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#### Targeted killings are strikes carried about against pre-meditated, individually designated targets—signature strikes are distinction—precision of definition is key to education.

Anderson 11—Kenneth Anderson, Professor of International Law at American University [August 29, 2011, “Distinguishing High Value Targeted Killing and “Signature” Attacks on Taliban Fighters,” http://www.volokh.com/2011/08/29/distinguishing-high-value-targeted-killing-and-signature-attacks-on-taliban-fighters/]

From the US standpoint, it is partly that it does not depend as much as it did on Pakistan’s intelligence. But it is also partly, as a couple of well-publicized incidents a few months ago made clear, that sharing targeting decisions with Pakistan’s military and ISI runs a very considerable possibility of having the targets tipped off (as even The Onion has observed). The article notes in this regard, the U.S. worries that “if they tell the Pakistanis that a drone strike is coming someone within Pakistani intelligence could tip off the intended target.” However, the Journal’s reporting goes from there to emphasize an aspect of targeted killing and drone warfare that is not sufficiently appreciated in public discussions trying to assess such issues as civilian collateral damage, strategic value and uses, and the uses of drones in counterterrorism and counterinsurgency as distinct activities. The article explains:

The CIA carries out two different types of drone strikes in the tribal areas of Pakistan—those against so-called high-value targets, including Mr. Rahman, and “signature” strikes targeting Taliban foot-soldiers who criss-cross the border with Afghanistan to fight U.S. forces there.

High-value targets are added to a classified list that the CIA maintains and updates. The agency often doesn’t know the names of the signature targets, but it tracks their movements and activities for hours or days before striking them, U.S. officials say.

Another way to put this is that, loosely speaking, the high value targets are part of a counterterrorism campaign – a worldwide one, reaching these days to Yemen and other places. It is targeted killing in its strict sense using drones – aimed at a distinct individual who has been identified by intelligence. The “signature” strikes, by contrast, are not strictly speaking “targeted killing,” because they are aimed at larger numbers of fighters who are targeted on the basis of being combatants, but not on the basis of individuated intelligence. They are fighting formations, being targeted on a mass basis as part of the counterinsurgency campaign in Afghanistan, as part of the basic CI doctrine of closing down cross-border safe havens and border interdiction of fighters. Both of these functions can be, and are, carried out by drones – though each strategic function could be carried out by other means, such as SEAL 6 or CIA human teams, in the case of targeted killing, or manned aircraft in the case of attacks on Taliban formations. The fundamental point is that they serve distinct strategic purposes. Targeted killing is not synonymous with drone warfare, just as counterterrorism is analytically distinct from counterinsurgency. (I discuss this in the opening sections of this draft chapter on SSRN.)

This analytic point affects how one sees the levels of drone attacks going up or down over the years. Neither the total numbers of fighters killed nor the total number of drone strikes – going up or down over months – tells the whole story. Total numbers do not distinguish between the high value targets, being targeted as part of the top down dismantling of Al Qaeda as a transnational terrorist organization, on the one hand, and ordinary Taliban being killed in much larger numbers as part of counterinsurgency activities essentially part of the ground war in Afghanistan, on the other. Yet the distinction is crucial insofar as the two activities are, at the level of truly grand strategy, in support of each other – the war in Afghanistan and the global counterterrorism war both in support of the AUMF and US national security broadly – but at the level of ordinary strategic concerns, quite distinct in their requirements and conduct. If targeted killing against AQ leadership goes well in Pakistan, those might diminish at some point in the future; what happens in the war against the Afghan Taliban is distinct and has its own rhythm, and in that effort, drones are simply another form of air weapon, an alternative to manned aircraft in an overt, conventional war. Rising or falling numbers of drone strikes in the aggregate will not tell one very much without knowing what mission is at issue.

#### Vote neg—signature strikes and targeted killings are distinct operations with entirely separate lit bases and advantages—they kill precision and limits

Anderson 11—Kenneth Anderson, Professor of International Law at American University [September 23, 2011, “Efficiency in Bello and ad Bellum: Targeted Killing Through Drone Warfare,” http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=1812124]

Although targeted killing and drone warfare are often closely connected, they are not the same and are not always associated with each other. We need to disaggregate the practices of targeted killing from the technologies of drone warfare.

Targeted killing consists of using deadly force, characterized by the identification of and then strike against an individual marked to be killed. It is distinguished, among other things, by making an individualized determination of a person to be killed, rather than simply identifying, for example, a mass of enemy combatants to attack as a whole. Since it is a practice that involves the determination of an identified person, rather than a mass of armed and obvious combatants, it is a use of force that is by its function integrated with intelligence work, whether the intelligence actors involved are uniformed military or a civilian agency such as the CIA.

Targeted killing might (and does) take place in the course of conventional warfare, through special operations or other mechanisms that narrowly focus operations through intelligence. But it might also take place outside of a conventional conflict, or perhaps far from the conventional battlefields of that conflict, sufficiently so operationally to best be understood as its own operational category of the use of force – “intelligence-driven,” often covert, and sometimes non-military intelligence agency use of force, typically aimed at “high value” targets in global counterterrorism operations. It might be covert or it might not – but it will be driven by intelligence, because of necessity it must identify and justify the choice of target (on operational, because resources are limited; or legal grounds; or, in practice, both).

Targeted killing might use a variety of tactical methods by which to carry out the attack. The method might be by drones firing missiles – the focus of discussion here. But targeted killing – assassination, generically – is a very old method for using force and drones are new. Targeted killing in current military and CIA doctrine might, and often does, take place with covert civilian intelligence agents or military special operations forces – a human team carrying out the attack, rather than a drone aircraft operated from a distance. The Bin Laden raid exemplifies the human team-conducted targeted killing, of course, and in today’s tactical environment, the US often uses combined operations that have available both human teams and drones, to be deployed according to circumstances.

Targeted killing is thus a tactic that might be carried out either by drones or human teams. If there are two ways to do targeted killing, there are also two functions for the use of drones – targeted killing as part of an “intelligence-driven” discrete use of force, on the one hand, and a role (really, roles) in conventional warfare. Drones have a role in an ever-increasing range of military operations that have no connection to “targeted killing.” For many reasons ranging from cost-effectiveness to mission-effectiveness, drones are becoming more ramified in their uses in military operations, and will certainly become more so. This is true starting with their fundamental use in surveillance, but is also true when used as weapons platforms.

From the standpoint of conventional military operations and ordinary battlefields, drones are seen by the military as simply an alternative air weapons platform. One might use an over-the-horizon manned aircraft – or, depending on circumstances, one might instead use a drone as the weapons platform. It might be a missile launched from a drone by an operator, whether sitting in a vehicle near the fighting or farther away; it might be a weapon fired from a helicopter twenty miles away, but invisible to the fighters; it might be a missile fired from a US Navy vessel hundreds of miles away by personnel sitting at a console deep inside the ship. Future air-to-air fighter aircraft systems are very likely to be remotely piloted, in order to take advantage of superior maneuverability and greater stresses endurable without a human pilot. Remotely-piloted aircraft are the future of much military and, for that matter, civil aviation; this is a technological revolution that is taking place for reasons having less to do with military aviation than general changes in aviation technology.

Missiles fired from a remotely-piloted standoff platform present the same legal issues as any other weapons system – the law of war categories of necessity and proportionality in targeting. To military professionals, therefore, the emphasis placed on “remoteness” from violence of drone weapons operators, and presumed psychological differences in operators versus pilots, is misplaced and indeed mystifying. Navy personnel firing missiles from ships are typically just as remote from the fighting, and yet one does not hear complaints about their indifference to violence and their “Playstation,” push-button approach to war. Air Force pilots more often than not fire from remote aircraft; pilots involved in the bombing campaign over Serbia in the Kosovo war sometimes flew in bombers taking off from the United States; bomber crews dropped their loads from high altitudes, guided by computer, with little connection to the “battlefield” and little conception of what they – what their targeting computers - were aiming at. Some of the crews in interviews described spending the flights of many hours at a time, flying from the Midwest and back, as a good chance to study for graduate school classes they were taking – not Playstation, but study hall. In many respects, the development of new sensor technologies make the pilots, targeters, and the now-extensive staff involved in a decision to fire a weapon from a drone far more aware of what is taking place at the target than other forms of remote targeting, from Navy ships or high altitude bombing.

Very few of the actors on a technologically advanced battlefield are personally present in a way that makes the destruction and killing truly personal – and that is part of the point. Fighting up close and personal, on the critics’ psychological theories, seems to mean that it has greater significance to the actors and therefore leads to greater restraint. That is extremely unlikely and contrary to the experience of US warfighters. Lawful kinetic violence is more likely to increase when force protection is an issue, and overuse of force is more likely to increase when forces are under personal pressure and risk. The US military has known since Vietnam at least that increased safety for fighting personnel allows them greater latitude in using force, encourages and permits greater willingness to consider the least damaging alternatives, and that putting violence at a remove reduces the passions and fears of war and allows a coolly professional consideration of what kinds, and how much, violence is required to accomplish a lawful military mission. Remote weapon systems, whether robotic or simply missiles launched from a safe distance, in US doctrine are more than just a means for reducing risk to forces – they are an integral part of the means of allowing more time to consider less-harmful alternatives.

This is an important point, given that drones today are being used for tasks that involve much greater uses of force than individualized targeted killing. Drones are used today, and with increasing frequency, to kill whole masses of enemy columns of Taliban fighters on the Pakistan border – in a way that would otherwise be carried out by manned attack aircraft. This is not targeted killing; this is conventional war operations. It is most easily framed in terms of the abstract strategic division of counterinsurgency from counterterrorism (though in practice the two are not so distinct as all that). In particular, drones are being deployed in the AfPak conflict as a counterinsurgency means of going after Taliban in their safe haven camps on the Pakistan side of the border. A fundamental tenet of counterinsurgency is that the safe havens have to be ended, and this has meant targeting much larger contingents of Taliban fighters than previously understood in the “targeted killing” deployment. This could be – and in some circumstances today is – being done by the military; it is also done by the CIA under orders of the President partly because of purely political concerns; much of it today seems to be a combined operation of military and CIA.

Whoever conducts it and whatever legal issues it might raise, the point is that this activity is fundamentally counterinsurgency. The fighters are targeted in much larger numbers in the camps than would be the case in “targeted killing,” and this is a good instance of how targeted killing and drone warfare need to be differentiated. The targets are not individuated, either in the act of targeting or in the decision of who and where to target: this is simply an alternative air platform for doing what might otherwise be done with helicopters, fixed wing aircraft, or ground attack, in the course of conventional counterinsurgency operations. But it also means that the numbers killed in such operations are much larger, and consist often of ordinary fighters who would otherwise pile into trucks and cross back into Afghanistan, rather than individualized “high value” targets, whether Taliban or Al Qaeda.

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#### The affirmative’s use of the law is a militaristic tactic that creates legal legitimacy to propel more frequent, more deadly violent interventions that ensure infrastructural violence that maims civilians—they actively displace moral questions in favor of a pathologically detached question of legality

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

Conclusion The utility of law to legitimize modern warfare should not be underestimated. Even in the midst of war, legal arguments retain an aura of legitimacy that is missing in “political” justifications. The aspirations of humanitarian law are sound. Rather, it is the instrumental use of law that has oiled the skids of hi-tech violence. Not only does the law defer to military necessity, even when very broadly defined, but more importantly it bestows on those same military demands all the moral and psychological trappings of legality. The result has been to legalize and thus to justify in the public mind “inhumane military methods and their consequences,” as violence against civilians is carried out “behind the protective veil of justice” ~af Jochnick and Normand, 1994a:50!. Hi-tech states can defend hugely destructive, essentially unopposed, aerial bombardment by citing the authority of seemingly secular and universal legal standards. The growing gap between hi- and low-tech means may exacerbate inequalities in moral capital as well, as the sheer barbarism of “premodern” violence committed by ethnic cleansers or atavistic warlords makes the methods employed by hi-tech warriors seem all the more clean and legal by contrast. This fusion of law and technology is likely to propel future American interventions. Despite assurances that the campaign against terrorism would differ from past conflicts, the allied air war in Afghanistan, marked by record numbers of unmanned drones and bomber flights at up to 35,000 feet, or nearly 7 miles aloft, rarely strayed from the hi-tech and legalistic script. While the attack on the World Trade Center confirmed a thousand times over the illegality and inhumanity of terrorism, the U.S. response has raised further issues of legality and inhumanity in conventional warfare. Civilian deaths in the campaign have been substantial because “military objects” have been targeted on the basis of extremely low-confidence intelligence. In several cases targets appear to have been chosen based on misinformation and even rank rumor. A liberal reading of dual use and the authorization of bombers to strike unvetted “targets of opportunity” also increased collateral damage. Although 10,000 of the 18,000 bombs, missiles, and other ordnance used in Afghanistan were precision-guided munitions, the war resulted in roughly 1000 to 4000 direct civilian deaths, and, according to the UNHCR, produced 900,000 new refugees and displaced persons. The Pentagon has nevertheless viewed the campaign as “a more antiseptic air war even than the one waged in Kosovo” ~Dao, 2001!. General Tommy Franks, who commanded the campaign, called it “the most accurate war ever fought in this nation’s history” ~Schmitt, 2002!.9 No fundamental change is in sight. Governments continue to justify collateral damage by citing the marvels of technology and the authority of international law. One does see a widening rift between governments and independent human rights and humanitarian relief groups over the interpretation of targeting and dual-use law. But these disputes have only underscored the ambiguities of humanitarian law. As long as interventionist states dominate the way that the rules of war are crafted and construed, hopes of rescuing law from politics will be dim indeed.

#### The impact is permanent warfare—security and fear-driven politics create the enabling conditions for executive overreach and violence which means it’s try or die and we turn the case

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LATE MODERN TRANSFORMATIONS are often conceived in terms of the sociopolitical and economic manifestations of change emergent from a globalized arena. What is less apparent is how late modernity as a distinct era has impacted upon our conceptions of the social sphere, our lived experience, and our reflections upon the discourses and institutions that form the taken-for-granted backdrop of the known and the knowable. The paradigmatic certainties of modernity – the state, citizenship, democratic space, humanity’s infinite capacity for progress, the defeat of dogma and the culmination of modernity’s apotheosis in the free-wheeling market place – have in the late modern era come face to face with uncertainty, unpre- dictability and the gradual erosion of the modern belief that we could indeed simply move on, assisted by science and technology, towards a condition where instrumental rationality would become the linchpin of government and human interaction irrespective of difference. Progress came to be associated with peace, and both were constitutively linked to the universal, the global, the human, and therefore the cosmopolitan. What shatters such illusions is the recollection of the 20th century as the ‘age of extremes’ (Hobsbawm, 1995), and the 21st as the age of the ever-present condition of war. While we might prefer a forgetting of things past, a therapeutic anamnesis that manages to reconfigure history, it is perhaps the continuities with the past that act as antidote to such righteous comforts.

How, then, do we begin to conceptualize war in conditions where distinctions disappear, where war is conceived, or indeed articulated in political discourse, in terms of peace and security, so that the political is somehow banished in the name of governmentalizing practices whose purview knows no bounds, whose remit is precisely the banishment of limits, of boundaries and distinctions. Boundaries, however, do not disappear. Rather, they become manifest in every instance of violence, every instance of control, every instance of practices targeted against a constructed other, the enemy within and without, the all-pervasive presence, the defences against which come to form the legitimizing tool of war.

Any scholarly take on the present juncture of history, any analysis of the dynamics of the present, must somehow render the narrative in measured tones, taking all factors into account, lest the narrator is accused of exaggeration at best and particular political affiliations at worst. When the late modern condition of the West, of the European arena, is one of camps, one of the detention of groups of people irrespective of their individual needs as migrants, one of the incarceration without due process of suspects, one of overwhelming police powers to stop, search and detain, one of indefinite detention in locations beyond law, one of invasion and occupation, then language itself is challenged in its efforts to contain the description of what is. The critical scholarly take on the present is then precisely to reveal the conditions of possibility in relation to how we got here, to unravel the enabling dynamics that led to the disappearance of distinctions between war and criminality, war and peace, war and security. When such distinctions disappear, impunity is the result, accountability shifts beyond sight, and violence comes to form the linchpin of control. We can reveal the operations of violence, but far more critical is the revelation of power and how power operates in the present. As the article argues, such an exploration raises fundamental questions relating to the relationship of power and violence, and their mutual interconnection in the complex interstices of disrupted time and space locations. Power and violence are hence separable analytical categories, separable practices; they are at the same time connected in ways that work on populations and on bodies – with violence often targeted against the latter so that the former are reigned in, governed. Where Michel Foucault sought, in his later writings, to distinguish between power and violence, to reveal the subtle workings of power, now, in the present, this article will venture, perhaps the distinction is no longer viable when we witness the indistinctions I highlight above

The article provides an analysis of the place of war in late modern politics. In particular, it concentrates on the implications of war for our conceptions of the liberty–security problematique in the context of the modern liberal state. The first section of the article argues the case for the figure of war as analyser of the present. The second section of the article reveals the con- ditions of possibility for a distinctly late modern mode of war and its imbri- cations in politics. The final section of the article concentrates on the political implications of the primacy of war in late modernity, and in particular on possibilities of dissent and articulations of political agency. The aim through- out is to provide the theoretical and conceptual tools that might begin to meet the challenges of the present and to open an agenda of research that concentrates on the politics of the present, the capacities or otherwise of contestation and accountability, and the institutional locations wherein such political agency might emerge.

The Figure of War and the Spectre of Security

The so-called war against terrorism is constructed as a global war, transcend- ing space and seemingly defiant of international conventions. It is dis- tinguished from previous global wars, including the first and the second world wars, in that the latter two have, in historiography, always been analysed as interstate confrontations, albeit ones that at certain times and in particular locations peripherally involved non-state militias. Such distinc- tions from the old, of course, will be subject to future historical narratives on the present confrontation and its various parameters. What is of interest in the present discussion is the distinctly global aspect of this war, for it is the globality1 of the war against terrorism that renders it particularly relevant and pertinent to investigations that are primarily interested in the relation- ship between war and politics, war and the political processes defining the modern state. The initial premise of the present article is that war, rather than being confined to its own time and space, permeates the normality of the political process, has, in other words, a defining influence on elements con- sidered to be constitutive of liberal democratic politics, including executive answerability, legislative scrutiny, a public sphere of discourse and inter- action, equal citizenship under the law and, to follow liberal thinkers such as Habermas, political legitimacy based on free and equal communicative practices underpinning social solidarity (Habermas, 1997). War disrupts these elements and is a time of crisis and emergency. A war that has a permanence to it clearly normalizes the exceptional, inscribing emergency into the daily routines of social and political life. While the elements of war – conflict, social fragmentation, exclusion – may run silently through the assemblages of control in liberal society (Deleuze, 1986), nevertheless the persistent iteration of war into politics brings these practices to the fore, and with them a call for a rethinking of war’s relationship to politics.

The distinctly global spatiality of this war suggests particular challenges that have direct impact on the liberal state, its obligations towards its citizenry, and the extent to which it is implicated in undermining its own political institutions. It would, however, be a mistake to assume that the practices involved in this global war are in any way anathema to the liberal state. The analysis provided here would argue that while it is crucial to acknowledge the transformative impact of the war against terrorism, it is equally as important to appreciate the continuities in social and political life that are the enabling conditions of this global war, forming its conditions of possibility. These enabling conditions are not just present or apparent at global level, but incorporate local practices that are deep-rooted and institu- tionalized. The mutually reinforcing relationship between global and local conditions renders this particular war distinctly all-pervasive, and poten- tially, in terms of implications, far more threatening to the spaces available for political contestation and dissent.

Contemporary global politics is dominated by what might be called a ‘matrix of war’2 constituted by a series of transnational practices that vari- ously target states, communities and individuals. These practices involve states as agents, bureaucracies of states and supranational organizations, quasi-official and private organizations recruited in the service of a global machine that is highly militarized and hence led by the United States, but that nevertheless incorporates within its workings various alliances that are always in flux. The crucial element in understanding the matrix of war is the notion of ‘practice’, for this captures the idea that any practice is not just situated in a system of enablements and constraints, but is itself constitutive of structural continuities, both discursive and institutional. As Paul Veyne (1997: 157) writes in relation to Foucault’s use of the term, ‘practice is not an agency (like the Freudian id) or a prime mover (like the relation of produc- tion), and moreover for Foucault, there is no agency nor any prime mover’. It is in this recursive sense that practices (of violence, exclusion, intimidation, control and so on) become structurated in the routines of institutions as well as lived experience (Jabri, 1996). To label the contemporary global war as a ‘war against terrorism’ confers upon these practices a certain legitimacy, suggesting that they are geared towards the elimination of a direct threat. While the threat of violence perpetrated by clandestine networks against civilians is all too real and requires state responses, many of these responses appear to assume a wide remit of operations – so wide that anyone interested in the liberties associated with the democratic state, or indeed the rights of individuals and communities, is called upon to unravel the implications of such practices.

When security becomes the overwhelming imperative of the democratic state, its legitimization is achieved both through a discourse of ‘balance’ between security and liberty and in terms of the ‘protection’ of liberty.3 The implications of the juxtaposition of security and liberty may be investigated either in terms of a discourse of ‘securitization’ (the power of speech acts to construct a threat juxtaposed with the power of professionals precisely to so construct)4 or, as argued in this article, in terms of a discourse of war. The grammars involved are closely related, and yet that of the latter is, para- doxically, the critical grammar, the grammar that highlights the workings of power and their imbrications with violence. What is missing from the securitization literature is an analytic of war, and it is this analytic that I want to foreground in this article.

The practices that I highlight above seem at first hand to constitute differ- ent response mechanisms in the face of what is deemed to be an emergency situation in the aftermath of the events of 11 September 2001. The invasion and occupation of Iraq, the incarceration without due process of prisoners in camps from Afghanistan to Guantánamo and other places as yet un- identified, the use of torture against detainees, extra-judicial assassination, the detention and deportation – again without due process – of foreign nationals deemed a threat, increasing restrictions on refugees, their confine- ment in camps and detention centres, the construction of the movement of peoples in security terms, and restrictions on civil liberties through domestic legislation in the UK, the USA and other European states are all represented in political discourse as necessary security measures geared towards the protection of society. All are at the same time institutional measures targeted against a particular other as enemy and source of danger.

It could be argued that the above practices remain unrelated and must hence be subject to different modes of analysis. To begin with, these practices involve different agents and are framed around different issues. Afghanistan and Iraq may be described as situations of war, and the incarceration of refugees as encompassing practices of security. However, what links these elements is not so much that they constitute a constructed taxonomy of dif- ferentiated practices. Rather, what links them is the element of antagonism directed against distinct and particular others. Such a perspective suggests that the politics of security, including the production of fear and a whole array of exclusionary measures, comes to service practices that constitute war and locates the discourse of war at the heart of politics, not just domes- tically, but, more crucially in the present context, globally. The implications for the late modern state and the distinctly liberal state are monumental, for a perpetual war on a global scale has implications for political structures and political agency, for our conceptions of citizenship and the role of the state in meeting the claims of its citizens,5 and for the workings of a public sphere that is increasingly global and hence increasingly multicultural.

The matrix of war is centrally constituted around the element of antago- nism, having an association with existential threat: the idea that the continued presence of the other constitutes a danger not just to the well-being of society but to its continued existence in the form familiar to its members, hence the relative ease with which European politicians speak of migrants of particular origins as forming a threat to the ‘idea of Europe’ and its Christian origins.6 Herein lies a discourse of cultural and racial exclusion based on a certain fear of the other. While the war against specific clandestine organiza- tions7 involves operations on both sides that may be conceptualized as a classical war of attrition, what I am referring to as the matrix of war is far more complex, for here we have a set of diffuse practices, violence, disci- plinarity and control that at one and same time target the other typified in cultural and racial terms and instantiate a wider remit of operations that impact upon society as a whole.

The practices of warfare taking place in the immediate aftermath of 11 September 2001 combine with societal processes, reflected in media representations and in the wider public sphere, where increasingly the source of threat, indeed the source of terror, is perceived as the cultural other, and specifically the other associated variously with Islam, the Middle East and South Asia. There is, then, a particularity to what Agamben (1995, 2004) calls the ‘state of exception’, a state not so much generalized and generalizable, but one that is experienced differently by different sectors of the global population. It is precisely this differential experience of the exception that draws attention to practices as diverse as the formulation of interrogation techniques by military intelligence in the Pentagon, to the recent provisions of counter-terrorism measures in the UK,8 to the legitimizing discourses surrounding the invasion of Iraq. All are practices that draw upon a discourse of legitimization based on prevention and pre-emption. Enemies constructed in the discourses of war are hence always potential, always abstract even when identified, and, in being so, always drawn widely and, in consequence, communally. There is, hence, a ‘profile’ to the state of exception and its experience. Practices that profile particular communities, including the citizens of European states, create particular challenges to the self-understanding of the liberal democratic state and its capacity, in the 21st century, to deal with difference.

While a number of measures undertaken in the name of security, such as proposals for the introduction of identity cards in the UK or increasing surveillance of financial transactions in the USA, might encompass the population as a whole, the politics of exception is marked by racial and cul- tural signification. Those targeted by exceptional measures are members of particular racial and cultural communities. The assumed threat that under- pins the measures highlighted above is one that is now openly associated variously with Islam as an ideology, Islam as a mode of religious identi- fication, Islam as a distinct mode of lifestyle and practice, and Islam as a particular brand associated with particular organizations that espouse some form of a return to an Islamic Caliphate. When practices are informed by a discourse of antagonism, no distinctions are made between these various forms of individual and communal identification. When communal profiling takes place, the distinction between, for example, the choice of a particular lifestyle and the choice of a particular organization disappears, and diversity within the profiled community is sacrificed in the name of some ‘pre- cautionary’ practice that targets all in the name of security.9 The practices and language of antagonism, when racially and culturally inscribed, place the onus of guilt onto the entire community so identified, so that its indi- vidual members can no longer simply be citizens of a secular, multicultural state, but are constituted in discourse as particular citizens, subjected to particular and hence exceptional practices. When the Minister of State for the UK Home Office states that members of the Muslim community should expect to be stopped by the police, she is simply expressing the condition of the present, which is that the Muslim community is particularly vulnerable to state scrutiny and invasive measures that do not apply to the rest of the citizenry.10 We know, too, that a distinctly racial profiling is taking place, so that those who are physically profiled are subjected to exceptional measures.

Even as the so-called war against terrorism recognizes no boundaries as limits to its practices – indeed, many of its practices occur at transnational, often indefinable, spaces – what is crucial to understand, however, is that this does not mean that boundaries are no longer constructed or that they do not impinge on the sphere of the political. The paradox of the current context is that while the war against terrorism in all its manifestations assumes a boundless arena, borders and boundaries are at the heart of its operations. The point to stress is that these boundaries and the exclusionist practices that sustain them are not coterminous with those of the state; rather, they could be said to be located and perpetually constructed upon the corporeality of those constructed as enemies, as threats to security. It is indeed the corporeal removal of such subjects that lies at the heart of what are constructed as counter-terrorist measures, typified in practices of direct war, in the use of torture, in extra-judicial incarceration and in judicially sanctioned detention. We might, then, ask if such measures constitute violence or relations of power, where, following Foucault, we assume that the former acts upon bodies with a view to injury, while the latter acts upon the actions of subjects and assumes, as Deleuze (1986: 70–93) suggests, a relation of forces and hence a subject who can act. What I want to argue here is that violence is imbricated in relations of power, is a mode of control, a technology of governmentality. When the population of Iraq is targeted through aerial bombardment, the consequence goes beyond injury and seeks the pacifica- tion of the Middle East as a political region.

When legislative and bureaucratic measures are put in place in the name of security, those targeted are categories of population. At the same time, the war against terrorism and the security discourses utilized in its legitimiza- tion are conducted and constructed in terms that imply the defence or protection of populations. One option is to limit policing, military and intel- ligence efforts through the targeting of particular organizations. However, it is the limitless construction of the war against terrorism, its targeting of particular racial and cultural communities, that is the source of the challenge presented to the liberal democratic state. In conditions constructed in terms of emergency, war permeates discourses on politics, so that these come to be subject to the restraints and imperatives of war and practices constituted in terms of the demands of security against an existential threat. The implications for liberal democratic politics and our conceptions of the modern state and its institutions are far-reaching,11 for the liberal democratic polity that considers itself in a state of perpetual war is also a state that is in a permanent state of mobilization, where every aspect of public life is geared towards combat against potential enemies, internal and external.

One of the most significant lessons we learn from Michel Foucault’s writ- ings is that war, or ‘the distant roar of battle’ (Foucault, 1977: 308), is never quite so distant from liberal governmentality. Conceived in Foucaultian terms, war and counter-terrorist measures come to be seen not as discontinuity from liberal government, but as emergent from the enabling conditions that liberal government and the modern state has historically set in place. On reading Foucault’s renditions on the emergence of the disciplinary society, what we see is the continuation of war in society and not, as in Hobbes and elsewhere in the history of thought, the idea that wars happen at the outskirts of society and its civil order. The disciplinary society is not simply an accumulation of institutional and bureaucratic procedures that permeate the everyday and the routine; rather, it has running through its interstices the constitutive elements of war as continuity, including confrontation, struggle and the corporeal removal of those deemed enemies of society. In Society Must Be Defended (Foucault, 2003) and the first volume of the History of Sexuality (Foucault, 1998), we see reference to the discursive and institutional continuities that structurate war in society. Reference to the ‘distant roar of battle’ suggests confrontation and struggle; it suggests the ever-present construction of threat accrued to the particular other; it suggests the immediacy of threat and the construction of fear of the enemy; and ultimately it calls for the corporeal removal of the enemy as source of threat. The analytic of war also encompasses the techniques of the military and their presence in the social sphere – in particular, the control and regulation of bodies, timed pre- cision and instrumentality that turn a war machine into an active and live killing machine. In the matrix of war, there is hence the level of discourse and the level of institutional practices; both are mutually implicating and mutually enabling. There is also the level of bodies and the level of population. In Foucault’s (1998: 152) terms: ‘the biological and the historical are not con- secutive to one another . . . but are bound together in an increasingly com- plex fashion in accordance with the development of the modern technologies of power that take life as their objective’.

What the above suggests is the idea of war as a continuity in social and political life. The matrix of war suggests both discursive and institutional practices, technologies that target bodies and populations, enacted in a complex array of locations. The critical moment of this form of analysis is to point out that war is not simply an isolated occurrence taking place as some form of interruption to an existing peaceful order. Rather, this peaceful order is imbricated with the elements of war, present as continuities in social and political life, elements that are deeply rooted and enabling of the actuality of war in its traditional battlefield sense. This implies a continuity of sorts between the disciplinary, the carceral and the violent manifestations of government.

#### Alternative—Challenge to *conceptual* framework of national security. Only our alternative displaces the source of executive overreach. Legal restraint without conceptual change is futile.

Aziz RANA Law at Cornell 11 [“Who Decides on Security?” Cornell Law Faculty Working Papers, Paper 87, http://scholarship.law.cornell.edu/clsops\_papers/87 p. 45-51]

The prevalence of these continuities between Frankfurter’s vision and contemporary judicial arguments raise serious concerns with today’s conceptual framework. Certainly, Frankfurter’s role during World War II in defending and promoting a number of infamous judicial decisions highlights the potential abuses embedded in a legal discourse premised on the specially-situated knowledge of executive officials and military personnel. As the example of Japanese internment dramatizes, too strong an assumption of expert understanding can easily allow elite prejudices—and with it state violence—to run rampant and unconstrained. For the present, it hints at an obvious question: How skeptical should we be of current assertions of expertise and, indeed, of the dominant security framework itself? One claim, repeated especially in the wake of September 11, has been that regardless of normative legitimacy, the prevailing security concept—with its account of unique knowledge, insulation, and hierarchy—is simply an unavoidable consequence of existing global dangers. Even if Herring and Frankfurter may have been wrong in principle about their answer to the question “who decides in matters of security?” they nevertheless were right to believe that complexity and endemic threat make it impossible to defend the old Lockean sensibility. In the final pages of the article, I explore this basic question of the degree to which objective conditions justify the conceptual shifts and offer some initial reflections on what might be required to limit the government’s expansive security powers. VI. CONCLUSION: THE OPENNESS OF THREATS The ideological transformation in the meaning of security has helped to generate a massive and largely secret infrastructure of overlapping executive agencies, all tasked with gathering information and keeping the country safe from perceived threats. In 2010, The Washington Post produced a series of articles outlining the buildings, personnel, and companies that make up this hidden national security apparatus. According to journalists Dana Priest and William Arkin, there exist “some 1271 government organizations and 1931 private companies” across 10,000 locations in the United States, all working on “counterterrorism, homeland security, and intelligence.”180 This apparatus is especially concentrated in the Washington, D.C. area, which amounts to “the capital of an alternative geography of the United States.”181 Employed by these hidden agencies and bureaucratic entities are some 854,000 people (approximately 1.5 times as many people as live in Washington itself) who hold topsecret clearances.182 As Priest and Arkin make clear, the most elite of those with such clearance are highly trained experts, ranging from scientists and economists to regional specialists. “To do what it does, the NSA relies on the largest number of mathematicians in the world. It needs linguists and technology experts, as well as cryptologists, known as ‘crippies.’”183 These professionals cluster together in neighborhoods that are among the wealthiest in the country—six of the ten richest counties in the United States according to Census Bureau data.184 As the executive of Howard County, Virginia, one such community, declared, “These are some of the most brilliant people in the world. . . . They demand good schools and a high quality of life.”185 School excellence is particularly important, as education holds the key to sustaining elevated professional and financial status across generations. In fact, some schools are even “adopting a curriculum . . . that will teach students as young as 10 what kind of lifestyle it takes to get a security clearance and what kind of behavior would disqualify them.”186 The implicit aim of this curriculum is to ensure that the children of NSA mathematicians and Defense Department linguists can one day succeed their parents on the job. In effect, what Priest and Arkin detail is a striking illustration of how security has transformed from a matter of ordinary judgment into one of elite skill. They also underscore how this transformation is bound to a related set of developments regarding social privilege and status—developments that would have been welcome to Frankfurter but deeply disillusioning to Brownson, Lincoln, and Taney. Such changes highlight how one’s professional standing increasingly drives who has a right to make key institutional choices. Lost in the process, however, is the longstanding belief that issues of war and peace are fundamentally a domain of common care, marked by democratic intelligence and shared responsibility. Despite such democratic concerns, a large part of what makes today’s dominant security concept so compelling are two purportedly objective sociological claims about the nature of modern threat. As these claims undergird the current security concept, by way of a conclusion I would like to assess them more directly and, in the process, indicate what they suggest about the prospects for any future reform. The first claim is that global interdependence means that the U.S. faces near continuous threats from abroad. Just as Pearl Harbor presented a physical attack on the homeland justifying a revised framework, the American position in the world since has been one of permanent insecurity in the face of new, equally objective dangers. Although today these threats no longer come from menacing totalitarian regimes like Nazi Germany or the Soviet Union, they nonetheless create of world of chaos and instability in which American domestic peace is imperiled by decentralized terrorists and aggressive rogue states.187 Second, and relatedly, the objective complexity of modern threats makes it impossible for ordinary citizens to comprehend fully the causes and likely consequences of existing dangers. Thus, the best response is the further entrenchment of Herring’s national security state, with the U.S. permanently mobilized militarily to gather intelligence and to combat enemies wherever they strike—at home or abroad. Accordingly, modern legal and political institutions that privilege executive authority and insulated decisionmaking are simply the necessary consequence of these externally generated crises. Regardless of these trade-offs, the security benefits of an empowered presidency (one armed with countless secret and public agencies as well as with a truly global military footprint)188 greatly outweigh the costs. Yet, although these sociological views have become commonplace, the conclusions that Americans should draw about security requirements are not nearly as clear cut as the conventional wisdom assumes. In particular, a closer examination of contemporary arguments about endemic danger suggests that such claims are not objective empirical judgments but rather are socially complex and politically infused interpretations. Indeed, the openness of existing circumstances to multiple interpretations of threat implies that the presumptive need for secrecy and centralization is not self-evident. And as underscored by high profile failures in expert assessment, claims to security expertise are themselves riddled with ideological presuppositions and subjective biases. All this indicates that the gulf between elite knowledge and lay incomprehension in matters of security may be far less extensive than is ordinarily thought. It also means that the question of who decides—and with it the issue of how democratic or insular our institutions should be—remains open as well. Clearly technological changes, from airpower to biological and chemical weapons, have shifted the nature of America’s position in the world and its potential vulnerability. As has been widely remarked for nearly a century, the oceans alone cannot guarantee our permanent safety. Yet, in truth they never fully ensured domestic tranquility. The nineteenth century was one of near continuous violence, especially with indigenous communities fighting to protect their territory from expansionist settlers.189 But even if technological shifts make doomsday scenarios more chilling than those faced by Hamilton, Jefferson, or Taney, the mere existence of these scenarios tells us little about their likelihood or how best to address them. Indeed, these latter security judgments are inevitably permeated with subjective political assessments, assessments that carry with them preexisting ideological points of view—such as regarding how much risk constitutional societies should accept or how interventionist states should be in foreign policy. In fact, from its emergence in the 1930s and 1940s, supporters of the modern security concept have—at times unwittingly—reaffirmed the political rather than purely objective nature of interpreting external threats. In particular, commentators have repeatedly noted the link between the idea of insecurity and America’s post-World War II position of global primacy, one which today has only expanded following the Cold War. In 1961, none other than Senator James William Fulbright declared, in terms reminiscent of Herring and Frankfurter, that security imperatives meant that “our basic constitutional machinery, admirably suited to the needs of a remote agrarian republic in the 18th century,” was no longer “adequate” for the “20th- century nation.”190 For Fulbright, the driving impetus behind the need to jettison antiquated constitutional practices was the importance of sustaining the country’s “preeminen[ce] in political and military power.”191 Fulbright held that greater executive action and war-making capacities were essential precisely because the United States found itself “burdened with all the enormous responsibilities that accompany such power.”192 According to Fulbright, the United States had both a right and a duty to suppress those forms of chaos and disorder that existed at the edges of American authority. Thus, rather than being purely objective, the American condition of permanent danger was itself deeply tied to political calculations about the importance of global primacy. What generated the condition of continual crisis was not only technological change, but also the belief that the United States’ own ‘national security’ rested on the successful projection of power into the internal affairs of foreign states. The key point is that regardless of whether one agrees with such an underlying project, the value of this project is ultimately an open political question. This suggests that whether distant crises should be viewed as generating insecurity at home is similarly as much an interpretative judgment as an empirically verifiable conclusion.193 To appreciate the open nature of security determinations, one need only look at the presentation of terrorism as a principal and overriding danger facing the country. According to the State Department’s Annual Country Reports on Terrorism, in 2009 “[t]here were just 25 U.S. noncombatant fatalities from terrorism worldwide” (sixteen abroad and nine at home).194 While the fear of a terrorist attack is a legitimate concern, these numbers—which have been consistent in recent years—place the gravity of the threat in perspective. Rather than a condition of endemic danger—requiring everincreasing secrecy and centralization—such facts are perfectly consistent with a reading that Americans do not face an existential crisis (one presumably comparable to Pearl Harbor) and actually enjoy relative security. Indeed, the disconnect between numbers and resources expended, especially in a time of profound economic insecurity, highlights the political choice of policymakers and citizens to persist in interpreting foreign events through a World War II and early Cold War lens of permanent threat. In fact, the continuous alteration of basic constitutional values to fit ‘national security’ aims highlights just how entrenched Herring’s old vision of security as pre-political and foundational has become, regardless of whether other interpretations of the present moment may be equally compelling. It also underscores a telling and often ignored point about the nature of modern security expertise, particularly as reproduced by the United States’ massive intelligence infrastructure. To the extent that political assumptions—like the centrality of global primacy or the view that instability abroad necessarily implicates security at home—shape the interpretative approach of executive officials, what passes as objective security expertise is itself intertwined with contested claims about how to view external actors and their motivations. This means that while modern conditions may well be complex, the conclusions of the presumed experts may not be systematically less liable to subjective bias than judgments made by ordinary citizens based on publicly available information. It further underscores that the question of who decides cannot be foreclosed in advance by simply asserting deference to elite knowledge. If anything, one can argue that the presumptive gulf between elite awareness and suspect mass opinion has generated its own very dramatic political and legal pathologies. In recent years, the country has witnessed a variety of security crises built on the basic failure of ‘expertise.’195 At present, part of what obscures this fact is the very culture of secret information sustained by the modern security concept. Today, it is commonplace for government officials to leak security material about terrorism or external threat to newspapers as a method of shaping the public debate.196 These ‘open’ secrets allow greater public access to elite information and embody a central and routine instrument for incorporating mass voice into state decision-making. But this mode of popular involvement comes at a key cost. Secret information is generally treated as worthy of a higher status than information already present in the public realm—the shared collective information through which ordinary citizens reach conclusions about emergency and defense. Yet, oftentimes, as with the lead up to the Iraq War in 2003, although the actual content of this secret information is flawed,197 its status as secret masks these problems and allows policymakers to cloak their positions in added authority. This reality highlights the importance of approaching security information with far greater collective skepticism; it also means that security judgments may be more ‘Hobbesian’—marked fundamentally by epistemological uncertainty as opposed to verifiable fact—than policymakers admit. If both objective sociological claims at the center of the modern security concept are themselves profoundly contested, what does this mean for reform efforts that seek to recalibrate the relationship between liberty and security? Above all, it indicates that the central problem with the procedural solutions offered by constitutional scholars—emphasizing new statutory frameworks or greater judicial assertiveness—is that they mistake a question of politics for one of law. In other words, such scholars ignore the extent to which governing practices are the product of background political judgments about threat, democratic knowledge, professional expertise, and the necessity for insulated decision-making. To the extent that Americans are convinced that they face continuous danger from hidden and potentially limitless assailants—danger too complex for the average citizen to comprehend independently—it is inevitable that institutions (regardless of legal reform initiatives) will operate to centralize power in those hands presumed to enjoy military and security expertise. Thus, any systematic effort to challenge the current framing of the relationship between security and liberty must begin by challenging the underlying assumptions about knowledge and security upon which legal and political arrangements rest. Without a sustained and public debate about the validity of security expertise, its supporting institutions, and the broader legitimacy of secret information, there can be no substantive shift in our constitutional politics. The problem at present, however, is that no popular base exists to raise these questions. Unless such a base emerges, we can expect our prevailing security arrangements to become ever more entrenched.

### 1NC DA

#### Obama holding off new Iranian sanctions now – credibility and pc key. No thumpers

WSJ 12 – 19 – 13 [Obama Issues Rare Veto Threat on Iran Bill; Bipartisan Senate Bill Would Slap Tehran With New Sanctions. Lee, Carol EView Profile. Wall Street Journal (Online) [New York, N.Y] 19 Dec 2013: n/a.]

The White House issued a rare veto threat in response to a bipartisan Senate bill that would slap Iran with new sanctions if it violates an interim deal reached last month to curb its nuclear program.

The threat sets up a standoff in the new year between President Barack Obama and more than two dozen Senate Democrats and Republicans who introduced the legislation on Thursday. The challenge to Mr. Obama is particularly stark because half of the lawmakers sponsoring the new bill are from his own party.

The bill could also imperil Mr. Obama's efforts to reach a diplomatic end to the decadelong standoff over Iran's nuclear program, which administration officials hope will be a signature achievement of his second term.

Iranian officials have repeatedly threatened in recent days to back out of negotiations with the U.S. and other global powers over Tehran's nuclear program if Washington enacts new sanctions.

White House Press Secretary Jay Carney criticized the Senate move, saying such sanctions would undermine Mr. Obama's diplomatic efforts "no matter how they're structured."

"We don't think it will be enacted. We certainly don't think it should be enacted," Mr. Carney said. "If it were to pass, the president would veto it."

Iranian officials didn't comment Thursday on the introduction of the legislation. But in recent days they have described Iranian President Hasan Rouhani as in a power struggle with hard-liners in Iran's military and clergy over the November agreement with the five permanent members of the United Nations Security Council and Germany, a bloc called the P5+1.

Any moves by the U.S. to impose new sanctions on Tehran, said these officials, could weaken Mr. Rouhani's hand.

"Naturally, there is opposition to this agreement, both inside Iran and elsewhere," said Iran's Ambassador to France Ali Ahani, at a conference last weekend. "There are people who say you can't trust the Americans."

In Washington, Mr. Obama has little political capital with a divided Congress that has given him few recent victories. He is already bracing for tough legislative battles next year.

Republicans are weighing a fight over the need to raise the debt limit early next year, and Mr. Obama is set to give a speech in January outlining potentially sweeping changes to the government's contested spying programs. The programs, like Iran diplomacy, have prompted some members of the president's own Democratic Party to criticize his administration.

A presidential veto, while unusual for Mr. Obama--particularly on Democratic-backed legislation--could appease all sides. Mr. Obama may strengthen his hand in negotiations by keeping Congress at bay, while lawmakers who are under pressure over Iran get to vote for additional sanctions.

And a veto threat by Mr. Obama could provide American diplomats with a way to assure Iran that they are earnest about the diplomacy. Iran last week objected to U.S. moves to enforce existing U.S. sanctions against alleged violations by more than a dozen Iranian individuals and businesses.

But the White House also risks seeing Mr. Obama's veto overridden, if Republicans in the Senate remain unified and Democrats continue to feel emboldened to challenge the party line.

Mr. Obama, Secretary of State John Kerry and other top administration officials have worked vigorously to keep Congress from enacting new sanctions against Iran while the U.S. and other world powers negotiate a long-term diplomatic agreement with Tehran to curb its nuclear program. Iran says its program is for peaceful purposes only.

#### Plan kills Obama’s agenda

KRINER 10—Assistant professor of political science at Boston University [Douglas L. Kriner, “After the Rubicon: Congress, Presidents, and the Politics of Waging War”, pg. 276-77]

One of the mechanisms by which congressional opposition influences presidential cost-benefit calculations is by sending signals of American disunity to the target state. Measuring the effects of such congressional signals on the calculations of the target state is always difficult. In the case of Iraq it is exceedingly so, given the lack of data on the non-state insurgent actors who were the true “target” of the American occupation after the fall of the Hussein regime. Similarly, in the absence of archival documents, such as those from the Reagan Presidential Library presented in chapter 5, it is all but impossible to measure the effects of congressional signals on the administration’s perceptions of the military costs it would have to pay to achieve its objectives militarily.

By contrast. measuring the domestic political costs of congressional opposition, while still difficult, is at least a tractable endeavor. Chapter 2 posited two primary pathways through which congressional opposition could raise the political costs of staying the course militarily for the president. First, high-profile congressional challenges to a use of force can affect real or anticipated public opinion and bring popular pressures to bear on the president to change course. Second, congressional opposition to the president’s conduct of military affairs can compel him to spend considerable political capital in the military arena to the detriment of other major items on his programmatic agenda. On both of these dimensions, congressional opposition to the war in Iraq appears to have had the predicted effect.

#### US/Iran war & Iranian prolif

WORLD TRIBUNE 11 – 13 – 13 [Obama said to suspend Iran sanctions without informing Congress, http://www.worldtribune.com/2013/11/13/obama-said-to-suspend-iran-sanctions-without-informing-congress/]

The administration has also pressured Congress to suspend plans for new sanctions legislation against Iran. The sources said the White House effort has encountered resistance from both Democrats and Republicans, particularly those in the defense and foreign affairs committees.

“I urge the White House and the Senate to learn from the lessons of the past and not offer sanctions relief in return for the false hopes and empty promises of the Iranian regime,” Rep. Ileana Ros-Lehtinen, chairwoman of the House Middle East and North Africa Subcommittee, said. “Instead, new rounds of sanctions must be implemented to gain further leverage because any misstep in calculations at this juncture will have devastating and irreversible consequences that will be difficult to correct retroactively.”

On Nov. 12, the White House warned that additional sanctions on Iran would mean war with the United States. White House press secretary Jay Carney, in remarks meant to intensify pressure on Congress, said sanctions would end the prospect of any diplomatic solution to Iran’s crisis.

“The American people do not want a march to war,” Carney said. “It is important to understand that if pursuing a resolution diplomatically is disallowed or ruled out, what options then do we and our allies have to prevent Iran from acquiring a nuclear weapon?”

Still, the Senate Banking Committee has agreed to delay any vote on sanctions legislation until a briefing by Secretary of State John Kerry on Nov. 13. The sources said Kerry was expected to brief the committee on the P5+1 talks in Geneva that almost led to an agreement with Teheran.

“The secretary will be clear that putting new sanctions in place would be a mistake,” State Department spokeswoman Jen Psaki said on Nov. 12. “We are still determining if there’s a diplomatic path forward. What we are asking for right now is a pause, a temporary pause, in sanctions.”

#### Iran war escalates

White 11—July/August 2011 (Jeffrey—defense fellow at the Washington Institute for Near East Policy, What Would War With Iran Look Like, National Interest, p. http://www.the-american-interest.com/article-bd.cfm?piece=982)

A U.S.-Iranian war would probably not be fought by the United States and Iran alone. Each would have partners or allies, both willing and not-so-willing. Pre-conflict commitments, longstanding relationships, the course of operations and other factors would place the United States and Iran at the center of more or less structured coalitions of the marginally willing. A Western coalition could consist of the United States and most of its traditional allies (but very likely not Turkey, based on the evolution of Turkish politics) in addition to some Persian Gulf states, Jordan and perhaps Egypt, depending on where its revolution takes it. Much would depend on whether U.S. leaders could persuade others to go along, which would mean convincing them that U.S. forces could shield them from Iranian and Iranian-proxy retaliation, or at least substantially weaken its effects. Coalition warfare would present a number of challenges to the U.S. government. Overall, it would lend legitimacy to the action, but it would also constrict U.S. freedom of action, perhaps by limiting the scope and intensity of military operations. There would thus be tension between the desire for a small coalition of the capable for operational and security purposes and a broader coalition that would include marginally useful allies to maximize legitimacy. The U.S. administration would probably not welcome Israeli participation. But if Israel were directly attacked by Iran or its allies, Washington would find it difficult to keep Israel out—as it did during the 1991 Gulf War. That would complicate the U.S. ability to manage its coalition, although it would not necessarily break it apart. Iranian diplomacy and information operations would seek to exploit Israeli participation to the fullest. Iran would have its own coalition. Hizballah in particular could act at Iran’s behest both by attacking Israel directly and by using its asymmetric and irregular warfare capabilities to expand the conflict and complicate the maintenance of the U.S. coalition. The escalation of the Hizballah-Israel conflict could draw in Syria and Hamas; Hamas in particular could feel compelled to respond to an Iranian request for assistance. Some or all of these satellite actors might choose to leave Iran to its fate, especially if initial U.S. strikes seemed devastating to the point of decisive. But their involvement would spread the conflict to the entire eastern Mediterranean and perhaps beyond, complicating both U.S. military operations and coalition diplomacy.

### Circumvention

#### He rejects the idea that Congress and Courts have a right to check his strike decisions

**Weber 13** [Peter Weber, “Will Congress curb Obama's drone strikes?,” The Week, | February 6, 2013, pg. http://theweek.com/article/index/239716/will-congress-curb-obamas-drone-strikes

One problem for lawmakers, says The New York Times in an editorial, is that when it comes to drone strikes, the Obama team "utterly rejects the idea that Congress or the courts have any right to review such a decision in advance, or even after the fact." Along with citing the law authorizing broad use of force against al Qaeda, the white paper also "argues that judges and Congress don't have the right to rule on or interfere with decisions made in the heat of combat." And most troublingly, Obama won't give Congress the classified document detailing the legal justification used to kill American al Qaeda operative Anwar al-Awlaki.

### 1NC Sig Strikes Good

#### Sig strikes are key to all aspects of counter-terror—in-depth network analysis means the people we target don’t seem important to observers, but they’re actually vital to the effectiveness of terror groups

McNeal 13—Gregory McNeal, Associate Professor of Law, Pepperdine University [March 5, 2013, “Targeted Killing and Accountability,” http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=1819583]

This becomes obvious when one considers that national security bureaucrats will look beyond criticality and vulnerability, and also engage in network-based analysis. Network-based analysis looks at terrorist groups as nodes connected by links, and assesses how components of that terrorist network operate together and independently of one another.143 Contrary to popular critiques of the targeting process that liken it to a “haphazardly prosecuted assassination program,” in reality modern targeting involves applying pressure to their functionality.144

To effectively pursue a network-based approach, bureaucrats rely in part on what is known as “pattern of life analysis” which involves “connecting the relationships between places and people by tracking their patterns of life.” This analysis draws on the interrelationships among groups “to determine the degree and points of their interdependence,” it assesses how activities are linked and looks to “determine the most effective way to influence or affect the enemy system.”145 While the enemy moves from point to point, reconnaissance or surveillance tracks and notes every location and person visited. Connections between the target, the sites they visit, and the persons they interact with are documented, built into a network diagram, and further analyzed.146 Through this process links and nodes in the enemy's network emerge.147 The analysis charts the “social, economic and political networks that underpin and support clandestine networks,”148 identifying key decision-makers and those who support or influence them indirectly.149 This may mean that analysts will track logistics and money trails, they may identify key facilitators and non-leadership persons of interests, and they will exploit human and signals intelligence combined with computerized knowledge integration that generates and cross-references thousands of data points to construct a comprehensive picture of the enemy network.150 “This analysis has the effect of taking a shadowy foe and revealing his physical infrastructure . . . as a result, the network becomes more visible and vulnerable, thus negating the enemy’s asymmetric advantage of denying a target.”151

Viewing targeting in this way demonstrates how seemingly low-level individuals such as couriers and other “middle-men” in decentralized networks such as al Qaeda are oftentimes critical to the successful functioning of the enemy organization.152 Targeting these individuals can “destabilize clandestine networks by compromising large sections of the organization, distancing operatives from direct guidance, and impeding organizational communication and function.”153 Moreover, because clandestine networks rely on social relationships to manage the trade-off between maintaining secrecy and security, attacking key nodes can have a detrimental impact on the enemy’s ability to conduct their operations.154 Thus, while some individuals may seem insignificant to the outside observer, when considered by a bureaucrat relying on network based analytical techniques, the elimination of a seemingly low level individual might have an important impact on an enemy organization. Moreover, because terrorist networks rely on secrecy in communication, individuals within those networks may forge strong ties that remain dormant for the purposes of operational security.155 This means that social ties that appear inactive or weak to a casual observer such as an NGO, human rights worker, journalist, or even a target’s family members may in fact be strong ties within the network.156 Furthermore, because terrorist networks oftentimes rely on social connections between charismatic leaders to function, disrupting those lines of communication can significantly impact those networks.157

### 1NC AT: Pakistani Loose Nukes

#### Pakistani nukes are safe. They are conscious of the security threat and take appropriate safeguards.

Siddiqi 10—Shahid R., Axis of Logic Columnist, former Paki Air Force and former Bureau Chief – Pakistan & Gulf Economist [“Critical Analysis Are Pakistan’s Strategic Nuclear Assets Threatened by Terrorists?” 2010, http://axisoflogic.com/artman/publish/Article\_58619.shtml]

"This is all overblown rhetoric. Even if the country's leadership were to be incapacitated, Pakistan's protections are so strong that the arsenal could never slip from the hands of the country's National Command Authority”, General Kidwai told David Sangers of New York Times. Pakistan has successfully put its strategic weapons program under formalized institutional control and oversight. National Command Authority effectively controls, manages and monitors strategic organizations, prevents tangible and intangible transfers or leakage of sensitive technologies and material - measures in line with IAEA safeguards. An over 8000-men strong Security Division secures nuclear assets and materials and guards against malevolent activities. Supported by the strategic forces, it is fully capable of ensuring nuclear security of components even in transit. Prevention of theft of nuclear assets or fissile material Like other nuclear states, Pakistan also faces the security challenge of preventing Non-State Actors and terror groups from gaining access to nuclear assets. Its preventive measures are no less effective than those of others. Commenting on security of nuclear weapons, Congressional Research Service Report (RL-31589) on Nuclear Threat Reduction Measures for India and Pakistan; observes, “Fissile material components (pits) are thought to be kept separately from the rest of the warhead. Such a physical separation helps deter unauthorized use and complicates theft”. Pakistan is believed to have incorporated certain technical safety features into the weapon design which coupled with de-mated status of the weapons, wherein the warhead and the fissile core are stored in separate locations, discourages and denies seizure or theft of an intact nuclear device, guards against accidental or unauthorized launch and prevents diversion of fissile material in the form of weapon components. Pakistan’s nuclear controls also include the functional equivalent to the two-man rule and Permissive Action Links (PALs) that most nuclear states rely on to protect against loss of control, inadvertent weapons use, accidents, and other mishaps. Pakistan’s nuclear material or radioactive sources have remained safe from theft or pilferage nor has there been any attempt by terrorist elements to gain access to weapons or materials. Lamenting the Western attitude Peter Lavoy (National Intelligence for Analysis) states, “Since the 1998 tests, various pronouncements, publications in the Western press, and events in the region have eroded the credibility of Pakistan’s nuclear command and control, overshadowing the efforts that have been made since 1999 to harness a coherent command system to ensure management of its nuclear capabilities….” Guarav Kampani of Center for Nonproliferation Studies says, “Despite such speculative scenario building among policy and security analysts, there is little public evidence to suggest that the safety or the security of Pakistan’s nuclear installations or its nuclear command and control mechanism was ever in jeopardy from internal political instability or Islamists or terrorists forces inside Pakistan or nearby in Afghanistan, either during the American ‘War against Terrorism‘ in Afghanistan or during the 2001-2002 India-Pakistan military standoff. In their analysis of threats from Islamic fundamentalism, Scott Parrish and William C. Potter of the WMD Commission opined, “……. while many states may view Islamic fundamentalism as a significant threat, there appears to be much less agreement on the nature of that threat and its relationship to nuclear terrorism or proliferation”.

### 1NC AT: Terror

#### Yes, they have capability to attack U.S., but they won’t do it because of the risk of backlash and fracturing good relations with the ISI.

Stephen Tankel, 6/12/2013. Assistant professor at American University and a nonresident scholar at the Carnegie Endowment in the South Asia Program. “Lashkar-e-Taiba Capable of Threatening U.S. Homeland,” http://carnegieendowment.org/2013/06/12/lashkar-e-taiba-capable-of-threatening-u.s.-homeland/g9z7#.

LeT is a pan-Islamist group committed to defending the umma and avenging what it perceives to be the oppression of or violence against Muslims. The U.S. invasions of Afghanistan and Iraq as well as the use of unmanned aerial vehicles (drones) to launch missile strikes in Pakistan and elsewhere make it an obvious ideological target. India remains the group’s main enemy and if the group could only attack one country then that likely would remain its target, but LeT is a robust enough organization to launch attacks against multiple countries. And it added America to its enemies list long ago. LeT has killed U.S. citizens in Mumbai in 2008, though they were not the main targets of the attack. The group has also deployed fighters to Afghanistan, where they directly confront U.S. forces, and previously to Iraq. Yet there is no evidence LeT has ever attempted an attack against the U.S. homeland, despite access to some of its citizens and residents. So what’s stopping it?

LeT’s leadership retains an element of nationalism that is distinctly at odds with al-Qaeda and still finds common ground, as it has since the 1990s, with elements in the Pakistani military and ISI. LeT and its backers remain co-dependent: each afraid of the repercussions that might stem from splitting with the other. Furthermore, unlike al-Qaeda Central, which confronts a challenging security environment, LeT controls a robust social welfare infrastructure and its leaders value the influence that comes with it. In the 1990s the group needed the state to build up its infrastructure, whereas now it is reliant on the state not to tear it down. It is worth highlighting the leadership’s devotion to dawa through the delivering of social services and the fact that protecting its domestic infrastructure has at times limited its military adventurism. This leadership operates openly in Pakistan’s settled areas, not from a hidden redoubt.

This freedom of movement carries with it a number of benefits, but also serves as another leverage point that can be used to constrain LeT’s activity. As a result, significant elements within the group are still “tamed by the ISI” as one former member observed.26 **Pakistan’s security services are believed to use this and other means of leverage to put pressure on LeT to refrain from striking Western interests abroad**. Unless the Pakistani security establishment wants a showdown with the United States, this is unlikely to change. At the same time, cracking down on LeT is not the top U.S. demand made on Pakistan. The group does not want that to change, **nor does it wish to invite greater unilateral American action against it**.

### AT: Drone Norms—China

#### Zero chance that U.S. self-restraint causes any other country to give up their plans for drones

Max Boot 11, the Jeane J. Kirkpatrick Senior Fellow in National Security Studies at the Council on Foreign Relations, 10/9/11, “We Cannot Afford to Stop Drone Strikes,” Commentary Magazine, <http://www.commentarymagazine.com/2011/10/09/drone-arms-race/>

The New York Times engages in some scare-mongering today about a drone ams race. Scott Shane notes correctly other nations such as China are building their own drones and in the future U.S. forces could be attacked by them–our forces will not have a monopoly on their use forever. Fair enough, but he goes further, suggesting our current use of drones to target terrorists will backfire:

If China, for instance, sends killer drones into Kazakhstan to hunt minority Uighur Muslims it accuses of plotting terrorism, what will the United States say? What if India uses remotely controlled craft to hit terrorism suspects in Kashmir, or Russia sends drones after militants in the Caucasus? American officials who protest will likely find their own example thrown back at them.

“The problem is that we’re creating an international norm” — asserting the right to strike preemptively against those we suspect of planning attacks, argues Dennis M. Gormley, a senior research fellow at the University of Pittsburgh and author of Missile Contagion, who has called for tougher export controls on American drone technology. “The copycatting is what I worry about most.”

This is a familiar trope of liberal critics who are always claiming we should forego “X” weapons system or capability, otherwise our enemies will adopt it too. We have heard this with regard to ballistic missile defense, ballistic missiles, nuclear weapons, chemical and biological weapons, land mines, exploding bullets, and other fearsome weapons. Some have even suggested the U.S. should abjure the first use of nuclear weapons–and cut down our own arsenal–to encourage similar restraint from Iran.

The argument falls apart rather quickly because it is founded on a false premise: that other nations will follow our example. In point of fact, Iran is hell-bent on getting nuclear weapons no matter what we do; China is hell-bent on getting drones; and so forth. Whether and under what circumstances they will use those weapons remains an open question–but there is little reason to think self-restraint on our part will be matched by equal self-restraint on theirs. Is Pakistan avoiding nuking India because we haven’t used nuclear weapons since 1945? Hardly. The reason is that India has a powerful nuclear deterrent to use against Pakistan. If there is one lesson of history it is a strong deterrent is a better upholder of peace than is unilateral disarmament–which is what the New York Times implicitly suggests.

Imagine if we did refrain from drone strikes against al-Qaeda–what would be the consequence? If we were to stop the strikes, would China really decide to take a softer line on Uighurs or Russia on Chechen separatists? That seems unlikely given the viciousness those states already employ in their battles against ethnic separatists–which at least in Russia’s case already includes the suspected assassination of Chechen leaders abroad. What’s the difference between sending a hit team and sending a drone?

While a decision on our part to stop drone strikes would be unlikely to alter Russian or Chinese thinking, it would have one immediate consequence: al-Qaeda would be strengthened and could regenerate the ability to attack our homeland. Drone strikes are the only effective weapon we have to combat terrorist groups in places like Pakistan or Yemen where we don’t have a lot of boots on the ground or a lot of cooperation from local authorities. We cannot afford to give them up in the vain hope it will encourage disarmament on the part of dictatorial states.

### 1NC—No Drone Wars (Miscalc)

#### No risk of drone wars—deterrence will hold

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

In short, the doomsday drone scenario Ignatieff and Sharkey predict results from an excessive focus on rapidly-evolving military technology.

Instead, we must return to what we know about state behavior in an anarchistic international order. Nations will confront the same principles of deterrence, for example, when deciding to launch a targeted killing operation regardless of whether they conduct it through a drone or a covert amphibious assault team.

Drones may make waging war more domestically palatable, but they don’t change the very serious risks of retaliation for an attacking state. Any state otherwise deterred from using force abroad will not significantly increase its power projection on account of acquiring drones.

What’s more, the very states whose use of drones could threaten U.S. security—countries like China—are not democratic, which means that the possible political ramifications of the low risk of casualties resulting from drone use are irrelevant. For all their military benefits, putting drones into play requires an ability to meet the political and security risks associated with their use.

Despite these realities, there remain a host of defensible arguments one could employ to discredit the Obama drone strategy. The legal justification for targeted killings in areas not internationally recognized as war zones is uncertain at best.

Further, the short-term gains yielded by targeted killing operations in Pakistan, Somalia and Yemen, while debilitating to Al Qaeda leadership in the short-term, may serve to destroy already tenacious bilateral relations in the region and radicalize local populations.

Yet, the past decade’s experience with drones bears no evidence of impending instability in the global strategic landscape. Conflict may not be any less likely in the era of drones, but the nature of 21st Century warfare remains fundamentally unaltered despite their arrival in large numbers.

### 1NC AT: Senkaku

#### Economics are paving the way for peace

**Katz 12/30**/13 – Editor of the Oriental Economist Alert [[Richard Katz](http://www.foreignaffairs.com/author/richard-katz), “Why Chinese-Japanese Economic Relations Are Improving,” Foreign Affairs, December 30, 2013, pg. http://www.foreignaffairs.com/articles/140615/richard-katz/why-chinese-japanese-economic-relations-are-improving

At the heart of China’s reversal of last year’s tactics toward Japan is the economic reality that China needs Japan just as much as Japan needs China. China’s own export sector hinges on parts coming from Japan (for example, the Toshiba flash drives used in the iPhones that are assembled in China). Already facing an economic slowdown, the country is loath to give up the [jobs, investment, and technology transfers](http://www.foreignaffairs.com/articles/139451/richard-katz/mutual-assured-production) that come from Japanese firms expanding their facilities in China. In October, executives from ten leading Chinese companies in Guangdong Province even visited Japan to seek more Japanese investment. They met with Yoshihide Suga, chief cabinet secretary and a key Abe administration power broker, and Hiromasa Yonekura, the head of the Japan Business Federation. Then, in November, Yonekura headed an economic mission to Beijing, where Vice Premier Wang Yang received him. The Chinese press publicized a comment by Xu Dunxin, former Chinese ambassador to Japan: "We hope the communication between high-profile business entrepreneurs will help result in a turnaround of the strained China-Japan relationship."

The specifics of the Guangdong mission suggest that the initiative to delink economics from politics is coming from China’s business community and provincial and local political leadership rather than from Beijing. Reportedly, the Guangdong leaders had to ask the Chinese Communist Party for permission to travel to Japan three times before the party granted it -- and only then if they agreed not to meet with Abe. Even some Chinese companies that are said to be close to the military, such as Huawei Technologies, seem ready to give economics primacy. Huawei has said that it will boost the share of Japanese parts in its high-performance smartphones from 50 percent to 70 percent as part of its effort to upgrade its product line to higher-performance, higher-priced models.

The normalization of economic ties is apparent in Chinese import figures: as a result of the riots and boycotts last autumn, Japan’s real (price-adjusted) exports to China plunged 26 percent between July 2012 -- when Noda announced the Senkaku (Diaoyu) Islands purchase -- and February 2013. Since then, exports to China have rebounded to almost pre-crisis levels. Consequently, Japan’s exports to China are once again on a higher growth trajectory than its exports to the rest of the world.

Similarly, local sales by Japanese affiliates in China, to both firms and consumers, are rebounding. The biggest example is car sales, which halved during the boycotts but are now above pre-boycott levels. Toyota is on track for a record year. Nissan, the largest Japanese automaker in China, doubled its sales since last November, and Honda has done the same. Then there are all the Chinese and foreign manufacturers who need Japanese equipment and parts for the products that they manufacture or assemble in China. About two-thirds of Japanese exports to China consist of such equipment and parts.

These figures seem promising. But provincial and local Chinese governments still have a reason to worry, namely about a slowdown in Japan’s Foreign Direct Investment (FDI) into China. In recent years, China has been upgrading its manufacturing sector from textiles to high-tech industry, largely thanks to foreign direct investment in Chinese facilities by multinationals. Japanese businesses have traditionally been the largest foreign investors in China. However, if the first three quarters of this year are any guide, Japanese FDI into China could fall by 36 percent from the record level set in 2012. To be sure, the fall comes after a surge in 2011 and 2012 that virtually doubled FDI from its 2010 level. So, although total FDI in 2013 seems set to be lower than the total last year, 2013 has, in fact, been the third-best year on record. At $6.5 billion, Japanese FDI in China in the first ten months of 2013 was slightly more than that from the EU and twice as much as that from the United States.

More important, it is unclear whether the decline in 2013 reflects a temporary lull or a more lasting change. Certainly, some companies are adopting a wait-and-see stance before committing new funds to China. And many are adopting a “China plus one” strategy of making sure that they fund facilities in at least one other Asian country besides China. But two-thirds of all sales made by Japanese affiliates are to customers inside China, and Japanese firms still need to be in China to service that market. Japanese experts expect Japanese investment to rebound, but are unsure whether it will grow as rapidly as it has in the past. The main political point is that Chinese companies and officials are worried enough to send delegations to Tokyo to woo more investment even as Beijing provokes Japan with the ADIZ declaration.

So far, Beijing has acquiesced to business and provincial leaders’ drive to better economic relations///

in spite of a hard-line security policy. But there are those in China who desire even more: that improved economic ties be used to help heal overall relations. Yang Bojiang, deputy director of the Institute of Japanese Studies at the Chinese Academy of Social Sciences, wrote in the Communist Party–owned China Daily, “If the China-Japan relationship breaks down, neither can afford to bear the strategic cost. To break through the stalemate in relations and push bilateral ties back onto a positive track, the key in the near term is to enhance cooperation, reduce confrontation, and properly handle the issues in bilateral relations.” China is definitely not of one mind on how to deal with Japan.

## \*\*\* 2NC

### AT: Terror Impact

#### Terror threat has markedly declined—most recent study proves

**Bergen 12/3**/13 - CNN's national security analyst [Peter Bergen, “Hyping the terror threat?,” CNN, updated 2:16 PM EST, Tue December 3, 2013, http://www.cnn.com/2013/12/03/opinion/bergen-u-s-terror-risk/]

Both Feinstein and Rogers are able public servants who, as the heads of the two U.S. intelligence oversight committees, are paid to worry about the collective safety of Americans, and they are two of the most prominent defenders of the NSA's controversial surveillance programs, which they defend as necessary for American security.

But is there any real reason to think that Americans are no safer than was the case a couple of years back? Not according to a study by the New America Foundation of every militant indicted in the United States who is affiliated with al Qaeda or with a like-minded group or is motivated by al Qaeda's ideology.

In fact, the total number of such indicted extremists has declined substantially from 33 in 2010 to nine in 2013. And the number of individuals indicted for plotting attacks within the United States, as opposed to being indicted for traveling to join a terrorist group overseas or for sending money to a foreign terrorist group, also declined from 12 in 2011 to only three in 2013.

Of course, a declining number of indictments doesn't mean that the militant threat has disappeared. One of the militants indicted in 2013 was Dzhokhar Tsarnaev, who is one of the brothers alleged to be responsible for the Boston Marathon bombings in April. But a sharply declining number of indictments does suggest that fewer and fewer militants are targeting the United States.

Recent attack plots in the United States also do not show signs of direction from foreign terrorist organizations such as al Qaeda, but instead are conducted by individuals who are influenced by the ideology of violent jihad, usually because of what they read or watch on the Internet.

None of the 21 homegrown extremists known to have been involved in plots against the United States between 2011 and 2013 received training abroad from a terrorist organization -- the kind of training that can turn an angry, young man into a deadly, well-trained, angry, young man.

Of these extremists, only Tamerlan Tsarnaev, one of the alleged Boston bombers, is known to have had any contact with militants overseas, but it is unclear to what extent, if any, these contacts played in the Boston Marathon bombings.

In short, the data on al-Qaeda-linked or -influenced militants indicted in the United States suggests that the threat of terrorism has actually markedly declined over the past couple of years.

Where Feinstein and Rogers were on much firmer ground in their interview with Crowley was when they pointed to the resurgence of a number of al Qaeda groups in the Middle East.

Al Qaeda's affiliates in Syria control much of the north of the country and are the most effective forces fighting the regime of Bashar al-Assad.

In neighboring Iraq, al Qaeda has enjoyed a renaissance of late, which partly accounts for the fact that the violence in Iraq today is as bad as it was in 2008.

The Syrian war is certainly a magnet for militants from across the Muslim world, including hundreds from Europe, and European governments are rightly concerned that returning veterans of the Syrian conflict could foment terrorism in Europe.

But, at least for the moment, these al Qaeda groups in Syria and Iraq are completely focused on overthrowing the Assad regime or attacking what they regard as the Shia-dominated government of Iraq. And, at least so far, these groups have shown no ability to attack in Europe, let alone in the United States.

### AT: Indo-Pak

#### Indo-pak won’t go nuclear

Enders 2 [Jan 30, David, Michigan Daily, “Experts say nuclear war still unlikely,” http://www.michigandaily.com/content/experts-say-nuclear-war-still-unlikely]

\* Ashutosh Varshney – Professor of Political Science and South Asia expert at the University of Michigan

\* Paul Huth – Professor of International Conflict and Security Affairs at the University of Maryland

\* Kenneth Lieberthal – Professor of Political Science at the University of Michigan. Former special assistant to President Clinton at the National Security Council

University political science Prof. Ashutosh Varshney becomes animated when asked about the likelihood of nuclear war between India and Pakistan.

"Odds are close to zero," Varshney said forcefully, standing up to pace a little bit in his office. "The assumption that India and Pakistan cannot manage their nuclear arsenals as well as the U.S.S.R. and U.S. or Russia and China concedes less to the intellect of leaders in both India and Pakistan than would be warranted."

The worlds two youngest nuclear powers first tested weapons in 1998, sparking fear of subcontinental nuclear war a fear Varshney finds ridiculous.

"The decision makers are aware of what nuclear weapons are, even if the masses are not," he said.

"Watching the evening news, CNN, I think they have vastly overstated the threat of nuclear war," political science Prof. Paul Huth said.

Varshney added that there are numerous factors working against the possibility of nuclear war.

"India is committed to a no-first-strike policy," Varshney said. "It is virtually impossible for Pakistan to go for a first strike, because the retaliation would be gravely dangerous."

Political science Prof. Kenneth Lieberthal, a former special assistant to President Clinton at the National Security Council, agreed. "Usually a country that is in the position that Pakistan is in would not shift to a level that would ensure their total destruction," Lieberthal said, making note of India"s considerably larger nuclear arsenal.

"American intervention is another reason not to expect nuclear war," Varshney said. "If anything has happened since September 11, it is that the command control system has strengthened. The trigger is in very safe hands."

### Impact Calculus

#### From our privileged position all genuine change is presumed dangerous and undesirable. Your decision should be willing to risk the possibility of danger to redress colonial exploitation.

Saunders 5 [Rebecca Comparative Lit @ Illinois St., “Risky Business: Edward Said as Literary Critic” Comparative Studies of South Asia, Africa and the Middle Eas p. 529-532]

Risk-free ethics, like all protection from risk, are a class privilege. As Deborah Lupton puts it, “The disadvantaged have fewer opportunities to avoid risks because of their lack of resources compared with the advantaged”; “people’s social location and their access to material resources are integral to the ways in which they conceptualize and deal with risk.”22 Or, as Ulrich Beck argues, “Poverty attracts an unfortunate abundance of risks. By contrast, wealth (in income, power or education) can purchase safety and freedom from risk.”23 Thus when we endorse a risk-free ethics, we should bear in mind that members of social groups with less to lose and more to gain are more likely to engage in risky behaviors than are members of more secure and privileged social groups. Moreover, as Mary Douglas has argued at length, risk is a forensic resource and, much like the “danger” she elaborated in her early work, functions as a means of social control. “Anthropologists would generally agree,” she writes, “that dangers to the body, dangers to children, dangers to nature are available as so many weapons to use in the struggle for ideological domination.”24 These weapons are sharpened, she argues, by Western societies’ association of risk assessment with scientific neutrality. Along similar lines, Nick Fox contends that “risk analysis is a deeply political activity. The identification of hazards (and the consequent definition of what is a risk) can easily lead to “the valorization of certain kinds of living over others.”25 The identification of “risk groups” deemed to be threatening to the social order—the unemployed, criminal, insane, poor, foreign—are a common technology for establishing boundaries between self and other, the normal and the pathological, that is, for securing that “formidable battery of distinctions” Said analyzes between “ours and theirs, proper and improper,” higher and lower, colonial and native, Western and Eastern.26 In a fascinating article on debates over native title in Australia, Eva Mackey demonstrates both the way in which political actors deploy a rhetoric of risk, danger, and threat and the uses of risk management to imperial hegemony. Not only have newspaper headlines “presented native title as an issue that has brought the nation to the brink of a dangerous abyss, to the point of destruction,” but the Howard government “constructs native title as a danger and risk to the ‘national interest,’ particularly a risk to competitiveness, opportunities, and progress. The entire anti-native title lobby have all stated . . . that the uncertainty over native title is dangerous for investment and economic competitiveness.”27 As Mackey points out, these notions of danger imply “a normative, non-endangered state,” and it is through ideas of the normal and deviant that institutional power is maintained.28 A related argument articulated by governmentality theorists is that modern societies normalize risk avoidance and pathologize risk taking, represent the former as rational and mature, the latter as irrational and childish— oppositions that, again, are familiar to any student of colonial discourse.29 These oppositions are buttressed by an elaborate apparatus of expert knowledge produced by disciplines such as engineering, statistics, actuarialism, psychology, epidemiology, and economics, which attempt to regulate risk through calculations of probability and which view the social body as “requiring intervention, management and protection so as to maximize wealth, welfare and productivity.”30 Knowledge produced about probability is then deployed as counsel to individuals about how to conduct their lives. As Lupton contends: “In late modern societies, not to engage in risk avoiding behavior is considered ‘a failure of the self to take care of itself—a form of irrationality, or simply a lack of skillfulness’ (Greco 1993). Risk-avoiding behavior, therefore, becomes viewed as a moral enterprise relating to issues of self-control, self-knowledge and self-improvement.”31 This is a characteristic of neoliberal societies that Pat O’Malley, Franc¸ois Ewald, and others refer to as the “new prudentialism.”32 To recognize that risk is a form of social control, and that risk taking is more necessary to certain classes than to others, is also to recognize that risk is not an objective entity or preexisting fact but is produced by specific cultural, political, and institutional contexts, as well as through competing knowledges. “To call something a risk,” argues Douglas, “is to recognize its importance to our subjectivity and wellbeing.” 33 Anthony Giddens, similarly, contends that “there is no risk which can be described without reference to a value.”34 In a frequently cited passage, Ewald writes, “Nothing is a risk in itself; there is no risk in reality. But on the other hand, anything can be a risk; it all depends on how one analyses the danger, considers the event.”35 Indeed, this is precisely the unconscious of risk-management technologies, which assume both that risks are preexistent in nature and that individuals comport themselves in strict accordance with a “hedonic calculus.” 5 3 1 Also embedded within this insurantial unconscious is the fact that, as Fox puts it, “The welladvertised risk will turn out to be connected with legitimating moral principles.”36 If postcolonial studies, as I am arguing, should more rigorously interrogate risk-avoidance strategies (including those that repress or discipline the foreignness in language) on their political, class, and ideological investments, it should also recognize the degree to which risk management (no doubt among modernity’s most wildly optimistic formulations) indulges in a fantasy of mastery over uncertainty. In risk-management discourses, risk has taken on the technical meaning of a known or knowable probability estimate, contrasted with uncertainty, which designates conditions where probabilities are inestimable or unknown. This transformation of the unknown into a numerical figure, a quantification of nonknowledge that takes itself for knowledge, attempts to master whatever might be undesirable in the unknown (i.e., the future) by indemnifying it in advance—and thereby advertising its own failure. I believe it could be demonstrated, moreover, were we to trace the genealogy of this fantasy, that it coincides at crucial moments with the history of colonization. The notion of risk, first used in relation to maritime adventures, arises contemporaneously with modern imperialism, to describe the hazards of leaving home. With industrial modernity, and particularly the rise of the science of statistics in the nineteenth century, it took on themien of instrumental reason and the domination of nature, nuances that bear an unmistakable resemblance to the logics of concurrent colonial enterprises.37 This fantasy of mastery is also a suppression of possibility; in most instances, risk avoidance is an (implicit or explicit) maintenance of dominant values. Risk taking, by contrast, is the condition of possibility of possibility— that is, of change. It is perhaps no surprise that one’s political position is the strongest predictor of his/her attitude toward risk. Risk, as we have seen, is regularly formulated as that which threatens the dominant order (conceived on the level of a society, a colonial regime, or a global economic order). That threat, of course, is the “danger” of transformation, of reorganized social and ideological hierarchies, redistributed economic and cultural capital, renovated geopolitical relations—in short, precisely the kinds of transformation called for by much of postcolonial studies. Risk, including the risk of errors in meaning, may be necessary to any social change, that is, to engaging in the kind of oppositional criticism Said advocates: “Criticism must think of itself,” he writes, “as constitutively opposed to every form of tyranny, domination, and abuse.”38 The necessity of risk to change (and the craven conformism of risk avoidance) is a principle Friedrich Nietzsche elaborates in Beyond Good and Evil, where, critiquing the “timidity of morality,” he calls for a new species of philosophers, willing to risk untruth, uncertainty, even ignorance, thinkers willing to inhabit “the dangerous maybe.”39 Nietzsche was also prescient in recognizing that “howmuch or how little is dangerous to the community . . . now constitutes the moral perspective; here, too, fear is again themother ofmorals.”40 More recently, philosophers such as Derrida and John D. Caputo (explicitly taking up Nietzsche’s vocation) have argued that change, indeed social responsibility itself, inevitably demands a wager on uncertain possibilities (or, in Derridean terms, the “aporia”). “Let us not be blind,” writes Derrida, “to the aporia that all change must endure. It is the aporia of the perhaps, its historical and political aporia. Without the opening of an absolutely undetermined possible, without the radical abeyance and suspense marking a perhaps, there would never be either event or decision. . . . no decision (ethical, juridical, political) is possible without interrupting determination by engaging oneself in the perhaps.”41 On similar grounds, Caputo argues for “the suspension of the fine name of ethics in the name of obligation” and contends that “to speak of being against ethics and deconstructing ethics is to own up to the lack of safety by which judging is everywhere beset. . . . to admit that ‘obligation’ is not safe, that ethics cannot make it safe, that it is not nearly as safe as ethics would have us believe.”42

### 2NC—K Prior

#### Debating the rhetorical *frame* for war-fighting decisions is the only way to address the source of war-fighting abuses.

Jeremy ENGELS Communications @ Penn St. AND William SAAS PhD Candidate Comm. @ Penn ST. 13 [“On Acquiescence and Ends-Less War: An Inquiry into the New War Rhetoric” *Quarterly Journal of Speech* 99 (2) p. 230-231]

The **framing** of public discussion facilitates acquiescence in contemporary wartime: thus, both the grounds on which war has been **justified** and the ends toward which war is **adjusted** are **bracketed** and hence made infandous. The rhetorics of acquiescence bury the grounds for war under nearly impermeable layers of political presentism and keep the ends of war in a state of **perpetual flux** so that they cannot be **challenged**. Specific details of the war effort are excised from the public realm through the rhetorical maneuver of ‘‘occultatio,’’ and the authors of such violence\*the president, his administration, and the broader national security establishment\*use a wide range of techniques to displace their own responsibility in the orchestration of war.28 Freed from the need to cultivate assent, acquiescent rhetorics take the form of a status update: hence, President Obama’s March 28, 2011 speech on Libya, framed as an ‘‘update’’ to Americans ten days after the bombs of ‘‘Operation Odyssey Dawn’’ had begun to fall. Such post facto discourse is a new norm: Americans are called to acquiesce to decisions already made and actions already taken. The Obama Administration has obscured the very definition of ‘‘war’’ with euphemisms like ‘‘limited kinetic action.’’ The original obfuscation, the ‘‘war on terror,’’ is a perpetually shifting, ends-less conflict that denies the very status of war. How do you dissent from something that seems so overwhelming, so inexorable? It’s hard to hit a perpetually shifting target. Moreover, as the government has become increasingly secretive about the details of war, crucial information is kept from citizens\*or its revelation is branded ‘‘treason,’’ as in the WikiLeaks case\*making it much more challenging to dissent. Furthermore, government surveillance of citizens cows citizens into quietism. So what’s the point of dissent? After all, this, too, will pass. Thus even the most critical citizens come to rest in peace with war. The confidence game of the new war rhetoric is one of perpetually shifting ends. In this ‘‘post-9/11’’ paradigm of war rhetoric, citizens are rarely asked to harness their civic energy to support the war effort, but instead are called to passively cede their wills to a greater Logos, the machinery of ends-less war. President Obama has embodied the dramatic role of wartime caretaker more adeptly than his predecessor, repeatedly exhorting citizens to ‘‘look forward’’ rather than to examine the historical grounds upon which the present state of ends-less war was founded and institutionalized.29 All the while, that forward horizon is constantly being reshaped\*from retribution, to prevention, to disarmament, to democratization, to intervention, and so on, as needed. What Max Weber called ‘‘charisma of office’’\*the phenomenon whereby extraordinary political power is passed on between charismatically inflected leaders\*is here cast in bold relief: until and unless the grounds of the new war rhetoric are meaningfully represented and unapologetically challenged, ends-less war can only continue unabated.30 War rhetoric is a mode of display that aims to dispose audiences to certain ways and states of being in the world. This, in turn, is the essence of the new war rhetoric: authorities tell us, don’t worry, we’ve got this, just go about your everyday business, go to the mall, and take a vacation. What we are calling acquiescent rhetorics aim to disempower citizens by cultivating passivity and numbness. Acquiescent rhetorics facilitate war by shutting down inquiry and deliberation and, as such, are anathema to rhetoric’s nobler, democratic ends. Rhetorical scholars thus have an important job to do.We must bring the objective violence of war out into the open so that all affected by war can meaningfully question the grounds, means, and ends of battle.We can do this by describing, and demobilizing, the rhetorics used to promote acquiescence. In sum, we believe that by making the seemingly uncontestable contestable, rhetorical critics can and should begin to invent a pedagogy that would reactivate an acquiescent public by creating space for talk where we have previously been content to remain silent.

### ALT—Anti-Subordination Framing

#### We should frame the question of executive power in terms of racialized harm and otherization. Refusing accommodation with values of the security state is a *precondition* for preventing racialized hierarchy.

Gil GOTT Int’l Studies @ DePaul 5 “The Devil We Know: Racial Subordination and National Security Law” Villanova Law Review, Vol. 50, Iss. 4, p. 1075-1076

Anti-subordinationist principles require taking more complete account of how enemy groups are racialized, and how they come to be constructed as outsiders and the kinds of harms that may befall them as such. Group-based status harms include those that have been inscribed in law and effectuated through state action, and those that arise within civil society, through social structures, institutions, culture and habitus. Familiarity with the processes of racialization is a necessary precondition for appreciating and remedying such injuries. Applying anti-subordinationist thinking to national security law and policy does not require arguing that only race-based effects matter, but does require affording significant analytical and normative weight to the problems of such status harms. Racial injuries require racial remedies. Foregrounding anti-subordinationist principles in national security law and policy analysis departs significantly from traditional approaches in the field. Nonetheless, arguments based in history, political theory and pragmatism suggest that such a fundamental departure is warranted. Historically, emergency-induced "states of exception" 6 that have suspended legal protections against governmental abuses have tended to be identitybased in conception and implementation. 7 Viewed from the perspective of critical political theory, the constellation of current "security threats" rests on the epochal co-production of identity-based and market-driven global political antagonisms, referred to somewhat obliquely as civilization clashes or perhaps more forthrightly as American imperialism. Pragmatically, it makes no sense to fight terrorism by alienating millions of Muslim, Arab and South Asian residents in the United States and hundreds of millions more abroad through abusive treatment and double standards operative in identity-based repression at home and in selective, preemptive U.S. militarism abroad. Such double standards undermine the democratic legitimacy of the United States both in its internal affairs and in its assertions of global leadership. Indeed, there seems to be no shortage of perspectives from which liberal legal institutions would be enjoined from embracing a philosophy of political decisionism precisely at the interface of law and security, an anomic frontier along which are likely to arise identity-based regimes of exception and evolving race-based forms of subordination. Part I analyzes accommodationist approaches that variously incorporate security-inflected logic in truncating the regulative role law plays in national security contexts. I will seek to understand the accommodationist thrust of these interventions in light of the authors' operative assumptions regarding the proper array of interests and exigencies to be balanced. I will argue that the interests of demonized "enemy groups" facing racebased status harm-Muslims, Arabs and South Asians in the United States-are ineffectively engaged through accommodationist frameworks. The decisionist impulse of these analyses, that is, the tendency to acquiesce in the outcomes of non-substantively constrained statist and/or majoritarian political process, results from an incomplete grasp of the racialization processes. In short, more race consciousness is needed in national security law and policy in order to cement substantive commitments and procedural safeguards against historical and ongoing racebased subordination through the racialization of "security threats."

### Norm-Setting Link

#### Norm-setting for the legitimate use of force reflects colonial dominance by Western states. Non-western forms of warfare, identity, and authority are granted no standing.

Jeremy BLACK History @ Exeter 5 [“War and international relations: a military-historical perspective on force and legitimacy” *Review of Int’l Studies* 31 p. 128-131]

In response in both cases, these anti-methods are presented by critics as unacceptable and illegal, and indeed unheroic, and thus the legitimacy of the cause with which they are linked is denied. This can be seen in the treatment of terrorism, but also, more generally, in practices, real or alleged, of eroding the distinctions between ‘civilian’ and ‘military’. An instance of this was provided by allegations that military targets, such as missile-launchers, were located by Serbia in 1999 and Iraq in 2003 in civilian areas, and, in the latter case, by the employment of irregulars who did not wear uniform. As much of the legitimacy of the modern Western practice of force, and the legalisation of Western high-technology warfare,7 is held to rest on drawing a distinction between military and civilian, these moves affected both the character of Western warmaking, especially in the case of the ease of target acquisition, and its apparent legitimacy. Attacks on ‘civilian’ targets indeed became a basic text in public debate concerned about the morality of Western interventions and the nature of Western warmaking. This problem challenged pro-interventionist governments in their attempts to influence domestic and international opinion, as doing so in part rested on the argument that there was a distinction between the legitimate use of force directed against the military (and government targets), and usage that was illegitimate, whether by states, such as Iraq gassing Kurdish civilians, or by terrorist movements.8 There was a parallel here with weapons of mass destruction, with conflicting views on which powers could legitimately possess them. Legitimacy in this case was a response to perceptions of governmental systems and strategic cultures; and the imprecision of the concept of the rogue state does not satisfactorily address the issue.9 Instead, the ability of the world’s strongest power to propose the concept and define its application was seen by many as a challenge both to the sovereignty of states and to international norms. This will become a more serious problem as the rise of China and India leads to a decline in America’s relative strength. The notion of the morality of military usage as depending in part on the uneasy relationship between the doctrine of target allocation and acquisition, and the technology permitting the successful practice of this doctrine, is an instance of the way in which theories of force and legitimacy move in a problematic relationship with shifts in military capability and also in the type of wars being undertaken. This was not the sole instance of this process. To return to the point made at the outset, the nature of the military power wielded by the US (as well as the assumptions underlying its use) is crucial to modern discussion of force and legitimacy across at least much of the world. The historical perspective In historical terms, there is a marked and unprecedented contrast today between the distribution of military force and the notion of sovereign equality in international relations. There have been major powers before, but only the Western European maritime states – Portugal, Spain, The Netherlands, France and Britain – could even seek a global range, and, prior to that of Britain in the nineteenth century, the naval strength of these states was not matched by a land capability capable of competing with those of the leading military powers in the most populous part of the world: South and East Asia, nor, indeed, with an ability to expand into Africa beyond coastal enclaves. The success of the Western European powers in the Americas and at sea off India, did not mean that there was an equivalent success elsewhere, and this suggests that aggregate military capacity is a concept that has to be employed with care.10 East and South-East Asian powers, particularly China, were, in turn, not involved in an international system that directly encompassed the Western maritime states. In some respects, there was a curious coexistence as, from the 1630s, Spanish, Russian and Dutch military powers were all present in East Asian waters, but, in practice, this did not lead to the creation of a new system. The Europeans were insufficiently strong to challenge the East Asian powers seriously, and local advances were repelled by the most powerful, China: in the seventeenth century, the Dutch being driven from the Pescadore Islands and Taiwan, and the Russians from the Amur Valley,11 while the English in Bombay were forced to propitiate the Mughal Emperor; and were also unable to sustain their position in Tangier. The assumptions generally summarised as strategic culture also played a major role, as, despite their strength, none of the local powers sought to contest the European position in the Western Pacific: the Spaniards spread their control in the Philippines, and, from there, to the Mariana and Caroline Islands, and the Russians in north-east Asia and, across the North Pacific, to the Aleutians and Alaska. This was not challenged by China; nor Japan or Korea, both of which were weaker states. The absence of any such conflict ensured that relations between East Asian and Western European powers did not develop and become important, let alone normative, in the context of warfare or international relations. Instead, although trade with China was important for the West, there was scant development in such norms. The same was true of relations between the Mughal empire in India and European coastal positions in the sixteenth and seventeenth centuries, and also in South-East Asia, where major, aggressive states, such as Burma and Thailand in the eighteenth century, were able to operate with little reference to Western power (and indeed are largely ignored in Western historiography).12 This is a reminder of the late onset of modernity, understood in terms both of Western dominance, specifically of readily-evident superior Western military capability, and of Western international norms; although this definition of modernity is questionable, and increasingly so, as Asian states become more powerful. This late onset of modernity clashes with the conventional interpretation of the international order that traces an early establishment of the acceptance of sovereignty in a multipolar system, an establishment usually dated to the Peace of Westphalia of 1648.13 However appropriate for Europe, and that can be debated, this approach has far less meaning on the global level. The idea of such a system and of the associated norms outlined in Europe were of little relevance elsewhere until Western power expanded, and then they were not on offer to much of the world, or only on terms dictated by Western interests. This was true not only of such norms but also of conventions about international practices such as the definition of frontiers, or rights to free trade, or responses to what was presented as piracy.14 The question of frontiers was an aspect of the employment of the Western matrix of knowledge in ordering the world on Western terms and in Western interests. Force and legitimacy were brought together, for example, in the drawing of straight frontier and administration lines on maps, without regard to ethnic, linguistic, religious, economic and political alignments and practices, let alone drainage patterns, landforms and biological provinces. This was a statement of political control, judged by the West as legitimate and necessary in Western terms,15 and employed in order to deny all other existing indigenous practices, which were seen either as illegitimate, or, in light of a notion of rights that drew on social-Darwinianism, as less legitimate. The global military situation, specifically the Western ability to defeat and dictate to land powers, had changed in the nineteenth century, especially with the British defeat of the Marathas in India in 1803–6 and 1817–18, and, subsequently, with the defeats inflicted on China in 1839–42 and 1860, and with the Western overawing of Japan in 1853–4. In terms of the age, the speed and articulation offered British power by technological developments (especially, from mid-century, the steamship and the telegraph), by knowledge systems (particularly the accurate charting and mapping of coastal waters),16 and by organisational methods (notably the coaling stations on which the Royal Navy came to rely), all provided an hitherto unsurpassed global range and reach.17 Within this now globalised world, force and force projection came to define both the dominant (yet still contested) definition of legitimacy, and its application. Indeed, the capacity to direct the latter proved crucial to the development of the practice of legitimacy as related to its impact on non-Western states.

### Structural Violence Outweighs

#### Slow violence outweighs. We should privilege displaced structural violence over their immediate scenarios which are just media sensations

Nixon 11—Rob Nixon, English @ Wisconsin [*Slow Violence and the Environmentalism of the Poor* p. 1-4]

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.

Politically and emotionally, different kinds of disaster possess unequal heft. Falling bodies, burning towers, exploding heads, avalanches, volcanoes, and tsunamis have a visceral, eye-catching and page-turning power that tales of slow violence, unfolding over years, decades, even centuries, cannot match. Stories of toxic buildup, massing greenhouse gases, and accelerated species loss due to ravaged habitats are all cataclysmic, but they are scientifically convoluted cataclysms in which casualties are postponed, often for generations. In an age when the media venerate the spectacular, when public policy is shaped primarily around perceived immediate need, a central question is strategic and representational: how can we convert into image and narrative the disasters that are slow moving and long in the making, disasters that are anonymous and that star nobody, disasters that are attritional and of indifferent interest to the sensation-driven technologies of our image-world? How can we turn the long emergencies of slow violence into stories dramatic enough to rouse public sentiment and warrant political intervention, these emergencies whose repercussions have given rise to some of the most critical challenges of our time? This book's second, related focus concerns the environmentalism of the poor, for it is those people lacking resources who are the principal casualties of slow violence. Their unseen poverty is compounded by the invisibility of the slow violence that permeates so many of their lives. Our media bias toward spectacular violence exacerbates the vulnerability of ecosystems treated as disposable by turbo-capitalism while simultaneously exacerbating the vulnerability of those whom Kevin Bale, in another context, has called" disposable people."z It is against such conjoined ecological and human disposability that we have witnessed a resurgent environmentalism of the poor, particularly (though not exclusively) across the so-called global South. So a central issue that emerges is strategic: if the neoliberal era has intensified assaults on resources, it has also intensified resistance, whether through isolated site-specific struggles or through activism that has reached across national boundaries in an effort to build translocal alliances. "The poor" is a compendious category subject to almost infinite local variation as well as to fracture along fault lines of ethnicity, gender, race, class, region, religion, and generation. Confronted with the militarization of both commerce and development, impoverished communities are often assailed by coercion and bribery that test their cohesive resilience. How much control will, say, a poor hardwood forest community have over the mix of subsistence and market strategies it deploys in attempts at adaptive survival? How will that community negotiate competing definitions of its own poverty and long-term wealth when the guns, the bulldozers, and the moneymen arrive? Such communities typically have to patch together threadbare improvised alliances against vastly superior military, corporate, and media forces. As such, impoverished resource rebels can seldom afford to be single-issue activists: their green commitments are seamed through with other economic and cultural causes as they experience environmental threat not as a planetary abstraction but as a set of inhabited risks, some imminent, others obscurely long term.

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### Overview

#### Their interp turns the targeted killing area into regulating any type of drone use—massively expands both the amount of topical affs and the lit base we have to research

Mellor 13—Ewan E. Mellor – European University Institute [“Why policy relevance is a moral necessity: Just war theory, impact, and UAVs,” Paper Prepared for BISA Conference 2013]

Despite some of the problems with the specific figures, an impressive amount of research has been done by scholars and journalists on the policies related to the use of drones and this research provides a basis for judging these policies in the light of the principles of the just war tradition. To begin with it is necessary to disaggregate the types of drone strikes that are carried out, as they have different implications and raise different questions.

The first, and perhaps best known, types of strike are the personality strikes.24 These are strikes on a specific individual who is being targeted due to evidence linking them directly to militant activity. Whilst these are often portrayed as strikes on senior leaders or individuals involved in important terrorist operations, the evidence suggests that the majority of those targeted are low level members with little role in ongoing operations.25 Whilst these low level members may be legitimate targets under the laws of armed conflict, they would not be under international human rights law. Even under the laws of armed conflict questions arise regarding the proportionality of such strikes.

The second type of attack is the signature strike. These strikes target unknown and unidentified individuals based on a pattern of activity that is believed to be associated with membership of a militant organisation.26 The US has never acknowledged these types of strikes and has never detailed the criteria for assessing whether behaviour is suspicious enough to warrant targeting and killing; however, the joke within the US State Department that if the CIA saw three men exercising in a field they would consider it a terrorist training camp suggests that there were concerns within the administration that the criteria were not discriminating enough.27

The third type of attack is the double-tap strike. In these attacks a drone will attack a target on the basis of either personality or signature criteria and will then remain in the area and a second strike (and potentially more follow-up strikes) will be carried out against those who come to the aid of the victims of the first strike.28 As a result, researchers and journalists have learnt that locals will often wait a substantial period of time before going to the site a drone strike, delaying aid from reaching any injured survivors.29 These types of strikes make no effort to distinguish between combatants and non-combatants and seem to be designed specifically to ensure that those originally targeted will be killed, either in the follow up strike or through lack of medical care. These strikes have also never been officially acknowledged by the US so it is impossible to ascertain how and under what body of law these strikes are justified or what the decision making procedure is for authorising such a strike.

#### Second is ground—signature strikes and targeted killings are different strategies with different literature bases. The distinction is important because it allows the aff to regulate a less controversial area and bypass core negative ground

Dunn and Wolff 13—\*David Hastings Dunn, Reader in International Politics and Head of Department in the Department of Political Science and International Studies at the University of Birmingham, UK, AND \*\*Stefan Wolff, Professor of International Security at the University of Birmingham in the UK [March 2013, “Drone Use in Counter-Insurgency and Counter-Terrorism: Policy or Policy Component?,” in Hitting the Target?: How New Capabilities are Shaping International Intervention, ed. Aaronson & Johnson, http://www.rusi.org/downloads/assets/Hitting\_the\_Target.pdf]

Yet an important distinction needs to be drawn here between acting on operational intelligence that corroborates existing intelligence and confirms the presence of a specific pre-determined target and its elimination – so-called ‘targeted strikes’ (or less euphemistically, ‘targeted killings’) – and acting on an algorithmic analysis of operational intelligence alone, determining on the spot whether a development on the ground suggests terrorist activity or association and thus fulfils certain (albeit, to date, publicly not disclosed) criteria for triggering an armed response by the remote pilot of a drone – so-called ‘signature strikes’.6

Targeted strikes rely on corroborating pre-existing intelligence: they serve the particular purpose of eliminating specific individuals that are deemed crucial to enemy capabilities and are meant to diminish opponents’ operational, tactical and strategic capabilities, primarily by killing mid- and top-level leadership cadres. To the extent that evidence is available, it suggests that targeted strikes are highly effective in achieving these objectives, while simultaneously generating relatively little blowback, precisely because they target individual (terrorist) leaders and cause few, if any, civilian casualties. This explains, to a significant degree, why the blowback effect in Yemen – where the overwhelming majority of drone strikes have been targeted strikes – has been less pronounced than in Pakistan and Afghanistan.7

Signature strikes, in contrast, can still be effective in diminishing operational, tactical and strategic enemy capabilities, but they do so to a certain degree by chance and also have a much higher probability of causing civilian casualties. Using drones for signature strikes decreases the dependence on pre-existing intelligence about particular leaders and their movements and more fully utilises their potential to carry out effective surveillance and respond to the conclusions drawn from it immediately. Signature strikes have been the predominant approach to drone usage in Pakistan and Afghanistan.8 Such strikes have had the effect of decimating the rank and file of the Taliban and their associates – but they have also caused large numbers of civilian casualties and, at a minimum, weakened the respective host governments’ legitimacy and forced them to condemn publicly, and in no uncertain terms, the infringement of their states’ sovereignty by the US. In turn, this has strained already difficult relations between countries which have more common than divergent interests when it comes to regional stability and the fight against international terrorist networks. That signature strikes have a high probability of going wrong and that such failures prove extremely counterproductive is also illustrated by a widely reported case from Yemen, in which twelve civilians were killed in the proximity of a car identified as belonging to an Al-Qa’ida member.9

The kind of persistent and intimidating presence of a drone policy geared towards signature strikes, and the obvious risks and consequences involved in repeatedly making wrong decisions, are both counterproductive in themselves and corrosive of efforts that seek to undercut the local support enjoyed by insurgent and terrorist networks, as well as the mutual assistance that they can offer each other. Put differently, signature strikes, in contrast to targeted killings, do anything but help to disentangle the links between insurgents and terrorists.

#### Framing issue—precision is key to predictability. Even if you think their definition is reasonable and provides some valuable education, it’s not predictable because it blurs an important distinction grounded in the lit base. That causes topic explosion

Sebastian Jose Silva, 2003. University of Montreal Master’s candidate. “Death for life : a study of targeted killing by States in international law,” https://papyrus.bib.umontreal.ca/xmlui/bitstream/handle/1866/2372/11474222.PDF;jsessionid=4D1530E8E8F2DEE3B4C68BA4B7997F3B?sequence=1.

As defined by Steven R. David, targeted killing is the "intentional slaying of a specific individual or group of individuals undertaken with explicit governmental approval.,,25 Though concise, the problem with this definition is that it fails to specify the intended targets and ignores the context in which they are carried out. By failing to define targeted killings as measures of counter-terrorism, killings of all types may indiscriminately fall under its mantle with devastating consequences. As such, the killing of political leaders in peacetime, which amounts to assassination, can fall within its scope. The same can be said about the killing of specific enemy combatants in armed conflict, which amounts to targeted military strikes, and the intentional slaying of common criminals, dissidents, or opposition leaders. Actions carried-out by governments within their jurisdictions can also be interpreted as targeted killings. Although the killing of terrorists abroad may constitute lawful and proportionate self-defense in response to armed attacks, the use of such measures by states for an unspecified number of reasons renders shady their very suggestion. David's definition is essentially correct but over-inclusive.

### AT: Daskal

Mistagged.

Daskal 13 Jennifer Daskal, American University Washington College of Law, “The Geography of the Battlefield: A Framework for

Detention and Targeting Outside the 'Hot' Conflict,” 2013, <http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1252&context=facsch_lawrev>, DOA: 9-18-13, y2k

Of note, recent reporting suggests that the United States has launched at least one drone strike near Sana’a, the capital of Yemen, in a region readily accessible to law enforcement officials, thereby casting doubt on official assertions that lethal targeting is used as a measure of last resort, when capture is not feasible.62 Moreover, “signature strikes” reportedly were approved for use in Yemen in 2012, allowing the targeting of individuals or groups based on their pattern of activities without knowing the specific targets’ identities or roles in the organization—**a practice that seems to belie a policy of individualized assessments of “significant threat**.”63

### AT: Zilinskas

Goes neg

Zilinskas 8 Justinas Žilinskas is Member at International Humanitarian Fact-Finding Commission Lithuania Education Management, “TARGETED KILLING UNDER INTERNATIONAL HUMANITARIAN LAW,” DOA: 9-18-13, y2k

2.3.3. Definition

Literature does not provide a commonly accepted definition. For instance, it has been defined as ‘the intentional slaying of a group or individuals undertaken with explicit governmental approval’ [29]. Yet, in our view this definition is falling short of two major elements. Firstly, **it should contain reference to the actual targets, namely persons suspected of terrorism**. Secondly, **it lacks reference to the fact that in the examples given above there was premeditation associated with ‘targeted killings’** [6, p. 280]. In the article at hand the definition of targeted killing to be applied is the following: ‘the premeditated killing of a specific target (person/persons) suspected of terrorism, with explicit or implicit governmental approval’.

### Definition of T.K.

#### Targeting and signature strikes are distinct—each has a different process which affects both aff and neg ground

Greenberg and Leiter 13—\*Karen J. Greenberg, Director, Center on National Security, Fordham Law School AND \*\*Michael E. Leiter, Senior Counsel to the Chief Executive Officer, Palantir Technologies; Former Director, National Counterterrorism Center [March 1, 2013, “Assessing U.S. Drone Strike Policies,” http://www.cfr.org/counterterrorism/assessing-us-drone-strike-policies/p30144]

GREENBERG: Mike, can you just clarify a question that I think is underlying a couple of the questions from members, and that is, we keep using the term "targeted killing" and "individuals." But there's been a lot of writing about the fact that these targeted killings are not about individuals, but are about areas where individuals who are assumed to be part of the al-Qaida network congregate. In other words, signature killings. And while it may sound like it's very specific, when you actually read what it is, it's not about targeting an individual, which is different than collateral damage. And I just -- can you clarify that for people?

LEITER: I can clarify some of it. Some of it is appropriately still classified and I don't talk about that stuff because I don't want to go to jail. But you really have three things. As you described, you have targeting individuals. This is something that we've been quite open about in the Bush administration and the Obama administration. It's knowing who the person is and going after that individual.

You then have signature strikes, which are not targeting an area, as you describe, but understanding a set of characteristics that consistently identify individuals as being associated with al-Qaida. Now, that's going to be involved in who those people are communicating with, how they're behaving, where they're operating, what they're doing when they're operating. But you still have -- you have intelligence that they're associated with al-Qaida. You just don't know that it's Bob Smith of al-Qaida. You may not know the person's name at all. That is a signature strike.

And then you have collateral damage. And collateral damage can occur in either one of those two previous ones, when you're targeting an individual or you're targeting via signature. Collateral damage is what you have to avoid. I think Jameel would say that signature strikes, if they're done properly, can be consistent with the laws of war, but my take is that he doesn't think that they are now. I do think, consistent with what Micah said, that the administration should be clear about how any of these strikes and all the rules about collateral damage, no matter who is doing them, are consistent with the laws of war, and are -- (custom or ?) international law and treaty obligations.

### TKs=/=Drones

#### Drones are a technology. Targeted killing is a mission. They aren’t synonymous

Anderson 13—Kenneth Anderson, Professor of International Law at American University [June 2013, “The Case for Drones,” Commentary, Vol. 135, No. 6]

This feature of Predators and Reapers -- the two forms of drones really at issue today -- enables the second aspect of drone warfare: targeted killing, a method of using force that takes advantage of drone technology. But drones and targeted killing are not the same thing: One is a technology and weapon platform, the other a way to use it. Targeted killing can be done not only with drones, but with human teams, too, as seen most dramatically in the Bin Laden raid by the Navy SEALs.

Similarly, drones are useful for more than targeted killing. They have broad, indeed rapidly expanding, military functions as a weapons platform -- as evidenced in counterinsurgency strikes in Pakistan, Afghanistan, and Yemen against groups of fighters, not only individuals. This is conventional targeting of hostile forces in conventional conflict, just like one would see with a manned war plane. They have much in common. The pilot of a manned craft is often far away from the target, as would be a drone pilot -- over the horizon or many miles away. Unlike the drone pilot, however, he might have minimal situational awareness of the actual events on the ground at the target -- his knowledge may be nothing more than instrument data. A drone pilot may in fact have far greater visual and other sensor data than the pilot of a manned craft without handling the distractions caused by the work to keep a high-speed jet in the air.

#### Maintaining the distinction is key to education about drones

Anderson 11—Kenneth Anderson, Professor of International Law at American University [August 29, 2011, “Distinguishing High Value Targeted Killing and “Signature” Attacks on Taliban Fighters,” http://www.volokh.com/2011/08/29/distinguishing-high-value-targeted-killing-and-signature-attacks-on-taliban-fighters/]

Moreover, to the extent that one can have confidence in counts of civilian casualties (though there is a convergence on accepting that drone warfare is gradually producing far lower civilian casualty counts than alternative means), it is still crucial to distinguish between the two types of strategic uses of drones. Totals that run the two activities together are not analytically very useful. Moreover, there is some reason to believe that the kind of targeting that might produce the most civilian casualties is, under some circumstances (and perhaps counterintuitively) targeting a single, individual terrorist leader, rather than a larger group of fighters. The reason is that a terrorist leader in Al Qaeda might well deliberately surround himself with many women and children all the time, as human shields, thus raising at least the possibility of greater civilian harm, should political authorities decide that a strike is warranted despite the civilian presence. The Taliban formation might consist of more fighters, but fewer civilians.

These are analytic possibilities; the publicly available data does not seem to me sufficiently robust to draw strong conclusions about the kind of activity and civilian casualties. My point is an analytic one – one has not said very much about drone warfare without disentangling the distinct strategic uses to which the weapon is put.