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#### A. Interpretation: Authority is the legal right to take action, power is the ability to do so

Forsythe and Hendrickson 96

[David P. Forsythe, Professor and Chair of Political Science University of Nebraska-Lincoln, Ryan C. Hendrickson, Ph.D. Candidate University of Nebraska-Lincoln. “U.S. Use of Force Abroad: What Law for the President?” Presidential Studies Quarterly, Vol. 26, No. 4]

The crisis is most precisely about authority, not power. Authority, in the legal sense, concerns ¶ the right to do something. Power refers to the capability to do something. Part of the problems ¶ in the U.S. constitutional crisis over use of force abroad is that the president has the power to ¶ make war, and to obtain congressional deference most of the time, whatever the proper under ¶ standing of authority.

#### **Statutory restrictions are limits on authority by congress**

Blacks Online Legal Dictionary 13

(2nd Edition, http://thelawdictionary.org/statutory-restriction/)

Statutory Restriction- Limits or controls that have been place on activities by its ruling legislation.

#### Judicial restrictions are court enforced interpretations of statutory restrictions

Barron ‘08

David J. Barron, Professor of Law, Harvard Law School, & Martin S. Lederman,

Visiting Professor of Law, Georgetown University Law Center, 2008, “THE

COMMANDER IN CHIEF AT THE LOWEST EBB - FRAMING THE PROBLEM, DOCTRINE, AND

ORIGINAL UNDERSTANDING,” Harvard Law Review, January, pp. LN.

4. Judicial Enforcement of Implied Statutory Restrictions. - The way the Supreme Court¶ approaches war powers generally, when combined with the increased mass of potentially¶ relevant legislative restrictions on the conduct of this military conflict, further increases the likelihood that the "lowest ebb" issue will be joined in the future. Principles of deference to executive¶ authority tend to dominate academic discussion of statutory interpretation and war powers. As we have indicated, however,¶ Hamdan, Youngstown, and other modern war powers cases demonstrate that the Court cannot be counted on to give the President¶ the benefit of the doubt. And in many war powers cases, the Court has been perfectly willing to¶ construe ambiguous statutory language against certain background rules that it presumes¶ Congress intended to honor, n84 including a presumption that the Executive must [\*719] comply with the laws of war.¶ n85 This general and longstanding judicial willingness to find implied limitations in ambiguous¶ texts concerning the use of military force and national security powers is sometimes¶ controversial. But whether justified or not, such an interpretive approach is of particular import now,¶ given the sheer mass of preexisting statutes potentially applicable to the conflict with al¶ Qaeda and the likelihood that this body of law will grow. Executive branch lawyers may be hard-pressed to advise their client¶ agencies that creative construction can overcome the apparent statutory restrictions, at least if there is a reasonable prospect of¶ judicial review (as there often will be in the war on terrorism due to its peculiar domestic connections). Instead, the prospect of¶ judicial review will impel these lawyers to advise that the courts could well construe the potentially restrictive¶ language to impose hard constraints on the Executive's preferred course of conduct - and that only¶ the assertion of a superseding constitutional power of the President could, possibly, overcome such limits. Thus, the relatively weak¶ deference the Court has long shown the President in many war powers cases, when combined with the relatively high likelihood in¶ the war on terrorism of the applicability of restrictive but ambiguous statutory language and a justiciable case to hear, make¶ constitutional assertions of preclusive executive powers a more likely occurrence than war powers scholarship typically assumes.

#### B. Violation: The aff doesn’t restrict the authority of the President statutorily or judicially.

#### C. Standards

#### Ground. Our interp allows any aff that actually restricts authority through the courts or Congress. Their interp justifies social protest, individual actions, or any act that alters the material conditions of the President’s ability or willingness to act

#### Limits and topic education. Even if their aff is predictable, it justifies a litany of unpredictable affs, unlimiting the topic, and reducing topic education as negatives run towards generic Ks, and abusive, non-topic specific CPs.

#### D. T is a voter for fairness and topic education. Evaluate topicality through competing interpretations – reasonability is arbitrary and leads to judge intervention, bad for education.

## Schmitt K

**Restrictions on executive war powers DO NOTHING for the state of political legal exception we live in and only gives further justification for violent intervention on the basis of legality**

**Dyzenhaus 05** (David, is a professor of Law and Philosophy at the University of Toronto, and a Fellow of the Royal Society of Canada, “Schmitt v. Dicey: Are States of Emergency Inside or Outside the Legal Order?” Cardozo Law Review 27)

Rossiter had in mind Lincoln's actions during the Civil War, including the proclamation by which Lincoln, without the prior authority of Congress, suspended habeas corpus. n35 Lincoln, he said, subscribed to a theory that **in a time of emergency, the President could assume whatever legislative, executive, and judicial powers he thought necessary to preserve the nation, and could** in the process **break the "fundamental laws of the nation, if such a step were unavoidable**." n36 **This power included one ratified by the Supreme Court: "an almost unrestrained power to act toward insurrectionary citizens as if they were enemies of the U**nited **S**tates, **and thus place them outside the protection of the Constitution**." Rossiter's difficulties here illustrate rather than solve the tensions inherent in the idea of constitutional dictatorship. On the one hand, he wants to assert that emergency rule in a liberal democracy can be constitutional in nature. "Constitutional" implies restraints and limits in accordance not only with law, but with fundamental laws. These laws are not the constitution that is in place for ordinary times; rather, they are the laws that govern the management of exceptional times - the eleven criteria that he developed for constitutional dictatorship. The criteria are either put within the discretion of the dictator - they are judgments about necessity - or are couched as limits that should be enshrined either in the constitution or in legislation. However, Rossiter does not properly address the fact that judgments about necessity are for the dictator to make, which means that these criteria are not limits or constraints but merely factors about which the dictator will have to decide. Other criteria look more like genuine limits. Moreover, they are limits that could be constitutionally enshrined - for example, the second criterion, which requires that the person who makes the decision that there is an emergency should not be the person who assumes dictatorial powers. Yet, as we have seen, Rossiter's foremost example of the modern constitutional dictator, Lincoln, not only gave himself dictatorial powers but, Rossiter supposes, had no choice but to do this. Moreover, if these criteria are constitutionally enshrined, so that part of the constitution is devoted to the rules that govern the time when the rest of the constitution might be suspended, they still form part of the constitution. So, no less than the ordinary constitution, what we can think of as the exceptional or emergency constitution - the constitution that governs the state of emergency - is subject to suspension should the dictator deem this necessary. This explains why, on the other hand, Rossiter equated emergency rule with potentially unlimited dictatorship, with Locke's idea of prerogative. And Rossiter said, "**whatever the theory, in moments of extreme national emergency the facts have always been with ... John Locke**." So Rossiter at one and the same time sees constitutional dictatorship as unconstrained in nature and as constrainable by principles - his eleven criteria. The upshot is that "constitutional" turns out not to mean what we usually take it to mean; rather, it is a misleading name for the hope that the person who assumes dictatorial powers does so because of a good faith evaluation that this is really necessary and with the honest and steadfast intention to return to the ordinary way of doing things as soon as possible. Giorgio **Agamben is** thus **right** to remark **that the bid by modern theorists** of constitutional dictatorship **to rely on the tradition of Roman dictatorship is misleading**. n39 **They rely on that tradition** in an effort **to show that dictatorship is** constitutional or **law-governed. But in fact they show that dictatorship is** in principle **absolute - the dictator is subject to whatever limits he deems necessary, which means to no limits at all**. As H.L.A. Hart described the sovereign within the tradition of legal positivism, **the dictator is an uncommanded commander**. n40 **He** [\*2015] **operates within a black hole, in Agamben's words, "an emptiness of law."** n41 Agamben thus suggests that **the real analogue to the contemporary state of emergency is not the Roman dictatorship but** the institution of **iustitium, in which the law is used to produce a "juridical void" - a total suspension of law**. n42 And in coming to this conclusion, **Agamben sides with** Carl **Schmitt**, his principal interlocutor in his book. However, it is important to see that **Schmitt's understanding of the state of exception is not quite a legal black hole**, a juridically produced void. **Rather, it is a space beyond law, a space which is revealed when law recedes, leaving** the state, represented by **the sovereign, to act**. In substance, **there might seem to be little difference between a legal black hole and space beyond law since neither is controlled by the rule of law**. But **there is a difference in that nearly all liberal legal theorists** find the idea of a space beyond law antithetical, even if they suppose that law can be used to produce a legal void. This is so especially if such theorists **want to claim for the sake of legitimacy that law is playing a role, even if it is the case that the role law plays is to suspend the rule of law**. **Schmitt would have regarded such claims as an attempt to cling to the wreckage of liberal conceptions of the rule of law brought about by any attempt to respond to emergencies through the law. They represent a vain effort to banish the exception from legal order. Because liberals cannot countenance the idea of politics uncontrolled by law, they place a veneer of legality on the political, which allows the executive to do what it wants while claiming the legitimacy of the rule of law**. We have seen that Rossiter presents a prominent example which supports Schmitt's view, and as I will now show, it is a depressing fact that much recent post 9/11 work on emergencies is also supportive of Schmitt's view. II. Responding to 9/11 For example, Bruce Ackerman in his essay, The Emergency Constitution, n43 starts by claiming that we need "new constitutional concepts" in order to avoid the downward spiral in protection of civil liberties that occurs when politicians enact laws that become increasingly repressive with each new terrorist attack. n44 We need, he says, to rescue the concept of "emergency powers ... from fascist thinkers like Carl Schmitt, who used it as a battering ram against liberal [\*2016] democracy." n45 Because Ackerman does not think that judges are likely to do, or can do, better than they have in the past at containing the executive during an emergency, he proposes mainly the creative design of constitutional checks and balances to ensure, as did the Roman dictatorship, against the normalization of the state of emergency. **Judges should not be regarded as "miraculous saviors of** our threatened heritage of **freedom**." n46 Hence, it is better to rely on a system of political incentives and disincentives, a "political economy" that will prevent abuse of emergency powers. He calls his first device the "supramajoritarian escalator" n48 - basically the requirement that a declaration of a state of emergency requires legislative endorsement within a very short time, and thereafter has to be renewed at short intervals, with each renewal requiring the approval of a larger majority of legislators. The idea is that it will become increasingly easy with time for even a small minority of legislators to bring the emergency to an end, thus decreasing the opportunities for executive abuse of power. n49 The second device requires the executive to share security intelligence with legislative committees and that a majority of the seats on these committees belong to the opposition party. Ackerman does see some role for courts. They will have a macro role should the executive flout the constitutional devices. While he recognizes both that the executive might simply assert the necessity to suspend the emergency constitution and that this assertion might enjoy popular support, he supposes that if the courts declare that the executive is violating the constitution, this will give the public pause and thus will decrease incentives on the executive to evade the constitution. n51 In addition, the courts will have a micro role in supervising what he regards as the inevitable process of detaining suspects without trial for the period of the emergency. Suspects should be brought to court and some explanation should be given of the grounds of their detention, not so that they can contest it - a matter which Ackerman does not regard as practicable - but in order both to give the suspects a public identity so that they do not disappear and to provide a basis for compensation once the emergency is over in case the executive turns out to have fabricated [\*2017] its reasons. He also wishes to maintain a constitutional prohibition on torture, which he thinks can be enforced by requiring regular visits by lawyers. Not only is the judicial role limited, but it is clear that **Ackerman does not see the courts as having much to do with preventing a period of "sheer lawlessness."** n53 Even within the section on the judiciary, he says that the real restraint on the executive will be the knowledge that the supramajoritarian escalator might bring the emergency to an end, whereupon the detainees will be released if there is no hard evidence to justify detaining them. In sum, according to Ackerman, **judges have at best a minimal role to play during a state of emergency. We cannot** really **escape** from the fact **that a state of emergency is a legally created black hole, a lawless void**. It is subject to external constraints, controls on the executive located at the constitutional level and policed by the legislature. But **internally, the rule of law does next to no work**; all that we can reasonably hope for is decency. But once one has conceded that internally a state of emergency is more or less a legal black hole because the rule of law, as policed by judges, has no or little purchase, it becomes difficult to understand how external legal constraints, the constitutionally entrenched devices, can play the role Ackerman sets out. Recall that Ackerman accepts that **the reason we should not give judges more than a minimal role is the history of judicial failure to uphold the rule of law during emergencies in the face of executive assertions of a necessity to operate outside of law's rule**. For that reason, he constructs a political economy to constrain emergency powers. But that political economy still has to be located in law in order to be enforceable, which means that Ackerman cannot help but rely on judges. But why should we accept his claim that we can rely on judges when the executive asserts the necessity of suspending the exceptional constitution, the constitution for the state of emergency, when one of his premises is that we cannot so rely? Far from rescuing the concept of emergency powers from Schmitt, Ackerman's devices for an emergency constitution, an attempt to update Rossiter's model of constitutional dictatorship, fails for the same reasons that Rossiter's model fails. Even as they attempt to respond to Schmitt's challenge, they seem to prove the claim that Schmitt made in late Weimar that **law cannot effectively enshrine a distinction between constitutional dictatorship and dictatorship. They appear to be vain attempts to find a role for law while at the same time conceding that law has no role**. Of course, this last claim trades on an ambiguity in the idea of the rule of law between, on the one hand, the rule of law, understood as the rule of substantive principles, and, on the other, rule by law, where as long as there is a legal warrant for what government does, government will be considered to be in compliance with the rule of law. Only if one holds to a fairly substantive or thick conception of the rule of law will one think that there is a point on a continuum of legality where rule by law ceases to be in accordance with the rule of law. Ackerman's argument for rule by law, by the law of **the emergency constitution, might not answer Schmitt's challenge. But at least it attempts to avoid dignifying the legal void with the title of rule of law**, even as it tries to use law to govern what it deems ungovernable by law. **The same cannot be said of those responses to 9/11 that** seem to **suggest that legal black holes are not in tension with the rule of law, as long as they are properly created**. While it is relatively rare to find a position that articulates so stark a view, **it is quite common to find positions that are comfortable with grey holes, as long as these are properly created. A grey hole is a legal space in which there are some legal constraints on executive action - it is not a lawless void - but the constraints are so insubstantial that they pretty well permit government to do as it pleases. And since such grey holes permit government to have its cake and eat it too, to seem to be governing not only by law but in accordance with the rule of law, they and their endorsement by judges and academics might be even more dangerous from the perspective of the substantive conception of the rule of law than true black holes**.

**The affirmative purports to stand against war, but they do so in the name of humanity, security, rights and justice - They betray a universalism which can only result in imperialism and more war, turning the aff.**

**Rasch 2000** (William. "Conflict as a Vocation: Carl Schmitt and the Possibility of Politics." Theory Culture Society 17.1)

Schmitt would recognize these as the right questions to ask, would recognize them, in fact, as his own questions. They go to the heart of the nature and possibility of conflict (which is to say -- of politics), for **wars conducted in the name of the universal normative instance are wars fought to end all wars, conflicts conducted in the name of the self-transcendence of all conflict. But what if, afterwards, we find out that the heaven of consensus and reconciliation turns out to be a realm in which conflict has been outlawed in the name of the good, the efficient, the comfortable? In a world where conflict has been outlawed, how is opposition to be staged?** As uncorked agreement? **It is** precisely **against this type of outlawry of opposition in the service of the status quo** - more accurately, **in the service of the unfolding and global expansion of a new type of moral and economic imperialism -- that Schmitt launches his counterattack**. Since, to his mind, **the** non-decomposable **sovereignty of the autonomous state is the only** form of **resistance** available the fight **against this seemingly relentless expansion**, it is to the philosopher of state sovereignty par excellence, Hobbes, that he is drawn. Schmitt's "Kampf mit Weimar-Genf-Versailles" is quite explicitly an updated version of an older "Kampf mit Rom". In an interesting and clever move, Schmitt notices that Cole's guild-socialism, Laski's liberalism and French syndicalism all share arguments and perspectives with the social philosophers of Roman Catholicism as well as those of other Churches and sects, arguments that are aimed at relativizing the power of the state. **Both the call to follow the dictates of conscience and the more explicit appeal to the higher morality as embodied in international structures** (like the League or international revolutionary movements) **are political weapons. The battle between "internationalism"** and "nationalism", then, **is not simply fought between the forces of freedom and oppression, but rather between the authority of one type of sovereign power and another**. But, Schmitt warns: The Roman Catholic Church is no pluralist entity, and in its [the Church's] battle against the state, pluralism, at least since the 16th century, is on the side of the national states. A pluralist social theory contradicts itself if it wishes to remain pluralist and still play off the monism and universalism of the Roman Catholic Church, as secularized in the Second or Third International, against the state. To repeat: **the battle**, as he sees it, **is between a sham and a true pluralism, between a pluralism in the service of a universal morality (accompanied**, not so coincidentally, **by a universal economy) and a pluralism in which no contestant can claim the moral high ground. It is the latter, morally neutral pluralism, based on autonomous entities, that best represents the structures and possibilities of a Schmittian form of politics**. We can re-figure this debate is even more classical terms. What Schmitt argues for is a politics commensurable with the conditions found in the Earthly City, and what he argues against is the "fanaticism" of judging this terrestrial domain with standards only applicable in the City of God. Through his choice of Hobbes and the notion of state sovereignty may be deemed unfortunate and can be contested, **his aim is to reconstruct a space of legitimate conflict as a space of secular politics. This space must remain immune to moral and theological infections**; the Earthly City must retain a legitimacy that is autonomous from the moral but other-worldly claims of the City of God, claims that can only be redeemed at the end of history --- which is to say, not on this earth. Accordingly, **his critique of the "humanism" of modern liberalism is akin to an older critique of religious fanaticism**. Despite his Catholicism, **Schmitt is much like the Luther who supported the princes, even though he recognized their greed and cruelty, against** the prophetic iconoclasts and the Armageddon of the peasant uprisings. **The eschatology of religious or secular revolutions** is precisely anti-political. **They advocate change to outlaw change. They oppose the order of the world in order to welcome the Messiah. Once His arrival is imminent** (no matter how long imminence lasts), **opposition to the order of the world becomes sin. They wage wars, repeatedly, to end war. They wage wars, but not just any wars; they wage just wars. "They"**, the particular instance, **wage wars in the name of the universal principle, in the name of humanity, outlawing all opposition: as**, for example, was attempted **in** the "war-guilt" clause of **the Versailles Treaty, which turned a war of competing national interests into a just war against an unjust enemy; and as** was attempted **in the Kellogg-Briand Pact** of 1928, **turning wars in the national interest into crimes, and wars in the interest of the universal principle into crusades. "Imperialism does not conduct national wars"**, Schmitt ironically observes, referring to what he sees as the particularly modern, i.e. legal and economic, form of imperialism conducted by the Anglo-American world; "at most **it conducts wars that serve international politics; it conducts no unjust, only just wars"**; or, as Wyndham Lewis was to put it a few years after the Second World War: **"But what war that was ever fought was an unjust war, except of course that waged by the enemy?**"

**Our alternative is to recognize the necessity of the opposition. Sovereignty necessarily functions in exception to the law. This exception is necessary to avoid the universal violence of the Law and the affirmative.**

**Rasch 2000** (William. "Conflict as a Vocation: Carl Schmitt and the Possibility of Politics." Theory Culture Society 17.1)

It is not difficult to see that the polemical elevation of sovereignty over the rule of law replicates a lively historical opposition, one that can be perhaps best evoked by that happy pair, Hobbes and Locke. Within the liberal tradition, the rule of law invokes reason and calculability in its battles against the arbitrary and potentially despotic whim of an unrestrained sovereign. The legitimacy of the sovereign is thus replaced by a legality that claims to provide its own immanent and unforced legitimacy. Predictable and universally accessible reason - the normative validity of an "uncorked consensus", to use the words of a prominent modern exponent - gently usurps, so it is claimed, the place that would otherwise be occupied by a cynical, pragmatic utilitarianism and the tyranny of a dark, incalculable will. **The rule of law brings** all **the comforts of an uncontroversial, rule-based, normative security as if legality preceded by way of simple logical derivation, abolishing above all the necessity of decisions. Schmitt** clearly **will have none of this** and in various writings attempts to expose what he considers to be the two-fold fallacy of the liberal position. As we have seen, if taken at its word, legality, or **the rule of law**, is seen by Schmitt to be impotent; it **can neither legitimize nor** effectively **defend itself** against determined enemies **in times of crisis. Were law truly the opposite of force, it would cease to exist. But this self-description is deceptive**, for if judged by its deeds, **the same liberal regime that enunciates the self-evidence validity of universal norms strives to enact a universal consensus that is**, indeed, **far from uncorked. The rule of law inevitably reveals itself**, precisely **during moments of crisis, as the force of law**, perhaps, not every bit as violent and "irrational" as the arbitrary tyrant, but nonetheless compelling and irresistible - indeed, necessarily so. Thus, Schmitt would argue **the distinction between "decision", "force" and sovereignty", on the one hand, and the "rule of law", on the other, is** based on **a blithe and simple illusion. What agitates Schmitt is not the force, but the deception**. More precisely, what agitates Schmitt is what he perceives to be the elimination of politics in the name of a higher legal or moral order. **In its claim to a universal, normative, rule-bound validity, the liberal sleight-of-hand reveals itself to be not the opposite of force, but a force that outlaws opposition. In resurrecting the notion of sovereignty**, therefore, **Schmitt** sees himself as one who **rescues a legitimate notion of politics**. Of course, this rescue attempt is itself political, a battle over the correct definition of politics. That is, we are not merely dealing with a logical problem, and not merely dealing with a desire to provide constitutional mechanisms that would prevent the self-dissolution of the constitution. Rather, **we are dealing with a contest between a particularist notion of politics**, in which individual conflicts can be resolved, but **in which antagonism** as a structure and reservoir of possible future conflicts **is never destroyed, versus politics as the historical unfolding and pacific expansion of the universal morality**. To evoke the long shadows of an ongoing contemporary debate, we are dealing with the difference between **a politics of dissensus and a politics of consensus**. Whereas **the latter ideology entails an explicit or implicit belief in the "highest good" that can be rationally discerned and achieved, a "right regime"**, to use Leo Strauss's term, **or the "just society" that hopes to actualize** aspects of **the City of God here on earth, the former stresses the necessity of determining a workable order** where no single order bears the mantle of necessity, in fact, **where all order is contingent, hence imperfect, and thus seeks to make the best of an inherently contradictory world by erecting structures that minimize self-inflicted damage**. In Schmitt's eyes, the elements of such a structure must be the manifold of sovereign states. **The liberal says there can only be one world-wide sovereign, the sovereignty of a universal moral and legal order. Schmitt counters with a plurality of equal sovereigns, for only in this way**, he believes, **can the economic and moral extinction of politics be prevented. Politics**, on this view, **is not the means by which the universally acknowledged good is actualized, but the mechanism that negotiates and limits disputes in the absence of any universally acknowledged good. Politics exists, in other words, because the just society does not**.

**This requires the unchecked authority of the executive to respond to the exception.**

**Nagan and Haddad 12** (Winston and Aitza, "Sovereignty in Theory and Practice." San Diego International Law Journal 13)

Although Schmitt was German, his ideas about sovereignty, and the political exception have had influence on the American theory and practice of sovereignty. Carl Schmitt was a philosophic theorist of sovereignty during the Third Reich. n375 His ideas about sovereignty and its above the law placement in the political culture of the State have important parallels in the developing discourse in the United States about the scope of presidential authority and power. His views have attracted the attention of American theorists. Schmitt developed his view of sovereignty on the concept described as "the exception". n376 This idea suggests that **the sovereign or executive may invoke** the idea of **exceptional powers** which are distinct from the general theory of the State. In Schmitt's view, the normal condition of the functions of the theory of a State, rides with the existence of the idea of the "exception." **The exception is** in effect **intrinsic to the idea of a normal State**. In his view, [\*487] **the normal legal order of a State depends on the existence of an exception**. n377 **The exception is based on the continuing existence of an existential threat to the State and it is the sovereign that must decide on the exception**. n378 In short, **the political life of a State comprises allies and enemies. For the purpose of Statecraft, "an enemy exists only when** at least potentially, **one fighting collectivity of people confronts another** similar collectivity." n379 In this sense, **the political reality of the State always confronts the issue of the survival of the group**. This reality is explained as follows. **The political is the most intense and extreme antagonism**, and every concrete antagonism becomes that much more political the closer it approaches the most extreme point, that of the friend-enemy grouping. \*\*\* **As an ever present possibility [war] is the leading presupposition which determines in a characteristic way human action and thinking and hereby creates a specifically political behavior**.\*\*\* **A world in which the possibility of war is utterly eliminated, a completely pacified globe, would be a world without the distinction between friend and enemy and hence a world without politics**. n380 Schmitt's view bases the supremacy of the exception on the supremacy of politics and power. n381 Thus, **the exception, as rooted in the competence of the executive, is not dependent on law for its authority but on the conditions of power and conflict, which are** implicitly **pre-legal**. n382 The central idea is that **in an emergency, the power to decide based on the exception accepts its normal superiority over law on the basis that the suspension of the law is justified by the pre-legal right to self-preservation**. n383 Schmitt's view is a powerful justification for the exercise of extraordinary powers, which he regards as ordinary, by executive authority. This is a tempting view for executive officers but it may not be an adequate explanation of the interplay of power, legitimacy, and the constitutional foundations of a rule of law State. In a later section, we draw on insights from the New Haven School, which deals empirically with the problem of power and the problem of constituting authority using the methods of contextual mapping. Nonetheless, **Schmitt's view provides support for theorists who seek to enlarge executive power on the unitary presidency theory**.

## Apocalyptic Representations K

**Fiat double bind – Either the harms to the 1AC are true and they cannot solve for extinction before they control the levers of power OR their harms are constructed for the purpose of alarmism which makes them symbolic terrorists.**

**Apocalyptic predictions make serial policy failure inevitable**

**Kurasawa 4** – Professor of Sociology, York University of Toronto, Fuyuki, “Cautionary Tales: The Global Culture of Prevention and the Work of Foresight”, Constellations Volume 11, No 4, http://www.yorku.ca/kurasawa/Kurasawa%20Articles/Constellations%20Article.pdf

Up to this point, I have tried to demonstrate that **transnational socio-political relations are nurturing a thriving culture and infrastructure of prevention from below, which challenges presumptions about the inscrutability of the future** (II) and a stance of indifference toward it (III). Nonetheless, unless and **until it is substantively ‘filled in,’ the argument is vulnerable to misappropriation since farsightedness does not in and of itself ensure emancipatory outcomes.** Therefore, this section proposes to specify normative criteria and participatory procedures through which citizens can determine the ‘reasonableness,’ legitimacy, and effectiveness of competing dystopian visions in order to arrive at a socially self-instituting future. **Foremost among thepossible distortions of farsightedness is alarmism, the manufacturing ofunwarranted and unfounded doomsday scenarios. State and market institutions may seek to produce a culture of fear by deliberately stretching interpretations of reality beyond the limits of the plausible so as to exaggerate the prospects of impending catastrophes, or yet again, by intentionally promoting certain prognoses over others for instrumental purposes. Accordingly, regressive dystopias can operate as Trojan horses advancing political agendas or commercial interests that would otherwise be susceptible to public scrutiny and opposition. Instances of this kind of manipulation of the dystopian imaginary are plentiful: the invasion of Iraq in the name of fighting terrorism and an imminent threat of use of ‘weapons of mass destruction’**; the severe curtailing of American civil liberties amidst fears of a collapse of ‘homeland security’; **the neoliberal dismantling of the welfare state as the only remedy for an ideologically constructed fiscal crisis**; the conservative expansion of policing and incarceration due to supposedly spiraling crime waves; and so forth. **Alarmism constructs and codes the future in particular ways, producing or reinforcing certain crisis narratives, belief structures, and rhetorical conventions**. As much as alarmist ideas beget a culture of fear, the reverse is no less true. If fear-mongering is a misappropriation of preventive foresight, resignation about the future represents a problematic outgrowth of the popular acknowledgment of global perils. Some believe that the world to come is so uncertain and dangerous that we should not attempt to modify the course of history; the future will look after itself for better or worse, regardless of what we do or wish. One version of this argument consists in a complacent optimism perceiving the future as fated to be better than either the past or the present. Frequently accompanying it is a self-deluding denial of what is plausible (‘the world will not be so bad after all’), or a naively Panglossian pragmatism (‘things will work themselves out in spite of everything, because humankind always finds ways to survive’).37 **Much more common, however, isthe opposite reaction, a fatalistic pessimism reconciled to the idea that the future will be necessarily worse than what preceded it. This is sustained by a tragic chronological framework according to which humanity is doomed to decay, or a cyclical one of the endless repetition of the mistakes of the past. On top of their dubious assessments of what is to come, alarmism and resignation would, if widely accepted, undermine a viable practice of farsightedness. Indeed, both of them encourage public disengagement from deliberation about scenarios for the future, a process that appears to be dangerous, pointless, or unnecessary. The resulting ‘depublicization’ of debate leaves dominant groups and institutions(the state, the market, techno-science) in charge of sorting out the future for the rest of us, thus effectively producing a heteronomous social order.** How, then, can we support a democratic process of prevention from below? The answer, I think, lies in cultivating the public capacity for critical judgment and deliberation, so that participants in global civil society subject all claims about potential catastrophes to examination, evaluation, and contestation. Two normative concepts are particularly well suited to grounding these tasks: the precautionary principle and global justice.

**The PARADOX OF RISK makes this issue NOT resolvable by weighing the plan.   
If impact is calculated by multiplying probability and magnitude, any probability of an infinite impact irrationally registers as infinite**

**Kessler 2008 (**Oliver Kessler, Sociology at University of Bielefeld, “From Insecurity to Uncertainty: Risk and the Paradox of Security Politics” *Alternatives*  33 (2008), 211-232)

The problem of the second method is that it is very difficult to  "calculate" politically unacceptable losses. **If** the **risk** of terrorism **is  defined** in traditional terms **by** probability and **potential loss,** then  the focus on dramatic terror attacks leads to the marginalization of  probabilities. The reason is that **even the highest degree of improbability becomes irrelevant as** the measure of **loss goes to infinity**.^o  The mathematical calculation of the risk of terrorism thus tends to  overestimate and to dramatize the danger. This has consequences  beyond the actual risk assessment for the formulation and execution  of "risk policies": If one factor of the risk calculation approaches  infinity (e.g., if a case of nuclear terrorism is envisaged), then there  is no balanced measure for antiterrorist efforts, and **risk management as a rational endeavor breaks down**. Under the historical con-  dition of bipolarity, the "ultimate" threat with nuclear weapons could  be balanced by a similar counterthreat, and new equilibria could be  achieved, albeit on higher levels of nuclear overkill. Under the new  condition of uncertainty, no such rational balancing is possible since  knowledge about actors, their motives and capabilities, is largely  absent.  The second form of security policy that emerges when the deter-  rence model collapses mirrors the "social probability" approach. It  represents a logic of catastrophe. In contrast to risk management  framed in line with logical probability theory, the logic of catastro- phe does not attempt to provide means of absorbing uncertainty.  Rather, it takes uncertainty as constitutive for the logic itself; **uncertainty is a** crucial **precondition for catastrophies.** In particular, cata-  strophes happen at once, **without a warning**, but with major impli-  cations for the world polity. In this category, **we find** the impact of  **meteorites.** Mars attacks, the **tsunami in South East Asia, and 9/11.**  To conceive of terrorism as catastrophe has consequences for the  formulation of an adequate security policy. Since catastrophes hap-  pen irrespectively of human activity or inactivity, no political action  could possibly prevent them. Of course, there are precautions that  can be taken, but the framing of terrorist attack as a catastrophe  points to spatial and temporal characteristics that are beyond "ratio-  nality." Thus, political decision makers are exempted from the  responsibility to provide security—as long as they at least try to pre-  empt an attack. Interestingly enough, 9/11 was framed as catastro-  phe in various commissions dealing with the question of who was  responsible and whether it could have been prevented.  This makes clear that under the condition of uncertainty, there  are no objective criteria that could serve as an anchor for measur-  ing dangers and assessing the quality of political responses. For ex-  ample, as much as one might object to certain measures by the US  administration, it is almost impossible to "measure" the success of  countermeasures. Of course, there might be a subjective assessment  of specific shortcomings or failures, but there is no "common" cur-  rency to evaluate them. As a consequence, the framework of the  security dilemma fails to capture the basic uncertainties.  Pushing the door open for the security paradox, the main prob-  lem of security analysis then becomes the question how to integrate  dangers in risk assessments and security policies about which simply  nothing is known. In the mid 1990s, a Rand study entitled "New  Challenges for Defense Planning" addressed this issue arguing that  "most striking is the fact that **we do not** even **know** who or what will  constitute **the most serious future threat,** "^i In order to cope with  this challenge it would be essential, another Rand researcher wrote,  to break free from the "tyranny" of plausible scenario planning. The  decisive step would be to create "discontinuous scenarios ... in  which there is no plausible audit trail or storyline from current  events"52 These nonstandard scenarios were later called "wild cards"  and became important in the current US strategic discourse. They  justified the transformation from a threat-based toward a capability-  based defense planning strategy.53  The problem with this kind of risk assessment is, however, that  **even** the most **absurd scenarios** can **gain plausibility. By** construct-  ing **a chain** of potentialities**, improbable events are linked** and brought into the realm of the possible, if not even the probable.  **"Although** the **likelihood of the scenario dwindles with each step,  the** residual **impression is** one of **plausibility**. "54 This so-called Oth-  ello effect has been effective in the dawn ofthe recent war in Iraq**.**   **The connection between Saddam** Hussein **and Al Qaeda** that the  US government tried to prove was disputed from the very begin-  ning. False evidence **was** again and again **presented and refuted,  but this did not prevent** the administration from presenting as the  main rationale for war **the improbable yet possible connection**between Iraq and the terrorist network and the improbable yet  possible proliferation of an improbable yet possible nuclear  weapon into the hands of Bin Laden. As Donald **Rumsfeld**  famously **said: "Absence of evidence is not evidence of absence."**  This sentence indicates that under the condition of genuine uncer-  tainty, different evidence criteria prevail than in situations where  security problems can be assessed with relative certainty.

**The alternative is to reject the apocalyptic frames of the 1AC**

**Even if the rational arguments in favor of the plan are logical, the representations of apocalypse colonize the debate towards pressure for fast invasion and warmongering**

**Goodnight 2010** (G. Thomas Goodnight is Professor and Director of Doctoral Studies at the Annenberg School for Communication, the University of Southern California in Los Angeles; "The Metapolitics of the 2002 Iraq Debate: Public Policy and the Network Imaginary", Rhetoric & Public Affairs Volume 13, Number 1, Spring 2010)

**Opponents of the Democratic Party argued the risks of war, but their pragmatic policy challenges did not grab sufficient traction to slow the unreeling web of justification**. Of course, **there was little denial that the war would create more terrorists**, generate a lower threshold for intervention, receive weak international support, **and in the end leave the dangerous business of Afghanistan unfinished**. But the Democrats became entangled in reflexive posturing about the effects of the debate itself—the importance of "message sending" to the United Nations and "consensus" backing for the president as negotiator-in-chief. **With 9/11 not far behind, "tough" messages appeared to provide a much desired supplement to boost confidence, while pragmatism, caution, and planning took a back seat.** **Presidential hopefuls cut loose from this morass and took advantage of Republican-offered political cover. Republicans did appear to benefit from tough war rhetoric in the immediate election aftermath, enabling Bush to run successfully in 2004 as a wartime president.** As WMD continued not to turn up, the intervention dragged on, costs mounted, political fortunes reversed—although the entanglements remained and remain. [End Page 87] The debate of 2002 found that a systematic presidential campaign—when bolstered by cherry-picked evidence—can be particularly powerful, especially when administration supporters in Congress veer shamelessly from long-held positions on policy and the leadership of the opposing party takes shelter in offered political cover. Further, **the debate illustrates how the events that should prompt policy debate become colonized, in this case making common sense difficult to muster because the network imaginary laces a web of associative fears with compensatory toughness.** On the whole, the debates were not the nation's finest hour. The debate of 2002 strove to convert a traumatic national event into a conservative-articulated, Republican-captured, presidentially initiated rise in power, and ended by setting the stage for congressional investigation, the rise of the Democrats, reassertion of congressional power, and a new presidency committed to public diplomacy. WMD were at the heart of the six-year-long controversy. **It was hardly remembered that [WMD] weapons of mass destruction were not deployed by terrorists on September 11th. Rather, fast, anonymous, networked, modern systems of circulation were turned, through ingenuity, into first-strike weapons.** Seen with fresh militancy, 9/11 suggests that the modern world remains vulnerable to mutating events that change, shock, and command attention, actions that attain expanding scope and influence by virtue of a network imaginary, where such moments self-organize and multiply in varied directions. **The development of policy studies as rhetoric, then, calls attention to the disruptive events as these become situated in the restricted focus of national debate and recovered, through critique, as an unfinished metapolitics, which demands rethinking of the taken-for-granted grounds and alliances upon which post-event consensus became fabricated.** In its time, the "War on Terror" was framed as a "clash of civilizations" and a new Munich. In retrospect, 9/11 should be understood as signaling a much closer, changing, entangled, future world where the complications of security spread and interlock to haunt twenty-first-century network imaginaries.

## Solvency

#### President circumvents the judiciary

Scheppele 12

Professor of Sociology and Public Affairs @ Princeton University [Kim Lane Scheppele (Dir. of the Program in Law and Public Affairs @ Princeton University), “The New Judicial Deference,” Boston University Law Review, 92 B.U.L. Rev. 89, January 2012]

In this Article, I will show that American courts have often approached the extreme policies of the anti-terrorism campaign by splitting the difference between the two sides—the government and suspected terrorists. One side typically got the ringing rhetoric (the suspected terrorists), and the other side got the facts on the ground (the government). In major decisions both designed to attract public attention and filled with inspiring language about the reach of the Constitution even in times of peril, the Supreme Court, along with some lower courts, has stood up to the government and laid down limits on anti-terror policy in a sequence of decisions about the detention and trial of suspected terrorists. But, at the same time, these decisions have provided few immediate remedies for those who have sought the courts' protection. As a result, suspected terrorists have repeatedly prevailed in their legal arguments, and yet even with these court victories, little changed in the situation that they went to court to challenge. The government continued to treat suspected terrorists almost as badly as it did before the suspected terrorists "won" their cases. And any change in terrorism suspects' conditions that did result from these victorious decisions was slow and often not directly attributable to the judicial victories they won. Does this gap between suspected terrorists' legal gains and their unchanged fates exist because administration officials were flouting the decisions of the courts? The Bush Administration often responded with sound and fury and attempted to override the Supreme Court's decisions or to comply minimally with them when they had to. n6 But, as this Article will show, these decisions did not actually require the government to change its practices very quickly. The decisions usually required the government to change only its general practices in the medium term. Judges had a different framework for analyzing the petitioners' situation than the petitioners themselves did; judges generally couched their decisions in favor of the suspected terrorists as critiques of systems instead of as solutions for individuals. In doing so, however, courts allowed a disjuncture between rights and remedies for those who stood before them seeking a vindication of their claims. Suspected terrorists may have won [\*92] in these cases—and they prevailed overwhelmingly in their claims, especially at the Supreme Court—but courts looked metaphorically over the suspects' heads to address the policies that got these suspects into the situation where the Court found them. Whether those who brought the cases actually got to benefit from the judgments, either immediately or eventually, was another question.Bad though the legal plight of suspected terrorists has been, one might well have expected it to be worse. Before 9/11, the dominant response of courts around the world during wars and other public emergencies was to engage in judicial deference. n7 Deference counseled courts to stay out of matters when governments argued that national security concerns were central. As a result, judges would generally indicate that they had no role to play once the bullets started flying or an emergency was declared. If individuals became collateral damage in wartime, there was generally no judicial recourse to address their harms while the war was going on. As the saying goes, inter arma silent leges: in war, the law is mute. After 9/11, however, and while the conflict occasioned by those attacks was still "hot," courts jumped right in, dealing governments one loss after another. n8 After 9/11, it appears that deference is dead. [\*93] But, I will argue, deference is still alive and well. We are simply seeing a new sort of deference born out of the ashes of the familiar variety. While governments used to win national security cases by convincing the courts to decline any serious review of official conduct in wartime, now governments win first by losing these cases on principle and then by getting implicit permission to carry on the losing policy in concrete cases for a while longer, giving governments a victory in practice. n9 Suspected terrorists have received [\*94] from courts a vindication of the abstract principle that they have rights without also getting an order that the abusive practices that have directly affected them must be stopped immediately. Instead, governments are given time to change their policies while still holding suspected terrorists in legal limbo. As a result, despite winning their legal arguments, suspected terrorists lose the practical battle to change their daily lives.Courts may appear to be bold in these cases because they tell governments to craft new policies to deal with terrorism. But because the new policies then have to be tested to see whether they meet the new criteria courts have laid down, the final approval may take years, during which time suspected terrorists may still be generally subjected to the treatment that courts have said was impermissible. Because judicial review of anti-terrorism policies itself drags out the time during which suspected terrorists may be detained, suspected terrorists win legal victories that take a very long time to result in change that they can discern. As a result, governments win the policy on the ground until court challenges have run their course and the courts make decisions that contribute to the time that the litigation takes. This is the new face of judicial deference.This Article will explore why and how American courts have produced so many decisions in which suspected terrorists appear to win victories in national security cases. As we will see, many judges have handled the challenges that terrorism poses for law after 9/11 by giving firm support, at least in theory, to both separation of powers and constitutional rights. Judges have been very active in limiting what the government can do, requiring substantial adjustments of anti-terrorism policy and vindicating the claims of those who have been the targets. But the solutions that judges have crafted—often bold, ambitious, and brave solutions—nonetheless fail to address the plights of the specific individuals who brought the cases.This new form of judicial deference has created a slow-motion brake on the race into a constitutional abyss. But these decisions give the government leeway to tackle urgent threats without having to change course right away with respect to the treatment of particular individuals. New deference, then, is a mixed bag. It creates the appearance of doing something—an appearance not entirely false in the long run—while doing far less in the present to bring counter-terrorism policy back under the constraint of constitutionalism.

#### Aggressive targeted killing policy’s key to stability in Yemen

Alan W. Dowd 13, writes on national defense, foreign policy, and international security in multiple publications including Parameters, Policy Review, The Journal of Diplomacy and International Relations, World Politics Review, American Outlook, The Baltimore Sun, The Washington Times, The National Post, The Wall Street Journal Europe, The Jerusalem Post, and The Financial Times Deutschland, Winter-Spring 2013, “Drone Wars: Risks and Warnings,” Parameters, Vol. 42.4/43.1

At the beginning of President Hadi’s May offensive he, therefore, had a fractured army and a dysfunctional air force. Army leaders from competing factions were often disinclined to support one another in any way including facilitating the movement of needed supplies. Conversely, the air force labor strike had been a major setback to the efficiency of the organization, which was only beginning to operate as normal in May 2012. Even before the mutiny, the Yemen Air Force had only limited capabilities to conduct ongoing combat operations, and it did not have much experience providing close air support to advancing troops. Hadi attempted to make up for the deficiencies of his attacking force by obtaining aid from Saudi Arabia to hire a number of tribal militia fighters to support the regular military. These types of fighters have been effective in previous examples of Yemeni combat, but they could also melt away in the face of military setbacks.

Adding to his problems, President Hadi had only recently taken office after a long and painful set of international and domestic negotiations to end the 33-year rule of President Saleh. If the Yemeni military was allowed to be defeated in the confrontation with AQAP, that outcome could have led to the collapse of the Yemeni reform government and the emergence of anarchy throughout the country. Under these circumstances, Hadi needed every military edge that he could obtain, and drones would have been a valuable asset to aid his forces as they moved into combat. As planning for the campaign moved forward, it was clear that AQAP was not going to be driven from its southern strongholds easily. The fighting against AQAP forces was expected to be intense, and Yemeni officers indicated that they respected the fighting ability of their enemies.16

Shortly before the ground offensive, drones were widely reported in the US and international media as helping to enable the Yemeni government victory which eventually resulted from this campaign.17 Such support would have included providing intelligence to combatant forces and eliminating key leaders and groups of individuals prior to and then during the battles for southern towns and cities. In one particularly important incident, Fahd al Qusa, who may have been functioning as an AQAP field commander, was killed by a missile when he stepped out of his vehicle to consult with another AQAP leader in southern Shabwa province.18 It is also likely that drones were used against AQAP fighters preparing to ambush or attack government forces in the offensive.19 Consequently, drone warfare appears to have played a significant role in winning the campaign, which ended when the last AQAP-controlled towns were recaptured in June, revealing a shocking story of the abuse of the population while it was under occupation.20 Later, on October 11, 2012, US Secretary of Defense Leon Panetta noted that drones played a “vital role” in government victories over AQAP in Yemen, although he did not offer specifics.21 AQAP, for its part, remained a serious threat and conducted a number of deadly actions against the government, although it no longer ruled any urban centers in the south.

#### Obama will circumvent

Michaels 13

(Martin Michaels, Mint Press staff writer, “The Human Side Of Drones: Congress Fails In Oversight” May 13, 2013, <http://www.mintpressnews.com/the-human-side-of-drones-congress-fails-in-oversight/158722/>, KB)

“The Obama administration justifies its use of armed drones with reference to the Authorization for the Use of Military Force that Congress passed just days after the Sept. 11 attacks. In the AUMF, Congress authorized force against groups and countries that had supported the terrorist strikes. But Congress rejected the Bush administration’s request for open-ended military authority ‘to deter and preempt any future acts of terrorism or aggression against the United States,’” said Cohn, former president of the National Lawyers Guild.¶ Congress has placed limitations upon the Bush administration’s use of force and similarly restricted Obama with the passage of the 2012 National Defense Authorization Act (NDAA), denying the president authority to expand the war on terror, including through drone strikes.¶ “Deterrence and preemption are exactly what Obama is trying to accomplish by sending robots to kill ‘suspected militants’ or those who happen to be present in an area where suspicious activity has taken place. Moreover, in the National Defense Authorization Act of 2012, Congress specifically declared, ‘Nothing in this section is intended to … expand the authority of the President or the scope of the Authorization for the Use of Military Force [of September 2001],” Cohn adds.¶ It hasn’t slowed down the president, who has authorized dozens of strikes in Southeast Asia and the Middle East over the course of his two terms in office.

## Terrorism

#### Drones irrelevant to Pakistan stability - multiple alt causes

Javaid ’11

(Umbreen, Director Center of Asian Studies & Chairperson Department of political science University of Punjab, “Thriving Fundamentalism and Militancy in Pakistan An Analytical Overview of their Impact on the Society,” South Asian Studies, Vol. 26 No. 1. Pg. 16-17)

‘The recent increase of violence by jihadi groups, including suicide bombing of ¶ innocent bystanders as well attacks on the police and military, has perhaps brought ¶ more Pakistanis to consider how to strike a new balance between Islam and ¶ politics’ (Oldenburg, 2010: 158). ‘The Pakistani people also need to change their ¶ attitude, especially their outlook on religion. Suffered with anti-Americanism and ¶ religious fervor, Pakistanis are filtering their worldview through the prism of ¶ religion and the tensions between Islam and the West, making them to the radical ¶ propaganda and paralyzing their will to act against forces of extremism’ (Hussain, ¶ 2009: 11). mbreen Javaid Thriving Fundamentalism and ¶ 17¶ It is not only the task of the government to control this growing ¶ fundamentalism but the whole society needs to completely shun off these ¶ extremists. The political parties, intellectuals, sectarian and religious parties and ¶ the masses all have to openly condemn the extremists, so that they do not find any ¶ space to flourish. ‘Much still needs to be done on the home front curb religious ¶ zealotry and sectarianism, policies towards minorities, revision of school curricula, ¶ reconstructing ‘official’ history, promotion of universal education, and ¶ overhauling of the madrassah system’ (Niaz, 2011: 181). The best way to curtail the thriving fundamentalism in Pakistan is to look ¶ deeply into its causes. The whole society and especially the government needs to ¶ put in serious efforts in controlling on checking the causes if not diminishing ¶ them. It should also be understand that the issue of fundamentalism is very ¶ complex which entails number of factors which are playing their part. These ¶ include economic disparity, lack of education, religious ignorance, unemployment, ¶ extremism, judicial system, poor governance, ethnicity and sectarianism, ¶ corruption and alignment with United States, each of these have played their role ¶ separately and also a combined mix of all in flourishing militant fundamentalism ¶ in Pakistan. To control fundamentalism is not an easy task especially when it is ¶ now combined with militancy. Another major challenge for the government is that ¶ earlier the various militant extremist groups were operating separately and had ¶ divergent aims and objectives from each other but lately various local groups, AlQaeda and Taliban have all joined hands and helping each other irrespective of ¶ their particular objectives. These alignments have made these militant groups more ¶ lethal, thus making things more difficult for the government. ¶ Militant fundamentalism not only has the ability to destabilize Pakistan but it ¶ can, if not controlled, bring about serious security concerns for the region and also ¶ towards the global security and peace.

#### No Pakistan collapse and it doesn't escalate

Dasgupta 13

Sunil Dasgupta is Director of the University of Maryland Baltimore County Political Science Program at the Universities at Shady Grove and non-resident Senior Fellow at the Brookings Institution, East Asia Forum, February 25, 2013, "How will India respond to civil war in Pakistan?", http://www.eastasiaforum.org/2013/02/25/how-will-india-respond-to-civil-war-in-pakistan/

As it is, India and Pakistan have gone down to the nuclear edge four times — in 1986, 1990, 1999 and 2001–02. In each case, India responded in a manner that did not escalate the conflict. Any incursion into Pakistan was extremely limited. An Indian intervention in a civil war in Pakistan would be subject to the same limitations — at least so long as the Pakistani army maintains its integrity.

Given the new US–India ties, the most important factor in determining the possibility and nature of Indian intervention in a possible Pakistani civil war is Washington. If the United States is able to get Kabul and Islamabad to work together against the Taliban, as it is trying to do now, then India is likely to continue its current policy or try to preserve some influence in Afghanistan, especially working with elements of the Northern Alliance.

India and Afghanistan already have a strategic partnership agreement in place that creates the framework for their bilateral relationship to grow, but the degree of actual cooperation will depend on how Pakistan and the Taliban react. If Indian interests in Afghanistan come under attack, New Delhi might have to pull back. The Indian government has been quite clear about not sending troops to Afghanistan.

If the United States shifts its policy to where it has to choose Kabul over Islamabad, in effect reviving the demand for an independent Pashtunistan, India is likely to be much more supportive of US and Afghan goals. The policy shift, however, carries the risk of a full-fledged proxy war with Pakistan in Afghanistan, but should not involve the prospect of a direct Indian intervention in Pakistan itself.

India is not likely to initiate an intervention that causes the Pakistani state to fail. Bill Keller of the New York Times has described Pakistani president Asif Ail Zardari as overseeing ‘a ruinous kleptocracy that is spiraling deeper into economic crisis’. But in contrast to predictions of an unravelling nation, British journalist-scholar Anatol Lieven argues that the Pakistani state is likely to continue muddling through its many problems, unable to resolve them but equally predisposed against civil war and consequent state collapse. Lieven finds that the strong bonds of family, clan, tribe and the nature of South Asian Islam prevent modernist movements — propounded by the government or by the radicals — from taking control of the entire country.

Lieven’s analysis is more persuasive than the widespread view that Pakistan is about to fail as a state. The formal institutions of the Pakistani state are surprisingly robust given the structural conditions in which they operate. Indian political leaders recognise Pakistan’s resilience. Given the bad choices in Pakistan, they would rather not have anything to do with it. If there is going to be a civil war, why not wait for the two sides to exhaust themselves before thinking about intervening? The 1971 war demonstrated India’s willingness to exploit conditions inside Pakistan, but to break from tradition requires strong, countervailing logic, and those elements do not yet exist. Given the current conditions and those in the foreseeable future, India is likely to sit out a Pakistani civil war while covertly coordinating policy with the United States.

#### terrorists wont have the motivation

Levi, 2007

Michael A. Levi (Fellow for Science and Technology) 4/19/2007 “How Likely is a Nuclear Terrorist Attack on the United States?”, Council on Foreign Relations, http://www.cfr.org/publication/13097/

Yet from a terrorist perspective the prospect of a fizzle or a dud might change things. Let me start by revisiting the question of terrorist aversion to failure—terrorist motivations are central to the likelihood of nuclear terrorism, and we seem to disagree on what they are. I have never asserted that terrorists will not attempt anything but “foolproof” plots. But there is a lot of territory in between foolproof and a 90 percent (or even 50 percent or 30 percent) chance of failure. Why might a group decide against a course of action with a 10 percent chance of killing tens or hundreds of thousands? A group might have better alternatives. An attack on public transportation that has a ninety-five percent chance of killing forty people is a straw man alternative to nuclear terrorism—certainly terrorist groups have intermediate and perhaps, from their perspectives, more compelling options, like suicide aircraft attacks, Madrid and London style bombings, and plots like the one using liquid explosives that failed last summer. Here is another possibility: In the wake of a full-blown nuclear plot, the international campaign against terrorism would likely step into a much higher gear. Would al-Qaeda accept a ninety percent chance of failing to kill more than a massive conventional bomb would while incurring a large risk of provoking a response that might cripple its ability to initiate other plots, nuclear or non-nuclear, in the future? We can’t know the answer, but there is no reason to assume that al-Qaeda would choose such a course.

## Norms

#### Obama won’t pursue drone norms internationally---not even with allies

Kristin Roberts 13, News Editor, National Journal, 3/22/13, “When the Whole World Has Drones,” <http://www.nationaljournal.com/magazine/when-the-whole-world-has-drones-20130321>

Obama promised in his 2013 State of the Union to increase the drone program’s transparency. “In the months ahead, I will continue to engage Congress to ensure not only that our targeting, detention, and prosecution of terrorists remains consistent with our laws and system of checks and balances, but that our efforts are even more transparent to the American people and to the world,” the president said on Feb. 12. Since then, the administration, under pressure from allies on Senate Intelligence, agreed to release all of the legal memos the Justice Department drafted in support of targeted killing.

But, beyond that, it’s not certain Obama will do anything more to shine light on this program. Except in situations where leaks help it tell a politically expedient story of its skill at killing bad guys, the administration has done little to make a case to the public and the world at large for its use of armed drones.

Already, what’s become apparent is that the White House is not interested in changing much about the way it communicates strike policy. (It took Sen. Rand Paul’s 13-hour filibuster of CIA Director John Brennan’s nomination to force the administration to concede that it doesn’t have the right to use drones to kill noncombatant Americans on U.S. soil.) And government officials, as well as their surrogates on security issues, are actively trying to squash expectations that the administration would agree to bring the judicial branch into the oversight mix. Indeed, judicial review of any piece of the program is largely off the table now, according to intelligence officials and committee members.

Under discussion within the administration and on Capitol Hill is a potential program takeover by the Pentagon, removing the CIA from its post-9/11 role of executing military-like strikes. Ostensibly, that shift could help lift the secret-by-association-with-CIA attribute of the program that some officials say has kept them from more freely talking about the legitimate military use of drones for counterterrorism operations. But such a fix would provide no guarantee of greater transparency for the public, or even Congress.

And if the administration is not willing to share with lawmakers who are security-cleared to know, it certainly is not prepared to engage in a sensitive discussion, even among allies, that might begin to set the rules on use for a technology that could upend stability in already fragile and strategically significant places around the globe. Time is running out to do so.

#### No risk of drone wars

Singh 12

Joseph Singh 12, researcher at the Center for a New American Security, 8/13/12, “Betting Against a Drone Arms Race,” <http://nation.time.com/2012/08/13/betting-against-a-drone-arms-race/#ixzz2eSvaZnfQ>

In short, the doomsday drone scenario Ignatieff and Sharkey predict results from an excessive focus on rapidly-evolving military technology. ¶ Instead, we must return to what we know about state behavior in an anarchistic international order. Nations will confront the same principles of deterrence, for example, when deciding to launch a targeted killing operation regardless of whether they conduct it through a drone or a covert amphibious assault team. ¶ Drones may make waging war more domestically palatable, but they don’t change the very serious risks of retaliation for an attacking state. Any state otherwise deterred from using force abroad will not significantly increase its power projection on account of acquiring drones. ¶ What’s more, the very states whose use of drones could threaten U.S. security – countries like China – are not democratic, which means that the possible political ramifications of the low risk of casualties resulting from drone use are irrelevant. For all their military benefits, putting drones into play requires an ability to meet the political and security risks associated with their use. ¶ Despite these realities, there remain a host of defensible arguments one could employ to discredit the Obama drone strategy. The legal justification for targeted killings in areas not internationally recognized as war zones is uncertain at best. ¶ Further, the short-term gains yielded by targeted killing operations in Pakistan, Somalia and Yemen, while debilitating to Al Qaeda leadership in the short-term, may serve to destroy already tenacious bilateral relations in the region and radicalize local populations. ¶ Yet, the past decade’s experience with drones bears no evidence of impending instability in the global strategic landscape. Conflict may not be any less likely in the era of drones, but the nature of 21st Century warfare remains fundamentally unaltered despite their arrival in large numbers.

#### Powers will work together to stabilize the region—security and economic incentives

Gresh 12

(Dr. Geoffrey F., Assistant Professor of International Security Studies at National Defense University, “Russia, China, and stabilizing South Asia”, 3/12, http://afpak.foreignpolicy.com/posts/2012/03/12/russia\_china\_and\_stabilizing\_south\_asia)

As the U.S. begins to withdraw troops from Afghanistan, Russia and China have both declared a desire to increase their military presence throughout Central and South Asia. This new regional alignment, however, should not be viewed as a threat to U.S. strategic national interests but seen rather as concurrent with strategic and regional interests of the United States: regional peace, stability and the prevention of future terrorist safe havens in ungoverned territories. As China and Russia begin to flex their military muscles, the U.S. military should harness their expanded regional influence to promote proactively a new period of responsible multilateral support for Afghanistan and Pakistan. This past December it became clearer that Russia had begun to re-assert its regional presence when the Collective Security Treaty Organization (CSTO) granted Russia the veto power over any member state's future decision to host a foreign military. CSTO members, including Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan, have become increasingly valuable U.S. partners in the Northern Distribution Network after Pakistan shut down U.S. military supply routes running from the south into Afghanistan when NATO troops killed 24 Pakistani soldiers last November in the border area of Salala. Though it appears the route may soon open again, the United States must still adopt a new strategy that works more closely with Russia and the CSTO to maintain the Northern Distribution Network long into the future, which currently accounts for about 60 percent of all cargo transiting Central Asia en route to Afghanistan. Certainly, the U.S. risks being unable to control many aspects of the Northern Distribution Network as it withdraws from the region, and this may in turn adversely affect Afghanistan's future success. However, if the United States remains concerned about leaving the region to a historically obdurate regional rival like Russia, it should also bear in mind that Russia has a vital strategic interest in the future stability of the region. Russia has approximately 15 million Muslims living within its borders, with an estimated 2 million Muslims in Moscow. Russia is fearful of what occurs on its periphery and wants to minimize the spread of Muslim extremism that may originate from an unstable Afghanistan or Pakistan. In addition, Russia does not want regional instability that threatens its oil and gas investments. In particular, Russia wants to ensure that it continues to influence the planning and implementation of the potentially lucrative natural gas pipeline that may one day traverse Turkmenistan, Afghanistan, Pakistan, and India. In a recent meeting with Pakistani Foreign Minister Hina Rabbani Khar, Russian Foreign Minister Sergey Lavrov discussed Russia's commitment to preserving peace and stability throughout the AfPak region, and rejected the use of violence by al-Qaeda and its affiliates that aim to undermine the current Afghan government. Furthermore, he pledged to bolster bilateral ties and work cooperatively with Pakistan to achieve stability in Afghanistan. A newly-elected President Vladimir Putin also recently wrote in a campaign brief that "Russia will help Afghanistan develop its economy and strengthen its military to fight terrorism and drug production." It is not lost on the U.S. government that Russia is proposing to succeed where the U.S. has struggled. However, if Russia does succeed in helping establish a secure Afghanistan and Pakistan that can prevent the spread of bases for terrorism then it is a victory for everyone. Aside from Pakistan, and in line with promoting security throughout the region, Russia announced recently that it will provide $16 million to Kyrgyzstan to assist with border security in the south. Russia also agreed recently to pay $15 million in back rent for its four military facilities across the country, including an air base, a torpedo test center on Lake Issyk-Kul, and a communications center in the south. Further, Russia signed a security pact with Tajikistan last fall to extend its basing lease for 49 years, in addition to a bilateral agreement that will enable Russia to become more integrated into Tajikistan's border security forces that oversee an 830-mile border with Afghanistan. Providing similar types of U.S. aid and security support will also help ensure that the valuable Northern Distribution Network remains open and secure for supply lines into Afghanistan. If the northern trade routes are shut down it would adversely affect aid arriving to Afghanistan and therefore jeopardize the stability of Afghanistan and the region. It would also be in opposition to Russia's regional interests. Rather than citing these examples in Kyrgyzstan and Tajikistan as a demonstration of how the U.S. will soon lose out in the region to a resurgent Russia, policymakers can view them as an indication of how Russian interests align with the U.S. to help maintain regional security. More importantly, if Russia wants to take a more active future role in Central Asia, the U.S. should address this shift and work directly with Russia and other CSTO members to ensure that the Northern Distribution Network remains operational in the distant future. Certainly, the U.S. should not be naïve to think that Russia will not at times oppose U.S. regional interests and that there will not be significant areas of conflict. In 2009, Russia tried to convince then President of Kyrgyzstan Kurmanbek Bakiyev to terminate the U.S. contract for its base in Manas. In this case, the U.S. fended off the threat of expulsion successfully through promises of increased U.S. military and economic aid. Continuing to maintain significant amounts of aid to the Central Asia Republics will therefore provide additional incentives to ensure the U.S. is less vulnerable to Russian whims, while at the same time remaining present and active for the benefit of regional security and the maintenance of the Northern Distribution Network. Another powerful regional player, China, also has a vested interest in the stability of the AfPak region, and has already begun to play a more active security role. It was reported this past January, for example, that China intends to establish one or more bases in Pakistan's Federally Administered Tribal Areas. Subsequently, at the end of February, Beijing played host to the first China-Afghanistan-Pakistan trilateral dialogue to discuss regional cooperation and stability. Due to China's shared borders and vibrant trade with both Afghanistan and Pakistan -- not to mention China's estimated 8 million Turkic-speaking Muslim Uyghurs living in western Xinjiang Province -- it has a direct interest in ensuring that both Afghanistan and Pakistan remain stable long into the future. Bilateral trade between China and Pakistan, for example, increased 28 percent in the past year to approximately $8.7 billion. China also signed an oil agreement with Afghanistan in December that could be worth $7 billion over the next two decades. Additionally, China is concerned about the rise of its Uyghur separatist movement that maintains safe havens in both countries, in addition to the spread of radical Islam. The United States should push China to become more actively engaged in Pakistan's security affairs as China has a direct interest in moderating radicalism in Pakistan and keeping it stable. Indicative of Pakistan's strategic value to China, since 2002 China has financed the construction and development of Pakistan's Gwadar deep water port project. China has contributed more than $1.6 billion toward the port's development as a major shipping and soon-to-be naval hub, which is located just 250 miles from the opening of the Persian Gulf. A Pakistan Supreme Court decision in 2011 enabled China to take full control of Gwadar from a Singapore management company further establishing China's firm position in the Pakistani port city. The creation of a new Chinese military network in Pakistan between Gwadar and the FATA would enable China to oversee the transit and protection of Chinese goods and investments that travel from both the coast and interior through the Karakorum corridor to China's Xinjiang Province. China already has an estimated 4,000 troops in Gilgit Baltistan, part of the larger and disputed Kashmir, and just recently it was reported after a January 2012 trip by Pakistani Army Chief General Ashfaq Kayani to China that Pakistan is considering leasing Gilgit Baltistan to China for the next 50 years. Such a move would indeed escalate tensions with India to the south, but from a Pakistani perspective, China would be positioned better than it already is to assist with any future Pakistani national security concerns. And from a Chinese perspective, it would improve their ability to monitor any illicit Uyghur activities aimed at inciting further rebellion in western China. With interest comes responsibility, and in the wake of the recent reports predicting the establishment of a more robust Chinese military network across Pakistan, it is time that China begins to supplement its increased involvement in Pakistan by helping to maintain peace and stability throughout the entire AfPak region. Certainly after fighting two long wars, the United States can no longer be the sole world power responsible for the region, and both China and Russia have been U.S. security free-riders for too long. They have benefited financially while NATO continues to lose soldiers and accrue a massive war debt. After 11 years of war, it is time the United States work more proactively with Russia, China, Pakistan and the Central Asian Republics to create solutions for the future stability and collective security of the region. Indeed, we may not have a choice, and the United States should embrace the transformation of a new era in Eurasia's heartland.

#### Conventional weapons disprove the Caucasus impact

Sultanova, 13

[Neighbourhood Watches as Azerbaijan Arms Up Unable to match Baku’s big spending, Armenia relies on special relationship with Moscow. By Shahla Sultanova, Yekaterina Poghosyan - Caucasus CRS Issue 695, 25 Jul 13,http://iwpr.net/report-news/neighbourhood-watches-azerbaijan-arms]

Azerbaijan’s rapid arms build-up is cause for concern in the region, with some defence analysts warning that it heightens the risk of renewed conflict. President Ilham Aliyev frequently boasts of the amount of money his oil-rich state can afford to spend on weaponry. Appearing at a military parade in Baku on June 26. he took the opportunity to remind everyone that at 3.7 billion US dollars, annual defence expenditure is nearly twice the size of neighbouring Armenia’s entire government budget. A decade ago, Azerbaijan’s defence budget stood at 160 million dollars. “In recent years we have purchased the most sophisticated hardware,” Aliyev said in his address at the parade. “We have purchased about 100 combat and transport helicopters, dozens of combat aircraft, and the most advanced anti-aircraft systems. [Our] armoured vehicles, modern tanks and artillery pieces are capable of destroying any enemy target.” The armoured vehicles rolling past included new tanks bought from Russia. Overhead, 100 military aircraft flew by as 40 naval vessels floated offshore in the Caspian Sea. Aliyev noted that all this hardware was not just for show; it was needed because of the unresolved conflict with Armenia over Nagorny Karabakh. Yashar Jafarli, a defence expert who heads the Baku-based Association of Reserve and Retired Officers, said the arms acquisitions came from traditional suppliers Russia, Ukraine and Belarus, and increasingly also from Israel, Turkey, South Africa and Pakistan. In mid-June, the Moscow paper Vedomosti reported that Russia was supplying armoured vehicles and artillery worth up to one billion US dollars to Azerbaijan. The news was of particular concern to Armenian officials, since Moscow is both a close ally and part of the three-member OSCE group mediating in the Karabakh conflict, but appears happy to profit from Azerbaijan’s spending spree. On a visit to Armenia, Nikolai Patrushev, secretary of Russia’s Security Council, tried to portray the sales as no more than normal business, and argued that it would not change the military balance in the region. Patrushev’s counterpart Artur Baghdasaryan, secretary of Armenia’s National Security Council, also downplayed the significance of the deal. “We must not fall into a panic because Azerbaijan has acquired military equipment from Russia. Azerbaijan buys weapons from other countries as well. Russia has its own relationship with Azerbaijan, and it bases that relationship on its own interests,” Baghdasaryan said. Richard Giragosian, director of the Centre for Regional Studies in Yerevan, said reports of massive arms shipments from Russia had revived fears that the delicate balance of power in the South Caucasus was tipping in Azerbaijan’s favour. It might also indicate an intention to re-take Karabakh by force. The Nagorny Karabakh region was part of Soviet-era Azerbaijan but has been controlled by a local Armenian administration since the early 1990s war that ended in a truce but no peace deal. “Although international reactions to Azerbaijan’s latest procurement of offensive weapons have been largely muted, there is a clear imperative for greater concern over the now shifting balance of power between Armenia and Azerbaijan, which is an inherent threat to the fragile ceasefire,” he said.

# Block

## norms

#### Powers will work together to stabilize the region—security and economic incentives

Gresh 12

(Dr. Geoffrey F., Assistant Professor of International Security Studies at National Defense University, “Russia, China, and stabilizing South Asia”, 3/12, http://afpak.foreignpolicy.com/posts/2012/03/12/russia\_china\_and\_stabilizing\_south\_asia)

As the U.S. begins to withdraw troops from Afghanistan, Russia and China have both declared a desire to increase their military presence throughout Central and South Asia. This new regional alignment, however, should not be viewed as a threat to U.S. strategic national interests but seen rather as concurrent with strategic and regional interests of the United States: regional peace, stability and the prevention of future terrorist safe havens in ungoverned territories. As China and Russia begin to flex their military muscles, the U.S. military should harness their expanded regional influence to promote proactively a new period of responsible multilateral support for Afghanistan and Pakistan. This past December it became clearer that Russia had begun to re-assert its regional presence when the Collective Security Treaty Organization (CSTO) granted Russia the veto power over any member state's future decision to host a foreign military. CSTO members, including Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan, have become increasingly valuable U.S. partners in the Northern Distribution Network after Pakistan shut down U.S. military supply routes running from the south into Afghanistan when NATO troops killed 24 Pakistani soldiers last November in the border area of Salala. Though it appears the route may soon open again, the United States must still adopt a new strategy that works more closely with Russia and the CSTO to maintain the Northern Distribution Network long into the future, which currently accounts for about 60 percent of all cargo transiting Central Asia en route to Afghanistan. Certainly, the U.S. risks being unable to control many aspects of the Northern Distribution Network as it withdraws from the region, and this may in turn adversely affect Afghanistan's future success. 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## T

#### “war powers authority” is the president’s discretion to launch an attack – ex post doesn’t do that because the president maintains the decision power – only ex ante is topical

Vladeck 13 (Steve, Professor of Law and the Associate Dean for Scholarship – American University Washington College of Law, JD – Yale Law School, Senior Editor – Journal of National Security Law & Policy, “Why a “Drone Court” Won’t Work–But (Nominal) Damages Might…,” Lawfare Blog, 2-10, http://www.lawfareblog.com/2013/02/why-a-drone-court-wont-work/)

II. Drone Courts and the Separation of Powers

In my view, the adversity issue is the deepest legal flaw in “drone court” proposals. But the idea of an ex ante judicial process for signing off on targeted killing operations may also raise some serious separation of powers concerns insofar as such review could directly interfere with the Executive’s ability to carry out ongoing military operations… First, and most significantly, even though I am not a particularly strong defender of unilateral (and indefeasible) presidential war powers, I do think that, if the Constitution protects any such authority on the part of the President (another big “if”), it includes at least some discretion when it comes to the “defensive” war power, i.e., the President’s power to use military force to defend U.S. persons and territory, whether as part of an ongoing international or non-international armed conflict or not. And although the Constitution certainly constrains how the President may use that power, it’s a different issue altogether to suggest that the Constitution might forbid him for acting at all without prior judicial approval–especially in cases where the President otherwise would have the power to use lethal force. This ties together with the related point of just how difficult it would be to actually have meaningful ex ante review in a context in which time is so often of the essence. If, as I have to think is true, many of the opportunities for these kinds of operations are fleeting–and often open and close within a short window–then a requirement of judicial review in all cases might actually prevent the government from otherwise carrying out authority that most would agree it has (at least in the appropriate circumstances). This possibility is exactly why FISA itself was enacted with a pair of emergency provisions (one for specific emergencies; one for the beginning of a declared war), and comparable emergency exceptions in this context would almost necessarily swallow the rule. Indeed, the narrower a definition of imminence that we accept, the more this becomes a problem, since the time frame in which the government could simultaneously demonstrate that a target (1) poses such a threat to the United States; and (2) cannot be captured through less lethal measures will necessarily be a vanishing one. Even if judicial review were possible in that context, it’s hard to imagine that it would produce wise, just, or remotely reliable decisions.

#### This distinction is important – “targeted killing authority” is the decision to determine what is imminent – ex post doesn’t challenge that authority, but is just after-the-fact supervision on if the president used the right definition – only ex ante is topical

McKelvey 11 (Benjamin, JD Candidate, Senior Editorial Board – Vanderbilt Journal of Transnational Law, “Due Process Rights and the Targeted Killing of Suspected Terrorists: The Unconstitutional Scope of Executive Killing Power,” Vanderbilt Journal of Transnational Law, November, 44 VAND. J. TRANSNAT'L L. 1353, <http://www.vanderbilt.edu/jotl/2012/06/due-process-rights-and-the-targeted-killing-of-suspected-terrorists-the-unconstitutional-scope-of-executive-killing-power/>)

Therefore, the President was justified in using lethal force to protect the nation against Aulaqi, or any other American, if that individual presented a concrete threat that satisfied the “imminence” standard.109 However, the judiciary may, as a matter of law, review the use of military force to ensure that it conforms with the limitations and conditions of statutory and constitional grants of authority.110 In the context of targeted killing, a federal court could evaluate the targeted killing program to determine whether it satisfies the constitutional standard for the use of defensive force by the Executive Branch. Targeted killing, by its very name, suggests an entirely premeditated and offensive form of military force.111 Moreover, the overview of the CIA’s targeted killing program revealed a rigorous process involving an enormous amount of advance research, planning, and approval.112 While the President has exclusive authority over determining whether a specific situation or individual presents an imminent threat to the nation, the judiciary has the authority to define “imminence” as a legal standard.113 These are general concepts of law, not political questions, and they are subject to judicial review.114

[Continues to Footnote]

114. Al-Aulaqi Response, supra note 2, at 24–25 (acknowledging its authority to define “imminence” yet declining to do so because it would require the court to determine “ex ante the permissible scope of particular tactical decisions”); Dehn & Heller, supra note 16, at 179 (referring to the government’s motion to dismiss on the basis that it “involv[es] an executive-branch decision to target an individual in the context of a congressionally authorized, armed conflict”); id. at 187 (noting Aulaqi’s request for the court to make a legal determination of the correct standard for the targeted killing of a U.S. citizen).

#### Broad interpretations cause unmanageable research burdens

Taylor 5

Taylor III, now a JD from William and Mary, 2005¶ (Jarred, “Searching for a More Perfect Union,” <https://docs.google.com/document/d/1ypiOXjRVPWzNxDsFVJ0S1n-QfIGtXzp7Y59meEwd-bE/edit?hl=en_US>)

**It would take even the most seasoned scholar years of research and hundreds of pages to** adequately **analyze** the development of **any presidential power** over the course of American history; **war power is** certainly **no exception**. Every President since George Washington has interpreted the martial prerogatives of his office in different ways, and most have set some sort of precedent for succeeding officeholders. Nevertheless, some of the major changes in executive military power bear highlighting.

#### Limits literally double the educational benefit of debate

Arrington 2009

(Rebecca, UVA Today, “Study Finds That Students Benefit From Depth, Rather Than Breadth, in High School Science Courses” March 4)

A recent study reports that high school students who study fewer science topics, but study them in greater depth, have an advantage in college science classes over their peers who study more topics and spend less time on each. Robert Tai, associate professor at the University of Virginia's Curry School of Education, worked with Marc S. Schwartz of the University of Texas at Arlington and Philip M. Sadler and Gerhard Sonnert of the Harvard-Smithsonian Center for Astrophysics to conduct the study and produce the report. "Depth Versus Breadth: How Content Coverage in High School Courses Relates to Later Success in College Science Coursework" relates the amount of content covered on a particular topic in high school classes with students' performance in college-level science classes. The study will appear in the July 2009 print edition of Science Education and is currently available as an online pre-print from the journal. "As a former high school teacher, I always worried about whether it was better to teach less in greater depth or more with no real depth. This study offers evidence that teaching fewer topics in greater depth is a better way to prepare students for success in college science," Tai said. "These results are based on the performance of thousands of college science students from across the United States." The 8,310 students in the study were enrolled in introductory biology, chemistry or physics in randomly selected four-year colleges and universities. Those who spent one month or more studying one major topic in-depth in high school earned higher grades in college science than their peers who studied more topics in the same period of time. The study revealed that students in courses that focused on mastering a particular topic were impacted twice as much as those in courses that touched on every major topic

#### 3) It’s arbitrary and undermines research

Resnick 1

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

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

## Schmitt K

**PERM IMPOSSIBLE - we must choose between universalization of values or recognition of enmity**

**Moreiras 04**

[Director of European Studies at Duke, Alberto, “A God without Sovereignty. Political Jouissance. The Passive Decision”, CR: The New Centennial Review 4.3, p. 79-80, Project MUSE]

The friend/enemy division is peculiar at the highest level, at the level of the order of the political. This peculiarity ultimately destroys the under- standing of the political as based on and circumscribed by the friend/enemy division. The idea of **an order of the political presupposes that the enemies of the order as such**—that is, the enemy configuration that can overthrow a given order, or even the very idea of an order of the political—**are generated from the inside**: enemies of the order are not properly external enemies. This is so **because the order of the political**, as a principle of division, as division itself, **always already** regulates, and thus **subsumes, its** externality: **externality is produced by the order** as such, and it is a function of the order. Or rather: a principle of division can have no externality. Beyond the order, there can be enemies, if attacked, but they are not necessarily enemies of the order: they are simply ignorant of it. At the highest level of the political, at the highest level of the friend/ enemy division, there where the very existence of a given order of the political is at stake, the order itself secretes its own enmity. Enmity does not precede the order: it is in every case produced by the order. **The friend/enemy division is** therefore a division that is **subordinate to the primary ordering division**, produced from itself. The friend/enemy division is therefore not supreme: **a nomic antithesis generates it**, **and** thus **stands above** it. The order of the political rules over politics. **The political ontology implied in** the notion of **an order of the political deconstructs the political ontology** ciphered **in the friend/enemy division**, and vice versa. **They are mutually incompatible. Either the friend/enemy division is supreme**, for a determination of the political, **or the order of the political is** supreme**. Both** of them **cannot simultaneously be supreme. The gap between them is** strictly **untheorizable.** If the friend/enemy division obtains independently of all the other antitheses as politically primary, then there is no order of the political. If there is an order of the political, the order produces its own political divisions.

#### Drones are inevitable

Henning, 2-20-12

[Job, NYT, Embracing the Drone, http://www.nytimes.com/2012/02/21/opinion/embracing-the-drone.html?pagewanted=all&\_r=0] /Wyo-MB

Drones — more formally armed Unmanned Aerial Vehicles, or UAVs — are “in.” Since a Predator strike in Yemen against Al Qaeda in November 2002 — the first known use of a drone attack outside a theater of war — the United States has made extensive use of drones. There were nearly four times as many drone strikes in Pakistan during the first two years of the Obama administration as there were during the entire Bush administration.¶ The United States is now conducting drone strikes in Somalia as well, and their use is expected to dramatically increase in Afghanistan over the next five years as NATO troops withdraw from there.¶ Armed drones are both inevitable, since they allow the fusing of a reconnaissance platform with a weapons system, and, in many respects, highly desirable. They can loiter, observe and strike, with a far more precise application of force. They eliminate risk to pilots and sharply reduce the financial costs of projecting power. Moreover, polls show that a vast majority of Americans support the use of drones.¶

**Universalism effaces the us/them distinction to form a unified whole – it causes global psychosis, resulting in genocidal war and lashout**

**Reinhard 2k4**

[Kenneth, Professor of Jewish Studies at UCLA, 2004, “Towards a Political Theology- Of the Neighbor,” online: <http://www.cjs.ucla.edu/Mellon/Towards_Political_Theology.pdf>]

If the concept of the political is defined, as Carl Schmitt does, in terms of the Enemy/Friend opposition, the world we find ourselves in today is one from which the political may have already disappeared, or at least has mutated into some strange new shape. **A world not anchored by the “us” and “them” binarisms that flourished as recently as the Cold War is one subject to radical instability**, both subjectively and politically, as Jacques Derrida points out in The Politics of Friendship: The effects of this destruction would be countless: **the ‘subject’ in question would be looking for new reconstitutive enmities; it would multiply ‘little wars’** between nation states; it would **sustain** at any price so-called ethnic or **genocidal struggles; it would seek** to pose itself, to find repose, through opposing still identifiable adversaries – China, Islam? **Enemies without which … it would lose its political being** … without an enemy, and therefore without friends, where does one then find oneself, qua a self? (PF 77) If one accepts Schmitt’s account of the political, **the disappearance of the enemy results in something like global psychosis:** since the mirroring relationship between **Us and Them provides a form of stability, albeit one based on projective identifications and repudiations, the loss of the enemy** threatens to destroy what Lacan calls the “imaginary tripod” that props up the psychotic with a sort of pseudo-subjectivity, until something **causes it to collapse, resulting in full-blown delusions, hallucinations, and paranoia.** Hence, for Schmitt, **a world without enemies is much more dangerous than** one where **one** is **surrounded by enemies**; as Derrida writes, **the disappearance of the enemy opens the door for “an unheard-of violence**, the **evil** of a malice **knowing neither measure nor ground, an unleashing incommensurable in its unprecedented** – therefore monstrous –forms; a **violence in the face of which** what is called hostility, **war**, conflict, enmity, cruelty, even hatred, **would regain reassuring and ultimately appeasing contours, because they would be identifiable**” (PF 83).