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#### A topical aff must restrict AUTHORITY the President has– congress has the authority to control where conflict occur – not the President – means it isn’t a limit

Bradley and Goldsmith, 2005 (Curtis and Jack, professor of law at the University of Virginia and professor of law at Harvard, 118 Harvard Law Review 2047, May, lexis)

Second, under Justice Jackson's widely accepted categorization of presidential power, n5 "the strongest of presumptions and the widest latitude of judicial interpretation" attach "when the President acts pursuant to an express or implied authorization of Congress." n6 This  [\*2051]  proposition applies fully to presidential acts in wartime that are authorized by Congress. n7 By contrast, presidential wartime acts not authorized by Congress lack the same presumption of validity, and the Supreme Court has invalidated a number of these acts precisely because they lacked congressional authorization. n8 The constitutional importance of congressional approval is one reason why so many commentators call for increased congressional involvement in filling in the legal details of the war on terrorism. Before assessing what additional actions Congress should take, however, it is important to assess what Congress has already done. Third, basic principles of constitutional avoidance counsel in favor of focusing on congressional authorization when considering war powers issues. n9 While the President's constitutional authority as Commander-in-Chief is enormously important, determining the scope of that authority beyond what Congress has authorized implicates some of the most difficult, unresolved, and contested issues in constitutional law. n10 Courts have been understandably reluctant to address the scope of that constitutional authority, especially during wartime, when the consequences of a constitutional error are potentially enormous. n11 Instead,  [\*2052]  courts have attempted, whenever possible, to decide difficult questions of wartime authority on the basis of what Congress has in fact authorized. n12 This strategy makes particular sense with respect to the novel issues posed by the war on terrorism.

#### The plan says “WAR MAKING AUTHORITY” that isn’t the authority of the president.

BYRD 98 US Senator from West Virginia. JD American University [Robert C. Byrd, REMARKS BY U.S. SENATOR ROBERT C. BYRD THE CONSTITUTION IN PERIL, West Virgina Law Review, Winter, 1998, 101 W. Va. L. Rev. 385]

The constitutional framework arranged by the Framers speaks with crystal clarity regarding the war powers. The authority to initiate war rests solely with Congress, except for one narrow area--the inherent defensive authority to repel sudden attacks on our country, which is granted to the Commander in Chief. Let us listen for a moment to the words of President Abraham Lincoln in a letter to William H. Herndon on the subject of the exercise of the unfettered use of the war power by a President:

allow the President to invade a neighboring nation, whenever he shall deem it necessary to repel an invasion, and you allow him to do so, whenever he may choose to say he deems it necessary for such purpose --and you allow him to make war at pleasure. Study to see if you can fix any limit to his power in this respect, after you have given him so much as you propose. If, today, he should choose to say he thinks it necessary to invade Canada, to prevent the British from invading us, how could you stop him? You may say to him, 'I see no probability of the British invading us' but he will say to you 'be silent; I see it, if you don't. . . .'

Well, obviously, Lincoln had it absolutely right with regard to the constitutional wisdom of the Framers. And the legislative histories of both the U.N. Participation Act and the NATO Treaty firmly establish that the President has no type of unilateral war power authority granted to him by virtue of our country's participation in these two international organizations. It is entirely preposterous to claim that an international treaty, which must be consented to by the United States Senate, somehow strips the Senate and the House of their constitutional mandate to declare war! Oh, and by the way, calling a conflict a "police action" does not give the President magical authority to use military force without the authorization of Congress, any more than calling a dog a cat suddenly empowers a dog to climb trees.

#### VOTE NEG – Unlimit the topic

BARRON\* & LEDERMAN\*\* 08 \*Professor of Law, Harvard Law School. \*\* Visiting Professor of Law, Georgetown University Law Center. [David J. Barron\* & Martin S. Lederman\*\*, THE COMMANDER IN CHIEF AT THE LOWEST EBB - FRAMING THE PROBLEM, DOCTRINE, AND ORIGINAL UNDERSTANDING, January, 2008, Havard Law Review, 121 Harv. L. Rev. 689]

4. Judicial Enforcement of Implied Statutory Restrictions. - The way the Supreme Court approaches war powers generally, when combined with the increased mass of potentially relevant legislative restrictions on the conduct of this military conflict, further increases the likelihood that the "lowest ebb" issue will be joined in the future. Principles of deference to executive authority tend to dominate academic discussion of statutory interpretation and war powers. As we have indicated, however, Hamdan, Youngstown, and other modern war powers cases demonstrate that the Court cannot be counted on to give the President the benefit of the doubt. And in many war powers cases, the Court has been perfectly willing to construe ambiguous statutory language against certain background rules that it presumes Congress intended to honor, n84 including a presumption that the Executive must [\*719] comply with the laws of war. n85

This general and longstanding judicial willingness to find implied limitations in ambiguous texts concerning the use of military force and national security powers is sometimes controversial. But whether justified or not, such an interpretive approach is of particular import now, given the sheer mass of preexisting statutes potentially applicable to the conflict with al Qaeda and the likelihood that this body of law will grow. Executive branch lawyers may be hard-pressed to advise their client agencies that creative construction can overcome the apparent statutory restrictions, at least if there is a reasonable prospect of judicial review (as there often will be in the war on terrorism due to its peculiar domestic connections). Instead, the prospect of judicial review will impel these lawyers to advise that the courts could well construe the potentially restrictive language to impose hard constraints on the Executive's preferred course of conduct - and that only the assertion of a superseding constitutional power of the President could, possibly, overcome such limits. Thus, the relatively weak deference the Court has long shown the President in many war powers cases, when combined with the relatively high likelihood in the war on terrorism of the applicability of restrictive but ambiguous statutory language and a justiciable case to hear, make constitutional assertions of preclusive executive powers a more likely occurrence than war powers scholarship typically assumes.

#### SECOND – Signature Strikes aren’t topical – means either they aren’t T or there is a 100% solvency deficit.

### 1NC K

#### Liberal institutionalism is an imperial ideology disguised by the language of science. Liberal institutionalism requires the elimination of non-liberal forms of life to achieve national security

Tony SMITH Poli Sci @ Tufts 12 [*Conceptual Politics of Democracy Promotion* eds. Hobson and Kurki p. 206-210]

Writing in 1952, Reinhold Niebuhr expressed this point in what remains arguably the single best book on the United States in world affairs, The Irony of American History. 'There is a deep layer of Messianic consciousness in the mind of America,' the theologian wrote. Still, 'We were, as a matter of fact, always vague, as the whole liberal culture is fortunately vague, about how power is to be related to the allegedly universal values which we hold in trust for mankind' (Niebuhr 2008: 69). 'Fortunate vagueness', he explained, arose from the fact that 'in the liberal version of the dream of managing history, the problem of power is never fully elaborated' (Niebuhr 2008: 73). Here was a happy fact that distinguished us from the communists, who assumed, thanks to their ideology, that they could master history, and so were assured that the end would justify the means, such that world revolution under their auspices would bring about universal justice, freedom , and that most precious of promises, peace. In contrast, Niebuhr could write: On the whole, we have as a nation learned the lesson of history tolerably well. We have heeded the warning 'let not the wise man glory in his wisdom, let not the mighty man glory in his strength.' Though we are not without vainglorious delusions in regard to our power, we are saved by a certain grace inherent in common sense rather than in abstract theories from attempting to cut through the vast ambiguities of our historic situation and thereby bringing our destiny to a tragic conclusion by seeking to bring it to a neat and logical one ... This American experience is a refutation in parable of the whole effort to bring the vast forces of history under the control of any particular will, informed by a particular ideal ... [speaking of the communists] All such efforts are rooted in what seems at first glance to be a contradictory combination of voluntarism and determinism. These efforts are on the one hand excessively voluntaristic, assigning a power to the human will and the purity to the mind of some men which no mortal or group of mortals possesses. On the other, they are excessively deterministic since they regard most men as merely the creatures of an historical process. (Niebuhr 2008: 75, 79) The Irony of American History came out in January 1952, only months after the publication of Hannah Arendt's The Origins of Totalitarianism, a book that reached a conclusion similar to his. Fundamentalist political systems of thought, Arendt (1966: 467-9) wrote, are known for their scientific character; they combine the scientific approach with results of philosophical relevance and pretend to be scientific philosophy . .. Ideologies pretend to know the mysteries of the whole historical process—the secrets of the past, the intricacies of the present, the uncertainties of the future—because of the logic inherent in their respective ideas ... they pretend to have found a way to establish the rule of justice on earth ... All laws have become laws of movement. And she warned: Ideologies are always oriented toward history .... The claim to total explanation promises to explain all historical happenings ... hence ideological thinking becomes emancipated from the reality that we perceive with our five senses, and insists on a ' truer' reality concealed behind all perceptible things, dominating them from this place of concealment and requiring a sixth sense that enables us to become aware of it. ... Once it has established its premise, its point of departure, experiences no longer interfere with ideological thinking, nor can it be taught by reality. (Arendt 1966: 470) For Arendt as for Niebuhr, then, a virtue of liberal democracy was its relative lack of certitude in terms of faith in an iron ideology that rested on a pseudoscientific authority that its worldwide propagation would fulfill some mandate of history, or to put it more concretely, that the United States had been selected by the logic of historical development to expand the perimeter of democratic government and free market capitalism to the ends of the earth, and that in doing so it would serve not only its own basic national security needs but the peace of the world as well. True, in his address to the Congress asking for a declaration of war against Germany in 1917, Wilson had asserted, 'the world must be made safe for democracy. Its peace must be planted upon the tested foundations of political liberty.' (Link 1982: 533). Yet just what this meant and how it might be achieved were issues that were not resolved intellectually—at least not before the 1990s. Reinhold Niebuhr died in 1971, Hannah Arendt in 1975, some two decades short of seeing the 'fortunate vagueness' Niebuhr had saluted during their prime be abandoned by the emergence of what can only be called a ' hard liberal internationalist ideology', one virtually the equal of Marxism- Leninism in its ability to read the logic of History and prescribe how human events might be changed by messianic intervention into a world order where finally justice, freedom , and peace might prevail. The authors of this neo-liberal, neo-Wilsonianism: left and liberal academics. Their place of residence: the United States, in leading universities such as Harvard, Yale, Princeton, and Stanford. Their purpose: the instruction of those who made foreign policy in Washington in the aftermath of the Cold War. Their ambition: to help America translate its 'unipolar moment' into a 'unipolar epoch' by providing American leaders with a conceptual blueprint for making the world safe for democracy by democratising the world, thereby realizing through 'democratic globalism' the century-old Wilsonian dream—the creation of a structure of world peace. Their method: the construction of the missing set of liberal internationalist concepts whose ideological complexity, coherence, and promise would be the essential equivalence of MarxismLeninism, something most liberal internationalists had always wanted to achieve but only now seemed possible. Democratic globalism as imperialism in the 1990s The tragedy of American foreign policy was now at hand. Rather than obeying the strictures of a ' fortunate vagueness' which might check its ' messianic consciousness', as Niebuhr had enjoined, liberal internationalism became possessed of just what Arendt had hoped it might never develop, 'a scientific character ... of philosophic relevance' that 'pretend[s] to know the mysteries of the whole historical process,' that 'pretend[s] to have found a way to establish the rule of justice on earth ' (Niebuhr 2008: 74; Arendt 1966: 470). Only in the aftermath of the Cold War, with the United States triumphant and democracy expanding seemingly of its own accord to many comers of the world—from Central Europe to different countries in Asia (South Korea and Taiwan), Africa (South Africa), and Latin America (Chile and Argentina)—had the moment arrived for democracy promotion to move into a distinctively new mode, one that was self-confidently imperialist. Wilsonians could now maintain that the study of history revealed that it was not so much that American power had won the epic contest with the Soviet Union as that the appeal of liberal internationalism had defeated proletarian internationalism. The victory was best understood, then, as one of ideas, values, and institutions—rather than of states and leaders. In this sense, America had been a vehicle of forces far greater than itself, the sponsor of an international convergence of disparate class, ethnic, and nationalist forces converging into a single movement that had created an historical watershed of extraordinary importance. For a new world, new ways of thinking were mandatory. As Hegel has instructed us, 'Minerva's owl flies out at dusk' , and liberal scholars of the 1990s applied themselves to the task of understanding the great victories of democratic government and open market economies over their adversaries between 1939 and 1989. What, rather exactly, were the virtues of democracy that made these amazing successes possible? How, rather explicitly, might the free world now protect, indeed expand, its perimeter of action? A new concept of power and purpose was called for. Primed by the growth of think-tanks and prestigious official appointments to be 'policy relevant' , shocked by murderous outbreaks witnessed in the Balkans and Central Africa, believing as the liberal left did that progress was possible, Wilsonians set out to formulate their thinking at a level of conceptual sophistication that was to be of fundamental importance to the making of American foreign policy after the year 2000.6 The jewel in the crown of neo-liberal internationalism as it emerged from the seminar rooms of the greatest American universities was known as ' democratic peace theory'. Encapsulated simply as ' democracies do not go to war with one another', the theory contended that liberal democratic governments breed peace among themselves based on their domestic practices of the rule of law, the increased integration of their economies through measures of market openness, and their participation in multilateral organisations to adjudicate conflicts among each other so as to keep the peace. The extraordinary success of the European Union since the announcement of the Marshall Plan in 1947, combined with the close relations between the United States and the world's other liberal democracies, was taken as conclusive evidence that global peace could be expanded should other countries join ' the pacific union ', ' the zone of democratic peace'. A thumb-nail sketch cannot do justice to the richness of the argument. Political scientists of an empirical bent demonstrated conclusively to their satisfaction that 'regime type matters ', that it is in the nature of liberal democracies to keep the peace with one another, especially when they are integrated together economically. Theoretically inclined political scientists then argued that liberal internationalism could be thought of as ' non-utopian and non-ideological ', a scientifically validated set of concepts that should be recognized not only as a new but also a dominant form of conceptual ising the behaviour of states (Moravcsik 1997). And liberal political philosophers could maintain on the basis of democratic peace theory that a Kantian (or Wilsonian) liberal world order was a morally just goal for progressives worldwide to seek so that the anarchy of states, the Hobbesian state of nature, could be superseded and a Golden Age of what some dared call 'post-history' could be inaugurated (Rawls 1999). Yet if it were desirable that the world's leading states be democratised, was it actually possible to achieve such a goal? Here a second group of liberal internationalists emerged, intellectuals who maintained that the transition from authoritarian to democratic government had become far easier to manage than at earlier historical moments. The blueprint of liberal democracy was now tried and proven in terms of values, interests, and institutions in a wide variety of countries. The seeds of democracy could be planted by courageous Great Men virtually anywhere in the world. Where an extra push was needed, then the liberal world could help with a wide variety of agencies from the governmental (such as the Agency for International Development or the National Endowment for Democracy in the United States) to the non-governmental (be it the Open Society Institute, Human Rights Watch, Amnesty International, or Freedom House). With the development of new concepts of democratic transition, the older ideas in democratization studies of 'sequences' and ' preconditions' could be jettisoned. No longer was it necessary to count on a long historical process during which the middle class came to see its interests represented in the creation of a democratic state, no longer did a people have to painfully work out a social contract of tolerance for diversity and the institutions of limited government under the rule of law for democracy to take root. Examples as distinct as those of Spain, South Korea, Poland, and South Africa demonstrated that a liberal transformation could be made with astonishing speed and success. When combined, democratic peace theory and democratic transition theory achieved a volatile synergy that neither alone possessed. Peace theory argued that the world would benefit incalculably from the spread of democratic institutions, but it could not say that such a development was likely. Transition theory argued that rapid democratisation was possible, but it could not establish that such changes would much matter for world politics. Combined, however, the two concepts came to be the equivalent of a Kantian moral imperative to push what early in the Clinton years was called ' democratic enlargement' as far as Washington could while it possessed the status of the globe's sole superpower. The result would be nothing less than to change the character of world affairs that gave rise to war—international anarchy system and the character of authoritarian states—into an order of peace premised on the character of democratic governments and their association in multilateral communities basing their conduct on the rule of law that would increasingly have a global constitutional character. The arrogant presumption was, in short, that an aggressively liberal America suddenly had the possibility to change the character of History itself toward the reign of perpetual peace through democracy promotion. Enter the liberal jurists. In their hands a 'right to intervene' against states or in situations where gross and systematic human rights were being violated or weapons of mass destruction accumulated became a 'duty to intervene' in the name of what eventually became called a state 's 'responsibility to protect.' (lCISS 200 I). The meaning of 'sovereignty' was now transformed. Like pirate ships of old, authoritarian states could be attacked by what Secretary of State Madeleine Albright first dubbed a 'Community of Democracies', practicing ' muscular multilateralism' in order to reconstruct them around democratic values and institutions for the sake of world peace. What the jurists thus accomplished was the redefinition not only of the meaning of sovereignty but also that of 'Just War'. Imperialism to enforce the norms a state needed to honor under the terms of its 'responsibility to protect' (or 'R2P' as its partisans liked to phrase it) was now deemed legitimate. And by moving the locus of decision-making on the question of war outside the United Nations (whose Security Council could not be counted on to act to enforce the democratic code) to a League, or Community, or Concert of Democracies (the term varied according to the theorist), a call to arms for the sake of a democratising crusade was much more likely to succeed.

#### This drive to destroy non-liberal ways of life will culminate in extinction

Batur 7 [Pinar, PhD @ UT-Austin – Prof. of Sociology @ Vassar, *The Heart of Violence: Global Racism, War, and Genocide*, Handbook of The Sociology of Racial and Ethnic Relations, eds. Vera and Feagin, p. 441-3]

War and genocide are horrid, and taking them for granted is inhuman. In the 21st century, our problem is not only seeing them as natural and inevitable, but even worse: not seeing, not noticing, but ignoring them. Such act and thought, fueled by global racism, reveal that racial inequality has advanced from the establishment of racial hierarchy and institutionalization of segregation, to the confinement and exclusion, and elimination, of those considered inferior through genocide. In this trajectory, global racism manifests genocide. But this is not inevitable. This article, by examining global racism, explores the new terms of exclusion and the path to permanent war and genocide, to examine the integrality of genocide to the frame-work of global antiracist confrontation. GLOBAL RACISM IN THE AGE OF “CULTURE WARS” Racist legitimization of inequality has changed from presupposed biological inferiority to assumed cultural inadequacy. This defines the new terms of impossibility of coexistence, much less equality. The Jim Crow racism of biological inferiority is now being replaced with a new and modern racism (Baker 1981; Ansell 1997) with “culture war” as the key to justify difference, hierarchy, and oppression. The ideology of “culture war” is becoming embedded in institutions, defining the workings of organizations, and is now defended by individuals who argue that they are not racist, but are not blind to the inherent differences between African-Americans/Arabs/Chinese, or whomever, and “us.” “Us” as a concept defines the power of a group to distinguish itself and to assign a superior value to its institutions, revealing certainty that **affinity with “them” will be harmful to its existence** (Hunter 1991; Buchanan 2002). How can we conceptualize this shift to examine what has changed over the past century and what has remained the same in a racist society? Joe Feagin examines this question with a theory of systemic racism to explore societal complexity of interconnected elements for longevity and adaptability of racism. He sees that systemic racism persists due to a “white racial frame,” defining and maintaining an “organized set of racialized ideas, stereotypes, emotions, and inclinations to discriminate” (Feagin 2006: 25). The white racial frame arranges the routine operation of racist institutions, which enables social and economic repro-duction and amendment of racial privilege. It is this frame that defines the political and economic bases of cultural and historical legitimization. While the white racial frame is one of the components of systemic racism, it is attached to other terms of racial oppression to forge systemic coherency. It has altered over time from slavery to segregation to racial oppression and now frames “culture war,” or “clash of civilizations,” to legitimate the racist oppression of domination, exclusion, war, and genocide. The concept of “culture war” emerged to define opposing ideas in America regarding privacy, censorship, citizenship rights, and secularism, but it has been globalized through conflicts over immigration, nuclear power, and the “war on terrorism.” Its discourse and action articulate to flood the racial space of systemic racism. Racism is a process of defining and building communities and societies based on racial-ized hierarchy of power. The expansion of capitalism cast new formulas of divisions and oppositions, fostering inequality even while integrating all previous forms of oppressive hierarchical arrangements as long as they bolstered the need to maintain the structure and form of capitalist arrangements (Batur-VanderLippe 1996). In this context, the white racial frame, defining the terms of racist systems of oppression, enabled the globalization of racial space through the articulation of capitalism (Du Bois 1942; Winant 1994). The key to understanding this expansion is comprehension of the synergistic relationship between racist systems of oppression and the capitalist system of exploitation. Taken separately, these two systems would be unable to create such oppression independently. However, the synergy between them is devastating. In the age of industrial capitalism, this synergy manifested itself imperialism and colonialism. In the age of advanced capitalism, it is war and genocide. The capitalist system, by enabling and maintaining the connection between everyday life and the global, buttresses the processes of racial oppression, and synergy between racial oppression and capitalist exploitation begets violence. Etienne Balibar points out that the connection between everyday life and the global is established through thought, making global racism a way of thinking, enabling connections of “words with objects and words with images in order to create concepts” (Balibar 1994: 200). Yet, global racism is not only an articulation of thought, but also a way of knowing and acting, framed by both everyday and global experiences. Synergy between capitalism and racism as systems of oppression enables this perpetuation and destruction on the global level. As capitalism expanded and adapted to the particularities of spatial and temporal variables, global racism became part of its legitimization and accommodation, first in terms of colonialist arrangements. In colonized and colonizing lands, global racism has been perpetuated through racial ideologies and discriminatory practices under capitalism by the creation and recreation of connections among memory, knowledge, institutions, and construction of the future in thought and action. What makes racism global are the bridges connecting the particularities of everyday racist experiences to the universality of racist concepts and actions, maintained globally by myriad forms of prejudice, discrimination, and violence (Balibar and Wallerstein 1991; Batur 1999, 2006). Under colonialism, colonizing and colonized societies were antagonistic opposites. Since colonizing society portrayed the colonized “other,” as the adversary and challenger of the “the ideal self,” not only identification but also segregation and containment were essential to racist policies. The terms of exclusion were set by the institutions that fostered and maintained segregation, but the intensity of exclusion, and redundancy, became more apparent in the age of advanced capitalism, as an extension of post-colonial discipline. The exclusionary measures when tested led to war, and genocide. Although, more often than not, genocide was perpetuated and fostered by the post-colonial institutions, rather than colonizing forces, the colonial identification of the “inferior other” led to segregation, then exclusion, then war and genocide. Violence glued them together into seamless continuity. Violence is integral to understanding global racism. Fanon (1963), in exploring colonial oppression, discusses how divisions created or reinforced by colonialism guarantee the perpetuation, and escalation, of violence for both the colonizer and colonized. Racial differentiations, cemented through the colonial relationship, are integral to the aggregation of violence during and after colonialism: “Manichaeism [division of the universe into opposites of good and evil] goes to its logical conclusion and dehumanizes” (Fanon 1963:42). Within this dehumanizing framework, Fanon argues that the violence resulting from the destruction of everyday life, sense of self and imagination under colonialism continues to infest the post-colonial existence by integrating colonized land into the violent destruction of a new “geography of hunger” and exploitation (Fanon 1963: 96). The “geography of hunger” marks the context and space in which oppression and exploitation continue. The historical maps drawn by colonialism now demarcate the boundaries of post-colonial arrangements. The white racial frame restructures this space to fit the imagery of symbolic racism, modifying it to fit the television screen, or making the evidence of the necessity of the politics of exclusion, and the violence of war and genocide, palatable enough for the front page of newspapers, spread out next to the morning breakfast cereal. Two examples of this “geography of hunger and exploitation” are Iraq and New Orleans.

#### Their invocation of the Laws of War create a high-tech low-tech divide that justifies imperial warfare. Powerful states face lower compliance costs and gain legitimacy.

Thomas SMITH Gov’t & Int’l Affairs @ South Florida 2 [“The New Law of War: Legitimizing Hi-Tech and Infrastructural Violence” *Int’l Studies Quarterly,* 46, p. 355-356]

As Adam Roberts ~1993–94:134! has noted, strategic and legal analyses of armed conflict have tended to follow separate paths. Comparing two leading surveys, Peter Paret’s Makers of Modern Strategy ~1986! and Michael Howard et al.’s The Laws of War ~1994!, one is reminded of what historians call “tunnel history,” in which each discipline draws on its own traditions and assumptions, sealed off from contact with other fields. Fortunately, the wall dividing law and strategy is beginning to crumble. This is due to the changing character of conflict as well as new directions in the study of law. The Cold War effectively severed the fields, thwarting moderation in means and paralyzing international legal institutions. Over the past decade, however, innovations in conventional weapons, rising ethnic and substate violence, and ensuing debate over intervention have raised a number of issues that bridge law and strategy. Students of international law have grown more politically reflective as well through the International Relations0 International Law and Critical Legal Studies movements.1 This marriage of disciplines has been particularly revealing with regard to the law of war, or “humanitarian law.”2 The two main instruments of modern humanitarian law, the Geneva Laws, the legal protections afforded specific classes of people in wartime; and the Hague Laws, which govern the overall methods of combat, have long faced political critiques. Many students of international relations echo the tragic words of Cicero: “in time of war, the law falls silent.” Many international lawyers, too, recognize the precariousness of humanitarian law amid the rigors of war. As Hersch Lauterpacht noted in a canonical commentary ~1953:382!, “if international law is, in some ways, at the vanishing-point of law, the law of war is, perhaps even more conspicuously, at the vanishing-point of international law.” Recent history, however, seems to refute the tragic view. Far from disappearing over the horizon, the law of war is invoked more frequently than ever, and, in the area of human rights and war crimes, is expanding via statute and enforcement. At the same time, the United States and its allies practice a new style of legal warfare—what Schmitt ~1998! called “Bellum Americanum”— that hinges on precision-guided bombs, standardized targeting, accepted levels and types of collateral damage, and high bomber flight altitudes. Once considered obstacles to the war effort, military lawyers have been integrated into strategic and tactical decisions, and even accompany troops into battle. Never has the conduct of war been so legalistic. The argument advanced here is that the law of war has flourished at the cost of increased artificiality and elasticity. Law has successfully shaped norms and practices in the areas of warfare furthest from hi-tech tactics. Strides have been made, for example, in the 1980 United Nations Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons, and the 1997 Convention on the Prohibition of Anti-Personnel Mines. For hi-tech states, these are relatively low-cost laws. But when modern military necessity calls, the law of war has legitimized violence, not restrained it. New military technology invariably has been matched by technical virtuosity in the law. New legal interpretations, diminished ad bellum restraints, and an expansive view of military necessity are coalescing in a regime of legal warfare that licenses hi-tech states to launch wars as long as their conduct is deemed just. The new law of war burnishes hi-tech campaigns and boosts public relations, even as it undercuts customary limits on the use of force and erodes distinctions between soldiers and civilians. Modern warfare has dramatically reduced the number of direct civilian deaths, yet the law sanctions infrastructural campaigns that harm long-term public health and human rights.

#### 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.

#### The K is Prior—Framing war powers restrictions as a *means* to achieve greater national security quashes political alternatives to unilateral war-fighting.

Francisco J. CONTRERAS Prf. Philosophy of Law @ Seville AND Ignacio de la RASILLA Ph.D. candidate in international law, Graduate Institute of International Studies, Geneva 8 “On War as Law and Law as War” Leiden Journal of International Law Vol. 21 Issue 3 p. 779-780 [**Gender paraphrased]**

War’s ubiquity, its discontinuity, and the blurring of its outline are not without psychological and moral consequences in the military: ‘Experts have long observed that when warfare itself seems to have no clear beginning or end, no clear battlefield, no clear enemy, military discipline, as well as morale, breaks down’ (p. 119). This dispiriting confusion that affects soldiers also concerns the international lawyer, who sees the old rules of jus belli evaporate and be replaced by much vaguer ‘standards’. The last pages of Of War and Law convey, in fact, a clear feeling of defeat or loss, showing the demoralization of the international lawyer who still tries to take the law of war seriously: ‘How can ethical absolutes and instrumental calculations be made to lie down peacefully together? How can one know what to do, how to judge, whom to denounce?’ (p. 117). The former categorical imperatives (‘thou shalt not bomb cities’, ‘thou shalt not execute prisoners’, etc.) give way to an elastic and blurred logic of more and less, within which instrumental might triumphs definitively over the ethical (p. 132).89 As the new flexible ‘standards’ seem more susceptible to strategic exploitation and modulation than do the old strict rules, the various actors will play with the labels of jus belli—now definitively versatile—according to their strategic needs: Ending conflict, calling it occupation, calling it sovereignty—then opening hostilities, calling it a police action, suspending the judicial requirements of policing, declaring a state of emergency, a zone of insurgency—all these are also tactics in the conflict. . . . All these assertions take the form of factual or legal assessments, but we should also understand them as arguments, at once messages and weapons. (p. 122)90 Kennedy reiterates a new aspect of the ‘weaponization of the law’: the legal qualification of facts appears as a means of conveying messages to the enemy and to public opinion alike, because in the age of immediate media coverage, wars are fought as much in the press and opinion polls as they are on the battlefield. The skilled handling of jus belli categories will benefit one side and prejudice the other (p. 127);91 as the coinage of the very term ‘lawfare’ seems to reflect, the legal battle has already become an extension of the military one (p. 126).92 In cataloguing some of the dark sides of the law of war, Kennedy also stresses how the legal debate tends to smother and displace discussions which would probably be more appropriate and necessary. Thus the controversy about the impending intervention in Iraq, which developed basically within the discursive domain of the law of war, largely deprived lawyers of participating in an in-depth discussion on the neo-conservative project of a ‘great Middle East’—more democratic and Western-friendly and less prone to tyranny and terrorism—the feasibility of ‘regime change’, an adequate means of fostering democracy in the region, and so on: We never needed to ask, how should regimes in the Middle East . . . be changed? Is Iraq the place to start? Is military intervention the way to do it? . . .Had our debates not been framed by the laws of war, we might well have found other solutions, escaped the limited choices of UN sanctions, humanitarian aid, and war, thought outside the box. (p. 163) 6. CONCLUSIONS Those familiar with the author’s previous works93 will certainly have already identified the Derridean streak in Kennedy’s thought in the underlying claim that every discourse generates dark zones and silences or represses certain aspects, renders the formulation of certain questions impossible (a Foucauldian streak in the author could be suspected as well: every discourse—be it administrative, legal, medical, or psychiatric—implies simultaneously ‘knowledge’ and ‘power’; each discourse amounts somehow to a system of domination, insofar as it defines ‘conditions of admission’ into the realm of the legally valid, the ‘sane society’, etc.).94 In the picture resulting from the application of this analytical framework to the domain of the use of force, international lawyers and humanitarian professionals appear gagged, restricted by the language they try to utter effectively to themselves and others. As if the legal language had imposed on them its own logic, it now speaks through their voices and what is, evidently, once again, the Marxian-structuralist idea of cultural products gaining a life of their own and turning against their own creators. Kennedy, however, does not stop at noting that jurists have become ‘spoken’ by their language amidst a dramatically changing war scenario. More disquietingly, he stresses the evident corollary of the previous proposition: the evaporation of a sense of individual moral responsibility: [A]ll these formulations, encouraged by the language of law, displace human responsibility for the death and suffering of war onto others . . . . In all these ways, we step back from the terrible responsibility and freedom that comes with the discretion to kill. . . .Violence and injury have lost their author and their judge as soldiers, humanitarians, and statesmen [statespeople] have come to assess the legitimacy of violence in a common legal and bureaucratic vernacular. (pp. 168–9) While depersonalization and a lack of sense of personal responsibility are evidently also favoured by external structural factors, among which is the bureaucratic political complexity of modern states themselves (p. 17),96 Kennedy stresses that the language of international law would thus trivialize and conceal the gravity of decisions: In all these ways, we step back from the terrible responsibility and freedom that comes with the discretion to kill. . . . The problem is loss of the human experience of responsible freedom and free decision—of discretion to kill and let live. (p. 170)

### 1NC AT: Drone Prolif

#### U.S. drone use doesn’t set a precedent, restraint doesn’t solve it, and norms don’t apply to drones at all in the first place

Amitai Etzioni 13, professor of international relations at George Washington University, March/April 2013, “The Great Drone Debate,” Military Review, <http://usacac.army.mil/CAC2/MilitaryReview/Archives/English/MilitaryReview_20130430_art004.pdf>

Other critics contend that by the United States using drones, it leads other countries into making and using them. For example, Medea Benjamin, the cofounder of the anti-war activist group CODEPINK and author of a book about drones argues that, “The proliferation of drones should evoke reﬂection on the precedent that the United States is setting by killing anyone it wants, anywhere it wants, on the basis of secret information. Other nations and non-state entities are watching—and are bound to start acting in a similar fashion.”60 Indeed scores of countries are now manufacturing or purchasing drones. There can be little doubt that the fact that drones have served the United States well has helped to popularize them. However, it does not follow that United States should not have employed drones in the hope that such a show of restraint would deter others. First of all, this would have meant that either the United States would have had to allow terrorists in hardto-reach places, say North Waziristan, to either roam and rest freely—or it would have had to use bombs that would have caused much greater collateral damage.

Further, the record shows that even when the United States did not develop a particular weapon, others did. Thus, China has taken the lead in the development of anti-ship missiles and seemingly cyber weapons as well. One must keep in mind that the international environment is a hostile one. Countries—and especially non-state actors— most of the time do not play by some set of selfconstraining rules. Rather, they tend to employ whatever weapons they can obtain that will further their interests. The United States correctly does not assume that it can rely on some non-existent implicit gentleman’s agreements that call for the avoidance of new military technology by nation X or terrorist group Y—if the United States refrains from employing that technology.

I am not arguing that there are no natural norms that restrain behavior. There are certainly some that exist, particularly in situations where all parties beneﬁt from the norms (e.g., the granting of diplomatic immunity) or where particularly horrifying weapons are involved (e.g., weapons of mass destruction). However drones are but one step—following bombers and missiles—in the development of distant battleﬁeld technologies. (Robotic soldiers—or future ﬁghting machines— are next in line). In such circumstances, the role of norms is much more limited.

#### No risk of drone wars

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

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

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

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

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

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

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

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

### 1NC Special Ops

#### This is not an advantage.

#### McNeal just says personnel could be sued for participating in drone strikes of any kind, and also says CIA personnel are at risk, not SOF forces, which are part of the military, and thus have combatant immunity.

McNeal 13, Associate Professor of Law, Pepperdine University, 3/5/13, “Targeted Killing and Accountability,” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1819583>, Gregory McNeal

While no American has been prosecuted for participating in drone strikes, the specter of criminal prosecution remains present. For example, a member of the military might be prosecuted pursuant to the UCMJ, while CIA personnel may face trial in a civilian court. “Incidents in Iraq and Afghanistan involving members of the armed forces and private contractors illustrate how this can occur from time to time, as individuals are prosecuted for allegedly killing civilians or prisoners.”434 Title 18 of the U.S. code, at section 2441, establishes jurisdiction over war crimes committed by or against members of the U.S. armed forces or U.S. nationals.435 War crimes are defined as any conduct: (1) defined as a grave breach in any of the international conventions signed at Geneva 12 August 1949, or any protocol to such convention to which the United States is a party; (2) prohibited by Article 23, 25, 27, or 28 of the Annex to the Hague Convention IV, Respecting the Laws and Customs of War on Land, signed 18 October 1907; (3) which constitutes a violation of common Article 3 of the international conventions signed at Geneva, 12 August 1949, or any protocol to such convention to which the United States is a party and which deals with non-international armed conflict; or (4) of a person who, in relation to an armed conflict and contrary to the provisions of the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as amended at Geneva on 3 May 1996 (Protocol II as amended on 3 May 1996), when the United States is a party to such Protocol, willfully kills or causes serious injury to civilians.436 Thus, Title 18 references and incorporates various aspects of international humanitarian law into domestic law and makes violations of those laws a violation of U.S. criminal law. Similarly, the UCMJ in Article 18 allows for the exercise of jurisdiction over “any person who by the law of war is subject to trial by a military tribunal.”437 Other sources of authority for prosecuting citizens involved in wrongful targeting decisions may include the punitive articles of the UCMJ (such as Article 118 regarding murder). The CIA is not exempt from these prohibitions, as Agency personnel are under an obligation to report any criminal or administrative wrongdoing to the CIA inspector general’s office.438 That office is obligated to refer certain cases to the Department of Justice for prosecution.439 Furthermore, because CIA personnel do not enjoy combatant immunity, they could be prosecuted in the criminal courts of other nation states for their involvement in targeted killing operations.440

#### Goldsmith is about suits that are ALREADY HAPPENING, is about legality of drone strikes generally, says the CCR will keep pursuing suits on any ground no matter what we do, and is about CIA personnel fearing exposure.

Jack Goldsmith 12, Harvard Law School Professor, focus on national security law, presidential power, cybersecurity, and conflict of laws, Former Assistant Attorney General, Office of Legal Counsel, and Special Counsel to the Department of Defense, Hoover Institution Task Force on National Security and Law, March, Power and Constraint, P. 199-201

For the GTMO Bar and its cousin NGOs and activists, however, the al-Aulaqi lawsuit, like other lawsuits on different issues, was merely an early battle in a long war over the legitimacy of U.S. targeting practices—a war that will take place not just in the United States, but in other countries as well. When the CCR failed to achieve what it viewed as adequate accountability for Bush administration officials in the United States in connection with interrogation and detention practices, it started pursuing, and continues to pursue, lawsuits and prosecutions against U.S. officials in Spain, Germany, and other European countries. "**You look for every niche you can** when you can take on the issues that you think are important," said Michael Ratner, explaining the CCR's strategy for pursuing lawsuits in Europe.¶ Clive Stafford Smith, a former CCR attorney who was instrumental in its early GTMO victories and who now leads the British advocacy organization Reprieve, is using this strategy in the targeted killing context. "There are endless ways in which the courts in Britain, the courts in America, the international Pakistani courts can get involved" in scrutinizing U.S. targeting killing practices, he argues. "It's going to be the next 'Guantanamo Bay' issue."' Working in a global network of NGO activists, Stafford Smith has begun a process in Pakistan to seek the arrest of former CIA lawyer John Rizzo in connection with drone strikes in Pakistan, and he is **planning more lawsuits** in the United States and elsewhere against drone operators." "The crucial court here is the court of public opinion," he said, explaining why the lawsuits are important even if he loses. His efforts are backed by a growing web of proclamations in the United Nations, foreign capitals, the press, and the academy that U.S. drone practices are unlawful. What American University law professor Ken Anderson has described as the "international legal-media-academic-NGO-international organization-global opinion complex" is **hard at work to stigmatize drones** and those who support and operate them."¶ This strategy is having an impact. The slew of lawsuits in the United States and threatened prosecutions in Europe against Bush administration officials imposes reputational, emotional, and financial costs on them that help to promote the human rights groups' ideological goals, even if courts never actually rule against the officials. By design, these suits also give pause to current officials who are considering controversial actions for fear that the same thing might later happen to them. This effect is starting to be felt with drones. Several Obama administration officials have told me that they worry targeted killings will be seen in the future (as Stafford Smith predicts) as their administration's GTMO. The attempted judicial action against Rizzo, the earlier lawsuits against top CIA officials in Pakistan and elsewhere, and the louder and louder proclamations of illegality around the world all of which have gained momentum after al-Aulaqi's killing—are also having an impact. These actions are rallying cries for protest and political pushback in the countries where the drone strikes take place. And they lead CIA operators to worry about legal exposure before becoming involved in the Agency's drone program." We don't know yet whether these forces have affected actual targeting practices and related tactics. But they induce the officials involved to take more caution. And it is only a matter of time, if it has not happened already, before they lead the U.S. government to forgo lawful targeted killing actions otherwise deemed to be in the interest of U.S. national security.

#### Wetzling says conflation kills effectiveness of oversight, not of the SOF. And saying “we don’t know who is responsible” is not the same as “thus people will have standing to pursue lawsuits against JSOC.”

Thorsten Wetzling 11, non-resident fellow at the Center for Transatlantic Relations at the Paul H. Nitze School of Advanced International Studies (SAIS), PhD in Political Science, “What role for what rule of law in EU-US counterterrorism cooperation?”, <http://transatlantic.sais-jhu.edu/publications/articles/Chapter1_EUISS_ChaillotPaper127_WETZLING.pdf>

While President Obama deserves credit for having abolished the most controversial counterterrorism practice to date (i.e. the ‘enhanced interrogation techniques’ and the extraordinary rendition of terrorist suspects to secret and indeﬁnite detention), his administration currently relies heavily on two practices that also bode rather poorly for the rule of law: capture-or-kill raids and drone strikes against suspected terrorists by poorly overseen CIA and JSOC operatives in various hotspots around the globe. ¶ ‘The individuals targeted are alleged terrorists or others deemed dangerous, and their inclusion on what are known as kill-or-capture lists is based on undisclosed intelligence applied against secretive criteria.’44 This practice45 raises severe doubts on the US’s ‘full respect for our obligations under applicable [...] domestic constitutional law’.46 Philip Alston argues convincingly that the convergence of the CIA (intelligence) and JSOC (military) activities in these raids clearly undermines the effectiveness **of the two separate oversight regimes** for ‘traditional military activities’ (Title 10 US Code) and covert intelligence activities (Title 50 US code) in the US constitution. The ‘extensive ﬂuidity between the JSOC (DOD) special forces and their CIA counterparts’ makes it ‘virtually impossible for anyone outside the two agencies to know who is in fact responsible in any given context.’47 While there is no room here to spell out the separate oversight regimes for the military and the intelligence services, it should be noted, however, that this intentional double-hatting of CIA and JSOC forces creates de facto accountability gaps. These activities often ‘escape the scrutiny of the intelligence committees, and the congressional defense committees cannot be expected to exercise oversight outside of their jurisdiction’.48

#### AT BEST, all of this means that SOF personnel would be nervous about participating in questionably legal capture operations. Their impact evidence is about using SOF to take out A2/AD during a future conflict with China or Iran. There would be no question of “zones of hostility” in that situation. There is nothing approaching a spillover card in this advantage.

#### Their Eaglan impact is ridiculous. It fits the classic Heritage Backgrounder template of being like “we can’t reduce the military at all, ever, even a little bit” because that would cause a crazy list of catastrophic sounding things. So: Japan is unsure if our JSOC operators will be sued over detention, so they worry that the U.S. might not be able to maintain sufficient forward deployment, so they proliferate? Really?

#### Global dominance is a paranoid fantasy—the most powerful nation sees threats everywhere, legitimizing constant war.

McClintock 9—chaired prof of English and Women’s and Gender Studies at UW–Madison. MPhil from Cambridge; PhD from Columbia (Anne, Paranoid Empire: Specters from Guantánamo and Abu Ghraib, Small Axe Mar2009, Issue 28, p50-74)

By now it is fair to say that the United States has come to be dominated by two grand and dangerous hallucinations: the promise of benign US globalization and the permanent threat of the “war on terror.” I have come to feel that we cannot understand the extravagance of the violence to which the US government has committed itself after 9/11—two countries invaded, thousands of innocent people imprisoned, killed, and tortured—unless we grasp a defining feature of our moment, that is, a deep and disturbing doubleness with respect to power. Taking shape, as it now does, around fantasies of global omnipotence (Operation Infinite Justice, the War to End All Evil) coinciding with nightmares of impending attack, the United States has entered the domain of paranoia: dream world and catastrophe. For it is only in paranoia that one finds simultaneously and in such condensed form both deliriums of absolute power and forebodings of perpetual threat. Hence the spectral and nightmarish quality of the “war on terror,” a limitless war against a limitless threat, a war vaunted by the US administration to encompass all of space and persisting without end. But the war on terror is not a real war, for “terror” is not an identifiable enemy nor a strategic, real-world target. The war on terror is what William Gibson calls elsewhere “a consensual hallucination,” 4 and the US government can fling its military might against ghostly apparitions and hallucinate a victory over all evil only at the cost of catastrophic self-delusion and the infliction of great calamities elsewhere.

I have come to feel that we urgently need to make visible (the better politically to challenge) those established but concealed circuits of imperial violence that now animate the war on terror. We need, as urgently, to illuminate the continuities that connect those circuits of imperial violence abroad with the vast, internal shadowlands of prisons and supermaxes—the modern “slave-ships on the middle passage to nowhere”—that have come to characterize the United States as a super-carceral state. 5

Can we, the uneasy heirs of empire, now speak only of national things? If a long-established but primarily covert US imperialism has, since 9/11, manifested itself more aggressively as an overt empire, does the terrain and object of intellectual inquiry, as well as the claims of political responsibility, not also extend beyond that useful fiction of the “exceptional nation” to embrace the shadowlands of empire? If so, how can we theorize the phantasmagoric, imperial violence that has come so dreadfully to constitute our kinship with the ordinary, but which also at the same moment renders extraordinary the ordinary bodies of ordinary people, an imperial violence which in collusion with a complicit corporate media would render itself invisible, casting states of emergency into fitful shadow and fleshly bodies into specters? For imperialism is not something that happens elsewhere, an offshore fact to be deplored but as easily ignored. Rather, the force of empire comes to reconfigure, from within, the nature and violence of the nation-state itself, giving rise to perplexing questions: Who under an empire are “we,” the people? And who are the ghosted, ordinary people beyond the nation-state who, in turn, constitute “us”?

We now inhabit a crisis of violence and the visible. How do we insist on seeing the violence that the imperial state attempts to render invisible, while also seeing the ordinary people afflicted by that violence? For to allow the spectral, disfigured people (especially those under torture) obliged to inhabit the haunted no-places and penumbra of empire to be made visible as ordinary people is to forfeit the long-held US claim of moral and cultural exceptionalism, the traditional self-identity of the United States as the uniquely superior, universal standard-bearer of moral authority, a tenacious, national mythology of originary innocence now in tatters. The deeper question, however, is not only how to see but also how to theorize and oppose the violence without becoming beguiled by the seductions of spectacle alone. 6

Perhaps in the labyrinths of torture we must also find a way to speak with ghosts, for specters disturb the authority of vision and the hauntings of popular memory disrupt the great forgettings of official history.

Paranoia

Even the paranoid have enemies.

—Donald Rumsfeld

Why paranoia? Can we fully understand the proliferating circuits of imperial violence—the very eclipsing of which gives to our moment its uncanny, phantasmagoric cast—without understanding the pervasive presence of the paranoia that has come, quite violently, to manifest itself across the political and cultural spectrum as a defining feature of our time? By paranoia, I mean not simply Hofstadter’s famous identification of the US state’s tendency toward conspiracy theories. 7 Rather, I conceive of paranoia as an inherent contradiction with respect to power: a double-sided phantasm that oscillates precariously between deliriums of grandeur and nightmares of perpetual threat, a deep and dangerous doubleness with respect to power that is held in unstable tension, but which, if suddenly destabilized (as after 9/11), can produce pyrotechnic displays of violence. The pertinence of understanding paranoia, I argue, lies in its peculiarly intimate and peculiarly dangerous relation to violence. 8

Let me be clear: I do not see paranoia as a primary, structural cause of US imperialism nor as its structuring identity. Nor do I see the US war on terror as animated by some collective, psychic agency, submerged mind, or Hegelian “cunning of reason,” nor by what Susan Faludi calls a national “terror dream.” 9 Nor am I interested in evoking paranoia as a kind of psychological diagnosis of the imperial nation-state. Nations do not have “psyches” or an “unconscious”; only people do. Rather, a social entity such as an organization, state, or empire can be spoken of as “paranoid” if the dominant powers governing that entity cohere as a collective community around contradictory cultural narratives, self-mythologies, practices, and identities that oscillate between delusions of inherent superiority and omnipotence, and phantasms of threat and engulfment. The term paranoia is analytically useful here, then, not as a description of a collective national psyche, nor as a description of a universal pathology, but rather as an analytically strategic concept, a way of seeing and being attentive to contradictions within power, a way of making visible (the better politically to oppose) the contradictory flashpoints of violence that the state tries to conceal.

Paranoia is in this sense what I call a hinge phenomenon, articulated between the ordinary person and society, between psychodynamics and socio-political history. Paranoia is in that sense dialectical rather than binary, for its violence erupts from the force of its multiple, cascading contradictions: the intimate memories of wounds, defeats, and humiliations condensing with cultural fantasies of aggrandizement and revenge, in such a way as to be productive at times of unspeakable violence. For how else can we understand such debauches of cruelty?

A critical question still remains: does not something terrible have to happen to ordinary people (military police, soldiers, interrogators) to instill in them, as ordinary people, in the most intimate, fleshly ways, a paranoid cast that enables them to act compliantly with, and in obedience to, the paranoid visions of a paranoid state? Perhaps we need to take a long, hard look at the simultaneously humiliating and aggrandizing rituals of militarized institutions, whereby individuals are first broken down, then reintegrated (incorporated) into the larger corps as a unified, obedient fighting body, the methods by which schools, the military, training camps— not to mention the paranoid image-worlds of the corporate media—instill paranoia in ordinary people and fatally conjure up collective but unstable fantasies of omnipotence. 10 In what follows, I want to trace the flashpoints of imperial paranoia into the labyrinths of torture in order to illuminate three crises that animate our moment: the crisis of violence and the visible, the crisis of imperial legitimacy, and what I call “the enemy deficit.” I explore these flashpoints of imperial paranoia as they emerge in the torture at Guantánamo and Abu Ghraib. I argue that Guantánamo is the territorializing of paranoia and that torture itself is paranoia incarnate, in order to make visible, in keeping with Hazel Carby’s brilliant work, those contradictory sites where imperial racism, sexuality, and gender catastrophically collide. 11

The Enemy Deficit: Making the “Barbarians” Visible Because night is here but the barbarians have not come. Some people arrived from the frontiers, And they said that there are no longer any barbarians. And now what shall become of us without any barbarians? Those people were a kind of solution.

—C. P. Cavafy, “Waiting for the Barbarians”

The barbarians have declared war.

—President George W. Bush

C. P. Cavafy wrote “Waiting for the Barbarians” in 1927, but the poem haunts the aftermath of 9/11 with the force of an uncanny and prescient déjà vu. To what dilemma are the “barbarians” a kind of solution? Every modern empire faces an abiding crisis of legitimacy in that it flings its power over territories and peoples who have not consented to that power. Cavafy’s insight is that an imperial state claims legitimacy only by evoking the threat of the barbarians. It is only the threat of the barbarians that constitutes the silhouette of the empire’s borders in the first place. On the other hand, the hallucination of the barbarians disturbs the empire with perpetual nightmares of impending attack. The enemy is the abject of empire: the rejected from which we cannot part. And without the barbarians the legitimacy of empire vanishes like a disappearing phantom. Those people were a kind of solution.

With the collapse of the Soviet Union in December 1991, the grand antagonism of the United States and the USSR evaporated like a quickly fading nightmare. The cold war rhetoric of totalitarianism, Finlandization, present danger, fifth columnist, and infiltration vanished. Where were the enemies now to justify the continuing escalation of the military colossus? “And now what shall become of us without any barbarians?” By rights, the thawing of the cold war should have prompted an immediate downsizing of the military; any plausible external threat had simply ceased to exist. Prior to 9/11, General Peter Schoomaker, head of the US Army, bemoaned the enemy deficit: “It’s no use having an army that did nothing but train,” he said. “There’s got to be a certain appetite for what the hell we exist for.” Dick Cheney likewise complained: “The threats have become so remote. So remote that they are difficult to ascertain.” Colin Powell agreed: “Though we can still plausibly identify specific threats—North Korea, Iran, Iraq, something like that—the real threat is the unknown, the uncertain.” Before becoming president, George W. Bush likewise fretted over the post–cold war dearth of a visible enemy: “We do not know who the enemy is, but we know they are out there.” It is now well established that the invasion of Iraq had been a long-standing goal of the US administration, but there was no clear rationale with which to sell such an invasion. In 1997 a group of neocons at the Project for the New American Century produced a remarkable report in which they stated that to make such an invasion palatable would require “a catastrophic and catalyzing event—like a new Pearl Harbor.” 12

#### Security produces a politics of crises control that reproduces the aff’s impacts

Cuomo 96 [Chris Cuomo, Ph.D., 1992, University of Wisconsin-Madison Department of Philosophy University of Cincinnati Hypatia Fall 1996.Vol.11, Iss. 4; pg. 30]

In "Gender and ‘Postmodern’ War," Robin Schott introduces some of the ways in which war is currently best seen not as an event but as a presence (Schott 1995). Schott argues that postmodern understandings of persons, states, and politics, as well as the high-tech nature of much contemporary warfare and the preponderance of civil and nationalist wars, render an eventbased conception of war inadequate, especially insofar as gender is taken into account. In this essay, I will expand upon her argument by showing that accounts of war that only focus on events are impoverished in a number of ways, and therefore feminist consideration of the political, ethical, and ontological dimensions of war and the possibilities for resistance demand a much more complicated approach. I take Schott’s characterization of war as presence as a point of departure, though I am not committed to the idea that the constancy of militarism, the fact of its omnipresence in human experience, and the paucity of an event-based account of war are exclusive to contemporary postmodern or postcolonial circumstances.(1) Theory that does not investigate or even notice the omnipresence of militarism cannot represent or address the depth and specificity of the everyday effects of militarism on women, on people living in occupied territories, on members of military institutions, and on the environment. These effects are relevant to feminists in a number of ways because military practices and institutions help construct gendered and national identity, and because they justify the destruction of natural nonhuman entities and communities during peacetime. Lack of attention to these aspects of the business of making or preventing military violence in an extremely technologized world results in theory that cannot accommodate the connections among the constant presence of militarism, declared wars, and other closely related social phenomena, such as nationalistic glorifications of motherhood, media violence, and current ideological gravitations to military solutions for social problems. Ethical approaches that do not attend to the ways in which warfare and military practices are woven into the very fabric of life in twenty-first century technological states lead to crisis-based politics and analyses. For any feminism that aims to resist oppression and create alternative social and political options, crisis-based ethics and politics are problematic because they distract attention from the need for sustained resistance to the enmeshed, omnipresent systems of domination and oppression that so often function as givens in most people’s lives. Neglecting the omnipresence of militarism allows the false belief that the absence of declared armed conflicts is peace, the polar opposite of war. It is particularly easy for those whose lives are shaped by the safety of privilege, and who do not regularly encounter the realities of militarism, to maintain this false belief. The belief that militarism is an ethical, political concern only regarding armed conflict, creates forms of resistance to militarism that are merely exercises in crisis control. Antiwar resistance is then mobilized when the "real" violence finally occurs, or when the stability of privilege is directly threatened, and at that point it is difficult not to respond in ways that make resisters drop all other political priorities. Crisis-driven attention to declarations of war might actually keep resisters complacent about and complicitous in the general presence of global militarism. Seeing war as necessarily embedded in constant military presence draws attention to the fact that horrific, state-sponsored violence is happening nearly all over, all of the time, and that it is perpetrated by military institutions and other militaristic agents of the state. Moving away from crisis-driven politics and ontologies concerning war and military violence also enables consideration of relationships among seemingly disparate phenomena, and therefore can shape more nuanced theoretical and practical forms of resistance. For example, investigating the ways in which war is part of a presence allows consideration of the relationships among the events of war and the following: how militarism is a foundational trope in the social and political imagination; how the pervasive presence and symbolism of soldiers/warriors/patriots shape meanings of gender; the ways in which threats of state-sponsored violence are a sometimes invisible/sometimes bold agent of racism, nationalism, and corporate interests; the fact that vast numbers of communities, cities, and nations are currently in the midst of excruciatingly violent circumstances. It also provides a lens for considering the relationships among the various kinds of violence that get labeled "war." Given current American obsessions with nationalism, guns, and militias, and growing hunger for the death penalty, prisons, and a more powerful police state, one cannot underestimate the need for philosophical and political attention to connections among phenomena like the "war on drugs," the "war on crime," and other state-funded militaristic campaigns. I propose that the constancy of militarism and its effects on social reality be reintroduced as a crucial locus of contemporary feminist attentions, and that feminists emphasize how wars are eruptions and manifestations of omnipresent militarism that is a product and tool of multiply oppressive, corporate, technocratic states.(2) Feminists should be particularly interested in making this shift because it better allows consideration of the effects of war and militarism on women, subjugated peoples, and environments. While giving attention to the constancy of militarism in contemporary life we need not neglect the importance of addressing the specific qualities of direct, large-scale, declared military conflicts. But the dramatic nature of declared, large-scale conflicts should not obfuscate the ways in which military violence pervades most societies in increasingly technologically sophisticated ways and the significance of military institutions and everyday practices in shaping reality. Philosophical discussions that focus only on the ethics of declaring and fighting wars miss these connections, and also miss the ways in which even declared military conflicts are often experienced as omnipresent horrors. These approaches also leave unquestioned tendencies to suspend or distort moral judgement in the face of what appears to be the inevitability of war and militarism.

### 1NC Allies

#### Allied terror coop is high now, despite frictions

Archick 9/4—Kristin Archick, European affairs specialist at CRS [September 4, 2013, “U.S.-EU Cooperation Against Terrorism,” Congressional Research Service, http://www.fas.org/sgp/crs/row/RS22030.pdf]

As part of the EU’s efforts to combat terrorism since September 11, 2001, the EU made improving law enforcement and intelligence cooperation with the United States a top priority. The previous George W. Bush Administration and many Members of Congress largely welcomed this EU initiative in the hopes that it would help root out terrorist cells in Europe and beyond that could be planning other attacks against the United States or its interests. Such growing U.S.-EU cooperation was in line with the 9/11 Commission’s recommendations that the United States should develop a “comprehensive coalition strategy” against Islamist terrorism, “exchange terrorist information with trusted allies,” and improve border security through better international cooperation. Some measures in the resulting Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108-458) and in the Implementing Recommendations of the 9/11 Commission Act of 2007 (P.L. 110-53) mirrored these sentiments and were consistent with U.S.-EU counterterrorism efforts, especially those aimed at improving border controls and transport security. U.S.-EU cooperation against terrorism has led to a new dynamic in U.S.-EU relations by fostering dialogue on law enforcement and homeland security issues previously reserved for bilateral discussions. Despite some frictions, most U.S. policymakers and analysts view the developing partnership in these areas as positive. Like its predecessor, the Obama Administration has supported U.S. cooperation with the EU in the areas of counterterrorism, border controls, and transport security. At the November 2009 U.S.-EU Summit in Washington, DC, the two sides reaffirmed their commitment to work together to combat terrorism and enhance cooperation in the broader JHA field. In June 2010, the United States and the EU adopted a new “Declaration on Counterterrorism” aimed at deepening the already close U.S.-EU counterterrorism relationship and highlighting the commitment of both sides to combat terrorism within the rule of law. In June 2011, President Obama’s National Strategy for Counterterrorism asserted that in addition to working with European allies bilaterally, “the United States will continue to partner with the European Parliament and European Union to maintain and advance CT efforts that provide mutual security and protection to citizens of all nations while also upholding individual rights.”

#### They need us more than we need them

Perry and Dodds 13—Nick Perry, AP Correspondent for New Zealand and the South Pacific, and Paisley Dodds, London Bureau Chief for AP [July 16, 2013, “Experts Say US Spy Alliance Will Survive Snowden,” http://www.military.com/daily-news/2013/07/16/experts-say-us-spy-alliance-will-survive-snowden.html]

WELLINGTON, New Zealand—Britain needed U.S. intelligence to help thwart a major terror attack. New Zealand relied on it to send troops to Afghanistan. And Australia used it to help convict a would-be bomber. All feats were the result of a spying alliance known as Five Eyes that groups together five English-speaking democracies, and they point to a vital lesson: American information is so valuable, experts say, that no amount of global outrage over secret U.S. surveillance powers would cause Britain, Canada, Australia and New Zealand to ditch the Five Eyes relationship. The broader message is that the revelations from NSA leaker Edward Snowden are unlikely to stop or even slow the global growth of secret-hunting—an increasingly critical factor in the security and prosperity of nations. "Information is like gold," Bruce Ferguson, the former head of New Zealand's foreign spy agency, the Government Communications Security Bureau, told The Associated Press. "If you don't have it, you don't survive." The Five Eyes arrangement underscores the value of this information—as well as the limitations of the information sharing. The collaboration began during World War II when the allies were trying to crack German and Japanese naval codes and has endured for more than 70 years. The alliance helps avoid duplication in some instances and allows for greater penetration in others. The five nations have agreed not to spy on each other, and in many outposts around the world, Five Eyes agencies work side by side, allowing for information to be shared quickly. But Richard Aldrich, who spent a decade researching a book on British surveillance, said some Five Eyes nations have spied on each other, violating their own rules. The five countries "generally know what's in each other's underwear drawers so you don't need to spy, but occasionally there will be issues when they don't agree"—and when that happens they snoop, Aldrich said. In Five Eyes, the U.S. boasts the most advanced technical abilities and the biggest budget. Britain is a leader in traditional spying, thanks in part to its reach into countries that were once part of the British Empire. Australia has excelled in gathering regional signals and intelligence, providing a window into the growing might of Asia. Canadians, Australians and New Zealanders can sometimes prove useful spies because they don't come under the same scrutiny as their British and American counterparts. "The United States doesn't share information," said Bob Ayers, a former CIA officer, "without an expectation of getting something in return." Britain is home to one of the world's largest eavesdropping centers, located about 300 kilometers (186 miles) northwest of London at Menwith Hill. It's run by the NSA but hundreds of British employees are employed there, including analysts from Britain's eavesdropping agency, the Government Communications Headquarters—or GCHQ. Australia is home to Pine Gap, a sprawling satellite tracking station located in the remote center of the country, where NSA officials work side-by-side with scores of locals. The U.S. also posts three or four analysts at a time in New Zealand, home to the small Waihopai and Tangimoana spy stations. The intelligence-sharing relationship enabled American and British security and law enforcement officials to thwart a major terror attack in 2006—the trans-Atlantic liquid bomb plot to blow up some 10 airliners. The collaboration, sometimes called ECHELON, takes place within strict parameters. Two U.S. intelligence officials, who spoke on condition of anonymity because they weren't authorized to speak about the program to the news media, said only U.S. intelligence officers can directly access their own vast database. A Five Eyes ally can ask to cross-check, say, a suspicious phone number it has independently collected to see if there is any link to the U.S., the officials said. But the ally must first show the request is being made in response to a potential threat to Western interests. Ferguson said that in New Zealand, cooperation with the U.S. improved markedly after the Sept. 11, 2001, terrorist attacks. Still, he said, his agency was kept on a need-to-know basis. He said he never knew what information was being provided to other Five Eyes nations, and none of the countries would have shared all their intelligence anyway. Ferguson said a small country like New Zealand benefited by a ratio of about five-to-one in the information it received compared to what it provided. He said that as chief of the defense force, a role he held before taking over the spy agency in 2006, he could never have sent troops to Afghanistan without the on-the-ground intelligence provided by the U.S. and other allies. He said New Zealand continues to rely on Five Eyes information for most of its overseas deployments, from peacekeeping to humanitarian efforts. The intelligence is vital, he added, for thwarting potential cyber threats. In Australia, prosecutors in 2009 used evidence from a U.S. informant who had been at a terrorist training camp in Pakistan to help convict one of nine Muslim extremists found guilty of planning to bomb an unspecified Sydney target. The Australian Security Intelligence Organisation wrote in an email to The AP that "intelligence sharing between countries is critical to identifying and preventing terrorism and other transnational security threats." Canada's Department of National Defence had a similar response, saying it "takes an active role in building relationships with allies. Collaborating with the personnel of the Five Eyes community in support of mutual defense and security issues is part of this relationship building." Both agencies declined requests to provide more specific information. In the decades since World War II, the allies have formed various other intelligence allegiances, although few as comprehensive or deep as Five Eyes. While the Snowden revelations will test the relationship, it has survived tests in the past. New Zealand has long asserted an independent foreign policy by banning nuclear ships, and some are now calling for the country to go further and opt out of Five Eyes. Lawmaker Russel Norman, co-leader of New Zealand's Green Party, is one of many people calling for a public review of the relationship. "I want to live in a free society, not a total surveillance state," he said. "The old Anglo-American gang of five no longer runs the world." But John Blaxland, a senior fellow at the Australian National University's Strategic and Defence Studies Centre, said politicians Down Under have often criticized the security relationship until they've gotten into power and been briefed on its benefits. Then, he said, they tend to go silent. "The perception is that the advantages are so great, they'd be crazy to give it up," he said.

#### EU cooperation and inevitable – in their self interest

Archick 9/4—Kristin Archick, European affairs specialist at CRS [September 4, 2013, “U.S.-EU Cooperation Against Terrorism,” Congressional Research Service, http://www.fas.org/sgp/crs/row/RS22030.pdf]

As part of its drive to bolster its counterterrorism capabilities, the EU has also made promoting law enforcement and intelligence cooperation with the United States a top priority. Washington has largely welcomed these efforts, recognizing that they may help root out terrorist cells both in Europe and elsewhere, and prevent future attacks against the United States or its interests abroad. U.S.-EU cooperation against terrorism has led to a new dynamic in U.S.-EU relations by fostering dialogue on law enforcement and homeland security issues previously reserved for bilateral discussions. Contacts between U.S. and EU officials on police, judicial, and border control policy matters have increased substantially since 2001. A number of new U.S.-EU agreements have also been reached; these include information-sharing arrangements between the United States and EU police and judicial bodies, two new U.S.-EU treaties on extradition and mutual legal assistance, and accords on container security and airline passenger data. In addition, the United States and the EU have been working together to curb terrorist financing and to strengthen transport security.

#### Spying is a larger internal link to collapse of allied coop on CT

Skinner 10/25/13—Kiron K. Skinner is the director of the Center for International Relations and Politics at Carnegie Mellon University and a research fellow at Stanford University's Hoover Institution [October 25, 2013, “Diplomacy Requires Trust Among Allies,” http://www.nytimes.com/roomfordebate/2013/10/24/if-were-spying-are-we-still-allies/diplomacy-requires-trust-among-allies]

Trust is so central to maintaining a healthy alliance that the alleged U.S. policy of monitoring the phone conversations or phone records of German Chancellor Angela Merkel and French citizens should be curtailed.

Since the 1963 Elysée Treaty was signed, France and Germany have been the anchors for Europe’s democracies. Without these two leading economies, the European Union could not function and a peaceful Europe would be all but impossible to maintain.

Their membership in NATO is vital on both sides of the Atlantic. They have provided troops to the U.S.-led international security forces in Afghanistan. Even when they differ, they work together, as in the case of France’s intervention in Mali, when Germany ultimately offered the use of its cargo planes.

Diplomacy is based on trust, so when trust is compromised, cooperation -- no matter how longstanding -- gives way to discord. The Obama administration contends that a large portion of U.S. espionage activities are carried out to combat terrorism, but this does not justify the actions brought to light by the recent Edward Snowden-originated revelations. If Washington undermines its own leadership or that of its allies, the collective ability of the West to combat terrorism will be compromised. Allied leaders will have no incentive to put their own militaries at risk if they cannot trust U.S. leadership. Foreign leaders and their publics -- not just the ideological and murderous nonstate actors that have made terrorism a global phenomenon -- may demand retribution against Washington.

Robust U.S. counterterrorism policies are premised on credibility with those who join the U.S. on the front lines. Even though spying on allies has always occurred (U.S. spying on France provided important intelligence in World War II, for example), the digital age allows public revelations of classified behavior to happen in real time -- not decades after the fact. It is little wonder that President Obama has been on the phone with his European counterparts this week. U.S. credibility is on the line.

1NC AT: NATO

#### Their Brzezinski evidence doesn’t actually provide a warrant for NATO solving anything—it just lists a bunch of problems and then says “NATO is globally significant.”

NATO is redundant—other international organizations solve—NATO only creates free-riding and lowers over-all security

Hartung 13 (Farina Hartung, Master Thesis International and European Relations, Linköping University, “Case-study of NATO: Is NATO a redundant international organization or not?”, http://www.liu.se/utbildning/pabyggnad/F7MME/student/courses/733a27masterthesis/filarkiv/spring-2013/theses-june/1.464731/MasterThesisFinalVersionFarinaHartung.pdf)

Just as mentioned above, NATO has gone through a process of changes since it was first established. It can be said that the changes where necessary or as a matter of fact that they were not - it always depends on the view one takes. The position of this paper has been stated before that it is going to investigate the question if NATO is redundant and to show proof that it is. As history has shown, it can be argued that the organization is redundant and has survived much longer passed its due time. From this point of view, it can be argued that this is what hurts the organization; they need to reform before they have a chance to act.

It is quite difficult to claim that NATO is not redundant, but as mentioned before, this Thesis will take a look at the opposite side of this claim. Instead of trying to prove that NATO is needed, I will try to show that it is not needed and has long surpassed its duty. That has become clear over the past years. NATO has reformed itself in order to ensure that it will stay relevant enough in order to play an impacting role in politics and international relations. Although they have taken the initiative to stay relevant, they seem to have failed. There have been different voices, such as Theo Sommer and Kenneth Waltz, who claim and argue that NATO is as a matter of fact redundant.

One could always ask what is redundancy and how can it be measured. Redundancy is not self-evident, and it also cannot really be defined. Neither can redundancy be measured. Redundancy is what one makes out of it and what others understand of redundancy is left open for discussion. But in regards to this paper, redundancy is just the fact that NATO is not really needed any longer. The task it is currently doing, such as the peacekeeping, can be done by other international organizations, such as the United Nations There is no longer the need for just one international organization to have its sole focus and propose on collective security. Security is something that is desired by so many countries and there is no need that NATO needs to be the one organization that will provide this to all the countries in the world. And as mentioned before, NATO already goes outside its territorial borders in order to provide security to the world (“NATO in the 21st Century).

NATO is a redundant international organization simply because it has lost its endeavor. It strives to do so much in order to provide its member states with the necessary certainty that in case of a threat, there is a whole community that will act and protect each member state. But how should NATO really do that in reality? The member states have cut down their size of military they have. In time of great danger, one country might not want to act because there could be a conflict of interests. Currently, there is just not such a big threat as the Soviet Union was that there needs to be a military alliance. In case that such a great threat rises to the surface again, it is just simply as easy to create a new international military organization which can then function according to the actual needs, because it is always during the time of threat that new alliances are created.

As mentioned above, the main purpose of NATO has vanished when the Cold War was over and the Soviet Union ceased to exist. Since the Cold War and the threat that the Soviet Union posed so close to European borders dissolved in the beginning of the 1990s, NATO just has lost its main function. According to Theo Sommer, NATO has ever since then been in a constant stage of “transformation”, never really knowing what it should achieve and what its goal is (17). In addition to that, one could argue that NATO is facing more problems that seem to have come along with the problem of the lacking threat.

This Thesis argues that NATO is neither necessary to fulfill a defensive function or that of providing security for its members. NATO is an international organization that is in fact no longer permissible. It has surpassed its life expectancy by many years. Moreover, it can be said that since it has surpassed its reason of existence, it will step down from the position it holds in regards of an international security organization. It is no longer the main focus of the member states. NATO should also no longer be the main focus. Other organizations have emerged over the past decades that show that they are able to do the necessary work without having to go through a process of transformation. For example regional international organization, such as the European Union could take over this task, since most of the members are located on the European continent to begin with. Furthermore, it can be claimed that NATO should be able to see that they are no longer fit for modern times. Before NATO is able to act on any kind of problem or concern, it has to go through a process of transforming itself; otherwise, it might not be able to act. This point of view may seem a bit exaggerated; however, it is suitable for NATO since it is pragmatic. NATO is not the same since the end of the Cold War. It can be said that the main reason why the NATO was established was to be able to encounter the Soviet Union in a time of crisis. According to Lindley-French, NATO today is a strategic and defensive focal point that can project both military and partnership power worldwide (89). She continuous her argument by noting that the job the alliance has to done is the same as ever and has not changed (Ibid). The job of the alliance has always been to safeguard the freedom and security of its member nations through political and security needs, instituted by the values of “democracy, liberty, rule of law and the peaceful resolution to disputes” (Ibid). Yet another point he claims is that NATO provides a strategic forum for consultation between North Americans and Europeans on security issues of common concern and the facility for taking joint action to deal with them (Ibid).

To repeat, NATO has lost its power and maybe even its standpoint in the modern day time politics. There are many different international organizations that all could take over the work of NATO or even could continue it in a better manner than NATO is currently doing. Claiming that NATO is not redundant just does not seem to follow the actual fact of the position that NATO is currently in. They have missed indeed the point where it was time to either dissolve the whole international organization or the time to reform which would have actually created positive outcomes. The latter point, however, seems impossible now. It just is impossible for NATO to change yet again. In the time of its existence, NATO has undergone so many different changes and reforms, altogether a total of six. There is just no logical reason why NATO is able to successfully undergo another process of changes and transformation. New reforms always bring changes and if they actually will help NATO is left in the open.

As Theo Sommer puts it, NATO has served its time simply because the world has changed (9). The threats are no longer the same and to some extend may not even exist anymore. There are of course new threats, such as terrorism, piracy, and cyber-attacks, now that have emerged and rose to the surface of international politics. However, those are not really the same as they were when NATO was created. Hence, NATO is not suitable to tackle new issues and problems. They can try to reform, but it will never be the same because NATO itself will have to adjust to the new situation. But this is not what this once great military alliance was intended to do.

## \*\*\* 2NC

### 2NC Impact

#### Colonialism is an unacceptable ethical violation. You should refuse to vote affirmative regardless of the good they claim to achieve.

Nermeen Shaikh, @ Asia Source, 7 [*Development* 50, “Interrogating Charity and the Benevolence of Empire,” Palgrave-Journals]

It would probably be incorrect to assume that the principal impulse behind the imperial conquests of the 18th and 19th centuries was charity. Having conquered large parts of Africa and Asia for reasons other than goodwill, however, countries like England and France eventually did evince more benevolent aspirations; the civilizing mission itself was an act of goodwill. As Anatol Lieven (2007) points out, even 'the most ghastly European colonial project of all, King Leopold of Belgium's conquest of the Congo, professed benevolent goals: Belgian propaganda was all about bringing progress, railways and peace, and of course, ending slavery'. Whether or not there was a general agreement about what exactly it meant to be civilized, it is likely that there was a unanimous belief that being civilized was better than being uncivilized—morally, of course, but also in terms of what would enable the most in human life and potential. But what did the teaching of this civility entail, and what were some of the consequences of changes brought about by this benevolent intervention? In the realm of education, the spread of reason and the hierarchies created between different ways of knowing had at least one (no doubt unintended) effect. As Thomas Macaulay (1935) wrote in his famous Minute on Indian Education, We must at present do our best to form a class who may be interpreters between us and the millions whom we govern; a class of persons, Indian in blood and colour, but English in taste, in opinions, in morals, and in intellect. To that class we may leave it to refine the vernacular dialects of the country, to enrich those dialects with terms of science borrowed from the Western nomenclature, and to render them by degrees fit vehicles for conveying knowledge to the great mass of the population. This meant, minimally, that English (and other colonial languages elsewhere) became the language of instruction, explicitly creating a hierarchy between the vernacular languages and the colonial one. More than that, it meant instructing an elite class to learn and internalize the culture—in the most expansive sense of the term—of the colonizing country, the methodical acculturation of the local population through education. As Macaulay makes it clear, not only did the hierarchy exist at the level of language, it also affected 'taste, opinions, morals and intellect'—all essential ingredients of the civilizing process. Although, as Gayatri Chakravorty Spivak points out, colonialism can always be interpreted as an 'enabling violation', it remains a violation: the systematic eradication of ways of thinking, speaking, and being. Pursuing this line of thought, Spivak has elsewhere drawn a parallel to a healthy child born of rape. The child is born, the English language disseminated (the enablement), and yet the rape, colonialism (the violation), remains reprehensible. And, like the child, its effects linger. The enablement cannot be advanced, therefore, as a justification of the violation. Even as vernacular languages, and all habits of mind and being associated with them, were denigrated or eradicated, some of the native population was taught a hegemonic—and foreign—language (English) (Spivak, 1999). Is it important to consider whether we will ever be able to hear—whether we should not hear—from the peoples whose languages and cultures were lost? The colonial legacy At the political and administrative levels, the governing structures colonial imperialists established in the colonies, many of which survive more or less intact, continue, in numerous cases, to have devastating consequences—even if largely unintended (though by no means always, given the venerable place of divide et impera in the arcana imperii). Mahmood Mamdani cites the banalization of political violence (between native and settler) in colonial Rwanda, together with the consolidation of ethnic identities in the wake of decolonization with the institution and maintenance of colonial forms of law and government. Belgian colonial administrators created extensive political and juridical distinctions between the Hutu and the Tutsi, whom they divided and named as two separate ethnic groups. These distinctions had concrete economic and legal implications: at the most basic level, ethnicity was marked on the identity cards the colonial authorities introduced and was used to distribute state resources. The violence of colonialism, Mamdani suggests, thus operated on two levels: on the one hand, there was the violence (determined by race) between the colonizer and the colonized; then, with the introduction of ethnic distinctions among the colonized population, with one group being designated indigenous (Hutu) and the other alien (Tutsi), the violence between native and settler was institutionalized within the colonized population itself. The Rwandan genocide of 1994, which Mamdani suggests was a 'metaphor for postcolonial political violence' (2001: 11; 2007), needs therefore to be understood as a natives' genocide—akin to and enabled by colonial violence against the native, and by the new institutionalized forms of ethnic differentiation among the colonized population introduced by the colonial state. It is not necessary to elaborate this point; for present purposes, it is sufficient to mark the significance (and persistence) of the colonial antecedents to contemporary political violence. The genocide in Rwanda need not exclusively have been the consequence of colonial identity formation, but does appear less opaque when presented in the historical context of colonial violence and administrative practices. Given the scale of the colonial intervention, good intentions should not become an excuse to overlook the unintended consequences. In this particular instance, rather than indulging fatuous theories about 'primordial' loyalties, the 'backwardness' of 'premodern' peoples, the African state as an aberration standing outside modernity, and so forth, it makes more sense to situate the Rwandan genocide within the logic of colonialism, which is of course not to advance reductive explanations but simply to historicize and contextualize contemporary events in the wake of such massive intervention. Comparable arguments have been made about the consolidation of Hindu and Muslim identities in colonial India, where the corresponding terms were 'native' Hindu and 'alien' Muslim (with particular focus on the nature and extent of the violence during the Partition) (Pandey, 1998), or the consolidation of Jewish and Arab identities in Palestine and the Mediterranean generally (Anidjar, 2003, 2007).

### 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—NU MV

#### 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.

### AT: Perm (w/Multilat)

#### The multilateral vision of American leadership is no less Orientalist—they still divide the world between liberal democracies and illiberal peoples. Rejecting the aff’s justifications is a pre-requisite for genuine change.

Richard FALK Emeritus Int’l Law @ Princeton 9 [*Achieving Human Rights* p. 52-53]

The transition to a regulated structure of world order is underway and is assured unless a catastrophic breakdown occurs, due to ecological, economic, or political collapse. That is, the Westphalian form of world order, based on the state system, while resilient, is essentially being displaced from above and below. It is not only the case that the main struggle since 9/11 is being waged by a global state on the one side and a loosely linked headless network on the other side; the impact of multi-dimensional globalization is also making borders less important in most respects (although more important in some-for instance, restricting transnational migrants). And normative developments are now associated with international accountability for gross violations of human rights and for the commission of such crimes as genocide, torture, and ethnic cleansing. Much of the literature that recognizes this emergent global governance stresses the **inevitability** of **American leadership**. The **mainstream** debate is whether this leadership will take a **cooperative**, economic form as it did in the 1990s or move in direction of the unilateralist, coercive form of the early years of the twenty-first century.36 The outcome of the November 2004 American presidential elections, together with the impact of the purported transfer of sovereignty to Iraq on June 30, 2004, as well as the anti-war outcome of the 2006 congressional elections seemed to supply a short-term answer. The main argument being made seems likely to be unaffected by a change in the elected leadership of the United States, although the 2008 presidential elections might produce some **tactical adjustments** associated with the high costs of continuing the Iraq War. **Either** foreign policy **path** is **essentially Orientalist** in the sense of building a future world order on the basis of **American interests**, **an American worldview**, and an **American model** of constitutional democracy. Neither is sensitive, in the slightest, to the ordeal of the Palestinian people, and thus bitter resentments directed at the United States will be kept alive, especially in the Arab world. International law will continue to play a double role, facilitating the pretensions of the American model of "democracy" as an expression of a commitment to the realization of international human rights and offering opponents of this model legal standards and principles by which to validate their anti-imperial, antiAmerican resistance. In my view, only a **non-Orientalist reshaping** of global governance can be beneficial for the peoples of the world and **sustainable** over time. In that process, the **de-Orientalizing** of the **normative order** is of **paramount importance**, providing positive images of accountability, participation, and justice that do not universalize the mythic or existential realities of the American experience and that draw fully upon the creative energies and cultural worldviews of the diverse civilizations that together constitute the world. Such expectations may presently seem utopian , but that is only because our horizons are now clouded by **warmongering "realists"** and **global imperialists**. To **dream freely** of a benevolent future is the only way to encourage the **moral and political imagination** of people throughout the world to take responsibility for their own future, thereby repudiating in the most decisive way the deforming impacts of Orientalism in all of its sinister forms.

### LOAC

#### Legal restraint on conduct of war codifies right of powerful states to pursue war.

Thomas SMITH Gov’t & Int’l Affairs @ South Florida 2 [“The New Law of War: Legitimizing Hi-Tech and Infrastructural Violence” *Int’l Studies Quarterly,* 46, p. 357-359]

More thoroughgoing skeptics of the school of Critical Legal Studies claim that international legal institutions are molded to serve the interests of dominant states. Just as international law in the nineteenth century buttressed the European Concert system and, later, imperialism, law continues to confer privileges on powerful countries ~Gathii, 1998!. This is a far cry from legalists and realists dutifully debating the utility of international law under anarchy. Critical theorists find law very effective, but contend that the logic and coherence we ascribe to law actually mirror political interests. Law shapes the popular perception of an act by imbuing it with the “psychic trappings” of legality, reinforcing a chimera of shared values and international society and cultivating a sense of obligation to the “civilized” order. The law lends an air of naturalness or inevitability to the existing hierarchy of power, wealth, and moral capital. These inequalities are then “reinscribed” into the law ~af Jochnick and Normand, 1994a:57!. Much of critical legal theory targets the symbiosis between international law and state sovereignty. As Phillip Trimble has noted ~1990:833!, “A quick look at the ‘rules’ of international law shows why governments love @it#. . . . @I#nternational law confirms much more power and authority than it denies.” It codifies sovereignty, upholds territorial and border controls, economic, regulatory and tax sovereignty, control over airspace, sea-lanes, natural resources, offshore and continental shelves, and so on. As globalization blurs the line between domestic and foreign politics, much of international law maintains the separateness of these spheres, denying standing to nonstate actors, and smuggling reasons of state and particular conceptions of legitimacy into seemingly universal rules. The same can be said of any international organization or legal regime that pits the interests of sovereign states against the aspirations of cosmopolitans and NGOs. The use of law to validate the practices of sovereign states is perhaps most clear with regard to the laws of war. In a critical history of humanitarian law, Chris af Jochnick and Roger Normand argue ~1994a:50–51! that the “structured impotence” and “permissive language” of black-letter laws of war have lent a “façade of legitimacy” to existing wartime practices. “The laws of war have been formulated deliberately to privilege military necessity at the cost of humanitarian values.” The Lieber Code ~1863!, adopted during the American Civil War and the first formal inventory of rules of engagement, set the tone: “To save the country is paramount to all other considerations” ~Art. 5!; “Military necessity admits of all direct destruction of life or limb of armed enemies, and of other persons whose destruction is incidentally unavoidable” ~Art. 15!; “The more vigorously wars are pursued, the better it is for humanity” ~Art. 29!. af Jochnick and Normand conclude ~1994a:55! that legal warfare has not been more humane than illegal warfare. Progress in humanitarian law is a fiction. “The development of a more elaborate legal regime has proceeded apace with the increasing savagery and destructiveness of modern war.” Legalism also has undermined customary restraint in favor of technical compliance. Rosalyn Higgins ~1994! and others have noted that international law is not merely a set of rules, but is also the bearer of a normative culture. Not so the law of war, which is construed in a highly technical fashion that risks subverting its own purpose. Jean Pictet’s standard treatment defines humanitarian law as that “branch of public international law which owes its inspiration to a feeling for humanity and which is centered on the protection of the individual” ~Beigbeder, 1999:1!. Lauterpacht held ~1953:363–364! that “rules of warfare are not primarily rules governing the technicalities and artifices of a game. They evolved or have been expressly enacted for the protection of actual or potential victims of war.” “We shall utterly fail to understand the true character of the law of war unless we are to realize that its purpose is almost entirely humanitarian in the literal sense of the word, namely to prevent or mitigate suffering and, in some cases, to rescue life from the savagery of battle and passion. This, and not the regulation and direction of hostilities, is its essential purpose.” Laws of War: The State of the Art Since the mid-nineteenth century, humanitarian law has focused almost exclusively on the regulation and direction of hostilities as religious canons, moral philosophy, and chivalry. These have been replaced by black letter law, military discipline, rules of engagement, and “operational law” overseen by battlefield and war room lawyers. The dean of just war scholars James Turner Johnson notes ~1981:71! that nothing has been more harmful than this technical turn to the “intimate and inseparable relationship” between morality and laws of war. The Withering of Jus Ad Bellum Nowhere is this technical turn clearer than in the decline of “philosophical” rules about going to war ~ jus ad bellum! and the rise of procedural rules about conduct in war ~ jus in bello!. As witnessed by the debate over NATO’s intervention in Yugoslavia in 1999, jus ad bellum has not vanished. But it has been on the wane since the Renaissance, eroded by the secularization and positivism that mark “the new science of international law” ~ Johnson, 1975:10!. The emphasis on conduct is driven by practical reasons as well: ad bellum laws often deal with inscrutable motives and furtive planning; in bello breaches are easier to uphold and may even leave a trail of forensic evidence. One can also judge conduct even when the original legality of a conflict is in dispute. If law follows practice, the erosion of jus ad bellum should come as no surprise. There were roughly 690 cross-border military interventions between 1945 and 1991, and interveners usually managed to escape condemnation ~Reilly, 1999!. Border violations and standing aggressions have become routine. Despite universal condemnation of South Africa’s Apartheid regime, the world turned a blind eye to Pretoria’s frequent raids into Angola, Namibia, and Mozambique. Turkish troops have entered Iraq more than 57 times in the past 15 years in pursuit of Kurdish rebels. Attacks against substate targets have also been routinized. Intervention is often couched in the language of rescue. As Henkin notes, humanitarian reasons to intervene are “easy to fabricate,” and every case of intervention has been “justified on some kind of humanitarian ground” ~Kritsiotis, 1998:1021!. The burst of humanitarian law over the past decade—statutes for the International Criminal Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda, and the International Criminal Court, or ICC—has also given short shrift to jus ad bellum, especially the crime of aggression. The most comprehensive of these, the ICC Statute, targets genocide, crimes against humanity, serious breaches of the laws and customs of war, and aggression. Elements of the first three crimes are defined crisply in the Statute, which criminalizes “intentionally directing attacks against the civilian population as such” and “extensive destruction . . . of property, not justified by military necessity.”3 The statute was adopted without any elaboration of aggression. This second-class treatment probably stems from the fact that hi-tech states can adhere to the letter of in bello laws, but find jus ad bellum hazier and compliance harder to establish. The Security Council will almost certainly retain control over aggression, even though critics claim the ICC already is tipped toward Goliath states, at least members of the Security Council, whom the Statute grants an unlimited number of 12-month deferrals of the Court’s activities ~Art. 16!. The ICC Statute is also weighted toward hi-tech states in that machete murder is more likely to be criminalized than a nuclear holocaust ~weapons of mass destruction are not covered!. As it stands, the ICC poses no obstacles to modern warfare as long as civilian casualties are unintentional or indirect.4

### 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.

### 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."

### Peace = delusion

#### Violence is inevitable

Gray 11—John Gray is a Canadian journalist and author whose work includes Paul Martin: The Power of Ambition, a biography with an emphasis on Martin's lifelong quest to be Prime Minister. A former journalist with the Ottawa Citizen, Gray also had many roles in 20 years of work for The Globe and Mail, including writer, editor, foreign correspondent, and Ottawa bureau chief. He won three National Newspaper Awards [September 21, 2011, “Delusions of Peace,” Prospect, http://www.prospectmagazine.co.uk/magazine/john-gray-steven-pinker-violence-review/]

This is a troubling truth for humanists, including Pinker. It can be avoided only by pointing to some kind of ongoing evolution in humans, and Pinker is now ready to entertain “the possibility that in recent history Homo Sapiens has literally evolved to become less violent in the biologist’s technical sense of a change in our genome.” He concludes that there is very little evidence that this is so, but the fact that he takes the possibility seriously is telling. Social violence is coeval with the human species. This is not because humans have always been driven by an inbuilt instinct of aggression. Some of the impulses we inherit from our evolutionary past may incline us to conflict, but others— “the better angels of our nature,” as Abraham Lincoln called them—incline us to peaceful cooperation. In order to show that conflicts between the two will in future increasingly be settled in favour of peace, Pinker needs to be able to identify some very powerful trends. He does his best, but the changes to which he points—the spread of democracy and the increase of wealth, for example—are more problematic than he realises. The formation of democratic nation-states was one of the principal drivers of violence of the last century, involving ethnic cleansing in inter-war Europe, post-colonial states and the post-communist Balkans. Steadily-growing prosperity may act as a kind of tranquilliser, but there is no reason to think the increase of wealth can go on indefinitely—and when it falters violence will surely return. In quite different ways, attacks on minorities and immigrants by neo-fascists in Europe, the popular demonstrations against austerity in Greece and the English riots of the past summer show the disruptive and dangerous impact of sudden economic slowdown on social peace. All the trends that supposedly lie behind the Long Peace are contingent and reversible.

Hobbes is cited more than once by Pinker, but he misses Hobbes’s most important insight: that even if humans were not moved by the pursuit of power and glory, scarcity and uncertainty would drive them repeatedly into conflict with one another. Recurrent violence is a result of the normal disorder of human life. In some ways Hobbes—an early Enlightenment thinker and an intrepid rationalist—was overly sanguine about the capacity of humans to lift themselves out of conflict. Envisioning a social contract in which the power of violence is handed over to a peace-making state, he failed to take account of the fact that humans adapt to violence and often turn it into a way of life. (The novelist Cormac McCarthy presents an image of such a way of life in Blood Meridian, his fictional recreation of the mid-19th century American-Mexican borderlands.) When it is not a way of life, violence is often simply a method. Suicide bombing is morally repugnant but it is also cheap and highly effective, deploying an abundant and easily replaceable resource—human life—to achieve objectives that could be compromised if the perpetrators survived to be captured and interrogated. Humans use violence for many reasons, and everything points to their doing so for the foreseeable future.

No doubt we have become less violent in some ways. But it is easy for liberal humanists to pass over the respects in which civilisation has retreated. Pinker is no exception. Just as he writes off mass killing in developing countries as evidence of backwardness without enquiring whether it might be linked in some way to peace in the developed world, he celebrates “recivilisation” in America without much concern for those who pay the price of the recivilising process. Focusing on large, ill-defined cultural changes—a decline of the values of respectability and self-control in the 1960s, for example, which he tells us resulted from the influence of “the counterculture”—his analysis has a tabloid flavour, not improved by his repeated recourse to not always very illuminating statistics.

One set of numbers does stand out, however. “By the early 1990s Americans had gotten sick of the muggers, vandals and drive-by shootings.” The result is clear: “Today more than two million Americans are in jail, the highest incarceration rate on the planet. This works out to three-quarters of a percent of the entire population and a much larger percentage of young men, especially African Americans.” (Again the italics are Pinker’s.) The astonishing numbers of black young men in jail in the US is due to the disproportionate impact on black people of the “decivilising process,” notably the high rate of black children born out of wedlock and what Pinker sees as the resulting potential for violence in families (black or white) that lack the civilising influence of women. While “massive imprisonment” has not reversed this trend, it “removes the most crime-prone individuals from the streets, incapacitating them.” America’s experiment in mass incarceration is, apparently, an integral part of the recivilising process.

The vast growth of the American penal state, reaching a size not achieved in any other country, does not immediately present itself as an advance in civilisation. A large part of the rise in the prison population has to do with America’s repressive policies on drugs, which Pinker endorses when he observes: “A regime that trawls for drug users or other petty delinquents will net a certain number of violent people as a by-catch, further thinning the ranks of the violent people who remain on the streets.” While it may be counter-productive in regard to its stated goal of controlling drugs use, it seems America’s prohibitionist regime offers a useful means of banging up troublesome people. The possibility that mass incarceration of young males may be in some way linked with family breakdown is not considered. Highly uneven access to education, disappearing low-skill jobs, cuts in welfare and greatly increased economic inequality are also disregarded, even though these factors go a long way in explaining why there are so many poor blacks and so few affluent whites in prison in America today.

Talking to the vacuum cleaner salesman and part-time British agent James Wormold in Graham Greene’s Our Man in Havana, the Cuban secret policeman Captain Segura refers to “the torturable class”: those, chiefly the poor, who expect to be tortured and who (according to Segura) accept the fact. The poor in America may not fall exactly into this category—even if some of the practices to which they are subject in US prisons are not far from torture. But there is certainly an imprisonable class in the United States, largely composed of people that Pinker describes as decivilised, and once they have been defined in this way there is a kind of logic in consigning this category of human beings to the custody of America’s barbaric justice system.

Pinker’s attempt to ground the hope of peace in science is profoundly instructive, for it testifies to our enduring need for faith. We don’t need science to tell us that humans are violent animals. History and contemporary experience provide more than sufficient evidence. For liberal humanists, the role of science is, in effect, to explain away this evidence. They look to science to show that, over the long run, violence will decline—hence the panoply of statistics and graphs and the resolute avoidance of inconvenient facts. The result is no more credible than the efforts of Marxists to show the scientific necessity of socialism, or free-market economists to demonstrate the permanence of what was until quite recently hailed as the Long Boom. The Long Peace is another such delusion, and just as ephemeral.

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### Deterrence

#### Institutionalizing fearful politics creates destructive spirals. Security based on fear instead of trust creates insecurity spirals, confirmation bias, and path dependency.

Neta CRAWFORD Poli Sci @ Boston University 11 [*Realism and World Politics* Ed. Ken Booth p. 165-169]

Fear, homo politicus and the structures of world politics I make three arguments about fear. First, fear is not only a private experience. Fear can be institutionalized within organizations and in patterns of action and reaction between groups, including states. Second, institutionalized fear may become a perceptual filter and analogical trigger. Third, fear may become a self-sustaining climate, almost independent of its initial trigger, and difficult to dislodge even in the face of evidence that the threat has diminished. These arguments suggest that the deliberate attempt to use fear as a precise tool of foreign policy is likely to be counterproductive and dangerous in the short and long term. Conversely, as Ken Booth and Nicholas Wheeler argue, trust can mitigate security dilemma spirals.36 To the extent that the anarchical structure of world politics, the lack of a hegemonic power to enforce law and order among nations, creates the conditions for insecurity, such insecurity also waxes and wanes. In other words, the structural condition of anarchy is relatively constant, but fear and the level of felt insecurity among nations is not constant. Foreign policy is, to a large degree, about managing threats and fear—we threaten others or make treaties with them so they will not become a threat to us.37 How we think and feel about ourselves and others is as important as the brute facts of anarchy or military technology. Announced preventive war doctrines may initiate a spiral of anticipation. Although neurobiologists and psychologists understand a great deal about the effects of fear on individuals, we know relatively less about the effects of fear on political communities and organizations. Yet in the same way that traumatic fear is written on the bodies of individual victims of violence—literally seared into the brain—traumatic fear can be institutionalized in foreign policies and military doctrine. This institutionalization of fear, in turn, writes itself on the bodies of individuals. Thus, I am using biology, on one level, as both metaphor/analogy and on another level, to show how biology and institutional dynamics interact. The nature/nurture dichotomy is erased as we see biological and social processes interacting to produce a particular political reality. While fear is a private experience, it is also socially (intersubjectively) moulded and understood. The things that individuals fear, what a group finds dangerous, and how they react to threats, is as much culturally and politically defined, as it is idiosyncratic to individuals.38 The remarkable diversity in human cultures, long documented by anthropologists, extends to a diversity in responses to scarcity and threat.39 Emotions can be heightened or soothed in particular cultural and institutional contexts. Emotions can also be mirrored in organizations, political climates, and the international system. These social mirrors can in turn affect individual emotions in an escalatory feedback loop of potentially spiralling fear. In sum, fear is not only written on our individual bodies, but through institutionalization, fear may also be written in the body politic, with political consequences. Fear can be institutionalized. Institutionalization occurs when a group incorporates a belief, practice, or feeling into its repertoire of taken-for-granted knowledge of the world and its behavioural routines. During institutionalization, there is room for disagreement about how to deal with a novel problem. The organization then invents procedures for assessing and organizing knowledge about the problem (intelligence gathering and threat assessment in the case of terrorism). The organization then develops standard operating procedures and routines for handling challenges. While the response to a situation might have once involved a very conscious move to use new knowledge or been motivated by a fresh emotion or understanding, once institutionalized, the organization no longer makes an ad hoc response to a situation. The organization sees the world through the newly institutionalized beliefs and feelings, recognizes a situation as something that it should address and uses guidelines for data gathering and information processing that are appropriate for the newly institutionalized beliefs or feelings. Once the response is institutionalized, the problem and its solution are normalized and become, in many ways, taken for granted. The routinized information sorting, categorization, and response becomes a schema that actors tend not to reflect upon. Schemas are ‘higher order knowledge structures . . . that embody expectations guiding lower order processing of the stimulus concept.’40 Like grammar, schemas provide a framework for understanding incoming information and quickly articulating a response. ‘In particular, information that fits into existing schemata . . . is noticed earlier, considered more valid, and processed much faster than information that contradicts or does not fit into any particular schema.’41 Schemas tend to persist, even in the face of disconfirming evidence. Individuals will often ignore information that disconfirms the schema, or in some cases, struggle to make the evidence fit the existing schema. Schemas may change if the incoming evidence is undeniably, unambiguously not in keeping with the existing schema. Thus, schema research supports what we know intuitively about individual decision-makers: humans classify evidence on the basis of abstract, pre-existing notions, and they are loath to change their pre-existing beliefs, even when confronted with strong counter-evidence.42 Attention to threat and fear management can become an institutionalized schema within states as a pattern of organizing intelligence gathering, perceptions, and plans guiding action and reaction between individuals and groups. Fear is institutionalized, for example, in ethnic and racial conflicts when groups who are presumed to be dangerous to each other are physically separated. In colonial Africa, the colonizers’ fear was institutionalized in pass books that the colonized had to carry so that the colonizers knew who someone was and whether they had good reason to be where they were at any given time. Fear is both acknowledged and institutionalized in the fence Israel built between Palestinians and Israelis in 2002 and 2003 and in the process of establishing and maintaining checkpoints along that border. In each case, an individual’s fear may be both partly resolved and normalized through the practices of the organizations charged with meeting a particular threat. The fence allows some actual physical control of a perceived threat and the illusion of greater control. On the other hand, the passbook or the fence separating others may also remind, rehearse, reinforce and heighten the fear and animosity between groups. Institutionalized fear may increase individual fear. Like pass books and fences, military strategies are the conscious and unconscious institutionalization of a fear schema. Defensive doctrines are certainly rooted in fear and uncertainty. Yet even ostensibly aggressive strategies may have fear at their root if the aggressive aim is rooted in a larger insecurity about the long-term intentions of the other. For example, fear of certain and imminent war led to the development of pre-emptive strategies in Europe prior to the First World War. In the late 1800s, Germany feared that war with Britain, France and Russia was likely, indeed inevitable. It was also common at the beginning of the last century to believe that the best defence is a good offence.43 The German Chief of Staff, Alfred Von Schlieffen developed the Schlieffen Plan: Germany would pre-emptively strike France, and then after France was defeated in six weeks, Germany would strike Russia. The French also had an offensive strategy—Plan 17—to avenge their losses in the Franco-Prussian war. So did Russia, which thought pre-emption could succeed quickly against both Austria and Germany. Assuming war was inevitable, all sides built up their military forces. When a crisis occurred (the assassination of Archduke Franz Ferdinand of Austria in June 1914) reciprocal fear of surprise attack and mobilization escalated. Each side—Germany, France, and Russia—believed war was inevitable and thought they were doomed if their country did not go first. All mobilized in an action-reaction sequence. And when they went to war in August 1914, nearly all leaders thought pre-emption would work and that the war would be over in a few weeks or months. Fear is institutionalized not only when it drives a state to adopt a particular military doctrine, but when actors assume that fear ‘works’—that the deliberate production of fear in an adversary can coerce the target. Indeed, when not based on simple denial or destruction, military strategy rests on fear—the promise of more punishment withheld in exchange for capitulation or compliance. For example, the German and Allied Second World War strategies of terror bombing depended on and institutionalized the production of fear in the belief that fear makes others capitulate. Fear did not work as the planners hoped in this case. More recently, the US Pentagon’s 2003 ‘shock and awe’ strategy for Operation Iraqi Freedom was as much about creating fear and paralysis among the Iraqi military as it was about using the US military’s advantages in information, speed, and manoeuvre to destroy Iraqi military forces or kill their soldiers. Fear was institutionalized in US deterrence doctrine during the Cold War—the US sought to prevent attack by threatening adversaries with a devastating response. Only the threat of ‘mutual assured destruction’, in this view, could assure US survival. Similarly, when Waltz argues that nuclear proliferation should not be feared, but rather ‘welcomed’ because it would help to ‘maintain peace’, he was assuming that the deliberate production of fear works and that fear ought to be institutionalized: ‘Where nuclear weapons threaten to make the costs of wars immense, who will dare to start them? Nuclear weapons make it possible to approach the deterrent ideal.’44 Second, fear and other emotions may become perceptual filters and analogical triggers. Fear may be taken by institutional actors as information and become a filter by which organizations develop information about self and other. Just as individuals who are frightened tend to search for confirmation of their view of the threat and discount disconfirming evidence, organizations operating in a climate of fear may do so. Standard operating procedures may in fact put threatening information on the fast track. The biological and psychological tendency to recall previous fearful situations, and reason analogously, may magnify the effect of fear. Emotions may be translated into attributions of the other’s hostile intentions. Fear thus affects the development and organization of institutional knowledge. Emotional relationships between groups and the emotional climate may be concretized in expectations and ways of creating knowledge. United States threat-assessment practices during the post-9/11 era illustrate the institutionalization of fear in both perception and planning. The US shifted from basing military planning on a potential adversary’s intentions and likely threats to the ‘capabilities-based approach’ where the US attempts to, ‘anticipate the capabilities that an adversary might employ’ and ‘focuses more on how an adversary might fight than who the adversary might be and where war might occur’.45 The 2001 United States Quadrennial Defense Review (QDR) suggests that the rationale for capabilities-based planning is uncertainty or ‘unpredictability’.46 The ‘concept reflects the fact that the United States cannot know with confidence what nation, combination of nations, or non-state actor will pose threats to vital U.S. interests or those of allies and friends decades from now’.47 Indeed, if one focuses on what might happen, the scenarios for threats proliferate. As General Ralph Eberhart, who was in charge of the military’s role in homeland security in 2002 said of the possible threats: ‘the list goes on and on. We can all envision the terrible things that might happen.’48 Thus, according to the QDR, ‘the United States will not be able to develop its military forces and plans solely to confront a specific adversary in a specific geographic area. Instead the United States could be forced to intervene in unexpected crises against opponents with a wide range of capabilities.’49 Third, fear may become a self-sustaining climate, almost independent of its initial trigger, and difficult to dislodge even in the face of evidence that the threat has diminished. Emotions and charged emotional relationships may permeate the international system and long outlast initial cause for emotions. There may, in other words, be an international climate of fear and distrust that is beyond any structural or material reasons that states may have to fear other states. Narratives of historical enmity, harm and aggression will rehearse and reinforce the fearful relationship. On the other hand, the development of a positive emotional relationship may help diminish or render irrelevant the structural reasons that states leaders might have to distrust and fear each other. In this way, emotions can create their own dynamics or spirals of action and reaction. All these effects of fear are potentially self-reinforcing. Initial fear may be institutionalized in the adoption of an emotional attitude about the other and the world (that it is threatening), which affects the intelligence gathering and assessment functions of organizations. Fear may be institutionalized in the adoption of technologies (for example, fences, and x-rays of baggage at airports), rules of procedure and military doctrines that are intended to reduce the subjective sense of threat and fear, but which may simultaneously and inadvertently heighten fear. Fear determines perceptions and the responses to perceived threats (whether actual or anticipated). The deliberate production of fear in others is thus very risky, and likely does not operate in the way that deterrence theory predicts. But the deliberate production of fear is at the root of deterrence and compellence strategies—the rational actor will respond to credible threats of unacceptable damage by backing down. In Arms and Influence, Thomas Schelling suggests that, ‘it is the threat of damage, or of more damage to come, that can make someone yield or comply. It is latent violence that can influence someone’s choice . . . It is the expectation of more violence that gets the wanted behaviour, if the power to hurt can get it at all.’50 Sometimes. The traditional rational actor view of foreign policy decision-makers deemphasizes the effects of fear on perception, cognition and memory on the assumption that humans are rational calculators. Yet threats may only increase the adversary’s intransigence precisely because the target is actually frightened and angry, triggering a cascade of both individual and institutional responses.51

### Case

#### Sustaining drones just results in ideological gains for insurgents—that outweighs tactical victories

Groves 13—Major Bryan Groves is currently the Deputy Director of the Combating Terrorism Center at the U.S. Military Academy at West Point. A graduate from Yale University's Masters of Arts in IR program, he is a Special Forces Officer and has served in Iraq and Bosnia [“America's Trajectory in the Long War1: Redirecting Our Efforts Toward Strategic Effects Versus Simply Tactical Gains,” *Studies in Conflict & Terrorism*, Vol. 36, Issue 1, 2013, Taylor & Francis, Accessed through Emory Libraries]

Stuck at the Tactical and Operational Levels

During the Long War the American effort has been stuck at the tactical and operational levels. The reason for this is that American leaders have had their attention focused too narrowly, missing that the “center of gravity” in the struggle resides in the non-fighting populations of both sides. To effect lasting change, America needs to address the ideological battle, point out inconsistencies in enemy narratives and actions, and stem the flow of new recruits into the terrorist groups.

Instead, the United States has been focused on making a series of changes that have been tactical or operational in scope. One is the significant intelligence collection effort and reorganization among the U.S. intelligence apparatus. President George W. Bush's creation of the Department of Homeland Security (DHS) and alignment of some twenty agencies under it is another. The government's passage of the Patriot Act to authorize more robust counterterrorism measures was a third new counterterrorism measure. Fourth and for better or worse, the United States used the prison facilities at Guantanamo Bay, along with renditions, to handle the difficult aspects of the legal battle against terrorists that democracies face. The primary focus of each of these aspects of the fight has been to keep America safe and prevent terror attacks against U.S. interests.

This objective is strategic in nature, but there has been an ends–means mismatch. The main means by which the government has sought to accomplish its counterterrorism goals have been to kill or capture and prosecute bad guys. By its very nature, gains won through these means are likely to be temporary because of the resilient nature and tremendous regenerative capacity of the enemy. For each operative that America kills or put behind bars, Al Qaeda, Taliban, and other like-minded groups have proven capable in maintaining a rate of new recruits that has the potential to keep pace with their losses. Whether they actually are able to do so depends on a number of factors. Some of the variables include the level of resources the U.S. levies against the group in a particular region, the resonance of their message with the local population, and the host nation's capacity and willingness to counter the organization.

A common way in which terrorist groups are able to maintain their numerical strength is because they have become exceptionally good at the “new media,” which facilitates a steady flow of recruits, their radicalization, and effective mobilization toward violence on behalf of the group's objective. This is especially true of Al Qaeda. Instead of relying on “old media” or traditional television and radio outlets, Al Qaeda has developed the ability to produce and disseminate its own first-rate videos. 28 This allows them to control the message, both in its creation and in its distribution. Recognizing the need to send nuanced versions of their message to different audiences, Al Qaeda has become quite sophisticated in its approach, eclipsing other terrorist organizations and serving as a model for them. 29

The enemy's decentralized network and metamorphosis into an ideological movement (a “network of networks”) are other reasons they have rendered our kinetic victories to be of limited duration. America's military pressure definitely disrupts the enemy's ability to plan, coordinate, and conduct successful attacks—especially spectacular attacks. But they also contribute to further radicalizing elements of the Ummah (global Muslim population), especially when civilian casualties result from military strikes, though inadvertent on the American part, the perception is substantially different among some Muslim segments. Global jihadists view our strikes as a justification for their struggle. They argue their case to illicit fence sitters among the Ummah to join in solidarity with them and recognize armed jihad as the only solution. And, without other efforts to build bridges with Muslim communities domestically, the United States is in danger of furthering a polarizing trend among average Americans that could lead us in an opposite direction of our long-held “melting pot” identity. Government at all levels needs to address this issue to foster greater integration and prevent fracturing along religious, ethnic, or socioeconomic lines. 30

#### Drones don’t lower the threshold for conflict.

Samuel Issacharoff and Richard H. Pildes, 6/1/2013. NYU School of Law. “Drones and the Dilemma of Modern Warfare,” New York University Public Law and Legal Theory Working Papers, Paper 404, http://lsr.nellco.org/nyu\_plltwp/404/.

In our view, there are four myths about the modern use of drones to target specific, identifiable individuals for lethal force. The first myth is that targeting specific individuals for death is a modern innovation in military practice. But targeted killings have long been a part of military practice; the invention of the long rifle, for example, gave snipers the ability to pick off opposing field officers. The modern practice, however, begins with the discrete act of seeking out military enemies outside normal wartime engagements based on an individualized assessment of the threat they present. The use of lethal force is not incidental to a battlefield objective of capturing a particular piece of territory but becomes a distinct response to the generalized threat posed by a particular individual. Killing is now not secondary to a distinct military objective but becomes the objective itself because of a specific determination about the threat posed by the continued operation of an individual. At a more fundamental level, as Eyal Benvenisti argues, the laws of war had two major premises that fail in modern asymmetric conflict. First, it was possible to distinguish military and civilian objectives, and, second, battle could be directed to military objectives, as with the capturing of territory or overtaking a military installation. Neither premise necessarily characterizes military engagements in asymmetric war—or put another way, the military objective becomes killing itself. 28 The object of the targeted attack changes as well, in a way that seems morally defensible. Drones enable military planners to focus on high-level targets, and there is a further morality in that—we should appreciate a technology that can discriminate between low-level and high-level combatants, and minimize the loss of life to foot soldiers of the other side by concentrating fire on the leaders. Precision targeted killings should be seen as a substantial humanitarian advance in warfare, assuming that use of force is justified in the first place. Whereas the tradition LOAC placed the foot soldier at greatest risk of being killed in combat, the new targeted killing regime initially redirected lethal force to the command structure of the enemy. In our view, it is a mistake to focus exclusively on the level of force being used without also understanding that the targets (if accurately identified) bear a moral culpability for unlawful warfare completely distinct from anything that could be attributed to conventional soldiers in a stateauthorized war, especially in the case of conscript armies. As the technology improved, most notably with drones, the targets could expand from the command structure to operational centers, as with attacks on remote sites at which enemy combatants trained or assembled. A second myth concerning targeted killings as a new form of warfare is that this ability to project force from a distance itself raises new legal issues. But this view is simply an exercise at drawing a technological line that, in our view, has little moral or legal force in and of itself. Drones present the same legal issues as any other weapons system involving the delivery of lethal force. Advances in military technology have always been about the ability to project force from a distance. Drones are a technology, the latest technological development in the history of warfare, but they do not change the legal issues, under either domestic or international law, relevant to deciding whether particular uses of force are justified. In technologically advanced countries, militaries have long been in the business of delivering lethal force at great distances from their targets. The U.S. Navy has engaged enemy personnel by firing cruise missiles from ships in the Mediterranean into Libya, Iraq, and Sudan. Air Force pilots frequently take off from bases far removed from the actual theater of conflict and drop their bombs based on computer-generated targeting information from thousands of feet above the ground; the bombing campaign over Serbia during the Kosovo war, for example, involved pilots taking off from the Midwest in the United States and returning there. Ancient advances, such as catapults and longbows, involved the delivery of force from a distance, instead of hand-to-hand personalized combat. U.S. drone operations reportedly follow the same rules of engagement and use the same procedures as manned aircraft that use weapons to support ground troops. 29 At least the military’s use of drones operates within the same military chain of command, subject to civilian oversight, as all other uses of military force. 30 One can view the technological advances that make drone warfare possible with horror or with fascination, but the idea of projected force beyond hand-to-hand warfare does not of itself present radically new legal issues. As the philosopher David Luban rightly concludes, targeted killings “are no different in principle from other wartime killings, and they have to be judged by the same standards of necessity and proportionality applied to warfare in general: sometimes they are justified, sometimes not.” 31 A third prevalent misconception, in our view, is that drones and targeted killing pose a major threat to the humanitarian purposes and aims of the laws of war. The key principles of the laws of war are the principles of necessity, distinction and proportionality—the principles that force should intentionally be used only against military targets and that the damage to individual citizens should be minimized and proportionate. Drones, as against other uses of military force, better realize these principles than any other technology currently available. Indeed, they allow for the most discriminating uses of force in the history of military technology and warfare, in contexts in which the use of force is otherwise justified. If the alternative is sending US ground forces into Yemen or the frontier regions of Pakistan, the result will be far greater loss of civilian life, and far greater loss of combatant lives, than with drone technology. A more subtle concern that perhaps underlies the humanitarian critique of targeted killings is that drone warfare might make the use of force “too easy.” Since powerful states do not have to put their own pilots or soldiers directly at risk, will they resort to force and violence more easily? This is a serious issue, but **some historical perspective might help put this concern in a broader frame**. Throughout the modern history of warfare, there has been concern that humanitarian developments in the way war is conducted will, perversely, make it more likely that states will go to war. The argument is essentially that there is a Faustian tradeoff between the laws of war and the initial decision to go to war. This is an enduring, moral complex issue that has attended virtually every effort in the paradoxical-sounding project of making warfare more humane; pacifists in the 19th century objected to the formation of the International Committee of the Red Cross and its efforts to mitigate the horrors of war. 32 Moreover, the same paradox surrounds even purely humanitarian aid during wartime; in some contexts, access to such aid has become a strong economic incentive to continue the war, for the very purpose of extracting more of this financial assistance. 33 A more complicated picture emerges if we shift from the perspective of the civilian leaders who authorize the use of force to those who actually deliver that force. One of the consequences created by individuating the responsibility of specific enemies, combined with drone technology, is the possibility of a much greater sense of personal responsibility and accountability on the part of drone operators for lethal uses of force than that exhibited by prior generations of fighters. At least some drone operators **report exactly this kind of experience of personal responsibility for their actions**, including their mistakes, that was much less likely in earlier generations when “the enemy” was faceless and undifferentiated in most circumstances. 34 Of course, if such a perverse tradeoff does end up driving state practice, the same concern could be applied to the use of force for humanitarian purposes, as in Libya. Did the use of drones in the Libya operation make humanitarian interventions “too easy?” The right question, it seems to us, should focus on whether the use of force is justified in the first place. Moreover, one should be careful not to romanticize traditional combat and the pressures toward excessive violence it nearly always unleashes. To the extent the humanitarian critique of the use of drones is that sending in ground troops acts as a restraint on the use of force, compared to the use of force from remote locations, such as with drones technology, this idea might have matters backwards, at least once the decision to use force at all has been made (and made, hopefully, for appropriate and lawful reasons). Dramatic overuse of force is most likely when scared kids come under attack on an active battlefield and respond with massive uses of force directed at only vaguely identified targets. Remoteness from the immediate battlefield—with operators able to see much more of what is going on—almost **surely enables much more deliberative responses**. One Air Force combat officer who became a drone operator supports this conclusion; he comments that compared to conventional combat, both in the air and on the ground, the distance involved with drones enable operations to be “deliberate instead of reactionary;” 35 compared to manned combat flights, he experienced drones as affording “the ability to think clearly at zero knots and one G”; 36 and he observed that other “methods of warfare could be, and often were, much more destructive” 37 —indeed, he goes so far as to comment that when marines were sent into operations, they “broke things and killed people” while drones enabled U.S. military force to be “less brutal.” 38 Whether one accepts or not this particular self-reported drone operator experience, a realistic appraisal of all the costs and benefits of the use of drones must confront the “compared to what” question. Perhaps in some contexts, if drones were not available, no force would be used; but in many cases, it seems likely that much greater force would be used instead. Put another way, powerful nation-states are unlikely to remain passive in the face of significant risks to the physical security of their citizens and property that emanate from other nations that are unwilling or unable to control these threats. Nor is it clear why states should be understood to have a moral obligation to permit their citizens and territory to be attacked. If states have the capacity to do so, they will neutralize these threats through killing or capture; and at times, the humanitarian costs of capture, in terms of harm to and loss of innocent life will be great, and at other times, capture might not be practicable for any number of reasons (a complex issue to which we return below). As a result, it seems to us that any general humanitarian critique of the targeted killing has a moral obligation to offer a credible, practical alternative that a state can realistically employ to protect the lives of its citizens and that better serves the humanitarian aims of the laws of war.

#### EU cooperation and inevitable – in their self interest

Archick 9/4—Kristin Archick, European affairs specialist at CRS [September 4, 2013, “U.S.-EU Cooperation Against Terrorism,” Congressional Research Service, http://www.fas.org/sgp/crs/row/RS22030.pdf]

As part of its drive to bolster its counterterrorism capabilities, the EU has also made promoting law enforcement and intelligence cooperation with the United States a top priority. Washington has largely welcomed these efforts, recognizing that they may help root out terrorist cells both in Europe and elsewhere, and prevent future attacks against the United States or its interests abroad. U.S.-EU cooperation against terrorism has led to a new dynamic in U.S.-EU relations by fostering dialogue on law enforcement and homeland security issues previously reserved for bilateral discussions. Contacts between U.S. and EU officials on police, judicial, and border control policy matters have increased substantially since 2001. A number of new U.S.-EU agreements have also been reached; these include information-sharing arrangements between the United States and EU police and judicial bodies, two new U.S.-EU treaties on extradition and mutual legal assistance, and accords on container security and airline passenger data. In addition, the United States and the EU have been working together to curb terrorist financing and to strengthen transport security.

#### NATO is incompetent and lazy. Zero help for the US in Afghanistan or elsewhere.

Bandow 9 (Doug, Senior Fellow—Cato Institute, American Spectator, “What’s NATO for again?” 5-4, http://www.cato.org/pub\_display.php?pub\_id=10171)

Other members of NATO want the U.S. to believe that it gets something out of the alliance. But it's hard to see what. Albania and Croatia joined the organization this year. They added geopolitical liabilities rather than military assets to NATO. Proposals to bring in Georgia and Ukraine, which are involved in complex geopolitical disputes with Russia, risk another confrontation with nuclear-armed Moscow, this one in the latter's rather than America's backyard, and over conflicts in which America has no stake. The U.S. isn't even getting much out of its allies for its number one geopolitical objective of the present, Afghanistan. The British, Danes, French, and Australians have fought. So have the Canadians and Dutch, who, unfortunately, will be going home over the next year or two. But most of the nearly two score countries (NATO members plus other states) have followed the German model — modest detachments deployed in regions and under conditions, called "caveats," designed to ensure that they are never shot at. Indeed, American commanders say that ISAF stands for "I Saw America Fight" rather than "International Security Assistance Force." Consider the record of the Czech contingent. The Herald Sun (Australia) reported that "When asked by the Britons to attack Afghan rebels, the commander of a special operations unit (SOG) said 'we're not going to, it's dangerous,' then ordered his men to get in trucks and return to the base." At another point the SOG commander rejected a British request for aid by noting that his 35-member unit was on vacation. This is "help" that Washington doesn't need. The Obama administration is having no more luck in enlisting additional European assistance than did its predecessor. So far the response to the president's plea, writes William Pfaff, is "65 men with two F-16s promised by Belgium; 12 trainers and a small troop contingent (probably from the gendarmerie) for the election in Afghanistan next month, with a larger French contribution to the new, combined European Gendarmerie Force that has already dispatched 300 to 400 men and women, all to improve Afghanistan's own national police, so far without conspicuous success." The Europeans also are promising a "civilian surge." It comes as no surprise that the Europeans see little cause for fighting in Afghanistan, but NATO invoked Article 5 in 2001 with great fanfare for the first time as a show of support for the U.S. If the alliance is not needed to defend Europe and won't aid America elsewhere, then, really, what is its purpose?

Info sharing won’t resolve anything—Bosnia and Kosovo proves

Wentz 2k (Larry, experienced manager, strategic planner, and C4ISR systems engineer with extensive experience in the areas of Nuclear C2, Continuity of Government C2, multinational military C2 and C3I systems interoperability, civil-military and information operations support to peace operations and numerous other military C4ISR activities. He also has extensive experience in business process reengineering, strategic planning and commercial telecommunications and information systems and their use in support of military C2. , undergraduate degrees in Electrical Engineering from Pennsylvania State University and Monmouth College and a graduate degree in Systems Engineering and Operations Research from the University of Pennsylvania Moore School of Engineering. He has completed the Executive Management Program at the University of Pennsylvania’s Wharton Business School and the Harvard John F. Kennedy School of Government Program for Senior Executives in National and International Security “Coalition Information Sharing: Lessons from Kosovo”, http://www.dodccrp.org/events/5th\_ICCRTS/papers/Track8/089.pdf)

2. Some Information Sharing Challenges

Coalition information sharing is a multi-dimensional problem space that has components ranging from technical and procedural to language and culture. There are policy and doctrine considerations. As noted earlier, Balkans policy, vision and strategy to guide civil and military intervention planning activities was vague. Internationally agreed policy and doctrine for conducting peace operations are evolving. KFOR deployed to impose order and prevent ethnic violence but soon found out there were in a policing operation requiring them to deal with organized crime and law enforcement activities initially and now in cooperation with the UNMIK-Police. Policing is a civil function but there was no civil judicial, civil policing or civil administration or equivalent UN or other IO provided capability at the outset of the operation. As a result, the military found themselves in the position of not only being the policeman and judge but also the mayor, fire chief and any other civil position necessary to establish order and return of stability. Information sharing for military use and for law enforcement purposes is different and police operations require professionals trained in related tactics, techniques, and crime scene procedures and these differ from military war fighting training and capabilities.

In Bosnia, the political decision process was slow and NATO and national guidance was kept close-hold. As a result, planning was disjoint and there was inadequate sharing of intelligence and force deployment information at the outset. In both the Bosnia and Kosovo cases, the NATO command structure had difficulties operating in a political and civil vacuum and there was limited military pre-coordination planning with IO and NGO elements. There was also a lack of representation from these organizations

It won’t result in effective combat operations—they can’t solve the reforms Brezisnki requires.

Wesley 13 (Curtis, Office of University Counsel in August, 2007, obtained his Juris Doctor degree from the University of Illinois Law School in 1986 and graduated with high honors from the University of Illinois in 1983 with a BS in Finance, “A "special relationship": bridging the NATO intelligence gap”, June 2013, http://calhoun.nps.edu/public/bitstream/handle/10945/34652/13Jun\_Curtis\_Wesley.pdf?sequence=1)

\*\*\* NIFC = NATO Intelligence Fusion Centre

F. CONCLUSION

NATO’s inability to support modern combat operations is well documented. This stems from the politicized debates over intelligence estimates during the Cold War and the apparent failure to invest in an operational intelligence capability during the transition to a NATO expeditionary force. These decisions became the foundation for NATO’s post-Cold War structure and perpetuated intelligence capability gaps during the era of modern combined and joint warfare. The willingness of the U.S. to supplement NATO intelligence with both assets and information during the Balkans crises ensured Allied success, but prolonged the intelligence capability problem for NATO and created a crisis sharing mentality that dominated American intelligence-sharing strategy, if there ever was such a thing.

For NATO, the creation of the NIFC in 2006 was a step in the right direction, but the NIFC still lacks the capability to support the full range of NATO military operations as demonstrated by the Libya campaign. The period of investment whereby NATO intelligence could have grown naturally with the rest of the organization’s abilities passed in the 1990s. Without huge additions of infrastructure and personnel, it is unlikely that NATO intelligence will be able to support major Allied operations. Furthermore, the U.S. has provided intelligence support assets in past NATO operations that may not be available during the next NATO conflict. With defense budgets shrinking and the U.S. strategic pivot to the Pacific, both the U.S. and its NATO allies must consider the development of an independent support capability. One method to bolster NATO intelligence capabilities is through a broadening and deepening of the intelligence sharing arrangements between the United States and the other Allies. This would both prepare NATO for the next conflict and engender a greater degree of reliability and trust between the United States and its NATO partners.