## 1AC

#### Same as Rd 2

## 2AC

### Pak

#### Drones strikes aren’t ending—Kerry’s statement was wrong

Mazzetti and Landler 13 [Mark and Mark, NYT, “Despite Administration Promises, Few Changes in Drone War,” <http://www.nytimes.com/2013/08/03/us/politics/drone-war-rages-on-even-as-administration-talks-about-ending-it.html?pagewanted=all&_r=0>, ALB]

¶ ¶ There were more drone strikes in Pakistan last month than any month since January. Three missile strikes were carried out in Yemen in the last week alone. And after Secretary of State John Kerry told Pakistanis on Thursday that the United States was winding down the drone wars there, officials back in Washington quickly contradicted him.¶ ¶ ¶ More than two months after President Obama signaled a sharp shift in America’s targeted-killing operations, there is little public evidence of change in a strategy that has come to define the administration’s approach to combating terrorism.¶ ¶ Most elements of the drone program remain in place, including a base in the southern desert of Saudi Arabia that the Central Intelligence Agency continues to use to carry out drone strikes in Yemen. In late May, administration officials said that the bulk of drone operations would shift to the Pentagon from the C.I.A.¶ ¶ But the C.I.A. continues to run America’s secret air war in Pakistan, where Mr. Kerry’s comments underscored the administration’s haphazard approach to discussing these issues publicly. During a television interview in Pakistan on Thursday, Mr. Kerry said the United States had a “timeline” to end drone strikes in that country’s western mountains, adding, “We hope it’s going to be very, very soon.”¶ ¶ But the Obama administration is expected to carry out drone strikes in Pakistan well into the future. Hours after Mr. Kerry’s interview, the State Department issued a statement saying there was no definite timetable to end the targeted killing program in Pakistan, and a department spokeswoman, Marie Harf, said, “In no way would we ever deprive ourselves of a tool to fight a threat if it arises.”¶ ¶ Micah Zenko, a fellow with the Council on Foreign Relations, who closely follows American drone operations, said Mr. Kerry seemed to have been out of sync with the rest of the Obama administration in talking about the drone program. “There’s nothing that indicates this administration is going to unilaterally end drone strikes in Pakistan,” Mr. Zenko said, “or Yemen for that matter.”

### T – Ban

#### 2. Counter interp—Judicial restrictions are restrictions on jurisdiction—AFF changes jurisdiction to the Federal District Courts

Schlueter 82 [Spring, Court-martial Jurisdiction: An Expansion of the Least Possible Power, Northwestern School of Law¶ Journal of Criminal Law & Criminology, Former Assistant Professor, Criminal Law Division, The Judge Advocate General's School. LL.M. University of Virginia, 1981; J.D. Baylor University, 1971; B.A. Texas A&M University, 1969.]

Judicial restrictions include implementing a stricter interpretation of definitions

[\*77] C. JUDICIAL RESTRICTION OF PERSONAL JURISDICTION¶ A broad interpretation of personal jurisdiction remained until 1974 when the United States Court of Military Appeals, in three decisions, severely limited the military's ability to exercise jurisdiction over service members with defective enlistments. In the first case, United States v. Catlow, n18 the court ruled that a service member enlisting in lieu of an otherwise inevitable jail sentence had involuntarily entered the armed forces; his continued protestations once on active duty (in the nature of repeated A.W.O.L.'s) prevented formation of a constructive enlistment. And in United States v. Brown, n19 the fraudulent enlistment of a minor was aided by a recruiter who failed to follow Army regulations. n20 That oversight coupled with sluggish reaction by military authorities to discharge him, according to the court, stopped the government to argue that a constructive enlistment had been formed after the accused turned seventeen. These two cases, far-reaching in their own right, were soon eclipsed by United States v. Russo, n21 where the court ruled that court-martial jurisdiction could not be premised upon an enlistment obtained with recruiter misconduct. In ruling such enlistments to be void ab initio the court relied upon common law contract principles and the public policy against enforcing illegal contracts. n22

### CP – XO

#### Executive check fails and leads to rubber stamping—Strict scrutiny through the courts is Key—Prefer our COMPARATIVE and SPECIFIC evidence

Somin 13 [Ilya, Professor of Law, George Mason University, “Hearing on Drone Wars: the Constitutional and Counterterrorism Implications of Targeted Killing,” <http://www.judiciary.senate.gov/pdf/04-23-13SominTestimony.pdf>, Testimony Before the United States Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights, 4/23, ALB]

Alternatively, one can envision some kind of more extensive due process within the ¶ executive branch itself, as advocated by Neal Katyal of the Georgetown University Law ¶ Center.But any internal executive process has the flaw that it could always be overriden by ¶ the president, and possibly other high-ranking executive branch officials. Moreover, lower level executive officials might be reluctant to veto drone strikes supported by their superiors, ¶ either out of careerist concerns, or because administration officials are naturally likely to ¶ share the ideological and policy priorities of the president. An external check on targeting ¶ reduces such risks. External review might also enhance the credibility of the target-selection ¶ process with informed opinion both in the United States and abroad. ¶ Whether targeting decisions are made with or without judicial oversight, there is also an ¶ important question of burdens of proof. How much evidence is enough to justify classifying ¶ you or me as a senior Al Qaeda leader? The administration memo does not address that ¶ crucial question either. ¶ Obviously, it is unrealistic to hold military operations to the standards of proof normally ¶ required in civilian criminal prosecutions. But at the same time, we should be wary of giving ¶ the president unfettered power to order the killing of citizens simply based on his assertion ¶ that they pose a threat. Amos Guiora suggests that an oversight court should evaluate ¶ proposed strikes under a “strict scrutiny standard” that ensures that strikes are only ordered ¶ based on intelligence that is “reliable, material and probative.” It is difficult for me to say ¶ whether this standard of proof is the best available option. But the issue is a crucial one that ¶ deserves further consideration. Ideally, we need a standard of proof rigorous enough to ¶ minimize reckless or abusive use of targeted killing, but not so high as to preclude its ¶ legitimate use.

#### Only due process solves and is key to rule of law

Guiora 13 [Amos N., Professor of Law, SJ Quinney College of Law, University of Utah, author of numerous books dealing with military law and national security including Legitimate Target: A Criteria-Based Approach to Targeted Killing, “Targeted Killing: When Proportionality Gets All Out of Proportion,” University of Utah College of Law Research Paper No. 1, <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2230686>, ALB]

The U.S. drone policy raises profoundly important questions regarding the very nature of operational counterterrorism; its implementation reveals how morality and the rule of law are applied in an inherently ambiguous and amorphous paradigm. At present, the increasingly broader and more flexible definition of imminence, combined with a continually growing reliance on sleek new technology, is highly problematic and raises significant concerns about whether law and morality are truly serving as the necessary guiding force here. Law not only provides a state with the right to engage those who deliberately and randomly target innocent civilians—it also provides the essential guiding framework for the extent to which and manner by which the state can target and engage those individuals. Simply articulating an aggressive, tough on terrorism policy is not sufficient. Rather, the devil truly is in the details: the state must carefully define both the limits of force and how that limited force is to be applied. Such a carefully-defined limit and application of force is the essence of both morality in armed conflict and the rule of law. In contrast, deliberately operating in an open-ended paradigm with opaque parameters where state power is broadly defined and implemented opens the door, unnecessarily, to significant violations of morality and law.¶ Unlimited drone warfare where limits, targets, and goals are not narrowly defined creates an operational environment in which anyone killed, regardless of whether intended or unintended, is considered a legitimate target. This expanded articulation of legitimate target, premised on significant expansion of tolerable collateral damage, creates a slippery slope that inevitably results in the deaths of otherwise innocent individuals. The allure of modern technology has led many decision makers to minimize the need to carefully distinguish between the individuals who pose a threat and those who do not.¶ Decision makers must not lose sight of the fact that targeted killing, on the basis of received and actionable intelligence information, is inherently a problematic; it poses extraordinary operational challenges that must be resolved precisely because of targeted killing’s importance to lawful self-defense. It must be operationalized in the most careful, narrow, and specific manner possible—meaning that a discriminating analysis of who is a legitimate target must be matched by equally discriminating analysis of who constitutes collateral damage, how much collateral damage is likely, and, most important, how much collateral damage is legally and morally acceptable or tolerable.¶ Morality in armed conflict is not a mere mantra: it imposes significant demands on the nation state that must adhere to limits and considerations beyond simply killing “the other side.” For better or worse, drone warfare of today will become the norm of tomorrow. Multiply the number of attacks conducted regularly in the present and you have the operational reality of future warfare. It is important to recall that drone policy is effective on two distinct levels: it takes the fight to terrorists directly involved, either in past or future attacks, and serves as a powerful deterrent for those considering involvement in terrorist activity.53 However, its importance and effectiveness must not hinder critical conversation, particularly with respect to defining imminence and legitimate target. The overly broad definition, “flexible” in the Obama Administration’s words, raises profound concerns regarding how imminence is applied. That concern is concrete for the practical import of Brennan’s phrasing is a dramatic broadening of the definition of legitimate target. It is also important to recall that operators—military, CIA or private contractors—are responsible for implementing executive branch guidelines and directives.55 For that very reason, the approach articulated by Brennan on behalf of the administration is troubling.

#### That prevents extinction

IEER 3 (Institute for Energy and Environmental Research 03 “Rule of Power or Rule of Law?”, <http://www.lcnp.org/pubs/exesummary.pdf>)

The evolution of international law since World War II is largely a response to the demands of states and individuals living within a global society with a deeply integrated world economy. In this global society, the repercussions of the actions of states, non-state actors, and individuals are not confined within borders, whether we look to greenhouse gas accumulations, nuclear testing, the danger of accidental nuclear war, or the vast massacres of civilians that have taken place over the course of the last hundred years and still continue. Multilateral agreements increasingly have been a primary instrument employed by states to meet extremely serious challenges of this kind, for several reasons. They clearly and publicly embody a set of universally applicable expectations, including prohibited and required practices and policies. In other words, they articulate global norms, such as the protection of human rights and the prohibitions of genocide and use of weapons of mass destruction. They establish predictability and accountability in addressing a given issue. States are able to accumulate expertise and confidence by participating in the structured system established by a treaty. However, influential U.S. policymakers are resistant to the idea of a treaty based international legal system because they fear infringement on U.S. sovereignty and they claim to lack confidence in compliance and enforcement mechanisms. This approach has dangerous practical implications for international cooperation and compliance with norms. U.S. treaty partners do not enter into treaties expecting that they are only political commitments that can be overridden based on U.S. interests. When a powerful and influential state like the United States is seen to treat its legal obligations as a matter of convenience or of national interest alone, other states will see this as a justification to relax or withdraw from their own commitments. When the United States wants to require another state to live up to its treaty obligations, it may find that the state has followed the U.S. example and opted out of compliance. Undermining the international system of treaties is likely to have particularly significant consequences in the area of peace and security. Even though the United States is uniquely positioned as the economic and military sole superpower, unilateral actions are insufficient to protect the people of the United States. For example, since September 11, prevention of proliferation of weapons of mass destruction is an increasing priority. The United States requires cooperation from other countries to prevent and detect proliferation, including through the multilateral disarmament and nonproliferation treaties. No legal system is foolproof, domestically or internationally. While violations do occur, “the dictum that most nations obey international law most of the time holds true today with greater force than at any time during the last century.” And legal systems should not be abandoned because some of the actors do not comply. In the international as in the domestic sphere, enforcement requires machinery for deciding when there has been a violation, namely verification and transparency arrangements. Such arrangements also provide an incentive for compliance under ordinary circumstances. Yet for several of the treaties discussed in this report, including the BWC, CWC, and CTBT, one general characteristic of the U.S. approach has been to try to exempt itself from transparency and verification arrangements. It bespeaks a lack of good faith if the United States wants near-perfect knowledge of others’ compliance so as to be able to detect all possible violations, while also wanting all too often to shield itself from scrutiny. While many treaties lack internal explicit provisions for sanctions, there are means of enforcement. Far more than is generally understood, states are very concerned about formal international condemnation of their actions. A range of sanctions is also available, including withdrawal of privileges under treaty regimes, arms and commodity embargoes, travel bans, reductions in international financial assistance or loans, and freezing of state or individual leader assets. Institutional mechanisms are available to reinforce compliance with treaty regimes, including the U.N. Security Council and the International Court of Justice. Regarding the latter, however, the United States has withdrawn from its general jurisdiction. One explanation for increasing U.S. opposition to the treaty system is that the United States is an “honorable country” that does not need treaty limits to do the right thing. This view relies on U.S. military strength above all and assumes that the U.S. actions are intrinsically right, recalling the ideology of “Manifest Destiny.” This is at odds with the very notion that the rule of law is possible in global affairs. If the rule of power rather than the rule of law becomes the norm, especially in the context of the present inequalities and injustices around the world, security is likely to be a casualty. International security can best be achieved through coordinated local, national, regional and global actions and cooperation. Treaties, like all other tools in this toolbox, are imperfect instruments. Like a national law, a treaty may be unjust or unwise, in whole or in part. If so, it can and should be amended. But without a framework of multilateral agreements, the alternative is for states to decide for themselves when action is warranted in their own interests, and to proceed to act unilaterally against others when they feel aggrieved. This is a recipe for the powerful to be police, prosecutor, judge, jury, and executioner all rolled into one. It is a path that cannot but lead to the arbitrary application and enforcement of law. For the United States, a hallmark of whose history is its role as a progenitor of the rule of law, to embark on a path of disregard of its international legal obligations is to abandon the best that its history has to offer the world. To reject the system of treaty-based international law rather than build on its many strengths is not only unwise, it is extremely dangerous. It is urgent that the United States join with other countries in implementing existing global security treaties to meet the security challenges of the twenty-first century and to achieve the ends of peace and justice to which the United States is committed under the United Nations Charter

#### CP fails with drone policy

Alston 11 [Philip, Pomeroy Professor of Law, New York University School of Law, was UN Special Rapporteur on extrajudicial, summary, or arbitrary executions from 2004 until 2012, “The CIA and Targeted Killings Beyond Borders,” 2 Harv. Nat’l Sec. J. 283, pg. lexis, ALB]

2. Executive Oversight¶ The CIA identifies three executive oversight bodies examining its activities: the National Security Council (NSC), the Intelligence Oversight Board (IOB), and the President's Intelligence Advisory Board (PIAB). n335 The complex relationship between the NSC and the CIA goes well beyond the scope of the present Article. Moreover, almost all information on such oversight remains confidential. n336 Since 1993, the IOB has been a standing body under the PIAB.¶ The PIAB has existed in various guises, since 1956. Despite its longevity, there is relatively little publicly available information about its activities. n337 It has been suggested that this has resulted mainly from the very high level of access to intelligence that its members receive, which assures a low level of transparency, and from the fact that it is exempt from the declassification of documents regime that would otherwise have [\*381] exposed it to some scrutiny after a lengthy time interval. But its low profile might also be ascribed to its marginality, at least during certain presidencies. President Carter virtually abolished it, other presidents are said to have paid scant attention to it, and it has often been rather quiescent. Scholars have suggested that it has focused its work in three main areas: the impact of new technologies on intelligence, analyzing the significance of foreign political developments, and evaluating crisis management responses. other words, oversight in a critical sense has apparently not been high on its agenda.¶ In general the Board has been extensively criticized for duplicating the functions performed by other bodies, for having an undue number of appointees whose main qualification is being owed a favor by the President of the day, for a shortage of expertise, and for pursuing the agenda of the intelligence community rather than seeking to exact serious oversight. Its strongest defenders point mainly to its apparent potential rather than to its accomplishments. n339 President Obama revitalized the Board in 2009 and issued an Executive Order restoring some of the powers removed from the Board by his predecessor, in particular the requirement that the Board notify the Attorney General whenever it learns of "intelligence activities that involve possible violations of Federal criminal laws." n340 While his appointees to the Board appear to be well qualified, his stated "commitment to transparency and open government, even, when appropriate, on matters of national security and intelligence," n341 made on the occasion of his first meeting with the Board, has yielded no discernible results.¶ [\*382] In sum, there is little in the historical record, n342 nor any recent information, which would suggest that the PIAB is at all likely to be in the business of seeking to exact accountability from the intelligence agencies in relation to an activity such as targeted killings. And even if the Board were to bestir itself in this area, its outputs would almost certainly remain entirely secret.

#### Courts roll back

Indianapolis Star 00 (6-13, Lexis)

Fortunately, it takes more than an executive order from the president to create a new benefit. Here in Indiana, legislative action would be needed before family leave could be paid from the unemployment fund. Even Clinton's own Labor Department lawyers have warned him that the courts would likely strike down his executive order because it so clearly goes beyond the intent of existing federal laws. When Congress created unemployment insurance, it also created a way to pay for it. If the federal government is going to create a family leave paid benefit, it must also find a way to pay for it that is acceptable to the American public. Robbing Peter to pay Paul is not.

### K – Security

#### The role of the ballot is to evaluate the simulated policy outcomes of government implementation of the plan

#### Drone discussions break down symbolic representations of global issues—Macro-political discussion key

Green and Bernal 13 [May 29th, Droning Toward the Boundless War, Volume 25, Issue 2, Pages 212-218, Published authors under, Peace Review: A Journal of Social Justice, <http://www.tandfonline.com/doi/full/10.1080/10402659.2013.785324>]

War reminds us of our disconnection from one another. If we begin with acknowledging our common humanity, war comes when those small differences between us become amplified. We fail to see in the eyes of another that they are our brothers and sisters. We remove ourselves from the intimacy of knowing what war brings. Through the quiet embrace of an illusion, we fail to see the blood spilled by “them” as also our blood. The irony of war is that it provides a kind of curious veil that places our individual and collective anxiety about death “out there” into someone who will die on our behalf and kill so that we may live. What we consider to be vital in our lives is increasingly about ideologies, resources, and dominance. Behind this veil is an admixture of beliefs that our life is better than those who have become the enemy. What many of us seek unconsciously to protect is not so much life in the sense of our physical safety; rather, it has become more about a way of life where war keeps the balance of the scales tipped to our advantage a bit longer.¶ Our human differences were once about the survival of one tribe over another, one kingdom ruling another, and one nation conquering its neighbor. Warfare was for millennia face-to-face, where club and spear and sword were the implements of the mortal wound. Then with the bullet and the bomb, the mine and the missile, death from war became a more distant affair. The impact of taking a life became visible only in its aftermath. As the distance increased so did the lethality of weaponry. One bomb could kill 100,000. Within two decades in the era of the Cold War, humans had created the capacity to kill ourselves many times over. Yet these wars remained nation against nation. The “other” was one that had a flag, a people, and lands that were within generally recognized boundaries. Through the Geneva Convention, there were rules of war. A World Court was also established to prosecute those who violated these international agreements.¶ On September 11, 2001, war changed. With the beginning of the War on Terrorism, the United States entered the new era of the boundless war. No longer was the enemy another nation-state. What evolved as a consequence was a movement into a transitional space where no rules and no laws of war can any longer be found. With the collapse of the World Trade Center twin towers in New York came a descent into a different way of waging war. Initially, many of the elements remained the same. The United States took action against the Taliban government of Afghanistan for harboring training camps for Al Qaeda. In many respects, this “boots on the ground” approach to warfare had the trappings of modern conventional struggles. Troops were deployed with all the latest tactical support to take on an elusive enemy in a far away land. One powerful nation-state sought to reap justice through war from another nation-state deemed responsible for attacking the sovereignty and sanctity and safety of its people. This decade of action was designed to help Americans believe something was being done to quell the threat of terrorist attacks and implicitly to offer an assurance that the horror of 9/11 would somehow never again reach the shores of the nation. The shadowy adversary, if not vanquished, was so depleted, according to the politicians, that their ability to assault our way of life was dramatically diminished.¶ What is less visible is how the boundaries of the War on Terror morphed into something different where the psychological nature of war shifted once more. Much as The Bomb with its horrific dimensions made death in war a devastating fact for some distant enemy, so it is that the drone has become its more technologically precise and sophisticated counterpart. From thousands of miles away, “assets” can be deployed to eliminate “targets” who are deemed to pose an imminent threat to the United States. The face of the enemy is no longer seen. The hands that guide the lethal cargo do so remotely on a computer screen where the deadly action once executed has the appearance akin to a graphically intense video game. With no troops of “our” own placed in harms way, fewer deaths of innocents as “collateral damage,” and more precise elimination of sworn enemies, collective complacency about the practice was implicitly endorsed by 66 million Americans—if not more—at the last presidential election. The thorny legal complexities of this new terrain of war are placed in abeyance, in part because of the anxiety that is alleviated through the drones of war.¶ At an unconscious level, the named but faceless enemy, consistently presented as top operatives of terrorist organizations, becomes the projective repository of the threat to our way of life. They are the objects that evoke our death anxiety. They remind us that our way of life, and thereby the only life we have come to know, is threatened. They have attacked our symbols of military might and economic power. They have killed those who represent these pillars of our way of being. In this respect, the literal becomes the symbolic. The war on “them,” wherever they may be and whatever nation-state they may call their home, reduces in relevance. A drone crosses all these boundaries, as the lethal action of the surgical strike becomes just because the enemy combatant is one who lives in the shadows and therefore can be pursued there.¶ The rationale for the absence of outcry has deep unconscious antecedents in the most primitive ego defenses. The seemingly antiseptic elimination of targets allows for denial to become normative. Violence viewed through a flat screen has become entertainment, even when practiced at our own hands. When neutralizing an Al Qaeda leader looks the same as scoring a kill on Call of Duty, we can easily deny how we are complicit in a violent action of war. As such a threshold of consciousness that allows us to function in denial, relatively free of death anxiety in our day-to-day lives, remains intact. By seeing a puff on a screen rather than the riddled bodies of the defeated enemy, the connection to our own common mortality is displaced and placed at a distance. They enemy on the other side of the screen become the holders of death, quite literally, while symbolically representing the preservation of our way of life through their demise.¶ The role of the boundless war also provides an endless supply of targets for projection. While given the current name of “Islamic extremists,” this label is less important than how they become icons on which our fears about our mortality can be projected. In the illusion of a war that is not like what war once was and an enemy that is not an army like the troops of the past and a location that has no national borders or discrete regions, the ambiguity becomes a further expression of the boundlessness. War waged in this “No Man's Land” is rendered invisible, denied, and sufficiently subtle so as to remain unconscious to those who benefit from its execution.¶ When the New York Times wrote an expose revealing the appearance of corrupt financial activity on the part of those ascending to power in China, they came under attack. Within days of the publication of the stories, the Times reported a breach in the security of its electronic files. Through malicious code that was introduced into their server by an unsuspecting employee, some distant party began to search files, steal passwords, and target specific reporters. Suspected in these attacks was the Chinese government, known for its ambivalence about press freedoms.¶ These incidents are not isolated. During the summer of 2012, a number of U.S. financial institutions reported “delivery of service” attacks, ones where a flood of data overwhelms an organization's servers to the point that routine business transactions are disrupted. The Iranian government, despite repeated denials, was suspected in these actions. Perhaps an extension of what drones represent in terms of warfare, cyberattacks may be a new frontier in the boundless war. No longer is life itself directly attacked; rather, ideologies and ways of life become the new mortal symbolic targets.The anxiety that comes through such an approach to war means that what is perceived as necessities of life in much of the West—electric power, running water, Internet access—each increasingly controlled by virtual means, can be brought down by infiltration of hackers in distant lands. As with drones where international boundaries are no longer a limit on who may be seen as the enemy, the alleged actions of Iran and China suggest that corporate entities and private citizens who represent assaults on a people can be attacked.¶ One consequence of globalization is that the virtual distance between us is radically reduced to be a click or two away on a device that is often in our pocket or purse. It also means that tools of the emerging warfare may well soon be in each of our hands. Surveillance tools and sources to launch a cyberattack are carried in our cell phone.¶ The boundless war finds its justification in our perceived differences. We wage deadly violence through a kind of zero-sum social logic that views resources as finite. The need to destroy the “other” to access these resources comes through the tacit and often unconscious agreement with similar others that says “they” are a threat to “us.” This kind of paranoid stance allows war to be waged to ensure no disruption in the symbol and source of what “our” group values and perceives it needs. The paradox is in how virtual reality concurrently allows us to know the extent of the global inequities. We in the West operate with the reasonable concern that “they” will not long tolerate this kind of imbalance.¶ Nonetheless, we speak primarily to their threat to us and point to lives lost in terrorist attacks as the rationale for the boundless war. Little corresponding attention is given to the degradation of the environment, the forced migrations, the imposition of government structures, and other evidence of dominance that seed discontent in generations of the “other.” What gets enacted is the fear of death rather than any deeper examination of the mutuality of shared human interests. Death anxiety taps into a greater existential question about what to do with our lives and a more general unease about the unavoidable trajectory toward our own death. Differences in a group's way of life can in this instance be understood as more than cultural nuance. As such, the further paradox is that the boundless war gives life meaning and helps satisfy the human impulse to alleviate existential angst and the certainty of our death by killing the other who threatens this denial.¶ On a healthy level, various cultural symbols such as country, race, or a religious tradition can serve as very positive elements in human meaning-making. They create the fiber of a functioning civil society where debate, discussion, participation, coexistence, and learning are the norm. Under circumstances of threat or significant levels of uncertainty, however, there may be a regressive tendency to attach allegiance to these symbols to an extent that destruction, death, and domination is justified and even celebrated.¶ From a psychological perspective, many conditions contribute to the creation of the boundless war. As referenced previously, globalization reduces the distance between us. Under this condition, there is a virtual intimacy in knowing that we can instantaneously be in touch and face-to-face with someone on the other side of the planet. It is this form of connection that gives substance to our experience of a common humanity. Yet, it is also this same means that can remind us of the inequities and injustices abound. Ideally, consciousness of the experience of the other can bring about greater compassion, empathy, understanding, and identification with our fellow human beings. In other instances, the starkness of the differences may first lead to recoiling into the familiar. Reaching out to the world can be replaced by a regressive return to known narratives that reinforce our view or the world. Those small differences become the beginning of the alienation of one from another. As such, a cycle of displacement of anxieties and projection of fears gets enacted and often perpetuated through war.¶ The small deaths that happens when our point of view of way of being is not understood or recognized by the “other” is like a little war. In seeking to affirm our cherished reality and deeply held belief, the necessity to find those who share our worldview creates coalitions of belonging. These connections form the basis of shared identity, common language, and preferred ways of knowing where our boundaries end and the realm of the “other” begins. There was a time when one could claim access to resources such as people, land, or wealth as the measure of supremacy in such disputes. In the age of the virtual, increasingly there is equity in the capacity to find one's people and that critical mass needed to battle forces that were once invisible.¶ What makes this condition so critical in a time of boundless war is that such coalitions are like shifting sands. Most will find themselves with multiple allegiances and many factors to balance in the quest to keep the fear of death at bay. When the discourse around us becomes increasingly divisive and fear is used to bring the like-minded in line with one another, an either–or mentality becomes like a psychological refugee camp in a world where our interdependence because increasingly undeniable. Boundless war is known to be nowhere and everywhere. We are its victims and its propagators. With no longer a bomb shelter that can protect us nor a country whose boundaries are secure enough to stop the world from closing in on us, a kind of schizoid state that gives us the fleeting solace of self-sufficiency shields us from the deeper and starker reality. From this psychological bunker of virtual walls, we allow the boundless war to drone on, as we remain unconscious.¶ Locating the coordinates and governing social logic that structure the context under which we live and inform our lives reveals a system that operates under a number of principles that currently remain supreme. Globalization spreads to all corners of the world and with it the primacy of profit seeking, wealth accumulation, and the struggle for control of depleting resources. This quest, which has many traits of an addictive process, serves to maintain the lifestyle of an unrestrained consumer culture. What becomes valued are those actions that play a role in mass production and monetary gain. What is compromised is a relational, environmental, ethical, or aesthetic orientation to one another that promotes compassion and helps us sustain our deeper shared human connection.¶ In a globalizing world, tremendous levels of expanding inequality exist at a time when there are great amounts of wealth. This reality suggests an inability to meet some basic human needs despite consciousness of our deeper interconnectedness and interdependence.These conditions have created a situation in both the developed and developing world where a growing sector of the population is becoming alienated from meaning. Our role within the global economy comes with certain by-products and social ills that become translated into a compulsion toward aggression. The cost is the kind of cooperative empathy capable of nurturing diverse environments and addressing inequities for which there is a current collusion to deny.¶ Daily participation within this broader macro system creates the necessary triggers that can expand the relationship we have with anxiety. Our need to reduce this anxiety means reducing the social symbols that link us. The trade-off is in the boundless war, the safety valve for our collective emotional rationalizations. Through drones and loss of boundaries of the nation-state to pursue the enemy, we can justify any number of aggressions on to the “other.” In the boundless war, ongoing financial crises, citizen debt, and the break down of social and public investment accompany a perpetual war that is not only borderless but also ongoing. We are always fighting someone “out there” that threatens our safety and our way of life even to the point where we have to give up civil liberties. Our authority figures become unaccountable when there is constant vigilance and a concentration of power in the name of safety to battle an enemy that has no border. Our justifications and tolerance for destruction deepen when the virtuality of technology and the materiality of human life continue to overlap in a way that can obscure the human connection we actually share on this same planet.

#### Representations Ignore Material Realities That Are Key to Social Change – Means Either the Link is a Lie or the Alt Cant Overcome Other Peoples Perceptions

Taft-Kaufman 95, Jill Speech professor @ CMU, Southern Comm. Journal, Spring, v. 60, Iss. 3, “Other Ways”

The postmodern passwords of "polyvocality," "Otherness," and "difference," unsupported by substantial analysis of the concrete contexts of subjects, creates a solipsistic quagmire. The political sympathies of the new cultural critics, with their ostensible concern for the lack of power experienced by marginalized people, aligns them with the political left. Yet, despite their adversarial posture and talk of opposition, their discourses on intertextuality and inter-referentiality isolate them from and ignore the conditions that have produced leftist politics--conflict, racism, poverty, and injustice. In short, as Clarke (1991) asserts, postmodern emphasis on new subjects conceals the old subjects, those who have limited access to good jobs, food, housing, health care, and transportation, as well as to the media that depict them. Merod (1987) decries this situation as one which leaves no vision, will, or commitment to activism. He notes that academic lip service to the oppositional is underscored by the absence of focused collective or politically active intellectual communities. Provoked by the academic manifestations of this problem Di Leonardo (1990) echoes Merod and laments: Has there ever been a historical era characterized by as little radical analysis or activism and as much radical-chic writing as ours? Maundering on about Otherness: phallocentrism or Eurocentric tropes has become a lazy academic substitute for actual engagement with the detailed histories and contemporary realities of Western racial minorities, white women, or any Third World population. (p. 530) Clarke's assessment of the postmodern elevation of language to the "sine qua non" of critical discussion is an even stronger indictment against the trend. Clarke examines Lyotard's (1984) The Postmodern Condition in which Lyotard maintains that virtually all social relations are linguistic, and, therefore, it is through the coercion that threatens speech that we enter the "realm of terror" and society falls apart. To this assertion, Clarke replies: I can think of few more striking indicators of the political and intellectual impoverishment of a view of society that can only recognize the discursive. If the worst terror we can envisage is the threat not to be allowed to speak, we are appallingly ignorant of terror in its elaborate contemporary forms. It may be the intellectual's conception of terror (what else do we do but speak?), but its projection onto the rest of the world would be calamitous....(pp. 2-27) The realm of the discursive is derived from the requisites for human life, which are in the physical world, rather than in a world of ideas or symbols.(4) Nutrition, shelter, and protection are basic human needs that require collective activity for their fulfillment. Postmodern emphasis on the discursive without an accompanying analysis of how the discursive emerges from material circumstances hides the complex task of envisioning and working towards concrete social goals (Merod, 1987). Although the material conditions that create the situation of marginality escape the purview of the postmodernist, the situation and its consequences are not overlooked by scholars from marginalized groups. Robinson (1990) for example, argues that "the justice that working people deserve is economic, not just textual" (p. 571). Lopez (1992) states that "the starting point for organizing the program content of education or political action must be the present existential, concrete situation" (p. 299). West (1988) asserts that borrowing French post-structuralist discourses about "Otherness" blinds us to realities of American difference going on in front of us (p. 170). Unlike postmodern "textual radicals" who Rabinow (1986) acknowledges are "fuzzy about power and the realities of socioeconomic constraints" (p. 255), most writers from marginalized groups are clear about how discourse interweaves with the concrete circumstances that create lived experience. People whose lives form the material for postmodern counter-hegemonic discourse do not share the optimism over the new recognition of their discursive subjectivities, because such an acknowledgment does not address sufficiently their collective historical and current struggles against racism, sexism, homophobia, and economic injustice. They do not appreciate being told they are living in a world in which there are no more real subjects. Ideas have consequences. Emphasizing the discursive self when a person is hungry and homeless represents both a cultural and humane failure. The need to look beyond texts to the perception and attainment of concrete social goals keeps writers from marginalized groups ever-mindful of the specifics of how power works through political agendas, institutions, agencies, and the budgets that fuel them.

#### 6. Securitizing nuclear weapons prevents their use

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There were a variety of different reasons behind each of these examples of abstinence from using nuclear weapons. But one major common factor contributing to all of them has been an ingrained terror of nuclear devastation. The well documented images of Hiroshima and Nagasaki, the awesome photographs of giant mushroom clouds emerging from nuclear tests in the Pacific and the numerous movies based on nuclear Armageddon scenarios have all contributed to building up a deep rooted fear of nuclear weapons. This is not limited just to the abhorrence felt by anti-nuclear activists. It permeates to one extent or another the psyche of all but the most pathological of fanatics. It colours the calculations, even if not decisively, of the most hardened of military strategists. The unacceptability of nuclear devastation is the backbone of all deterrence strategies. There is not just a fear of being attacked oneself, but also a strong mental barrier against actually initiating nuclear attacks on enemy populations, no matter how much they may be contemplated in war games and strategies. As a result a taboo has tacitly evolved over the decades preventing nations, at least so far, from actually pressing the nuclear button even in the face of serious military crises.

#### Perm Do the Plan and Reject the non-competitive parts of the alternative

#### Securitization is good in the specific context of our AFF – it’s necessary to mobilize the suffering to act —giving marginalizes issues like human rights visibility

Huysmans 2 Jeff, Lecturer in politics at the department of government at Open University, Alternatives “Defining Social Constructivism in Security Studies: The Normative Dilemma of Writing Security” Feb p. 59-60.

There is no solution for the normative dilemma in the social-con­structivist security analyses defined above. The particular under­standing of language makes any security utterance potentially se­curitizing. Consequently, enunciating security is never innocent or neutral. Of course, this does not have to result in a normative dilemma; it does so only if one wants to or has to utter security in a political context while wanting to avoid a securitization of a par­ticular area. Someone may also employ security language with the intention of securitizing an area. This does not necessarily require a conservative interest in keeping the status quo or in establishing law and order. Securitization can also be performed with an emancipatory interest. Given the capacity of security language to priori­tize questions and to mobilize people, one may employ it as a tac­tical device to give human-rights questions a higher visibility, for example. It is also possible to mobilize security questions in nonse­curity areas with the intention to change the conservative bias of the security language. This would require a positive concept of se­curity that defines liberation from oppression as a good that should be secured.

#### Even if China is not a threat now – they will become a naval threat in the East China Sea

Friedman, founder, CEO, and chief intelligence officer of Stratfor, 2k6 (George, June 1st, “U.S. Perceptions of a Chinese Threat”, http://www.stratfor.com/u\_s\_perceptions\_chinese\_threat)

The U.S. Department of Defense released its annual report on China's military last week. The Pentagon reported that China is moving forward rapidly with an offensive capability in the Pacific. The capability would not, according to the report, rely on the construction of a massive fleet to counter U.S. naval power, but rather on development and deployment of anti-ship missiles and maritime strike aircraft, some obtained from Russia. According to the Pentagon report, the Chinese are rapidly developing the ability to strike far into the Pacific -- as far as the Marianas and Guam, which houses a major U.S. naval base. Whether the Chinese actually are constructing this force is less important than that the United States believes the Chinese are doing this. This analysis is not confined to the Defense Department but has been the view of much of the U.S. intelligence community. There is, therefore, a consensus in Washington that the Chinese are moving far beyond defensive capabilities or deterrence: They are moving toward a strike capability against the U.S. Seventh Fleet. If this analysis is correct, then the reason for U.S. concern is obvious. Ever since World War II, the United States has dominated all of the world's oceans. Following that war, the Japanese and German navies were gone. The British and French did not have the economic ability or political will to maintain a global naval force. The Soviets had a relatively small navy, concerned primarily with coastal defense. The only power with a global navy was the United States -- and the U.S. Navy's power was so overwhelming that no combination of navies could challenge its maritime hegemony. In an odd way, this extraordinary geopolitical reality has been taken for granted by many. No naval force in history has been as powerful as the U.S. Navy. The U.S. Navy does not have the ability to be everywhere at all times -- but it does have the ability to be in multiple places at the same time, and to move about without concerns of being challenged. This means, quite simply, that the United States can invade other countries, anywhere in the world, but other countries cannot invade the United States. Whatever the outcome of the invasion once ashore, the United States has conducted the Iraq, Kosovo, Somali, Gulf and Vietnamese wars without ever having to fight to protect lines of supply and communications. It has been able to impose naval blockades at will, without having to fight sea battles to achieve them. It is this single fact that, more than any other, has shaped global history since 1945. Following the Soviet Strategy? The Soviets fully understood the implications of U.S. naval power. They recognized that, in the event of a war in Europe, the United States would have to convoy massive reinforcements across the Atlantic. If the Soviets could cut that line of supply, Europe would be isolated. The Soviets had ambitious goals for naval construction, designed to challenge the United States in the Atlantic. But naval construction is fiendishly expensive. The Soviets simply couldn't afford the cost of building a fleet to challenge the U.S. Navy, while also building a ground force to protect their vast periphery from NATO and China. Instead of trying to challenge the United States in surface warfare, using aircraft carriers, the Soviets settled for a strategy that relied on attack submarines and maritime bombers, like the Backfire. The Soviet view was that they did not have to take control of the Atlantic themselves; rather, if they could deny the United States access to the Atlantic, they would have achieved their goal. The plan was to attack the convoys and their escorts, using attack submarines and missiles launched from Backfire bombers that would come down into the Atlantic through the Greenland-Iceland-United Kingdom (GIUK) gap. The American counter was a strong anti-submarine warfare capability, coupled with the Aegis anti-missile system. Who would have won the confrontation is an interesting question to argue. The war everyone planned for never happened. Today, it appears to be the Pentagon's view that China is following the Soviet model. The Chinese will not be able to float a significant surface challenge to the U.S. Seventh Fleet for at least a generation -- if then. It is not just a question of money or even technology; it also is a question of training an entirely new navy in extraordinarily complex doctrines. The United States has been operating carrier battle groups since before World War II. The Chinese have never waged carrier warfare or even had a significant surface navy, for that matter -- certainly not since being defeated by Japan in 1895. The Americans think that the Chinese counter to U.S. capabilities, like the Soviet counter, will not be to force a naval battle. Rather, China would use submarines and, particularly, anti-ship missiles to engage the U.S. Navy. In other words, the Chinese are not interested in seizing control of the Pacific from the Americans. What they want to do is force the U.S. fleet out of the Western Pacific by threatening it with ground- and air-launched missiles that are sufficiently fast and agile to defeat U.S. fleet defenses. Such a strategy presents a huge problem for the United States. The cost of threatening a fleet is lower than the cost of protecting one. The acquisition of high-speed, maneuverable missiles would cost less than purchasing defense systems. The cost of a carrier battle group makes its loss devastating. Therefore, the United States cannot afford to readily expose the fleet to danger. Thus, given the central role that control of the seas plays in U.S. grand strategy, the United States inevitably must interpret the rapid acquisition of anti-ship technologies as a serious threat to American geopolitical interests. Planning for the Worst The question to begin with, then, is why China is pursuing this strategy. The usual answer has to do with Taiwan, but China has far more important issues to deal with than Taiwan. Since 1975, China has become a major trading country. It imports massive amounts of raw materials and exports huge amounts of manufactured goods, particularly to the United States. China certainly wants to continue this trade; in fact, it urgently needs to. At the same time, China is acutely aware that its economy depends on maritime trade -- and that its maritime trade must pass through waters controlled entirely by the U.S. Navy. China, like all countries, has a nightmare scenario that it guards against. If the United States' dread is being denied access to the Western Pacific and all that implies, the Chinese nightmare is an American blockade. The bulk of China's exports go out through major ports like Hong Kong and Shanghai. From the Chinese point of view, the Americans are nothing if not predictable. The first American response to a serious political problem is usually economic sanctions, and these frequently are enforced by naval interdiction. Given the imbalance of naval power in the South China Sea (and the East China Sea as well), the United States could impose a blockade on China at will. Now, the Chinese cannot believe that the United States currently is planning such a blockade. At the same time, the consequences of such a blockade would be so devastating that China must plan out the counter to it, under the doctrine of hoping for the best and planning for the worst. Chinese military planners cannot assume that the United States will always pursue accommodating policies toward Beijing. Therefore, China must have some means of deterring an American move in this direction. The U.S. Navy must not be allowed to approach China's shores. Therefore, Chinese war gamers obviously have decided that engagement at great distance will provide forces with sufficient space and time to engage an approaching American fleet. Simply building this capability does not mean that Taiwan is threatened with invasion. For an invasion to take place, the Chinese would need more than a sea-lane denial strategy. They would need an amphibious capability that could itself cross the Taiwan Strait, withstanding Taiwanese anti-ship systems. The Chinese are far from having that system. They could bombard Taiwan with missiles, nuclear and otherwise. They could attack shipping to and from Taiwan, thereby isolating her. But China does not appear to be building an amphibious force capable of landing and supporting the multiple divisions that would be needed to deal with Taiwan. In our view, the Chinese are constructing the force that the Pentagon report describes. But we are in a classic situation: The steps that China is taking for what it sees as a defensive contingency must -- again, under the worst-case doctrine -- be seen by the United States as a threat to a fundamental national interest, control of the sea. The steps the United States already has taken in maintaining its control must, under the same doctrine, be viewed by China as holding Chinese maritime movements hostage. **This is not a matter of the need for closer understanding.** Both sides understand the situation perfectly: Regardless of current intent, intentions change. It is the capability, not the intention, that must be focused on in the long run.Therefore, China's actions and America's interpretation of those actions must be taken extremely seriously over the long run. The United States is capable of threatening fundamental Chinese interests, and China is developing the capability to threaten fundamental American interests. Whatever the subjective intention of either side at this moment is immaterial. The intentions ten years from now are unpredictable.

#### IR Theory in the context of Pakistan and India is true and necessary to avoid conflict

#### Hayes 13 (Jarrod Hayes, Georgia Institute of Technology, Atlanta, 2013, <http://journals.cambridge.org/action/displayAbstract?fromPage=online&aid=8479209>)

The 1971 case is also attractive because “mainstream” structural international relations ~IR! theories are unable to provide a compelling explanation for U+S+ behavior+ Structural realist balance-of-power predictions are indeterminate+3 It is not clear that the secession of overwhelmingly poor East Pakistan would meaningfully change the regional or global balance of power+ Even assuming that secession did change the balance of power, structural realism does not explain the secretive, milquetoast U+S+ response where a more robust response would be required+ Shifting to balance of threat does not resolve the problem of underdetermination+ 4 Reframing the balancing of bandwagoning impetus from power to threat does not help us understand why India might be construed as a threat, much less why the United States would choose to oppose India rather than acquiesce to India’s actions as a means of gaining influence over Indian foreign policymaking+ Admittedly, India had recently signed a friendship treaty with the Soviets, but this on its own does not mandate a balancing response+ Under neorealism, alliances enjoy no permanence in the anarchic system, so the alliance with Pakistan for its own sake cannot be explanatory. Variants of structural liberalism ~neoliberalism! do not fare better+ Emphasizing economic interdependence and international institutions as moderators of conflict, neoliberalism has little to say on patterns of behavior in the absence of these fac- tors+5 In 1971, India and the United States shared no appreciable institutional ties outside the United Nations and negligible economic interdependence+6 This article takes advantage of structuralist approaches’ failure to explain the 1971 case to present a mechanism-based theory of the democratic peace, integrating the Copenhagen School’s securitization theory with theorizing regarding public democratic identity dynamics+7 The argument is that we cannot understand the underlying mechanisms of the democratic peace without examining the domestic security politics of democracies and the ideational factors that shape them+ Securitization, Identity, and the Democratic Peace The central problem with the study of the democratic peace lies in underdevelopment of the causal mechanisms that generate the phenomenon+ While the majority of large-N statistical studies examining the democratic peace support it,8 the emphasis on large-N studies has produced a significant lacuna when it comes to understanding the mechanisms of the democratic peace and the dynamics of democratic security+9 This is not to say that mechanisms are completely absent from the literature+ Constructivist, psychological, and rationalist approaches have produced plausible mechanism-based explanations+ The constructivist literature focuses on the monadic construction of state-level shared norms and identity or on the influence of democratic identity on the individual decision maker+10 While these are valuable areas of investigation, they neglect the role of domestic political structure in the norms and identity dynamic; the importance of public social and corporate identity; and the role of identity and norms in the dyadic context of interstate relations+ Constructivists argue that leaders construct threats based on their identity-informed interests+ The argument should be extended to the public in democracies because their construction of threat is an important factor in democratic security policy+11 Scholars in the rationalist tradition focus on the behavioral implications of political structures in terms of audience costs credible commitments transparency, enhanced signaling, and the political effects of winning coalition size ~distribution of war benefits!+14 Psychological approaches focus on the role of perception in political leaders—significantly overlapping with individual-centric constructivist approaches—or on operational codes shaped by democratic background+15 The rationalist and psychological explanations share the constructivist focus on leaders+ The mechanism of the democratic peace lies in the cognitions of democratic leaders or the anthropomorphized state+ Rationalist explanations ostensibly point to domestic politics, but in all cases the proposed mechanism is never directly investigated+ Further, the politics of security are exogenized by the assumption that the public universally and consistently accepts the security arguments of political leaders+ Finally, most are monadic explanations of a dyadic phenomenon+16

#### Uncertainty justifies realism – even under a cooperative framework, the malleability of discourse proves that leaders will always calculate action based on capability

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Notwithstanding Wendt’s important contributions to international relations theory, his critique of structural realism has inherent flaws. Most important, it does not adequately address a critical aspect of the realist worldview: **the problem of uncertainty.** For structural realists, it is states’ uncertainty about the present and especially the future intentions of others that makes the levels and trends in relative power such fundamental causal variables. Contrary to Wendt’s claim that realism must smuggle in states with differently constituted interests to explain why systems sometimes fall into conflict, neorealists argue that uncertainty about the other’s present interests—whether the other is driven by security or nonsecurity motives—**can be enough to lead security-seeking states to fight**. This problem is exacerbated by the incentives that actors have to deceive one another, an issue Wendt does not address. Yet even when states are fairly sure that the other is also a security seeker, they know that it might change its spots later on. States must therefore worry about any decline in their power, lest the other turn aggressive after achieving superiority. Wendt’s building of a systemic constructivist theory—and his bracketing of unit-level processes—thus presents him with an ironic dilemma. It is the very mutability of polities as emphasized by domestic-level constructivists—that states may change because of domestic processes independent of international interaction—that makes prudent leaders so concerned about the future. If diplomacy can have only a limited effect on another’s character or regime type, **then leaders must calculate the other’s potential to attack later should it acquire motives for expansion**. In such an environment of future uncertainty, levels and trends in relative power will thus act as a key constraint on state behavior. The problem of uncertainty complicates Wendt’s efforts to show that anarchy has no particular logic, but only three different ideational instantiations in history—as Hobbesian, Lockean, or Kantian cultures, depending on the level of actor compliance to certain behavioral norms. By differentiating these cultures in terms of the degree of cooperative behavior exhibited by states, Wendt’s analysis reinforces the very dilemma underpinning the realist argument. If the other is acting cooperatively, how is one to know whether this reflects its peaceful character, or is just a façade **masking aggressive desires**? Wendt’s discussion of the different degrees of internalization of the three cultures only exacerbates the problem. What drives behavior at the **lower levels of internalization** is precisely what is not shared between actors—their private incentives to comply for short-term selfish reasons. This suggests that the neorealist and neoliberal paradigms, both of which emphasize the role of uncertainty when internalization is low or nonexistent, remain strong competitors to constructivism in explaining changing levels of cooperation through history. And because Wendt provides little empirical evidence to support his view in relation to these competitors, the debate over which paradigm possesses greater explanatory power is still an open one.

#### The impact is the rise of Hitlerite states – the possibility of deception and different discursive interpretations means constructivist theory could prove fatal

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Second, Wendt’s view is inconsistent with his recognition that states often do have difficulty learning about the other. The very problem Ego and Alter have in first communicating is that ‘behavior does not speak for itself. It must be interpreted, and ‘many interpretations are possible’ (330). This point is reinforced by Wendt’s epistemological point of departure: that the ideas held by actors are ‘unobservable’ (chap. 2). Because leaders cannot observe directly what the other is thinking, they are resigned to making inferences from its behavior. Yet in security affairs, as Wendt acknowledges, mistakes in inferences—assuming the other is peaceful when in fact it has malevolent intentions—could prove ‘fatal’ (360). Wendt accepts that the problem facing rational states ‘is making sure that they perceive other actors, and other actors’ perception of them, correctly’ (334, emphasis in original). Yet the book provides no mechanism through which Ego and Alter can increase their confidence in the correctness of their estimates of the other’s type. Simply describing how Ego and Alter shape each other’s sense of self and other is not enough.21 Rational choice models, using assumptions consistent with structural realism, do much better here. In games of incomplete information, where states are unsure about the other’s type, actions by security-seeking actors that would be too costly for greedy actors to adopt can help states reduce their uncertainty about present intentions, thus moderating the security dilemma.22 Wendt cannot simply argue that over time states can learn a great deal about other states. It is what is not ‘shared’, at least in the area of intentions, that remains the core stumbling block to cooperation. Third, Wendt’s position that the problem of other minds is not much of a problem ignores a fundamental issue in all social relations, but especially in those between states, namely, the problem of deception. In making estimates of the other’s present type, states have reason to be suspicious of its diplomatic gestures—the other may be trying to deceive them. Wendt’s analysis is rooted in the theory of symbolic interactionism, but he does not discuss one critical aspect of that tradition: the idea of ‘impression management’. Actors in their relations exploit the problem of other minds for their own ends. On the public stage, they present images and play roles that often have little to do with their true beliefs and interests backstage.23 In laying out his dramaturgical view of Ego and Alter co-constituting each other’s interests and identities, Wendt assumes that both Ego and Alter are making genuine efforts to express their true views and to ‘cast’ the other in roles that they believe in. But deceptive actors will stage-manage the situation to create impressions that serve their narrow ends, and other actors, especially in world politics, will understand this.24 Thus a prudent security-seeking Ego will have difficulty distinguishing between two scenarios: whether it and Alter do indeed share a view of each other as peaceful, or whether Alter is just pretending to be peaceful in order to make Ego think that they share a certain conception of the world, when in fact they do not.25 Wendt’s analysis offers no basis for saying when peaceful gestures should be taken at face value, and when they should be discounted as deceptions.26 When we consider the implications of a Hitlerite state deceiving others to achieve a position of military superiority, we understand why great powers in history have tended to adopt postures of prudent mistrust.

#### 8. Rejecting strategic predictions of threats makes them inevitable – decision makers will rely on preconceived conceptions of threat rather than the more qualified predictions of analysts

Fitzsimmons, **0**7(Michael, Washington DC defense analyst, “The Problem of Uncertainty in Strategic Planning”, Survival, Winter 06-07, online)

But handling even this weaker form of uncertainty is still quite challeng- ing. If not sufficiently bounded, a high degree of variability in planning factors can exact a significant price on planning. The complexity presented by great variability strains the cognitive abilities of even the most sophisticated decision- makers.15 And even a robust decision-making process sensitive to cognitive limitations necessarily sacrifices depth of analysis for breadth as variability and complexity grows. It should follow, then, that in planning under conditions of risk, variability in strategic calculation should be carefully tailored to available analytic and decision processes. Why is this important? What harm can an imbalance between complexity and cognitive or analytic capacity in strategic planning bring? Stated simply, where analysis is silent or inadequate, **the personal beliefs of decision-makers** **fill the void**. As political scientist Richard Betts found in a study of strategic sur- prise, in ‘an environment that lacks clarity, abounds with conflicting data, and allows no time for rigorous assessment of sources and validity, ambiguity allows intuition or wishfulness to drive interpretation ... The greater the ambiguity, the greater the impact of preconceptions.’16 The decision-making environment that Betts describes here is one of political-military crisis, not long-term strategic planning. But a strategist who sees uncertainty as the central fact of his environ- ment brings upon himself some of the pathologies of crisis decision-making. He invites ambiguity, takes conflicting data for granted and **substitutes a priori scepticism about the validity of prediction** for time pressure as a rationale for discounting the importance of analytic rigour. It is important not to exaggerate the extent to which data and ‘rigorous assessment’ can illuminate strategic choices. Ambiguity is a fact of life, and scepticism of analysis is necessary. Accordingly, the intuition and judgement of decision-makers will always be vital to strategy, and attempting to subordinate those factors to some formulaic, deterministic decision-making model would be both undesirable and unrealistic. All the same, there is danger in the opposite extreme as well. Without careful analysis of what is relatively likely and what is relatively unlikely, what will be the possible bases for strategic choices? A decision-maker with no faith in prediction is left with little more than a set of worst-case scenarios and his existing beliefs about the world to confront the choices before him. Those beliefs may be more or less well founded, but if they are not made explicit and subject to analysis and debate regarding their application to particular strategic contexts, they remain only beliefs and premises, rather than rational judgements. Even at their best, such decisions are likely to be poorly understood by the organisations charged with their implementation. At their worst, such decisions may be poorly understood by the decision-makers themselves

#### Weighing consequences are key—Alternative frameworks leads to moral tunnel vision

Isaac 2 (Jeffrey, Professor of PoliSci @ Indiana-Bloomington, Director of the Center for the Study of Democracy and Public Life, PhD Yale, “Ends, Means, and Politics,” Dissent Magazine Vol 49 Issue 2)

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

#### Extinction first

Kateb 92 Professor of Politics at Princeton University (George, “The Inner Ocean” p 111-112)

Schell's work attempts to force on us an acknowledgment that sounds far-fetched and even ludicrous, an acknowledgment hat the possibility of extinction is carried by any use of nuclear weapons, no matter how limited or how seemingly rational or seemingly morally justified. He himself acknowledges that there is a difference between possibility and certainty. But in a matter that is more than a matter, more than one practical matter in a vast series of practical matters, in the "matter" of extinction, we are obliged to treat a possibility-a genuine possibility-as a certainty. Humanity is not to take any step that contains even the slightest risk of extinction. The doctrine of no-use is based on the possibility of extinction. Schell's perspective transforms the subject. He takes us away from the arid stretches of strategy and asks us to feel continuously, if we can, and feel keenly if only for an instant now and then, how utterly distinct the nuclear world is. Nuclear discourse must vividly register that distinctiveness. It is of no moral account that extinction may be only a slight possibility. No one can say how great the possibility is, but no one has yet credibly denied that by some sequence or other a particular use of nuclear weapons may lead to human and natural extinction. If it is not impossible it must be treated as certain: the loss signified by extinction nullifies all calculations of probability as it nullifies all calculations of costs and benefits. Abstractly put, the connections between any use of nuclear weapons and human and natural extinction are several. Most obviously, a sizable exchange of strategic nuclear weapons can, by a chain of events in nature, lead to the earth's uninhabitability, to "nuclear winter," or to Schell's "republic of insects and grass." But the consideration of extinction cannot rest with the possibility of a sizable exchange of strategic weapons. It cannot rest with the imperative that a sizable exchange must not take place. A so-called tactical or "theater" use, or a so-called limited use, is also prohibited absolutely, because of the possibility of immediate escalation into a sizable exchange or because, even if there were not an immediate escalation, the possibility of extinction would reside in the precedent for future use set by any use whatever in a world in which more than one power possesses nuclear weapons. Add other consequences: the contagious effect on nonnuclear powers who may feel compelled by a mixture of fear and vanity to try to acquire their own weapons, thus increasing the possibility of use by increasing the number of nuclear powers; and the unleashed emotions of indignation, retribution, and revenge which, if not acted on immediately in the form of escalation, can be counted on to seek expression later. Other than full strategic uses are not confined, no matter how small the explosive power: each would be a cancerous transformation of the world. All nuclear roads lead to the possibility of extinction. It is true by definition, but let us make it explicit: the doctrine of no-use excludes any first or retaliatory or later use, whether sizable or not. No-use is the imperative derived from the possibility of extinction. By containing the possibility of extinction, any use is tantamount to a declaration of war against humanity. It is not merely a war crime or a single crime against humanity. Such a war is waged by the user of nuclear weapons against every human individual as individual (present and future), not as citizen of this or that country. It is not only a war against the country that is the target. To respond with nuclear weapons, where possible, only increases the chances of extinction and can never, therefore, be allowed. The use of nuclear weapons establishes the right of any person or group, acting officially or not, violently or not, to try to punish those responsible for the use. The aim of the punishment is to deter later uses and thus to try to reduce the possibility of extinction, if, by chance, the particular use in question did not directly lead to extinction. The form of the punishment cannot be specified. Of course the chaos ensuing from a sizable exchange could make punishment irrelevant. The important point, however, is to see that those who use nuclear weapons are qualitatively worse than criminals, and at the least forfeit their offices. John Locke, a principal individualist political theorist, says that in a state of nature every individual retains the right to punish transgressors or assist in the effort to punish them, whether or not one is a direct victim. Transgressors convert an otherwise tolerable condition into a state of nature which is a state of war in which all are threatened. Analogously, the use of nuclear weapons, by containing in an immediate or delayed manner the possibility of extinction, is in Locke's phrase "a trespass against the whole species" and places the users in a state of war with all people. And people, the accumulation of individuals, must be understood as of course always indefeasibly retaining the right of selfpreservation, and hence as morally allowed, perhaps enjoined, to take the appropriate preserving step

### DA – Deference

#### No deference now

Ip 10 (John Ip, Faculty of Law, University of Auckland, New Zealand, “THE SUPREME COURT AND HOUSE OF LORDS IN THE WAR ON TERROR: INTER ARMA SILENT LEGES?,” MICHIGAN STATE UNIVERSITY COLLEGE OF LAW JOURNAL OF INTERNATIONAL LAW, Volume 19, Issue 1, http://msuilr.org/wp-content/uploads/2012/09/Michigan-State-Jnl-of-Intl.Law-19.1.pdf)

The conventional account of judicial behavior described above would ¶ suggest that the Supreme Court would subject the executive branch’s post–¶ 9/11 national security policies to minimal scrutiny. Yet the Court did not ¶ behave consistently with this prediction, and consistently rejected many of ¶ the arguments advanced by the government. ¶ The Supreme Court’s 2004 decisions, for example, created a number of ¶ obstacles for the Bush Administration. This is probably least true of the ¶ Padilla decision, which as noted earlier, was decided on purely procedural ¶ grounds.229 This decision, together with a few other procedural ¶ machinations, ultimately allowed the Bush Administration to avoid a ¶ potentially adverse Supreme Court decision.230 The other two 2004 ¶ decisions posed more immediate problems for the Administration. Despite ¶ government claims that permitting judicial review would endanger national ¶ security,231 the majority in Rasul stymied the Bush Administration’s attempt to insulate Guantánamo from judicial scrutiny.232 In the Hamdi litigation, ¶ the Administration again made bold claims of executive exclusivity in the ¶ national security arena.233 Although Justice O’Connor’s plurality opinion ¶ did not go as far as some of the other opinions,234 it rejected these claims in ¶ the Hamdi decision’s most quotable sound–bite.235 But the rejection was not ¶ merely rhetorical. In holding that Hamdi must have some ability to ¶ challenge his designation as an enemy combatant, Justice O’Connor ¶ rejected the government’s claims that no further fact-finding into the ¶ circumstances of Hamdi’s capture was necessary,236 and that proper respect ¶ for the separation of powers deprived the individual of any individual ¶ process.237¶ In the Hamdan litigation, the government made further claims of ¶ executive exclusivity. Indeed, in a brief to the D.C. Circuit, the government ¶ asserted that the mere fact litigation was possible was a potential danger to ¶ national security.238 Such claims fell on deaf judicial ears in the Supreme ¶ Court. Hamdan was another rebuke to the Bush Administration, and ¶ delayed (temporarily, as it turned out) the Administration’s plans for trying ¶ terrorist suspects by military commission.239¶ Two aspects of the decision were particularly significant. First, the ¶ holding that CA3 of the Geneva Conventions applied to the conflict with al Qaeda had significant ramifications for the interrogation and treatment of ¶ detainees because of CA3’s prohibition on the mistreatment of detainees.¶ 240¶ Second, Hamdan had wider significance because it repudiated the idea that ¶ the President had constitutional carte blanche in prosecuting the War on ¶ Terror, even in the face of constraining legislation.241 The decision thus ¶ reaffirmed the principle that even the President, the Commander–in–Chief ¶ in wartime, was constrained by law.242¶ The reaction of the political branches to Hamdan, namely the MCA, set ¶ the stage for a further confrontation in Boumediene, where the Court ruled ¶ that Guantánamo detainees had the constitutional right to seek habeas ¶ corpus and that the MCA was an unconstitutional suspension of that right.243¶ As David Cole observes, the Court defied the predictions of the ¶ conventional account once more: ¶ For the first time in its history, the Supreme Court declared ¶ unconstitutional a law enacted by Congress and signed by the president on ¶ an issue of military policy in a time of armed conflict. While the Court has ¶ on rare occasions found that presidents exceeded their powers where they ¶ acted contrary to congressional will during wartime . . . this decision went ¶ much further, upending the joint decision of the political branches acting ¶ together on a military matter during a time of military conflict.244

#### Court ruled against the President on indefinite detention

Savage 12 (September 12, <http://www.nytimes.com/2012/09/13/us/judge-blocks-controversial-indefinite-detention-law.html?_r=0>)

In the detention case, Judge Katherine B. Forrest of the United States District Court for the Southern District of New York issued a permanent injunction barring the government from relying on the defense authorization law to hold people in indefinite military detention on suspicion that they “substantially supported” Al Qaeda or its allies — at least if they had no connection to the Sept. 11 attacks.

#### That should have triggered the link

Chertoff 11 (Michael was the Secretary, Department of Homeland Security (2005-2009), THE DECLINE OF JUDICIAL DEFERENCE ON NATIONAL SECURITY, Rutgers Law Review, 3 February 2011, http://www.rutgerslawreview.com/wp-content/uploads/archive/vol63/Issue4/Chertoff\_Speech\_PDF.pdf, pg. 1125-1128)

So, where has this left us? It has left us in a puzzling situation. ¶ In a decision called Al-Bihani in the D.C. Circuit in 2010, Judge ¶ Janice Rogers Brown talked about the consequences—practical ¶ consequences—of having habeas review in Guantánamo as it affects ¶ the battlefield.42 And what she said is that the process at the tail end ¶ is now impacting the front end because when you conduct combat ¶ operations, you now have to worry about collecting evidence.43¶ A somewhat darker analysis has been put forward by Ben Wittes ¶ who has recently written a book called Detention and Denial, where ¶ he argues that the courts have now created an incentive system to ¶ kill rather than capture.44 And much of the law of war over the years ¶ was designed to move away from the “give no quarter” theory, where ¶ you killed everybody at the battlefield, into the theory of you would ¶ rather capture than kill. And his point, and you can agree or ¶ disagree with it, is that you have now actually loaded it the other ¶ way; you have pushed it in the direction of kill rather than capture.45 We have complete uncertainty now in the standards to be ¶ applied in the individual cases. If you read Ben Wittes‟s book ¶ Detention and Denial, he will details about ten or twelve district ¶ court cases where literally on the same facts you get different ¶ answers.46 And it is not that the district judges are not doing their ¶ best, but they have no guidance. There is no standard, and no one ¶ has offered them a standard.¶ We now have litigation about Bagram Air Force Base in ¶ Afghanistan.47 It was absolutely predictable when Boumediene was ¶ decided that the next case would be against Bagram Airbase. I do ¶ not know how it is going to come out at the end. I think it is still in ¶ the district court, but I will tell you, the logic—now they may have ¶ stopped the logic of Guantánamo—the logic of Boumediene certainly ¶ raises questions about Bagram. How do you wind up having habeas ¶ in Bagram? And then what is going to happen when you are in a ¶ forward firebase? Are you going to have habeas cases there? No one¶ knows, but the big problem is that the battlefield commanders do not ¶ know either; that is a serious operational problem.¶ In many ways, it is absolutely a great example of what the Court ¶ in Eisentrager predicted.48 When you go down this path, you are ¶ going to actually have real operational problems with warfighting. ¶ But of course, we are not in 1950 now; we are actually in active ¶ operations.¶ Finally, and I find this really to be the most interesting ¶ contemporary question posed by this series of issues, the press ¶ reports—and I cannot verify this, I am not confirming it, but I am ¶ assuming it to be true—the press reports that President Obama has ¶ authorized the killing of Anwar al-Aulaki, the American citizen in ¶ Yemen who is, in my mind for quite good reason, believed to be a ¶ major recruiter and operation leader for al-Qaeda.49 I want to be ¶ clear: I am perfectly okay with that, and I think it is exactly the right ¶ decision, so I do not want to be misunderstood. But I will say that if ¶ you read the decision and logic of Boumediene that is a very puzzling ¶ situation for al-Aulaki. Because if you need court permission to ¶ detain somebody, and if you need court permission to wiretap ¶ somebody, how can you kill that person without court permission? But that is what warfighting is. You cannot fight a war without that. ¶ There is current litigation on this issue where people are purporting ¶ to represent al-Aulaki‟s family.50 It has been tossed out, but we are ¶ just at the early stages. And frankly, I think we are going to see ¶ more of this.51 I have been reading that there are debates taking ¶ place about this. They are holding a moot court, I believe, on this ¶ issue.¶ A lot of interesting comments can be made about where we find ¶ ourselves, where the current administration finds itself if you believe ¶ the al-Aulaki allegations to be true. But to me, what it suggests is ¶ that when you abruptly change the attitude of deference—and I ¶ think you must look at Boumediene as an abrupt change—the consequences become unpredictable and very serious. And there is a ¶ reason that judges and courts in the past forswore from doing that. ¶ We may be seeing some of this play out. How it ends is difficult to ¶ predict. ¶ Before I take a few minutes of questions, let me conclude by ¶ making sure I do not cast blame only on the Court, because it is not ¶ the Court‟s fault. This is something where everybody was complicit in ¶ putting us in this situation—all three branches of government. The ¶ fact is, I was here about seven or eight years ago in 2003, at Rutgers, ¶ not here in this particular building but across the street where they ¶ have a campus, and I gave a talk. I had just left as head of the ¶ criminal division, and I said we have kind of put a lot of things ¶ together in a jerry-built way. We need to have a sustainable legal ¶ architecture that is going to make this a framework that we are ¶ comfortable with over a long period of time. Congress has to get ¶ involved—the executive branch has to go to Congress. It is seven ¶ years later, and we have not done it. So that, to me, is a failure of ¶ both branches. For the executive branch, the failure to push ¶ Congress on this has been a mistake. It has led to, for example, a lot ¶ of delay in setting up the administrative process for dealing with ¶ these detainees. Frankly, I think that was a strategic error that more ¶ or less baited the Court into doing what the Court did. I come from ¶ the old school of believing that whatever you think the right answer ¶ is, you do not want to test the limit of what you think it is if you can ¶ avoid it. You want to go into court with the strongest possible position, and you want to be the most modest and incremental in ¶ asking for power because that is how you maximize your chance to ¶ win.

#### Affirmative action thumps the DA

NPR 6/24 [2013, Justices Seek 'Strict Scrutiny' In Affirmative Action Case, http://www.npr.org/2013/06/24/195272169/justices-send-affirmative-action-case-back-to-lower-court]

The U.S. Supreme Court has surprised just about everyone with its decision on affirmative action in higher education. The surprise was an apparent compromise that leaves affirmative action programs in tact for now but subjects them to a more rigorous review by the courts.¶ By a 7-to-1 vote, the court largely sidestepped making what could have been a sweeping ruling in a test case from Texas. Instead, the court sent the case back to the lower courts, with instructions to conduct a more thorough factual inquiry. The high court's decision is likely to spawn more challenges like the one in Texas, but it remains unclear how much further litigation will change the status quo.¶ Twice over the past 35 years, the court has ruled that race may be one of many factors considered in college and university admissions. The court has said quotas are not permissible, but in 2003 it reaffirmed that an applicant's race may be considered as a plus factor, just as athletic ability or musical talent is considered.¶ But this term, with the composition of the Supreme Court now more conservative, opponents of affirmative action moved in to kill off affirmative action programs in higher education. And with Justice Elena Kagan recused from the case, supporters of affirmative action thought they were cooked.¶ Abigail Fisher, a white student, challenged the program at the University of Texas, claiming that she was denied admission because of her race and that less qualified minority students were admitted. The university denied that, contending that her grades and board scores were not high enough to qualify her for admission, no matter what her race.¶ Rather than directly resolving the dispute, the court sent Fisher's case and the affirmative action program back to the lower courts for further evaluation, instructing the lower courts to use strict scrutiny, the toughest form of review a court can apply to government actions. Although the Justices agreed that the university has a compelling interest in a diverse student body, they said that lower courts were wrong to defer to the university's judgment; instead, they said the lower courts should have conducted a complete factual review to see if the program was really necessary and whether it was drawn as narrowly as possible.¶ "Strict scrutiny must not be strict in theory, but fatal in fact. But the opposite is also true," Justice Anthony Kennedy wrote for the court. "Strict scrutiny must not be strict in theory but feeble in fact. In order for judicial review to be meaningful, a university must make a showing that its plan is narrowly tailored to achieve the only interest that this Court has approved in this context: the benefits of a student body diversity that encompasses a broad array of qualifications and characteristics of which racial or ethnic origin is but a single though important element."¶ The 7-to-1 vote appears to have been a compromise between the court's liberal and conservative camps.¶ Richard Kahlenberg, a senior fellow at The Century Foundation, admitted to being "puzzled" by the lopsided majority.¶ "The only thing I can think of at the moment is some sort of deal between the justices in which the liberals agreed to new tougher standards," Kahlenberg said. "And Justice Kennedy agreed to procedurally send this back for more review."¶ But Michael McConnell, director of Stanford Law School's Constitutional law center opined that "it's easier to obtain consensus on the court when you say less rather than when you say more." And Harvard's Charles Fried, who served as solicitor general in the Reagan administration, saw the vote as a way to avoid any "radical overturning" of the court's past decisions.