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## 1

#### Sanctions push has run aground, but GOP is strategizing to revive the push

Greg Sargent, WaPo, 2/3/14, Another big blow to the Iran sanctions bill, www.washingtonpost.com/blogs/plum-line/wp/2014/02/03/another-big-blow-to-the-iran-sanctions-bill/

**The push for a new Iran sanctions bill may have stalled in the Senate, but it’s still alive and kicking** in the House, where **leaders are telling members such a measure could still be considered** this year. Indeed, proponents of more sanctions appear to be clinging to the hope that if something passes the House with broad bipartisan support, it could pressure the Senate to act. But here’s something that could help block that from happening — in the process delivering yet another big blow to the prospects of a new Iran sanctions measure. I’m told more than 70 House Dems — from a diverse ideological background — have now signed a new letter coming out against any new sanctions measure and calling for diplomacy to be given a chance. This represents the first public statement from House Dems **en masse** against the measure and for diplomacy, matching what we’ve been seeing in the Senate. Here’s the text, which hasn’t yet been released but was sent over by a source: Dear Mr. President: As Members of Congress — and as Americans — we are united in our unequivocal commitment to prevent Iran from obtaining a nuclear weapon. The proliferation of nuclear weapons in the Middle East would threaten the security of the United States and our allies in the region, particularly Israel. The ongoing implementation of the Joint Plan of Action agreed to by Iran and the “P5+1 nations last November increases the possibility of a comprehensive and verifiable international agreement. We understand that there is no assurance of success and that, if talks break down or Iran reneges on pledges it made in the interim agreement, Congress may be compelled to act as it has in the past by enacting additional sanctions legislation. At present, however, we believe that Congress must give diplomacy a chance. A bill or resolution that risks fracturing our international coalition or, worse yet, undermining our credibility in future negotiations and jeopardizing hard-won progress toward a verifiable final agreement, must be avoided. We remain wary of the Iranian regime. But we believe that robust diplomacy remains our best possible strategic option, and we commend you and your designees for the developments in Geneva. Should negotiations fail or falter, nothing precludes a change in strategy. But we must not imperil the possibility of a diplomatic success before we even have a chance to pursue it. Dem Rep. Lloyd Doggett — a senior member of the House Ways and Means Committee who spearheaded this letter along with Dem Rep. David Price – tells me in a statement: “Iranian hard liners may ultimately obstruct a meaningful permanent agreement, but Congress should not give them a pretext for doing so. The support for this letter from a broad and growing coalition of more than 70 Members sends a strong signal that Democrats stand for peace and diplomacy.” Aides who have seen the letter tell me it’s been signed by some prominent Jewish Democrats and at least one member of the Dem leadership (James Clyburn). This comes after former Secretary of State Hillary Clinton (belatedly) weighed in against the sanctions bill, another blow to its prospects. While it does appear that the push for a sanctions vote has run aground, **it’s worth reiterating** that if something goes wrong in the talks, those who want a vote — including **Republicans** who **appear to be using this as a way to divide Dems**, **and** Democrats who refuse to be swayed by the administration’s insistence that a vote could derail diplomacy — **could have a hook to** revive their push. Eric Cantor is still said to want to move an Iran sanctions bill, and Dems have been wary of the possibility that Steny Hoyer — the number two Dem in the House — could join Cantor’s effort, thus giving it bipartisan legitimacy and perhaps leading more Dems to support it. The new letter from around six dozen House Dems opposing such a move could make that outcome that much less likely — particularly if it continues to pick up more signatures.

#### The plan’s authority restriction is a loss for Obama—causes defections

Dr. Andrew J. Loomis, Visiting Fellow at the Center for a New American Security, and Department of Government at Georgetown University, 3/2/2007, Leveraging legitimacy in the crafting of U.S. foreign policy, http://citation.allacademic.com//meta/p\_mla\_apa\_research\_citation/1/7/9/4/8/pages179487/p179487-36.php

Declining political authority encourages defection. American political analyst Norman Ornstein writes of the domestic context, In a system where a President has limited formal power, perception matters. The reputation for success—the belief by other political actors that even when he looks down, a president will find a way to pull out a victory—is the most valuable resource a chief executive can have. Conversely, the widespread belief that the Oval Office occupant is on the defensive, on the wane or without the ability to win under adversity can lead to disaster, as individual lawmakers calculate who will be on the winning side and negotiate accordingly. In simple terms, winners win and losers lose more often than not. Failure begets failure. In short, a president experiencing declining amounts of political capital has diminished capacity to advance his goals. As a result, political allies perceive a decreasing benefit in publicly tying themselves to the president, and an increasing benefit in allying with rising centers of authority. A president’s incapacity and his record of success are interlocked and reinforce each other. Incapacity leads to political failure, which reinforces perceptions of incapacity. This feedback loop accelerates decay both in leadership capacity and defection by key allies. The central point of this review of the presidential literature is that the sources of presidential influence—and thus their prospects for enjoying success in pursuing preferred foreign policies—go beyond the structural factors imbued by the Constitution. Presidential authority is affected by ideational resources in the form of public perceptions of legitimacy. The public offers and rescinds its support in accordance with normative trends and historical patterns, non-material sources of power that affects the character of U.S. policy, foreign and domestic.

#### The GOP will exploit this to flip Democratic votes on Iran—causes sanctions

Josh Rogin, Daily Beast, 2/5/14, GOP Will Force Reid to Save Obama’s Iran Policy—Over and Over Again, www.thedailybeast.com/articles/2014/02/05/gop-will-force-reid-to-save-obama-s-iran-policy-over-and-over-again.html

Dozens of Republican senators joined Wednesday to demand that Harry Reid allow a floor vote on a new Iran sanctions bill. If he doesn’t, they are planning to make his life miserable.

The Republican Senate caucus is planning to use every parliamentary trick in the book to push Senate Majority Leader Harry Reid to allow a floor vote on a new Iran sanctions bill that the Obama administration strenuously opposes. The Obama White House has succeeded in keeping most Democrats in line against supporting quick passage of the “Nuclear Weapon Free Iran Act,” which currently has 59 co-sponsors, including 13 Democrats. Reid has faithfully shelved the bill, pending the outcome of negotiations between Iran and the world’s major powers—the so-called “P5+1.” But tomorrow, Republicans plan to respond by using an array of floor tactics—including bringing up the bill and forcing Reid to publicly oppose it—as a means of putting public pressure on Reid and Democrats who may be on the fence. “Now we have come to a crossroads. Will the Senate allow Iran to keep its illicit nuclear infrastructure in place, rebuild its teetering economy and ultimately develop nuclear weapons at some point in the future?” 42 GOP senators wrote in a letter sent to Reid late Wednesday and obtained by The Daily Beast. “The answer to this question will be determined by whether you allow a vote on S. 1881, the bipartisan Nuclear Weapon Free Iran Act, which is cosponsored by more than half of the Senate.” The GOP letter calls on Reid to allow a vote on the bill during the current Senate work period—in other words, before the chamber’s next recess. Senate GOP aides said that until they get a vote, **GOP senators are planning to** use a number of procedural tools at their disposal to **keep this issue** front and center **for Democrats**. Since the legislation is already on the Senate’s legislative calendar, any senator can bring up the bill for a vote at any time and force Democrats to publicly object. Senators can also try attaching the bill as an amendment to future bills under consideration. Senate Minority Leader Mitch McConnell has been a harsh critic of Reid’s shelving of the bill, so he could demand a vote on it as a condition of moving any other legislation. If those amendments are blocked by Reid, Senators can then go to the floor and make speech after speech calling out Reid for ignoring a bill supported by 59 senators—and calling on fence-sitting Democrats to declare their position on the bill. “This letter is a final warning to Harry Reid that if Democrats want to block this bipartisan legislation, they will own the results of this foreign policy disaster,” one senior GOP senate aide said. The Republican senators believe, based on recent polls, that the majority of Americans support moving forward with the Iran sanctions bill now. They also believe that if Reid did allow a vote, the bill would garner more than the 59 votes of its co-sponsors and that Democrats vulnerable in 2014 races would support it, **pushing the vote total past a veto-proof two-thirds supermajority**.

#### New sanctions cause negotiation collapse and Middle East conflict

Rachel Kleinfeld, Carnegie Endowment For International Peace, 1/31/14, Sanctions Could Disrupt Negotiations With Iran, carnegieendowment.org/2014/02/03/sanctions-could-disrupt-negotiations-with-iran/h02v

Facing skyrocketing inflation, a collapsing currency and a sudden loss of imported goods, Iranians voted last year to kick out Mahmoud Ahmadinejad and elected a government they thought might jump-start their economy.

The new government of President Hassan Rouhani is not "moderate" - but it is practical**. It would like a nuclear weapon, but it wants economic relief more**. Rouhani knows his only bargaining chip to end sanctions is to stop the nuclear weapons program.

But the Rouhani government is on a short leash. Iran's supreme leader, Ali Khamenei, holds the ultimate power - and he is skeptical that a deal can be struck. Hardliners in Iran who benefit from sanctions are against it, as are many in the U.S. Congress. Khamenei needs to walk a careful line: If he looks like he's capitulating too much, then he'll face domestic backlash. He knows he has only a few months to deliver.

That is why the congressional threat of more sanctions - even if they take effect only if the deal fails - is so dire. Hardliners and Khamenei will take such legislation as proof that the United States wants regime change, not an end to Iran's nuclear program. Rouhani himself has said that if sanctions legislation passes, negotiations are off.

So why have more than 50 senators signed up as co-sponsors of new sanctions? Some do want regime change. So would we all - Iran is a noxious, terrorist-supporting, human-rights-destroying government. But regime change wouldn't end the security threat. Even the "Green Movement" that marched for democracy a few years ago wanted to obtain a nuclear weapon.

Others think that sanctions got Iran to the negotiating table, so more sanctions will push them even harder. This is a miscalculation. Negotiations have begun. Iran has allowed nuclear inspectors to seal up their nuclear plants. More sanctions will simply seem like bad faith on our part. They also could provide the excuse other countries are looking for to break with the sanctions regime. Bans on oil imports are causing real economic hardship to allies such as Japan who depended on Iran for much of their energy, and export bans are hurting European companies desperate to restart growth. If the United States looks like the bad guy, these governments are likely to give in to domestic pressure and reduce their sanctions against Iran.

Finally, the American Israel Public Affairs Committee is lobbying Congress hard with the message that a vote against sanctions is a vote against Israel. To me, as a Jew and a Zionist, this is not only hogwash: It is allowing an unelected American nongovernmental organization to wrap itself in the Israeli flag while suggesting actions that threaten Israel.

**If we cannot end Iran's nuclear program with diplomacy, we will end it through war**. Two years ago, the national security organization I founded worked with Pentagon planners on a simulation game to look at what would happen after the United States bombed Iran. In all the possible scenarios, Iran was likely to do one thing: attack Israel to open up a two-front war and further drag America into conflict in the Middle East. A vote for sanctions at this point is a vote for war - and for Iranian missile attacks on Israel.

## 2

Anastasia and I oppose military drone strikes. We support an executive order to establish a policy to prevent the president from conducting military drone strikes.

Executive war power primacy now—the plan flips that

Eric Posner, 9/3/13, Obama Is Only Making His War Powers Mightier, www.slate.com/articles/news\_and\_politics/view\_from\_chicago/2013/09/obama\_going\_to\_congress\_on\_syria\_he\_s\_actually\_strengthening\_the\_war\_powers.html

President Obama’s surprise announcement that he will ask Congress for approval of a military attack on Syria is being hailed as a vindication of the rule of law and a revival of the central role of Congress in war-making, even by critics. But all of this is wrong. Far from breaking new legal ground, President **Obama has reaffirmed the primacy of the executive** in matters of war and peace. The war powers of the presidency remain as mighty as ever. It would have been different if the president had announced that only Congress can authorize the use of military force, as dictated by the Constitution, which gives Congress alone the power to declare war. **That would have been** worthy of notice, **a reversal of the ascendance of executive power over Congress**. But the president said no such thing. He said: “I believe I have the authority to carry out this military action without specific congressional authorization.” Secretary of State John Kerry confirmed that the president “has the right to do that”—launch a military strike—“no matter what Congress does.” Thus, the president believes that the law gives him the option to seek a congressional yes or to act on his own. He does not believe that he is bound to do the first. He has merely stated the law as countless other presidents and their lawyers have described it before him. The president’s announcement should be understood as a political move, not a legal one. His motive is both self-serving and easy to understand, and it has been all but acknowledged by the administration. If Congress now approves the war, it must share blame with the president if what happens next in Syria goes badly. If Congress rejects the war, it must share blame with the president if Bashar al-Assad gases more Syrian children. The big problem for Obama arises if Congress says no and he decides he must go ahead anyway, and then the war goes badly. He won’t have broken the law as he understands it, but he will look bad. He would be the first president ever to ask Congress for the power to make war and then to go to war after Congress said no. (In the past, presidents who expected dissent did not ask Congress for permission.) People who celebrate the president for humbly begging Congress for approval also apparently don’t realize that his understanding of the law—that it gives him the option to go to Congress—maximizes executive power vis-à-vis Congress. If the president were required to act alone, without Congress, then he would have to take the blame for failing to use force when he should and using force when he shouldn’t. If he were required to obtain congressional authorization, then Congress would be able to block him. But if he can have it either way, he can force Congress to share responsibility when he wants to and avoid it when he knows that it will stand in his way.

It spills over to destabilize all presidential war powers.

Heder ’10

(Adam, J.D., magna cum laude , J. Reuben Clark Law School, Brigham Young University, “THE POWER TO END WAR: THE EXTENT AND LIMITS OF CONGRESSIONAL POWER,” St. Mary’s Law Journal Vol. 41 No. 3, <http://www.stmaryslawjournal.org/pdfs/Hederreadytogo.pdf>)

This constitutional silence invokes Justice Rehnquist’s oftquoted language from the landmark “political question” case, Goldwater v. Carter . 121 In Goldwater , a group of senators challenged President Carter’s termination, without Senate approval, of the United States ’ Mutual Defense Treaty with Taiwan. 122 A plurality of the Court held, 123 in an opinion authored by Justice Rehnquist, that this was a nonjusticiable political question. 124 He wrote: “In light of the absence of any constitutional provision governing the termination of a treaty, . . . the instant case in my view also ‘must surely be controlled by political standards.’” 125 Notably, Justice Rehnquist relied on the fact that there was no constitutional provision on point. Likewise, there is **no constitutional provision** on whether Congress has the legislative power to **limit, end, or otherwise redefine the scope of a war**. Though Justice Powell argues in Goldwater that the Treaty Clause and Article VI of the Constitution “add support to the view that the text of the Constitution does not unquestionably commit the power to terminate treaties to the President alone,” 126 **the same cannot be said about Congress’s legislative authority** to terminate or limit a war in a way that goes beyond its explicitly enumerated powers. There are no such similar provisions that would suggest Congress may decline to exercise its appropriation power but nonetheless legally order the President to cease all military operations. Thus, the case for deference to the political branches on this issue is even greater than it was in the Goldwater context. Finally, the Constitution does not imply any additional powers for Congress to end, limit, or redefine a war. The textual and historical evidence suggests the Framers purposefully **declined to grant Congress such powers**. And as this Article argues, granting Congress this power would be **inconsistent with the general war powers structure of the Constitution.** Such a reading of the Constitution would **unnecessarily empower Congress** and **tilt the scales heavily in its favor**. More over, it would strip the President of his Commander in Chief authority to direct the movement of troops at a time **when the Executive’s expertise is needed.** 127 And fears that the President will grow too powerful are unfounded, given the reasons noted above. 128 In short, the Constitution does not impliedly afford Congress any authority to prematurely terminate a war above what it explicitly grants. 129 Declaring these issues nonjusticiable political questions would be the most practical means of balancing the textual and historical demands, the structural demands, and the practical demands that complex modern warfare brings . Adjudicating these matters would only lead the courts to engage in impermissible line drawing — lines that would both confus e the issue and add layers to the text of the Constitution in an area where the Framers themselves declined to give such guidance.

Causes global conflict

Li ‘9

Zheyao, J.D. candidate, Georgetown University Law Center, 2009; B.A., political science and history, Yale University, 2006. This paper is the culmination of work begun in the "Constitutional Interpretation in the Legislative and Executive Branches" seminar, led by Judge Brett Kavanaugh, “War Powers for the Fourth Generation: Constitutional Interpretation in the Age of Asymmetric Warfare,” 7 Geo. J.L. & Pub. Pol'y 373 2009 WAR POWERS IN THE FOURTH GENERATION OF WARFARE

A. The Emergence of Non-State Actors

Even as the quantity of nation-states in the world has increased dramatically since the end of World War II, the institution of the nation-state has been in decline over the past few decades. Much of this decline is the direct result of the waning of major interstate war, which primarily resulted from the introduction of nuclear weapons.122 The proliferation of nuclear weapons, and their immense capacity for absolute destruction, has ensured that conventional wars remain limited in scope and duration. Hence, "both the size of the armed forces and the quantity of weapons at their disposal has declined quite sharply" since 1945.123 At the same time, concurrent with the decline of the nation-state in the second half of the twentieth century, non-state actors have increasingly been willing and able to use force to advance their causes. In contrast to nation-states, who adhere to the Clausewitzian distinction between the ends of policy and the means of war to achieve those ends, non-state actors do not necessarily fight as a mere means of advancing any coherent policy. Rather, they see their fight as a life-and-death struggle, wherein the ordinary terminology of war as an instrument of policy breaks down because of this blending of means and ends.124 It is the existential nature of this struggle and the disappearance of the Clausewitzian distinction between war and policy that has given rise to a new generation of warfare. The concept of fourth-generational warfare was first articulated in an influential article in the Marine Corps Gazette in 1989, which has proven highly prescient. In describing what they saw as the modem trend toward a new phase of warfighting, the authors argued that: In broad terms, fourth generation warfare seems likely to be widely dispersed and largely undefined; the distinction between war and peace will be blurred to the vanishing point. It will be nonlinear, possibly to the point of having no definable battlefields or fronts. The distinction between "civilian" and "military" may disappear. Actions will occur concurrently throughout all participants' depth, including their society as a cultural, not just a physical, entity. Major military facilities, such as airfields, fixed communications sites, and large headquarters will become rarities because of their vulnerability; the same may be true of civilian equivalents, such as seats of government, power plants, and industrial sites (including knowledge as well as manufacturing industries). 125 It is precisely this blurring of peace and war and the demise of traditionally definable battlefields that provides the impetus for the formulation of a new. theory of war powers. As evidenced by Part M, supra, the constitutional allocation of war powers, and the Framers' commitment of the war power to two co-equal branches, was not designed to cope with the current international system, one that is characterized by the persistent machinations of international terrorist organizations, the rise of multilateral alliances, the emergence of rogue states, and the potentially wide proliferation of easily deployable weapons of mass destruction, nuclear and otherwise. B. The Framers' World vs. Today's World The Framers crafted the Constitution, and the people ratified it, in a time when everyone understood that the state controlled both the raising of armies and their use. Today, however, the threat of terrorism is bringing an end to the era of the nation-state's legal monopoly on violence, and the kind of war that existed before-based on a clear division between government, armed forces, and the people-is on the decline. 126 As states are caught between their decreasing ability to fight each other due to the existence of nuclear weapons and the increasing threat from non-state actors, it is clear that the Westphalian system of nation-states that informed the Framers' allocation of war powers is no longer the order of the day. 127 As seen in Part III, supra, the rise of the modem nation-state occurred as a result of its military effectiveness and ability to defend its citizens. If nation-states such as the United States are unable to adapt to the changing circumstances of fourth-generational warfare-that is, if they are unable to adequately defend against low-intensity conflict conducted by non-state actors-"then clearly [the modem state] does not have a future in front of it.' 128 The challenge in formulating a new theory of war powers for fourthgenerational warfare that remains legally justifiable lies in the difficulty of adapting to changed circumstances while remaining faithful to the constitutional text and the original meaning. 29 To that end, it is crucial to remember that the Framers crafted the Constitution in the context of the Westphalian system of nation-states. The three centuries following the Peace of Westphalia of 1648 witnessed an international system characterized by wars, which, "through the efforts of governments, assumed a more regular, interconnected character."' 130 That period saw the rise of an independent military class and the stabilization of military institutions. Consequently, "warfare became more regular, better organized, and more attuned to the purpose of war-that is, to its political objective."' 1 3' That era is now over. Today, the stability of the long-existing Westphalian international order has been greatly eroded in recent years with the advent of international terrorist organizations, which care nothing for the traditional norms of the laws of war. This new global environment exposes the limitations inherent in the interpretational methods of originalism and textualism and necessitates the adoption of a new method of constitutional interpretation. While one must always be aware of the text of the Constitution and the original understanding of that text, that very awareness identifies the extent to which fourth-generational warfare epitomizes a phenomenon unforeseen by the Framers, a problem the constitutional resolution of which must rely on the good judgment of the present generation. 13 Now, to adapt the constitutional warmarking scheme to the new international order characterized by fourth-generational warfare, one must understand the threat it is being adapted to confront. C. The Jihadist Threat The erosion of the Westphalian and Clausewitzian model of warfare and the blurring of the distinction between the means of warfare and the ends of policy, which is one characteristic of fourth-generational warfare, apply to al-Qaeda and other adherents of jihadist ideology who view the United States as an enemy. An excellent analysis of jihadist ideology and its implications for the rest of the world are presented by Professor Mary Habeck. 133 Professor Habeck identifies the centrality of the Qur'an, specifically a particular reading of the Qur'an and hadith (traditions about the life of Muhammad), to the jihadist terrorists. 134 The jihadis believe that the scope of the Qur'an is universal, and "that their interpretation of Islam is also intended for the entire world, which must be brought to recognize this fact peacefully if possible and through violence if not."' 135 Along these lines, the jihadis view the United States and her allies as among the greatest enemies of Islam: they believe "that every element of modern Western liberalism is flawed, wrong, and evil" because the basis of liberalism is secularism. 136 The jihadis emphasize the superiority of Islam to all other religions, and they believe that "God does not want differing belief systems to coexist."' 37 For this reason, jihadist groups such as al-Qaeda "recognize that the West will not submit without a fight and believe in fact that the Christians, Jews, and liberals have united against Islam in a war that will end in the complete destruction of the unbelievers.' 138 Thus, the adherents of this jihadist ideology, be it al-Qaeda or other groups, will continue to target the United States until she is destroyed. Their ideology demands it. 139 To effectively combat terrorist groups such as al-Qaeda, it is necessary to understand not only how they think, but also how they operate. Al-Qaeda is a transnational organization capable of simultaneously managing multiple operations all over the world."14 It is both centralized and decentralized: al-Qaeda is centralized in the sense that Osama bin Laden is the unquestioned leader, but it is decentralized in that its operations are carried out locally, by distinct cells."4 AI-Qaeda benefits immensely from this arrangement because it can exercise direct control over high-probability operations, while maintaining a distance from low-probability attacks, only taking the credit for those that succeed. The local terrorist cells benefit by gaining access to al-Qaeda's "worldwide network of assets, people, and expertise."' 42 Post-September 11 events have highlighted al-Qaeda's resilience. Even as the United States and her allies fought back, inflicting heavy casualties on al-Qaeda in Afghanistan and destroying dozens of cells worldwide, "al-Qaeda's networked nature allowed it to absorb the damage and remain a threat." 14 3 This is a far cry from earlier generations of warfare, where the decimation of the enemy's military forces would generally bring an end to the conflict. D. The Need for Rapid Reaction and Expanded Presidential War Power By now it should be clear just how different this conflict against the extremist terrorists is from the type of warfare that occupied the minds of the Framers at the time of the Founding. Rather than maintaining the geographical and political isolation desired by the Framers for the new country, today's United States is an international power targeted by individuals and groups that will not rest until seeing her demise. The Global War on Terrorism is not truly a war within the Framers' eighteenth-century conception of the term, and the normal constitutional provisions regulating the division of war powers between Congress and the President do not apply. Instead, this "war" is a struggle for survival and dominance against forces that threaten to destroy the United States and her allies, and the fourth-generational nature of the conflict, highlighted by an indiscernible distinction between wartime and peacetime, necessitates an evolution of America's traditional constitutional warmaking scheme. As first illustrated by the military strategist Colonel John Boyd, constitutional decision-making in the realm of war powers in the fourth generation should consider the implications of the OODA Loop: Observe, Orient, Decide, and Act. 44 In the era of fourth-generational warfare, quick reactions, proceeding through the OODA Loop rapidly, and disrupting the enemy's OODA loop are the keys to victory. "In order to win," Colonel Boyd suggested, "we should operate at a faster tempo or rhythm than our adversaries." 145 In the words of Professor Creveld, "[b]oth organizationally and in terms of the equipment at their disposal, the armed forces of the world will have to adjust themselves to this situation by changing their doctrine, doing away with much of their heavy equipment and becoming more like police."1 46 Unfortunately, the existing constitutional understanding, which diffuses war power between two branches of government, necessarily (by the Framers' design) slows down decision- making. In circumstances where war is undesirable (which is, admittedly, most of the time, especially against other nation-states), the deliberativeness of the existing decision-making process is a positive attribute. In America's current situation, however, in the midst of the conflict with al-Qaeda and other international terrorist organizations, the existing process of constitutional decision-making in warfare may prove a fatal hindrance to achieving the initiative necessary for victory. As a slow-acting, deliberative body, Congress does not have the ability to adequately deal with fast-emerging situations in fourth-generational warfare. Thus, in order to combat transnational threats such as al-Qaeda, the executive branch must have the ability to operate by taking offensive military action even without congressional authorization, because only the executive branch is capable of the swift decision-making and action necessary to prevail in fourth-generational conflicts against fourthgenerational opponents.

## 3

Your decision should answer the resolutional question: Is the enactment of topical action better than the status quo or a competitive option?

1. “Resolved” before a colon reflects a legislative forum

Army Officer School ‘04

 (5-12, “# 12, Punctuation – The Colon and Semicolon”, http://usawocc.army.mil/IMI/wg12.htm)

The colon introduces the following: a.  A list, but only after "as follows," "the following," or a noun for which the list is an appositive: Each scout will carry the following: (colon) meals for three days, a survival knife, and his sleeping bag. The company had four new officers: (colon) Bill Smith, Frank Tucker, Peter Fillmore, and Oliver Lewis. b.  A long quotation (one or more paragraphs): In The Killer Angels Michael Shaara wrote: (colon) You may find it a different story from the one you learned in school. There have been many versions of that battle [Gettysburg] and that war [the Civil War]. (The quote continues for two more paragraphs.) c.  A formal quotation or question: The President declared: (colon) "The only thing we have to fear is fear itself." The question is: (colon) what can we do about it? d.  A second independent clause which explains the first: Potter's motive is clear: (colon) he wants the assignment. e.  After the introduction of a business letter: Dear Sirs: (colon) Dear Madam: (colon) f.  The details following an announcement For sale: (colon) large lakeside cabin with dock g.  A *formal* resolution, after the word "resolved:"

Resolved: (colon) That this council petition the mayor.

2. “USFG should” means the debate is solely about a policy established by governmental means

Ericson ‘03

(Jon M., Dean Emeritus of the College of Liberal Arts – California Polytechnic U., et al., The Debater’s Guide, Third Edition, p. 4)

The Proposition of Policy: Urging Future Action In policy propositions, each topic contains certain key elements, although they have slightly different functions from comparable elements of value-oriented propositions. 1. An agent doing the acting ---“The United States” in “The United States should adopt a policy of free trade.” Like the object of evaluation in a proposition of value, the agent is the subject of the sentence. 2. The verb *should*—the first part of a verb phrase that urges action. 3. An action verb to follow *should* in the *should*-verb combination. For example, *should adopt* here **means to put a** program or **policy into action though governmental means**. 4. A specification of directions or a limitation of the action desired. The phrase *free trade*, for example, gives direction and limits to the topic, which would, for example, eliminate consideration of increasing tariffs, discussing diplomatic recognition, or discussing interstate commerce. Propositions of policy deal with future action. Nothing has yet occurred. The entire debate is about whether something ought to occur. What you agree to do, then, when you accept the *affirmative side* in such a debate is to offer sufficient and compelling reasons for an audience to perform the future action that you propose.

They claim to win the debate for reasons other than the desirability of USFG action. That undermines preparation and clash. Changing the question now leaves one side unprepared, resulting in shallow, uneducational debate. Requiring debate on national security law forces argument development and develops persuasive skills critical to any political outcome.

Laura K. Donohue, Associate Professor of Law, Georgetown Law, 4/11/13, National Security Law Pedagogy and the Role of Simulations, http://jnslp.com/wp-content/uploads/2013/04/National-Security-Law-Pedagogy-and-the-Role-of-Simulations.pdf

The concept of simulations as an aspect of higher education, or in the law school environment, is not new.164 Moot court, after all, is a form of simulation and one of the oldest teaching devices in the law. What is new, however, is the idea of designing a civilian national security course that takes advantage of the doctrinal and experiential components of law school education and integrates the experience through a multi-day simulation. In 2009, I taught the first module based on this design at Stanford Law, which I developed the following year into a full course at Georgetown Law. It has since gone through multiple iterations. The initial concept followed on the federal full-scale Top Official (“TopOff”) exercises, used to train government officials to respond to domestic crises.165 It adapted a Tabletop Exercise, designed with the help of exercise officials at DHS and FEMA, to the law school environment. The Tabletop used one storyline to push on specific legal questions, as students, assigned roles in the discussion, sat around a table and for six hours engaged with the material. The problem with the Tabletop Exercise was that it was too static, and the rigidity of the format left little room, or time, for student agency. Unlike the government’s TopOff exercises, which gave officials the opportunity to fully engage with the many different concerns that arise in the course of a national security crisis as well as the chance to deal with externalities, the Tabletop focused on specific legal issues, even as it controlled for external chaos. The opportunity to provide a more full experience for the students came with the creation of first a one-day, and then a multi-day simulation. The course design and simulation continues to evolve. It offers a model for achieving the pedagogical goals outlined above, in the process developing a rigorous training ground for the next generation of national security lawyers.166 A. Course Design The central idea in structuring the NSL Sim 2.0 course **was to bridge the gap between theory and practice by conveying** doctrinal **material and** creating an alternative reality in which students would be forced to act upon legal concerns.167 The exercise itself is a form of problem-based learning, wherein students are given both agency and responsibility for the results. Towards this end, the structure must be at once bounded (directed and focused on certain areas of the law and legal education) and flexible (responsive to student input and decisionmaking). Perhaps the most significant weakness in the use of any constructed universe is the problem of authenticity. Efforts to replicate reality will inevitably fall short. There is simply too much uncertainty, randomness, and complexity in the real world. One way to address this shortcoming, however, is through design and agency. The scenarios with which students grapple and the structural design of the simulation must reflect the national security realm, even as students themselves must make choices that carry consequences. Indeed, to some extent, student decisions themselves must drive the evolution of events within the simulation.168 Additionally, **while authenticity matters, it is worth noting that at some level the fact that the incident does not take place in a real-world setting can be a great advantage**. That is, the simulation creates an environment where students can make mistakes and learn from these mistakes – without what might otherwise be devastating consequences. It also allows instructors to develop multiple points of feedback to enrich student learning in a way that would be much more difficult to do in a regular practice setting. NSL Sim 2.0 takes as its starting point the national security pedagogical goals discussed above. It works backwards to then engineer a classroom, cyber, and physical/simulation experience to delve into each of these areas. As a substantive matter, the course focuses on the constitutional, statutory, and regulatory authorities in national security law, placing particular focus on the interstices between black letter law and areas where the field is either unsettled or in flux. A key aspect of the course design is that it retains both the doctrinal and experiential components of legal education. Divorcing simulations from the doctrinal environment risks falling short on the first and third national security pedagogical goals: (1) analytical skills and substantive knowledge, and (3) critical thought. A certain amount of both can be learned in the course of a simulation; however, the national security crisis environment is not well-suited to the more thoughtful and careful analytical discussion. What I am thus proposing is a course design in which doctrine is paired with the type of experiential learning more common in a clinical realm. The former precedes the latter, giving students the opportunity to develop depth and breadth prior to the exercise. In order to capture problems related to adaptation and evolution, addressing goal [1(d)], the simulation itself takes place over a multi-day period. Because of the intensity involved in national security matters (and conflicting demands on student time), the model makes use of a multi-user virtual environment. The use of such technology is critical to creating more powerful, immersive simulations.169 It also allows for continual interaction between the players. Multi-user virtual environments have the further advantage of helping to transform the traditional teaching culture, predominantly concerned with manipulating textual and symbolic knowledge, into a culture where students learn and can then be assessed on the basis of their participation in changing practices.170 I thus worked with the Information Technology group at Georgetown Law to build the cyber portal used for NSL Sim 2.0. The twin goals of adaptation and evolution require that students be given a significant amount of agency and responsibility for decisions taken in the course of the simulation. To further this aim, I constituted a Control Team, with six professors, four attorneys from practice, a media expert, six to eight former simulation students, and a number of technology experts. Four of the professors specialize in different areas of national security law and assume roles in the course of the exercise, with the aim of pushing students towards a deeper doctrinal understanding of shifting national security law authorities. One professor plays the role of President of the United States. The sixth professor focuses on questions of professional responsibility. The attorneys from practice help to build the simulation and then, along with all the professors, assume active roles during the simulation itself. Returning students assist in the execution of the play, further developing their understanding of national security law. Throughout the simulation, the Control Team is constantly reacting to student choices. When unexpected decisions are made, professors may choose to pursue the evolution of the story to accomplish the pedagogical aims, or they may choose to cut off play in that area (there are various devices for doing so, such as denying requests, sending materials to labs to be analyzed, drawing the players back into the main storylines, and leaking information to the media). A total immersion simulation involves a number of scenarios, as well as systemic noise, to give students experience in dealing with the second pedagogical goal: factual chaos and information overload. The driving aim here is to teach students how to manage information more effectively. Five to six storylines are thus developed, each with its own arc and evolution. To this are added multiple alterations of the situation, relating to background noise. Thus, unlike hypotheticals, doctrinal problems, single-experience exercises, or even Tabletop exercises, the goal is not to eliminate external conditions, but to embrace them as part of the challenge facing national security lawyers. The simulation itself is problem-based, giving players agency in driving the evolution of the experience – thus addressing goal [2(c)]. This requires a realtime response from the professor(s) overseeing the simulation, pairing bounded storylines with flexibility to emphasize different areas of the law and the students’ practical skills. Indeed, each storyline is based on a problem facing the government, to which players must then respond, generating in turn a set of new issues that must be addressed. The written and oral components of the simulation conform to the fourth pedagogical goal – the types of situations in which national security lawyers will find themselves. Particular emphasis is placed on nontraditional modes of communication, such as legal documents in advance of the crisis itself, meetings in the midst of breaking national security concerns, multiple informal interactions, media exchanges, telephone calls, Congressional testimony, and formal briefings to senior level officials in the course of the simulation as well as during the last class session. These oral components are paired with the preparation of formal legal instruments, such as applications to the Foreign Intelligence Surveillance Court, legal memos, applications for search warrants under Title III, and administrative subpoenas for NSLs. In addition, students are required to prepare a paper outlining their legal authorities prior to the simulation – and to deliver a 90 second oral briefing after the session. To replicate the high-stakes political environment at issue in goals (1) and (5), students are divided into political and legal roles and assigned to different (and competing) institutions: the White House, DoD, DHS, HHS, DOJ, DOS, Congress, state offices, nongovernmental organizations, and the media. This requires students to acknowledge and work within the broader Washington context, even as they are cognizant of the policy implications of their decisions. They must get used to working with policymakers and to representing one of many different considerations that decisionmakers take into account in the national security domain. Scenarios are selected with high consequence events in mind, to ensure that students recognize both the domestic and international dimensions of national security law. Further alterations to the simulation provide for the broader political context – for instance, whether it is an election year, which parties control different branches, and state and local issues in related but distinct areas. The media is given a particularly prominent role. One member of the Control Team runs an AP wire service, while two student players represent print and broadcast media, respectively. The Virtual News Network (“VNN”), which performs in the second capacity, runs continuously during the exercise, in the course of which players may at times be required to appear before the camera. This media component helps to emphasize the broader political context within which national security law is practiced. Both anticipated and unanticipated decisions give rise to ethical questions and matters related to the fifth goal: professional responsibility. The way in which such issues arise stems from simulation design as well as spontaneous interjections from both the Control Team and the participants in the simulation itself. As aforementioned, professors on the Control Team, and practicing attorneys who have previously gone through a simulation, focus on raising decision points that encourage students to consider ethical and professional considerations. Throughout the simulation good judgment and leadership play a key role, determining the players’ effectiveness, with the exercise itself hitting the aim of the integration of the various pedagogical goals. Finally, there are multiple layers of feedback that players receive prior to, during, and following the simulation to help them to gauge their effectiveness. The Socratic method in the course of doctrinal studies provides immediate assessment of the students’ grasp of the law. Written assignments focused on the contours of individual players’ authorities give professors an opportunity to assess students’ level of understanding prior to the simulation. And the simulation itself provides real-time feedback from both peers and professors. The Control Team provides data points for player reflection – for instance, the Control Team member playing President may make decisions based on player input, giving students an immediate impression of their level of persuasiveness, while another Control Team member may reject a FISC application as insufficient. The simulation goes beyond this, however, focusing on teaching students how to develop (6) opportunities for learning in the future. Student meetings with mentors in the field, which take place before the simulation, allow students to work out the institutional and political relationships and the manner in which law operates in practice, even as they learn how to develop mentoring relationships. (Prior to these meetings we have a class discussion about mentoring, professionalism, and feedback). Students, assigned to simulation teams about one quarter of the way through the course, receive peer feedback in the lead-up to the simulation and during the exercise itself. Following the simulation the Control Team and observers provide comments. Judges, who are senior members of the bar in the field of national security law, observe player interactions and provide additional debriefing. The simulation, moreover, is recorded through both the cyber portal and through VNN, allowing students to go back to assess their performance. Individual meetings with the professors teaching the course similarly follow the event. Finally, students end the course with a paper reflecting on their performance and the issues that arose in the course of the simulation, develop frameworks for analyzing uncertainty, tension with colleagues, mistakes, and successes in the future. B. Substantive Areas: Interstices and Threats As a substantive matter, NSL Sim 2.0 is designed to take account of areas of the law central to national security. It focuses on specific authorities that may be brought to bear in the course of a crisis. The decision of which areas to explore is made well in advance of the course. It is particularly helpful here to think about national security authorities on a continuum, as a way to impress upon students that there are shifting standards depending upon the type of threat faced. One course, for instance, might center on the interstices between crime, drugs, terrorism and war. Another might address the intersection of pandemic disease and biological weapons. A third could examine cybercrime and cyberterrorism. **This is the most important determination, because the substance of the** doctrinal portion of the course and the **simulation follows from this decision**. For a course focused on the interstices between pandemic disease and biological weapons, for instance, preliminary inquiry would lay out which authorities apply, where the courts have weighed in on the question, and what matters are unsettled. Relevant areas might include public health law, biological weapons provisions, federal quarantine and isolation authorities, habeas corpus and due process, military enforcement and posse comitatus, eminent domain and appropriation of land/property, takings, contact tracing, thermal imaging and surveillance, electronic tagging, vaccination, and intelligence-gathering. The critical areas can then be divided according to the dominant constitutional authority, statutory authorities, regulations, key cases, general rules, and constitutional questions. **This**, then, **becomes a guide for the** doctrinal part of the **course, as well as the grounds on which the specific scenarios developed for the simulation** are based. The authorities, simultaneously, are included in an electronic resource library and embedded in the cyber portal (the Digital Archives) to act as a closed universe of the legal authorities needed by the students in the course of the simulation. Professional responsibility in the national security realm and the institutional relationships of those tasked with responding to biological weapons and pandemic disease also come within the doctrinal part of the course. The simulation itself is based on five to six storylines reflecting the interstices between different areas of the law. The storylines are used to present a coherent, non-linear scenario that can adapt to student responses. Each scenario is mapped out in a three to seven page document, which is then checked with scientists, government officials, and area experts for consistency with how the scenario would likely unfold in real life. For the biological weapons and pandemic disease emphasis, for example, one narrative might relate to the presentation of a patient suspected of carrying yersinia pestis at a hospital in the United States. The document would map out a daily progression of the disease consistent with epidemiological patterns and the central actors in the story: perhaps a U.S. citizen, potential connections to an international terrorist organization, intelligence on the individual’s actions overseas, etc. The scenario would be designed specifically to stress the intersection of public health and counterterrorism/biological weapons threats, and the associated (shifting) authorities, thus requiring the disease initially to look like an innocent presentation (for example, by someone who has traveled from overseas), but then for the storyline to move into the second realm (awareness that this was in fact a concerted attack). A second storyline might relate to a different disease outbreak in another part of the country, with the aim of introducing the Stafford Act/Insurrection Act line and raising federalism concerns. The role of the military here and Title 10/Title 32 questions would similarly arise – with the storyline designed to raise these questions. A third storyline might simply be well developed noise in the system: reports of suspicious activity potentially linked to radioactive material, with the actors linked to nuclear material. A fourth storyline would focus perhaps on container security concerns overseas, progressing through newspaper reports, about containers showing up in local police precincts. State politics would constitute the fifth storyline, raising question of the political pressures on the state officials in the exercise. Here, ethnic concerns, student issues, economic conditions, and community policing concerns might become the focus. The sixth storyline could be further noise in the system – loosely based on current events at the time. In addition to the storylines, a certain amount of noise is injected into the system through press releases, weather updates, private communications, and the like. The five to six storylines, prepared by the Control Team in consultation with experts, become the basis for the preparation of scenario “injects:” i.e., newspaper articles, VNN broadcasts, reports from NGOs, private communications between officials, classified information, government leaks, etc., which, when put together, constitute a linear progression. These are all written and/or filmed prior to the exercise. The progression is then mapped in an hourly chart for the unfolding events over a multi-day period. All six scenarios are placed on the same chart, in six columns, giving the Control Team a birds-eye view of the progression. C. How It Works As for the nuts and bolts of the simulation itself, it traditionally begins outside of class, in the evening, on the grounds that national security crises often occur at inconvenient times and may well involve limited sleep and competing demands.171 Typically, a phone call from a Control Team member posing in a role integral to one of the main storylines, initiates play. Students at this point have been assigned dedicated simulation email addresses and provided access to the cyber portal. The portal itself gives each team the opportunity to converse in a “classified” domain with other team members, as well as access to a public AP wire and broadcast channel, carrying the latest news and on which press releases or (for the media roles) news stories can be posted. The complete universe of legal authorities required for the simulation is located on the cyber portal in the Digital Archives, as are forms required for some of the legal instruments (saving students the time of developing these from scratch in the course of play). Additional “classified” material – both general and SCI – has been provided to the relevant student teams. The Control Team has access to the complete site. For the next two (or three) days, outside of student initiatives (which, at their prompting, may include face-to-face meetings between the players), the entire simulation takes place through the cyber portal. The Control Team, immediately active, begins responding to player decisions as they become public (and occasionally, through monitoring the “classified” communications, before they are released). This time period provides a ramp-up to the third (or fourth) day of play, allowing for the adjustment of any substantive, student, or technology concerns, while setting the stage for the breaking crisis. The third (or fourth) day of play takes place entirely at Georgetown Law. A special room is constructed for meetings between the President and principals, in the form of either the National Security Council or the Homeland Security Council, with breakout rooms assigned to each of the agencies involved in the NSC process. Congress is provided with its own physical space, in which meetings, committee hearings and legislative drafting can take place. State government officials are allotted their own area, separate from the federal domain, with the Media placed between the three major interests. The Control Team is sequestered in a different area, to which students are not admitted. At each of the major areas, the cyber portal is publicly displayed on large flat panel screens, allowing for the streaming of video updates from the media, AP wire injects, articles from the students assigned to represent leading newspapers, and press releases. Students use their own laptop computers for team decisions and communication. As the storylines unfold, the Control Team takes on a variety of roles, such as that of the President, Vice President, President’s chief of staff, governor of a state, public health officials, and foreign dignitaries. Some of the roles are adopted on the fly, depending upon player responses and queries as the storylines progress. Judges, given full access to each player domain, determine how effectively the students accomplish the national security goals. The judges are themselves well-experienced in the practice of national security law, as well as in legal education. They thus can offer a unique perspective on the scenarios confronted by the students, the manner in which the simulation unfolded, and how the students performed in their various capacities. At the end of the day, the exercise terminates and an immediate hotwash is held, in which players are first debriefed on what occurred during the simulation. Because of the players’ divergent experiences and the different roles assigned to them, the students at this point are often unaware of the complete picture. The judges and formal observers then offer reflections on the simulation and determine which teams performed most effectively. Over the next few classes, more details about the simulation emerge, as students discuss it in more depth and consider limitations created by their knowledge or institutional position, questions that arose in regard to their grasp of the law, the types of decision-making processes that occurred, and the effectiveness of their – and other students’ – performances. Reflection papers, paired with oral briefings, focus on the substantive issues raised by the simulation and introduce the opportunity for students to reflect on how to create opportunities for learning in the future. The course then formally ends.172 Learning, however, continues beyond the temporal confines of the semester. Students who perform well and who would like to continue to participate in the simulations are invited back as members of the control team, giving them a chance to deepen their understanding of national security law. Following graduation, a few students who go in to the field are then invited to continue their affiliation as National Security Law fellows, becoming increasingly involved in the evolution of the exercise itself. This system of vertical integration helps to build a mentoring environment for the students while they are enrolled in law school and to create opportunities for learning and mentorship post-graduation. It helps to keep the exercise current and reflective of emerging national security concerns. And it builds a strong community of individuals with common interests. CONCLUSION The legal academy has, of late, been swept up in concern about the economic conditions that affect the placement of law school graduates. The image being conveyed, however, does not resonate in every legal field. It is particularly inapposite to the burgeoning opportunities presented to students in national security. That the conversation about legal education is taking place now should come as little surprise. Quite apart from economic concern is the traditional introspection that follows American military engagement. It makes sense: law overlaps substantially with political power, being at once both the expression of government authority and the effort to limit the same. **The one-size fits all approach** currently **dominating the conversation in legal education, however, appears ill-suited to address the concerns raised** in the current conversation. **Instead of looking at law across the board, greater insight can be gleaned by looking at** the specific demands of the different fields themselves. This does not mean that the goals identified will be exclusive to, for instance, national security law, but it does suggest there will be greater nuance in the discussion of the adequacy of the current pedagogical approach. With this approach in mind, I have here suggested six pedagogical goals for national security. For following graduation, students must be able to perform in each of the areas identified – (1) understanding the law as applied, (2) dealing with factual chaos and uncertainty, (3) obtaining critical distance, (4) developing nontraditional written and oral communication skills, (5) exhibiting leadership, integrity, and good judgment in a high-stakes, highly-charged environment, and (6) creating continued opportunities for self-learning. They also must learn how to integrate these different skills into one experience, to ensure that they will be most effective when they enter the field. The problem with the current structures in legal education is that they fall short, in important ways, from helping students to meet these goals. Doctrinal courses may incorporate a range of experiential learning components, such as hypotheticals, doctrinal problems, single exercises, extended or continuing exercises, and tabletop exercises. These are important classroom devices. The amount of time required for each varies, as does the object of the exercise itself. But where they fall short is in providing a more holistic approach to national security law which will allow for the maximum conveyance of required skills. Total immersion **simulations**, which have not yet been addressed in the secondary literature for civilian education in national security law, may **provide an important way forward**. Such **simulations** also **cure shortcomings in other areas of experiential education**, such as clinics and moot court. It is in an effort to address these concerns that I developed **the simulation model** above. NSL Sim 2.0 certainly is not the only solution, but it **does provide a** starting point for moving forward. The approach draws on the strengths of doctrinal courses and embeds a total immersion simulation within a course. **It makes use of technology and physical space to engage students in a multi-day exercise, in which** they are given agency and responsibility for their decision making, resulting in a steep learning curve. While further adaptation of this model is undoubtedly necessary, it suggests one potential direction for the years to come.

Debate over a controversial point of action creates argumentative stasis—that’s key to avoid a devolution of debate into competing truth claims, which destroys the decision-making benefits of the activity

Steinberg and Freeley ‘13

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*Critical Thinking for Reasoned Decision Making*, Thirteen Edition

Debate is a means of settling differences, so there must be a controversy, a difference of opinion or a conflict of interest before there can be a debate. If everyone is in agreement on a feet or value or policy, there is no need or opportunity for debate; the matter can be settled by unanimous consent. Thus, for example, it would be pointless to attempt to debate "Resolved: That two plus two equals four,” because there is simply no controversy about this state­ment. Controversy is an essential prerequisite of debate. Where there is no clash of ideas, proposals, interests, or expressed positions of issues, there is no debate. Controversy invites decisive choice between competing positions. Debate cannot produce effective decisions without clear identification of a question or questions to be answered. For example, general argument may occur about the broad topic of illegal immigration. How many illegal immigrants live in the United States? What is the impact of illegal immigration and immigrants on our economy? What is their impact on our communities? Do they commit crimes? Do they take jobs from American workers? Do they pay taxes? Do they require social services? Is it a problem that some do not speak English? Is it the responsibility of employers to discourage illegal immigration by not hiring undocumented workers? Should they have the opportunity to gain citizenship? Does illegal immigration pose a security threat to our country? Do illegal immigrants do work that American workers are unwilling to do? Are their rights as workers and as human beings at risk due to their status? Are they abused by employers, law enforcement, housing, and businesses? How are their families impacted by their status? What is the moral and philosophical obligation of a nation state to maintain its borders? Should we build a wall on the Mexican border, establish a national identification card, or enforce existing laws against employers? Should we invite immigrants to become U.S. citizens? Surely you can think of many more concerns to be addressed by a conversation about the topic area of illegal immigration. Participation in this “debate” is likely to be emotional and intense. However, it is not likely to be productive or useful without focus on a particular question and identification of a line demarcating sides in the controversy. To be discussed and resolved effectively, controversies are best understood when seated clearly such that all parties to the debate share an understanding about the objec­tive of the debate. This enables focus on substantive and objectively identifiable issues facilitating comparison of competing argumentation leading to effective decisions. Vague understanding results in unfocused deliberation and poor deci­sions, general feelings of tension without opportunity for resolution, frustration, and emotional distress, as evidenced by the failure of the U.S. Congress to make substantial progress on the immigration debate. Of course, arguments may be presented without disagreement. For exam­ple, claims are presented and supported within speeches, editorials, and advertise­ments even without opposing or refutational response. Argumentation occurs in a range of settings from informal to formal, and may not call upon an audi­ence or judge to make a forced choice among competing claims. Informal dis­course occurs as conversation or panel discussion without demanding a decision about a dichotomous or yes/no question. However, by definition, debate requires "reasoned judgment on a proposition. The proposition is a statement about which competing advocates will offer alternative (pro or con) argumenta­tion calling upon their audience or adjudicator to decide. The proposition pro­vides focus for the discourse and guides the decision process. Even when a decision will be made through a process of compromise, it is important to iden­tify the beginning positions of competing advocates to begin negotiation and movement toward a center, or consensus position. It is frustrating and usually unproductive to attempt to make a decision when deciders are unclear as to what the decision is about. The proposition may be implicit in some applied debates (“Vote for me!”); however, when a vote or consequential decision is called for (as in the courtroom or in applied parliamentary debate) it is essential that the proposition be explicitly expressed (“the defendant is guilty!”). In aca­demic debate, the proposition provides essential guidance for the preparation of the debaters prior to the debate, the case building and discourse presented during the debate, and the decision to be made by the debate judge after the debate. Someone disturbed by the problem of a growing underclass of poorly educated, socially disenfranchised youths might observe, “Public schools are doing a terri­ble job! They' are overcrowded, and many teachers are poorly qualified in their subject areas. Even the best teachers can do little more than struggle to maintain order in their classrooms." That same concerned citizen, facing a complex range of issues, might arrive at an unhelpful decision, such as "We ought to do some­thing about this” or, worse, “It’s too complicated a problem to deal with." Groups of concerned citizens worried about the state of public education could join together to express their frustrations, anger, disillusionment, and emotions regarding the schools, but without a focus for their discussions, they could easily agree about the sorry state of education without finding points of clarity or potential solutions. A gripe session would follow. But if a precise question is posed—such as “What can be done to improve public education?”—then a more profitable area of discussion is opened up simply by placing a focus on the search for a concrete solution step. One or more judgments can be phrased in the form of debate propositions, motions for parliamentary debate, or bills for legislative assemblies, The statements "Resolved: That the federal government should implement a program of charter schools in at-risk communities” and “Resolved; That the state of Florida should adopt a school voucher program" more clearly identify specific ways of dealing with educational problems in a manageable form, suitable for debate. They provide specific policies to be investigated and aid discussants in identifying points of difference. This focus contributes to better and more informed decision making with the potential for better results. In aca­demic debate, it provides better depth of argumentation and enhanced opportu­nity for reaping the educational benefits of participation. In the next section, we will consider the challenge of framing the proposition for debate, and its role in the debate. To have a productive debate, which facilitates effective decision making by directing and placing limits on the decision to be made, the basis for argument should be clearly defined. If we merely talk about a topic, such as ‘"homeless­ness,” or “abortion,” Or “crime,” or “global warming,” we are likely to have an interesting discussion but not to establish a profitable basis for argument. For example, the statement “Resolved: That the pen is mightier than the sword” is debatable, yet by itself fails to provide much basis for dear argumen­tation. If we take this statement to mean Iliad the written word is more effec­tive than physical force for some purposes, we can identify a problem area: the comparative effectiveness of writing or physical force for a specific purpose, perhaps promoting positive social change. (Note that “loose” propositions, such as the example above, may be defined by their advocates in such a way as to facilitate a clear contrast of competing sides; through definitions and debate they “become” clearly understood statements even though they may not begin as such. There are formats for debate that often begin with this sort of proposition. However, in any debate, at some point, effective and meaningful discussion relies on identification of a clearly stated or understood proposition.) Back to the example of the written word versus physical force. Although we now have a general subject, we have not yet stated a problem. It is still too broad, too loosely worded to promote weII-organized argument. What sort of writing are we concerned with—poems, novels, government documents, web­site development, advertising, cyber-warfare, disinformation, or what? What does it mean to be “mightier" in this context? What kind of physical force is being compared—fists, dueling swords, bazookas, nuclear weapons, or what? A more specific question might be, “Would a mutual defense treaty or a visit by our fleet be more effective in assuring Laurania of our support in a certain crisis?” The basis for argument could be phrased in a debate proposition such as “Resolved: That the United States should enter into a mutual defense treaty with Laurania.” Negative advocates might oppose this proposition by arguing that fleet maneuvers would be a better solution. This is not to say that debates should completely avoid creative interpretation of the controversy by advo­cates, or that good debates cannot occur over competing interpretations of the controversy; in fact, these sorts of debates may be very engaging. The point is that debate is best facilitated by the guidance provided by focus on a particular point of difference, which will be outlined in the following discussion.

## 4

Anastasia and I oppose the war power authority to conduct military drone strikes outside of Pakistan. All information regarding drone strikes that are conducted should be made available for public knowledge. We oppose the use of signature strikes.

drones prevent Pakistan collapse

Curtis 7/15/13

Lisa Curtis is a senior research fellow at the Heritage Foundation, The National Interest, July 15, 2013, "Pakistan Makes Drones Necessary", http://nationalinterest.org/commentary/pakistan-makes-drones-necessary-8725?page=show

But until Islamabad cracks down more aggressively on groups attacking U.S. interests in the region and beyond, drones will remain an essential tool for fighting global terrorism. Numbering over three hundred and fifty since 2004, drone strikes in Pakistan have killed more than two dozen Al Qaeda operatives and hundreds of militants targeting U.S. and coalition forces.

President Obama made clear in his May 23 speech at the National Defense University that Washington would continue to use drones in Pakistan’s tribal border areas to support stabilization efforts in neighboring Afghanistan, even as it seeks to increase transparency and tighten targeting of the drone program in the future. Obama also defended the use of drones from a legal and moral standpoint, noting that by preemptively striking at terrorists, many innocent lives had been saved.

The most compelling evidence of the efficacy of the drone program came from Osama bin Laden himself, who shortly before his death contemplated moving Al Qaeda operatives from Pakistan into forested areas of Afghanistan in an attempt to escape the drones’ reach, according to Peter Bergen, renowned author of Manhunt: The Ten-Year Search for Bin Laden from 9/11 to Abbottabad.

How to Reduce the Need for Drones

The continuation of drone strikes signals U.S. frustration with Pakistan’s unwillingness to crack down consistently and comprehensively on groups that find sanctuary in Pakistan’s tribal areas. There continue to be close ties between the Pakistan military and the Taliban-allied Haqqani Network, which attacks U.S. forces in Afghanistan and undermines the overall U.S. and NATO strategy there.

The most recent U.S. drone attack inside Pakistani territory occurred last week against militants from the Haqqani Network located in North Waziristan, along the border with Afghanistan. In early June, drone missiles also targeted a group of fighters in Pakistan that were preparing to cross over into Afghanistan. On both occasions, the Pakistani Foreign Ministry condemned the attacks as counterproductive and said they raised serious questions about human rights.

No doubt a better alternative to the drones would be Pakistani action against terrorist sanctuaries. But Pakistan has stonewalled repeated U.S. requests for operations against the Haqqani network.

In addition to continuing drone strikes as necessary, the U.S. should further condition military aid to Pakistan based on its willingness to crack down on the Haqqani Network. In early June, the House of Representatives approved language in the FY 2014 National Defense Authorization Act that conditions reimbursement of Coalition Support Funds (CSF) pending Pakistani actions against the Haqqani network. Hopefully, the language will be retained in the final bill.

The United States provides CSF funds to reimburse Pakistan for the costs associated with stationing some one hundred thousand Pakistani troops along the border with Afghanistan. Pakistan has received over $10 billion in CSF funding over the last decade. One must question the worth of having troops stationed in this region if they refuse to go after one of the most dangerous terrorist groups.

Details of the relationship between the Pakistan military and the Haqqani Network are laid out in a recent book, Fountainhead of Jihad: The Haqqani Nexus, 1973–2012 by Vahid Brown and Don Rassler. The book highlights that Pakistan is actively assisting the Haqqani network the same way it has over the last twenty years, through training, tactical field advice, financing and material support. The assistance, the authors note, helps to sustain the Haqqani group and enhance its effectiveness on the battlefield.

Drones Help Pakistan

It is no secret that the drone strikes often benefit the Pakistani state. On May 29, for example, a drone missile strike killed the number two leader of the Pakistani Taliban (also referred to as the Tehrik-e-Taliban Pakistan or TTP), Waliur Rehman. The TTP has killed hundreds of Pakistani security forces and civilians in terrorist attacks throughout the country since its formation in 2007. Furthermore, the group conducted a string of suicide attacks and targeted assassinations against Pakistani election workers, candidates, and party activists in the run-up to the May elections, declaring a goal of killing democracy.

Complicating the picture even further is the fact that Pakistan’s support for the Haqqani network indirectly benefits the Pakistani Taliban. The Haqqanis play a pivotal role in the region by simultaneously maintaining ties with Al Qaeda, Pakistani intelligence and anti-Pakistan groups like the TTP. With such a confused and self-defeating Pakistani strategy, Washington has no choice but to rely on the judicious use of drone strikes.

Complicated Relationship

The U.S. will need to keep a close eye on the tribal border areas, where there is a nexus of terrorist groups that threaten not only U.S. interests but also the stability of the Pakistani state. Given that Pakistan is home to more international terrorists than almost any other country and, at the same time, has one of the fastest growing nuclear arsenals, the country will remain of vital strategic interest for Washington for many years to come.

Though the drone issue will continue to be a source of tension in the relationship, it is doubtful that it alone would derail ties. The extent to which the United States will continue to rely on drone strikes ultimately depends on Islamabad’s willingness to develop more decisive and comprehensive counterterrorism policies that include targeting groups like the Haqqani Network.

Collapse goes nuclear

William Pitt 9 is a New York Times and internationally bestselling author of two books: "War on Iraq: What Team Bush Doesn't Want You to Know" and "The Greatest Sedition Is Silence”, 5/8, “Unstable Pakistan Threatens the World,” <http://www.arabamericannews.com/news/index.php?mod=article&cat=commentary&article=2183>,

But a suicide bomber in Pakistan rammed a car packed with explosives into a jeep filled with troops today, killing five and wounding as many as 21, including several children who were waiting for a ride to school. Residents of the region where the attack took place are fleeing in terror as gunfire rings out around them, and government forces have been unable to quell the violence. Two regional government officials were beheaded by militants in retaliation for the killing of other militants by government forces. As familiar as this sounds, it did not take place where we have come to expect such terrible events. This, unfortunately, is a whole new ballgame. It is part of another conflict that is brewing, one which puts what is happening in Iraq and Afghanistan in deep shade, and which represents a grave and growing threat to us all. Pakistan is now trembling on the edge of violent chaos, and is doing so with nuclear weapons in its hip pocket, right in the middle of one of the most dangerous neighborhoods in the world. The situation in brief: Pakistan for years has been a nation in turmoil, run by a shaky government supported by a corrupted system, dominated by a blatantly criminal security service, and threatened by a large fundamentalist Islamic population with deep ties to the Taliban in Afghanistan. All this is piled atop an ongoing standoff with neighboring India that has been the center of political gravity in the region for more than half a century. The fact that Pakistan, and India, and Russia, and China all possess nuclear weapons and share the same space means any ongoing or escalating violence over there has the real potential to crack open the very gates of Hell itself. Recently, the Taliban made a military push into the northwest Pakistani region around the Swat Valley. According to a recent Reuters report: The (Pakistani) army deployed troops in Swat in October 2007 and used artillery and gunship helicopters to reassert control. But insecurity mounted after a civilian government came to power last year and tried to reach a negotiated settlement. A peace accord fell apart in May 2008. After that, hundreds — including soldiers, militants and civilians — died in battles. Militants unleashed a reign of terror, killing and beheading politicians, singers, soldiers and opponents. They banned female education and destroyed nearly 200 girls' schools. About 1,200 people were killed since late 2007 and 250,000 to 500,000 fled, leaving the militants in virtual control. Pakistan offered on February 16 to introduce Islamic law in the Swat valley and neighboring areas in a bid to take the steam out of the insurgency. The militants announced an indefinite cease-fire after the army said it was halting operations in the region. President Asif Ali Zardari signed a regulation imposing sharia in the area last month. But the Taliban refused to give up their guns and pushed into Buner and another district adjacent to Swat, intent on spreading their rule. The United States, already embroiled in a war against Taliban forces in Afghanistan, must now face the possibility that Pakistan could collapse under the mounting threat of Taliban forces there. Military and diplomatic advisers to President Obama, uncertain how best to proceed, now face one of the great nightmare scenarios of our time. "Recent militant gains in Pakistan," reported The New York Times on Monday, "have so alarmed the White House that the national security adviser, Gen. James L. Jones, described the situation as 'one of the very most serious problems we face.'" "Security was deteriorating rapidly," reported The Washington Post on Monday, "particularly in the mountains along the Afghan border that harbor al-Qaeda and the Taliban, intelligence chiefs reported, and there were signs that those groups were working with indigenous extremists in Pakistan's populous Punjabi heartland. The Pakistani government was mired in political bickering. The army, still fixated on its historical adversary India, remained ill-equipped and unwilling to throw its full weight into the counterinsurgency fight. But despite the threat the intelligence conveyed, Obama has only limited options for dealing with it. Anti-American feeling in Pakistan is high, and a U.S. combat presence is prohibited. The United States is fighting Pakistan-based extremists by proxy, through an army over which it has little control, in alliance with a government in which it has little confidence." It is believed Pakistan is currently in possession of between 60 and 100 nuclear weapons. Because Pakistan's stability is threatened by the wide swath of its population that shares ethnic, cultural and religious connections to the fundamentalist Islamic populace of Afghanistan, fears over what could happen to those nuclear weapons if the Pakistani government collapses are very real. "As the insurgency of the Taliban and Al Qaeda spreads in Pakistan," reported the Times last week, "senior American officials say they are increasingly concerned about new vulnerabilities for Pakistan's nuclear arsenal, including the potential for militants to snatch a weapon in transport or to insert sympathizers into laboratories or fuel-production facilities. In public, the administration has only hinted at those concerns, repeating the formulation that the Bush administration used: that it has faith in the Pakistani Army. But that cooperation, according to officials who would not speak for attribution because of the sensitivity surrounding the exchanges between Washington and Islamabad, has been sharply limited when the subject has turned to the vulnerabilities in the Pakistani nuclear infrastructure." "The prospect of turmoil in Pakistan sends shivers up the spines of those U.S. officials charged with keeping tabs on foreign nuclear weapons," reported Time Magazine last month. "Pakistan is thought to possess about 100 — the U.S. isn't sure of the total, and may not know where all of them are. Still, if Pakistan collapses, the U.S. military is primed to enter the country and secure as many of those weapons as it can, according to U.S. officials. Pakistani officials insist their personnel safeguards are stringent, but a sleeper cell could cause big trouble, U.S. officials say." In other words, a shaky Pakistan spells trouble for everyone, especially if America loses the footrace to secure those weapons in the event of the worst-case scenario. If Pakistani militants ever succeed in toppling the government, several very dangerous events could happen at once. Nuclear-armed India could be galvanized into military action of some kind, as could nuclear-armed China or nuclear-armed Russia. If the Pakistani government does fall, and all those Pakistani nukes are not immediately accounted for and secured, the specter (or reality) of loose nukes falling into the hands of terrorist organizations could place the entire world on a collision course with unimaginable disaster. We have all been paying a great deal of attention to Iraq and Afghanistan, and rightly so. The developing situation in Pakistan, however, needs to be placed immediately on the front burner.

## Solvency

Status quo solves the advantage- we’re cooperating with Pakistan and cutting back covert drone ops

**WSJ, 02/05** (Adam Entous and Siobhan Gorman for the WSJ, "US to curb Pakistan Drone Program" on February 5, 2014 from online.wsj.com/news/articles/SB10001424052702304450904579365112070806176?mg=reno64-wsj&url=http%3A%2F%2Fonline.wsj.com%2Farticle%2FSB10001424052702304450904579365112070806176.html)

The Obama administration will narrow its controversial drone program in Pakistan to target a short list of high-level terrorists, and aim to end it during the prime minister's current term, senior U.S. officials have told their Pakistani counterparts.

The downsizing of the covert Central Intelligence Agency program reflects Pakistani objections to the strikes and logistical constraints on the spy agency at the end of this year, when U.S. troops are scheduled to pull out of neighboring Afghanistan, according to administration, intelligence and military officials.

Senior U.S. officials said they have discussed the revisions with Pakistani officials in a series of meetings over the past six months. U.S. officials say the goal is to make the drone campaign less of an irritant in the two countries' troubled relations, without preventing the CIA from conducting higher-priority operations during the time the program has left.

The changes fall short of Prime Minister Nawaz Sharif's demands for an immediate freeze in drone strikes. Pakistani officials in Islamabad and Washington weren't immediately available to comment.

Officials say the revision is meant to move the CIA away from what some critics call a "Whac-A-Mole" approach and put the U.S. on a path to end the program, though not as quickly as drone critics and the Pakistani government would like.

The CIA has long added new targets to a longer "kill list" on a rolling basis as old targets are hit.

Now, U.S. officials say, the "kill list" is not self-replenishing, a change long sought by Islamabad. "By taking one off, we're not automatically putting one on," a senior U.S. official said. As a result, **the number of targets on the list are decreasing as the CIA's drones focus on a more limited number of high-level targets that "will enable us to conclude the program,"** the official said.

Cut back means CIA cant authorize strikes- functionally has the same effect as the plan

**WSJ, 02/05** (Adam Entous and Siobhan Gorman for the WSJ, "US to curb Pakistan Drone Program" on February 5, 2014 from online.wsj.com/news/articles/SB10001424052702304450904579365112070806176?mg=reno64-wsj&url=http%3A%2F%2Fonline.wsj.com%2Farticle%2FSB10001424052702304450904579365112070806176.html)

Senior U.S. officials characterized the timetable as a "general agreement" within the Obama administration and between the U.S. and Pakistani governments. The White House hasn't set a specific date for when the program would end, reflecting concerns within the CIA that al Qaeda could mount a comeback and that more strikes might then be needed.

President Barack Obama has said that the need for strikes would diminish as the U.S. comes off a war footing, but he hasn't provided details about the changes.

"I'm not in a position to discuss particular operations, but the president made clear in his NDU [National Defense University] speech that by the end of 2014 in the Afghan war theater we will no longer have the same need for force protection, and the progress we've made against core al Qaeda will reduce the need for unmanned strikes," said White House National Security Council Spokeswoman Caitlin Hayden. State Department spokeswoman Jen Psaki declined to comment.

U.S. **officials said the drawdown of U.S. forces from Afghanistan this year will make it more difficult for the CIA to sustain the program because the spy agency will have fewer bases, personnel and drones in Afghanistan to collect intelligence about would-be targets.** The CIA has been using bases in Afghanistan to fly drones across the border into Pakistan and to run networks of informants and spies.

Plan text flaw- they only oppose the use of military drone strikes- means that CIA drone ops are all good- turns the case

**Obama is currently shifting only part of the CIA program to the DOD – leaving the Pakistan program intact**

**Lederman and Santana 13** – (2013, Josh and Rebecca, Associated Press, “Drone strike shows that secret CIA attacks will continue despite Obama pledge for transparency,” http://www.foxnews.com/us/2013/05/30/drone-strike-shows-that-secret-cia-attacks-will-continue-despite-obama-pledge/)

The drone attack that killed a Pakistan Taliban deputy leader this week was a clear signal that despite President Barack Obama's promise last week of new transparency in the drone program, **the CIA will still launch secret attacks on militants in north Pakistan and the administration will not have to tell anyone about it.**

The CIA drone took off from Afghanistan on Wednesday and struck a compound in Pakistan's remote tribal areas where the agency believed Waliur Rehman was staying. The Pakistani Taliban later confirmed the death of Rehman, believed to be one of the key planners behind the deadly suicide bombing against a CIA base in 2009.

But White House officials would not even confirm that the strike occurred, although the president pledged in a national security speech that he would be more transparent about U.S. counterterrorism actions.

White House spokesman Josh Earnest on Thursday would not confirm the strike, or the death of Rehman, and would only say broadly that Obama feels a responsibility to protect U.S. forces in the "Afghan war theater" — it includes Pakistan — and would use a "range of abilities" to provide those forces as much protection as possible.

Obama announced new "presidential policy guidelines" last week on the standards his administration has been using when deciding to launch lethal strikes, including a guideline to strike a target only if it presents an "imminent threat" to U.S. national security and only if the target cannot be captured. He also stated his **preference for using the military**, not the CIA, to carry out such strikes.

**But he also said that the CIA would continue to control and run its secret drone program in Pakistan**. It operates without permission from the Pakistani government, although the newly elected administration of Nawaz Sharif has demanded an end to the program that has killed more than 3,000 people since 2004.

**That’s where the vast majority of strikes occur.**

**Bennett 13** – (3/21, Wells, managing editor of Lawfare and a Fellow in National Security Law at the Brookings Institution, “Exactly What Targeted Killing Duties Are Shifting from CIA to DOD?” http://www.lawfareblog.com/2013/03/exactly-what-targeted-killing-duties-are-shifting-from-cia-to-dod/)

To that, we can add this afternoon’s dispatch from the New York Times’ Scott Shane and Mark Mazetti. According to their piece, **the CIA’s duties will be preserved, with respect to drone strikes in Pakistan**:

Under the proposal, two American officials said, the Defense Department would gradually assume control over drone operations outside Pakistan. The officials said that Mr. Obama, who has spoken publicly about his desire to make the program more transparent, had not yet made a decision about the proposal. Because it would probably leave drone operations in Pakistan under the C.I.A., the practical impact of such a move in the short term would appear to be limited.

General Cartwright’s comments came amid a debate inside the Obama administration about bringing greater transparency to drone operations. But the impact of shifting drone operations to the Pentagon — a possibility first reported this week by the Web site The Daily Beast — **would be blunted because a vast majority of the C.I.A.’s strikes have been carried out in Pakistan**. The C.I.A. operates on its own there, having carried out 365 strikes, by the count of the Bureau of Investigative Journalism in London, compared with about 45 in Yemen and a handful in Somalia.

Officials say it is unlikely that the strikes in Pakistan, where the numbers have come down steadily since 2010, will be handed off to the military, a move that might further inflame popular anger at the American intrusion. Rather, the C.I.A. will probably keep control as the number of strikes continues to decline.

So: the executive branch plans to move drone operations from the CIA to DOD—whatever that may mean, given that the DOD already flies the CIA’s drones and controls the drones’ weapons. And in any event, the handover also won’t touch operations in drone-centric Pakistan, where the CIA’s longstanding role (such as it is) **will go unchanged**. I sense an evolving story, one which likely will become clearer over time. Until that happens, though, it is hard to know what the interagency transition really will look like.

## case 1

Life is always valuable

**Torchia 2**, Professor of Philosophy, Providence College, Phd in Philosophy, Fordham College (Joseph, “Postmodernism and the Persistent Vegetative State,” The National Catholic Bioethics Quarterly Summer 2002, Vol. 2, No. 2, <http://www.lifeissues.net/writers/torc/torc_01postmodernismandpvs1.html>)

Ultimately, Aquinas' theory of personhood requires a metaphysical explanation that is rooted in an understanding of the primacy of the existence or esse of the human person. For humans beings, the upshot of this position is clear: while human personhood is intimately connected with a broad range of actions (including consciousness of oneself and others), the definition of personhood is not based upon any specific activity or capacity for action, but upon the primacy of esse. Indeed, human actions would have neither a cause nor any referent in the absence of a stable, abiding self that is rooted in the person's very being. A commitment to the primacy of esse, then, allows for an adequate recognition of the importance of actions in human life, while providing a principle for the unification and stabilizing of these behavioral features. In this respect, the human person is defined as a dynamic being which actualizes the potentiality for certain behavior or operations unique to his or her own existence. Esse thereby embraces all that the person is and is capable of doing.

In the final analysis, **any attempt to define the person in terms of a single attribute, activity, or capability** (e.g., consciousness) flies in the face of the depth and multi-dimensionality which is part and parcel of personhood itself. To do so **would abdicate the ontological core of the person and the very center which renders human activities intelligible**. And Aquinas' anthropology, I submit, provides an effective philosophical lens through which the depth and profundity of the human reality comes into sharp focus. In this respect, Kenneth Schmitz draws an illuminating distinction between "person" (a term which conveys such hidden depth and profundity) and "personality" (a term which pertains to surface impressions and one's public image).40 The preoccupation with the latter term, he shows, is very much an outgrowth of the eighteenth century emphasis upon a human individuality that is understood in terms of autonomy and privacy. This notion of the isolated, atomistic individual was closely linked with a subjective focus whereby the "self" became the ultimate referent for judging reality. By extension, such a presupposition led to the conviction that only self-consciousness provides a means of validating any claims to personhood and membership in a community of free moral agents capable of responsibilities and worthy of rights.

In contrast to such an isolated and enclosed conception (i.e., whereby one is a person by virtue of being "set apart" from others as a privatized entity), Schmitz focuses upon an intimacy which presupposes a certain relation between persons. From this standpoint, intimacy is only possible through genuine self-disclosure, and the sharing of self-disclosure that allows for an intimate knowledge of the other.41 For Schmitz, such a revelation of one's inner self transcends any specific attributes or any overt capacity the individual might possess.42 Ultimately, Schmitz argues, intimacy is rooted in the unique act of presencing, whereby the person reveals his or her personal existence. But such a mystery only admits of a metphysical explanation, rather than an epistemological theory of meaning which confines itself to what is observable on the basis of perception or sense experience. Intimacy, then, discloses a level of being that transcends any distinctive properties. Because intimacy has a unique capacity to disclose being, it places us in touch with the very core of personhood. Metaphysically speaking, intimacy is not grounded in the recognition of this or that characteristic a person has, but rather in the simple unqualified presence the person is.43

Util’s the only moral framework

**Murray 97** (Alastair, Professor of Politics at U. Of Wales-Swansea, *Reconstructing Realism*, p. 110)

Weber emphasised that, while the 'absolute ethic of the gospel' must be taken seriously, it is inadequate to the tasks of evaluation presented by politics. Against this 'ethic of ultimate ends' — Gesinnung — he therefore proposed the 'ethic of responsibility' — Verantwortung. First, whilst the former dictates only the purity of intentions and pays no attention to consequences, the ethic of responsibility commands acknowledgement of the divergence between intention and result. Its adherent 'does not feel in a position to burden others with the results of his [OR HER] own actions so far as he was able to foresee them; he [OR SHE] will say: these results are ascribed to my action'. Second, the 'ethic of ultimate ends' is incapable of dealing adequately with the moral dilemma presented by the necessity of using evil means to achieve moral ends: Everything that is striven for through political action operating with violent means and following an ethic of responsibility endangers the 'salvation of the soul.' If, however, one chases after the ultimate good in a war of beliefs, following a pure ethic of absolute ends, then the goals may be changed and discredited for generations, because responsibility for consequences is lacking. The 'ethic of responsibility', on the other hand, can accommodate this paradox and limit the employment of such means, because it accepts responsibility for the consequences which they imply. Thus, Weber maintains that only the ethic of responsibility can cope with the 'inner tension' between the 'demon of politics' and 'the god of love'. 9 The realists followed this conception closely in their formulation of a political ethic.10 This influence is particularly clear in Morgenthau.11 In terms of the first element of this conception, the rejection of a purely deontological ethic, Morgenthau echoed Weber's formulation, arguing tha/t:the political actor has, beyond the general moral duties, a special moral responsibility to act wisely ... The individual, acting on his own behalf, may act unwisely without moral reproach as long as the consequences of his inexpedient action concern only [HER OR] himself. What is done in the political sphere by its very nature concerns others who must suffer from unwise action. What is here done with good intentions but unwisely and hence with disastrous results is morally defective; for it violates the ethics of responsibility to which all action affecting others, and hence political action par excellence, is subject.12 This led Morgenthau to argue, in terms of the concern to reject doctrines which advocate that the end justifies the means, that the impossibility of the logic underlying this doctrine 'leads to the negation of absolute ethical judgements altogether'.13

People can always assert agency in the face of state control – ignoring this is disempowering

Cesare **Casarino**, professor of cultural studies and comparative literature at the University of Minnesota AND Antonio Negri, author of numerous volumes of philosophy and political theory. “It’s a Powerful Life: A Conversation on Contemporary Philosophy” Cultural Critique 57. **2004**

AN: I believe Giorgio is writing a sequel to Homo Sacer, and I feel that this new work will be resolutive for his thought—in the sense that he will be forced in it to resolve and find a way out of the ambiguity that has qualified his understanding of naked life so far. He already attempted something of the sort in his recent book on Saint Paul, but I think this attempt largely failed: as usual, **this book** is extremely learned and elegant; it **remains**, however, somewhat **trapped within** Pauline **exegesis, rather than constituting a full-fledged attempt to reconstruct naked life as a potentiality for exodus,** to rethink naked life fundamentally in terms of exodus. **I believe that the concept of naked life is not an impossible**, unfeasible **one**. I believe it is possible to push the image of power to the point at which a defenseless human being [un povero Cristo] is crushed, to conceive of that extreme point at which power tries to [End Page 173] eliminate that ultimate resistance that is the sheer attempt to keep oneself alive. From a logical standpoint, it is possible to think all this: the naked bodies of the people in the camps, for example, can lead one precisely in this direction. **But this is** also **the point at which this concept turns into ideology: to conceive of the relation between power and life in such a way** actually **ends up bolstering and reinforcing ideology**. **Agamben**, in effect, **is saying that such is the nature of power: in the final instance, power reduces each and every human being to such a state of powerlessness. But this is absolutely not true!** On the contrary: **the historical process takes place and is produced thanks to a continuous constitution and construction, which** undoubtedly **confronts the limit over and over** again—**but this is an extraordinarily rich limit, in which desires expand, and** in which **life becomes** increasingly **fuller**. Of course it is possible to conceive of the limit as absolute powerlessness, especially when it has been actually enacted and enforced in such a way so many times. And yet, isn't such a conception of the limit precisely what the limit looks like from the standpoint of constituted power as well as from the standpoint of those who have already been totally annihilated by such a power—which is, of course, one and the same standpoint? Isn't this the story about power that power itself would like us to believe in and reiterate? **Isn't it far more politically useful to conceive of this limit from the standpoint of those who are not yet or not completely crushed by power, from the standpoint of those still struggling to overcome such a limit, from the standpoint of the process of constitution**, from the standpoint of power [potenza]? I am worried about the fact that **the concept of naked life as it is conceived by Agamben might be taken up by political movements and in political debates**: I find this prospect quite troubling, which is why I felt the need to attack this concept in my recent essay. Ultimately, I feel that nowadays **the logic of traditional eugenics is attempting to saturate and capture the whole of human reality**—even at the level of its materiality, that is, through genetic engineering—and **the** ultimate **result of such a process of saturation and capture is a capsized production of subjectivity within which ideological undercurrents continuously try to subtract or neutralize our resistance**. [End Page 174]

Ethical impacts are circular

Mark **Franke**, Prof. International Studies – U. of North British Columbia, **2K**

(European Journal of International Relations 6.3: 307-333)

There may well be further augmentations made to enhance the Levinasian position that propel the critical work inaugurated by Campbell and debated by Dillon, George, Molloy, Shapiro and Warner. But, regardless of the intellectual inspiration employed, as long as this critique is guided simply by a principle to constantly reveal how inter-human relations are radically intersubjective, globalizing dogma must germinate nonetheless. The central problem here is that the foci of any such work remain disciplined by the ‘selves’ and ‘others’ produced within the relations and identified with human beings in various manners. Efforts to examine and recognize how subject positions are conditioned by the non-positions of relations and processes of differentiation may go to show that autonomy and the identities that may adhere to such an idea are less than stable ideas. And this may also show how human agents are inescapably embedded within one another’s lives and judgements. However, there persists in such efforts the idea of all humans experiencing the movement of one another — while clearly having very different experiences and coming to differing judgements on that account — in the same manners. The problem of change and interrelation is universalized between subjects. Thus, a total image of human movement becomes the disciplining guide for critique, while the myriad and shifting experiences of the same are entertained in a secondary manner.

The Levinasian ethic supported by Campbell, as well as any ethic which serves a radical interdependence of agents as its guiding principle, may be upheld only in retrospect to unquestioned assumptions regarding the existence of particular kinds of subjects existing in a particular kind of intersubjective world. The principle of responsibility underlying Campbell’s political analysis gains its right not in the character of human life but, rather, in prior private judgements regarding how to view humans and their social/ political locations with respect to one another. Adherence to the notion of a responsible politics rests upon the prior assumption that each human agent may stand face to face with one another in the same (intersubjective) way, that there is an essential equality among all members in individual being and in the limits of social life.

In essence, Campbell and his colleagues search for starting-positions from which a critical inquiry into international politics may begin. The starting positions that they provide as points of departure in a general approach, however, are ways of seeing. These perspectives are, surely, left vulnerable and, through their own appeal, attract interruption. However, as the origins of a new approach, the descriptions of subjectivity promoted by Campbell are still means by which the possibilities of human experience are limited prior to a critical exploration of such limits. As ways of viewing human life, these various glimpses at a radical intersubjectivity confine one’s imaginationto entertaining an intersubjective human world, which, while surely far more appealing in many ways to the competitive images provided via notions of autonomy, itself offers a sphere of closure.

#### Their privilege of drone-strike victims is methodologically wrong

Kenneth Anderson, American University Law Professor, 10/24/13, Three Deep Flaws in Two New Human-Rights Reports on U.S. Drone Strikes, www.newrepublic.com/article/115329/amnesty-international-human-rights-watch-drone-reports-are-flawed

Third, both Amnesty and Human Rights Watch seem to be alleging war crimes while not quite admitting that’s what they are doing. Human Rights Watch does this subtly—by laying out standards of law the United States does not accept, reporting facts that seem to violate those standards, and then demanding “prompt, thorough, and impartial investigations into all cases where targeted strikes may have resulted in unlawful killings” with “criminal prosecutions as appropriate.” Amnesty is more blatant about it. The group coyly declares at the outset that it is “unable to reach firm conclusions” about its case studies and their “status under international law,” going so far only as to say it is “seriously concerned” that the strikes “may constitute extrajudicial executions or war crimes.” But draw firm conclusions it then does. For example, on page 23, it declares flatly that its evidence “indicates that Mamana Bibi was unlawfully killed”—leaving open only the question of whether the illegality was a war crime or an extrajudicially execution.

It is also worth being cautious about the groups’ blithe claims that drones strikes are turning the populations of these countries en masse against the United States and its counterterrorism efforts. At least with regards to Pakistan—the subject of Amnesty’s report—it bears noting that there are voices pushing back on the question of how the local population, of Pakistan in general and the tribal regions where the strikes take place in particular, view drone strikes. It is not entirely consistent with the views of Amnesty’s report; something, in fact, of the opposite. The Economist magazine reported in its October 19, 2013 issue that a “surprising number of Pakistanis are in favor of drone strikes.” The article notes that while opinion polls find Pakistanis widely opposed to U.S. drone strokes, there is pushback both within the country and within the tribal regions themselves:

[W]hen Sofia Khan, a school administrator from Islamabad, travelled with hundreds of anti-drone campaigners to a ramshackle town bordering the restive Federally Administered Tribal Areas (FATA) last October she was stunned by what some tribesmen there had to say. One man from South Waziristan heatedly told her that he and his family approved of the remote-controlled aircraft and wanted more of them patrolling the skies above his home. Access to the tribal regions is very difficult for foreign journalists; but several specialists and researchers on the region, who did not want to be identified, say there is at least a sizeable minority in FATA who share that view.

Surveys are also notoriously difficult to carry out in FATA. A 2009 poll in three of the tribal agencies found 52% of respondents believed drone strikes were accurate and 60% said they weakened militant groups. Other surveys have found much lower percentages in favour. But interviews by The Economist with twenty residents of the tribal areas confirmed that many see individual drone strikes as preferable to the artillery barrages of the Pakistani military. They also insisted that the drones do not kill many civilians—a view starkly at odds with mainstream Pakistani opinion. “No one dares tell the real picture,” says an elder from North Waziristan. “Drone attacks are killing the militants who are killing innocent people.”

The reason for this, it appears, is something that Amnesty’s report elides in its background section about the violence in the border regions. Amnesty’s report is addressed to U.S. drone strikes, and the violence of U.S. drone strikes. And without question, civilians get killed on occasion in drone strikes—though the Bureau of Investigative Journalism, a British NGO, suggests a “fall in civilian casualties” in Pakistan with “most news sources claiming no civilians killed this year despite 22 known strikes.” Amnesty’s report describes many violent actors in the tribal regions, including the Taliban, foreign Al Qaeda fighters, and the Pakistani military doing battle with its own Taliban insurgent groups. It describes all this violence, yet makes its focus U.S. drone strikes, despite the fact that the U.S. drone strikes are the most precise and probably the least harmful to civilians of all of the various forms of violence and fighting in the region.

One would be hard-pressed reading Amnesty’s report to understand that the biggest and least discriminate forms of violent force in the tribal regions comes from the Pakistani military, which has long engaged in bombardment and shelling against villages as it engages with its Taliban insurgents. Compared to that violence, at least some villagers seem to be saying, drones are less feared and far less harmful. Some observers in urban Pakistan have said so; in 2010, the Economist notes, “a group of politicians and NGOs published a ‘Peshawar Declaration’ in support of drones. Life soon became difficult for the signatories. … Many commentators admit to approving of drones in the absence of government moves to clear terrorist sanctuaries. But they dare not say so in print.”

The villagers who support drone strikes are not crazy. An end to American drone strikes would not mean an end to the violence in the tribal regions, nor would it mean an end to government attacks against Taliban militants. Quite the contrary. It would probably mean an intensification, if anything, as the Pakistani government was forced to fall back on its usual tools: artillery and air strikes. There is precedent for this. A few years ago, it sought to reach an accommodation with the Taliban, and saw the insurgents take the Swat Valley and threaten a move toward the capital. The Pakistani army pushed back with the tools it had available: massive artillery barrages that leveled villages, left thousands dead, and left nearly a million people homeless. If we're going to talk about "blowback" from drones, then we had better talk about "blowback" from "no drones" too.

The Amnesty report acknowledges the existence of the army’s violence, and the Taliban insurgency. But by myopically focusing on American drone strikes, it makes no comparisons between these. It fails to acknowledge the judgment that at least some of the villagers in the Economist story appear to have made: that American drones are what they claim to be, and they are attractive compared to the realistic alternative to them. And for some people, at least, the drones are killing their enemy: Taliban insurgents and militants who have moved to take over their villages.

#### It categorically ignores the violence drones prevent, which dooms their political analysis

Joshua Foust, Freelance Journalist, former senior intelligence analyst for the Pentagon, 10/24/13, How Human Rights Groups Misinterpret Drone Strikes, www.defenseone.com/threats/2013/10/how-human-rights-groups-misinterpret-drone-strikes/72593/?oref=d-skybox

This week, two major reports by international human rights organizations have called into doubt the legal and ethical frameworks of drone strikes carried out by President Obama. Amnesty International and Human Rights Watch profile specific drone strikes in Pakistan and Yemen, respectively, and in doing so cast a critical eye on the human costs of U.S. counterterrorism operations.

But are the pictures they construct accurate representations? It is clear that innocent civilians have been hurt and killed in drone strikes, and Obama’s response to those casualties has been lacking. But the existence of civilian casualties is not automatically evidence of illegality or a war crime. Moreover, in at least some cases, it appears these organizations, while laudably advocating on behalf of innocent victims of conflict, are getting important facts wrong about drone strikes. The resulting incomplete picture casts an uncharitable light on a program that, while far from perfect, White House officials argue is one of the most effective, low-impact tools in the global struggle against violent extremism.

Take the Human Rights Watch report about Yemen. One of the incidents they highlight -- the Dec. 17, 2009, cruise missile barrage into al-Majalah that killed scores of civilians along with 14 members of al-Qaeda in the Arabian Peninsula -- wasn’t even a drone strike. Another strike they profile even seems to have been carried out by Yemeni jets, not American drones.

Human Rights Watch argues that some of the munitions the U.S. uses to strike at targets in Yemen are inhumane or violate norms of warfare (in particular the alleged use of indiscriminate cluster munitions in the al-Majalah strike). But they downplay or ignore important aspects of how drone strikes take place. The strike on al-Majala was meant to take out a senior AQAP figure, Muhammad al-Kazami. But rather than striking at an AQAP training camp, as the U.S. officials who approved the strike had apparently assumed, it turned out al-Kazami was the guest of honor at a local Bedouin camp. The resulting deaths, which included almost two dozen children, reportedly “shook” Obama and John Brennan, his then-counterterrorism advisor and current CIA director. As a result of that strike, Obama directed then-National Security Adviser Gen. James Jones to issue a memo restricting the circumstances in which strikes against al-Qaeda could take place.

HRW does not acknowledge the fact that the al-Majala strike is an exception to how strikes normally happen in Yemen. Similarly, they do not credibly support the charge that the other strikes they profile are illegal under international law. In an armed conflict, strikes generally must adhere to three principles: distinction (telling the difference between militants and civilians), necessity (whether a target is sufficiently important to warrant a strike) and proportionality (the size of the strike matches its importance). In their report, HRW argues that any civilian caught in the crossfire, even if they are assisting AQAP terrorists, makes a strike either unnecessary or without distinction. In effect, they redefine all air strikes, no matter the size of the warhead or its precision, as disproportionate and therefore illegal.

The alternative, however, misses the political complexity of the drone campaign in Yemen. HRW criticizes some drone strikes against figures that they assert could have been captured. Put simply, it’s much more difficult and dangerous to go in and capture terrorist figures -- something both Yemeni and American officials discuss openly. It is just too politically risky for the Yemeni government and too dangerous for U.S. personnel. HRW, in contrast, asserts individual targets, while part of AQAP, are not militarily important enough to warrant a strike. Yet they hardly have access to the same intelligence that guides U.S. targeters. Because AQAP has killed thousands of Yemenis and attempted at least three attacks on the U.S. homeland, the idea that even low-level active members are not militarily important enough to strike stretches credulity.

Drone strikes are deeply unpopular in most of Yemen, however. And while it is clear non-combatants have been killed in those strikes, it is far from clear that the presence of those non-combatants is evidence of a war crime.

Amnesty International runs into a similar problem with their report on Pakistan. It’s clear that one of the cases they profile, a 68-year old grandmother named Mamana Bibi who died in an air strike, is tragic. But they present it as representative of strikes in Pakistan. And Amnesty’s version of what happened is sharply at odds with other accounts of that drone strike, which also reportedly killed at least three militants. Amnesty quotes family members saying there were no militants nearby, but they also noted in their introduction that residents of the area are often intimidated into silence when militants threaten them for speaking with outside researchers. A Pakistani official tells them that a Taliban militant probably was identified by his cellphone, but Amnesty researchers assert in their response that the old woman was in a field and not near the road where the Pakistani officials says the cellphone signal was identified. More worryingly, the combat forensics Amnesty presents do not match up. They write that Mamana Bibi’s grandchildren saw drones “flying in pairs, sometimes three together.” Those drones supposedly fired one hellfire missile at an old woman picking vegetables, and, according to one of the people they interviewed, a second missile a short time later at “a vacant area of the field.” Later, they show a photograph of unmarked debris handled by family members, which they say is from a Hellfire missile.

There are several problems with this account. From a technical standpoint, drones cannot fly in pairs or groups of three. As reporter David Axe explained, neither MQ-1 Predators nor MQ-9 Reapers can fly in formation with each other because their operators, who sit in trailers thousands of miles away, do not have the visibility to be able to do so safely. The U.S. Air Force has only recently prototyped the technology to allow drones to fly together, but it has barely begun the initial testing phase.

Secondly, it’s not entirely clear that the debris in the photo is from a Hellfire missile, nor is it clear that that’s the actual debris from the strike, since Amnesty claims it was “provided by the family.” There was no chain of custody or forensic examination of the wreckage.

Lastly, there is the tactical account of the strike itself. For Amnesty’s account to be true, a drone operators would have seen a lone elderly woman picking vegetables outside, surrounded by her grandchildren, with no militants nearby, and made a conscious decision to kill her and an unoccupied patch of ground nearby. That is sharply at odds with previously published accounts of drone rules of engagement within the Obama administration. Either the White House is misleading the public about how it flies drones, a drone operator violated U.S. rules or Amnesty was fed false information.

Both groups also downplay other forms of violent conflict in these regions. Both Yemen and northwest Pakistan have politically complex ecosystems of violence where U.S. air strikes account for a minuscule percentage of casualties. The highest estimate of deaths from U.S. drones in Pakistan hovers around 3,000 since 2004; in the same time period fighting between the Pakistani military and al-Qaeda and Taliban militants has killed nearly 40,000 civilians and displaced more than three million. In Yemen, Doctors Without Borders recently suspended operations in Aden -- not because of U.S. drone strikes but because of other violence nearby that make it too dangerous.

Nevertheless, American actions receive the lion’s share of international concern. Moreover, both groups purport to single out drone strikes as unique causes of psychological trauma even while acknowledging that militants on the ground living in these same communities summarily execute those they suspect of cooperating with America.

That does not erase the human trauma HRW and Amnesty are documented. Innocent people are caught up in these conflicts, and Americans should not ignore or discount the existence of unfathomable suffering taking place there. But they should also be certain to accurately diagnose that suffering -- something neither HRW nor Amnesty have done.

#### These are not crimes, they are policy choices that can be defended

Kenneth Anderson, American University Law Professor, 10/24/13, Three Deep Flaws in Two New Human-Rights Reports on U.S. Drone Strikes, www.newrepublic.com/article/115329/amnesty-international-human-rights-watch-drone-reports-are-flawed

Amnesty’s report is candid on this point. In the introduction, the authors note that the document “is not a comprehensive survey of U.S. drone strikes in Pakistan” but “a qualitative assessment based on detailed field research into nine of the 45 reported strikes” in North Waziristan between January 2012 and August 2013. The report “highlights incidents in which men, women and children appear to have been unlawfully killed or injured.” At one level, this focus makes sense. Human rights groups report on human rights violations, so one can’t fault the groups for shining a light on those cases that seem most problematic. But as a reader, one needs to be careful not to generalize from findings like these. Even if we take all of the facts both groups allege at face value, neither report really changes our understanding of either the likelihood of civilian casualties, the number of them, or the utility of drones as a tool in overseas counterterrorism. Examining the costs is a worthy endeavor, but the much more important question is the scope and magnitude of those costs—and on that point neither report adds much to the existing conversation.

What’s more, military analyst David Axe has raised questions about whether the Amnesty report is really describing drone strikes by the United States in all of its accounts:

It’s not at all clear that pilotless warplanes were truly responsible for all the attacks Amnesty studied. The Pentagon and CIA declined to discuss the drone campaign with the rights group.

Some of the eyewitness accounts in the new report are inconsistent with known drone tactics and the well-understood limitations of unmanned aircraft in general. The attackers could have been manned warplanes, and Pakistani rather than American.

Even assuming the facts are as bad as the groups contend, both reports—in slightly different ways—seem to overstep analytically what the facts they report will actually support. Sometimes, the overreach is subtle and factual. Sometimes, it’s legal—and pretty blatant. Three of these overreaches warrant specific mention.

First, Human Rights Watch builds much of its analysis around the proposition that the drone strikes it examined “did not adhere to policies for targeted killings that President Barack Obama disclosed in a speech in May 2013.” Yet as the group acknowledges, all of the strikes examined in the report predate Obama’s speech at the National Defense University, some by several years. Human Rights Watch mentions this fact a few times but it does not seem to have assimilated it. This speech announced changes in policy with respect to drone strikes. Yet throughout the report, Human Rights Watch holds the administration accountable for not complying with policies it had not yet adopted, and it sometimes seems to treat violations of those policies as somehow indicative of violations of violations of international law.

Second, the reports—particularly the Amnesty report—have a way of conflating legitimate targeting which may produce civilian collateral damage with horrible errors that simply should not happen. The most glaring example of this is Amnesty’s treatment of the June 4, 2012 strike that killed Abu Yahya Al-Libi, a senior Al Qaeda leader. According to the Amnesty report, an initial drone strike killed five people and injured four others (the report does not say whether any were civilians). A group of 12 people, including both local residents and foreigners “whom villagers said were Arabs and Central Asians who were likely to be members of al-Qa’ida” showed up “to assist victims.” Al-Libi was “overseeing the rescue efforts” and was killed in the second strike, along with between 9 and 15 other people, including six local tribesman who “as far as Amnesty International could determine, had come only to assist victims.” In other words, six tribesman were killed working alongside a group of Al Qaeda operatives under a senior Al Qaeda official were killed.

Amnesty considers this strike a potential “war crime” both because it constituted an attack on civilian rescuers and, quite amazingly, because Al-Libi may not have been directly participating in hostilities at the time of the strike. Amnesty’s position, in short, is that it may be a war crime to target a senior Al Qaeda leader when he’s doing something other than plotting attacks—if, that is, it’s lawful to target him at all. There are many serious issues these reports raise; this kind of overreach undermines them all.

## case 2

Reality outweighs representations

**Wendt, 1999**

Alexander Wendt, Professor of International Security at Ohio State University, 1999, “Social theory of international politics,” gbooks

The effects of holding a relational theory of meaning on theorizing about world politics are apparent in **David Campbell's** provocative study of US foreign policy, which **shows** how the **threats** posed by the Soviets, immigration, drugs, and so on, **were constructed** out of US national security discourse.29 The book clearly shows that material things in the world did not force US decision-makers to have particular representations of them - the picture theory of reference does not hold. In so doing it highlights the discursive aspects of truth and reference, the sense in which objects are relationally "constructed."30 On the other hand, while emphasizing several times that he is not denying the reality of, for example, Soviet actions, he specifically eschews (p. 4) any attempt to assess the extent to which they caused US representations. Thus **he cannot address the extent to which US representations of the Soviet threat were accurate or true** (questions of correspondence). **He can only focus on the nature and consequences of the representations**.31 Of course, there is nothing in the social science rule book which requires an interest in causal questions, and the nature and consequences of representations are important questions. In the terms discussed below he is engaging in a constitutive rather than causal inquiry. However, I suspect **Campbell thinks that any attempt to assess the correspondence of discourse to reality is inherently pointless.** According to the relational theory of reference **we simply have no access to what the Soviet threat "really" was, and as such its truth is established entirely within discourse**, not by the latter's correspondence to an extra-discursive reality 32 **The main problem** with the relational theory of reference **is that it cannot account for the resistance of the world to certain representations, and thus for representational failures or m/'sinterpretations**. Worldly resistance is most obvious in nature: whether our discourse says so or not, pigs can't fly. But examples abound in society too. **In 1519 Montezuma faced the same kind of epistemological problem facing social scientists today: how to refer to people who, in his case, called themselves Spaniards. Many representations were conceivable**, and no doubt the one he chose - that they were **gods - drew on the discursive materials available to him. So why was he killed and his empire destroyed by an army hundreds of times smaller than his own**? The realist answer is that **Montezuma was simply wrong: the Spaniards were not gods, and had come instead to conquer his empire. Had Montezuma adopted this alternative representation of what the Spanish were, he might have prevented this outcome because that representation would have corresponded more to reality. The reality of the conquistadores did not force him to have a true representation**, as the picture theory of reference would claim, **but it did have certain effects - whether his discourse allowed them or not.** The external world to which we ostensibly lack access, in other words. often frustrates or penalizes representations. **Postmodernism gives us no insight into why this is so, and indeed, rejects the question altogether.33** The description theory of reference favored by empiricists focuses on sense-data in the mind while the relational theory of the postmoderns emphasizes relations among words, but they are similar in at least one crucial respect: neither grounds meaning and truth in an external world that regulates their content.34 Both privilege epistemology over ontology. What is needed is a theory of reference that takes account of the contribution of mind and language yet is anchored to external reality. The realist answer is the causal theory of reference. According to the causal theory the meaning of terms is determined by a two-stage process.35 First there is a "baptism/' in which some new referent in the environment (say, a previously unknown animal) is given a name; then this connection of thing-to-term is handed down a chain of speakers to contemporary speakers. Both stages are causal, the first because the referent impressed itself upon someone's senses in such a way that they were induced to give it a name, the second because the handing down of meanings is a causal process of imitation and social learning. Both stages allow discourse to affect meaning, and as such do not preclude a role for "difference" as posited by the relational theory. Theory is underdetermined by reality, and as such the causal theory is not a picture theory of reference. However, conceding these points does not mean that meaning is entirely socially or mentally constructed. In the realist view beliefs are determined by discourse and nature.36 This solves the key problems of the description and relational theories: our ability to refer to the same object even if our descriptions are different or change, and the resistance of the world to certain representations. **Mind and language help determine meaning, but meaning is also regulated by a mind-independent, extra-linguistic world**.

Their empire impact is wrong

Stephen M. Griffin, Rutledge C. Clement, Jr. Professor in Constitutional Law, Tulane Law School, 2012 “What is Wartime? Reviewing Mary L. Dudziak, War Time: An Idea, Its History, Its Consequences,” Tulsa Law Review Vol. 48, Issue. 2, 2012

The equivocal nature of the Cold War and the post-9/11 "war on terror," however, **did not diminish** the constitutional, political, policy, social, and cultural realities that rapidly accrue when the United States puts tens or hundreds of thousands of "boots on the ground" in foreign locales. As the war in Afghanistan wore on and the war in Iraq finally came to a conclusion in 2011, the American public was quite credibly said to be "war-weary." 42 But how could citizens be war-weary in the age of the all-volunteer military, when President Bush did not ask citizens to pay for the war with increased taxes and did not invoke a shared sense of national sacrifice? 43 In a democracy, wars on the scale of Iraq and Afghanistan evidently **cannot be fought without public involvement**, without the summoning of the morale necessary to underwrite their painful consequences. The public clearly stood behind the military after 9/11 and there was a sense of a common purpose in opposing the threat of terrorism by al-Qaeda.44 Yet, there is **nothing in American history to suggest that such a shared commitment can be sustained indefinitely** amid much travail. We may nod our heads in approval, thinking this is an obvious point, but it undermines the coherence of Dudziak's project. Whether intended or not, Dudziak's analysis has the effect of painting all wars the same, a perspective which is intended to show that we have lost our way when we 45 continually try to reestablish the boundary line between periods of war and peace. Although this is a valuable cautionary insight, it also involves an unacceptable flattening of history. While it is likely that Dudziak would not endorse the idea that Vietnam was equivalent to, say, President Reagan's 1983 invasion of Grenada, that is the effect produced by her narrative. All wars look the same on Dudziak's account because **the notion of wartime itself lacks a clear boundary**.46 The distinctive political, constitutional, and diplomatic history of each war is smeared together in a way that **impedes our understanding of the** unique challenges **and** historical significance posed by conflicts on the scale of Vietnam and Iraq. 47

We might agree that there is an obvious difference in scale between Grenada and other "small wars" and interventions like Vietnam that always carry with them the potential for national catastrophe. Dudziak could still press the point of the lack of a clear boundary line. When is wartime? 48 For complex reasons of politics, worries about the use of nuclear weapons, and considerations of international law, post-Korea wars including those in Afghanistan and Iraq - **have been marked by** congressional authorizations **rather than declarations.** 49 Such authorizations have a history going back to the Eisenhower administration. 50 Yet they are treated by Dudziak and other historians with some surprise, as if the United States should still be issuing declarations to mark the boundary crossed when it goes to war.51 This raises a more fundamental issue. In light of the democratic deliberation **implied by such authorizations,** why should we be worried about endless wartime? Dudziak links wartime to the enhancement of centralized state power, especially executive power.52 Such an expansion of power is said to be justified by the temporary nature of wartime. 53 Dudziak calls this the "wartime frame," 54 a perspective that strongly determines the proper role of government. Within the frame, we are reassured by public officials that after the war, things will return to normal. 55 But if wartime is not temporary, what has really occurred is a **permanent expansion in the power of the state without sufficient democratic deliberation.** 56

Although this thesis is suggestive, it is too broad and undifferentiated. Applied to the Cold War, it does not work, although this is partly due to the somewhat odd failure of historians to agree on a periodization of that long struggle. 57 The early Cold War supervised by Truman, Eisenhower, and Kennedy was a distinct period and was quite different from, for example, the era of d6tente under Nixon. 58 Nevertheless, the Cold War was technically still going on in the 1970s when Congress belatedly tried to decrease state power by reining in the presidency and elements of the national security state. 59 President Nixon vetoed the 1973 War Powers Resolution, but on the grounds that it unacceptably detracted from the president's power over foreign affairs, **not that it was unwise because the nation was in wartime**.60 Earlier, President Johnson had not claimed broad wartime powers even as he initiated the Vietnam War, precisely because he wanted to avoid alarming the public.61 True, under Johnson and Nixon, the intelligence agencies carried out secret domestic operations restricting civil liberties in the name of national security.62 But we would be wrong to ignore the relevance of the secrecy. These secretive tactics point in the direction of showing the inherent instability of the national security state instead of a public consensus that the exercise of this sort of power was accepted because the nation was in a temporary state of wartime.63

Their conception of violence is reductive and can’t be solved

Boulding 77

 Twelve Friendly Quarrels with Johan Galtung

Author(s): Kenneth E. BouldingReviewed work(s):Source: Journal of Peace Research, Vol. 14, No. 1 (1977), pp. 75-86Published

 Kenneth Ewart Boulding (January 18, 1910 – March 18, 1993) was an economist, educator, peace activist, poet, religious mystic, devoted Quaker, systems scientist, and interdisciplinary philosopher.[1][2] He was cofounder of General Systems Theory and founder of numerous ongoing intellectual projects in economics and social science.

 He graduated from Oxford University, and was granted United States citizenship in 1948. During the years 1949 to 1967, he was a faculty member of the University of Michigan. In 1967, he joined the faculty of the University of Colorado at Boulder, where he remained until his retirement.

 Finally, we come to the great Galtung metaphors of 'structural violence' 'and 'positive peace'. They are metaphors rather than models, and for that very reason are suspect. Metaphors always imply models and metaphors have much more persuasive power than models do, for models tend to be the preserve of the specialist. But when a metaphor implies a bad model it can be very dangerous, for it is both persuasive and wrong. The metaphor of structural violence I would argue falls right into this category. The metaphor is that poverty, deprivation, ill health, low expectations of life, a condition in which more than half the human race lives, is 'like' a thug beating up the victim and 'taking his money away from him in the street, or it is 'like' a conqueror stealing the land of the people and reducing them to slavery. The implication is that poverty and its associated ills are the fault of the thug or the conqueror and the solution is to do away with thugs and conquerors. While there is some truth in the metaphor, in the modern world at least there is not very much. Violence, whether of the streets and the home, or of the guerilla, of the police, or of the armed forces, is a very different phenomenon from poverty. The processes which create and sustain poverty are not at all like the processes which create and sustain violence, although like everything else in 'the world, everything is somewhat related to everything else. There is a very real problem of the structures which lead to violence, but unfortunately Galitung's metaphor of structural violence as he has used it has diverted attention from this problem. Violence in the behavioral sense, that is, somebody actually doing damage to somebody else and trying to make them worse off, is a 'threshold' phenomenon, rather like the boiling over of a pot. The temperature under a pot can rise for a long time without its boiling over, but at some 'threshold boiling over will take place. The study of the structures which underlie violence are a very important and much neglected part of peace research and indeed of social science in general. Threshold phenomena like violence are difficult to study because they represent 'breaks' in the systenm rather than uniformities. Violence, whether between persons or organizations, occurs when the 'strain' on a system is too great for its 'strength'. The metaphor here is that violence is like what happens when we break a piece of chalk. Strength and strain, however, especially in social systems, are so interwoven historically that it is very difficult to separate them. The diminution of violence involves two possible strategies, or a mixture of the two; one is Ithe increase in the strength of the system, 'the other is the diminution of the strain. The strength of systems involves habit, culture, taboos, and sanctions, all these 'things which enable a system to stand lincreasing strain without breaking down into violence. The strains on the system 'are largely dynamic in character, such as arms races, mutually stimulated hostility, changes in relative economic position or political power, which are often hard to identify. Conflicts of interest 'are only part 'of the strain on a system, and not always the most important part. It is very hard for people ito know their interests, and misperceptions of 'interest take place mainly through the dynamic processes, not through the structural ones. It is only perceptions of interest which affect people's behavior, not the 'real' interests, whatever these may be, and the gap between percepti'on and reality can be very large and resistant to change. However, what Galitung calls structural violence (which has been defined 'by one unkind commenltator as anything that Galitung doesn't like) was originally defined as any unnecessarily low expectation of life, on that assumption that anybody who dies before the allotted span has been killed, however unintentionally and unknowingly, by somebody else. The concept has been expanded to include all 'the problems of poverty, destitution, deprivation, and misery. These are enormously real and are a very high priority for research and action, but they belong to systems which are only peripherally related to 'the structures whi'ch produce violence. This is not rto say that the cultures of violence and the cultures of poverty are not sometimes related, though not all poverty cultures are cultures of violence, and certainly not all cultures of violence are poverty cultures. But the dynamics lof poverty and the success or failure to rise out of it are of a complexity far beyond anything which the metaphor of structural violence can offer. While the metaphor of structural violence performed a service in calling attention to a problem, it may have d'one a disservice in preventing us from finding the answer.

Method focus hurts solvency

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(Patrick Thadeus, The Conduct of Inquiry in International Relations, p. 57-59)

Perhaps the greatest irony of this instrumental, decontextualized importation of “falsification” and its critics into IR is the way that an entire line of thought that privileged disconfirmation and refutation—no matter how complicated that disconfirmation and refutation was in practice—has been transformed into a license to **worry endlessly about foundational assumptions.** At the very beginning of the effort to bring terms such as “paradigm” to bear on the study of politics, Albert O. **Hirschman** (1970b, 338) **noted this very danger**, suggesting that without “a little more ‘reverence for life’ and a little less straightjacketing of the future,” the **focus on** producing internally **consistent** packages of **assumptions instead of** actually examining **complex empirical situations would result in scholarly paralysis.** Here as elsewhere, Hirschman appears to have been quite prescient, inasmuch as the major effect of paradigm and research programme language in IR seems to have been a series of debates and discussions about whether the fundamentals of a given school of thought were sufficiently “scientific” in their construction. Thus **we have debates about how to evaluate scientific progress**, and attempts to propose one or another set of research design principles **as uniquely scientific**, and inventive, “reconstructions” of IR schools, such as Patrick James’ “elaborated structural realism,” supposedly for the purpose of placing them on a **firmer scientific footing** by making sure that they have all of the required elements of a basically Lakatosian19 model of science (James 2002, 67, 98–103).

The bet with all of this scholarly activity seems to be that if we can just get the fundamentals right, then scientific progress will inevitably ensue . . . even though this is the precise opposite of what Popper and Kuhn and Lakatos argued! In fact, all of this obsessive interest in foundations and starting-points is, in form if not in content, a lot closer to logical positivism than it is to the concerns of the falsificationist philosophers, despite the prominence of language about “hypothesis testing” and the concern to formulate testable hypotheses among IR scholars engaged in these endeavors. That, above all, is why I have labeled this methodology of scholarship neopositivist. While it takes much of its self justification as a science from criticisms of logical positivism, in overall sensibility it still operates in a visibly positivist way, attempting to construct knowledge from the ground up by getting its foundations in logical order before concentrating on how claims encounter the world in terms of their theoretical implications. This is by no means to say that neopositivism is not interested in hypothesis testing; on the contrary, neopositivists are extremely concerned with testing hypotheses, but **only after the fundamentals have been** soundly **established.** Certainty, not conjectural provisionality, seems to be the goal—a goal that, ironically, Popper and Kuhn and Lakatos would all reject.

No impact to threat con

Eric A. Posner and Adrian Vermeule 3, law profs at Chicago and Harvard, Accommodating Emergencies, September, <http://www.law.uchicago.edu/files/files/48.eap-av.emergency.pdf>

Against the view that panicked government officials overreact to an emergency, and unnecessarily curtail civil liberties, we suggest a more constructive theory of the role of fear. Before the emergency, government officials are complacent. They do not think clearly or vigorously about the potential threats faced by the nation. After the terrorist attack or military intervention, their complacency is replaced by fear. Fear stimulates them to action. Action may be based on good decisions or bad: fear might cause officials to exaggerate future threats, but it also might arouse them to threats that they would otherwise not perceive. It is impossible to say in the abstract whether decisions and actions provoked by fear are likely to be better than decisions and actions made in a state of calm. But our limited point is that there is no reason to think that the fear-inspired decisions are likely to be worse. For that reason, the existence of fear during emergencies does not support the antiaccommodation theory that the Constitution should be enforced as strictly during emergencies as during non-emergencies.

C. The Influence of Fear during Emergencies

Suppose now that the simple view of fear is correct, and that it is an unambiguously negative influence on government decisionmaking. Critics of accommodation argue that this negative influence of fear justifies skepticism about emergency policies and strict enforcement of the Constitution. However, this argument is implausible. It is doubtful that fear, so understood, has more influence on decisionmaking during emergencies than decisionmaking during non-emergencies.

The panic thesis, implicit in much scholarship though rarely discussed in detail, holds that citizens and officials respond to terrorism and war in the same way that an individual in the jungle responds to a tiger or snake. The national response to emergency, because it is a standard fear response, is characterized by the same circumvention of ordinary deliberative processes: thus, (i) the response is instinctive rather than reasoned, and thus subject to error; and (ii) the error will be biased in the direction of overreaction. While the flight reaction was a good evolutionary strategy on the savannah, in a complex modern society the flight response is not suitable and can only interfere with judgment. Its advantage—speed—has minimal value for social decisionmaking. No national emergency requires an immediate reaction—except by trained professionals who execute policies established earlier—but instead over days, months, or years people make complex judgments about the appropriate institutional response. And the asymmetrical nature of fear guarantees that people will, during a national emergency, overweight the threat and underweight other things that people value, such as civil liberties.

But if decisionmakers rarely act immediately, then the tiger story cannot bear the metaphoric weight that is placed on it. Indeed, the flight response has nothing to do with the political response to the bombing of Pearl Harbor or the attack on September 11. The people who were there—the citizens and soldiers beneath the bombs, the office workers in the World Trade Center—no doubt felt fear, and most of them probably responded in the classic way. They experienced the standard physiological effects, and (with the exception of trained soldiers and security officials) fled without stopping to think. It is also true that in the days and weeks after the attacks, many people felt fear, although not the sort that produces a irresistible urge to flee. But this kind of fear is not the kind in which cognition shuts down. (Some people did have more severe mental reactions and, for example, shut themselves in their houses, but these reactions were rare.) The fear is probably better described as a general anxiety or jumpiness, an anxiety that was probably shared by government officials as well as ordinary citizens.53

While, as we have noted, there is psychological research suggesting that normal cognition partly shuts down in response to an immediate threat, we are aware of no research suggesting that people who feel anxious about a non-immediate threat are incapable of thinking, or thinking properly, or systematically overweight the threat relative to other values. Indeed, it would be surprising to find research that clearly distinguished “anxious thinking” and “calm thinking,” given that anxiety is a pervasive aspect of life. People are anxious about their children; about their health; about their job prospects; about their vacation arrangements; about walking home at night. No one argues that people’s anxiety about their health causes them to take too many precautions—to get too much exercise, to diet too aggressively, to go to the doctor too frequently—and to undervalue other things like leisure. So it is hard to see why anxiety about more remote threats, from terrorists or unfriendly countries with nuclear weapons, should cause the public, or elected officials, to place more emphasis on security than is justified, and to sacrifice civil liberties.

Fear generated by immediate threats, then, causes instinctive responses that are not rational in the cognitive sense, not always desirable, and not a good basis for public policy, but it is not this kind of fear that leads to restrictions of civil liberties during wartime. The internment of Japanese Americans during World War II may have been due to racial animus, or to a mistaken assessment of the risks; it was not the direct result of panic; indeed there was a delay of weeks before the policy was seriously considered.54 Post-9/11 curtailments of civil liberties, aside from immediate detentions, came after a significant delay and much deliberation. The civil libertarians’ argument that fear produces bad policy trades on the ambiguity of the word “panic,” which refers both to real fear that undermines rationality, and to collectively harmful outcomes that are driven by rational decisions, such as a bank run, where it is rational for all depositors to withdraw funds if they believe that enough other depositors are withdrawing funds. Once we eliminate the false concern about fear, it becomes clear that the panic thesis is indistinguishable from the argument that during an emergency people are likely to make mistakes. But if the only concern is that during emergencies people make mistakes, there would be no reason for demanding that the constitution be enforced normally during emergencies. Political errors occur during emergencies and nonemergencies, but the stakes are higher during emergencies, and that is the conventional reason why constitutional constraints should be relaxed.

Just war is necessary --- the AFF increases conflict

Michael Walzer, Professor Emeritus of Social Science at the Institute for Advanced Study and co-Editor of Dissent, 2004, Arguing About War, p. x-xiii

I want to address two criticisms of just war theory, because I have heard them often — specifically in response to some of the pieces collected here. The first is that those of us who defend and apply the theory are moralizing war, and by doing that we are making it easier to fight. We take away the stigma that should always be attached to the business of killing, which is what war always and necessarily is. When we define the criteria by which war and the conduct of war can be judged, we open the way for favorable judgments. Many of these judgments will be ideological, partisan, or hypocritical in character and, therefore, subject to criticism, but some of them, given the theory, will be right: some wars and some acts of war will turn out to be "just." How can that be, when war is so terrible?

But just is a term of art here; it means justifiable, defensible, even morally necessary (given the alternatives) — and that is all it means. All of us who argue about the rights and wrongs of war agree that justice in the strong sense, the sense that it has in domestic society and everyday life, is lost as soon as the fighting begins. War is a zone of radical coercion, in which justice is always under a cloud. Still, sometimes we are right to enter the zone. As someone who grew up during World War II, this seems to me another obvious point. **There are acts of aggression and acts of cruelty that we ought to resist, by force if necessary**. I would have thought that our experience with Nazism ended this particular argument, but the argument goes one — hence the disagreements about humanitarian intervention that I address in a number of these essays. The use of military force to stop the killing in Rwanda would have been, in my view, a just war. And if that judgment "moralizes" military force and makes it easier to use — well, I wish it had been easier to use in Africa in 1994.

The second criticism of just war theory is that it frames wars in the wrong way. It focuses our attention on the immediate issues at stake before the war begins — in the case of the recent Iraq war, for example, on inspections, disarmament, hidden weapons, and so on — and then on the conduct of the war, battle by battle; and so it avoids larger questions about imperial ambition and the global struggle for resources and power. It is as if citizens of the ancient world had focused narrowly on the conflict between Rome and some other city-state over whether a treaty had been violated, as the Romans always claimed in the lead-up to their attack, and never discussed the long history of Roman expansion. But if critics can distinguish between concocted excuses for war and actual reasons, why can't the rest of us do the same thing? Just war theory has no fixed temporal limits; it can be used to analyze a long chain of events as readily as a short one. **Indeed, how can imperial warfare be criticized if not in just war terms**? What other language, what other theory, is available for such a critique? Aggressive wars, wars of conquest, wars to extend spheres of influence and establish satellite states, wars for economic aggrandizement – all of these are unjust war.

Just war is a theory made for criticism. But that doesn't mean that every war has to be criticized. When I defended the recent war in Afghanistan, some of my own critics claimed that since I had opposed the American war in Vietnam and many of our little wars and proxy wars in Central America, I was now being inconsistent. But that is like saying that a doctor who diagnoses one patient with cancer is then obliged to provide a similar diagnosis for every other patient. The same medical criteria yield different diagnoses in different cases. And the same moral criteria yield different judgments in different wars. Still, the judgments are controversial, even when we agree on criteria: read my piece on Kosovo, and then look for a second opinion. You won't have any difficulty finding one that differs from my own; and that is true for all my other arguments, too. The fact that we disagree, however, doesn't make just war different from any other moral (or political) concept. We give different accounts of the same military action, and we also give different accounts of the same election. We disagree about corruption, discrimination, and inequality even when we talk about all three in the common language of democratic theory. **Disagreements don't invalidate a theory; the theory, if it is a good one, makes the disagreements more coherent and comprehensible**.

Ongoing disagreements, together with the rapid pace of political change, sometimes require revisions of a theory. My own judgments since Just and Unjust Wars have been, I like to think, fairly consistent. But I have changed my mind or shifted the emphasis of my arguments about a few things, which it seems right to acknowledge here. Faced with the sheer number of recent horrors—with massacre and ethnic cleansing in Bosnia and Kosovo; in Rwanda, the Sudan, Sierra Leone, the Congo, and Liberia; in East Timor (and earlier, in Cambodia and Bangladesh) — I have slowly become more willing to call for military intervention. I haven't dropped the presumption against intervention that I defended in my book, but I have found it easier and easier to override the presumption. And faced with the reiterated experience of state failure, the reemergence of a form of politics that European historians call "bastard feudalism," dominated by warring gangs and would-be charismatic leaders, I have become more willing to defend long-term military occupations, in the form of protectorates and trusteeships, and to think of nation-building as a necessary part of postwar politics. Both of these shifts also require me to recognize the need for an expansion of just war theory. Jus ad bellum (which deals with the decision to go to war) and jus in Bello (which deals with the conduct of the battles) are its standard elements, first worked out by Catholic philosophers and jurists in the Middle Ages. Now we have to add to those two an account of jus post bellum (justice after the war). I wrote a section on justice in settlements in Just and Unjust Wars, but it is much too brief and doesn't even begin to address many of the problems that have arisen in places like Kosovo and East Timor and, recently, in Iraq. More work is necessary here, in both the theory and practice of peacemaking, military occupation, and political reconstruction.

That outweighs and turns the case

Jean Bethke Elshtain, Laura Spelman Rockefeller Professor of Social and Political Ethics, Divinity School, The University of Chicago, with appointments in Political Science and the Committee on International Relations, 2008, Peace, Order, Justice: Competing Understandings, Millennium - Journal of International Studies, 36: 413

We arrive, finally at model III. Let’s call this hard-headed peace. This is a peace that is mindful at every point of justice claims and the overriding need for at least a modicum of civil order and tranquility if other worthy goals, including justice claims, are to be heard and worked towards at all. Within hard-headed peace, various dichotomies – not only realism/ idealism but peace/war – as absolutes, break down. We recognise, with Hedley Bull and others, that war plays a central role in the maintenance of international law and the preservation of the balance of power, thereby effecting changes that are just. Of course, war can also be a destroyer of order and a force for injustice – but we cannot pace, the peace advocates I have criticised - condemn every war in advance as necessarily a paragon of the latter rather than the former.

As with every human endeavour this limited – neither absolute nor perpetual – peace is a precious, fragile human achievement. Its advocates recognise that we often need disturbers of the peace should a ‘peace’ be unjust even as we require defenders of the peace against those who would overturn it in the name of some dangerously eschatological political ideology – the triumph of the Aryan race, the triumph of the universal class – with their death camps and gulags to deal with those who stand in the way of the absolutist projects.

I recall being haunted by a story I read – an ancient Chinese parable – of the necessary precondition for perpetual peace, namely, that one should be so far removed from any other ‘city’ that, in the dead calm of night, the echoes of a dog barking could not carry – not alert some other city that aliens, strangers, were within striking distance. Your only options, if you heard that dog bark, were to go kill the inhabitants of the other city and destroy it or to incorporate them – to make them as ‘one’ with yourself – for the mere existence of this alien entity marred ‘peace’. Extreme, yes. But instructive, for it alerts us to the often ontologically suspicious features or absolute or perpetual peace – the presence of the alien suffices to mar it.

As much as I loved the late John Lennon and remain an unreconstructed Beatlesmaniac – his song ‘Imagine’ is the stringing together of empty banalities: no states, no religion, nothing to kill or die for, and the world will be as one. Fat chance. I don’t know how one gets from the song’s subjectivist anarchy to perpetual peace but we confront the high hill of moral upmanship yet again in popular, simplistic form.

If, however, you find the moral problems of international politics ‘infinitely complex, bewildering and perplexing’, in Martin Wight’s words, it makes you a ‘natural Grotian’.15 I’m going to have to reflect on his claim a bit more but this much is clear to me:

**War will never be abolished, so we must limit it** ethically and politically **in the manner of just war** teaching and here debates will turn on how hick’ the restraints must be; Human nature – yes, I said it – politically incorrect as it is – is a complex admixture of good and evil, nastiness and niceness, good Harry Potter with a bit of evil Voldemortian temptation thrown in and this is unavoidable That means we should be appropriately humble about even our best intentions, for on this earth there is neither absolute good nor absolute evil as a characteristic of either persons or states;

War turns structural violence

Bulloch 8

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 But the idea that poverty and peace are directly related presupposes that wealth inequalities are – in and of themselves – unjust, and that the solution to the problem of war is to alleviate the injustice that inspires conflict, namely poverty. However, it also suggests that poverty is a legitimate inspiration for violence, otherwise there would be no reason to alleviate it in the interests of peace. It has become such a commonplace to suggest that poverty and conflict are linked that it rarely suffers any examination. To suggest that war causes poverty is to utter an obvious truth, but to suggest the opposite is – on reflection – quite hard to believe. War is an expensive business in the twenty-first century, even asymmetrically. And just to examine Bangladesh for a moment is enough at least to raise the question concerning the actual connection between peace and poverty. The government of Bangladesh is a threat only to itself, and despite 30 years of the Grameen Bank, Bangladesh remains in a state of incipient civil strife. So although Muhammad Yunus should be applauded for his work in demonstrating the efficacy of micro-credit strategies in a context of development, it is not at all clear that this has anything to do with resolving the social and political crisis in Bangladesh, nor is it clear that this has anything to do with resolving the problem of peace and war in our times. It does speak to the Western liberal mindset – as Geir Lundestad acknowledges – but then perhaps this exposes the extent to which the Peace Prize itself has simply become an award that reflects a degree of Western liberal wish-fulfilment. It is perhaps comforting to believe that poverty causes violence, as it serves to endorse a particular kind of concern for the developing world that in turn regards all problems as fundamentally economic rather than deeply – and potentially radically – political.

Exertion of violence to kill terrorists is ethically required

Jean Bethke Elshtain, Laura Spelman Rockefeller Professor of Social and Political Ethics, Divinity School, The University of Chicago, with appointments in Political Science and the Committee on International Relations, 2003, Just War Against Terror, p. 150-5

IN THIS CHAPTER, I CONSIDER two related questions: How does a democratic society defend itself? And can force be an instrument of justice? An additional feature of the just war tradition, less emphasized than self-defense, holds that the governments and citizens of one country may be called upon to protect citizens of another country, or a minority within that country, who are not in a position to defend themselves from harm. "Protecting the innocent from certain harm" may require armed force in order to interdict and punish aggressors, especially aggressors whose war aim is the death and conquest of as many noncombatants as possible. There are those who insist that no nation is obliged in this way to come to the assistance of another. They dismiss the possibility that force can be an instrument of justice. They believe that international entities should rise up to take care of the problem. Thus far, however, the track record of nonstate organizations as effective bodies to interdict violence and punish aggression is not impressive.

Given the contrast between the demonstrated ineffectiveness of international organizations to roll back violence and the track record of particular states, particularly the United States, in deflecting and muting interstate violence, let's make this question more specific. In asking, how does a democratic society defend itself, let's assume that the democratic society in question is not just any constitutional order but the United States. The role of preventing or interdicting violence in other countries is not new to the United States; it was thrust upon the United States in 1989 when it became the world's only superpower.

The shock waves that rippled around the globe in the wake of September 11 reminded us that the expectation of American power, American stability, and American continuity is a basic feature of international order. Whether people celebrate this fact or lament it, it is undeniably the case that American political, diplomatic, economic, and military power now structures and anchors the international system. Small wonder that many of us compared the plenary jolt to the world's nervous system delivered on September 11, 2001, to the sack of Rome by the Vandals in A.D. 410. As word made its way through the civilized world about Rome's vulnerability, no one could believe it, including those who were not lovers of Rome. Roman law and rule provided stability and a point of reference. Rome was the umbrella of power under which so much else stood.

The analogy is not perfect, of course. We are the world's longest-lived constitutional republic. Postrepublican Rome was governed by often brutal emperors, and transfers of power could be a bloody, not very peaceful business. But the closest modern equivalent to the city of Rome is New York City—a polyglot metropolis with an astonishingly complex mix of languages and peoples from all other cultures. New York City is an astounding achievement. Now that the dust storms of September 11 have settled, what have we learned from the attacks on Washington, our capital city, and New York, our cosmopolitan lodestar? What has been revealed through this cataclysmic event?

APPEASEMENT DOESN'T WORK

As I write these words in the summer of 2002, we have word about a cache of 251 Al Qaeda tapes captured in the Afghan operation. Several of these gruesome tapes show "what appears to be the agonizing death of three dogs exposed to a chemical agent, apparently before September 11." The tape archive also includes detailed instructions on making bombs and shooting surface-to-air missiles (SAMs) and a variety of violent tapes contributed by "affiliated groups in Bosnia, Chechnya, Somalia, Sudan and elsewhere."1

Experts who watched many hours of these tapes suggested hat Western intelligence agencies might even now be underestimating Al Qaeda. One such expert, Magnus Ranstorp, director-designate of the Center for the Study of Terrorism and Political Violence at the University of St. Andrews in Scotland, stated: "In conjunction with the Encyclopedia of Jihad and other written manuals, the tapes show meticulous planning, preparation, and attention to the tradecraft of terror."2

Let's remind ourselves: These tapes are not about classic strategies of war and warmaking and the training of soldiers. Their theme, instead, is terror. We have defined terror as violence that targets noncombatants, is random and unpredictable, and aims to sow overwhelming fear in a population. This goal contrasts to the targeting strategies of traditional warmaking, whose goal is disabling the opponent's ability to fight back. Soldiers fight combatants. Terrorists kill civilians intentionally hoping that the terrorized survivors will eventually surrender or demand peace at any price—the definition of conquest in the terrorist lexicon.

These reflections mesh with classic Augustinian thinking, whether in its just war or Christian realist incarnations. Augustinians are painfully aware of the temptation to smash, destroy, damage, and humiliate. Such temptations may be struggled against, capitulated to, or even extolled as a form of strength and the path to victory. Violence unleashed when what Augustine called the libido dominandi, or lust to dominate, is unchecked is violence that recognizes no limits. It is violence that kills politics. Whereas classic warfare is the continuation of politics by other means, terrorism is the destruction of politics by all possible means.

Because the terrorist goal is so brutal, human beings whose capacity for compassion is intact find it difficult to believe that there are other human beings with whom we cannot calmly reason or negotiate. And indeed, paranoid persons of a terrorist mentality who have surrounded themselves with a protective cordon sanitaire and want only to be left alone may not be a huge concern (unless, of course, a group of such persons is systematically destroying a minority within its own popula

don or otherwise abusing people in significant and harmful ways). But when the clearly stated terrorist aim is to kill Americans wherever and whenever possible, we are confronting an implacable foe with whom it is impossible to have a diplomatic "sit-down."

A distinguished Johns Hopkins University psychiatrist, Paul R. McHugh, in exploring the mentality of the fanatic, rejects the psychological thinking that claims Americans were driven to extreme anxiety by the destruction of the twin towers because the towers were such obvious "phallic symbols." McHugh is having none of this silliness as he writes:

Americans felt anxiety not because the towers of the World Trade Center were longer than they were wide, but because witnessing the cruel deaths of so many of our fellow citizens—horribly killed as they went about their daily lives, unsuspecting and unprotected—naturally provokes grief, anger, and fear. The brutal indiscriminate slaughter of thousands of people in an instant, along with the sight of their bodies dropping like debris from dizzying heights, should produce pity [and] grief . . . in anyone with an ounce of fellow feeling.3

It is important to take the measure of people who not only are capable of planning and executing such deeds but are gleeful about the lives lost and exult in the terrible devastation to so many families. McHugh reminds us that we are talking about a form of behavior, not just a way of thinking or fantasizing. What we ordinarily speak of as "fanaticism" the psychiatrist is likely to call an "overvalued idea." An overvalued idea drives those who hold it to take action of a certain sort—action that examines no alternative. The fanatic surrounds himself with others of like mind, brooking no dissent. He (or she) becomes cold, paranoid, and aggressive.

The imagination of the fanatic runs wild. One horror, like September 11, must be followed by others. What can we bring down next? Terrorist behavior, once undertaken, feeds on itself, as do other forms of violent criminality. This is a point made by the great psychoanalyst and cultural historian Erik Erikson years ago in a discussion of Hitler's youth. Hitler's awareness of certain dynamics of the human mind and of human behavior led him to implicate recruits to National Socialism early on in deeds of violence from which there was no turning back. Once these recruits had assaulted, bloodied, and perhaps killed their first Jew, the second became easier, and the third easier yet. As McHugh notes, the behavior of terrorists "is maintained by its consequences, especially the publicity that draws attention to the terrorist and his ideas**." The only way to stop this escalation is interdiction**: "The American government should devote its energies to interrupting the terrorists' behavior in all its aspects." Governments have a responsibility to maintain civic peace. **Because there are as many reasons for terrorism** as there are terrorists, says McHugh, the priority must be to "stop the behavior first." Then, "once peace is restored," McHugh concludes, "we can deal with underlying issues. We will very likely find that many of the justifications now offered for terrorism were only rationalizations intended to excuse it. But we need not waste our energies trying to change the opinions of terrorists about us and our aims. These people . . . have overvalued ideas that are inaccessible to argument and persuasion."4

In a speech before the United Nations on October 1, 2001, New York City Mayor Rudy Giuliani made essentially the same point. "This is not a time for further study or vague directives," he insisted, for the "evidence of terrorism's brutality and inhumanity, of its contempt for life and the concept of peace, is lying beneath the rubble of the World Trade Center less than two miles from where we meet today."5

Hannah Arendt, who was always suspicious of psychological categories, would have had little difficulty signing on with McHugh's and Giuliani's conclusions. According to Arendt, the fanatic is a person whose mind is on auto-pilot. Like the war criminal Adolf Eichmann, fanatics have lost the capacity for argument that entertains multiple possibilities. It is impossible to sit down at a table and hammer out some sort of "peace agreement" or "nonaggression pact" with terrorists. Because the goals of the fanatic cannot be achieved by compromise and negotiation, any such agreement would not be worth the paper it was written on.

The only defense against terrorism in the short run is interdiction and self-defense. The best defense against terrorism in the long run is building up secure civic infrastructures in many nations. That is why a number of policymakers have spoken about a contemporary version of the great Marshall Plan that rebuilt Europe after the catastrophe of World War II. The West's generous financial commitment is required, as is the continuing presence of foreign troops and peacekeepers in Afghanistan and, as the war against terrorism goes forward, in other sites as well. As an example of what is both expected and required, Afghan President Hamid Karzai has spoken repeatedly of the need for more troops to be sent to Afghanistan, "for as long as we need . . . to fight terrorism, to fight warlordism, to fight anarchy . . . until we have our own institutions—a national army, a national intelligence, national police and so on."6 He has consistently pled with the United States and its allies to remain engaged even after Al Qaeda has been rendered incapable of using Afghanistan as a base to mount attacks.

Those who condemn a continuing U.S. presence in Afghanistan as yet another intrusion by the "cowboy" Americans are compelled by their logic to ignore the pleadings of those on the ground, including the president of the country. The implication of calls for American withdrawal is that it is preferable to pull up stakes and leave a people beleaguered and vulnerable to terrorist exploitation. This strategy of abandonment, often justified as a way to respect a culture's "difference," is actually a counsel of indifference. To abandon beleaguered peoples is to give them less regard than they deserve as human beings. At the conclusion of World War II, with all its attendant horrors, Hannah Arendt insisted that human dignity needed a new guarantee. Providing that guarantee puts an enormous burden on those with power.

Predictions and scenario building are valuable for decision-making, even if they’re not perfect

**Garrett 12**

Banning, In Search of Sand Piles and Butterflies, director of the Asia Program and Strategic Foresight Initiative at the Atlantic Council.

http://www.acus.org/disruptive\_change/search-sand-piles-and-butterflies

 “Disruptive change” that produces “strategic shocks” has become an increasing concern for policymakers, shaken by momentous events of the last couple of decades that were not on their radar screens – from the fall of the Berlin Wall and the 9/11 terrorist attacks to the 2008 financial crisis and the “Arab Spring.” These were all shocks to the international system, predictable perhaps in retrospect but predicted by very few experts or officials on the eve of their occurrence. This “failure” to predict specific strategic shocks does not mean we should abandon efforts to foresee disruptive change or look at all possible shocks as equally plausible. Most strategic shocks do not “come out of the blue.” We can understand and project long-term global trends and foresee at least some of their potential effects, including potential shocks and disruptive change. We can construct alternative futures scenarios to envision potential change, including strategic shocks. Based on trends and scenarios, we can take actions to avert possible undesirable outcomes or limit the damage should they occur. We can also identify potential opportunities or at least more desirable futures that we seek to seize through policy course corrections. We should distinguish “strategic shocks” that are developments that could happen at any time and yet may never occur. This would include such plausible possibilities as use of a nuclear device by terrorists or the emergence of an airborne human-to-human virus that could kill millions. Such possible but not inevitable developments would not necessarily be the result of worsening long-term trends. Like possible terrorist attacks, governments need to try to prepare for such possible catastrophes though they may never happen. But there are other potential disruptive changes, including those that create strategic shocks to the international system, that can result from identifiable trends that make them more likely in the future—for example, growing demand for food, water, energy and other resources with supplies failing to keep pace. We need to look for the “sand piles” that the trends are building and are subject to collapse at some point with an additional but indeterminable additional “grain of sand” and identify the potential for the sudden appearance of “butterflies” that might flap their wings and set off hurricanes. Mohamed Bouazizi, who immolated himself December 17, 2010 in Sidi Bouzid, Tunisia, was the butterfly who flapped his wings and (with the “force multiplier” of social media) set off a hurricane that is still blowing throughout the Middle East. Perhaps the metaphors are mixed, but the butterfly’s delicate flapping destabilized the sand piles (of rising food prices, unemployed students, corrupt government, etc.) that had been building in Tunisia, Egypt, and much of the region. The result was a sudden collapse and disruptive change that has created a strategic shock that is still producing tremors throughout the region. But the collapse was due to cumulative effects of identifiable and converging trends. When and what form change will take may be difficult if not impossible to foresee, but the likelihood of a tipping point being reached—that linear continuation of the present into the future is increasingly unlikely—can be foreseen. Foreseeing the direction of change and the likelihood of discontinuities, both sudden and protracted, is thus not beyond our capabilities. While efforts to understand and project long-term global trends cannot provide accurate predictions, for example, of the GDPs of China, India, and the United States in 2030, looking at economic and GDP growth trends, can provide insights into a wide range of possible outcomes. For example, it is a useful to assess the implications if the GDPs of these three countries each grew at currently projected average rates – even if one understands that there are many factors that can and likely will alter their trajectories. The projected growth trends of the three countries suggest that at some point in the next few decades, perhaps between 2015 and 2030, China’s GDP will surpass that of the United States. And by adding consideration of the economic impact of demographic trends (China’s aging and India’s youth bulge), there is a possibility that India will surpass both China and the US, perhaps by 2040 or 2050, to become the world’s largest economy. These potential shifts of economic power from the United States to China then to India would likely prove strategically disruptive on a global scale. Although slowly developing, such disruptive change would likely have an even greater strategic impact than the Arab Spring. The “rise” of China has already proved strategically disruptive, creating a potential China-United States regional rivalry in Asia two decades after Americans fretted about an emerging US conflict with a then-rising Japan challenging American economic supremacy. Despite uncertainty surrounding projections, foreseeing the possibility (some would say high likelihood) that China and then India will replace the United States as the largest global economy has near-term policy implications for the US and Europe. The potential long-term shift in economic clout and concomitant shift in political power and strategic position away from the US and the West and toward the East has implications for near-term policy choices. Policymakers could conclude, for example, that the West should make greater efforts to bring the emerging (or re-emerging) great powers into close consultation on the “rules of the game” and global governance as the West’s influence in shaping institutions and behavior is likely to significantly diminish over the next few decades. The alternative to finding such a near-term accommodation could be increasing mutual suspicions and hostility rather than trust and growing cooperation between rising and established powers—especially between China and the United States—leading to a fragmented, zero-sum world in which major global challenges like climate change and resource scarcities are not addressed and conflict over dwindling resources and markets intensifies and even bleeds into the military realm among the major actors. Neither of these scenarios may play out, of course. Other global trends suggest that sometime in the next several decades, the world could encounter a “hard ceiling” on resources availability and that climate change could throw the global economy into a tailspin, harming China and India even more than the United States. In this case, perhaps India and China would falter economically leading to internal instability and crises of governance, significantly reducing their rates of economic growth and their ability to project power and play a significant international role than might otherwise have been expected. But this scenario has other implications for policymakers, including dangers posed to Western interests from “failure” of China and/or India, which could produce huge strategic shocks to the global system, including a prolonged economic downturn in the West as well as the East. Thus, looking at relatively slowly developing trends can provide foresight for necessary course corrections now to avert catastrophic disruptive change or prepare to be more resilient if foreseeable but unavoidable shocks occur. Policymakers and the public will press for predictions and criticize government officials and intelligence agencies when momentous events “catch us by surprise.” But unfortunately, as both Yogi Berra and Neils Bohr are credited with saying, “prediction is very hard, especially about the future.” One can predict with great accuracy many natural events such as sunrise and the boiling point of water at sea level. We can rely on the infallible predictability of the laws of physics to build airplanes and automobiles and iPhones. And we can calculate with great precision the destruction footprint of a given nuclear weapon. Yet even physical systems like the weather as they become more complex, become increasingly difficult and even inherently impossible to predict with precision. With human behavior, specific predictions are not just hard, but impossible as uncertainty is inherent in the human universe. As futurist Paul Saffo wrote in the Harvard Business Review in 2007, “prediction is possible only in a world in which events are preordained and no amount of actions in the present can influence the future outcome.” One cannot know for certain what actions he or she will take in the future much less the actions of another person, a group of people or a nation state. This obvious point is made to dismiss any idea of trying to “predict” what will occur in the future with accuracy, especially the outcomes of the interplay of many complex factors, including the interaction of human and natural systems. More broadly, the human future is not predetermined but rather depends on human choices at every turning point, cumulatively leading to different alternative outcomes. This uncertainty about the future also means the future is amenable to human choice and leadership. Trends analyses—including foreseeing trends leading to disruptive change—are thus essential to provide individuals, organizations and political leaders with the strategic foresight to take steps mitigate the dangers ahead and seize the opportunities for shaping the human destiny. Peter Schwartz nearly a decade ago characterized the convergence of trends and disruptive change as “inevitable surprises.” He wrote in Inevitable Surprises that “in the coming decades we face many more inevitable surprises: major discontinuities in the economic, political and social spheres of our world, each one changing the ‘rules of the game’ as its played today. If anything, there will be more, no fewer, surprises in the future, and they will all be interconnected. Together, they will lead us into a world, ten to fifteen years hence, that is fundamentally different from the one we know today. Understanding these inevitable surprises in our future is critical for the decisions we have to make today …. We may not be able to prevent catastrophe (although sometimes we can), but we can certainly increase our ability to respond, and our ability to see opportunities that we would otherwise miss.

# 2nc

Topical version of the aff solves

Orly Lobel, University of San Diego Assistant Professor of Law, 2007, The Paradox of Extralegal Activism: Critical Legal Consciousness and Transformative Politics,” 120 HARV. L. REV. 937, http://www.harvardlawreview.org/media/pdf/lobel.pdf

V. RESTORING CRITICAL OPTIMISM IN THE LEGAL FIELD

“La critique est aisée; l’art difficile.”

A critique of cooptation often takes an uneasy path. Critique has always been and remains not simply an intellectual exercise but a political and moral act. The question we must constantly pose is how critical accounts of social reform models contribute to our ability to produce scholarship and action that will be constructive. To critique the ability of law to produce social change is inevitably to raise the question of alternatives. In and of itself, the exploration of the limits of law and the search for new possibilities is an insightful field of inquiry. However, the contemporary message that emerges from critical legal consciousness analysis has often resulted in the distortion of the critical arguments themselves. This distortion denies the potential of legal change in order to illuminate what has yet to be achieved or even imagined. Most importantly, cooptation analysis is not unique to legal reform but can be extended to any process of social action and engagement. When claims of legal cooptation are compared to possible alternative forms of activism, the false necessity embedded in the contemporary story emerges — a story that privileges informal extralegal forms as transformative while assuming that a conservative tilt exists in formal legal paths. In the triangular conundrum of “law and social change,” law is regularly the first to be questioned, deconstructed, and then critically dismissed. The other two components of the equation — social and change — are often presumed to be immutable and unambiguous. Understanding the limits of legal change reveals the dangers of absolute reliance on one system and the need, in any effort for social reform, to contextualize the discourse, to avoid evasive, open-ended slogans, and to develop greater sensitivity to indirect effects and multiple courses of action. **Despite its weaknesses, however, law is an optimistic discipline**. It operates both in the present and in the future. **Order without law is often the privilege of the strong**. Marginalized groups have used legal reform precisely because they lacked power. Despite limitations, these groups have often successfully secured their interests through legislative and judicial victories. **Rather than experiencing a** disabling disenchantment **with the legal system, we can learn from both the successes and failures of past models, with the aim of** constantly redefining the boundaries of legal reform **and making visible law’s broad reach**.

Arguing that a current government policy is bad is not roleplaying

Scott Harris, Director of Debate, Kansas University, 2013, This Ballot, http://www.cedadebate.org/forum/index.php?topic=4762.0

While this ballot has meandered off on a tangent I’ll take this opportunity to comment on an unrelated argument in the debate. Emporia argued that oppressed people should not be forced to role play being the oppressor. This idea that debate is about role playing being a part of the government puzzles me greatly. While I have been in debate for 40 years now never once have I role played being part of the government. When I debated and when I have judged debates I have never pretended to be anyone but Scott Harris. Pretending to be Scott Harris is burden enough for me. Scott Harris has formed many opinions about what the government and other institutions should or should not do without ever role playing being part of those institutions. I would form opinions about things the government does if I had never debated. I cannot imagine a world in which people don’t form opinions about the things their government does. I don’t know where this vision of debate comes from. I have no idea at all why it would be oppressive for someone to form an opinion about whether or not they think the government should or should not do something. I do not role play being the owner of the Chiefs when I argue with my friends about who they should take with the first pick in this year’s NFL draft. I do not role play coaching the basketball team or being a player if I argue with friends about coaching decisions or player decisions made during the NCAA tournament. If I argue with someone about whether or not the government should use torture or drone strikes I can do that and form opinions without ever role playing that I am part of the government. Sometimes the things that debaters argue is happening in debates puzzle me because they seem to be based on a vision of debate that is foreign to what I think happens in a debate round.

Their specific form of advocacy SHUTS DOWN DEBATE – starting with personal experiential narratives makes it IMPOSSIBLE to NEGATE

SUBOTNIK 98

Professor of Law, Touro College, Jacob D. Fuchsberg Law Center.

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Having traced a major strand in the development of CRT, we turn now to the strands' effect on the relationships of CRATs with each other and with outsiders. As the foregoing material suggests, **the central** CRT **message is not simply that minorities are being treated unfairly**, or even that individuals out there are in pain - assertions for which there are data to serve as grist for the academic mill - **but that the minority scholar himself or herself hurts and hurts badly**.

An important problem that concerns the very definition of the scholarly enterprise now comes into focus. **What can an academic** trained to [\*694] question and to doubt n72 **possibly say to Patricia Williams when effectively she announces, "I hurt bad"?** n73 **"No, you don't hurt"? "You shouldn't hurt"?** "Other people hurt too"? Or, most dangerously - and perhaps most tellingly - "What do you expect when you keep shooting yourself in the foot?" If the majority were perceived as having the well- being of minority groups in mind, these responses might be acceptable, even welcomed. And they might lead to real conversation. But, **writes Williams, the failure by those "cushioned within the invisible privileges of race and power**... to incorporate a sense of precarious connection as a part of our **lives is... ultimately obliterating**." n74

"Precarious." "Obliterating." **These words will clearly invite responses only from fools and sociopaths; they will, by effectively precluding objection, disconcert and disunite others**. **"I hurt," in academic discourse, has three broad though interrelated effects**. First, **it demands priority from the reader's conscience. It is for this reason that law review editors, waiving usual standards, have privileged a long trail of undisciplined - even silly** n75 **- destructive and, above all, self-destructive arti cles.** n76 **Second, by emphasizing the emotional bond between those who hurt in a similar way, "I hurt" discourages fellow sufferers from abstracting themselves from their pain in order to gain perspective on their condition**. n77

 [\*696] **Last, as we have seen,** it precludes the possibility of open and structured conversation with others. n78 [\*697] **It is because of this conversation-stopping effect** of what they insensitively call "first-person agony stories" **that Farber and Sherry deplore their use.** "The norms of academic civility hamper readers from challenging the accuracy of the researcher's account; it would be rather difficult, for example, to criticize a law review article by questioning the author's emotional stability or veracity." n79 Perhaps, a better practice would be to put the scholar's experience on the table, along with other relevant material, but to subject that experience to the same level of scrutiny.

If **through the foregoing rhetorical strategies CRATs succeeded in limiting academic debate**, why do they not have greater influence on public policy? **Discouraging white legal scholars from entering the national conversation about race**, n80 I suggest, **has generated a kind of cynicism in white audiences** which, in turn, has had precisely the reverse effect of that ostensibly desired by CRATs. **It drives the American public to the right and ensures that anything CRT offers is reflexively rejected.**

In the absence of scholarly work by white males in the area of race, of course, it is difficult to be sure what reasons they would give for not having rallied behind CRT. Two things, however, are certain. First, **the kinds of issues** raised by Williams **are too important** in their implications  [\*698]  for American life **to be confined to communities of color.** If the lives of minorities are heavily constrained, if not fully defined, by the thoughts and actions of the majority elements in society, **it would seem to be of great importance that white thinkers and doers participate in open discourse** to bring about change. Second, given the lack of engagement of CRT by the community of legal scholars as a whole, the discourse that should be taking place at the highest scholarly levels has, by default, been displaced to faculty offices and, more generally, the streets and the airwaves.

#### ANY use of drones links to destruction of ontology- also means that they don’t solve cause they don’t take action that ends the strikes

Tyler Wall, Torin Monohan 11**,** phd justice studies eastern Kentucky university, phd communications studies chapel hill,Surveillance and violence from afar: The politics of drones and liminal security-scapes

Drone systems necessarily objectify, and most likely dehumanize, people targeted by them. The ongoing informatization of warfare leads to increased mediation of combat experiences (Robins and Levidow, 1995; Haggerty, 2006; Monahan and Wall, 2007) and this is definitely the case for many UAV ‘pilots’ who ‘sit at 1990s-style computer banks filled with screens, inside dimly lit trailers’ (Drew, 2009) and ‘kill enemy fighters with a few computer keystrokes. Then, after their shifts are over, they get to drive home and sleep in their own beds’ (Lindlaw, 2008). Taken together, the techno-scientific mediation of modern-day weapons systems and the symbolic mediation of television and computer screens allow drone pilots and the general public to view war ‘from a distance’ while making way for organized state violence to be seen as virtuous (Der Derian, 2001)—that is, clean, precise, and noble. In this context of computerized ‘postmodern warfare’ (Gray, 1997), it seems reasonable to assert, as Kevin Robins and Les Levidow (1995: 120) did in the aftermath of the Gulf War of 1991:¶ Killing is done ‘at a distance’, through technological mediation, without the shock of direct confrontation. The victims become psychologically invisible. The soldier appears to achieve a moral dissociation; the targeted ‘things’ on the screen do not seem to implicate him in a moral relationship.¶ The technological mediation vital to what we call ‘the drone stare’ is most often framed by advocates of UAV systems as an unproblematic ability to see the truth of a particular situation (see Rattansi, 2010) or to achieve a totalizing view of the ‘object’ under cosmic control. In the words of Robins and Levidow (1995: 121): ‘Enemy threats—real or imag- inary, human or machine—became precise grid locations, abstracted from their human context.’ To the extent that this description is accurate, it would appear to hold true for the use of drones in combat as well as non-combat settings.¶ Journalist Noah Shachtman (2005), who observed drone operators monitoring the US–Mexico border, betrays through his description the dehumanizing tendency of drone- mediated perceptions: ‘Everyone looks like germs, like ants, from the Hunter’s 15,000- foot point of view. Especially when the ant hill breaks apart, and everybody scatters in a dozen different directions.’ But this particular articulation makes no distinction between ‘illegal immigrants’, political refugees, or Mexican-American citizens. In this sense, the drone system radically homogenizes these identities into a single cluster of racialized information that is used for remote-controlled processes of control and harm. Bodies below become things to track, monitor, apprehend, and kill, while the pilot and other allies on the network remain differentiated and proximate, at least culturally if not physically.¶ In the case of the use of military drones for ‘precision’ killing, the practical action of firing a Hellfire missile is translated and transformed by the informational system into a computerized checklist of ‘things to do’. As one journalist writes concerning US Air Force drones, ‘Now, pilots say, it takes up to 17 steps—including entering data into a pull-down window—to fire a missile’ (Drew, 2009). In this respect, as Kevin Haggerty (2006) has pointed out, the speed and mobility of informatized warfare is perforce slowed by attendant complex systems of control, which is a generalizable finding that presents an important caution against overdetermined conclusions about inevitable increases in the velocity of war technologies. But this step-by-step process of entering ‘data’ into a computer system nonetheless propagates a dehumanizing abstraction when living human beings are rendered into mere spatial or tactical coordinates. As Avital Ronell (1992: 75) puts it: ‘the cyborg soldier, located in command and control systems, exercises on the fields of denial’. Killing transpires not only at a distance but through the routine, banal computerized procedure of typing and clicking. UAV systems, according to one military drone operator, are ‘pretty simple’ to operate but,¶ the challenge is taking all the information available and fusing it into something that’s usable and then practicing and exercising the constraint or the lethal power to either preserve life or to prosecute an attack. And that is where the challenge really is, honing that warrior spirit— knowing when to say when.¶ (Rattansi, 2010)¶ But as we have discussed, this ‘knowing when to say when’ is not a ‘decision’ that is made in a vacuum but is rather a sovereign act shaped by social and political norms, which are encoded in both the institutional practices and technological systems of drone warfare.¶ The state killing enacted by UAV systems exists in a discursive and symbolic context where a steadfast belief in precision technology helps justify the techno-scientific vio- lence of the West (Shaw, 2005). Central to common representations of virtuous warfare, and especially aerial warfare, is the idea that the USA is technologically superior to other countries in its war capabilities, particularly because of its reliance on ‘smart bombs’ and ‘precision-guided missiles’ that distinguish between legitimate and illegitimate targets (Der Derian, 2001). This, in turn, brings about an expectation that militaries should go to great lengths to use their violence in discriminatory ways that target combatants while avoiding civilians (Beier, 2003). Militaries in technologically advanced countries such as the US embrace this rhetoric to assert that they have the capacity to conduct war in more legal and moral ways than less technologically advanced countries (Beier, 2003).

#### This is just an fyi that not admitting drones are bad is bad- if we win that some strikes are good, they don’t access this

Kristin Dorage 13 [School for Conflict Analysis and Resolution, Master’s degree, focus area of research is structural violence and developing praxis for conflict resolution] “Understanding the Pro-Drone Discourse” April 13, http://www.unrestmag.com/understanding-the-pro-drone-discourse/

 “Foucault argues that since we can only have a knowledge of things if they have a meaning, it is discourse – not the things-in-themselves – which produces knowledge.” - Stuart Hall, Foucault: Power, Knowledge and Discourse. [1] Michel Foucault’s ideas as conveyed here by Stuart Hall indicate that discourse produces our knowledge of objects. If we accept this premise as true, it would be wise for students of conflict analysis and resolution to pay close attention to the development of new objects in conflict settings. Unmanned aerial vehicles (also known as UAVs or drones) are a prime example of such objects. Over the past ten years, lethal drones have changed the nature of warfare by allowing the United States’ “war on terror” to become increasingly clandestine and asymmetrical. Since the U.S. government has not provided basic information about its covert drone program – such as where drones are used, how targets are selected, and how many people have been killed – the discourses both championing and opposing drones are often backed by flimsy evidence. Yet these discourses are powerful nonetheless. How we talk about drones affects our understanding of them. Discourses that promote drone warfare are particularly dangerous because they encourage killing in spite of their lack of substance. Given that the subject of drone warfare is new, anti-drone advocates still have an opportunity to shape the public’s perception of drones. To begin, we must examine the pro-drone discourse with a critical lens and draw attention to its dangerous implications. Former White House Counter-Terrorism Advisor and recently appointed Director of the CIA, John Brennan, gave a speech last year to discuss the administration’s use of lethal drones. In his speech, which constituted the first formal acknowledgement of the drone program by the White House, Brennan stated:¶ As we have seen, deploying large armies abroad won’t always be our best offense. Countries typically don’t want foreign soldiers in their cities and towns. In fact, large, intrusive military deployments risk playing into al-Qaida’s strategy of trying to draw us into long, costly wars that drain us financially, inflame anti-American resentment and inspire the next generation of terrorists. In comparison, there is the precision of targeted strikes. [2]¶ Knowing that the American public is tired of war after the extended invasions in Iraq and Afghanistan, Brennan tries to persuade the audience that using lethal drones is not war. Brennan also sets up a false binary between targeted drone strikes and putting troops on the ground in an attempt to make drones the only option for combating terrorism. Pro-drone discourses are often set in false binaries, which prevent creative thinking about other ways to address terrorism. Brennan equates “large military deployments” with long, expensive wars that play into the enemy’s plan and lead to more terrorists attacks. His phrasing implies that drone strikes would have the opposite effect – that using targeted strikes would not produce anti-American sentiment, nor would their usage play into al-Qaida’s strategy. Brennan appears to acknowledge the desire of other countries to keep their citizens safe, recognizing that they do not want foreign troops in their cities and towns. However, in April last year (one month prior to Brennan’s speech), the Pakistani Parliament voted to end all endorsement of the CIA’s drone operations. [3] Surveys conducted by the Pew Research Center in 20 countries around the world show that the majority of them disapprove of the U.S. using drones to target extremists overseas. This stands in stark contrast to the majority of Americans (56%) who support targeted drone strikes. [4] The Bureau of Investigative Journalism (BIJ), an independent organization which has been conducting an in-depth investigation into the covert drone war, reports there have been nine drone strikes and between 36-71 casualties in Pakistan this year alone. [5]¶ Brennan’s speech demonstrates three elements that I believe are grounding points for the pro-drone discourse. They include: keeping U.S. troops and citizens’ safe, conducting precise and efficient warfare, and maintaining fiscal responsibility on the part of the military.¶ Pro-drone advocates claim that drones ensure U.S. troops’ safety while allowing them to pursue the goal of combat. Stephen A. Cheney, CEO of the American Security Project, states, “any time you can use a drone instead of using a Marine, I think it’s a good thing”. [6] His statement seems logical enough: if we are at war, we want our troops to be safe; if we send drones into battle instead of American soldiers, then more American lives will be saved. However, there is an unstated distinction here between short-term and long-term safety. While lethal drones ensure that U.S. troops are not put directly in harm’s way, the destruction caused by drones is unlikely to be ignored. We can most certainly expect that a targeted operation of this nature will instigate a severe backlash against the U.S. at some point in the future.¶ A study conducted by a former member of President Obama’s counterterrorism group, Michael Boyle, states that the use of drones is “encouraging a new arms race that will empower current and future rivals and lay the foundations for an international system that is increasingly violent”. [7] In Yemen, a series of interviews with witnesses of drone attacks suggest that drones have contributed to a rise in anti-American sentiment and may encourage recruitment to al-Qaida. A former counter-terrorism official at the U.S. State Department concurs: “Drone policy at its current tempo does put the U.S. at the very top of the bad-guys list”. [8]¶ According to John Brennan, drone strikes “conform to the principle of proportionality”. [9] In other words, the gains made by the military exceed the damage done by drones. He emphasizes that targeted strikes are directed towards individuals that pose a significant threat. That includes leaders of al-Qaida and other associated groups, individuals planning on carrying out attacks on “U.S. persons and interests”, and individuals that provide support for these attacks. [10] Brennan says the purpose of targeting these individuals “is to disrupt his plans and his plots before they come to fruition”. [11] The language he employs attempts to reassure his audience. By reciting the principles of war the narrative conveys to us that drone strikes are directed only towards those that are about to cause imminent harm. Yet, how do we know if this is true? And what gives us reason to think that this is an effective strategy? Given that the government has not released information about the process of choosing targets, it is impossible to know. In addition, the long-term strategy or timeline for drone strikes is never mentioned. At what point do we say that all terrorist threats are gone and we can stop using lethal drones? Historically speaking, eliminating the upper echelons of an organization has not always resulted in the group’s termination. The CIA killed thousands of Vietcong leaders during the Vietnam War and the organization survived it. The spread of al-Qaeda operatives to Mali, even the attacks on the U.S. Consulate in Benghazi, Libya, could be seen as evidence that the U.S.’ counterterrorism policy is not working. [12] Discourses suggesting that drones keep us safe are situated in a short-term perspective. Policies that align with this discourse have not considered what retributive violence might happen as a result of the drone program and are very dangerous indeed.¶ There is another aspect of the safety discourse that is deceiving. The U.S. Justice Department’s 16-page white paper, which was leaked earlier this year by NBC, attempts to make a case for the legality of the U.S. government’s targeted killings. In this paper it states that even U.S. citizens can by killed by drones without charges, a hearing, a trial, or any evidence, as long as an “informed, high-level official of the U.S. government” determines the person is an imminent threat. [13] The paper does not say whether the official needs to be completely sure or just have a sneaking suspicion that the target is an imminent threat. In fact, the paper’s definition of imminence is so broad that it negates the word entirely. According to this document all that is required for the government to conduct a targeted strike on a U.S. citizen is the say-so from a senior official and a window of opportunity.¶ What is particularly worrisome is the lack of judicial checks and balances within the drone program, and the overwhelming power that is being consolidated in the executive branch of government. Other aspects of the “war on terror” have procedural safeguards; for example, if the government wishes to set a wiretap, it must request a warrant under the Foreign Intelligence Surveillance Act. And while the Constitution allows unilateral executive action in “exigent circumstances”, these actions must always be followed by ex post judicial review. On the issue of drones, the courts are entirely left out of the process. As journalist David Cole writes, it seems that the government “wants the power to kill Americans unilaterally—and in secret”. [14]¶ As far as we know, three Americans have been killed to date by American-operated drones. This includes Anwar al-Awlaki, a high-level recruiter for al-Qaida and propagandist who was raised in America and killed in Yemen, and Awlaki’s 16-year-old American son, Abdulrahman al-Awlaki, who was killed by a drone in Yemen two weeks later. [15] The U.S. administration has said that Anwar al-Awlaki and individuals like him are dangerous enough to warrant being killed instead of captured and given due process. There have been only unofficial responses given by the U.S. government regarding Abdulrahman’s death, including an anonymous official who told the media that his death was a mistake. The discourse that drones keep us safe does not hold up to the fact that our government has unilaterally killed an innocent American teenager, and refuses to give information about his death. Since the government is intent on creating its own rules with the drone program– and not communicating these rules to the public – it removes any trust we might have in its judgment. [16]¶ Slavoj Zizek’s work can also provide insight into the safety discourse. In his book, Violence, he discusses three modes of violence: subjective, objective, and symbolic. [17] He argues that subjective, or overt, violence is the most visible of the three, and often sheds light on objective, or systemic, violence. If we were to apply this theory to the covert drone program, we can see how the violence enacted by drones takes on different forms for different audiences. The violence inflicted by drones is subjective for those on the receiving end, but symbolic to those who view it from a distance (through the news, for example). For the individuals inflicting the violence (the drone operators), it is less direct because it is “hidden” by the monitors and screens through which the violence is enacted. A study conducted by the U.S. Air Force found that almost half of all drone operators experienced high levels of stress in the workplace, but this stress was tied to working “long and erratic work hours”. [18] The drone operators did not show increased amounts of stress from watching hours of up-close video footage of killing and destruction inflicted by drones. Instead, the operators felt “a sense of accomplishment in protecting troops on the ground”. [19]¶ We can further expand on this idea by historicizing drones in the context of trends in warfare. Noel Sharkey explains in his chapter “Killing Made Easy: From Joysticks to Politics” that the evolution of the military has led to greater physical space between combatants, along with technology that “enable[s] killing from ever-increasing distances”. [20] While increasing the distance between combatants caters to our innate desire to keep ourselves safe, the extreme distance in drone warfare also produces alienation and desensitization; it encourages drone operators to become comfortable with brutality and killing. Sharkey’s research along with the research done on drone operators suggests that what we are seeing is the transition of subjective violence to objective violence; in other words, the violence caused by drones is becoming normalized and if it continues it shall soon be rendered ‘invisible’.¶ The safety elements in the pro-drone discourse are also tied to Karl Marx’s theories about individuals as subjects and objects.[21] Marx states that the division between subjects and objects is created and perpetuated in a capitalist economy, in which violence is inflicted on individuals as objects. This is evident in the CIA’s “signature strikes”, in which drones are used to kill people whose names are not known, but who are in the vicinity of other “militants” and either demonstrate suspicious behavior, or have characteristics that warrant their immediate death. [22] By treating individuals as objects, instead of as subjects of equal worth, drones not only aim to kill individuals, but also to promote the objectification of human beings. As Marx said, “The performance of work is at the same time its objectification”. [23] Once a group of people is objectified, they no longer require safety or protection. The subjective and objective aspects of drone warfare intend to make others appear “less than”. Therefore the discourse of safety has the function of treating some Americans (those not targeted by drones) as subjects, while reducing those within the drone’s purview to mere objects.¶ Bradley J. Strawser, a former Air Force officer and an assistant professor at the Naval Postgraduate School, conducted a study of the drone program and concluded that “using [drones] to go after terrorists not only was ethically permissible but also might be ethically obligatory, because of their advantages in identifying targets and striking with precision”. [24] The idea presented here is common in many pro-drone discourses – that drones represent the most ethical form of warfare because they are precise. The discourse acts as if drones can pluck out the ‘bad guy’ from the masses, and eliminate him or her with no consequences. This idea is suspect for several reasons. First, even when drones are on target, the blast that emanates from Hellfire missiles generally has a radius of 15 to 20 meters. [25] That distance does not include the shrapnel projected after the blast. A report on drones issued by Stanford and New York University further explains why it is difficult for UAVs to be precise:¶ One factor that reduces targeting precision is ‘latency,’ the delay between movement on the ground and the arrival of the video image via satellite to the drone pilot. As the New York Times reported in July 2012, “Last year senior operatives with Al Qaeda in the Arabian Peninsula told a Yemeni reporter that if they hear an American drone overhead, they move around as much as possible.” [26]¶ This quote is particularly insightful because it shows the ways in which drone targets still can outsmart such “precise” technology. In addition, it gives a sense of what it must be like for innocent civilians living in the drone’s purview. Pro-drone discourses rarely expound on the lives of those on the other side.¶ To return again to John Brennan’s speech from last year, we can see other examples of the precision narrative at play. Brennan explained that “compared against other options, a pilot operating the aircraft remotely, with the benefit of technology and with the safety of distance, might actually have a clearer picture of the target and its surroundings, including the presence of innocent civilians”. [27] The way in which Brennan orders the elements in this story has the effect of painting an image of a pilot who, with the help of drones, is a protector of the innocent. Brennan goes on to say “it’s this surgical precision – the ability with laser-like focus to eliminate the cancerous tumor called an al-Qaida terrorist, while limiting damage to the tissue around it”. [28] Instead of portraying a terrorist for what he or she actually is – a human being that has the ability to make choices – the comparison to a tumor dehumanizes the person and depicts him or her as a thing that kills. The act of conducting drone warfare, on the other hand, is compared to surgery – a highly respected and exacting profession. The chances for error in surgery are perceived as being slim, which is what the narrative would like us to think about drone warfare. It is these themes of precision and accuracy that construct a narrative which makes drone warfare seem like a flawless procedure instead of an act of violence based on nebulous protocol.¶ The challenge here for both the pro-drone and anti-drone arguments is that there is no way to know for sure how accurate drones are because the data available is incomplete. Evidence collected from non-governmental organizations suggest the number of civilian casualties is likely higher than the administration admits, but it is difficult to determine whose number is correct. In Michael Boyle’s study he explains that the White House classifies all military-age men that are killed or injured in a strike as militants unless proved otherwise. Boyle states, “the result of the ‘guilt by association’ approach has been a gradual loosening of the standards by which the U.S. selects targets for drone strikes.” [29] The Pakistani government recently stated that 400 Pakistani civilians had been killed as a result of drone attacks. [30]¶ The final theme in the pro-drone discourse is that drones are more cost effective than deploying troops on the ground. Soldiers cost the Pentagon $4 million over their lifetime, whereas a drone is about 10% of that cost and can be discarded once it becomes dysfunctional. As defense budgets shrink, the economic rationale to automate military functions will inevitably grow. [31] Thus, there is incentive for the U.S. to use drones more frequently and for corporations to manufacture smaller, cheaper, and more deadly drones. The global race to develop these machines has started and already produced lethal drones the size of bugs. [32]¶ The affordability argument sparks a sinister question, which is: What happens when war becomes cheap? While many drone advocates claim that the U.S. would never engage in war or conduct targeted killings without serious consideration, it is feasible to think that the cheapening of war will lead to more war overall. As it currently stands, the process of deploying lethal drones is far easier than capturing suspected terrorists. It is not far-fetched to think that the administration has been using drones for more than a just a “last resort” given the large numbers of individuals killed by targeted strikes (currently predicted to be about 4,000 individuals). When the U.S. used to conscript soldiers, convincing the American public to go to war required much justification and careful consideration. [33] Today, the White House sends drones without seeking approval or feeling the need to justify its actions to anyone.¶ The pro-drone discourse often presents lethal drones as the quick, effective, cost-efficient and safe alternative to long and costly warfare. It is evident that while these discursive themes are compelling at first, they are a façade. Anti-drone activists must work to change the nature of the public discourse. They must emphasize that drones are not accurate and do not make us safe. They must maintain that having a more affordable form of warfare is alarmingly dangerous. Unless we can effectively make the claim that drones reduce disincentives for killing, we can expect our world to become increasingly insecure in the future.

CIA funding was just extended for covert ops- means that ONLY covert strikes occur

Congress will make sure the CIA retains control- squo proves and they’ll do it in secret

**Bellinger, 01/26** (John B. Bellinger III is a partner in the international and national security law practices at Arnold & Porter LLP in Washington, DC. He is also Adjunct Senior Fellow in International and National Security Law at the Council on Foreign Relations. He served as The Legal Adviser for the Department of State from 2005–2009, as Senior Associate Counsel to the President and Legal Adviser to the National Security Council at the White House from 2001–2005, and as Counsel for National Security Matters in the Criminal Division of the Department of Justice from 1997–2001; "Congressional Control of Intelligence Programs (sometimes)" on January 14, 2014 from www.lawfareblog.com/2014/01/congressional-control-of-intelligence-programs-sometimes/#.UvRsMvZsggc)

In the last ten days, an interesting controversy has bubbled up over congressional control of the drone program.  The quarrel, which has been both internal to the Senate and between the Congress and the Executive, raises some important issues regarding Congress’s ability to control controversial but classified programs (such as the current drone program and CIA’s previous interrogation program).

The latest controversy became public when the Washington Post’s Greg Miller [reported](http://www.washingtonpost.com/world/national-security/lawmakers-seek-to-stymie-plan-to-shift-control-of-drone-campaign-from-cia-to-pentagon/2014/01/15/c0096b18-7e0e-11e3-9556-4a4bf7bcbd84_story.html) earlier this month that House and Senate appropriators had inserted a provision into the classified annex accompanying the FY14 omnibus appropriations bill restricting the use of funds to transfer the drone program from the CIA to the Pentagon.   The provision [angered](http://www.nationaljournal.com/congress/mccain-says-secret-drone-provision-will-cost-his-vote-on-omnibus-20140116) Senator McCain, who complained on the Senate floor that Senate appropriators had no business inserting a substantive policy restriction on the drone program into the classified annex of an appropriations bill, and certainly not without consulting the Senate authorizing committees.  (Senate Intelligence Committee Chair Dianne Feinstein is a member of the Appropriations Committee and was presumably aware of and supported the provision, but the Armed Services Committee was apparently kept in the dark.)

Greg Miller [reports further](http://www.washingtonpost.com/world/national-security/democrat-dianne-feinstein-proves-an-obstacle-to-obamas-push-for-changes-at-spy-agencies/2014/01/25/34f61118-8532-11e3-9dd4-e7278db80d86_story.html) in today’s Post that the drone restriction has put Senator Feinstein at odds with President Obama’s desire to move more drone operations to DoD.  But Miller quotes our own Steve Vladeck as saying that the real issue:

is not the daylight between the President and Senator Feinstein.  It’s the lack of daylight between Senator Feinstein and the intelligence community….[T]o my mind the larger concern over the last six months is a lack of any evidence that there’s ever been a significant pushback from either of the intelligence committees on any of the more controversial initiatives.

Steve might not have limited his comment about the lack of congressional pushback on controversial intelligence programs to the last six months.  Congress has been reluctant to raise concerns about many intelligence counter-terrorism programs after 9-11, presumably because they believe the American people would support the programs or perhaps out of fear of being blamed in the event of another terrorist attack.  But the current public disagreement demonstrates that Congress can — when it chooses to do so — **stop or significantly restrict intelligence programs of which it disapproves, and it can do so in secret**.  This might lead human rights groups and other critics of the CIA interrogation program to ask why Congressional authorizers and appropriators (Democrats controlled both the House and Senate in 2007 and 2008 and chaired the intelligence and appropriations committees in both houses) chose not to place any specific restrictions on the CIA interrogation program (even if only to ask how it complied with international law) and instead continued to authorize and fund the program, even as they distance themselves from the program now.

Military wont prevent collateral damage- internal link turns the advantage

**Miller, 01/15** (Greg Miller for The Washington Post National Security, "Lawmakers seek to stymie plan to shift control of drone campaign from CIA to Pentagon" on January 15, 2014 from www.washingtonpost.com/world/national-security/lawmakers-seek-to-stymie-plan-to-shift-control-of-drone-campaign-from-cia-to-pentagon/2014/01/15/c0096b18-7e0e-11e3-9556-4a4bf7bcbd84\_story.html)

Still, senior lawmakers have been vocal in expressing concern about the prospect of the CIA ceding responsibility for drone strikes to the military. Sen. Dianne Feinstein (D-Calif.), the chairman of the Senate Intelligence Committee and a member of the Appropriations Committee, said last year that she had seen the CIA “exercise patience and discretion specifically to prevent collateral damage” and that she “would really have to be convinced that the military would carry it out that well.”

Turns the entire aff

Howell ‘7

William, professor of political science at U-Chicago, and Jon C. Pevehouse, professor of Political Science UW-Madison, “While Dangers Gather : Congressional Checks on Presidential War Powers,” 2007 ed.

SIGNALING RESOLVE To the extent that congressional discontent signals domestic irresolution to other nations, the job of resolving a foreign crisis is made all the more difficult. As Kenneth Schultz shows, an ''opposition party can undermine the credibility of some challenges by publicly opposing them. Since this strategy threatens to increase the probability of resistance from the rival state, it forces the government to be more selective about making threats "—and, concomitantly, more cautious about actually using military force.'4 When members of Congress openly object to a planned military operation, would-be **adversaries** of the United States may feel emboldened, believing that the president lacks the domestic support required to see a military venture through. Such nations, it stands to reason, will be more willing to enter conflict, and if convinced that the United States will back down once the costs of conflict are revealed, they may fight longer and make fewer concessions. Domestic political strife, as it were, weakens the ability of presidents to bargain effectively with foreign states, while increasing the chances that military entanglements abroad will become **protracted and unwieldy.** A large body of work within the field of international relations supports the contention that a nation's ability to achieve strategic military objectives in short order depends, in part**,** on the head of state's **credibility in conveying political resolve.** Indeed, a substantial game theoretic literature underscores the importance of domestic political institutions and public opinion as state leaders attempt to credibly commit to war,75 Confronting widespread and vocal domestic opposition, the president may have a difficult time signaling his willingness to see a military campaign to its end, While congressional opposition may embolden foreign enemies, the perception on the part of allies that the president lacks support may make them wary of **committing any troops at all.**

Also causes rollback/circumvention

Laura Young, Ph.D., Purdue University Associate Fellow, June 2013, Unilateral Presidential Policy Making and the Impact of Crises, Presidential Studies Quarterly, Volume 43, Issue 2

A president looks for chances to increase his power (Moe and Howell 1999). Windows of opportunity provide those occasions. These **openings create an environment where the president faces little backlash from Congress, the judicial branch, or even the public**. Though institutional and behavioral conditions matter, domestic and international crises play a pivotal role in aiding a president who wishes to increase his power (Howell and Kriner 2008, 475). These events overcome the obstacles faced by the institutional make-up of government. They also allow a president lacking in skill and will or popular support the opportunity to shape the policy formation process. In short, focusing events increase presidential unilateral power.

Key to winning all future conflicts

Johson ‘6

Karlton, Army War College, “Temporal and Scalar Mechanics of Conflict Strategic Implications of Speed and Time on the American Way of War,” http://www.dtic.mil/dtic/tr/fulltext/u2/a449394.pdf

The U.S. Army War College uses the acronym “VUCA” to describe the volatile, uncertain, chaotic and ambiguous environment in which strategy is made.4 If the present is any indication of the future, then it is reasonable to assume that the world will become increasingly dangerous as long as that strategic environment exists. Many long-range assessments predict that global tensions will continue to rise as resources become even more constrained and as transnational threats endanger international security. 5 Future leaders and planners can expect to see weak and failed states persisting to dominate U.S. foreign policy agendas. Terrorism will remain a vital interest, and the use of American military strength will remain focused on the dissuasion, deterrence, and, where necessary, the preemption of strategic conflict. Enemies will work aggressively to offset U.S. military superiority by seeking out technologies that will offer some level of asymmetric advantage, and the challenging asymmetric nature of future conflicts will add deeper complexity to both war planning and the development of national security strategy. 6 The “National Defense Strategy of the United States,” published in March 2005, addressed the unconventional nature of the future. It argued that enemies are increasingly likely to pose asymmetric threats resulting in irregular, catastrophic and disruptive challenges.7 This means that, in some cases, non-state actors will choose to attack the United States using forms of irregular warfare that may include the use of weapons of mass destruction. These actors may also seek new and innovative ways to negate traditional U.S. strengths to their advantage.8 In fact, one author theorizes that “speed of light engagements” will be the norm by the year 2025, and America may lose its monopoly on technological advances as hostile nations close the gap between technological “haves” and “have nots.”9 This type of warfare lends itself to engagements of varying speed and temporal geometry. 10 Therefore, in conflicts of the future, time and speed will matter. Consequently, it is necessary to analyze these elements with rigor and discipline in order to understand their far-reaching implications.

Key to victory in every domain

Johson ‘6

Karlton, Army War College, “Temporal and Scalar Mechanics of Conflict Strategic Implications of Speed and Time on the American Way of War,” http://www.dtic.mil/dtic/tr/fulltext/u2/a449394.pdf

Military services appear to be increasingly dependent on speed, and these organizations continue to place a premium on its relative value. The Army’s “Field Manual 1: The Army,” embraces the idea that speed is critical to its operational concept, necessary for maneuver forces to keep the initiative in battle, and vital towards achieving shock and surprise.25 The United States Navy looks to speed as an essential component of maritime operations. In “Fleet Tactics and Costal Combat,” Wayne P. Hughes reasons that speed is necessary to win the sea battle **within the first few shots of an engagement**.26 The United States Air Force has plans to increase the speed and fidelity of command, control, communications and computers, intelligence, surveillance and reconnaissance (C4ISR) to create Predictive Battlespace Awareness over the combat area. The desired end state of these capabilities will be “getting a cursor over a target” upon demand.27 Even U.S. Air Force doctrine is replete with references to speed. The concept of speed clearly underlies the tenets and principles of airpower as an enabling factor.28

# 1nr

Either A ---- they reject all froms of techno violence which legitimizes deaths from foreign governemtns cuz we cant intervene

Life outweighs value

Jonathan **Schell**, Writer-New Yorker, **’82** (The Fate of the Earth)

But the mere risk of extinction has a significance that is categorically different from, and **immeasurably greater** than, that of any other risk, and as we make our decisions we have to take that significance into account. Up to now, every risk has been contained within the frame of life; **extinction will shatter the frame**. It represents not the defeat of some purpose but an abyss in which all human purposes would be drowned for all time. We have no right to place the possibility of limitless, eternal defeat on the same footing as risks that we run in the ordinary conduct of our affairs in our particular transient moment of human history. To employ a mathematical analogy, we can say that although the risk of extinction may be fractional, the stake is, humanly speaking, infinite, and a fraction of infinity is still infinity. In other words, once we learn that a holocaust might lead to extinction, we have no right to gamble, because if we lose, the game will be over, and neither we nor anyone else will ever get another chance. Therefore, although, scientifically speaking, there is all the difference in the world between the mere possibility that a holocaust will bring about extinction and the certainty of it, morally they are the same, and we have no choice but to address the issue of nuclear weapons as though we knew for a certainty that their use would put an end to our species.

Prioritizing critique in the face of the death is the least ethical option

**Isaac 02** – Professor of political science at Indiana-Bloomington, Director of the Center for the Study of Democracy and Public Life, phd from Yale (Jeffery C., Dissent Magazine, Vol. 49, Iss. 2, “Ends, Means, and Politics,” p. Proquest)

As a result, the most important political questions are simply not asked. It is assumed that U.S. military intervention is an act of “aggression” but no consideration is given to the aggression to which intervention is a response. The status quo ante in Afghanistan is not, as peace activists would have it, peace, but rather terrorist violence abetted by a regime—the Taliban—that rose to power through brutality and repression. This requires us to ask a question that most “peace” activists would prefer not to ask: what should be done to respond to the violence of a Saddamn Hussein or a Milosevic or a Taliban regime—the Taliban—that rose to power through brutality and repression. What means are likely to stop violence and bring criminal to justice? Calls for diplomacy and international law are well intended and important: they implicate a decent and civilized ethic of global order. But they are also vague and empty, because they are not accompanied by any account of how diplomacy or international law can work effectively to address the problem at hand. The campus left offers no such account. To do so would require it to contemplate tragic choices in which moral goodness is of limited utility/ here what matters is not purity of intention but the intelligent exercise of power. Power is not a dirty word or an unfortunate feature of the world. Politics, in large part, involves contests over the distribution and use of power. To accomplish anything in the political world, one must attend to the means that are necessary to bring it about. And to develop such means is to develop, and to exercise power. To say this is not to say that power is beyond morality. It is to say that power is not reducible to morality.

As writers such as Niccolo Machiavelli, Max Weber, Reinhold Niebuhr, and Hannah Arendt have taught. An unyielding concern with moral goodness undercuts political responsibility. The concern may be morally laudable, reflecting a kind of personal integrity, but it suffers from three fatal flaws: (1) it fails to see that the purity of one’s intention does not ensure the achievement of what one intends. Abjuring violence or refusing to make common cause with morally compromised parties may seem like the right thing, but if such tactics entail impotence, then it is hard to view them as serving any moral good beyond the clean conscience of their supporters: (2) it fails to see that in a world of real violence and injustice, moral purity is not simply a form of powerlessness: it is often a form of complicity in injustice. This is why, from the standpoint of politics—as opposed to religion- pacifism is always a potentially immoral stand. In categorically repudiating violence, it refuses in principle to oppose certain violent injustices with any effect: and (3) it fails to see that politics is as much about unintended consequences as it is about intentions: it is the effects of action, rather than the motives of action, this is most significant. Just as the alignment with “good” may engender impotence, it is often the pursuit of “good” that generates evil. This is the lesson of communism on the twentieth century: it is not enough that one’s goals be sincere or idealistic: it is equally important, always, to ask about the effects of pursuing these goals and to judge these effects in pragmatic and historically contextualized ways. Moral absolutism inhibits this judgment. It alienates those who are not true believers. It promotes arrogance. And it undermines political effectiveness.

Just war is necessary --- the AFF increases conflict

Michael Walzer, Professor Emeritus of Social Science at the Institute for Advanced Study and co-Editor of Dissent, 2004, Arguing About War, p. x-xiii

I want to address two criticisms of just war theory, because I have heard them often — specifically in response to some of the pieces collected here. The first is that those of us who defend and apply the theory are moralizing war, and by doing that we are making it easier to fight. We take away the stigma that should always be attached to the business of killing, which is what war always and necessarily is. When we define the criteria by which war and the conduct of war can be judged, we open the way for favorable judgments. Many of these judgments will be ideological, partisan, or hypocritical in character and, therefore, subject to criticism, but some of them, given the theory, will be right: some wars and some acts of war will turn out to be "just." How can that be, when war is so terrible?

But just is a term of art here; it means justifiable, defensible, even morally necessary (given the alternatives) — and that is all it means. All of us who argue about the rights and wrongs of war agree that justice in the strong sense, the sense that it has in domestic society and everyday life, is lost as soon as the fighting begins. War is a zone of radical coercion, in which justice is always under a cloud. Still, sometimes we are right to enter the zone. As someone who grew up during World War II, this seems to me another obvious point. **There are acts of aggression and acts of cruelty that we ought to resist, by force if necessary**. I would have thought that our experience with Nazism ended this particular argument, but the argument goes one — hence the disagreements about humanitarian intervention that I address in a number of these essays. The use of military force to stop the killing in Rwanda would have been, in my view, a just war. And if that judgment "moralizes" military force and makes it easier to use — well, I wish it had been easier to use in Africa in 1994.

The second criticism of just war theory is that it frames wars in the wrong way. It focuses our attention on the immediate issues at stake before the war begins — in the case of the recent Iraq war, for example, on inspections, disarmament, hidden weapons, and so on — and then on the conduct of the war, battle by battle; and so it avoids larger questions about imperial ambition and the global struggle for resources and power. It is as if citizens of the ancient world had focused narrowly on the conflict between Rome and some other city-state over whether a treaty had been violated, as the Romans always claimed in the lead-up to their attack, and never discussed the long history of Roman expansion. But if critics can distinguish between concocted excuses for war and actual reasons, why can't the rest of us do the same thing? Just war theory has no fixed temporal limits; it can be used to analyze a long chain of events as readily as a short one. **Indeed, how can imperial warfare be criticized if not in just war terms**? What other language, what other theory, is available for such a critique? Aggressive wars, wars of conquest, wars to extend spheres of influence and establish satellite states, wars for economic aggrandizement – all of these are unjust war.

Just war is a theory made for criticism. But that doesn't mean that every war has to be criticized. When I defended the recent war in Afghanistan, some of my own critics claimed that since I had opposed the American war in Vietnam and many of our little wars and proxy wars in Central America, I was now being inconsistent. But that is like saying that a doctor who diagnoses one patient with cancer is then obliged to provide a similar diagnosis for every other patient. The same medical criteria yield different diagnoses in different cases. And the same moral criteria yield different judgments in different wars. Still, the judgments are controversial, even when we agree on criteria: read my piece on Kosovo, and then look for a second opinion. You won't have any difficulty finding one that differs from my own; and that is true for all my other arguments, too. The fact that we disagree, however, doesn't make just war different from any other moral (or political) concept. We give different accounts of the same military action, and we also give different accounts of the same election. We disagree about corruption, discrimination, and inequality even when we talk about all three in the common language of democratic theory. **Disagreements don't invalidate a theory; the theory, if it is a good one, makes the disagreements more coherent and comprehensible**.

Ongoing disagreements, together with the rapid pace of political change, sometimes require revisions of a theory. My own judgments since Just and Unjust Wars have been, I like to think, fairly consistent. But I have changed my mind or shifted the emphasis of my arguments about a few things, which it seems right to acknowledge here. Faced with the sheer number of recent horrors—with massacre and ethnic cleansing in Bosnia and Kosovo; in Rwanda, the Sudan, Sierra Leone, the Congo, and Liberia; in East Timor (and earlier, in Cambodia and Bangladesh) — I have slowly become more willing to call for military intervention. I haven't dropped the presumption against intervention that I defended in my book, but I have found it easier and easier to override the presumption. And faced with the reiterated experience of state failure, the reemergence of a form of politics that European historians call "bastard feudalism," dominated by warring gangs and would-be charismatic leaders, I have become more willing to defend long-term military occupations, in the form of protectorates and trusteeships, and to think of nation-building as a necessary part of postwar politics. Both of these shifts also require me to recognize the need for an expansion of just war theory. Jus ad bellum (which deals with the decision to go to war) and jus in Bello (which deals with the conduct of the battles) are its standard elements, first worked out by Catholic philosophers and jurists in the Middle Ages. Now we have to add to those two an account of jus post bellum (justice after the war). I wrote a section on justice in settlements in Just and Unjust Wars, but it is much too brief and doesn't even begin to address many of the problems that have arisen in places like Kosovo and East Timor and, recently, in Iraq. More work is necessary here, in both the theory and practice of peacemaking, military occupation, and political reconstruction.

That outweighs and turns the case

Jean Bethke Elshtain, Laura Spelman Rockefeller Professor of Social and Political Ethics, Divinity School, The University of Chicago, with appointments in Political Science and the Committee on International Relations, 2008, Peace, Order, Justice: Competing Understandings, Millennium - Journal of International Studies, 36: 413

We arrive, finally at model III. Let’s call this hard-headed peace. This is a peace that is mindful at every point of justice claims and the overriding need for at least a modicum of civil order and tranquility if other worthy goals, including justice claims, are to be heard and worked towards at all. Within hard-headed peace, various dichotomies – not only realism/ idealism but peace/war – as absolutes, break down. We recognise, with Hedley Bull and others, that war plays a central role in the maintenance of international law and the preservation of the balance of power, thereby effecting changes that are just. Of course, war can also be a destroyer of order and a force for injustice – but we cannot pace, the peace advocates I have criticised - condemn every war in advance as necessarily a paragon of the latter rather than the former.

As with every human endeavour this limited – neither absolute nor perpetual – peace is a precious, fragile human achievement. Its advocates recognise that we often need disturbers of the peace should a ‘peace’ be unjust even as we require defenders of the peace against those who would overturn it in the name of some dangerously eschatological political ideology – the triumph of the Aryan race, the triumph of the universal class – with their death camps and gulags to deal with those who stand in the way of the absolutist projects.

I recall being haunted by a story I read – an ancient Chinese parable – of the necessary precondition for perpetual peace, namely, that one should be so far removed from any other ‘city’ that, in the dead calm of night, the echoes of a dog barking could not carry – not alert some other city that aliens, strangers, were within striking distance. Your only options, if you heard that dog bark, were to go kill the inhabitants of the other city and destroy it or to incorporate them – to make them as ‘one’ with yourself – for the mere existence of this alien entity marred ‘peace’. Extreme, yes. But instructive, for it alerts us to the often ontologically suspicious features or absolute or perpetual peace – the presence of the alien suffices to mar it.

As much as I loved the late John Lennon and remain an unreconstructed Beatlesmaniac – his song ‘Imagine’ is the stringing together of empty banalities: no states, no religion, nothing to kill or die for, and the world will be as one. Fat chance. I don’t know how one gets from the song’s subjectivist anarchy to perpetual peace but we confront the high hill of moral upmanship yet again in popular, simplistic form.

If, however, you find the moral problems of international politics ‘infinitely complex, bewildering and perplexing’, in Martin Wight’s words, it makes you a ‘natural Grotian’.15 I’m going to have to reflect on his claim a bit more but this much is clear to me:

**War will never be abolished, so we must limit it** ethically and politically **in the manner of just war** teaching and here debates will turn on how hick’ the restraints must be; Human nature – yes, I said it – politically incorrect as it is – is a complex admixture of good and evil, nastiness and niceness, good Harry Potter with a bit of evil Voldemortian temptation thrown in and this is unavoidable That means we should be appropriately humble about even our best intentions, for on this earth there is neither absolute good nor absolute evil as a characteristic of either persons or states;

OR B --- they ENCOURAGE MORE interventions based on a solely ethical framework which turns the case

Louiza **Odysseus** (PhD International Relations) March 20**03** “Against Ethics? Iconographies of Enmity and Acts of Obligation in Carl Schmitt’s Theory of the Partisan” http://www.louizaodysseos.org.uk/resources/Odysseos+ISA+2008+Against+Ethics.pdf

A third objection, still, has to do with the imposition of particular kind of monism: despite the lip-service to plurality, taken from the market (Kalyvas 1999), ‘liberal pluralism is in fact not in the least pluralist but reveals itself to be an overriding monism, the monism of humanity’ (Rasch 2003: 136). Similarly, current universalist perspectives, while praising ‘customary’ or cultural differences, think of them ‘but as ethical or aesthetic material for a unified polychromatic culture – a new singularity born of a blending and merging of multiple local constituents’ (Brennan 2003: 41). One oft-discussed disciplining effect is that, politically, the ethics of a universal humanity shows little tolerance for what is regarded as ‘intolerant’ politics, which is any politics that moves in opposition to its ideals, rendering political opposition to it illegitimate (Rasch 2003: 136). This is compounded by the fact that liberal ethical discourses are also defined by **a claim to their own exception and superiority. They naturalise the historical origins of liberal societies, which are no longer regarded as ‘contingently established and historically conditioned forms of organization’; rather, they ‘become the universal standard against which other societies are judged**. Those found wanting are banished, as outlaws, from the civilized world. Ironically, one of the signs of their outlaw status is their insistence on autonomy, on sovereignty’ (ibid.: 141; cf. Donnelly 1998). Most importantly, and related to this concern, there is the relation of the concept of humanity to ‘the other’, and to war and violence. In its historical location, the humanity concept had critical purchase against aristocratic prerogatives; yet its utilisation by liberal ethical discourses within a philosophy of an ‘absolute humanity’, Schmitt feared, could bring about new and unimaginable modes of exclusion (1996a, 2003, 2004/2007): By virtue of its universality and abstract normativity, it has no localizable polis, no clear distinction between what is inside and what is outside. Does humanity embrace all humans? Are there no gates to the city and thus no barbarians outside? If not, against whom or what does it wage its wars? (Rasch 2003: 135). ‘Humanity as such’, Schmitt noted, ‘cannot wage war because it has no enemy’, (1996a: 54), indicating that humanity ‘is a polemical word that negates its opposite’ (Kennedy 1998: 94; emphasis added). In The Concept of the Political Schmitt argued that humanity ‘excludes the concept of the enemy, because the enemy does not cease to be a human being’ (1996a: 54). However, in his 1950 book with an international focus, The Nomos of the Earth, Schmitt noted how only when ‘man appeared to be the embodiment of absolute humanity, did the other side of this concept appear in the form of a new enemy: the inhuman’ (2003a: 104). **It becomes apparent that, historically examined, the concept of humanity engenders a return to a ‘discriminatory concept of war’, by which Schmitt meant that it reintroduces the legitimacy and need for substantive causes of justice in war** (Schmitt 2003b: 37-52). This in turn disallows the notion of justus hostis, of a ‘just enemy’ – explored in section three – associated with the notion of non-discriminatory interstate war which took the shape of guerre en forme (Schmitt 2003a: 142-144). The concept of humanity, therefore, shatters the formal concept of justus hostis, allowing the enemy to now be designated substantively as an enemy of humanity as such. This leaves the enemy of humanity with no value and open to dehumanisation and political and physical annihilation (Schmitt 2004: 67). In discussing the League of Nations, Schmitt highlights that, compared to the kinds of wars that can be waged on behalf of humanity, the interstate European wars from 1815 to 1914 in reality were regulated; they were bracketed by the neutral Great Powers and were completely legal procedures in comparison with the modern and gratuitous police actions against violators of peace, which can be dreadful acts of annihilation (Schmitt 2003a: 186). Enemies of humanity cannot be considered ‘just and equal’. Moreover, they cannot claim neutrality: one cannot remain neutral in the call to be for or against humanity or its freedom; one cannot, similarly, claim a right to resist or defend oneself, in the sense we understand this right to have existed in the international law of Europe (the jus publicum Europeaum). Such a denial of self-defence and resistance ‘can presage a dreadful nihilistic destruction of all law’ (ibid.: 187). When the enemy is not accorded a procedural justice and formal equality, the notion that peace can be made with him is unacceptable, as Schmitt detailed through his study of the League of Nations, which had declared the abolition of war, but in rescinding the concept of neutrality only succeeded in the ‘dissolution of “peace”’ (ibid.: 246). It is with the dissolution of peace that total wars of annihilation become possible, where ‘the other’ cannot be assimilated, or accommodated, let alone tolerated: the friend/enemy distinction is not longer taking place with a justus hostis but rather between good and evil, human and inhuman, where ‘the negative pole of the distinction is to be fully and finally consumed without remainder’ (Rasch 2003: 137).

Causes endless paradigm wars

**Wendt**, professor of international security – Ohio State University, **‘98**

(Alexander, “On Constitution and Causation in International Relations,” British International Studies Association)

As a community, we in the academic study of international politics spend too much time worrying about the kind of issues addressed in this essay. The **central point** of IR scholarship is to increase our knowledge of how the world works, not to worry about how (or whether) we can know how the world works. What matters for IR is ontology, not epistemology. This doesn’t mean that there are no interesting epistemological questions in IR, and even less does it mean that there are no important political or sociological aspects to those questions. Indeed there are, as I have suggested above, and as a discipline IR should have more awareness of these aspects. At the same time, however, these are questions best addressed by philosophers and sociologists of knowledge, not political scientists. Let’s face it: most IR scholars, including this one, have little or no proper training in epistemology, and as such the attempt to solve epistemological problems anyway will **inevitably lead to confusion** (after all, **after 2000 years, even** the **specialists are still having a hard time**). Moreover, as long as we let our research be driven in an open-minded fashion by substantive questions and problems rather than by epistemologies and methods, there is little need to answer epistemological questions either. It is simply not the case that we have to undertake an epistemological analysis of how we can know something before we can know it, a fact amply attested to by the success of the natural sciences, whose practitioners are only rarely forced by the results of their inquiries to consider epistemological questions. In important respects we do know how international politics works, and it doesn’t much matter how we came to that knowledge. In that light, going into the epistemology business will distract us from the real business of IR, which is international politics. **Our great debates should be about first-order issues of substance**, like the ‘first debate’ between Realists and Idealists, **not second-order issues of method.**

Unfortunately, it is no longer a simple matter for IR scholars to ‘just say no’ to epistemological discourse. The problem is that this discourse has already contaminated our thinking about international politics, helping to polarize the discipline into ‘**paradigm wars’**. Although the resurgence of these wars in the 1980s and 90s is due in large part to the rise of post-positivism, its roots lie in the epistemological anxiety of positivists, who since the 1950s have been very concerned to establish the authority of their work as Science. This is an important goal, one that I share, but its implementation has been marred by an overly narrow conception of science as being concerned only with causal questions that can be answered using the methods of natural science. The effect has been to marginalize historical and interpretive work that does not fit this mould, and to encourage scholars interested in that kind of work to see themselves as somehow not engaged in science. One has to wonder whether the two sides should be happy with the result. Do positivists really mean to suggest that it is not part of science to ask questions about how things are constituted, questions which if those things happen to be made of ideas might only be answerable by interpretive methods? If so, then they seem to be saying that the double-helix model of DNA, and perhaps much of rational choice theory, is not science. And do post-positivists really mean to suggest that students of social life should not ask causal questions or attempt to test their claims against empirical evidence? If so, then it is **not clear by what criteria their work should be judged**, **or how it differs from art or revelation**. On both sides, in other words, the result of the Third Debate’s **sparring over epistemology is often one-sided, intolerant caricatures** of science.

Nuclear war comes before ‘structural’ iniquity – the alternative is meaningless

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 MISSPECIFICATIONS OF PEACE A third major problem to be raised about some forms of peace research and peace studies, again related to what we have already discussed, arises in the tendency to define peace as much more than an absence of the organized violence of warfare, to define it indeed as the elimination also of poverty and injustice and of prejudice and tyranny, and so on-namely, to define peace simply as a synonym for what is good, for what an economist would call utility. Sometimes we are thus told that an opposition to violence must include an opposition to "structural violence,"7 with the latter phrase presumably meaning any organizational or power relationships that violate the moral standards of the beholder, or we **are also told that we** must be in favor of "positive peace," which will include all of these good things, accomplished somehow simultaneously, rather than being content with a "negative peace," limited merely to an absence of warfare. Surely there is a great deal that is lost from all of these definitional innovations, but what is there to be gained? If someone assumed, as noted previously, that consciousnesses somehow have to be raised, then it may well seem important. as an educational and motivational vehicle, to insist that peace includes an end to poverty or racism. If one assumes that there can never be an avoidance of war unless one simultaneously has an avoidance of poverty. Such an approach can apparently be traced to Johan Galtung. See his Peace and Social Structure (Copenhagen: Christian Eljiers, 1978). erty or racism or other social evils, then this causal link will also suggest a definitional link. But, if there is indeed no such one-to-one link in causal relationships and if motivation is not the entirety of the problem of war and peace, then we surely will have thrown away a great deal of clarity if we insist on calling everything bad "war" or "violence" and if we insist on referring to everything we favor as "peace." This would be a little like telling the American Cancer Society that every disease now has to be referred to as "cancer," including heart disease and cholera and meningitis. Can medicine make any progress at all if it is not allowed to use different words for different ailments? Is it really true that to use different words for war and dictatorship and poverty is to weaken our motivation or to accept the inevitability of some evils or actually to favor the existence of such evils? If one goes far enough in accepting the definitional innovations produced by some peace studies curricula, it becomes possible then to define violent attacks as peaceful, as long as they are intended to eliminate racism or injustice, because these attacks are to oppose "structural violence." At the worst, – is kind of redefinition is deliberately misleading, as war and violence are defined as being inappropriate for any cause except one's own ()

th. At a less duplicitous level, we simply have some needless confusion brought into the process, by some relatively honest and well-meaning people. THE SEARCH FOR ULTIMATE SOLUTIONS Advocates of peace research sometimes justify their approach by asserting that they alone are addressing the ultimate or root causes of conflict. Unless one eliminates injustice or racism or prejudice or tyranny, they contend, there can never be a real peace or positive peace. This argument runs the risk, however, of becoming a play on words. Real peace can mean that we approve of every step of the causal chain, going back as far as it can be traced, which might indeed be ideal; but this might hardly be so essential for someone caught in the crossfire of Beirut**, someone who is merely pleading and** praying that the shooting might stop. To imply that a termination of conventional war and an avoidance of nuclear war and an abatement of terrorism are not somehow real would be to blur our understanding of a great deal of what most men and women indeed care about. Similarly, to refer to such an absence of warfare as "negative peace"-as compared with something more positive in "positive peace"-is to use these words of our English language in a manner that substantially underrates the human priority of eliminating warfare, whatever its causes and whatever the remedy. Critics of peace studies would thus come back to argue that these ultimate and genuine reforms of human arrangements for which peace researchers claim such priority are all well and good, but that these may not be capable of being attained in anything less than several centuries. Rather than eliminating all ideological suspicions between Marxists and non-Marxists or eliminating all ethnic dislikes between Greeks and Turks, would it not be a major accomplishment in the meantime to eliminate those kinds of weapons that tend to make wars between such contending factions more likely, and to stress instead the defensive types that discourage military forces from launching attacks? Peace researchers then often reply that any such resignation to intermediate and proximate improvements implies a welcoming of permanent conflict or even a relishing of it or at least an assumption that conflict and hostility are in the natural order of things. But the real issue is surely much more one of whether certain kinds of improvements can be made over certain ranges of time.