dispute, and issues a final judgment without notifying other parties is not any kind of Article III court I recognize. It is not deciding cases; it is granting absolution.¶ Finally, some scholars have suggested that the Congress create a new "cause of action"--a right to sue in an ordinary federal court on a claim that the government improperly unleashed drones on a deceased relative. The survivors of the late Anwar al-Awlaki tried such a suit, and the Obama administration has so far insisted that it concerns "political questions," not fitted for judicial proceedings. Congress could pass a statute specifically granting a right to sue in a federal district court.¶ Without careful design, that would actually not make things any better. The survivors will file their complaint; the administration will claim state secrets and refuse to provide information. A court might reject the secrets claim and order the government to produce discovery. The administration would probably refuse to comply. The court's recourse would be to order judgment for the plaintiffs. The dead person's family would get some money, but we'd be no closer to accountability for the drone-strike decision.

#### The plantiff loses the cases.

Murphy and Radsan –9 (Richard, AT&T Professor of Law – Texas Tech University School of Law, and Afsheen John, Professor – William Mitchell College of Law; Assistant General Counsel – Central Intelligence Agency, “Due Process and Targeted Killing of Terrorists,” Cardozo Law Review, November, 32 Cardozo L. Rev. 405, Lexis)

In addition, the doctrine of qualified immunity requires dismissal of actions against officials if a court determines they reasonably believed they were acting within the scope of their legal authority.220 Defendants would satisfy this requirement so long as they reasonably claimed they had authority under the laws of war (assuming their applicability). These standards are hazy, and a court applying them would tend to defer to the executive on matters of military judgment.221 In view of so many practical and legal hurdles, some courts and commentators might be inclined to categorically reject all Bivens-style challenges to targeted killings. In essence, they might view lawsuits related to targeted killing as a political question left to the executive.222 This view parallels Justice Thomas‘s that courts should not second-guess executive judgments as to who is an enemy combatant.223 Contrary to Justice Thomas‘s view, the potency of the government‘s threshold defenses means that targeted-killing cases that make it to the merits would likely involve the most egregious conduct—for example, killing an unarmed Jose Padilla at O‘Hare Airport on a shoot-to-kill order. For these egregious cases, a judicial check on executive authority is most necessary.

#### Decapitation fails – no discernable effects.

Arquilla 13 (John, received a PhD in International Relations from Stanford in 1991. He worked at RAND for several years, before joining the faculty of the US Naval Postgraduate School in 1993, March 25, “Use an Axe not a Scalpel” http://www.foreignpolicy.com/articles/2013/03/25/use\_an\_axe\_not\_a\_scalpel)

Remote-controlled weapons, the hot new tools of war, have had the perverse effect of shoring up an old pattern of strategic thought about going after enemy leaders. Wildly popular with the Air Force, there are now more pilots in cubicles than there are in cockpits. Their primary purpose: act swiftly and on the basis of good, timely intelligence to strike with great precision at terrorist leaders. Thus the longstanding strategic concept of counter-leadership targeting — “decapitation” was the less euphemistic term of an earlier era — has been revivified. The problem, though, is that when the principal foe is a network, the importance of any individual leader is low because these organizations are capable of a high degree of self-direction. Drones have played key roles in the killing of about 20 of al Qaeda’s “No. 3s” over the past decade, but in a network everybody is No. 3.¶ This focus on taking out the leaders of essentially leaderless networks (that is, interconnected cells that are highly self-organizing and at least semi-autonomous) has led to serious difficulties in the field. For example, many intelligence operatives and military servicemembers who plan and conduct drone operations have found that, all too often, the occasional strike from the sky inflicts damage that the networks can work around and quickly repair. In the meantime, the connections that the killed “leader” had are no longer discernible. Which means, in practical terms, that the slow attrition of drone campaigns, though it may hurt the enemy, does even more harm to the counter-terrorists’ store of knowledge about these networks. The more damage done in this slow-paced manner — there have been just over 400 drone strikes over the past decade, an average of 3-4 per month — the less is known. This phenomenon is a curious aspect of “netwar” — the term that my longtime research partner David Ronfeldt and I use to describe how networks fight, and how to fight networks.¶ [...]¶ Shortly before leaving office, Leon Panetta reaffirmed the traditional view when he said that loss of leaders had put al Qaeda “on the verge of strategic defeat.” This is outmoded thinking. One need only look to the many fronts on which al Qaeda is operating today — even in Iraq, where we are gone, the terrorists are back, and the country is burning — to see that the global war on terror has morphed into terror’s war on the world. If one side is closer to “strategic defeat” after a decade of this first great war between nations and networks, it is the nations. Networks are simply not dependent on a few key leaders — as even the death of Osama bin Laden has shown.¶ So, what’s his alternative?¶ For David Ronfeldt and me, this means operating in concentrated bursts of action, striking networks not at a single “decisive point” — they don’t have such — but rather at several points at once — what we call “swarming.” Far better to go after al Qaeda by doing a lot more surveillance, for longer periods, prior to attacking. Then, when the network node or cell has been sufficiently illuminated, it can be eliminated in a series of simultaneous strikes that give the enemy little or no chance to hide or flee.¶ This makes sound strategic sense. Interestingly, given the longstanding “war” vs. “law enforcement” debate on counterterrorism, it’s pretty much the approach the FBI takes to organized crime.¶ Politically, however, this is easier said than done. We’ve been at war a long time and being able to announce “progress” in the form of killed or captured senior leaders is excellent for maintaining troop morale and public support. Ironically, it may contribute to needing to sustain those much longer than would otherwise have been necessary.

#### Instability and collapse in Yemen inevitable – too many alt causes that plan doesn’t affect

Bouyoumy 2/23 [YARA BAYOUMY, Reuters, 2/23/14, http://www.reuters.com/article/2014/02/23/us-yemen-politics-analysis-idUSBREA1M05720140223]

Leader of a nation seemingly on the brink of breakdown for years, Hadi had hoped he could appease rival political groups by creating a federal state of six regions that would give each more say over political, social, economic and security affairs.¶ To date, few factions appear placated, a reality that bodes ill for a country already battling endemic poverty, poor governance, regional insurgencies and al Qaeda militancy.¶ Restive southerners seeking autonomy, if not secession, fear the plan would weaken the south, partly by separating it from the sprawling Hadramout province, where some oil reserves lie.¶ Some northern Houthi rebels also have strong reservations because the proposal links the rugged mountain region they control to the Sanaa area and denies it an outlet to the sea.¶ Months of political haggling seem sure to follow. If those disputes turn violent, instability in Yemen, which lies near vital sea lanes as well as oil giant Saudi Arabia, will deepen.¶ Ravaged by multiple conflicts in the past half century, Yemen suffers food and water shortages, corruption, almost non-existent social services and security forces weakened by factional rifts. Regional conflicts and the prevalence of well-armed tribes mean much of Yemen is outside state control.¶ Forced to import most of its food because of a paucity of arable land in relation to its booming population, Yemen has child malnutrition rates among the highest in the world.¶ In the face of such towering problems, Hadi's plan was meant to create the administrative structure at least to make a start on rebuilding the country. But consensus has proved elusive.¶ "The federal plan was never going to please everybody," Britain's ambassador to Yemen, Jane Marriott, told Reuters.¶ "There are lots of things that can go wrong. So far from what we've seen in Yemen, there are lots of people trying to make this work right. The biggest challenge is one of political will, there are still people out there who have their own agendas, who are not necessarily focused on the interests of Yemen," she said by telephone from Sanaa.¶

#### Relations high and funding solves instability

Times of India 3/5/14 “US plans $280 million military aid to Pakistan, cuts civilian aid” http://timesofindia.indiatimes.com/world/pakistan/US-plans-280-million-military-aid-to-Pakistan-cuts-civilian-aid/articleshow/31463630.cms

WASHINGTON: Arguing that Pakistan will remain a key player in counter terrorism post-2014, the US has proposed USD 280 million in military assistance to the country, although it wants to cut civilian aid in an effort to acknowledge India's concerns about misuse of the funds. ¶ Marred by financial constraints, the Obama administration has proposed to substantially cut civilian aid to Pakistan to USD 446 million for the next fiscal year as against USD 703 million in 2013, which among other things the State Department argued is aimed at improving ties with India. ¶ "The OCO (Overseas Contingency Operations) resources will support critical US activities such as sustaining close cooperation with Pakistan, ensuring the safety of Pakistani nuclear installations, working with Pakistan to facilitate the peace process in Afghanistan, and promoting improved relations with India," the State Department said as it proposed USD 446 million in civilian aid to Pakistan. "FY 2015 funding for Pakistan is crucial to meeting key US strategic priorities of combating terrorism, strengthening security in both Pakistan and the region, and maintaining stability in Afghanistan post-transition,"the department said. ¶ "Pakistan will remain a key player in US counter terrorism and nuclear nonproliferation efforts in FY 2015, as well as in our long-term objectives of economic development and stability in the region," the State Department said in its annual budget proposals to the Congress. ¶ "Developing an enduring and collaborative relationship with an increasingly stable and prosperous Pakistan that plays a constructive role in the region will therefore continue to be a priority for the United States," the State Department said proposing USD 100 million to Pakistan under the Economic Support Fund (ESF) for the fiscal year 2015. ¶ Under the Foreign Military Financing (FMF) category, the US maintained USD 280 million in military aid to Pakistan for the fiscal year 2015 beginning in October 2014. ¶ Given the ongoing transition in Afghanistan and continued terrorist attacks against civilian and military targets throughout Pakistan, FMF is essential to Pakistan's efforts to increase stability in its western border region and ensure overall stability within its own borders, the department said. ¶ "The USD 280 million Pakistan requests will enhance the Pakistan Army, Frontier Corps, Air Force, and Navy's ability to conduct counter insurgency (COIN) and counter terrorism (CT) operations against militants throughout its borders and will improve Pakistan's ability to deter threats emanating from those areas, and encourage continued US-Pakistan military-to-military engagement," the State Department said. ¶ The OCO supports a robust diplomatic presence and critical assistance programmes to support the government and its people following Pakistan's first democratic transition. ¶ "These funds will help facilitate increased stability and prosperity in this strategically important nation and will enable us to sustain a presence necessary to achieve essential strategic priorities of eliminating terrorism and enhancing stability in Pakistan and the region following the transition in Afghanistan," the State Department said. ¶ Pakistan lies at the heart of the US' counter terrorism strategy, the peace process in Afghanistan, nuclear non-proliferation efforts, and economic integration in South and Central Asia, it said.

#### No Indo-Pak conflict- energy cooperation and new governance

Sam Tranum 6/25/13, MA from the University of Chicago in IR and a journalist covering energy and politics in South Asia, 6/25/13, "India-Pakistan Energy Cooperation Could Get Boost Under Sharif," World Politics Review, http://www.worldpoliticsreview.com/articles/13049/india-pakistan-energy-cooperation-could-get-boost-under-sharif

Pakistani and Indian officials met earlier this month to discuss cross-border energy cooperation, perhaps signaling that the new government in Islamabad aims to follow through on plans its predecessor spent years talking about. That would be good for both countries. ¶ Nawaz Sharif's Pakistan Muslim League-Nawaz (PML-N) party swept Pakistan's parliamentary election in May, and Sharif took over as prime minister early this month, pledging—among other things—to improve relations with India and address his country's crippling energy shortage. ¶ On June 11, the prime minister’s younger brother, Shahbaz Sharif, the head of government in Pakistan's largest province, Punjab, reportedly met officials from India's Ministry of Power and Ministry of Petroleum and Natural Gas. They talked about Pakistan importing electricity and natural gas from India. ¶ The meeting in itself is not unprecedented. During its five years in power, the previous government in Islamabad under the Pakistan People's Party (PPP) talked to Indian government officials and companies about importing gasoline, diesel, natural gas and electricity. India seemed willing to help Pakistan then, but nothing happened.¶ There are still factions on both sides of the border that oppose normalizing relations and will try to block efforts by Nawaz Sharif and Indian Prime Minister Manmohan Singh to work together on energy and other issues. But as the energy crisis in Pakistan grows increasingly acute, the pressure might overwhelm such opposition. ¶ Among the proposals on the table is a cross-border electricity transmission line with the capacity to transfer 500-1,000 megawatts of power from India to Pakistan. India is short of power and suffers regular planned and unplanned power cuts. But Pakistan is much worse off. ¶ In the fiscal year that ended March 31, the two-thirds of Indians with access to electricity faced an 8.7 percent supply-demand gap. The two-thirds or so of Pakistanis with access to electricity, meanwhile, faced a shortfall of about 30 percent and power cuts 10-13 hours a day, Pakistan’s Supreme Court was reportedly told earlier this month. ¶ Pakistan's power cuts have sparked sometimes-violent protests and slowed the country's economic growth. ¶ If implemented, the proposed transmission line would serve as a sign of goodwill and perhaps earn a small profit for Indian generators. But if 500-1,000 MW of power would help ease Pakistan's power shortage, it wouldn't solve the country’s energy problems. After all, Pakistan has about 22,000 MW of generating capacity, compared to 212,000 MW for India. ¶ Nonetheless, turning to India for power is part of a larger Pakistani strategy to buy more electricity from its neighbors. It imported about 70 MW from Iran last year, is building another 100-MW link and has plans for a 1,000-MW link. There is talk of bringing in 1,000 MW from Tajikistan via Afghanistan, too. ¶ Aside from power, there is also a proposal for an India-to-Pakistan natural gas pipeline. This would allow Pakistan to import either Indian natural gas or liquefied natural gas (LNG) from a third country delivered to one of India's LNG terminals and sent through its pipeline network to Pakistan. Despite years of effort, Pakistan has failed to build its own LNG terminal. ¶ But a natural gas pipeline is the least likely to materialize of the proposed energy cooperation efforts. India only meets about half of its natural gas needs from its own production and its limited LNG import capacity. And a drop in production from Reliance Industries’ massive KG-D6 field off India's east coast means India’s ability to satisfy its own LNG needs has been getting worse, not better. ¶ Still, a delegation from Indian state-controlled gas distribution company GAIL has reportedly offered to deliver to Pakistan 400 million cubic feet of gas per day. To put that in perspective, Pakistan—which uses gas for power generation, cooking, heating and fueling vehicles, among other things—is now surviving on domestic production of about 4 billion cubic feet per day. ¶ Potential profits and international politics may overshadow the fact that Indian consumers need this natural gas, too. Private and state-owned Indian companies may be willing to short their Indian customers if they can get a better offer from across the border. And officials in New Delhi may be willing to let them do so in the name of India-Pakistan confidence-building measures. ¶ Less controversial than the power and natural gas proposals is a plan for India to build a pipeline across the border to sell gasoline or diesel to Pakistan. Although India doesn't produce much crude oil, it is a refining hub: It imports more crude than it needs and turns the excess into gasoline, diesel and other products that it exports. Indian refiners would welcome a new market. ¶ This cross-border energy trade is seen by some as a test-run for India-Pakistan cooperation on the Turkmenistan-Afghanistan-Pakistan-India (TAPI) and Iran-Pakistan-India (IPI) natural gas pipeline projects. The odds at the moment are stacked against both projects. Instability in Afghanistan makes TAPI tough, while U.S. sanctions on Iran make Indian involvement in IPI doubtful. But these factors could change in the future. ¶ More immediately, India's willingness to help ease Pakistan's energy shortage might encourage Sharif's PML-N government to follow through on its predecessor's promise to grant India most favored nation trading status. This is something Indian companies want and many Pakistani businesses don't: They fear they will be overwhelmed by competition from their massive neighbor. ¶ Nevertheless, if India and Pakistan can work together on energy and increase trade, both countries would benefit. Pakistan would get energy to fuel its lagging economy, and India would get a new market for energy and other exports. As a side benefit, integrating their economies a bit more might help to normalize relations and make future conflicts less likely.

### 2NC

Drone victims came to congress and only 5 senators showed up.

Popular Resistance 13 - (http://www.popularresistance.org/congress-disgraces-united-states-fails-to-show-for-drone-hearing/)

Alan Grayson (D-FL) organized an historic hearing on US drone strikes. It was the first time that drone strike victims told their stories to U.S. elected officials at a hearing. The Rehman family traveled halfway around the world from Pakistan to tell the story of their families loss; the killing of the families grandmother. Only five members of Congress bothered to show up. What does this show about the United States political leadership? It is shameful. Below are three articles describing the scene and the families ordeal. We need to help them change the hearts and minds of Americans especially our elected leadership

### Case

#### Apologies and reparations ring hollow – US continues attacks

Dubinsky, the Purple Crab, TruthDig.com, 10/30/12, http://www.truthdig.com/report/item/drone\_warfare\_an\_illegal\_tactic\_sure\_to\_perpetuate\_us-muslim\_war\_indefini

No doubt the Pakistani press has their Judith Miller's as well. Don't forget that the U.S. has made several official apoligies and paid reparations to the relatives of numerous individuals killed in these attacks yet they keep on escalating them. By now any apologies made by the U.S. ring hollow and our credibility is seriously lacking.

Courts are biased

Murphy and Radsan – Their Author – 9 (Richard, AT&T Professor of Law – Texas Tech University School of Law, and Afsheen John, Professor – William Mitchell College of Law; Assistant General Counsel – Central Intelligence Agency, “Due Process and Targeted Killing of Terrorists,” Cardozo Law Review, November, 32 Cardozo L. Rev. 405, Lexis)

As to legal hurdles, Boumediene itself poses a high one to lawsuits by non-U.S. citizens for overseas attacks. Here we may seem to contradict our earlier insistence that Boumediene presupposes some form of constitutional protection worldwide for everyone.212 Yet Boumediene shows that the requirement of judicial process depends on a pragmatic analysis.213 As part of its balancing, Boumediene made clear that courts should favor the interests of American citizens and of others with strong connections to the United States.214 Although the Boumediene petitioners lacked the preference in favor of citizens, they persuaded a slim majority of the Court to extend constitutional habeas to non-resident aliens detained at Guantanamo. This result, however, took place under exceptional circumstances: among them, Guantanamo is de facto United States territory;215 the executive had held detainees there for years and claimed authority to do so indefinitely; and the Supreme Court doubted the fairness and accuracy of the CSRTs.216 Absent such circumstances, Boumediene leaves courts to follow their habit of deferring to the executive on national security. For targeted killing, that may mean cutting off non-citizens from American courts.

The state-secrets privilege poses another barrier to Bivens-style actions. This privilege allows the government to block the disclosure of information in court that would damage national security.217 It could prevent a case from proceeding in any number of ways. For instance, the government could block plaintiffs from accessing or using information needed to determine whether a Predator attack had a sound basis through human or technical sources of intelligence.218 By this trump card, the government could prevent litigation from seriously compromising intelligence sources and methods.219

### Kritik

#### As a legal scholar you should reflect on the 1ac as an up-down vote: there is no way voting aff can access their plan, but the university is a crucial place of praxis. If we win that lawmaking in the context of war is about justifying rather than challenging war, and the aff is an instance of that, you should vote neg.

Bond Graham 9. Darwin Bond Graham, PhD Sociology UC Santa Barbara, and Hell, UC Fiat Pax Research Project Group, Higher Education Militarization Resource, 2003, “The Militarization of America’s Universities”, Fiat Pax, UC Santa Cruz Press, pages 3-4, http://www.fiatpax.net/demil.pdf, Accessed 10/15/09

This publication is the testimony of our careers as students of a university in service of the warfare state. This publication is founded on a belief that war, no matter how urgent it might seem and no matter how necessary we are made to think it is, can no longer be considered a justifiable act. War is not the last resort, war is not the path to peace, war is not the means to an end, war is never the solution. War is always a failure. This publication is founded on a fact: War is not possible and pursuable in any society without the coordination and resources of a nation’s knowledge base for the purposes of making war. In our society this means that war is made possible only through a permanent technological revolution encompassing most dis- ciplines of science. War is the product of a close relationship between the US military establishment, private corporations, and academic institutions. This is the military-industrial-academic complex. Colleges and universities serve a critical purpose that only they can fulfill by providing access to the best and brightest minds, the product of their research, and the legitimization of war and weapons as high and honorable pursuits. The role that universities collectively play in warfare cannot be over-stated. War as we know it, with all its destructive and horrific capacity, would not be possible were it not for the military-industrial shaping of science, and our institutions of knowledge creation. We are not against science. We are opposed to the manipulation and perversion of science and technology used for the destruction of humankind. We are for the realization of a university that works to better society through research and education. We are in support of science guided by ethics not profits. In a message to the university community dated March 19th, 2003 UC President Richard Atkinson remarked that with respect to the war against Iraq and during times of war in general, "it is important that we all remember, now more than ever, the important role the University plays as a place of reasoned inquiry and civil discourse. While emotions may run high, there can be no room on our campuses for violence or intolerance." President Atkinson is right. There can be no room on our campuses for violence or intolerance. Therefore we must immediately cease all participation in the production of war and the technologies used to fight it. We must mobilize science entirely for peace and the prevention of war. Since the UC laid the foundation for the military-university relationship, it should be the first to sever the ties. We are calling upon the University of California to show leadership by transforming its system of research from war to peace, its economic purpose from destruction to sustainability, and by realizing its motto "Fiat Lux," that progress and a peaceful future is still possible.

Deterrence fails - no empirics, other factors check conflict escalation.

Marullo 85 (Sam, Professor of Sociology at Cleveland State University, “The Ideological Nature of Deterrence: Some Causes and Consequences” pg. 316-319 JSTOR)

An understanding of this paradox is obtained by analyzing the interests being served by this obfuscation, in conjunction with the structural correlates and technological imperatives of deterrence ideology. More specifically, we should examine officials' hesitance to speak directly and openly to the public about the possibilities of nuclear war and our own nuclear strategies because of the anticipated negative political consequences; the lack of public participation in discussion and debate over nuclear weapons policies largely due to a lack of knowledge; the realities imposed by the weapons mere existence; the military-industrial governmental bureaucratic elites' (the "iron triangle" as Adams [1981] calls it) beliefs or consciousness based on the existence of nuclear weapons technology and a world order dependent on deterrence; and the internal political functions played by deterrence. By examining these disjunctions, several cognitive beliefs of deterrence are demonstrated to lack empirical verification and are shown to be non-verifiable, demonstrating the ideological nature of deterrence. Government and military officials are reluctant to talk about nuclear exchanges because of the potential effect of "upsetting" the public. This reflects a conscious decision to withhold information from the public in an effort to avoid the negative political repercussions they have seen occur in the past (e.g., the uproars following McNamara's "No Cities" speech and Carter's PD 59). As Morton Halperin, a former Assistant Deputy Secretary of Defense, has more candidly stated, All public officials have l earned to talk in public only about deterrence and city attacks. No war-fighting, no city sparing. Too many critics can make too much trouble, so public officials have run for cover. That included me when I was one of them. (Quotes in Lifton and Falk, 1982:178-179) Before 1979 there had been only sporadic and fairly restricted public discussions of nuclear weapons policy. The technical knowledge required to understand nuclear arsenal capabilities is vast and not widely circulated. Furthermore, the legal, moral, and logistical complexities surrounding the use of force in the international realm can be overwhelming. These together have enabled a virtual monopoly of knowledge and decision-making ability to be concentrated in the hands of a relatively small number of defense contractors, administration security officials, defense department and military leaders, and select congressmen (Tobias, 1983). In fact, Adams sees the lack of participation in the formulation of defense policy as an intended consequence of the iron triangle's operations. He claims they feel that their internal views on national security are both received wisdom and in tune with the world around it. Government and industrial officials became adept at protecting and expanding their turf in the defense arena, creating one of the most powerful policy machines in Washington (.A dams,1 982:8) It is thus no surprise that much of the public is not very well informed regarding nuclear weapons policy, that logical inconsistencies in deterrence ideology have gone virtually unnoticed, and the mismatch between declaratory policy and actual employment policy has remained largely undetected. In addition, much of the public does not particularly want to hear or talk about the use of nuclear weapons; a "psychic numbing," as Lifton (Lifton and Falk, 1982) describes it, has occurred. Nuclear weapons are seen as deterrents and a necessary evil with which we have to live, but we prefer not to spend time agonizing over them. The horrible destructiveness of the weapons and the withholding of information on the part of military and governmental officials has precluded much informed discussion of nuclear weapons policy alternatives, thereby contributing to the rhetoric-policy disjuncture. Limited survey results attest to the general ignorance of the public on nuclear weapons capabilities, arsenals composition, and declaratory policy regarding the use of nuclear weapons. Ironically, the overwhelming majority of the public feels it is the government's responsibility to make more information available to the public (Zweigenhaft, 1984). The political economies of the United States and the Soviet Union are distinct enough and contain expansionary forces such that conflict over resources and interests will continue to emerge for some time. These cautiously expansionary tendencies and the concomitant efforts toward containing the other power's expansion have led to the deployment of large armed forces that serve more than to merely protect territorial boundaries, but also function to project forces around the globe for either containment or expansionist purposes.14S Since nuclear weapons have become part of the superpower's arsenals--indeed, a new stage in our technocratic consciousness--plans for their use and the prevention of the opponent's use of them have become an integral part of these policies. In sum, nuclear weapons are, by most peoples thinking, a firmly entrenched component of the global order. As a consequence, mutual assured destruction has become an accurate description of weapons technology and one facet of superpower relations. However, its transformation into a policy of deterrence requires the incorporation of the psychological component that each superpower has to convince the other of its capability and determination to carry out the threat of mutual destruction. The critical issue is that national determination, and to a lesser extent capability, cannot be measured directly, and we rely on statements of intended use (less reliable) and arsenal configuration (more reliable) as proxies. Since deterrence rests on projecting to the other side one's own determination-and knowing that it can be measured only imperfectly-each side sends messages by making declarations of intended use and configuring its arsenal in such a way that it perceives the other side will receive the intended message. Under this scheme there can be no external validation of one's assessment of the enemy's (or even one's own) determination. As a result, one can never be sure that the enemy is convinced of one's determination to carry out the threatened retaliation. This has the unfortunate consequence that there is a tendency to err on the side of making sure the appropriate message indicating determination is being conveyed. It is unfortunate in that the clearest message is usually presumed to be a highly threatening arsenal configuration. The very nature of deterrence is such that it cannot be demonstrated to work. We cannot verify that it is deterrence rather than other factors that is working, or has worked over the past 30 years to prevent nuclear war between the superpowers. In a scientific logic sense, we can only observe the failure of deterrence through the eruption of an all-out nuclear war,15 but its failure to occur may or may not reflect the effectiveness of deterrence. Furthermore, the logic of deterrence dictates that elected officials and military leaders never question the logic of deterrence, lest the Soviet Union question our resolve to carry out threatened retaliation. These two characteristics, the incorporation as a cognitive belief of a non-verifiable assertion and the self-reinforcing logic of these beliefs, demonstrate the ideological nature of deterrence in an epistemic sense (Geuss, 1981). The calls for military expansion or modernization exhibit two levels of reliance on deterrence: one for use vis-a-vis the public, and a second for use within the inner circle of nuclear weapons policymakers and strategists. The former case takes the form of officials claiming that particular military threats or Soviet superiority in specific weapons categories threatens our national security.16 New weapons are thus rationalized before the public as necessary counter-threats to the Soviets, needed to maintain deterrence. This deliberately vague use of the notion of deterrence performs an important political role in justifying increased military spending. The second, deeper level of reliance on deterrence ideology is demonstrated by administration and military officials statements within the iron triangle. There, officials freely admit that there are no foreseeable Soviet military threats to U.S. national security, but they express concern over the potential political threats which may result from sending a signal of weakness. It is feared that any defense cutbacks may lead to the Soviets' inference of a lack of U.S. resolve, which may lead them to think they could extract political or economic concessions from us.17 Thus, the need for the appearance of a united base of support for a component of our deterrent force becomes the rationale for muting public debate over particular weapons. The debate over the MX missile (rekindled in 1981) demonstrates the two levels of dependence on deterrence ideology. The "window of vulnerability" argument presented to the public focused on whether the Soviets could in fact initiate a successful first strike on our land based missiles, leaving the President in a situation where he might find it more rational to refrain from retaliating then to retaliate and prompt a second Soviet strike aimed at U.S. cities. Among military circles, this scenario is dismissed as highly unlikely (U.S. Senate, 1983b). Yet the Scowcroft Commission nevertheless strongly endorsed the deployment of the MX for "symbolic" reasons -to threaten the Soviet land based missiles and to demonstrate America's resolve. As the Commission chair Brent Scowcroft stated at a Congressional hearing to explain the report's conclusion, the MX is needed to demonstrate national will and cohesion. Four Presidents have now stated that the MX is important...To now back away from that. .. would reflect an absence of that critical element of deterrence, and that is national will and determination. (U.S. Senate, 1983b) Thus, vague deterrence language is more commonly used vis-a-vis the public, in an effort not to stir up too much controversy, while statements more truly reflective of nuclear weapons employment policy are shared within the iron triangle and infrequently transmitted to the Soviet Union. Both, however, indicate a reliance on deterrence ideology.

#### Movements DA - mounting public pressure against drones in the status quo forces massive scaling-back of militaristic targeted killing. the affirmative’s cosmetic restriction saves the drone program by abating public anger.

Zenko 13 – fellow @ CFR

(Micah Zenko is the Douglas Dillon fellow in the Center for Preventive Action (CPA) at the Council on Foreign Relations (CFR). Previously, he worked for five years at the Harvard Kennedy School and in Washington, DC, at the Brookings Institution, Congressional Research Service, and State Department's Office of Policy Planning, Council Special Report No. 65, January 2013, “U.S. Drone Strike Policies”, i.cfr.org/content/publications/attachments/Drones\_CSR65.pdf‎)

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

Braxi 5 - \* Professor of Law, University of Warwick; Vice Chancellor, Delhi University (1990-1994); University of South Gujarat, Surat (1982-1985) (Upendra, The War on Terror and the War of Terror: Nomadic Multitudes, Aggressive Incumbents, and the New International Law - Prefactory Remarks on Two Wars, Volume 43, Number 1 Volume 43, Number 1/2 (Spring/Summer 2005) Third World Approaches to International Law After 9/11)

A new global ethno-nationalism, if one may so name this happening, is now in the making; it proclaims some inherent virtues of solidary global public citizenship, extending beyond bounds the celebrated notion of "constitutional patriotism" adumbrated by Jurgen Habermas.62 Because each one of us may be enmeshed in serial performances of mass political violence, each one of us also stands imperatively encased/interpellated within the logics, paralogics, and languages of "war on terror." These cultivate notions of public virtue in terms of a binary ethic (either you are for or against terrorism) and its associated regimes of the emerging positive global morality that seek to disarticulate any recourse to critical morality in relation to the war on terror, in all its fierce and mighty pursuit. Any ethical ambivalence stands condemned thus as complicitous with "terror." This new global ethic in the making extravagantly forfeits and squanders all potential for non-violent pursuit of the creation of dialogic timeplaces, disarticulating alternate versions of international comity as a global public good. V. THE DESTRUCTION OF COMITY Comity among nations is, indeed, a grudging virtue.63 Certain forms of inter-state courtesy and good will, while not furnishing a source of authoritative legal obligations, were, in the eye of recent history, a Eurocentric virtue practised by "civilized" nations of the West in their dealings inter se. It, of course, did not extend to their dealings with the rest of the world. Its origins are notoriously multiplex and multiple; they may be traced both to the era of European chivalry and the moral histories of the feudal virtue of honour that so brutally, if unevenly, combined forms and practices of interactions between colonizers and the colonized.64 The development of comity was, however, a "whites-only" kind of virtue in international relations. The "savage," the "barbarian," the "heathen," and the "unenlightened" masses of peoples and their political organization were placed outside the zones of comity, if only with a view to promote their capabilities for "civilization" and eventual induction into the family of nations.6 ' Even so, beneficial access to the practice of comity by all co-equal sovereign states and peoples now remains the foundation of a post-Westphalian order; this is now exposed to severe interrogation, especially by the United States. Overall, comity performed certain useful tasks, establishing a modicum of civility among nations, even in the post-Westphalian order marked first by decolonization and now by current economic-globalization. In particular, practising comity meant many orders of civility that informed magisterial evolution of the law of armed conflicts. For example, classical international law developed the practice of this virtue by requiring that the intention to go to war be notified by a declaration of war; undeclared hostilities or warfare were disfavoured. Customary international law stood informed by comity considerations when it prescribed that the use of force-even in situations of self-defence, reprisal, or retorsion-must be both reasonable and proportionate. Comity also did much silent work in the historical fashioning of the norms and standards of international humanitarian law, governing treatment of prisoners of war, the sick and wounded, and non-combatants caught in the vicious web of armed conflict. The conduct of comity was also grounded in prudential considerations. If the minimal ethical cooperation, even amidst armed conflicts, was to become a sovereign norm, winning wars remained morally worthy only if belligerent conduct retained a modicum of regard for the dignity and decency that strove to minimize "unnecessary" human suffering, even when "unnecessary" was interpellated within shifting grounds and doctrines of military necessity. Further, the idea that war should be a matter of last recourse was not altogether uninformed by the ethic of comity; after all, war remained conceived of as a necessary contribution to some steady states of peaceful cooperation among nations. The ongoing war on terror now almost totally erodes this institutionalized ethic of comity in international relations. The Taliban regime in Afghanistan, for example, rather remarkably reasserted the genre of classical comity norms when it insisted that the United States follow the old, and classical, norms of comity in international law and relations that rendered aggression a matter of last recourse. Following the classical comity patterns, the regime asked for prima facie evidence that suggested its complicity with Osama bin Laden; it assured that upon its production and verification, it would do its governmental best to locate him and his nefarious/multifarious associates; it then insisted that it would deliver them to any Islamic nation for a public international criminal trial for the commission of "crimes against humanity." None of these inherently dialogic requests were heeded by the United States in the "light" of a pre-determination to "discipline and punish" the Taliban.

#### IHL is 'quaint' and the US refuses to ratify its most significant portions.

\*\*This card can also be used to answer legitimacy claims that the US breaks iternational concensus and forces everyone to do what we want.

Jones 13 - Department of Geography, University of British Columbia, Vancouver (Craig, http://warlawspace.files.wordpress.com/2013/04/jones-travelling-law-shifting-borders.pdf, Targeted Killing, Lawfare and the Deconstruction of the Battlefield)

Early in the WoT Condoleezza Rice spoke of a 'new kind of war' that renders the Geneva Conventions irrelevant and "quaint". 105 Of course, in a way she was right: the original Geneva Conventions are in some ways quaint and their language can seem antiquated today. But IHL is not a static legal regime, neither in custom nor treaty and the U.S. (and Israel) refused to sign the most significant update to IHL – the 1977 Additional Protocols – since the 1949 Conventions were founded. So while the Conventions may well be out of date, the U.S. then and now are plainly not prepared to have IHL updated in ways consonant with (most of) the rest of the international community. The updates and ‘new laws’ sought are ones that defy international consensus because they favour a particularly narrow and sui generis way of fighting war: a pre-emptive ‘counter-terror’ war. It is no surprise then that the U.S. has attempted to change law not through treaty but through recourse to consensus defying practice. Today these generalisations that ‘new wars need new laws’106 have taken on very specific and almost deregulatory form. The new laws are ones that expand the scope and ontology of war. Laurie Blank for example, has expressed the need to move away from traditional conceptions of 'battlefiled' to something called she calls the 'zone of combat'. But what does it mean, and where does it go? Blank defines the zone expansively: "anywhere terrorist attacks are taking place, or perhaps even being planned and financed". 107 Indeed, she goes on to claim, citing Natasha Balendra, that a "war against groups of transnational terrorists, by its very nature, lacks a well delineated timeline or a traditional battlefield context [...]”108. The war cannot, in her view, be limited to this static thing called the battlefield, but must follow the terrorist wherever s/he may go. In this perspective, the transition from the Israeli battlefield to the vision of the ‘world as battlefield’ is upon us, and is allegedly supported by the relevant international law, or at least by lawfare.

### 1nr

#### AQAP is hype

**Gerges 12** [Prof of IR @ London School of Economics, “The Rise and Fall of Al-Qaeda: Debunking the Terrorism Narrative”, 1/3/2012, http://www.huffingtonpost.com/fawaz-gerges/the-rise-and-fall-of-alqa\_b\_1182003.html]

Local factions give a false impression that al Qaeda possesses the reach and capability to wage a global war. In Yemen, Somalia, and the Maghreb, these factions seem to have given the organization a new life, yet they are pitted in a fierce local struggle for survival against the near enemy and are unable to coordinate their actions with the parent organization. One al Qaeda field lieutenant, in a message intercepted by U.S. intelligence before the raid on bin Laden’s compound, pleaded with bin Laden to come to the group’s rescue. Bin Laden chose hiding over organizational survival. Even a small number of fighters could be dangerous if they possessed a nuclear weapon. But the only conceivable scenario by which al Qaeda could obtain a nuclear device is if it built one for itself, and it lacks both the financial and technical capacity. John Mueller, a political scientist who has written extensively about al Qaeda’s possible pursuit of a nuclear weapon, notes that even if al Qaeda somehow obtained the materials needed to construct a bomb, it would face at least twenty significant technical obstacles in the process of building and deploying one, obstacles that challenge even a country such as Iran.

#### Can’t solve Yemen instability – AQAP Focus insufficient

Edwards 3/6, Aaron Edwards, Open Democracy, 3/6/14, http://www.opendemocracy.net/opensecurity/aaron-edwards/yemen%E2%80%99s-troubled-transition

Instability Yemen is one of the world’s most unstable states. Ranked 160th of 186 on the United Nations Human Development Index, it is scarred by illiteracy, gender inequality, unemployment and poverty. In the absence of a viable economic base, it depends on aid for survival. In 2011, when the “Arab spring” exploded across the Middle East and North Africa, in Sana’a the regime of the then president, Ali Abdullah Saleh, wobbled under the weight of protests that spread quickly across the country. Women and youth, backed by key segments of Yemeni civil society, took to the streets to bring attention to unemployment, corruption, health, education and economic volatility. The protests created an opportunity for violence. After a rocket attack on the presidential compound, in which Saleh was temporarily incapacitated, his deputy, Abdrabuh Mansour Hadi, took over as Acting President—an appointment confirmed by an election, in which he was however the only candidate, in February 2012.¶ In November 2011 the Gulf Cooperation Council (GCC) brokered an agreement on political transition. This established a National Dialogue Committee (NDC) embracing political, social, tribal and ethnic interest groups, to create the conditions for democratic elections in March 2014. To ensure effective stewardship, the UN appointed the veteran Moroccan diplomat Jamal Benomar as its Special Representative, signalling the international community’s backing for the NDC process.¶ The United States, United Kingdom and Russian Federation have all spoken of the need to allow the political transition to run its course, while calling on the Yemeni government to reform the security sector and better combat the threat from AQAP. But the roots of the challenges that still threaten to unravel Yemen’s transition have been insufficiently addressed.¶ A divided history¶ Yemen’s failure to consolidate its state structures can be traced back half a century to the second “Arab awakening” (the first being in the 19th century). Anti-colonial forces turned to violence to try to overthrow the traditional rulers in the two separate states of North and South Yemen.¶ North Yemen had been under the control of an ancient pre-Islamic imamate, dislodged from power on 26 September 1962. The imam, Muhammad al-Badr, was overthrown by a military coup and for eight years fought a bloody civil war. This saw 70,000 Egyptian troops intervene in support of the fledgling republican regime, while a covert mercenary unit of British and French special forces provided technical advice to the ousted royalists.¶ In South Yemen, the British (who called it South Arabia) were maintaining a foothold in Aden, their only port colony in the Middle East. Indirect rule over its hinterland was achieved by wooing powerful tribal confederations with guns and cash, bluffing them into thinking they were in control of their destiny and, on occasion, bombing them. This policy worked until Arab nationalism took root in the fertile revolutionary soil of North Yemen and spread like wildfire across the porous border into the south.¶ Yemen is one of the world's most unstable states.¶ Facing economic crisis at home and the resilience of Nasserite nationalism in the region, in 1967 the British reached a deal with the National Liberation Front (NLF), which had been consolidating its hold over South Yemen in the previous four years. After their departure, the NLF’s ideology gravitated from Arab nationalism on the right to a form of “Marxism-Leninism” along Soviet lines. By the time the Peoples’ Democratic Republic of South Yemen was born, the civil war in the north had ended in stalemate.¶ After the assassination in 1978 of the north’s president, Ahmad al-Ghashmi, his close friend Major Ali Abdullah Saleh, an artillery officer based in Taiz’z, assumed power. The distribution of patronage—“dancing on the heads of snakes”, he called it—among the tribal confederations, secular socialists and Islamist groupings stymied challenges to his authority for 30 years and allowed him to amass a strong political following in the guise of the General People’s Congress (GPC).¶ Manipulation of Yemen’s turbulent political economy allowed Saleh progressively to concentrate the state’s wealth in his own hands. Unification of what became the Republic of Yemen in 1990 accrued further problems, with the uneven development of capitalism north and south exacerbated by the collapse of the Soviet Union, inherited debt and tight control of distribution networks by a business cabal.¶ Grievances over perceived colonisation of the south by the north triggered the 1994 civil war but the southern forces were crushed within weeks by General Mansour Hadi, promptly rewarded with the vice-presidency. Many southerners still see the civil war as unfinished business.¶ Nor could the military eradicate resort to tribalism. There has been a tendency, notably in the excellent work of the late Professor Fred Halliday, to discount the allure of its “mystic exoticism”. But pre-Islamic tribal identities in the Arabian Peninsula have at times exerted a powerful hold and attempts to supplant them by the official ideology in South Yemen in the 1970s and 80s failed.¶ Tribalism has been one of the main sources of instability during the NDC process, from which the Southern Hirak Movement recurrently withdrew. Thanks mainly to social media, we can follow the growing secessionist demonstrations, which reflect a groundswell in the urban centres of the south in support of a return to a time when Aden served as their capital. The protests encompass a range of grievances, which coalesce around a return to political, social and economic rights purportedly usurped by northerners. The demand for an end to central-government control has also been reflected in the violence of the powerful tribal confederation in Hadhramaut, one of the largest and poorest parts of southern Yemen.¶ Uncertain future¶ The conclusion of the NDC process has seen President Hadi’s government endorse a plan to divide Yemen into six regional units: four northern (Azal, Saba, Janad and Tehama) and two southern (Aden and Hadhramaut). But this has been perceived by leaders of Hirak and the Yemen Socialist Party as stymying their designs for southern independence. The GPC’s attempts to buy off secessionism with limited autonomy do not bode well for the success of the political transition.¶ The threat posed by AQAP—which continues to preoccupy Western security planners—compounds the difficulty. But focusing on AQAP, without placing Yemen’s other problems in their proper context, does injustice to the complexity of Yemen and the security needs of its people.

#### First- authority refers to the inherent powers created within the agent, means topical affirmatives have to address the origin of power that allows presidents to take action.

**Lobel, 8** - Professor of Law, University of Pittsburgh Law School (Jules, “Conflicts Between the Commander in Chief and Congress: Concurrent Power over the Conduct of War” 392 OHIO STATE LAW JOURNAL [Vol. 69:391, http://moritzlaw.osu.edu/students/groups/oslj/files/2012/04/69.3.lobel\_.pdf)

So  too, the congressional power to declare or authorize war has been long held to permit Congress to authorize and wage a limited war—“limited in place, in objects, and in time.” 63 When Congress places such restrictions on the President’s authority to wage war, it limits the President’s discretion to conduct battlefield operations. For example, Congress authorized President George H. W. Bush to attack Iraq in response to Iraq’s 1990 invasion of Kuwait, but it confined the President’s authority to the use of U.S. armed forces pursuant to U.N. Security Council resolutions directed to force Iraqi troops to leave Kuwait. That restriction would not have permitted the President to march into Baghdad after the Iraqi army had been decisively ejected from Kuwait, a limitation recognized by President Bush himself.64

#### This is explicitly distinct - Authority is power delegated to an agent to take action, not the action itself.

#### Second, restrictions must prohibit future action – the aff is a regulation on exercising authority

Schackleford, justice – Supreme Court of Florida, 3/12/’17

(J., “ATLANTIC COAST LINE RAILROAD COMPANY, A CORPORATION, *et al., Plaintiff in Error,* v. THE STATE OF FLORIDA, *Defendant in Error,”* 73 Fla. 609; 74 So. 595; 1917 Fla. LEXIS 487)

There would seem to be no occasion to discuss whether or not the Railroad Commissioners had the power and authority to make the order, requiring the three specified railroads running into the City of Tampa to erect a union passenger station in such city, which is set out in the declaration in the instant case and which we have copied above. [\*\*\*29] It is sufficient to say that under the reasoning and the authorities cited in State v. Atlantic Coast Line R. Co., 67 Fla. 441, 458, 63 South. Rep. 729, 65 South. Rep. 654, and State v. Jacksonville Terminal [\*631] Co., supra, it would seem that HN14the Commissioners had power and authority. The point which we are required to determine is whether or not the Commissioners were given the authority to impose the fine or penalty upon the three railroads for the recovery of which this action is brought. In order to decide this question we must examine Section 2908 of the General Statutes of 1906, which we have copied above, in the light of the authorities which we have cited and from some of which we have quoted. It will be observed that the declaration alleges that the penalty imposed upon the three railroads was for the violation of what is designated as "Order No. 282," which is set out and which required such railroads to erect and complete a union depot at Tampa within a certain specified time. If the Commissioners had the authority to make such order, it necessarily follows that they could enforce a compliance with the same by appropriate proceedings in the courts, but [\*\*\*30] it does not necessarily follow that they had the power and authority to penalize the roads for a failure to comply therewith. That is a different matter. HN15Section 2908 of the General Statutes of 1906, which originally formed Section 12 of Chapter 4700 of the Laws of Florida, (Acts of 1899, p. 86), expressly authorizes the imposition of a penalty by the Commissioners upon "any railroad, railroad company or other common carrier doing business in this State," for "a violation or disregard of any rate, schedule, rule or regulation, provided or prescribed by said commission," or for failure "to make any report required to be made under the provisions of this Chapter," or for the violation of "any provision of this Chapter." It will be observed that the word "Order" is not mentioned in such section. Are the other words used therein sufficiently comprehensive to embrace an order made by the Commissioners, such as the one now under consideration? [\*632] It could not successfully be contended, nor is such contention attempted, that this order is covered by or embraced within the words "rate," "schedule" or "any report,' therefore we may dismiss these terms from our consideration and [\*\*\*31] direct our attention to the words "rule or regulation." As is frankly stated in the brief filed by the defendant in error: "It is admitted that an order for the erection of a depot is not a 'rate' or 'schedule' and if it is not a 'rule' or 'regulation' then there is no power in the Commissioners to enforce it by the imposition of a penalty." It is earnestly insisted that the words "rule or regulation" are sufficiently comprehensive to embrace such an order and to authorize the penalty imposed, and in support of this contention the following authorities are cited: Black's Law Dictionary, defining regulation and order; Rapalje & Lawrence's Law Dictionary, defining rule; Abbott's Law Dictionary, defining rule; Bouvier's Law Dictionary, defining order and rule [\*\*602] of court; Webster's New International Dictionary, defining regulation; Curry v. Marvin, 2 Fla. 411, text 515; In re Leasing of State Lands, 18 Colo. 359, 32 Pac. Rep. 986; Betts v. Commissioners of the Land Office, 27 Okl. 64, 110 Pac. Rep. 766; Carter V. Louisiana Purchase Exposition Co., 124 Mo. App. 530, 102 S.W. Rep. 6, text 9; 34 Cyc. 1031. We have examined all of these authorities, as well as those cited by the [\*\*\*32] plaintiffs in error and a number of others, but shall not undertake an analysis and discussion of all of them. While it is undoubtedly true that the words, rule, regulation and order are frequently used as synonyms, as the dictionaries, both English and law, and the dictionaries of synonyms, such as Soule's show, it does not follow that these words always mean the same thing or are interchangeable at will. It is well known that the same word used in different contexts may mean a different thing by virtue of the coloring which the word [\*633] takes on both from what precedes it in the context and what follows after. Thus in discussing the proper constructions to be placed upon the words "restrictions and regulations" as used in the Constitution of this State, then in force, Chap. 4, Sec. 2, No. 1, of Thompson's Digest, page 50, this court in Curry v. Marvin, 2 Fla. 411, text 415, which case is cited to us and relied upon by both the parties litigant, makes the following statement: "The word restriction is defined by the best lexicographers to mean limitation, confinement within bounds, and would seem, as used in the constitution, to apply to the amount and to the time [\*\*\*33] within which an appeal might to be taken, or a writ of error sued out. The word regulation has a different signification -- it means method, and is defined by Webster in his Dictionary, folio 31, page 929, to be 'a rule or order prescribed by a superior for the management of some business, or for the government of a company or society.' This more properly perhaps applies to the mode and form of proceeding in taking and prosecuting appeals and writs of error. By the use of both of those terms, we think that something more was intended than merely regulating the mode and form of proceedings in such cases." Thus, in Carter v. Louisiana Purchase Exposition Co., 124 Mo. App. 530, text 538, 102 S.W. Rep. 6, text 9, it is said, "The definition of a rule or order, which are synonymous terms, include commands to lower courts or court officials to do ministerial acts." In support of this proposition is cited 24 Amer. & Eng. Ency. of Law 1016, which is evidently an erroneous citation, whether the first or second edition is meant. See the definition of regulate and rule, 24 amer. & Eng. Ency. of Law (2nd Ed.) pages 243 to 246 and 1010, and it will be seen that the two words are not always [\*\*\*34] synonymous, much necessarily depending upon the context and the sense in which the words are used. Also see the discussion [\*634] of the word regulation in 34 Cyc. 1031. We would call especial attention to Morris v. Board of Pilot Commissioners, 7 Del. chan. 136, 30 Atl. Rep. 667, text 669, wherein the following statement is made by the court: "These words 'rule' and the 'order,' when used in a statute, have a definite signification. They are different in their nature and extent. A rule, to be valid, must be general in its scope, and undiscriminating in its application; an order is specific and not limited in its application. The function of an order relates more particularly to the execution or enforcement of a rule previously made." Also see 7 Words & Phrases 6271 and 6272, and 4 Words & Phrases (2nd Ser.) 419, 420. As we held in City of Los Angeles v. Gager, 10 Cal. App. 378, 102 Pac. Rep. 17, "The meaning of the word 'rules' is of wide and varied significance, depending upon the context; in a legal sense it is synonymous with 'laws.'" If Section 2908 had contained the word order, or had authorized the Commissioners to impose a penalty for the violation of any order [\*\*\*35] made by them, there would be no room for construction. The Georgia statute, Acts of 1905, p. 120, generally known as the "Steed Bill," entitled "An act to further extend the powers of the Railroad Commission of this State, and to confer upon the commission the power to regulate the time and manner within which the several railroads in this State shall receive, receipt for, forward and deliver to its destination all freight of every character, which may be tendered or received by them for transportation; to provide a penalty for non-compliance with any and all reasonable rules, regulations and orders prescribed by the said commission in the execution of these powers, and for other purposes," expressly authorized the Railroad Commissioners "to provide a penalty for non-compliance with any and all reasonable rules, regulations and orders prescribed by the said Commision." [\*635] See Pennington v. Douglas, A. & G. Ry. Co., 3 Ga. App. 665, 60 S.E. Rep. 485, which we cited with approval in State v. Atlantic Coast Line R. Co., 56 fla. 617, text 651, 47 South. Rep. 969, 32 L.R.A. (N.S.) 639. Under the reasoning in the cited authorities, especially State v. Atlantic Coast Line R. Co., [\*\*\*36] supra, and Morris v. Board of Pilot Commissioners, we are constrained to hold that the fourth and eighth grounds of the demurrer are well founded and that HN16the Railroad Commissioners were not empowered or authorized to impose a penalty upon the three railroads for failure to comply with the order for the erection of a union depot.

#### Even if they win the plan is a restriction, it doesn’t restrict presidential war powers authority - that kills predictability

J.A.D. Haneman 59, justice of the Superior Court of New Jersey, Appellate Division. “Russell S. Bertrand et al. v. Donald T. Jones et al.,” 58 NJ Super. 273; 156 A.2d 161; 1959 N.J. Super, Lexis

HN4 In ascertaining the meaning of the word "restrictions" as here employed, it must be considered in context with the entire clause in which it appears. It is to be noted that the exception concerns restrictions "which have been complied with." Plainly, this connotes a representation of compliance by the vendor with any restrictions upon the permitted uses of the subject property. The conclusion that "restrictions" refer solely to a limitation of the manner in which the vendor may [\*\*\*14] use his own lands is strengthened by the further provision found in said clause that the conveyance is "subject to the effect, [\*\*167] if any, of municipal zoning laws." Municipal zoning laws affect the use of property.¶ HN5 A familiar maxim to aid in the construction of contracts is noscitur a sociis. Simply stated, this means that a word is known from its associates. Words of general and specific import take color from each other when associated together, and thus the word of general significance is modified by its associates of restricted sense. 3 Corbin on Contracts, § 552, p. 110; cf. Ford Motor Co. v. New Jersey Department of Labor and Industry, 5 N.J. 494 (1950). The [\*284] word "restrictions," therefore, should be construed as being used in the same limited fashion as "zoning."