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#### Immigration reform will pass --- top priority and political capital is key

Matthews, 10/16 (Laura, 10/16/2013, “2013 Immigration Reform Bill: 'I'm Going To Push To Call A Vote,' Says Obama,” [http://www.ibtimes.com/2013-immigration-reform-bill-im-going-push-call-vote-says-obama-1429220)](http://www.ibtimes.com/2013-immigration-reform-bill-im-going-push-call-vote-says-obama-1429220%29))

When Congress finally passes a bipartisan bill that kicks the fiscal battles over to early next year, the spotlight could return to comprehensive immigration reform before 2013 ends. At least that’s the hope of President Barack Obama and his fellow Chicagoan Rep. Luis Gutierrez, D-Ill., chairman of the Immigration Task Force of the Congressional Hispanic Caucus and one of the most vocal advocates for immigration reform in the House of Representatives. “When we emerge from this crazy partisan eruption from the Republicans, there will be a huge incentive for sensible Republicans who want to repair some of the damage they have done to themselves,” Gutierrez said in a statement. “Immigration reform remains the one issue popular with both Democratic and Republican voters on which the two parties can work together to deliver real, substantive solutions in the Congress this year.” Reforming the status quo has consistently been favored by a majority of Americans. Earlier this year, at least two-thirds of Americans supported several major steps to make the system work better, according to a Gallup poll. Those steps include implementing an E-verify system for employers to check electronically the immigration status of would-be employees (85 percent), a path to citizenship for undocumented immigrants, (72 percent), an entry-exit check system to make sure people who enter the country then leave it (71 percent), more high-skilled visas (71 percent) and increased border security (68 percent). The Senate passed its version of a 2013 immigration reform bill in June that includes, but is not limited to, a pathway to citizenship for immigrants without documentation and doubling security on the southern border. But that measure has stalled in the House, where Republicans are adamant they will take a piecemeal approach. The momentum that lawmakers showed for reform has been sapped by the stalemate that that has shut down the government for 16 days and brought the U.S. to the brink of default. The Senate has agreed on Wednesday to a bipartisan solution to break the gridlock. When the shutdown and default threat is resolved (for a time), that’s when Obama will renew his push to get Congress to move on immigration reform. On Tuesday the president said reform will become his top priority.“Once that’s done, you know, the day after, I’m going to be pushing to say, call a vote on immigration reform,” Obama told Univision affiliate KMEX-TV in Los Angeles. “And if I have to join with other advocates and continue to speak out on that, and keep pushing, I’m going to do so because I think it’s really important for the country. And now is the time to do it.” The president pointed the finger at House Speaker John Boehner, R-Ohio, for not allowing the bill to be brought to the floor for a vote. Boehner had promised that the Senate’s bill would not be voted on unless a majority of the majority in the House supports it -- the same principle he was holding out for on the government shutdown before he gave in. “We had a very strong Democratic and Republican vote in the Senate,” Obama said. “The only thing right now that’s holding it back is, again, Speaker Boehner not willing to call the bill on the floor of the House of Representatives. So we’re going to have to get through this crisis that was unnecessary, that was created because of the obsession of a small faction of the Republican Party on the Affordable Care Act.” Republicans are opposing the Democratic view of immigration reform because of its inclusion of a 13-year path to citizenship for undocumented immigrants. They said this amounted to “amnesty.” Some Republicans prefer to give them legal resident status instead. Immigration advocates have also been urging Obama to use his executive authority to halt the more than 1,000 deportations taking place daily. Like the activists, Gutierrez said the government shutdown didn’t do anything to slow the number of daily deportations. Some Republicans who welcomed Sen. Ted Cruz’s filibuster over Obamacare because it shifted the focus from immigration. “If Ted [didn’t] spin the filibuster, if we don’t make this the focus, we had already heard what was coming,” Rep. Louie Gohmert, R-Texas, told Fox News on Tuesday. “As soon as we got beyond this summer, we were going to have an amnesty bill come to the floor. That’s what we would have been talking about. And that’s where the pivot would have been if we had not focused America on Obamacare.” Still, pro-immigration advocates are hopeful they can attain their goal soon. “With more prodding from the president and the American people,” Gutierrez said, “we can get immigration reform legislation passed in the House and signed into law.”

**Congressional drone proposals causes massive fights.**

**Munoz 13**

(Carlo Munoz, National Security writer, “Turf battle builds quietly in Congress over control of armed drone program”, The Hill, 4/9/13, http://thehill.com/homenews/administration/292501-turf-battle-builds-quietly-over-control-of-armed-drone-program)

**A turf war is quietly building between congressional** defense and intelligence **committees over who will oversee the Obama administration’s controversial armed drone program**. ¶ **Lawmakers are scrambling to make their case for or against a White House proposal that would hand control of the drones to the Pentagon**. ¶ Gordon **Adams, a senior defense analyst at the Stimson Center, called the looming battle a “turf fight in the [disguise] of a policy debate**.”¶ The Pentagon and CIA operate their own armed drone programs, which are both geared toward eliminating senior al Qaeda leaders and other high-level terror targets around the world. Under the Obama administration’s proposal, the CIA would continue to supply intelligence on possible targets, but actual control over the drone strikes would fall to the Pentagon. ¶ Senate Intelligence Committee Chairwoman Dianne Feinstein (D-Calif.) publicly questioned whether the Defense Department (DOD) would be able to shoulder the program alone. ¶ “We’ve watched the intelligence aspect of the drone program, how they function, the quality of the intelligence, watching the agency exercise patience and discretion,” Feinstein told reporters in March. “The military [armed drone] program has not done that nearly as well.” ¶ Sen. John McCain and other defense lawmakers say the drone program would be better off being run by the Pentagon. ¶ “It’s not the job of the Central Intelligence Agency. ... It’s the military’s job,” the Arizona Republican said in March. ¶ **The fight is a typical battle over who on Capitol Hill will retain power over the program**, according to several analysts, who described it as predictable. ¶ “**There is always going to be a turf battle” when dealing with congressional oversight, said Lawrence Korb, a former DOD official and defense analyst** at the liberal-leaning Center for American Progress. ¶ But **that battle could become particularly heated, given the high-profile nature of the drone program, which since the Sept. 11, 2001, attacks has become a huge factor in shaping counterterrorism policy**, given its success, Korb said. ¶ **For congressional panels, the fight over who will control the drone program will have a say in the relevancy of the two committees.** ¶ Korb, for example, noted that national security spending on unmanned aircraft and special operations forces will likely increase, even as the budget for defense spending overall is expected to trend downward. ¶ Ironically, Pentagon officials pushed back against using armed drones in the late 1990s, fearing they would replace fighter jets as the weapon of choice in future wars, Korb said. ¶ That decision essentially handed control of the armed drone program to the CIA, he said. Early versions of the unmanned aircraft flown during the 2001 invasion of Afghanistan belonged to the agency, not the Defense Department, according to Korb. ¶ **Taking that influence away from** Langley and intelligence **lawmakers was bound to spark a fight**, he said.

#### Reform key to the economy – immigrants are key to several critical sectors

West, ‘09 – Director of Governance Studies at the Brookings Institution (7/22/09, Darrell M., “The Path to a New Immigration Reform,” http://www.brookings.edu/opinions/2009/0721\_immigration\_reform\_west.aspx)

Skeptics need to understand how important a new immigration policy is to American competitiveness and long-term economic development. High-skill businesses require a sufficient number of scientists and engineers. Many industries such as construction, landscaping, health care and hospitality services are reliant on immigrant labor. Farmers need seasonal workers for agricultural productivity. Critics who worry about resource drains must understand that immigrants spend money on goods and services, pay taxes and perform jobs and start businesses vital to our economy. Beyond the economy, immigration reform prospects improve considerably across a fresh political landscape that features a popular Democratic president armed with substantial Democratic majorities in the House and Senate, many who appear receptive to comprehensive reform. Obama has called repeatedly for big ideas and bold policy actions. The country needs new policies that emphasize the importance of immigrant workers \_ across the skills spectrum \_ to our country's long-term financial future. Our universities invest millions in training foreign students but then send them home without any U.S. job opportunities that would take advantage of their new skills. And investing in the children of middle- and lower-skilled immigrants is wise as we recognize their majority role in our workforce as the next generation rises.

#### Extinction

Harris and Burrows, ‘09 [Mathew, PhD European History at Cambridge, counselor in the National Intelligence Council (NIC) and Jennifer, member of the NIC’s Long Range Analysis Unit “Revisiting the Future: Geopolitical Effects of the Financial Crisis” <http://www.ciaonet.org/journals/twq/v32i2/f_0016178_13952.pdf>]

Increased Potential for Global Conflict Of course, the report encompasses more than economics and indeed believes the future is likely to be the result of a number of intersecting and interlocking forces. With so many possible permutations of outcomes, each with ample Revisiting the Future opportunity for unintended consequences, there is a growing sense of insecurity. Even so, history may be more instructive than ever. While we continue to believe that the Great Depression is not likely to be repeated, the lessons to be drawn from that period include the harmful effects on fledgling democracies and multiethnic societies (think Central Europe in 1920s and 1930s) and on the sustainability of multilateral institutions (think League of Nations in the same period). There is no reason to think that this would not be true in the twenty-first as much as in the twentieth century. For that reason, the ways in which the potential for greater conflict could grow would seem to be even more apt in a constantly volatile economic environment as they would be if change would be steadier. In surveying those risks, the report stressed the likelihood that terrorism and nonproliferation will remain priorities even as resource issues move up on the international agenda. Terrorism’s appeal will decline if economic growth continues in the Middle East and youth unemployment is reduced. For those terrorist groups that remain active in 2025, however, the diffusion of technologies and scientific knowledge will place some of the world’s most dangerous capabilities within their reach. Terrorist groups in 2025 will likely be a combination of descendants of long established groups\_inheriting organizational structures, command and control processes, and training procedures necessary to conduct sophisticated attacks\_and newly emergent collections of the angry and disenfranchised that become self-radicalized, particularly in the absence of economic outlets that would become narrower in an economic downturn. The most dangerous casualty of any economically-induced drawdown of U.S. military presence would almost certainly be the Middle East. Although Iran’s acquisition of nuclear weapons is not inevitable, worries about a nuclear-armed Iran could lead states in the region to develop new security arrangements with external powers, acquire additional weapons, and consider pursuing their own nuclear ambitions. It is not clear that the type of stable deterrent relationship that existed between the great powers for most of the Cold War would emerge naturally in the Middle East with a nuclear Iran. Episodes of low intensity conflict and terrorism taking place under a nuclear umbrella could lead to an unintended escalation and broader conflict if clear red lines between those states involved are not well established. The close proximity of potential nuclear rivals combined with underdeveloped surveillance capabilities and mobile dual-capable Iranian missile systems also will produce inherent difficulties in achieving reliable indications and warning of an impending nuclear attack. The lack of strategic depth in neighboring states like Israel, short warning and missile flight times, and uncertainty of Iranian intentions may place more focus on preemption rather than defense, potentially leading to escalating crises. 36 Types of conflict that the world continues to experience, such as over resources, could reemerge, particularly if protectionism grows and there is a resort to neo-mercantilist practices. Perceptions of renewed energy scarcity will drive countries to take actions to assure their future access to energy supplies. In the worst case, this could result in interstate conflicts if government leaders deem assured access to energy resources, for example, to be essential for maintaining domestic stability and the survival of their regime. Even actions short of war, however, will have important geopolitical implications. Maritime security concerns are providing a rationale for naval buildups and modernization efforts, such as China’s and India’s development of blue water naval capabilities. If the fiscal stimulus focus for these countries indeed turns inward, one of the most obvious funding targets may be military. Buildup of regional naval capabilities could lead to increased tensions, rivalries, and counterbalancing moves, but it also will create opportunities for multinational cooperation in protecting critical sea lanes. With water also becoming scarcer in Asia and the Middle East, cooperation to manage changing water resources is likely to be increasingly difficult both within and between states in a more dog-eat-dog world.

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#### The United States federal judiciary should rule that all people in military detention must be tried in civilian courts. The United States federal judiciary should restrict the President's war making authority by limiting targeted killing and detention without charge within zones of active hostilities to declared territories and in addition, limit targeted killing and detention without charge outside zones of active hostilities to reviewable operations guided by an individualized threat requirement, a least-harmful-means test, and a feasibility test for criminal prosecution, procedural safeguards.

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#### asking how the executive should be allowed to conduct war masks the fundamental question of whether war should be allowed at all – ensures a military mentality

Cady 10 (Duane L., prof of phil @ hamline university, From Warism to Pacifism: A Moral Continuum, pp. 22-23)

The widespread, unquestioning acceptance of warism and the corresponding reluctance to consider pacifism as a legitimate option make it difficult to propose a genuine consideration of pacifist alternatives. Warism may be held implicitly or explicitly. Held in its implicit form, it does not occur to the warist to challenge the view that war is morally justified; war is taken to be natural and normal. No other way of understanding large-scale human conflict even comes to mind. In this sense warism is like racism, sexism, and homophobia: a prejudicial bias built into conceptions and judgments without the awareness of those assuming it. In its explicit form, warism is openly accepted, articulated, and deliberately chosen as a value judgment on nations in conflict. War may be defended as essential for justice, needed for national security, as “the only thing the enemy understands,” and so on. In both forms warism misguides judgments and institutions by reinforcing the necessity and inevitability of war and precluding alternatives. Whether held implicitly or explicitly, warism obstructs questioning the conceptual framework of the culture. If we assume (without realizing it) that war itself is morally justifiable, our moral considerations of war will be focused on whether a particular war is justified or whether particular acts within a given war are morally acceptable. These are important concerns, but addressing them does not get at the fundamental issue raised by the pacifist: the morality of war as such. In Just and Unjust Wars Michael Walzer explains that “war is always judged twice, first with reference to the reasons states have for fighting, secondly with reference to the means they adopt.”8 The pacifist suggestion is that there is a third judgment of war that must be made prior to the other two: might war, by its very nature, be morally wrong? This issue is considered by Walzer only as an afterthought in an appendix, where it is dismissed as naïve. Perhaps Walzer should not be faulted for this omission, since he defines his task as describing the conventional morality of war and, as has been argued above, conventional morality does take warism for granted. To this extent Walzer is correct. And this is just the point: our warist conceptual frameworks— our warist normative lenses— blind us to the root question. The concern of pacifists is to expose the hidden warist bias and not merely describe cultural values. Pacifists seek to examine cultural values and recommend what they ought to be. This is why the pacifist insists on judging war in itself, a judgment more fundamental than the more limited assessments of the morality of a given war or the morality of specific acts within a particular war.

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

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

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

#### The alternative must begin in our minds – we need to free ourselves of the presumption towards war and advocate for peace and social justice to stop the flow of militarism that threatens existence

Demenchonok 9 – Worked as a senior researcher at the Institute of Philosophy of the Russian Academy of Sciences, Moscow, and is currently a Professor of Foreign Languages and Philosophy at Fort Valley State University in Georgia, listed in 2000 Outstanding Scholars of the 21st Century and is a recipient of the Twenty-First Century Award for Achievement in Philosophy from the International Biographical Centre --Edward, Philosophy After Hiroshima: From Power Politics to the Ethics of Nonviolence and Co-Responsibility, February, American Journal of Economics and Sociology, Volume 68, Issue 1, Pages 9-49

Where, then, does the future lie? Unilateralism, hegemonic political anarchy, mass immiseration, ecocide, and global violence—a Hobbesian bellum omnium contra omnes? Or international cooperation, social justice, and genuine collective—political and human—security? Down which path lies cowering, fragile hope?¶ Humanistic thinkers approach these problems from the perspective of their concern about the situation of individuals and the long-range interests of humanity. They examine in depth the root causes of these problems, warning about the consequences of escalation and, at the same time, indicating the prospect of their possible solutions through nonviolent means and a growing global consciousness. Today's world is in desperate need of realistic alternatives to violent conflict. Nonviolent action—properly planned and executed—is a powerful and effective force for political and social change. The ideas of peace and nonviolence, as expressed by Immanuel Kant, Leo Tolstoy, Mahatma Gandhi, Martin Luther King, and many contemporary philosophers—supported by peace and civil rights movements—counter the paralyzing fear with hope and offer a realistic alternative: a rational approach to the solutions to the problems, encouraging people to be the masters of their own destiny.¶ Fortunately, the memory of the tragedies of war and the growing realization of this new existential situation of humanity has awakened the global conscience and generated protest movements demanding necessary changes. During the four decades of the Cold War, which polarized the world, power politics was challenged by the common perspective of humanity, of the supreme value of human life, and the ethics of peace. Thus, in Europe, which suffered from both world wars and totalitarianism, spiritual-intellectual efforts to find solutions to these problems generated ideas of "new thinking," aiming for peace, freedom, and democracy. Today, philosophers, intellectuals, progressive political leaders, and peace-movement activists continue to promote a peaceful alternative. In the asymmetry of power, despite being frustrated by war-prone politics, peaceful projects emerge each time, like a phoenix arising from the ashes, as the only viable alternative for the survival of humanity. The new thinking in philosophy affirms the supreme value of human and nonhuman life, freedom, justice, and the future of human civilization. It asserts that the transcendental task of the survival of humankind and the rest of the biotic community must have an unquestionable primacy in comparison to particular interests of nations, social classes, and so forth. In applying these principles to the nuclear age, it considers a just and lasting peace as a categorical imperative for the survival of humankind, and thus proposes a world free from nuclear weapons and from war and organized violence.44 In tune with the Charter of the United Nations, it calls for the democratization of international relations and for dialogue and cooperation in order to secure peace, human rights, and solutions to global problems. It further calls for the transition toward a cosmopolitan order.¶ The escalating global problems are symptoms of what might be termed a contemporary civilizational disease, developed over the course of centuries, in which techno-economic progress is achieved at the cost of depersonalization and dehumanization. Therefore, the possibility of an effective "treatment" today depends on whether or not humankind will be able to regain its humanity, thus establishing new relations of the individual with himself or herself, with others, and with nature. Hence the need for a new philosophy of humanity and an ethics of nonviolence and planetary co-responsibility to help us make sense not only of our past historical events, but also of the extent, quality, and urgency of our present choices.

#### Framing issue – the way we discuss and represent war should come first – the language surrounding violence has direct, concrete effects

**Collins & Glover 2** (John, Assistant Prof. of Global Studies at St. Lawrence University, Ross, Visiting Professor of Sociology at St. Lawrence University, Collateral Language, p. 6-7)

As any university student knows, theories about the “social con­struction” and social effects of language have become a common feature of academic scholarship. Conservative critics often argue that those who use these theories of language (e.g., deconstruc­tion) are “just” talking about language, as opposed to talking about the “real world.” The essays in this book, by contrast, begin from the premise that language matters in the most concrete, im­mediate way possible: its use, by political and military leaders, leads directly to violence in the form of war, mass murder (in­cluding genocide), the physical destruction of human commu­nities, and the devastation of the natural environment. Indeed, if the world ever witnesses a nuclear holocaust, it will probably be because leaders in more than one country have succeeded in convincing their people, through the use of political language, that the use of nuclear weapons and, if necessary, the destruction of the earth itself, is justifiable. From our perspective, then, every act of political violence—from the horrors perpetrated against Native Americans to the murder of political dissidents in the So­viet Union to the destruction of the World Trade Center, and now the bombing of Afghanistan—is intimately linked with the use of language. Partly what we are talking about here, of course, are the processes of “manufacturing consent” and shaping people’s per­ception of the world around them; people are more likely to sup­port acts of violence committed in their name if the recipients of the violence have been defined as “terrorists,” or if the violence is presented as a defense of “freedom.” Media analysts such as Noam Chomsky have written eloquently about the corrosive ef­fects that this kind of process has on the political culture of sup­posedly democratic societies. At the risk of stating the obvious, however, the most fundamental effects of violence are those that are visited upon the objects of violence; the language that shapes public opinion is the same language that burns villages, besieges entire populations, kills and maims human bodies, and leaves the ground scarred with bomb craters and littered with land mines. As George Orwell so famously illustrated in his work, acts of vio­lence can easily be made more palatable through the use of eu­phemisms such as “pacification” or, to use an example discussed in this book, “targets.” It is important to point out, however, that the need for such language derives from the simple fact that the violence itself is abhorrent. Were it not for the abstract language of “vital interests” and “surgical strikes” and the flattering lan­guage of “civilization” and ‘just” wars, we would be less likely to avert our mental gaze from the physical effects of violence.

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

#### Using the word “detention” is unethical and turns solvency—“imprisonment” is more accurate—hold the 1ac accountable

Sullivan, 4/12 editor of The New York Times

(Margaret Sullivan, 12 April 2013, “‘Targeted Killing,’ ‘Detainee’ and ‘Torture’: Why Language Choice Matters,” http://publiceditor.blogs.nytimes.com/2013/04/12/targeted-killing-detainee-and-torture-why-language-choice-matters/?\_r=0)//CC

If it’s torture, why call it a “harsh interrogation technique”? If it’s premeditated assassination, why call it a “targeted killing”? And if a suspected terrorist has been locked up at Guantánamo Bay for more than a decade, why call him a “detainee”? Many of the complaints I get in the public editor’s in-box are about phrases that The Times uses. These writers complain that **language** choices make a **huge difference in perception**, **especially** when they accept and adopt government-speak. One reader, Donald Mintz, a professor emeritus at Montclair State University, objects to the unquestioning use of “defense” as in “defense budget,” and prefers “military.” He wrote: “Outside of direct or indirect quotation the term ‘defense’ should be used sparingly and with the greatest caution. Who, after all, could be against ‘defense’? But at least some of us are against excessive militarism.” Another reader, Roscoe Gort, commented on an article this week, “Targeted Killing Comes to Define War on Terror.” “Since 9/11 The New York Times has shown a great willingness to adopt the Newspeak (‘War Is Peace’) terminology from successive administrations in Washington,” he wrote. “War on terror” was just one example, he said, and wanted to know how The Times decides what terms to use. And, he wondered, “Do reporters like Scott Shane really write this way, or does some editor automatically change all the occurrences of “murder” or “assassination” in the stories they file into “targeted killing”? And Gene Krzyzynski, a veteran copy editor at The Buffalo News and a longtime New York Times reader, objected to the continued use of the term “detainee” to describe suspected terrorists who are being held indefinitely at the United States naval base at Guantánamo Bay, calling it “**accepting political spin** at face value.” Mr. Krzyzynski wrote: **To “detain” connotes brevity**, as in, say, a traveler detained at a border or an airport for further Immigration, Customs, T.S.A. or similar questioning-searching-processing. I’d go as far as to call it **language abuse** in the context of Gitmo, especially for anyone who has a healthy respect for plain, clear English or who remembers “detention” in high school. “**Prisoner**” and its variants **would be accurate**, of course, given the unusually long time behind bars or in cages (historically unprecedented, actually, for any P.O.W.’s, if one accepts that we’re in a “war,” albeit undeclared by Congress). Seven years ago, the Pulitzer Prize-winning cartoonist Steve Breen of The San Diego Union-Tribune came up with what’s probably the most precise term of all: “infinitee.” I asked Mr. Shane, a national security reporter in the Washington bureau, and Philip B. Corbett, the associate managing editor for standards, to respond to some of these issues. Mr. Shane addressed Mr. Gort’s question on “targeted killings,” noting that editors and reporters have discussed it repeatedly. He wrote: “Assassination” is banned by executive order, but for decades that has been interpreted by successive administrations as prohibiting the killing of political figures, not suspected terrorists. Certainly most of those killed are not political figures, though arguably some might be. Were we to use “assassination” routinely about drone shots, it would suggest that the administration is deliberately violating the executive order, which is not the case. This administration, like others, just doesn’t think the executive order applies. (The same issue arose when Ronald Reagan bombed Libya, and Bill Clinton fired cruise missiles at Sudan and Afghanistan.) “Murder,” of course, is a specific crime described in United States law with a bunch of elements, including illegality, so it would certainly not be straight news reporting to say President Obama was “murdering” people. This leaves “targeted killing,” which I think is far from a euphemism. It denotes exactly what’s happening: American drone operators aim at people on the ground and fire missiles at them. I think it’s a pretty good term for what’s happening, if a bit clinical. Mr. Shane added that he had only one serious qualm about the term. That, he said, was expressed by an administration official: “It’s not the targeted killings I object to — it’s the untargeted killings.” The official “was talking about so-called ‘signature strikes’ that target suspected militants based on their appearance, location, weapons and so on, not their identities, which are unknown; and also about mistaken strikes that kill civilians.” On the matter of “detainee,” Mr. Corbett called it “a legitimate concern” and agreed that the term might not be ideal. He said that it, not prisoner, was used because those being held “are in such an unusual situation – they are not serving a prison term, they are in an unusual status of limbo.” The debate over the word “torture,” he said, has similar implications to the one Mr. Shane described with assassination. “The word torture, aside from its common sense meaning, has specific legal meaning and ramifications,” Mr. Corbett said. “Part of the debate is on that very point.” The Times wants to “avoid making a legal judgment in the middle of a debate,” he added. Mr. Corbett also said that readers might have the wrong idea about The Times’s practices on word use. “People have this image that we set out a list of terms that must be used and those that must not be used — that there is a committee or cabal that sends out an edict,” he said. That’s far from true, he said. “In a vast majority of cases, we rely on our reporters to use their judgment,” he said. “Only rarely do we make a firm style rule.” Although individual words and phrases may not amount to very much in the great flow produced each day, **language matters**. When news organizations accept the government’s way of speaking, they seem to **accept the government’s way of thinking**. In The Times, these decisions carry even more weight. Word choices like these **deserve thoughtful consideration** – and, at times, some institutional **soul-searching**.

#### 1ac use of term “targeted killing” is military codespeak used to justify mass murder – this euphemistic doubletalk that causes further violence

Small 12

(Roundtable on Targeted Killing: Lawyering and Targeted Killing, http://www.jadaliyya.com/pages/index/4567/roundtable-on-targeted-killing\_lawyering-and-targe)

The practice now commonly termed “targeted killing” was, before the turn of the twenty-first century, referred to as “assassination.” Both terms refer to the lethal use of force in a surprise attack against an enemy or foe, whether by a sniper, a surgical-precision drone strike, or a magnetic bomb placed on a vehicle. There are, however, important legal and rhetorical differences between the two terms: Assassination is certainly illegal, whereas targeted killing, at least according to the Israeli High Court of Justice (HCJ), is neither legal nor illegal per se; the legality depends on the circumstances in which it is deployed. Assassination is part of our cultural landscape, the subject of countless fiction and non-fiction books, films, and documentaries. While some might take a certain pleasure in the fantasy of James Bond's “licence to kill,” in reality the transgressive and deathly nature of assassination is less spectacularly heroic, and far more gruesome. Because assassination is a form of extra-judicial execution, no state ever had admitted to conducting such a policy because it flies in the face of an individual’s right to life, and the right to due process. To admit to an assassination policy would be to disregard the separation of powers that lies at the heart of democracy; the state would be playing the role of judge and executioner. It came, therefore, as a great surprise to the international community when, in late 2000, Israel announced that it was (and had been for some time) “liquidating” enemy Palestinians. Twelve years later, it is still difficult to assess exactly why Israel chose that moment to acknowledge the policy, especially when such killings had been denied for so long. Speaking on behalf of the Israeli government just days after the initial announcement, Daniel Reisner, former head of the International Law Branch of the Israeli Defence Force (IDF), claimed that the second intifada was responsible. The intifada brought about a shift in Israeli rules of engagement which subsequently led to the declaration of the overt policy of targeted killing. “Prior to the second Intifada,” Reisner told the press, “Israeli soldiers were actually told to wait until they were fired upon, before responding.” But the change in “circumstances” had necessitated that “Israeli soldiers no longer are required to wait until they are actually shot at before they respond.” The second intifada was a game-changer, according to former Israeli Deputy Defense Minister Ephraim Sneh: “For sure, it is a signal. If the game is a guerrilla war, we are the champions of the world,” he told Associated Press. But perhaps more important than the announcement of the targeted killing policy was the fact that behind the scenes its architects had prepared what they regarded to be a compelling defense and justification. Israeli officials felt confident enough that targeted killings were so imperative to the nation’s security that they were, in fact, legal and legitimate. Because assassination is illegal, the crucial concern for Israel was to find a way to eliminate enemies without appearing to contravene the law. “Extra-judicial” killing had to be brought within the pale of law. This was no small task and involved nothing less than the “legalization” of assassination. Israel's ingenuity was both legalistic and rhetorical, and it is here that we witness the crucial difference between the terms “assassination” and “targeted killing.” A veritable legal and political armature underscored the move toward an overt assassination program. The CIA realized the essence of the problem as early as 1954, which is why it has always (notwithstanding some recent exceptions vis-a-vis the not-so-secret drone missions in Pakistan, Yemen and elsewhere) opted to keep covert missions covert. The training manual, A Study of Assassination, distributed to agents and operatives at the time of the agency's 1954 coup in Guatemala, noted that “No assassination instructions should ever be written or recorded,” adding, “Assassination can seldom be employed with a clear conscience. Persons who are morally squeamish should not attempt it.” The problem was that assassination was an unsavoury affair, particularly unpalatable for morally squeamish publics as well. For that reason, the practice was difficult to justify. The first thing that Israeli government lawyers had to do, therefore, was to change the language and terminology. How can assassination be made to sound legal and morally defensible? Israel immediately stopped using the word “assassination,” and dropped all terms which carry a negative and illegal connotation. In 2001, one year into the officially declared policy, Attorney General Elyakim Rubinstein pointed out that the term “liquidation” damages Israel's image and proposed that it was better to use the phrase “targeted killing” to describe the policy. Thus, a new, more neutral, less offensive term was coined. The change in terminology is immensely significant because it changes the act of killing from one that is always-already illegal to one that is, if not persuasively, then at least plausibly, legal and permissible.

### 1NC Solvency

#### Executive will circumvent the plan --- has institutional incentives and public support to expand its powers

Barron & Lederman, 8 --- \*Professor of Law at Harvard, AND \*\* Visiting Professor of Law at Georgetown

(February 2008, David J. Barron and Martin S. Lederman, Harvard Law Review, “THE COMMANDER IN CHIEF AT THE LOWEST EBB -- A CONSTITUTIONAL HISTORY,” 121 Harv. L. Rev. 941)

VII. Conclusion

Powers once claimed by the Executive are not easily relinquished. One sees from our narrative how, in a very real sense, the constitutional law of presidential power is often made through accretion. A current administration eagerly seizes upon the loose claims of its predecessors, and applies them in ways perhaps never intended or at least not foreseen or contemplated at the time they were first uttered. The unreflective notion that the "conduct of campaigns" is for the President alone to determine has slowly insinuated itself into the consciousness of the political departments (and, at times, into public debate), and has gradually been invoked in order to question all manner [\*1112] of regulations, from requirements to purchase airplanes, to limitations on deployments in advance of the outbreak of hostilities, to criminal prohibitions against the use of torture and cruel treatment. In this regard, the claims of the current Administration represent as clear an example of living constitutionalism in practice as one is likely to encounter. There is a radical disjuncture between the approach to constitutional war powers the current President has asserted and the one that prevailed at the moment of ratification and for much of our history that followed.

But that dramatic deviation did not come from nowhere. Rarely does our constitutional framework admit of such sudden creations. Instead, the new claims have drawn upon those elements in prior presidential practice most favorable to them. That does not mean our constitutional tradition is foreordained to develop so as to embrace unchecked executive authority over the conduct of military campaigns. At the same time, it would be wrong to assume, as some have suggested, that the emergence of such claims will be necessarily self-defeating, inevitably inspiring a popular and legislative reaction that will leave the presidency especially weakened. In light of the unique public fears that terrorism engenders, the more substantial concern is an opposite one. It is entirely possible that the emergence of these claims of preclusive power will subtly but increasingly influence future Executives to eschew the harder work of accepting legislative constraints as legitimate and actively working to make them tolerable by building public support for modifications. The temptation to argue that the President has an obligation to protect the prerogatives of the office asserted by his or her predecessors will be great. Congress's capacity to effectively check such defiance will be comparatively weak. After all, the President can veto any effort to legislatively respond to defiant actions, and impeachment is neither an easy nor an attractive remedy.

The prior practice we describe, therefore, could over time become a faint memory, recalled only for the proposition that it is anachronistic, unsuited for what are thought to be the unique perils of the contemporary world. Were this to happen it would represent an unfortunate development in the constitutional law of war powers. Thus, it is incumbent upon legislators to challenge efforts to bring about such a change. Moreover, executive branch actors, particularly those attorneys helping to assure that the President takes care the law is faithfully executed, should not abandon two hundred years of historical practice too hastily. At the very least, they should resist the urge to continue to press the new and troubling claim that the President is entitled to unfettered discretion in the conduct of war.

#### Restricting war powers authority causes the executive shift to self-defense justification --- guts the plan’s signal and causes global instability

Barnes, 12 --- J.D. at Boston University and M.A. in Law and Diplomacy at The Fletcher School of Law and Diplomacy at Tufts University (Spring 2012, Beau D., Military Law Review, “REAUTHORIZING THE “WAR ON TERROR”: THE LEGAL AND POLICY IMPLICATIONS OF THE AUMF’S COMING OBSOLESCENCE,” 211 Mil. L. Rev. 57)

2. Effect on the International Law of Self-Defense

A failure to reauthorize military force would lead to significant negative consequences on the international level as well. Denying the Executive Branch the authority to carry out military operations in the armed conflict against Al Qaeda would force the President to find authorization elsewhere, most likely in the international law of self-defense--the jus ad bellum. n142 Finding sufficient legal authority for the United States's ongoing counterterrorism operations in the international law of self-defense, however, is problematic for several reasons. As a preliminary matter, relying on this rationale usurps Congress's role in regulating the contours of U.S. foreign and national security policy. If the Executive Branch can assert "self-defense against a continuing threat" to target and detain terrorists worldwide, it will almost always be able to find such a threat. n143 Indeed, the Obama Administration's broad understanding of the concept of "imminence" illustrates the danger of allowing the executive to rely on a self-defense authorization alone. n144 [\*94] This approach also would inevitably lead to dangerous "slippery slopes." Once the President authorizes a targeted killing of an individual who does not pose an imminent threat in the strict law enforcement sense of "imminence," n145 there are few potential targets that would be off-limits to the Executive Branch. Overly malleable concepts are not the proper bases for the consistent use of military force in a democracy. Although the Obama Administration has disclaimed this manner of broad authority because the AUMF "does not authorize military force against anyone the Executive labels a 'terrorist,'" n146 relying solely on the international law of self defense would likely lead to precisely such a result.

The slippery slope problem, however, is not just limited to the United States's military actions and the issue of domestic control. The creation of international norms is an iterative process, one to which the United States makes significant contributions. Because of this outsized influence, the United States should not claim international legal rights that it is not prepared to see proliferate around the globe. Scholars have observed that the Obama Administration's "expansive and open-ended interpretation of the right to self-defence threatens to destroy the prohibition on the use of armed force . . . ." n147 Indeed, "[i]f other states were to claim the broad-based authority that the United States does, to kill people anywhere, anytime, the result would be chaos." n148

[\*95] Encouraging the proliferation of an expansive law of international self-defense would not only be harmful to U.S. national security and global stability, but it would also directly contravene the Obama Administration's national security policy, sapping U.S. credibility. The Administration's National Security Strategy emphasizes U.S. "moral leadership," basing its approach to U.S. security in large part on "pursu[ing] a rules-based international system that can advance our own interests by serving mutual interests." n149 Defense Department General Counsel Jeh Johnson has argued that "[a]gainst an unconventional enemy that observes no borders and does not play by the rules, we must guard against aggressive interpretations of our authorities that will discredit our efforts, provoke controversy and invite challenge." n150 Cognizant of the risk of establishing unwise international legal norms, Johnson argued that the United States "must not make [legal authority] up to suit the moment." n151 The Obama Administration's global counterterrorism strategy is to "adher[e] to a stricter interpretation of the rule of law as an essential part of the wider strategy" of "turning the page on the past [and rooting] counterterrorism efforts within a more durable, legal foundation." n152

### 1NC Advantage

#### Strong executives are key to coalition participation

Ashraf 2011 – PhD from Pitt (April 5, A.S.M. Ali, “THE POLITICS OF COALITION BURDEN-SHARING: THE CASE OF THE WAR IN AFGHANISTAN ” <http://d-scholarship.pitt.edu/7898/1/ThePoliticsOfCoalitionBurden-Sharing.pdf>)

Domestic Political Regime. Domestic political regime acts as the first intervening variable in shaping a state's coalition decisions. There is a rich body of domestic politics literature, which shows that key decisions regarding a state's burden-sharing behavior are taken by the chief executive of an incumbent government.5 Hence, the strength of a chief executive's decision-making power vis-a-vis other organs of the government will play a decisive role in shaping a state's coalition contribution.5\* This means that the legislative or judicial oversight may act as a constraining factor in shaping a chief executive's decision power on foreign policy issues, including participation in a military coalition. Most domestic political regime theories examine the distribution of power among various political institutions such as the chief government executive and the legislature. In an analysis of states' crisis time bargaining behavior, Susan Peterson defines executive strength as the relative autonomy of the office of chief executive from legislative pressures.39 Auerswald defines executive strength in relation to the entities that have the "power to terminate office tenure."60 Two such entities are more relevant: the mass public and the legislature. In Auerswald's analysis, the support of the general voters as well as the members of the legislative assembly is crucial for a president, prime minister, or premier in a liberal democratic country. As discussed below, Sarah Kreps discards the importance of public opinion, and shows that elite consensus among the parliamentary parties matter more than public opinion.61 Auerswald's typology of executive strength is useful in predicting coalition burden-sharing. He suggests three types of executive strength—strong, weak, and medium. Each type of chief executive is likely to pursue a distinct burden-sharing policy toward a military coalition. First, a strong chief executive with less legislative oversight and strong elite consensus is likely to favor the use of force, if such a decision serves the national interests, or if such a decision is taken to please the domestic constituents. Second, a weak chief executive with varying degree of legislative control and elite disagreement will be constrained to take a bold decision on the use of force, and avoid participating in the coalition for fear of losing the election. Third, a medium executive will craft a policy that balances between the competing demands from legislature, elite consensus, and public opinion.

#### Intel cooperation is high – Snowden leaks prove

NYT 2013 (July 9, “For Western Allies, a Long History of Swapping Intelligence” <http://www.nytimes.com/2013/07/10/world/europe/for-western-allies-a-long-history-of-swapping-intelligence.html?pagewanted=all&_r=1&&pagewanted=print>)

When Edward J. Snowden disclosed the extent of the United States data mining operations in Germany, monitoring as many as 60 million of the country’s telephone and Internet connections in one day and bugging its embassy, politicians here, like others in Europe, were by turns appalled and indignant. But like the French before them, this week they found themselves backpedaling. In an interview released this week Mr. Snowden said that Germany’s intelligence services are “in bed” with the National Security Agency, “the same as with most other Western countries.” The assertion has added to fresh scrutiny in the European news media of Berlin and other European governments that may have benefited from the enormous American snooping program known as Prism, or conducted wide-ranging surveillance operations of their own. The outrage of European leaders notwithstanding, intelligence experts and historians say the most recent disclosures reflect the complicated nature of the relationship between the intelligence services of the United States and its allies, which have long quietly swapped information on each others’ citizens. “The other services don’t ask us where our information is from and we don’t ask them,” Mr. Snowden said in the interview, conducted by the documentary filmmaker Laura Poitras and Jacob Appelbaum, a computer security researcher, and published this week in the German magazine Der Spiegel. “This way they can protect their political leaders from backlash, if it should become public how massively the private spheres of people around the globe are being violated.” Britain, which has the closest intelligence relationship with the United States of any European country, has been implicated in several of the data operations described by Mr. Snowden, including claims that Britain’s agencies had access to the Prism computer network, which monitors data from a range of American Internet companies. Such sharing would have allowed British intelligence agencies to sidestep British legal restrictions on electronic snooping. Prime Minister David Cameron has insisted that its intelligence services operate within the law. Another allegation, reported by The Guardian newspaper, is that the Government Communications Headquarters, the British surveillance center, tapped fiber-optic cables carrying international telephone and Internet traffic, then shared the information with the N.S.A. This program, known as Tempora, involved attaching intercept probes to trans-Atlantic cables when they land on British shores from North America, the report said. President François Hollande of France was among the first European leaders to express outrage at the revelations of American spying, and especially at accusations that the Americans had spied on French diplomatic posts in Washington and New York. There is no evidence to date that French intelligence services were granted access to information from the N.S.A., Le Monde reported last week, however, that France’s external intelligence agency maintains a broad telecommunications data collection system of its own, amassing metadata on most, if not all, telephone calls, e-mails and Internet activity coming in and out of France. Mr. Hollande and other officials have been notably less vocal regarding the claims advanced by Le Monde, which authorities in France have neither confirmed nor denied. Given their bad experiences with domestic spying, first under the Nazis and then the former the East German secret police, Germans are touchy when it comes to issues of personal privacy and protection of their personal data. Guarantees ensuring the privacy of mail and all forms of long-distance communications are enshrined in Article 10 of their Constitution. When the extent of the American spying in Germany came to light the chancellor’s spokesman, Steffen Seibert, decried such behavior as “unacceptable,” insisting that, “We are no longer in the cold war.” But experts say ties between the intelligence services remain rooted in agreements stemming from that era, when West Germany depended on the United States to protect it from the former Soviet Union and its allies in the East. “Of course the German government is very deeply entwined with the American intelligence services,” said Josef Foschepoth, a German historian from Freiburg University. Mr. Foschepoth spent several years combing through Germany’s federal archives, including formerly classified documents from the 1950s and 1960s, in an effort to uncover the roots of the trans-Atlantic cooperation. In 1965, Germany’s foreign intelligence service, known by the initials BND, was created. Three years later, the West Germans signed a cooperation agreement effectively binding the Germans to an intensive exchange of information that continues up to the present day, despite changes to the agreements. The attacks on Sept. 11, 2001, in the United States saw a fresh commitment by the Germans to cooperate with the Americans in the global war against terror. Using technology developed by the Americans and used by the N.S.A., the BND monitors networks from the Middle East, filtering the information before sending it to Washington, said Erich Schmidt-Eenboom, an expert on secret services who runs the Research Institute for Peace Politics in Bavaria. In exchange, Washington shares intelligence with Germany that authorities here say has been essential to preventing terror attacks similar to those in Madrid or London. It is a matter of pride among German authorities that they have been able to swoop in and detain suspects, preventing several plots from being carried out. By focusing the current public debate in Germany on the issue of personal data, experts say Chancellor Angela Merkel is able to steer clear of the stickier questions about Germany’s own surveillance programs and a long history of intelligence sharing with the United States, which still makes many Germans deeply uncomfortable, more than two decades after the end of the cold war. “Every postwar German government, at some point, has been confronted with this problem,” Mr. Foschepoth said of the surveillance scandal. “The way that the chancellor is handling it shows that she knows very well, she is very well informed and she wants the issue to fade away.”

#### NATO is dead—aff can’t solve

Alexander Melikishvili- research associate with the James Martin Center for Nonproliferation Studies- 1/26/09, YaleGlobal, NATO’s Double Standards Make for a Hollow Alliance, http://yaleglobal.yale.edu/content/nato%E2%80%99s-double-standards-make-hollow-alliance

 As events of the past year demonstrate, NATO faces an existential crisis, reflected in the three aspects underpinning its operations – an inconsistent enlargement policy, diminished internal cohesion and inadequate military planning. Unless NATO can overcome these weaknesses, excitement in Europe about a new era of cooperation with an Obama-led United States may turn out to be premature and groundless. Lost among diplomatic platitudes is the real question of what actually constitutes the set of criteria by which Brussels deems one country to be eligible for NATO membership while another is not. A comparison of Albania and Georgia highlights NATO’s dysfunctional enlargement process of late, raising serious questions about NATO prioritization in membership considerations. At the last NATO summit in April 2008, alliance members unanimously decided to extend membership to Albania. The “Solomonic” wisdom behind admitting Albania, widely recognized as the epicenter of organized crime and corruption in Europe, defies common sense and logic, pointing towards NATO’s double standards with regard to arbitrarily adjusting membership criteria on a case-by-case basis. 1 The unstable character of the Albanian state was highlighted on the eve of the summit: In mid-March a massive explosion at the munitions decommissioning facility just 15 kilometers west of the Albanian capital, Tirana, killed dozens, wounded hundreds and displaced thousands of people. This tragic incident led to the resignation of Albanian Defense Minister Fatmir Mediu, also implicated in an illegal arms-trafficking case. According to details of an ongoing federal investigation, in 2007 Florida-based defense contractor AEY Inc. illegally supplied malfunctioning Chinese-made weapons and munitions from Albanian stockpiles, to the Afghan Army, under terms of a multimillion-dollar Pentagon military-to-military assistance contract. 2 The hypocrisy was on display during a two-day visit by a NATO delegation to Georgia in September. Addressing Tbilisi State University students, NATO Secretary General Jaap de Hoop Scheffer emphasized that Georgia’s progress towards receiving the coveted Membership Action Plan (MAP) – a roadmap intended to facilitate an applicant country’s eventual incorporation into NATO – was contingent on implementation of further democratic reforms by the Georgian government. In response, speaking at the UN General Assembly in New York, Georgian President Mikheil Saakashvili unveiled new reforms aimed at ensuring independence of judiciary, increasing media freedoms and supporting political opposition. Indeed, if judged by the most commonly accepted standards of democratic governance, rule of law and economic development, Albania lags behind Georgia. The Transparency International’s Corruption Perceptions Index 2008 ranks Albania at the 85th position, whereas Georgia ranks 67th. It’s truly mind-boggling that Secretary Scheffer demands greater democratic reforms from Tbilisi while apparently giving a free pass to Tirana’s dismal performance. There’s only one explanation for this discrepancy, and it’s rooted in the combination of guilt of NATO bureaucrats over Albania’s wait in the membership-action antechamber – since 1999 – and US insistence, an unusual byproduct of American involvement in the Balkans in the aftermath of Yugoslavia’s bloody dissolution. Inconsistencies reflected in the selective membership dispensation undermine the founding principles and credibility of the NATO alliance as a whole. Moreover, the relentless pace of enlargement over the past decade and a half has had an adverse impact on NATO’s cohesion. This is particularly evident in the emergence of factions within NATO that led former US Secretary of Defense Donald Rumsfeld to draw distinctions between the “Old” and “New” Europe. His successor, Robert Gates, was more diplomatic in his remarks, but frustrated by an inability to elicit adequate troop commitments from European allies for the Afghanistan stabilization campaign, he too warned of the “two-tiered alliance” in which some members are more willing to fight than others. Several cycles of enlargement clearly had a debilitating effect on NATO’s collective decision making mechanism because the sheer number of voting members grew to the current 26 (or 28, with Albania and Croatia expected to formally join the alliance by April), which invariably complicated policy formulation. Furthermore, deep resentment felt by a number of Western European governments towards the Bush administration in the aftermath of the Iraqi invasion further exacerbated tensions with former Warsaw Pact countries vying for Washington’s attention. Nowhere have the growing cleavages within the alliance been as evident as in Afghanistan, where NATO maintains 50,000-strong contingent under the aegis of the UN-sanctioned International Security Assistance Force. Since August 2003, when NATO took command of the ISAF, this out-of-area operation has repeatedly tested the limits of allied military cooperation in addressing the security challenges in Afghanistan. The US increasingly faces difficulty in forging NATO consensus on the most pressing issues concerning security in Afghanistan. What else can explain that it took close to five years for the allies to reach an accord authorizing military attacks on the country’s burgeoning underground opium-heroin industry? For years, regional experts issued dire warnings that profits from poppy cultivation, which according to UN estimates now account for at least half of Afghanistan’s gross domestic product, support the Taliban comeback. At the October meeting of NATO defense ministers in Budapest, the allies finally hammered out an agreement to authorize military force against Afghan drug lords. However, the NATO members that customarily favor restrictive caveats regarding deployment of their forces, including Germany and Italy, insisted on including a provision that effectively cuts the agreement at its knees. The provision states that attacks on the Afghan narcotics industry will occur only with explicit approval of the respective national governments. In effect, the agreement allows some NATO members to basically opt out of the operations that put their troops in harm’s way. What’s striking is the apparent lack of realization on the part of some European allies that NATO’s failure in Afghanistan will deal a deadly blow to the alliance and may even spell its demise.

#### Technology checks a superbug

Easterbrook (Gregg, The New Republic Editor) 2003 [Wired, "We're All Gonna Die!" 11/7, http://www.wired.com/wired/archive/11.07/doomsday.html]

3. Germ warfare! Like chemical agents, biological weapons have never lived up to their billing in popular culture. Consider the 1995 medical thriller Outbreak, in which a highly contagious virus takes out entire towns. The reality is quite different. Weaponized smallpox escaped from a Soviet laboratory in Aralsk, Kazakhstan, in 1971; three people died, no epidemic followed. In 1979, weapons-grade anthrax got out of a Soviet facility in Sverdlovsk (now called Ekaterinburg); 68 died, no epidemic. The loss of life was tragic, but no greater than could have been caused by a single conventional bomb. In 1989, workers at a US government facility near Washington were accidentally exposed to Ebola virus. They walked around the community and hung out with family and friends for several days before the mistake was discovered. No one died. The fact is, evolution has spent millions of years conditioning mammals to resist germs. Consider the Black Plague. It was the worst known pathogen in history, loose in a Middle Ages society of poor public health, awful sanitation, and no antibiotics. Yet it didn't kill off humanity. Most people who were caught in the epidemic survived. Any superbug introduced into today's Western world would encounter top-notch public health, excellent sanitation, and an array of medicines specifically engineered to kill bioagents. Perhaps one day some aspiring Dr. Evil will invent a bug that bypasses the immune system. Because it is possible some novel superdisease could be invented, or that existing pathogens like smallpox could be genetically altered to make them more virulent (two-thirds of those who contract natural smallpox survive), biological agents are a legitimate concern. They may turn increasingly troublesome as time passes and knowledge of biotechnology becomes harder to control, allowing individuals or small groups to cook up nasty germs as readily as they can buy guns today. But no superplague has ever come close to wiping out humanity before, and it seems unlikely to happen in the future.

#### Al-Qaeda weak – Bin Laden’s death, Abbottabad intelligence, no safe haven

WILLIAM MCCANTS - Center for Strategic Studies / Johns Hopkins – Sept/Oct 2011, Al Qaeda's Challenge, Foreign Affairs, http://www.foreignaffairs.com/articles/68160/william-mccants/al-qaedas-challenge?page=show

Al Qaeda now stands at a precipice. The Arab Spring and the success of Islamist parliamentarians throughout the Middle East have challenged its core vision just as the group has lost its founder. Al Qaeda has also lost access to bin Laden's personal connections in Afghanistan, Pakistan, and the Persian Gulf, which had long provided it with resources and protection. Bin Laden's death has deprived al Qaeda of its most media-savvy icon; and most important, al Qaeda has lost its commander in chief. The raid that killed bin Laden revealed that he had not been reduced to a figurehead, as many Western analysts had suspected; he had continued to direct the operations of al Qaeda and its franchises. Yet the documents seized from bin Laden's home in Abbottabad, Pakistan, reveal how weak al Qaeda had become even under his ongoing leadership. Correspondence found in the raid shows bin Laden and his lieutenants lamenting al Qaeda's lack of funds and the constant casualties from U.S. drone strikes. These papers have made the organization even more vulnerable by exposing its general command structure, putting al Qaeda's leadership at greater risk of extinction than ever before. Al Qaeda has elected Zawahiri as its new chief, at least for now. But the transition will not be seamless. Some members of al Qaeda's old guard feel little loyalty to Zawahiri, whom they view as a relative newcomer. Al Qaeda's members from the Persian Gulf, for their part, may feel alienated by having an Egyptian at their helm, especially if Zawahiri chooses another Egyptian as his deputy. Despite these potential sources of friction, al Qaeda is not likely to split under Zawahiri's reign. Its senior leadership will still want to unite jihadist groups under its banner, and its franchises will have little reason to relinquish the recognition and resources that come with al Qaeda affiliation. Yet those affiliates cannot offer al Qaeda's senior commanders shelter. Indeed, should Pakistan become too dangerous a refuge for the organization's leaders, they will find themselves with few other options. The Islamic governments that previously protected and assisted al Qaeda, such as those in Afghanistan and Sudan in the 1990s, either no longer exist or are inhospitable (although Somalia might become a candidate if the militant group al Shabab consolidates its hold there). In the midst of grappling with all these challenges, al Qaeda must also decide how to respond to the uprisings in the Arab world. Thus far, its leaders have indicated that they want to support Islamist insurgents in unstable revolutionary countries and lay the groundwork for the creation of Islamic states once the existing regimes have fallen, similar to what they attempted in Iraq. But al Qaeda's true strategic dilemma lies in Egypt and Tunisia. In these countries, local tyrants have been ousted, but parliamentary elections will be held soon, and the United States remains influential. The outcome in Egypt is particularly personal for Zawahiri, who began his fight to depose the Egyptian government as a teenager. Zawahiri also understands that Egypt, given its geostrategic importance and its status as the leading Arab nation, is the grand prize in the contest between al Qaeda and the United States. In his recent six-part message to the Egyptian people and in his eulogy for bin Laden, Zawahiri suggested that absent outside interference, the Egyptians and the Tunisians would establish Islamic states that would be hostile to Western interests. But the United States, he said, will likely work to ensure that friendly political forces, including secularists and moderate Islamists, win Egypt's upcoming elections. And even if the Islamists succeed in establishing an Islamic state there, Zawahiri argued, the United States will retain enough leverage to keep it in line. To prevent such an outcome, Zawahiri called on Islamist activists in Egypt and Tunisia to start a popular (presumably nonviolent) campaign to implement sharia as the sole source of legislation and to pressure the transitional governments to end their cooperation with Washington. Yet Zawahiri's attempt to sway local Islamists is unlikely to succeed. Although some Islamists in the two countries rhetorically support al Qaeda, many, especially the Muslim Brotherhood, are now organizing for their countries' upcoming elections -- that is, they are becoming Islamist parliamentarians. Even Egyptian Salafists, who share Zawahiri's distaste for parliamentary politics, are forming their own political parties. Most ominous for Zawahiri's agenda, the Egyptian Islamist organization al-Gama'a al-Islamiyya (the Islamic Group), parts of which were once allied with al Qaeda, has forsworn violence and recently announced that it was creating a political party to compete in Egypt's parliamentary elections. Al Qaeda, then, is losing sway even among its natural allies. This dynamic limits Zawahiri's options. For fear of alienating the Egyptian people, he is not likely to end his efforts to reach out to Egypt's Islamist parliamentarians or to break with them by calling for attacks in the country before the elections. Instead, he will continue urging the Islamists to advocate for sharia and to try to limit U.S. influence. In the meantime, Zawahiri will continue trying to attack the United States and continue exploiting less stable postrevolutionary countries, such as Libya, Syria, and Yemen, which may prove more susceptible to al Qaeda's influence. Yet to operate in these countries, al Qaeda will need to subordinate its political agenda to those of the insurgents there or risk destroying itself, as Zarqawi's group did in Iraq. If those insurgents take power, they will likely refuse to offer al Qaeda safe haven for fear of alienating the United States or its allies in the region. Thanks to the continued predominance of the United States and the growing appeal of Islamist parliamentarians in the Muslim world, even supporters of al Qaeda now doubt that it will be able to replace existing regimes with Islamic states anytime soon. In a recent joint statement, several jihadist online forums expressed concern that if Muammar al-Qaddafi is defeated in Libya, the Islamists there will participate in U.S.-backed elections, ending any chance of establishing a true Islamic state. As a result of all these forces, al Qaeda is no longer the vanguard of the Islamist movement in the Arab world. Having defined the terms of Islamist politics for the last decade by raising fears about Islamic political parties and giving Arab rulers a pretext to limit their activity or shut them down, al Qaeda's goal of removing those rulers is now being fulfilled by others who are unlikely to share its political vision. Should these revolutions fail and al Qaeda survives, it will be ready to reclaim the mantle of Islamist resistance. But for now, the forces best positioned to capitalize on the Arab Spring are the Islamist parliamentarians, who, unlike al Qaeda, are willing and able to engage in the messy business of politics.

#### No impact – empirics

Willis et. al, ’10 [Kathy J. Willis, Keith D. Bennett, Shonil A. Bhagwat & H. John B. Birks (2010): 4 °C and beyond: what did this mean for biodiversity in the past?, Systematics and Biodiversity, 8:1, 3-9, <http://www.tandfonline.com/doi/pdf/10.1080/14772000903495833>, ]

The most recent climate models and fossil evidence for the early Eocene Climatic Optimum (53–51 million years ago) indicate that during this time interval atmospheric CO2 would have exceeded 1200 ppmv and tropical temperatures were between 5–10 ◦ C warmer than modern values (Zachos et al., 2008). There is also evidence for relatively rapid intervals of extreme global warmth and massive carbon addition when global temperatures increased by 5 ◦ C in less than 10 000 years (Zachos et al., 2001). So what was the response of biota to these ‘climate extremes’ and do we see the large-scale extinctions (especially in the Neotropics) predicted by some of the most recent models associated with future climate changes (Huntingford et al., 2008)? In fact the fossil record for the early Eocene Climatic Optimum demonstrates the very opposite. All the evidence from low-latitude records indicates that, at least in the plant fossil record, this was one of the most biodiverse intervals of time in the Neotropics (Jaramillo et al., 2006). It was also a time when the tropical forest biome was the most extensive in Earth’s history, extending to mid-latitudes in both the northern and southern hemispheres – and there was also no ice at the Poles and Antarctica was covered by needle-leaved forest (Morley, 2007). There were certainly novel ecosystems, and an increase in community turnover with a mixture of tropical and temperate species in mid latitudes and plants persisting in areas that are currently polar deserts. [It should be noted; however, that at the earlier Palaeocene–Eocene Thermal Maximum (PETM) at 55.8 million years ago in the US Gulf Coast, there was a rapid vegetation response to climate change. There was major compositional turnover, palynological richness decreased, and regional extinctions occurred (Harrington & Jaramillo, 2007). Reasons for these changes are unclear, but they may have resulted from continental drying, negative feedbacks on vegetation to changing CO2 (assuming that CO2 changed during the PETM), rapid cooling immediately after the PETM, or subtle changes in plant–animal interactions (Harrington & Jaramillo, 2007).]

# 2NC

### Fw

#### The role of the teacher is to guide students toward ethically constructing advocacies – this means debate should focus on how we think about problems and not just particular policies, so you should look at systems and not the singular event of their impact scenarios – deprioritize issues of link uniqueness and alternative solvency – our link arguments prove there’s a larger set of social relations the plan creates and the standpoints we take in relation to that are important

#### Our alternative is a technique for creating a new social vocabulary surrounding social issues – if our vocabulary is good, you should endorse and adopt it as a method for future policy research.

#### **Everything we do, everything we read forms us as subjects as the world – social change cannot be effected in the world unless there is a vocabulary to construct subjects that engage in a way of knowing that is compatible with a new way of knowing – the alt is a formation of new ethical subjects – the affirmative solidifies dominant structures and knowledges that actively prevent ethics**

-necessary to create a new social vocabulary around issues to effect real change

-we are constantly being constructed as subjects by the experiences we have

-on an individual level, ethics is a processing of attuning your ways of knowing the world and relating to the world to be more compassionate and open

-the way our self exists is inseparable from our relationship to the world

-this breaks processes of solidifying existing ways of knowing and mainstream institutions – the affirmative is a step in a long, long process of normalization to make the self complicit with and accepting of violence and inequality – the act of criticism in our alternative is an act of interruption that ethically attunes the self to the hidden violence of dominant knowledges

Scott 9 – prof of philosophy @ Vanderbilt

(Charles, Journal of Medicine and Philosophy, 34: 350–367, Foucault, Genealogy, Ethics)

In Foucault’s analysis of the May 1968 uprising in France, he said that even though “things were coming apart” there did not “exist any vocabulary capable of expressing that process” (Foucault, 2000, 271). We could say on Foucault’s terms that there did not exist a way of knowing (a subject of knowledge) and the language and concepts suited for the complex event of France’s transformation. A momentous event happened without adequate “tools” for its recognition, analysis, and appropriation. Consequently, in the following dispersion of quarreling groups and political factions, the 1968 crisis did not at first become an effective discursive event that opened up a full range of apparent problems and transformations for formal knowledge. That would require a knowing subject that was turned away from the strongest discursive options, such as those of the current Humanists, Marxists, Maoists, French colonialists, and French cultural supremacists. So much was falling apart in France at the time that a subject of knowledge was needed that formed in the interconnecting French crises, a subject informed by marginal experiences in comparison to the experiences recognized by the dominant discourses, marginalized experiences like those of Algerian soldiers, French prisoners, people oppressed by French colonialism, people hammered down by Stalin’s communism or the Proletarian Cultural Revolution in China, and people in highly energized, non-French cultures: a subject that developed with the voices and experiences that were on the margins of the older and authoritative French way of life.¶ In spite of the stammering and stumbling in its aftermath, however, May, 1968 opened an opportunity for a new “vocabulary,” a new discourse, and a new ethos for recognizing and knowing. Its event made possible a transitional and transformative knowing subject whose relative freedom and lack of establishment constituted a major, constructive epistemic difference from the accepted discourses. Much more could be said on this issue, but my present, limited points are that in the context of Foucault’s thought, transformation of the knowing subject constitutes an ethical event; and ethics on an individual level takes place as people work on themselves to be able to change themselves enough to know differently and to transform what is evident about others (Foucault, 2000, 241–2).14 These two kinds of transformation take place in genealogical knowing as Foucault conceives and practices it.¶ Two different senses for ethics are at work here. One sense refers to ways of life that are constituted by discourses, institutions, and practices—by all manner of power formations that are not authored by singular individuals and that are ingrained in people’s lives inclusive of their judgment, knowledge, and codes of behavior. A society, of course, can have a variety of overlapping or competing ways of life, a variety of ethical environments, and changes in these environments would compose ethical changes in this broad sense of “ethical.” The knowledge that genealogy generates comprises a different discourse from many established ones and puts in question many aspects of Western society, especially around the topics of madness, sex, crime, normalcy, social/political suppression of people, and mechanisms of regulation and control. It challenges significant parts of our social environment, encourages deliberation and critique, and intends to make a differential impact on contemporary ways of life. In addition to his writing, Foucault was active in many causes designed to change political and social formations and to have a broad social impact. He played a leading role, for example, in support of Vietnamese boat people who were fleeing from persecution and being ignored by Western governments. He was active in prison reform movements. He spoke out against what he found to be unacceptable injustices in Poland and equally unacceptable silence in their regard in the West, against a Realpolitik that ignores suppression of people and their liberties in countries other than one’s own. He showed in multiple ways that passionate support of institutional transformation and of suppressed and suffering people can be carried out without Humanism or other forms of universalizing or totalizing discourse.¶ A second sense of ethics for Foucault means a work on the self by the self.15 He understood, for example, his writing (and his interviews) as processes of self-formation: “I haven’t written a single book that was not inspired, at least in part, by a direct personal experience,” an experience that he wants to understand better by finding a different vocabulary, changed combinations of concepts, and the mutations they bring by connecting with aspects of experience that are barely emerging at the borders of his awareness (Foucault, 2000, 244). His books, he says, compose experiences inclusive of his own “metamorphosis” as he writes them and comes to a transformed connection with their topics. He would also like for his books to provide readers with something akin to his experience, to bring us to our limits of sense where transformations can occur (Foucault, 2000, 244). The sense of ethics in this case is focused by individual experiences and the care they exercise in connecting with them. In care for themselves, they work at maintaining or altering their behavior and attitudes to appropriate themselves to their experiences.16 Foucault says that his books are “like invitations and public gestures” to join in the book’s process, a process that he finds transformative of aspects of contemporary life and potentially, should individuals join in, transformative of the way they understand and connect with themselves (Foucault, 2000, 245–6).¶ Care for self has a very long lineage that Foucault spent his last years investigating. Indeed, understanding himself without metaphysical help or universalized solutions was one aspect of his caring self-relation. He carried out a project, deeply rooted in a Western tradition that makes caring for oneself inseparable from the ways one knows oneself, the world, and others. In his own process, he finds repeated instances of change in his self-world relation as he experiences the impact of what he is coming to know at the borders of his knowledge and identity.

When these boundary-experiences (he calls them limit-experiences) occur, he says, the clarity of some aspects of his identity dies in the impact of what he is coming to find. His affections and behavior often change. As an author he attempts to write into his books these very processes for the reader’s possible engagement.¶ If I find through one of his books, for example, a way of knowing that makes clear some of the dangers inherent in a well-established body of knowledge or a mainstream institution, I have an opportunity for assessing those dangers and choosing how I will connect with them and my experience of them. I might find that what I know and the way I know are violated by what Foucault’s work shows. I might find his approach and the knowledge that it offers highly questionable or irrelevant for my life. I might experience new questions, a need for change, an unexpected dissatisfaction with what I have been accepting as true and good. If Foucault’s works carry out their intention and if I read them carefully, I am engaged in an experience that he found transformative and that will make room for choices and problems that I can experience and that might bring me to an edge where what I know meets a limit and the possibility for an altered discourse and subjectivity. Coming in this way to an edge, a limit of the way I know and who I am in such knowing brings together the epistemic and personal aspects of ethical experience. The very act of caring for myself in this instance interrupts the subliminal processes of normalization and sets in motion another kind of dynamics as I come to the limits of my “authorized” experience and the emergence of a different kind of experience. I am caring for myself, impacting my own affections, values, and way of knowing. The dynamics of what Foucault calls biopower (the powerful complex of social forces that regulate human behavior by means of, for example, health care delivery, education, and moral legislation in both broad and “corpuscular” ways) are interrupted by a different dynamics that builds individual autonomy. Self-caring instead of the anonymous dynamics of normalization begins to form my self’s relation to itself. How will I appropriate the experience of limits and their transgression by emerging “voices”, realities, and intensities? Who shall I be in their impact? How will I present myself to myself and my environment should I affirm what is happening in the margins of my established identity?

#### **This is a comparatively more productive strategy than the aff’s hubristic attempts to change the world – only our framework produces an ethical self that can create productive micropolitics**

Chandler 13 – prof of IR @ Westminster

(The World of Attachment? The Post-humanist Challenge to Freedom and Necessity, Millenium: Journal of International Studies, 41(3), 516– 534)

The world of becoming thereby is an ontologically flat world without the traditional hierarchies of existence and a more shared conception of agency. For Bennett, therefore, ‘to begin to experience the relationship between persons and other materialities more horizontally, is to take a step toward a more ecological sensibility’.78 Here there is room for human agency but this agency involves a deeper understanding of and receptivity to the world of objects and object relations. Rather than the hubristic focus on transforming the external world, the ethico-political tasks are those of work on the self to erase hubristic liberal traces of subject-centric understandings, understood to merely create the dangers of existential resentment. Work on the self is the only route to changing the world. As Connolly states: ‘To embrace without deep resentment a world of becoming is to work to “become who you are”, so that the word “become” now modifies “are” more than the other way around.’ Becoming who you are involves the ‘microtactics of the self’, and work on the self can then extend into ‘micropolitics’ of more conscious and reflective choices and decisions and lifestyle choices leading to potentially higher levels of ethical self-reflectivity and responsibility. Bennett argues that against the ‘narcissism’ of anthropomorphic understandings of domination of the external world, we need ‘some tactics for cultivating the experience of our selves as vibrant matter’. Rather than hubristically imagining that we can shape the world we live in, Bennett argues that: ‘Perhaps the ethical responsibility of an individual human now resides in one’s response to the assemblages in which one finds oneself participating. Such ethical tactics include reflecting more on our relationship to what we eat and considering the agentic powers of what we consume and enter into an assemblage with. In doing so, if ‘an image of inert matter helps animate our current practice of aggressively wasteful and planet-endangering consumption, then a materiality experienced as a lively force with agentic capacity could animate a more ecologically sustainable public’. For new materialists, the object to be changed or transformed is the human – the human mindset. By changing the way we think about the world and the way we relate to it by including broader, more non-human or inorganic matter in our considerations, we will have overcome our modernist ‘attachment disorders’ and have more ethically aware approaches to our planet. In cultivating these new ethical sensibilities, the human can be remade with a new self and a ‘new self-interest’.

#### \*\*There is no such thing as purely objective scholarship tied to the state. Their demand for policy relevance is a product of the failure of political science to distance itself from reinforcing the existing order.

Chaulia 2009

Sreeram, Professor and Dean of Jindal School of International Affairs, Jindal Global University, Ph.D in Political Science, Syracuse, “One Step Forward, Two Steps Backward: The United States Institute of Peace,” International Journal of Peace Studies, Vol 14, No 1, Spring/Summer

The shrouding of USIP in the stars and stripes with the willing participation of¶ neo-con academics raises a larger quandary about ostensibly disinterested and objective¶ scholarship in Political Science serving to rationalise patriotic chauvinism and repression.¶ Ido Oren writes incisively about how, starting from the 1950s, the US Political Science¶ profession became “enmeshed in the state to an unprecedented degree” and scholars¶ responded to the Cold War demand for “psychological and ideological warfare expertise”¶ (Oren, 2003, 13). Since the end of the Cold War, cooperation between professors and US¶ intelligence agencies is “now very much to the fore. The war on terrorism may result in¶ further retightening of the relationship between American Political Science and the¶ American government” (Oren, 2003, 171).¶ Oren challenges the ‘scientific’ presupposition that the researcher and the object of¶ study are separate and asks “whether Political Science can be an objective, disinterested¶ science while it serves the interests of the American state” (Oren, 2003, 15).

 USIP’s¶ claim to neutrality and ‘independence’ in knowledge production is one fragment of this¶ larger disease. USIP’s compromised lot of political scientists may also be seen as a¶ reflection of the decline of “social trustee professionalism” in the US, wherein principled¶ stance-taking has exited from the dossier of responsibilities of intellectuals who no longer¶ advocate for long-term societal and ethical interests. Policy intellectuals “appear¶ increasingly to be creatures of the state and of self-contained policy communities closely¶ tied to the state”, while the overall “conservative mood in intellectual life remains strong”¶ (Brint, 1994, 173, 210).¶ Besides USIP, there are many other research institutes and think-tanks in the US¶ that are generally geared toward the status quo rather than to the promotion of social¶ transformation. Some might even take token stances against specific issues like the war¶ on Iraq, but they do not go deep enough to link domestic structural violence to violence at¶ the international level. The very visualisation of ‘policy’ around which these institutes¶ revolve is such that it allows only reforming the existing order instead of fundamentally¶ challenging it. The mission of both liberal and conservative institutes is to make the¶ system work better from their respective value priorities, not to replace it. For instance,¶ feminism, which might envisage a different set of principles for structuring the social¶ order, has no respect in any of these institutes, least of all in USIP. A straightforward¶ political economy explanation for this status-quoism would point at public funding, but¶ notions of ‘respectability’ and acceptability to the ‘mainstream’ also ensure that institutes¶ do not overstep the Rubicon. Understandings of what constitutes a ‘proper’ and¶ ‘professional’ attitude for an institute may be traced to the narrowness of the American¶ political sphere itself.

### AT: Isaac

#### **All your answers are wrongggg**

-nonviolence doesn’t always work, violence doesn’t always work

-history is on the side of nonviolence

-nonviolence is better in the long run in terms of working towards a cooperative society

-violence can temporarily impose conditions of negative peace, but it can never lead to positive peace – only alt solves that

-refining the means of violence (through restrictions on the executive) is meaningless

Cady 10 (Duane L., prof of phil @ hamline university, From Warism to Pacifism: A Moral Continuum, pp. 100-102)

It would be foolish to claim that nonviolent action always succeeds against any opponent, just as it would be foolish to claim that ¶ violence always succeeds against any enemy. We must look to the evidence of history. It should be clear that the widespread belief that ¶ nonviolence “doesn’t work” is a misconception grounded in ignorance ¶ or neglect of when and where nonviolent direct action has succeeded. ¶ Similarly, the widespread confidence in violent means of struggle ¶ rests on neglect of its many failures. A review of post– World War II ¶ military interventions is beyond the scope of this book, but we can ¶ take a broad look at the historical record by reflecting briefly on important military actions of the past few decades. Vietnam, Lebanon, ¶ Somalia, Chechnya, Bosnia, Afghanistan, and Iraq all come to mind. ¶ How well has violence “worked”? Did the outcome of the war in Vietnam outweigh the evils in death, injuries, destruction, dislocation, ¶ and influence of the war on the region, namely, Pol Pot’s reign of terror? The Vietnam war is widely considered a tragic mistake. What ¶ about the first and second wars in Iraq? When the full outcome is ¶ weighed, will justice be served by such thorough destruction of a nation’s infrastructure, deaths and injuries of tens (some say hundreds) ¶ of thousands, dislocation of millions of refugees, and a very uncertain future for the region? Beyond Vietnam and Iraq, can we honestly say ¶ that the outcomes of war are better for Lebanon, Somalia, Chechnya, ¶ and Bosnia, not to mention the prospects for the ongoing war in Afghanistan? It seems not. In every case the intentions and expectations ¶ widely missed the outcomes. So, history shows that nonviolence has ¶ succeeded with little preparation and virtually no public confidence ¶ while violence is systematically planned, of the highest priority when ¶ investing public resources, and widely supported, yet it frequently ¶ fails to be an effective means of achieving the peaceful ends desired. ¶ Critics say pacifists should “be realistic.” Pacifists ask the same of warists, and history— certainly since the end of World War II— seems to ¶ favor nonviolence. Pragmatic objections to pacifism, once examined, ¶ are not decisive refutations at all. It must be acknowledged that pacifism may or may not succeed at ¶ defeating unrestrained evil. At the same time we must admit that war, ¶ by its nature, is a test of might; as such, it can never settle questions of ¶ right.18 Rather, in war one side prevails and domination replaces the ¶ cooperation of genuine peace. And it is exactly at this point that the ¶ positive peace side of pacifism makes its strongest case: only nonviolence can create the internal order characteristic of genuine peace, so ¶ violence always fails in the long run. Violence can satisfy the urge to do ¶ something in the face of injustice, violence can satisfy the desire for ¶ revenge against evil, and sometimes violence can impose a short-term ¶ negative peace. But violence cannot create and sustain the conditions ¶ of genuine positive peace because these conditions come from within ¶ individuals and groups by agreement and cooperation, not from the ¶ outside by force or threat. The historical record of the last century— ¶ the carnage of the twentieth century which began with most victims ¶ of war being combatants and ended with most victims of war being ¶ innocent civilians— should awaken us to the need for fundamental ¶ change, as should successes of largely nonviolent revolution in much of ¶ Eastern Europe after the collapse of the Soviet Union, in the nonviolent dismantling of apartheid in South Africa, and in the unarmed ¶ forces of the Philippines removing a dictator through nonviolent revolution. We are a sorry species if the best we can do is multiply and refine our means of violence while escalating our military threats and ¶ actions, carrying out increasingly devastating violence against one an-¶ other. But history shows not only the failure of violence but also the successes of nonviolence; here we find hope that we may learn from ¶ the past and reduce violence while expanding nonviolence.

### Impact

#### **you should privilege this form of structural violence in your impact valuations because there is an ethical need to keep it from being invisible – it’s also an exponential form of attritional violence so even if the aff only causes a “small” amount of structural violence, the terminal impact is huge**

Nixon 11

(Rob, Rachel Carson Professor of English, University of Wisconsin-Madison, Slow Violence and the Environmentalism of the Poor, pgs. 2-3)

Three primary concerns animate this book, chief among them my conviction that we urgently need to rethink-politically, imaginatively, and theoretically-what I call "slow violence." By slow violence I mean a violence that occurs gradually and out of sight, a violence of delayed destruction that is dispersed across time and space, an attritional violence that is typically not viewed as violence at all. Violence is customarily conceived as an event or action that is immediate in time, explosive and spectacular in space, and as erupting into instant sensational visibility. We need, I believe, to engage a different kind of violence, a violence that is neither spectacular nor instantaneous, but rather incremental and accretive, its calamitous repercussions playing out across a range of temporal scales. In so doing, we also need to engage the representational, narrative, and strategic challenges posed by the relative invisibility of slow violence. Climate change, the thawing cryosphere, toxic drift, biomagnification, deforestation, the radioactive aftermaths of wars, acidifying oceans, and a host of other slowly unfolding environmental catastrophes present formidable representational obstacles that can hinder our efforts to mobilize and act decisively. The long dyings-the staggered and staggeringly discounted casualties, both human and ecological that result from war's toxic aftermaths or climate change-are underrepresented in strategic planning as well as in human memory. Had Summers advocated invading Africa with weapons of mass destruction, his proposal would have fallen under conventional definitions of violence and been perceived as a military or even an imperial invasion. Advocating invading countries with mass forms of slow-motion toxicity, however, requires rethinking our accepted assumptions of violence to include slow violence. Such a rethinking requires that we complicate conventional assumptions about violence as a highly visible act that is newsworthy because it is event focused, time bound, and body bound. We need to account for how the temporal dispersion of slow violence affects the way we perceive and respond to a variety of social afflictions-from domestic abuse to posttraumatic stress and, in particular, environmental calamities. A major challenge is representational: how to devise arresting stories, images, and symbols adequate to the pervasive but elusive violence of delayed effects. Crucially, slow violence is often not just attritional but also exponential, operating as a major threat multiplier; it can fuel long-term, proliferating conflicts in situations where the conditions for sustaining life become increasingly but gradually degraded.

### At; alt cant solve

#### Militaristic war may be a central value of modern Western culture, but it can be changed through analysis – multiple empirical examples prove

Cady 10 (Duane L., prof of phil @ hamline university, From Warism to Pacifism: A Moral Continuum, pp. 23-24)

The slow but persistent rise in awareness of racial, ethnic, gender, sexual- orientation, and class oppression in our time and the beginning efforts of liberation from within oppressed groups offer hope that even the most deeply held and least explicitly challenged predispositions of culture might be examined. Such examinations can lead to changes in the lives of the oppressed. Perhaps even those oppressed by warism will one day free themselves from accepting war as an inevitable condition of nature. Two hundred years ago slavery was a common and well- established social institution in the United States. It had been an ordinary feature of many societies dating to ancient and perhaps prehistoric times. Slavery was taken for granted as a natural condition for beings thought to be inferior to members of the dominant group. And slavery was considered an essential feature of our nation’s economy. Within the past two centuries, attitudes toward slavery have changed dramatically. With these fundamental shifts in normative lenses came fundamental shifts in the practice and legality of slavery. These changes have been as difficult as they have been dramatic, for former slaves, for former slave- holders, and for culture at large. While deep racial prejudices persist to this day, slavery is no longer tolerated in modern societies. Slavery- like conditions of severe economic exploitation of labor have become embarrassments to dominant groups in part because slavery is universally condemned. The point is that the most central values of cultures— thought to be essential to the very survival of the society and allegedly grounded in the natural conditions of creation—can change in fundamental ways in relatively short periods of time with profound implications for individuals and societies. John Dewey beautifully links this point to the consideration of warism: “War is as much a social pattern [for us] as was the domestic slavery which the ancients thought to be immutable fact.”9 The civil rights movement has helped us see that human worth is not determined by a racial hierarchy. Feminism has helped us realize again that dominant attitudes about people are more likely values we choose rather than innate and determined features of human nature. It is historically true that men have been more actively violent and have received more training and encouragement in violence than have women.10 Dominant attitudes of culture have explained this by reference to what is “natural” for males and “natural” for females. By questioning the traditional role models for men and women, all of us be- come more free to choose and create the selves we are to be; we need not be defined by hidden presumptions of gender roles. Parallel to racial and gender liberation movements, pacifism questions taking warism for granted. Pacifists seek an examination of our unquestioned assumption of warism to expose it as racism and sexism have been examined and exposed. Just as opponents of racism and sex- ism consider the oppression of nonwhites and women, respectively, to be wrong, and thus to require fundamental changes in society, so opponents of warism— pacifists of various sorts— consider war to be wrong, and thus to require fundamental changes in society.

# 1nr

## Adv

### Warming d

#### Can’t solve – CO2 stays in the atmosphere for hundreds of years

Mayer Hillman, Senior Fellow at the Policy Studies Institute, 2007

*The Suicidal Planet: How To Prevent Global Climate Catastrophe*, p. 25-6

The effects of climate change cannot quickly be reversed by reducing or even eliminating future emissions of greenhouse gases. There are two reasons for this. First, greenhouse gases released into the atmosphere linger for decades (in the case of relatively short-lived gases like methane), or hundreds of years (for carbon dioxide), or even thousands of years (for the long-lived gases like per-fluorocarbons). Carbon dioxide and methane concentrations in the atmosphere are respectively one-third and more than twice as high as those at any time over the last 650,000 years. Even if no additional carbon dioxide were emitted from now on, atmospheric concentrations would take centuries to decline to pre-Industrial Revolution levels. While elevated levels of greenhouse gases remain in the atmosphere, additional warming will occur.

## Solv

### 2nc Turns the Case

#### Turns the case --- contested authority triggers a showdown --- paralyzes the government, preventing it from making policy decisions

Posner & Vermeule, 8 --- \*Professor of Law at U Chicago, AND \*\*Professor of Law at Harvard (April 2008, Eric A. and Adrian, University of Pennsylvania Law Review, “CONSTITUTIONAL SHOWDOWNS,” 156 U. Pa. L. Rev. 991))

C. Authority, Policy, and Public Opinion

Here we clarify some elements of our definition, particularly the condition that actors must disagree about the allocation of constitutional authority. Showdowns occur when the location of constitutional authority for making an important policy decision is ambiguous or contested, and multiple political agents (branches, parties, sections, governments) have a strong interest in establishing that the authority lies with them. Although agents often have an interest in negotiating a settlement, asymmetric information about the interests and bargaining power of opposing parties will sometimes prevent such [\*1003] a settlement from being achieved. The result is a showdown. Ultimately, however, someone must yield; this yielding to or acquiescence in the claimed authority of another agent helps clarify constitutional lines of authority, so that the next time the issue arises, a constitutional impasse can be avoided. From a normative standpoint, constitutional showdowns thus have an important benefit, but they are certainly not costless. As long as the showdown lasts, the government may be paralyzed, unable to make important policy decisions, at least with respect to the issue under dispute.

#### Turn outweighs --- only a constitutional showdown over noncompliance sets precedent and spills over

Posner & Vermeule, 8 --- \*Professor of Law at U Chicago, AND \*\*Professor of Law at Harvard (April 2008, Eric A. and Adrian, University of Pennsylvania Law Review, “CONSTITUTIONAL SHOWDOWNS,” 156 U. Pa. L. Rev. 991)

C. The Analogy to Rules and Standards

Many arguments in legal theory are at bottom arguments about rules and standards. Rules minimize decision costs because the decision maker needs to take account of only a few of the factors that are relevant to the first-best resolution of the dispute, but by the same token they result in predictable error. If decision makers are highly competent, standards avoid error because they permit all relevant factors to be considered, but they involve enormous decision costs. If decision makers are of limited competence, the larger set of information that the standard makes relevant can overload their capacities, perhaps even inducing greater error than under a rule. The optimal choice between rules and standards trades off decision and error costs across contexts. n48

Our argument reflects a second-order, temporal version of this tradeoff. Constitutional showdowns convert standards into rules that in turn reduce decision costs for future conflicts. A constitutional standard allocates authority in an ambiguous fashion ("the public interest" [\*1018] and the like) that leaves political actors and the public a great deal of work in hashing out the actual allocation when a dispute over authority arises. Agents can avoid establishing a precedent by agreeing early in the process to allow one agent to make the decision or leave authority ambiguous if the agents can agree on a policy outcome. The standard remains in place, and decision costs are thrown onto the shoulders of future agents. However, if the agents instead assert their opposing claims and force a showdown, then a rule may emerge, one that saves decision costs in the future.

The second-order decision, n49 whether to convert a standard into a rule or allow the standard to remain in place, is akin to a decision to make an investment. An investment involves a cost today, and a return in the future. The cost of the showdown is the interruption of governance; the benefit is the reduced uncertainty for the future - the transformation of a standard into a rule. When judges, legislators, codifiers, restatement drafters, and others come up with rules, we tend to congratulate them for simplifying decision making for future agents. When they maintain standards, we criticize them for failing to clarify the law. But the law should not always be clarified; much depends on whether the law in question will govern many or few actions in the future. At a constitutional level, the decision to have a clarifying showdown or not reflects a similar calculus.

#### Only turn matters – compliance doesn’t set precedent or spillover - only confrontation and noncompliance does

Posner & Vermeule, 8 --- \*Professor of Law at U Chicago, AND \*\*Professor of Law at Harvard (April 2008, Eric A. and Adrian, University of Pennsylvania Law Review, “CONSTITUTIONAL SHOWDOWNS,” 156 U. Pa. L. Rev. 991)

2. Certainty

Actors avoid confrontation when it is privately beneficial to do so, even if conflict would create precedents that would benefit future generations, all else equal, by clarifying the rules of the game. More conflict now can mean lower transaction costs for several future generations; even with discounting, the latter benefit can exceed the former cost. In the recent controversy over the firing of U.S. Attorneys, for example, commentators parsed the complex issues of executive privilege with reference to one major Supreme Court case that is over thirty years old n63 and a few successor cases from the D.C. Circuit. n64 There is also some guidance from nonjudicial precedents; consider the argument that Secretary of State Condoleezza Rice has no constitutional basis for refusing to testify before Congress about the decision to invade Iraq, because Cabinet officials from previous administrations testified in similar circumstances. n65 Still, such precedents are slightly muddled by the fact that the executive and legislators often strike a bargain whereby executive officials will testify, but will proclaim that [\*1027] they are doing so "voluntarily," rather than because Congress has constitutional power to force them to do so. More seriously, in many cases early bargains will head off a nascent conflict, resulting in no precedent at all.

In general, current actors may have no incentive to take into account clarification benefits for third parties, especially for future generations. This means that future actors will incur transaction costs coping with longstanding uncertainties that could have been decisively clarified, one way or another, in a past constitutional showdown - a showdown that never occurred because it was not in the interests of the then-dominant actors to engage in clarifying conflict. n66

### 2NC AT No Circumvention

#### Obama will circumvent Congress and the Courts to maintain his priorities

Kumar, 13 (Anita, 3/19/2013, “Obama turning to executive power to get what he wants,” <http://www.mcclatchydc.com/2013/03/19/186309/obama-turning-to-executive-power.html#.Ue18CdK1FSE>))

WASHINGTON — President Barack Obama came into office four years ago skeptical of pushing the power of the White House to the limit, especially if it appeared to be circumventing Congress.

Now, as he launches his second term, Obama has grown more comfortable wielding power to try to move his own agenda forward, particularly when a deeply fractured, often-hostile Congress gets in his way.

He’s done it with a package of tools, some of which date to George Washington and some invented in the modern era of an increasingly powerful presidency. And he’s done it with a frequency that belies his original campaign criticisms of predecessor George W. Bush, invites criticisms that he’s bypassing the checks and balances of Congress and the courts, and whets the appetite of liberal activists who want him to do even more to advance their goals.

While his decision to send drones to kill U.S. citizens suspected of terrorism has garnered a torrent of criticism, his use of executive orders and other powers at home is deeper and wider.

He delayed the deportation of young illegal immigrants when Congress wouldn’t agree. He ordered the Centers for Disease Control and Prevention to research gun violence, which Congress halted nearly 15 years ago. He told the Justice Department to stop defending the Defense of Marriage Act, deciding that the 1996 law defining marriage as between a man and a woman was unconstitutional. He’s vowed to act on his own if Congress didn’t pass policies to prepare for climate change.

Arguably more than any other president in modern history, he’s using executive actions, primarily orders, to bypass or pressure a Congress where the opposition Republicans can block any proposal.

 “It’s gridlocked and dysfunctional. The place is a mess,” said Rena Steinzor, a law professor at the University of Maryland. “I think (executive action) is an inevitable tool given what’s happened.”

Now that Obama has showed a willingness to use those tactics, advocacy groups, supporters and even members of Congress are lobbying him to do so more and more.

The Center for Progressive Reform, a liberal advocacy group composed of law professors, including Steinzor, has pressed Obama to sign seven executive orders on health, safety and the environment during his second term.

Seventy environmental groups wrote a letter urging the president to restrict emissions at existing power plants.

Sen. Barbara Mikulski, D-Md., the chairwoman of the Appropriations Committee, sent a letter to the White House asking Obama to ban federal contractors from retaliating against employees who share salary information.

Gay rights organizations recently demonstrated in front of the White House to encourage the president to sign an executive order to bar discrimination based on sexual orientation or gender identity by companies that have federal contracts, eager for Obama to act after nearly two decades of failed attempts to get Congress to pass a similar bill.

“It’s ridiculous that we’re having to push this hard for the president to simply pick up a pen,” said Heather Cronk, the managing director of the gay rights group GetEQUAL. “It’s reprehensible that, after signing orders on gun control, cybersecurity and all manner of other topics, the president is still laboring over this decision.”

The White House didn’t respond to repeated requests for comment.

In January, Obama said he continued to believe that legislation was “sturdier and more stable” than executive actions, but that sometimes they were necessary, such as his January directive for the federal government to research gun violence.

“There are certain issues where a judicious use of executive power can move the argument forward or solve problems that are of immediate-enough import that we can’t afford not to do it,” the former constitutional professor told The New Republic magazine.

Presidents since George Washington have signed executive orders, an oft-overlooked power not explicitly defined in the Constitution. More than half of all executive orders in the nation’s history – nearly 14,000 – have been issued since 1933.

Many serve symbolic purposes, from lowering flags to creating a new military medal. Some are used to form commissions or give federal employees a day off. Still others are more serious, and contentious: Abraham Lincoln releasing political prisoners, Franklin D. Roosevelt creating internment camps for Japanese-Americans, Dwight Eisenhower desegregating schools.

“Starting in the 20th century, we have seen more and more that have lawlike functions,” said Gene Healy, a vice president of the Cato Institute, a libertarian research center, who’s the author of “The Cult of the Presidency: America’s Dangerous Devotion to Executive Power.”

Most presidents in recent history generally have issued a few hundred orders, and hundreds more memorandums and directives.

Jimmy Carter initiated a program designed to end discrimination at colleges. Ronald Reagan overturned price controls on domestic oil production. George H.W. Bush stopped imports of some semi-automatic firearms. Bill Clinton set aside large tracts of land as national monuments. George W. Bush made it easier for religious groups to receive federal dollars.

“The expectation is that they all do this,” said Ken Mayer, a political science professor at the University of Wisconsin-Madison who wrote “With the Stroke of a Pen: Executive Orders and Presidential Power.” “That is the typical way of doing things.”

But, experts say, Obama’s actions are more noticeable because as a candidate he was critical of Bush’s use of power. In particular, he singled out his predecessor’s use of signing statements, documents issued when a president signs a bill that clarifies his understanding of the law.

“These last few years we’ve seen an unacceptable abuse of power at home,” Obama said in an October 2007 speech.. “We’ve paid a heavy price for having a president whose priority is expanding his own power.”

Yet Obama’s use of power echoes that of his predecessors. For example, he signed 145 executive orders in his first term, putting him on track to issue as many as the 291 that Bush did in two terms.

John Yoo, who wrote the legal opinions that supported an expansion of presidential power after the 2001 terrorist attacks, including harsh interrogation methods that some called torture, said he thought that executive orders were sometimes appropriate – when conducting internal management and implementing power given to the president by Congress or the Constitution – but he thinks that Obama has gone too far.

“I think President Obama has been as equally aggressive as President Bush, and in fact he has sometimes used the very same language to suggest that he would not obey congressional laws that intrude on his commander-in-chief power,” said Yoo, who’s now a law professor at the University of California at Berkeley. “This is utterly hypocritical, both when compared to his campaign stances and the position of his supporters in Congress, who have suddenly discovered the virtues of silence.”

Most of Obama’s actions are written statements aimed at federal agencies that are published everywhere from the White House website to the Federal Register. Some are classified and hidden from public view.

“It seems to be more calculated to prod Congress,” said Phillip J. Cooper, the author of “By Order of the President: The Use and Abuse of Executive Direct Action.” “I can’t remember a president being that consistent, direct and public.”

Bush was criticized for many of his actions on surveillance and interrogation techniques, but attention has focused on Obama’s use of actions mostly about domestic issues.

In his first two years in the White House, when fellow Democrats controlled Capitol Hill, Obama largely worked through the regular legislative process to try to achieve his domestic agenda. His biggest achievements – including a federal health care overhaul and a stimulus package designed to boost the economy –came about with little or no Republican support.

But Republicans took control of the House of Representatives in 2010, making the task of passing legislation all the more difficult for a man with a detached personality who doesn’t relish schmoozing with lawmakers. By the next year, Obama wasn’t shy about his reasons for flexing his presidential power.

In fall 2011, he launched the “We Can’t Wait” campaign, unveiling dozens of policies through executive orders – creating jobs for veterans, adopting fuel efficiency standards and stopping drug shortages – that came straight from his jobs bills that faltered in Congress.

“We’re not waiting for Congress,” Obama said in Denver that year when he announced a plan to reduce college costs. “I intend to do everything in my power right now to act on behalf of the American people, with or without Congress. We can’t wait for Congress to do its job. So where they won’t act, I will.”

When Congress killed legislation aimed at curbing the emissions that cause global warming, Obama directed the Environmental Protection Agency to write regulations on its own incorporating some parts of the bill.

When Congress defeated pro-union legislation, he had the National Labor Relations Board and the Labor Department issue rules incorporating some parts of the bill.

“The president looks more and more like a king that the Constitution was designed to replace,” Sen. Charles Grassley, R-Iowa, said on the Senate floor last year.

#### Use of “zone of activity hostilities” guarantees circumvention --- Impossible to define the precise geographic scope and what constitutes active hostilities

Daskal, 13 --- Adjunct Professor at Georgetown Law (April 2013, Jennifer C., University of Pennsylvania Law Review, “ARTICLE: THE GEOGRAPHY OF THE BATTLEFIELD: A FRAMEWORK FOR DETENTION AND TARGETING OUTSIDE THE "HOT" CONFLICT ZONE,” 161 U. Pa. L. Rev. 1165)

2. Identifying the Zone

Consistent with treaty and case law, overt and sustained fighting are key factors in identifying a zone of active hostilities. Specifically, the fighting must be of sufficient duration and intensity to create the exigent circumstances that justify application of extraordinary war authorities, to put civilians on notice, and to justify permissive evidentiary presumptions regarding the identification of the enemy. n133 The presence of troops on the [\*1207] ground is a significant factor, although neither necessary nor sufficient to constitute a zone of active hostilities. Action by the Security Council or regional security bodies such as NATO, as well as the belligerent parties' express recognition of the existence of a hot conflict zone, are also relevant.

Linking the zone of active hostilities primarily to the duration and intensity of the fighting and to states' own proclamations suffers, however, from an inherent circularity. A state can itself create a zone of active hostilities by ratcheting up violence or issuing a declaration of intent, thereby making previously unlawful actions lawful. n134

It is impossible to fully address this concern. The problem can, however, be significantly reduced by insisting on strict compliance with the law-of-war principles of distinction and proportionality and by vigorously punishing states for acts of aggression. n135 There will, of course, be disagreement as to whether a state's escalation of a certain conflict constitutes aggression, particularly given underlying disagreements about who qualifies as a lawful target. The zone approach is helpful in this regard as well: it narrows the range of disagreement by demanding heightened substantive standards as to who qualifies as a legitimate target outside the zones of active hostilities. Under the zone approach, the escalation of force must be aimed at a narrower set of possible military targets until the increased use of force is sufficiently intense and pervasive enough to create a new zone of active hostilities.

3. Geographic Scope of the Zone

A secondary question relates to the geographic scope of the zone of active hostilities. In answering the related question of the scope of the overarching armed conflict, the Tadic court defined the conflict as extending throughout the state in which hostilities were conducted (in the case of international armed conflict) n136 and the area over which a party had territorial control (in the case of a noninternational armed conflict that did not extend [\*1208] throughout an entire state). n137 Neither approach, however, maps well onto the practical realities of a transnational conflict between a state and a non-state actor. In many cases, the non-state actor and related hostilities will be concentrated in a small pocket of the state. It would be contrary to the justifications of exigency and proper notice to define the zone of active hostilities as extending to the entire state. A territorial control test also does not make sense when dealing with a non-state actor, such as al Qaeda, which does not exercise formal control over any territory and is driven more by ideology than territorial ambition.

### AT Obama’s Policy

#### **Obama doesn’t really support the plan --- recent speeches were just an attempt to pacify certain groups while maintaining executive flexibility**

Friedersdorf, 13 (5/24/2013, Conor, “A Skeptical Celebration of President Obama's Shifty Terrorism Speech; The address, a vindication for civil libertarians, promises change you may want to hold off on believing in,” www.theatlantic.com/politics/archive/2013/05/a-skeptical-celebration-of-president-obamas-shifty-terrorism-speech/276205/)

President Obama attempted something familiar in his well-crafted speech at National Defense University: he signalled that counterterrorism efforts would change significantly in his second term; and like his predecessor, he avoided mentioning that the forsaken policies were mistakes.

Like all presidents, Obama began his tenure with a daunting challenge: a rapid transition from a political campaign to a constant barrage of often intractable, life-and-death decisions. Some were foisted on him by policies already in place; others arose suddenly and unexpectedly. With no experience heading the executive branch, imperfect information, and too little time for reflection, Obama gave orders, all of them filtered through an uncontrollable bureaucracy. Of course he made big mistakes. Little surprise that he regards his second term as an opportunity for course correction, reining in his inner Dick Cheney just as Bush reined in actual Dick Cheney. With time, on-the-job experience, and the benefit of sharp critiques, Obama gained perspective.

Several changes he announced Thursday are implicit admissions to civil libertarians that the critiques they've made and the pressure they exert ought to shape policy going forward. One memorable illustration interrupted the speech itself. As Obama called on Congress to lift restrictions on Gitmo detainee transfers, Code Pink heckler Medea Benjamin drew attention to a fact that Obama himself imposed a moratorium on repatriating detainees already cleared for release to Yemen. He wasn't responding to her interjection when he said, moments later, "I am lifting the moratorium on detainee transfers to Yemen." But those words were part of the prepared text thanks in part to sustained pressure from folks like Benjamin who want to close Gitmo. Implementing a step they've long called for is tantamount to saying, "You're right, I've been an obstacle."

It it critical to understand that without the sustained dissent of Obama Administration critics, Thursday's speech might not have occurred; it certainly would've lacked certain key concessions. Now civil libertarians can cite Obama's words as vindication on matters including these:

•His assertion that drone strikes target only terrorists "who pose a continuing and imminent threat to the American people" doesn't accurately describe the actual behavior of the CIA, assuming any reasonable definition of imminence, but is nevertheless a clear rhetorical concession that it is illegitimate to target with drones people who pose no imminent threat to America.

•His assertion that "there must be near-certainty that no civilians will be killed or injured" in U.S. drone strikes is at odds with the reality of drone policy, given that hundreds of civilians have been killed. It is still an admission that uncertainty about civilian death makes a drone strike illegitimate.

•When Obama states, "I have asked my Administration to review proposals to extend oversight of lethal actions outside of warzones that go beyond our reporting to Congress," he is conceding that present oversight is inadequate and ought to be augmented in some way.

•Obama's statement that "the success of American Muslims, and our determination to guard against any encroachments on their civil liberties, is the ultimate rebuke to those who say we are at war with Islam," strongly suggests that NYPD spying on innocent Muslim Americans, simply due to their religion, has the potential to make us less safe, despite the fact that John Brennan, his top counterterrorism adviser and current CIA director, praised the program.

•Obama mentions the need to put "careful constraints" on the State Secrets doctrine, another step civil libertarians have championed, and calls for the creation of "a strong Privacy and Civil Liberties Board."

•His statement that "journalists should not be at legal risk for doing their jobs" is an apparent rebuke to DOJ's decision to accuse James Rosen of violating the law by soliciting classified information from a government employee.

•Perhaps most importantly, Obama is on record stating that a failure to end the AUMF that provides the legal basis for the War on Terrorism would do damage to America, though he provides no timeline. His unexpected assurance that "I will not sign laws designed to expand this mandate further" is arguably the most important promise that he made in his speech.

There are, alas, huge caveats to consider. Some concessions, like the change in status for Yemeni prisoners cleared for release, appear to be policy changes that Obama will actually implement. But he has a long record of broken promises and misleading rhetoric on civil liberties, and it would be naive to assume that he'll follow through on everything he said on Thursday. The speech was an inescapably political maneuver, intended in part to disarm his critics, following the classic Obama pattern of affirming their strongest insights and critiques, but acting as if, having done so, there's no need to change course in the way those critiques imply.

As Benjamin Wittes put it at Lawfare:

If there was a unifying theme of President Obama's speech today at the National Defense University, it was an effort to align himself as publicly as possible with the critics of the positions his administration is taking without undermining his administration's operational flexibility in actual fact. To put it crassly, the president sought to rebuke his own administration for taking the positions it has -- but also to make sure that it could continue to do so.

### AT Somin

#### External checks empirically fail to restrain executive

Tichenor, 8 --- Department of Political Science at Rutgers University-New Brunswick

(Last modified 4/30/2008, Daniel J., “The Forgotten Virtues of Executive Restraint: Liberal Democracy, Prerogative Power, and Unfettered Presidentialism,”

[http://www.wcfia.harvard.edu/sites/default/files/The%20Forgotten%20Virtues%20of%20Executive%20Restraint%20Tichenor.pdf)](http://www.wcfia.harvard.edu/sites/default/files/The%20Forgotten%20Virtues%20of%20Executive%20Restraint%20Tichenor.pdf%29))

“The Constitution has not greatly bothered any wartime president,” Roosevelt’s Attorney General Francis Biddle memorably remarked.43 The same may be said of political forces outside the government. Indeed, none of our five potential checks – the judiciary, Congress, the media, advocacy groups, or the general public – posed significant veto-points. Lincoln encountered fierce press criticism, Roger Taney was a nettlesome critic of the habeas suspension, and mass publics were hardly unified behind the war cause, but none kept him from asserting unprecedented prerogative power. Wilson faced some challenges with advocacy groups, but the most obstreperous were easily repressed.

If we wanted to play blithe optimists, we could highlight the extent to which each of our potential sources of resistance to presidential actions that restrict civil liberties have grown over time. The national network of citizen groups championing civil liberties has clearly thickened; public opinion after 2002 has wavered on executive actions; media coverage has expanded dramatically in volume (but my own content analysis is in progress); Congress has not greatly bothered the administration’s prosecution of the War on Terror but its oversight of possible military tribunals and sunset provisions of the Patriot Act illustrate a level legislative reluctance even shortly after the 9/11 attacks; and the federal judiciary of late has been more assertive than earlier wartime courts (see Table 2 for a first-cut evaluation). In the final analysis, however, none of these external checks seriously encumbered Lincoln, Wilson and FDR – or George W. Bush in the immediate aftermath of September 11th – in their exercise of prerogative power. In the absence of dependable external checks on presidential prerogative, internal checks assume special importance.

#### Judiciary and congress can’t effectively monitor and oversee the executive

Posner & Vermeule, 6 --- \*Prof of Law at U Chicago, AND \*\* Prof of Law at Harvard (9/19/2006, Eric A. Posner & Adrian Vermeule, “The Credible Executive,” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=931501)>)

III. Madisonian Monitoring

In the standard separation-of-powers theory attributed to Madison, the executive’s credibility dilemma is ameliorated by the separation of powers and institutional competition, which produce monitoring or oversight of executive discretion. Although the Madisonian system is not usually justified as a means of enhancing the executive’s credibility, that is a byproduct of the system: If checks and balances discourage illmotivated persons from running for election or force them to adopt public-spirited policies once in office, then the executive’s claims about his policies will be credible. Congressional and judicial oversight of executive action, on this account, will ensure that the executive exercises discretion only as directed by voter-principals, acting through legislators who are simultaneously agents (of the voters) and principals (of the executive). This account is no longer adequate, if it ever was. Legislators and judges are, for the most part, unable to effectively oversee or monitor the executive, especially in the domains of foreign policy and national security. As a result, they are forced to the Hobson’s choice of granting discretion that an ill-motivated executive would abuse, or withholding discretion that a well-motivated executive would use for good. We do not suggest that the Madisonian system has entirely failed, only that it has partly failed, and that to the extent it has failed the executive’s credibility dilemma becomes more acute. We will examine some of the principal institutional problems, beginning with legislative oversight and then turning to the courts. A. Congress In the Madisonian vision, legislators are simultaneously principals of the president, who is supposed to execute the statutes that legislators enact, and are also institutional competitors of the president, who has freestanding constitutional powers beyond the execution of statutes. Voters elect legislators, who either transmit voters’ exogenously-determined policy preferences to the executive through statutes, or else (in a deliberative conception of Madisonianism) refine public preferences through reasoned discussion and then instruct the executive accordingly.40 We are agnostic on the question of whether the preference-based or deliberative version of the Madisonian vision is more persuasive, or exegetically more faithful to the Madison of the Federalist Papers. In either case, what matters here is that the combination of principal-agent relationships with institutional rivalry between legislators and the executive is supposed to produce valuable byproducts for the polity as whole. Legislators have an interest in monitoring the president not only to ensure that he faithfully executes the statutes they enact, but also to ensure that executive power does not swell beyond its constitutionally prescribed bounds and destroy the separation of legislative and executive powers. Whether or not this picture was ever realistic, it is no longer so today. Many institutional factors hamper effective legislative monitoring of executive discretion. Consider the following problems. Information asymmetries. Monitoring the executive requires expertise in the area being monitored. In many cases, Congress lacks the information necessary to monitor discretionary policy choices by the executive. Although the committee system has the effect, among others, of generating legislative information and expertise,41 and although Congress has a large internal staff, there are domains in which no amount of legislative expertise suffices for effective oversight. Prime among these are areas of foreign policy and national security. Here legislative expertise is beside the point, because the legislature lacks the raw information that experts need to make assessments. The problem would disappear if legislators could cheaply acquire information from the president, but they cannot. One obstacle is a suite of legal doctrines protecting executive secrecy and creating deliberative privileges42 – doctrines which may or may not be justified from some higher-order systemic point of view as means for producing optimal deliberation within the executive branch. Although such privileges are waivable, the executive often fears to set a bad institutional precedent. Another obstacle is the standard executive claim that Congress leaks like a sieve, so that sharing secret information with legislators will result in public disclosure. The credibility dilemma becomes most acute when, as in the recent controversy over surveillance by the National Security Agency, the executive claims that the very scope or rationale of a program cannot be discussed with Congress, because to do so would vitiate the very secrecy that makes the program possible and beneficial. In any particular case the claim might be right or wrong; legislators have no real way to judge, and they know that the claim might be made either by a well-motivated executive or an ill-motivated executive, albeit for very different reasons. Collective action problems. Executive officials worry that, with many legislators even on select intelligence committees, someone is bound to leak, and it will be difficult to pinpoint the source. Aware of the relative safety that the numbers give them, leakers are all the more bold. This is an example of a larger problem, arising from the fact that there are many more legislators than top-level executive officials. Compared to the executive branch, Congress finds it costlier to coordinate and to undertake collective action (such as the detection and punishment of leakers). To be sure, the executive too is a they, not an it. Much of what presidents do is to arbitrate internal conflicts among executive departments and to try to aggregate competing views into coherent policy over time. As a comparative matter, however, the contrast is striking: the executive can act with much greater unitariness, force and dispatch than can Congress, which is chronically hampered by the need for debate and consensus among large numbers. That comparative advantage is a principal reason why Congress enacts broad delegating statutes in the first place, especially in domains touching on foreign policy and national security. In these domains, and elsewhere, the very conditions that make delegation attractive also hamper congressional monitoring of executive discretion under the delegation. There may or may not be offsetting advantages to Congress’ large numbers; perhaps the very size and heterogeneity of Congress make it a superior deliberator, whereas the executive branch is prone to suffer from various forms of groupthink.43 But there are clear disadvantages to large numbers insofar as monitoring executive discretion is at issue. From the standpoint of individual legislators, monitoring is a collective good. If rational and self-interested, each legislator will attempt to free-ride on the production of this good, and monitoring will be inefficiently underproduced.44 More broadly, the institutional prerogatives of Congress are also a collective good.45 Individual legislators may or may not be interested in protecting the institution of Congress or the separation of legislative from executive power; much depends on legislators’ time horizons or discount rate, the expected longevity of a legislative career, and so forth. But it is clear that protection of legislative prerogatives will be much less in an institution composed of hundreds of legislators coming and going than if Congress were a single person. “Separation of parties, not powers.”46 Congress is, among other things, a partisan institution. Political scientists debate whether it is principally a partisan institution, or even exclusively so.47 But Madison arguably did not envision partisanship in anything like its modern sense.48 Partisanship undermines the separation of powers during periods of unified government.49 Where the same party controls both the executive branch and Congress, real monitoring of executive discretion rarely occurs, at any rate far less than in an ideal Madisonian system. Partisanship may enhance monitoring during periods of divided government, as one House of Congress, say, investigates a president of the other party. However, monitoring is arguably most necessary during periods of unified government, because Congress is most likely to enact broad delegations when the President holds similar views;50 and in such periods monitoring is least likely to occur.51 The Congress of one period may partially compensate by creating institutions to ensure bipartisan oversight in future periods – consider the statute that gives a partisan minority of certain congressional committees power to subpoena documents from the executive, albeit only nonprivileged documents52 – but these are palliatives. Under unified government, congressional leaders of the same party as the president have tremendous power to frustrate effective oversight by the minority party. The limits of congressional organization. Congress as a collective body has attempted, in part, to overcome these problems through internal institutional arrangements. Committees and subcommittees specialize in a portion of the policy space, such as the armed forces or homeland security, thereby relieving members of the costs of acquiring and processing information (at least if the committee itself maintains a reputation for credibility).53 Intelligence committees hold closed sessions and police their members to deter leaks (although the sanctions that members of congress can apply to one another are not as strong as the sanctions a president can apply to a leaker in the executive branch). Large staffs, both for committees and members, add expertise and monitoring capacity. And interest groups can sometimes be counted upon to sound an alarm when the executive harms their interests.54 Overall, however, these arrangements are not fully adequate, especially in domains of foreign policy and national security, where the scale of executive operations is orders of magnitude larger than the scale of congressional operations. Congress’ whole staff, which must (with the help of interest groups) monitor all issues, runs to some 22,000 persons.55 As of 2003, the executive branch had some 2.6 million civilian employees,56 in addition to almost 1.2 million in the armed forces.57 The sheer mismatch between the scale of executive operations and the congressional capacity for oversight, even aided by interest groups, is daunting. Probably Congress is already at or near the limits of its monitoring capacity at its current size and budget. Congressional motivation and credibility. Like the executive, Congress has a credibility problem. Members of Congress may be well-motivated or ill-motivated; the public does not know. Thus, when Congress passes a resolution criticizing presidential action or refuses to delegate power that he seeks, observers do not know whether Congress or the president is right. Ill-motivated members of Congress will constrain public-spirited presidents; thus the Madisonian cure for the problem of executive credibility could be worse than the disease. Even if members of Congress are generally well-motivated, Congress has a problem of institutional credibility that the president lacks. Although a voter might trust the member of Congress for whom she voted because she knows about his efforts on his district’s behalf, she will usually know nothing about other members of Congress, so when her representative is outvoted, she might well believe that the other members are ill-motivated. And, with respect to her own representative, he will often lack credibility compared to the president because he has much less information. Further, the reputation of congressional leaders is only very loosely tied to the reputation of the institution, while there is a closer tie between the president’s reputation and the presidency. As a result, Congress is likely to act less consistently than the presidency, further reducing its relative credibility. Congressional lack of credibility undermines its ability to constrain the presidency: Congress can monitor the president and tell the public that the president has acted properly or improperly, but if the public does not believe Congress, then Congress’s power to check the president is limited. We neither make nor need to make any general empirical claim that Congress has no control over executive discretion. That is surely not the case; there is a large debate, or set of related debates, about the extent of congressional dominance.58 Our assertion is just that there is at least a real gap, and during emergencies and wars an even larger gap, between the extent of executive discretion and legislative capacity for monitoring. Within that gap, the dilemma of executive credibility arises. To the extent that legislators cannot monitor the executive’s exercise of discretion, they must either withhold discretion from an executive who might be well-motivated, or grant discretion to an executive who might be ill-motivated. B. Courts Similar problems afflict judicial oversight of the executive. Information asymmetries. The gap between executive and judiciary, in information and expertise, is even wider than between the executive and Congress. Whereas many legislators have a narrowly defined field of policy expertise, particularly in the House, federal judges are mostly generalists, barring a few specialized courts. Furthermore, the partial insulation from current politics that federal judges enjoy, by virtue of life tenure and salary protection, brings with it a kind of informational impoverishment.59 Legislators, who must please other people at least some of the time, interact with the outside world far more systematically than generalist judges, whose main source of information is the briefs and arguments of litigants. The credibility dilemma thus appears quite acutely in judicial proceedings. When the executive says that resolving a plaintiff’s claim would require disclosure of “state secrets,”60 with dangerous consequences for national security, judges know that an either an ill-motivated or a wellmotivated executive might be making the claim and know that they have no easy means to assess whether the claim is credible. Collective action problems and decentralization. If congressional monitoring of executive discretion is hampered by collective action problems, judicial monitoring is hampered by a similar condition, the decentralized character of the federal judiciary. The judiciary really is a they, not an it, and is decentralized along mainly geographic lines. Different judges on different courts will have different prior estimates of the executive’s credibility, and hence different views of the costs and benefits of oversight and of the appropriate level of monitoring. The Supreme Court is incapable of fully resolving these structural conflicts. Because the Court presides over a large institutional system and lacks the capacity to review more than a fraction of cases submitted to it, its role is restricted by necessity to the declaration of general principles of law and episodic, ad hoc intervention in the system.61 The legitimacy deficit. In the federal system, appointed judges are not overtly partisan, though they are sometimes covertly so.62 The very condition that enables this relative lack of overt politicization – that federal judges are, at least in one familiar conception, legal technocrats appointed for their expertise rather than elected on a partisan basis – also creates a serious legitimacy deficit for the judiciary, understanding legitimacy in a strictly sociological sense.63 Aroused publics concerned about issues such as national security sometimes have little tolerance for robust judicial oversight of executive discretion, which can always be condemned as “activism” by “unelected judges.” This charge sometimes succeeds and sometimes fails, but for the judges it is always a concern that acts as a drag on attempts to monitor executive behavior. Judicial credibility. Judges rely on executive officials to carry out their orders and Congress to fund them, and thus ultimately on the public imposing sanctions on the political branches when the political branches do not obey a court order. But the public will support the judiciary only if the public believes that the judiciary is well-motivated rather than ill-motivated. Such is often the case,64 but the credibility of judges is not infinite. Lingering public suspicion of elite decisionmaking places a cap on judicial credibility, and indeed the evidence suggests that judges are often motivated by ideology, at least when it comes to opinion assignment.65 Thus, as we have mentioned before, as between a presidential determination that an emergency requires a course of action and a judge’s claim to the contrary, the public might well believe the president.66