# Aff v. Michigan BM

## 1AC

### 1AC Intel Adv.

#### Advantage one is Intelligence

#### Iran will remain a nuclear threat and negotiations will fail

**Pollack and Einhorn 1/23** (Kenneth M. Pollack is an expert on Middle Eastern political-military affairs, with particular emphasis on Iraq, Iran, Saudi Arabia and the other nations of the Persian Gulf region. He is currently a senior fellow in the Saban Center for Middle East Policy at the Brookings Institution. He served as the director of the Saban Center from 2009 to 2012, and its director of research from 2002 to 2009. Robert Einhorn is a senior fellow with the Arms Control and Non-Proliferation Initiative and the Center for 21st Century Security and Intelligence, both housed within the Foreign Policy program at Brookings. During his career at the U.S. Department of State, Einhorn served as assistant secretary for nonproliferation during the Clinton administration, and as the secretary of state’s special advisor for nonproliferation and arms control during the Obama administration. “Iran Nuclear Talks Fail” <http://www.brookings.edu/research/papers/2014/01/iran-nuclear-talks-fail-einhorn-pollack>)

While our negotiators are working hard to get a final nuclear agreement with Iran that meets our requirements, we must be prepared for the possibility that negotiations will fail and the Iranians will then direct their efforts toward eroding sanctions and advancing their nuclear program. The opening created by President Hassan Rouhani’s overtures would close. In this scenario, Iran would reject any extension of the current interim agreement, portray itself publicly as having been the reasonable side in the talks, reach out aggressively to governments and companies around the world to entice them to circumvent or ignore sanctions, and ramp up nuclear activities that have been frozen under the interim deal. We should seek to head off this scenario by keeping the pressure on Iran to accept a final agreement along the lines of our proposal. That will involve three priorities: (1) continuing to urge governments and companies to enforce existing sanctions, (2) showing additional flexibility within the delegation’s existing instructions to avoid an Iranian narrative that we are the intransigent party, and (3) maintaining a strong consensus among the P5+1 governments and the broader international sanctions coalition that the rigorous measures necessary to make a deal acceptable to us are reasonable, fair and essential to a sound agreement. At the same time, we need to prepare for the possibility that no agreement will be reached and Iran will attempt to turn that eventuality to their advantage. To thwart that attempt, we would have to ensure that Iran bears the onus for any breakdown of the talks. We would also want to work with Congress to adopt additional sanctions, urge key states (including Russia and China) to press Iran not to further advance its nuclear program, and convey a clear message to Iran that movement toward or across the nuclear threshold would be met by a firm international response that could involve much stronger sanctions and perhaps more coercive measures. Background Thanks largely to the crippling sanctions we worked hard to put in place, we were able to achieve the six-month “interim” deal that halted further progress in Iran’s nuclear program at a minimal price in terms of measures to ease sanctions. But negotiations on a final agreement may prove difficult, or even impossible, to bring to a successful conclusion. To detect and deter any Iranian decision to break out and move to build nuclear weapons, we have proposed going well beyond a freeze of Iran’s nuclear activities to a major reduction of its nuclear infrastructure, and we have sought verification measures that exceed the requirements of the International Atomic Energy Agency (IAEA) Additional Protocol. These tough proposals can help restrain Israeli public attacks, although the Israelis can be expected to strongly oppose any watering down of our positions. On the other hand, the Russians and Chinese can be expected to favor significant compromises in order to gain agreement. The Iranian negotiators have demonstrated the same seriousness of purpose as they did during negotiations of the interim deal. But they oppose deep reductions in their enrichment capacity, insist on operating the Arak reactor and Fordow enrichment plant, and have resisted monitoring arrangements that go beyond the Additional Protocol. The domestic Iranian backlash against the interim agreement and our negotiating position for a final agreement has been intense. The newspaper Kayhan, the Islamic Revolutionary Guard Corps (IRGC), and hardliners in the Majlis have been outspoken critics of the Iranian negotiators and their efforts. In a mirror image of the positions taken by American critics, they argue that the interim deal concedes too much and receives too little in return. They inaccurately claim that we have already accepted a legal “right to enrich” and assert that we are reneging on the interim deal by denying such acceptance. IRGC Commander Jafari has publicly attacked Foreign Minister and chief negotiator Zarif, who has pushed back firmly and asserted that his negotiating team has the support of the Supreme Leader. Critics in the Majlis have strongly condemned the introduction of a new sanctions bill in our Congress and retaliated by introducing their own legislation that would mandate increasing Iranian enrichment levels to 60 percent, ostensibly for submarine propulsion. To justify a retention and even expansion of Iran’s enrichment capacity, Atomic Energy Organization of Iran head Salehi has spoken of the need to provide fuel for several new nuclear power reactors. While continuing to press for a final deal, we need to recognize that, given the wide gap between U.S. and Iranian positions as well as domestic opposition in Tehran, such a final deal may be very difficult to achieve. If prospects for a negotiated outcome begin to look remote, we may soon find ourselves confronted by an aggressive Iranian effort to erode the sanctions in the absence of agreement and to move its nuclear program closer to the weapons threshold.

#### Drones trade off with CIA’s intelligence agenda

Micah Zenko, 13- “Clip the Agency's Wings”. Micah Zenko is the Douglas Dillon fellow in the Center for Preventive Action (CPA) at the Council on Foreign Relations (CFR). http://www.foreignpolicy.com/articles/2013/04/16/clip\_the\_agencys\_ wings\_cia\_drones

Second, it would focus the finite resources and bandwidth of the CIA on its primary responsibilities of intelligence collection, analysis, and early warning. Last year, the President's Intelligence Advisory Board -- a semi-independent executive branch body, the findings of which rarely leak -- reportedly told Obama that "U.S. spy agencies were paying inadequate attention to China, the Middle East and other national security flash points because they had become too focused on military operations and drone strikes." This is not a new charge, since every few years an independent group or congressional report determines that "the CIA has been ignoring its core mission activities." But, as Mark Mazzetti shows in his indispensable CIA history, the agency has evolved from an organization once deeply divided at senior levels about using armed drones, to one that is a fully functioning paramilitary army. As former senior CIA official Ross Newland warns, the agency's armed drones program "ends up hurting the CIA. This just is not an intelligence mission." There is no longer any justification for the CIA to have its own redundant fleet of 30 to 35 armed drones. During White House debates of CIA requests in 2009, Gen. James Cartwright, the vice chairman of the Joint Chiefs of Staff, repeatedly asked: "Can you tell me why we are building a second Air Force?" Obama eventually granted every single request made by then-Director of Central Intelligence Leon Panetta, adding: "The CIA gets what it wants." With this year's proposed National Intelligence Program budget scheduled to fall by 8 percent, an open checkbook for Langley is not sustainable or strategically wise.

#### Intel key to maintaining efforts towards Iranian counter-prolif

James R. **Clapper**, Director of National Intelligence, “Worldwide Threat Assessment of the US Intelligence Community,” March 12, 20**13**, <http://www.intelligence.senate.gov/130312/clapper.pdf>)

WMD PROLIFERATION Nation-state efforts to develop or acquire weapons of mass destruction (WMD) and their delivery systems constitute a major threat to the security of our nation, deployed troops, and allies. The Intelligence Community is focused on the threat and destabilizing effects of nuclear proliferation, proliferation of chemical and biological warfare (CBW)-related materials, and development of WMD delivery systems. Traditionally, international agreements and diplomacy have deterred most nation-states from acquiring biological, chemical, or nuclear weapons, but these constraints may be of less utility in preventing terrorist groups from doing so. The time when only a few states had access to the most dangerous technologies is past. Biological and chemical materials and technologies, almost always dualuse, move easily in our globalized economy, as do the personnel with scientific expertise to design and use them. The latest discoveries in the life sciences also diffuse globally and rapidly. Iran and North Korea Developing WMD-Applicable Capabilities We assess Iran is developing nuclear capabilities to enhance its security, prestige, and regional influence and give it the ability to develop nuclear weapons, should a decision be made to do so. We do not know if Iran will eventually decide to build nuclear weapons.

#### We will strike their arsenal – locating them is key – stops war from going nuclear

**Lieber and Press 09** (Keir A.,  Associate Professor @ Georgetown University,  Daryl G., Associate Professor of Government, Dartmouth College, Foreign Affairs, Nov/Dec)

MODELING THE UNTHINKABLE To illustrate the growth in U.S. counterforce capabilities, we applied a set of simple formulas that analysts have used for decades to estimate the effectiveness of counterforce attacks. We modeled a U.S. strike on a small target set: 20 intercontinental ballistic missiles (ICBMs) in hardened silos, the approximate size of China's current long-range, silo-based missile force. The analysis compared the capabilities of a 1985 Minuteman ICBM to those of a modern Trident II submarine-launched ballistic missile. [The technical details of the analysis presented in this essay are available online [2].] In 1985, a single U.S. ICBM warhead had less than a 60 percent chance of destroying a typical silo. Even if four or five additional warheads were used, the cumulative odds of destroying the silo would never exceed 90 percent because of the problem of "fratricide," whereby incoming warheads destroy each other. Beyond five warheads, adding more does no good. A probability of 90 percent might sound high, but it falls far short if the goal is to completely disarm an enemy: with a 90 percent chance of destroying each target, the odds of destroying all 20 are roughly 12 percent. In 1985, then, a U.S. ICBM attack had little chance of destroying even a small enemy nuclear arsenal. Today, a multiple-warhead attack on a single silo using a Trident II missile would have a roughly 99 percent chance of destroying it, and the probability that a barrage would destroy all 20 targets is well above 95 percent. Given the accuracy of the U.S. military's current delivery systems, the only question is target identification: silos that can be found can be destroyed. During the Cold War, the United States worked hard to pinpoint Soviet nuclear forces, with great success. Locating potential adversaries' small nuclear arsenals is undoubtedly a top priority for U.S. intelligence today. The revolution in accuracy is producing an even more momentous change: it is becoming possible for the United States to conduct low-yield nuclear counterforce strikes that inflict relatively few casualties. A U.S. Department of Defense computer model, called the Hazard Prediction and Assessment Capability (HPAC), estimates the dispersion of deadly radioactive fallout in a given region after a nuclear detonation. The software uses the warhead's explosive power, the height of the burst, and data about local weather and demographics to estimate how much fallout would be generated, where it would blow, and how many people it would injure or kill. HPAC results can be chilling. In 2006, a team of nuclear weapons analysts from the Federation of American Scientists (FAS) and the Natural Resources Defense Council (NRDC) used HPAC to estimate the consequences of a U.S. nuclear attack using high-yield warheads against China's ICBM field. Even though China's silos are located in the countryside, the model predicted that the fallout would blow over a large area, killing 3-4 million people. U.S. counterforce capabilities were useless, the study implied, because even a limited strike would kill an unconscionable number of civilians. But the United States can already conduct nuclear counterforce strikes at a tiny fraction of the human devastation that the FAS/NRDC study predicted, and small additional improvements to the U.S. force could dramatically reduce the potential collateral damage even further. The United States' nuclear weapons are now so accurate that it can conduct successful counterforce attacks using the smallest-yield warheads in the arsenal, rather than the huge warheads that the FAS/NRDC simulation modeled. And to further reduce the fallout, the weapons can be set to detonate as airbursts, which would allow most of the radiation to dissipate in the upper atmosphere. We ran multiple HPAC scenarios against the identical target set used in the FAS/NRDC study but modeled low-yield airbursts rather than high-yield groundbursts. The fatality estimates plunged from 3-4 million to less than 700 -- a figure comparable to the number of civilians reportedly killed since 2006 in Pakistan by U.S. drone strikes. One should be skeptical about the results of any model that depends on unpredictable factors, such as wind speed and direction. But in the scenarios we modeled, the area of lethal fallout was so small that very few civilians would have become ill or died, regardless of which way the wind blew. Critics may cringe at this analysis. Many of them, understandably, say that nuclear weapons are -- and should remain -- unusable. But if the United States is to retain these weapons for the purpose of deterring nuclear attacks, it needs a force that gives U.S. leaders retaliatory options they might actually employ. If the only retaliatory option entails killing millions of civilians, then the U.S. deterrent will lack credibility. Giving U.S. leaders alternatives that do not target civilians is both wise and just. A counterforce attack -- whether using conventional munitions or low- or high-yield nuclear weapons -- would be fraught with peril. Even a small possibility of a single enemy warhead's surviving such a strike would undoubtedly give any U.S. leader great pause. But in the midst of a conventional war, if an enemy were using nuclear threats or limited nuclear attacks to try to coerce the United States or its allies, these would be the capabilities that would give a U.S. president real options.

#### Iran proliferation causes nuclear war

Edelman, distinguished fellow – Center for Strategic and Budgetary Assessments, ‘11

(Eric S, “The Dangers of a Nuclear Iran,” *Foreign Affairs*, January/February)

The reports of the Congressional Commission on the Strategic Posture of the United States and the Commission on the Prevention Of Weapons of Mass Destruction Proliferation and Terrorism, as well as other analyses, have highlighted the risk that a nuclear-armed Iran could trigger additional nuclear proliferation in the Middle East, even if Israel does not declare its own nuclear arsenal. Notably, Algeria, Bahrain, Egypt, Jordan, Saudi Arabia,Turkey, and the United Arab Emirates— all signatories to the Nuclear Nonproliferation Treaty (npt)—have recently announced or initiated nuclear energy programs. Although some of these states have legitimate economic rationales for pursuing nuclear power and although the low-enriched fuel used for power reactors cannot be used in nuclear weapons, these moves have been widely interpreted as hedges against a nuclear-armed Iran. The npt does not bar states from developing the sensitive technology required to produce nuclear fuel on their own, that is, the capability to enrich natural uranium and separate plutonium from spent nuclear fuel. Yet enrichment and reprocessing can also be used to accumulate weapons-grade enriched uranium and plutonium—the very loophole that Iran has apparently exploited in pursuing a nuclear weapons capability. Developing nuclear weapons remains a slow, expensive, and di⁄cult process, even for states with considerable economic resources, and especially if other nations try to constrain aspiring nuclear states’ access to critical materials and technology. Without external support, it is unlikely that any of these aspirants could develop a nuclear weapons capability within a decade. There is, however, at least one state that could receive significant outside support: Saudi Arabia. And if it did, proliferation could accelerate throughout the region. Iran and Saudi Arabia have long been geopolitical and ideological rivals. Riyadh would face tremendous pressure to respond in some form to a nuclear-armed Iran, not only to deter Iranian coercion and subversion but also to preserve its sense that Saudi Arabia is the leading nation in the Muslim world. The Saudi government is already pursuing a nuclear power capability, which could be the first step along a slow road to nuclear weapons development. And concerns persist that it might be able to accelerate its progress by exploiting its close ties to Pakistan. During the 1980s, in response to the use of missiles during the Iran-Iraq War and their growing proliferation throughout the region, Saudi Arabia acquired several dozen css-2 intermediate-range ballistic missiles from China. The Pakistani government reportedly brokered the deal, and it may have also oªered to sell Saudi Arabia nuclear warheads for the css-2s, which are not accurate enough to deliver conventional warheads eªectively. There are still rumors that Riyadh and Islamabad have had discussions involving nuclear weapons, nuclear technology, or security guarantees. This “Islamabad option” could develop in one of several diªerent ways. Pakistan could sell operational nuclear weapons and delivery systems to Saudi Arabia, or it could provide the Saudis with the infrastructure, material, and technical support they need to produce nuclear weapons themselves within a matter of years, as opposed to a decade or longer. Not only has Pakistan provided such support in the past, but it is currently building two more heavy-water reactors for plutonium production and a second chemical reprocessing facility to extract plutonium from spent nuclear fuel. In other words, it might accumulate more fissile material than it needs to maintain even a substantially expanded arsenal of its own. Alternatively, Pakistan might oªer an extended deterrent guarantee to Saudi Arabia and deploy nuclear weapons, delivery systems, and troops on Saudi territory, a practice that the United States has employed for decades with its allies. This arrangement could be particularly appealing to both Saudi Arabia and Pakistan. It would allow the Saudis to argue that they are not violating the npt since they would not be acquiring their own nuclear weapons. And an extended deterrent from Pakistan might be preferable to one from the United States because stationing foreign Muslim forces on Saudi territory would not trigger the kind of popular opposition that would accompany the deployment of U.S. troops. Pakistan, for its part, would gain financial benefits and international clout by deploying nuclear weapons in Saudi Arabia, as well as strategic depth against its chief rival, India. The Islamabad option raises a host of difficult issues, perhaps the most worrisome being how India would respond. Would it target Pakistan’s weapons in Saudi Arabia with its own conventional or nuclear weapons? How would this expanded nuclear competition influence stability during a crisis in either the Middle East or South Asia? Regardless of India’s reaction, any decision by the Saudi government to seek out nuclear weapons, by whatever means, would be highly destabilizing. It would increase the incentives of other nations in the Middle East to pursue nuclear weapons of their own. And it could increase their ability to do so by eroding the remaining barriers to nuclear proliferation: each additional state that acquires nuclear weapons weakens the nonproliferation regime, even if its particular method of acquisition only circumvents, rather than violates, the NPT. n-player competition Were Saudi Arabia to acquire nuclear weapons, the Middle East would count three nuclear-armed states, and perhaps more before long. It is unclear how such an n-player competition would unfold because most analyses of nuclear deterrence are based on the U.S.- Soviet rivalry during the Cold War. It seems likely, however, that the interaction among three or more nuclear-armed powers would be more prone to miscalculation and escalation than a bipolar competition. During the Cold War, the United States and the Soviet Union only needed to concern themselves with an attack from the other. Multipolar systems are generally considered to be less stable than bipolar systems because coalitions can shift quickly, upsetting the balance of power and creating incentives for an attack. More important, emerging nuclear powers in the Middle East might not take the costly steps necessary to preserve regional stability and avoid a nuclear exchange. For nuclear-armed states, the bedrock of deterrence is the knowledge that each side has a secure second-strike capability, so that no state can launch an attack with the expectation that it can wipe out its opponents’ forces and avoid a devastating retaliation. However, emerging nuclear powers might not invest in expensive but survivable capabilities such as hardened missile silos or submarinebased nuclear forces. Given this likely vulnerability, the close proximity of states in the Middle East, and the very short flight times of ballistic missiles in the region, any new nuclear powers might be compelled to “launch on warning” of an attack or even, during a crisis, to use their nuclear forces preemptively. Their governments might also delegate launch authority to lower-level commanders, heightening the possibility of miscalculation and escalation. Moreover, if early warning systems were not integrated into robust command-and-control systems, the risk of an unauthorized or accidental launch would increase further still. And without sophisticated early warning systems, a nuclear attack might be unattributable or attributed incorrectly. That is, assuming that the leadership of a targeted state survived a first strike, it might not be able to accurately determine which nation was responsible. And this uncertainty, when combined with the pressure to respond quickly,would create a significant risk that it would retaliate against the wrong party, potentially triggering a regional nuclear war.

#### Independently, given the capability Iran would give nuclear weapons to Hezbollah – reprioritization of current CT practices is essential

[Clifford D. **May**](http://www.nationalreview.com/author/clifford-d-may), president of the Foundation for Defense of Democracies, a policy institute focusing on national security, “[Al-Qaeda vs. Hezbollah](http://www.nationalreview.com/article/350249/al-qaeda-vs-hezbollah-clifford-d-may),” JUNE 6, 20**13**, <http://www.nationalreview.com/article/350249/al-qaeda-vs-hezbollah-clifford-d-may>

Back during the Bush administration, Deputy Secretary of State Richard Armitage famously called Hezbollah the “A Team of terrorists,” adding, “al-Qaeda is actually the B Team.” How do these two organizations compare today? Last week, the State Department released the 2012 issue of its annual “Country Reports on Terrorism.”At a “[background briefing](http://www.state.gov/r/pa/prs/ps/2013/05/210145.htm),” a “senior administration official” highlighted an “alarming trend”: a “marked resurgence of terrorist activity by Iran and Hezbollah. The tempo of operational activity was something we haven’t seen since the 1990s. . . . We see no signs of this activity abating in 2013. In fact, our assessment is that Hezbollah and Iran will both continue to maintain a heightened level of terrorist activity and operations in the near future.” The State Department is right to see Hezbollah and Iran as joined at the hip: The former is financed and instructed by the latter. That has not always been understood, despite the fact that, prior to 9/11/01, Hezbollah was responsible for more American deaths than any other terrorist organization. And Hezbollah’s secretary general, Hassan Nasrallah, has proclaimed, “Death to America was, is, and will stay our slogan.” A pertinent question: If Iran’s rulers should obtain nuclear weapons, might they give one or two to Hezbollah to use for approved purposes? A plausible answer: Why not? It’s well known that Hezbollah has been sending combatants into Syria in support of Bashar Assad, the dictator and Iranian satrap. Less publicized are Hezbollah’s operations in other corners of the world. A Hezbollah attack on a bus in Bulgaria last July killed five Israelis and one Bulgarian. In Nigeria, authorities recently [broke up](http://www.longwarjournal.org/threat-matrix/archives/2013/05/hezbollah_members_arrested_in.php) a Hezbollah cell, seizing what one Nigerian official called “a large quantity of assorted weapons of different types and caliber.” The State Department report contains surprisingly little information about Hezbollah in Latin America. However, a 500-page report [issued](http://www.longwarjournal.org/archives/2013/05/argentine_prosecutor.php) last week by Argentine prosecutor Alberto Nisman reveals that Iran has established an archipelago of “clandestine intelligence stations and operative agents” in Latin America that are being used “to execute terrorist attacks when the Iranian regime decides so, both directly or through its proxy, the terrorist organization Hezbollah.” Among the South American countries in which Iran or Hezbollah has set up intelligence/terrorism bases: Argentina, Brazil, Paraguay, Uruguay, Chile, Colombia, Guyana, Trinidad and Tobago, and Suriname. Nisman provides additional evidence — not that more is needed — that Iranian officials and one Lebanese Hezbollah operative were responsible for two terrorist bombings in Argentina in the 1990s. There’s an American nexus too: Nisman charges that Mohsen Rabbani, Iran’s former cultural attaché in Buenos Aires — implicated in the 1994 attack on a Jewish center in Buenos Aires in which 85 people were killed — directed “Iranian agent” Abdul Kadir, now serving a life sentence in connection with the 2010 plot to bomb John F. Kennedy International Airport in New York. Connect the dots, Nisman argues, and they draw a picture of Iran “fomenting and fostering acts of international terrorism in concert with its goals of exporting the revolution.” All this considered, can al-Qaeda still be considered a serious competitor? Yes, it can! Last weekend, my colleague, über-researcher Tom Joscelyn, [pointed out](https://www.weeklystandard.com/print/articles/see-no-evil_732050.html?nopager=1) that AQ and its affiliates now “are fighting in more countries than ever.” In Afghanistan, AQ maintains safe havens in the provinces of Kunar and Nuristan. Its loyal ally, the Taliban, is responsible for a level of violence “higher than before the Obama-ordered surge of American forces in 2010,” according to NATO’s International Security Assistance Force. AQ and its affiliates have bases in northern Pakistan. The Pakistani government, Joscelyn notes, “continues to be a duplicitous ally, sponsoring and protecting various al Qaeda-allied groups. The Tehrik-e Taliban Pakistan (TTP), or Pakistani Taliban, remains a threat after orchestrating the failed May 2010 bombing in Times Square. The State Department announced in September 2010 that the TTP has “a ‘symbiotic relationship’ with al Qaeda.” The AQ-affiliated al-Nusrah Front may be the most effective force fighting against Assad’s troops, and againstHezbollah and Iranian combatants in Syria. AQ is resurgent in neighboring Iraq, with April 2013 the deadliest month in that country in nearly five years, according to the U.N. AQ has expanded operations in Yemen. In Somalia, Shabaab — which formally merged with AQ last year — is far from defeated and has managed to carry out attacks in neighboring Kenya and Uganda as well. In Nigeria, Boko Haram[continues to slaughter](http://defenddemocracy.org/media-hit/us-offers-rewards-for-boko-haram-african-al-qaeda-leaders/) Christians. In Egypt, al-Qaeda members and associates — including Mohammed al-Zawahiri, the brother of al-Qaeda leader Ayman al-Zawahiri — are operating more freely than ever. On 9/11/12 they hoisted an AQ flag above the U.S. embassy in Cairo. Libyan groups closely linked to al-Qaeda were responsible for the 9/11/12 attack that killed Ambassador J. Christopher Stevens and three other Americans. Al-Qaeda in the Islamic Maghreb easily took over northern Mali until French forces pushed them out of the population centers. Al-Qaeda affiliates are becoming more visible and perhaps viable in Tunisia, too. Despite all this, the State Department report asserts that “core” al-Qaeda “is on a path to defeat.” I am not convinced that there is sufficient evidence to substantiate that thesis. And even if it does prove to be accurate, who’s to say that a weakening core can’t be compensated for by a stronger periphery? In the final analysis, “Which is the A Team of terrorism?” is not the paramount question. What is: In the years ahead, does the U.S. have what it takes to be the A Team of counterterrorism?

#### Hezbollah can and will attack

Carafano 13June 7th, 2013. “Hezbollah Plays a Dangerous Game” James Jay Cafano <http://www.heritage.org/research/commentary/2013/6/james-jay-carafano-hezbollah-plays-a-dangerous-game> (James Jay Carafano, a leading expert in national security and foreign policy challenges, is The Heritage Foundation’s Vice President, Foreign and Defense Policy Studies, E. W. Richardson Fellow, and Director of the Kathryn and Shelby Cullom Davis Institute for International Studies)

"The system was blinking red." That's how the 9/11 Commission Report described the intelligence community's state of concern shortly before the 2001 terrorist attacks on New York and Washington.¶ "Counterterrorism officials were receiving frequent but fragmentary reports about threats," the commission reported, adding, "Indeed, there appeared to be possible threats almost everywhere the United States had interests--including at home."¶ But not until planes plowed into the Twin Towers did everyone understand what the chatter meant.¶ In a recent speech at The National Defense University, President Obama declared that the transnational terrorism threat is well in hand. But, plenty of signs indicate that's not the case.¶ **Consider Hezbollah. This multi-tentacle stooge of Iran is a Shi'a Islamist terrorist group. It is also a political party that operates a shadow government in Lebanon.¶** For more than a year, **Hezbollah has been increasing the tempo of its attacks on Western and Israeli targets in Asia and Europe**. The Bulgarian government, for example, has connected the group to a bus bombing that killed five Israeli tourists and their driver last year.¶ Most recently, **Hezbollah deployed "foreign fighters" to assist the Assad regime in beating back the opposition in Syria. This offensive further complicated an already complex crisis. It broadened the sectarian nature of the war, pitting Shi'a (Hezbollah, Iran, and the Syrian militias supporting Assad) against Sunni (the rebels).¶** **It has also pitted terrorists groups against one another. Hezbollah is battling Assad's opposition whether they are "freedom fighters" or al Qaeda. Jabhat al-Nusra, the al Qaeda affiliate in Syria, is now pretty much at war with Hezbollah**.¶ That may not sound like a bad thing, **but it means the war will surely spread to Lebanon**. Hezbollah has to expect payback. Car bombs will explode in Beirut, as Jabhat al-Nusra pays back Hezbollah. And, as terrorists kill terrorists, the people of Lebanon will be caught in the crossfire.¶ The Lebanese recognize this--and they are none too happy about it. Already some have expressed resentment over Hezbollah dragging the country into Syria's civil war. The people are seeing the group for what it is, a tool of Tehran.¶ That awareness may bring pain. **Hezbollah's impulse will likely be to turn up the violence even more--while directing as much blame and animosity as possible toward Israel. And that could spark another military confrontation.**¶ While Hezbollah sets the red lights blinking, the West mostly just blinks. The European Union remains bitterly divided over designating the terrorist organization as... a terrorist organization.¶ France, Britain and Germany are going halfsies--pressing the EU to label Hezbollah's armed-militia wing as a terrorist organization, while letting the political arm off the hook.¶ As long as the political arm is excluded, Europe won't be able to shut down terrorist fund-raising and recruiting in its own backyard.¶ The UN is not doing much to help either. Since 1978, the United Nations Interim Force in Lebanon (UNIFIL) has been charged with making sure the Lebanese-Israeli border region is free of any non-governmental armed personnel or weaponry. Clearly it has failed, in part because of self-imposed restrictions. For example, UNIFIL peacekeepers cannot even conduct regular building searches for arms!¶ Transnational terrorism is not in hand. **The U.S. desperately needs to shore up its position in the Middle East**. That means showing real leadership in dealing with Turkey, Israel, Iraq, Jordan and the six-nation Gulf Cooperation Council.¶ It means making clear that the "pivot to Asia" does not entail disengaging from the region. It means ramping up, not standing down, our global anti-terrorism initiative.¶ **And it means developing a real strategy to prevent** Islamist **extremists from hijacking the Arab Spring.**

THE A-TEAM OF ISLAMIC TERRORISTS

#### That causes a nuclear war

**Ayson 10**

(Robert Ayson, Professor of Strategic Studies and Director of the Centre for Strategic Studies: New Zealand at the Victoria University of Wellington, 2010 (“After a Terrorist Nuclear Attack: Envisaging Catalytic Effects,” Studies in Conflict & Terrorism, Volume 33, Issue 7, July, Available Online to Subscribing Institutions via InformaWorld)

A terrorist nuclear attack, and even the use of nuclear weapons in response by the country attacked in the first place, would not necessarily represent the worst of the nuclear worlds imaginable. Indeed, there are reasons to wonder whether nuclear terrorism should ever be regarded as belonging in the category of truly existential threats. A contrast can be drawn here with the global catastrophe that would come from a massive nuclear exchange between two or more of the sovereign states that possess these weapons in significant numbers. Even the worst terrorism that the twenty-first century might bring would fade into insignificance alongside considerations of what a general nuclear war would have wrought in the Cold War period. And it must be admitted that as long as the major nuclear weapons states have hundreds and even thousands of nuclear weapons at their disposal, there is always the possibility of a truly awful nuclear exchange taking place precipitated entirely by state possessors themselves. But these two nuclear worlds—a non-state actor nuclear attack and a catastrophic interstate nuclear exchange—are not necessarily separable. It is just possible that some sort of terrorist attack, and especially an act of nuclear terrorism, could precipitate a chain of events leading to a massive exchange of nuclear weapons between two or more of the states that possess them. In this context, today’s and tomorrow’s terrorist groups might assume the place allotted during the early Cold War years to new state possessors of small nuclear arsenals who were seen as raising the risks of a catalytic nuclear war between the superpowers started by third parties. These risks were considered in the late 1950s and early 1960s as concerns grew about nuclear proliferation, the so-called n+1 problem. t may require a considerable amount of imagination to depict an especially plausible situation where an act of nuclear terrorism could lead to such a massive inter-state nuclear war. For example, in the event of a terrorist nuclear attack on the United States, it might well be wondered just how Russia and/or China could plausibly be brought into the picture, not least because they seem unlikely to be fingered as the most obvious state sponsors or encouragers of terrorist groups. They would seem far too responsible to be involved in supporting that sort of terrorist behavior that could just as easily threaten them as well. Some possibilities, however remote, do suggest themselves. For example, how might the United States react if it was thought or discovered that the fissile material used in the act of nuclear terrorism had come from Russian stocks,40 and if for some reason Moscow denied any responsibility for nuclear laxity? The correct attribution of that nuclear material to a particular country might not be a case of science fiction given the observation by Michael May et al. that while the debris resulting from a nuclear explosion would be “spread over a wide area in tiny fragments, its radioactivity makes it detectable, identifiable and collectable, and a wealth of information can be obtained from its analysis: the efficiency of the explosion, the materials used and, most important … some indication of where the nuclear material came from.”41 Alternatively, if the act of nuclear terrorism came as a complete surprise, and American officials refused to believe that a terrorist group was fully responsible (or responsible at all) suspicion would shift immediately to state possessors. Ruling out Western ally countries like the United Kingdom and France, and probably Israel and India as well, authorities in Washington would be left with a very short list consisting of North Korea, perhaps Iran if its program continues, and possibly Pakistan. But at what stage would Russia and China be definitely ruled out in this high stakes game of nuclear Cluedo? In particular, if the act of nuclear terrorism occurred against a backdrop of existing tension in Washington’s relations with Russia and/or China, and at a time when threats had already been traded between these major powers, would officials and political leaders not be tempted to assume the worst? Of course, the chances of this occurring would only seem to increase if the United States was already involved in some sort of limited armed conflict with Russia and/or China, or if they were confronting each other from a distance in a proxy war, as unlikely as these developments may seem at the present time. The reverse might well apply too: should a nuclear terrorist attack occur in Russia or China during a period of heightened tension or even limited conflict with the United States, could Moscow and Beijing resist the pressures that might rise domestically to consider the United States as a possible perpetrator or encourager of the attack? Washington’s early response to a terrorist nuclear attack on its own soil might also raise the possibility of an unwanted (and nuclear aided) confrontation with Russia and/or China. For example, in the noise and confusion during the immediate aftermath of the terrorist nuclear attack, the U.S. president might be expected to place the country’s armed forces, including its nuclear arsenal, on a higher stage of alert. In such a tense environment, when careful planning runs up against the friction of reality, it is just possible that Moscow and/or China might mistakenly read this as a sign of U.S. intentions to use force (and possibly nuclear force) against **them**. In that situation, the temptations to preempt such actions might grow, although it must be admitted that any preemption would probably still meet with a devastating response.

#### The plan shifts the CIA to focus to intel – key to drone effectiveness

Kenneth Anderson, 13 Professor of law at Washington College of Law, American University; a visiting fellow of the Hoover Institution and member of its Task Force on National Security and Law; and a non-resident senior fellow of the Brookings Institution. He writes on international law, the laws of war, and national security, and his most recent book is "Living with the UN: American Responsibilities and International Order.", “Taking the CIA Out of Drone Strikes? The Obama Administration’s Yemen Experience”, <http://www.lawfareblog.com/2013/05/taking-the-cia-out-of-drone-strikes-the-obama-administrations-yemen-experience/>, May 28, 2013)

Washington Post national security reporter Greg Miller has an excellent story in Sunday’s paper on the operational role of the CIA in drone warfare. Back at the time of the Brennan confirmation hearings, and even before, there had been discussion that the CIA would be pulled – even if only gradually – out of drone warfare and this form of using lethal force would be turned over the military. The CIA would re-focus itself on intelligence gathering and analysis, which many commentators inside and outside government said had taken a backseat to operational roles. Brennan himself urged this re-configuring of CIA priorities – including a shift away from counterterrorism to re-emphasize other intelligence missions; and the administration has said similar things in recent weeks. Focusing on drone warfare in Yemen, however, Miller’s report suggests this is easier said than done – whether in Yemen (or, it might be added, in Pakistan). A fundamental reason seems to be something noted many times here at Lawfare – the firing of a missile from a drone is the last kinetic step in a long chain of intelligence-gathering that includes surveillance over time from drones, signals intelligence and, crucially, on-ground human intelligence networks that give the US reason to be focusing on certain people as possible targets. Whether in Pakistan or Yemen, the effectiveness of drone warfare has been a function of the quality of the front-end intelligence that finally might lead to a strike. The drone’s contribution to the intelligence is far from being entirely tactical, of course – the drone’s surveillance has far more utility than just the preparation of a strike and that surveillance is crucial for reducing collateral harm from the strike itself. But drones are not quite so useful if one has no prior idea who one is searching for or where he might be or even why him – and much of this intelligence is gathered at the front end of the process in reliance on human intelligence networks. Although in principle the functions of intelligence gathering at the front end might be separated out from the intelligence involved in the preparation of a strike and from the actual strike itself, with the CIA engaged in the intelligence side and the military serving as the trigger pullers, the experience in Yemen raises some cautions about how easy it is to create this division of labor.

#### Shifting authority to the DoD is the only way to enable Congressional oversight – that makes foreign policy objectives more clear

Zenko 13([Micah Zenko](http://www.cfr.org/experts/national-security-conflict-prevention/micah-zenko/b15139), Douglas Dillon Fellow, “Transferring CIA Drone Strikes to the Pentagon,” April 2013, <http://www.cfr.org/drones/transferring-cia-drone-strikes-pentagon/p30434>)

ONE MISSION, TWO PROGRAMS

U.S. targeted killings are needlessly made complex and opaque by their division between two separate entities: JSOC and the CIA. Although drone strikes carried out by the two organizations presumably target the same people, the organizations have different authorities, policies, accountability mechanisms, and oversight. Splitting the drone program between the JSOC and CIA is apparently intended to allow the plausible deniability of CIA strikes. Strikes by the CIA are classified as Title 50 covert actions, defined as “activities of the United States Government . . . where it is intended that the role . . . will not be apparent or acknowledged publicly, but does not include traditional . . . military activities.” As covert operations, the government cannot legally provide any information about how the CIA conducts targeted killings, while JSOC operations are guided by Title 10 “armed forces” operations and a publicly available military doctrine. Joint Publication 3-60, Joint Targeting, details steps in the joint targeting cycle, including the processes, responsibilities, and collateral damage estimations intended to reduce the likelihood of civilian casualties. Unlike strikes carried out by the CIA, JSOC operations can be (and are) acknowledged by the U.S. government. The different reporting requirements of JSOC and the CIA mean that congressional oversight of U.S. targeted killings is similarly murky. Sometimes oversight is duplicated among the committees; at other times, there is confusion over who is mandated to oversee which operations. CIA drone strikes are reported to the intelligence committees. Senator Dianne Feinstein (D-CA), chair of the Senate Select Committee on Intelligence (SSCI), has confirmed that the SSCI receives poststrike notifications, reviews video footage, and holds monthly meetings to “question every aspect of the program.” Representative Mike Rogers (R-MI), chair of the House Permanent Select Committee on Intelligence (HPSCI), has said that he reviews both CIA and JSOC counterterrorism airstrikes. JSOC does not report to the HPSCI. As of March 2012, all JSOC counterterrorism operations are reported quarterly to the armed services committees. Meanwhile, the foreign relations committees—tasked with overseeing all U.S. foreign policy and counterterrorism strategies—have formally requested briefings on drone strikes that have been repeatedly denied by the White House. However, oversight should not be limited to ensuring compliance with the law and preventing abuses, but rather expanded to ensure that policies are consistent with strategic objectives and aligned with other ongoing military and diplomatic activities. This can only be accomplished by DOD operations because the foreign relations committees cannot hold hearings on covert CIA drone strikes. CONSOLIDATING EXECUTIVE AUTHORITY In 2004, the 9/11 Commission recommended that the “lead responsibility for directing and executing paramilitary operations, whether clandestine or covert, should shift to the Defense Department” to avoid the “creation of redundant, overlapping capabilities and authorities in such sensitive work.” The recommendation was never seriously considered because the CIA wanted to retain its covert action authorities and, more important, it was generally believed such operations would remain a rarity. (At the time, there had been only one nonbattlefield targeted killing.) Nearly a decade later, there is increasing bipartisan consensus that consolidating lead executive authority for drone strikes would pave the way for broader strategic reforms, including declassifying the relevant legal memoranda, explicitly stating which international legal principles apply, and providing information to the public on existing procedures that prevent harm to civilians. During his February 2013 nomination hearing, CIA director John O. Brennan welcomed the transfer of targeted killings to the DOD: “The CIA should not be doing traditional military activities and operations.” The main objection to consolidating lead executive authority in DOD is that it would eliminate the possibility of deniability for U.S. covert operations. However, any diplomatic or public relations advantages from deniability that once existed are minimal or even nonexistent given the widely reported targeted killings in Pakistan and Yemen. For instance, because CIA drone strikes cannot be acknowledged, the United States has effectively ceded its strategic communications efforts to the Pakistani army and intelligence service, nongovernmental organizations, and the Taliban. Moreover, Pakistani and Yemeni militaries have often taken advantage of this communications vacuum by shifting the blame of civilian casualties caused by their own airstrikes (or others, like those reportedly conducted by Saudi Arabia in Yemen) to the U.S. government. This perpetuates and exacerbates animosity in civilian populations toward the United States. If the United States acknowledged its drone strikes and collateral damage—only possible under DOD Title 10 authorities—then it would not be held responsible for airstrikes conducted by other countries.

### 1AC Plan Text

**The Congress of the United States federal government should statutorily restrict funding for targeted killing strikes carried out under Title 50.**

### 1AC NEW

**Advantage 1 is Overreach –**

#### The status quo has allowed unrestrained executive power to conduct targeted killing strikes under the covert action statute – this has destabilized civilian military relations – an increase of congressional oversight is key

**Wilner ‘5** (Alex S. Wilner, Doctoral Candidate of Political Science and Doctoral Fellow with the Centre for Foreign Policy Studies at Dalhousie University, Nova Scotia, M.A. Dalhousie, B.A. McGill University, “An Evolution in Military Affairs: Civil-Military Relations in an Age of Unconventional Warfare & Catastrophic Terror,” paper presented at the Conference of Defense Associations Graduate Student Symposium, 2005, email neilp1215@gmail.com for the paper)

Civilian Control over Covert Military Action Covert military action to combat terrorism will also have a destabilizing impact on civil-military relations. Certainly, covert action has been used by the United States and its allies for decades with little deleterious affect. Yet the difference today is the prevalence of its use, the dominance it has been given by Defense Secretary Donald Rumsfeld – among others – as the cornerstone of a new strategy of global counterterrorism, and the vagueness of US law concerning such activities. Covert action and Special-Ops are quickly becoming common practice, especially in light of their continued success. For the study of Civil-Military Relations, the basic dilemma posed by this emerging trend is the fact that modern covert actions, more often than not, employs the military – as opposed to civil groups, like the CIA, which had been the historical norm – which introduces a new element to the civil-military equation. Indeed, the military is being used for such activity because its use for such affairs is not clearly defined in legal terms. In the United States, there is a serious lack of proper congressional oversight or recourse involving the use of military agents as SOFs, and so, very little civilian directional control over its continued deployment for ‘black reconnaissance’ exists. Such recourse is fundamental to protecting and ensuring civilian control over the tactical development and use of the military for covert action. In the War on Terrorism, the use of Special Forces to attack or undermine other regimes unfriendly to the United States without the crucial public debate that has accompanied such activities in the past, undermines civil-military relations and destabilizes the existing relationship.85“Covert Action” is defined by American Law as any activity “conducted by the United States Government to influence political, economic, or military conditions abroad so that the role of the United States Government is not intended to be apparent or acknowledged publicly.”86 As opposed to ‘clandestine activity’ – where the act itself is secret – covert action is any action where the sponsor of that act – and not necessarily the act itself – is kept secret. An operation that is taken in secret (in order, for instance, to retain tactical surprise) but is then later acknowledged openly by the government, is neither clandestine nor covert in nature. In essence, then, covert operations, as Kibbe points out, “are rooted in the notion of deniability,” and allow for the employment of unsavoury behaviour to meet objectionable purposes without being blamed.87 In the wake of the Iran-contra scandal, the American government codified a system of checks and balances regarding the use of covert action under the Intelligence Authorization Act for fiscal year 1991. The Act established various safeguards for the use of covert action, requiring first that the President issue a written “presidential finding” regarding the activity and that second, the administration notify the House and Senate intelligence committees of any covert action before they begin.88 Under these two guidelines, covert action is given sufficient scrutiny by various governmental bodies which offers a certain degree of oversight and accountability that ensures both civilian leadership and control over the use of coercive forces. However, a caveat is in order, because while the 1991 Law expanded the oversight provisions to include both action undertaken by the CIA and “any department, agency, or entity of the United StatesGovernment”, it makes exceptions to various “traditional” military activities – including the acquiring of intelligence, counterintelligence activities, traditional military activities or “routine support” to these activities, traditional “law enforcement” activities, or activities that provide support to these overt activities.89 Under any of these cases, covert action does not require a Presidential finding nor the input of Congress. Furthermore, in war, actions can be taken as ‘routine military’ engagements. Yet what exactly is understood as “traditional military activity” becomes somewhat murky under certain environmental conditions, and is especially dubious in the case of the War on Terrorism. “Traditional military activity,” according to Kibbe, is meant to include “actions preceding and related to anticipated hostilities that will involve U.S. military forces or where such hostilities are ongoing and where the U.S. role…is apparent and acknowledged.”90 That is, under conditions of war, no oversight for covert action is required because the acts themselves are part and parcel of an overt military engagement that is openly supported and pursued by the government. With the War on Terrorism – which is intrinsically global by nature – the borders of the conflict and what actions are deemed auxiliary or supportive to the general war effort are necessarily hazy. The duration of the war is also an important factor, because the War itself is seemingly everlasting in nature, as it is, for the sake of clarity, a war against an action (and not an enemy per se) that will itself remain alive and well in the future in some form or another. Neither the borders nor the timeline of the War on Terrorism are certain, and thus almost any action taken on its behalf is justifiable. Senate Joint Resolution 23 (2001), which approved the use of military force as a response to the 9/11 attacks, authorized the President to use “all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001.”91 Accordingly, what specific targets the Administration eventually ‘determines’ are connected to the Al-Qaeda network or the events of 9/11 is necessarily left to interpretation. But whatever the case, any target, coming under the guise of the ‘war effort’, does not require Congressional oversight. Kibbe concludes further that anything the Administration does “to fight the war on terrorism is part of the self-defense of the United States and, therefore, a “traditional military activity” that does not require a presidential finding.”92 In both cases, and as a consequence of the transnational nature of modern (networked) terrorism, any target of slight interest can be attacked with covert military action with direction being employed form one source – the Pentagon. Little micromanagement and no oversight is left to Congress. While covert military action might indeed represent a necessary tactical development for effectively countering the threat posed by global terrorism (as the author tries to suggest in part two), the lack of an effective civilian oversight system that would ensure that civilians retain control over the military is challenged. As a consequence, the permanence of existing civil-military relations is itself strained and with it the continued stability of the democratic experiment.

#### Congress must move first to restore CMR – expansive executive authority has undermined it

**Yingling 10**

(Paul, not the guy who invented Yuengling beer – although I wish he was – Lieutenant Colonel in the United States Army, Professor of Security Studies at the George C. Marshall Center, "The Founders’ Wisdom", Armed Forces Journal, February, http://armedforcesjournal.com/article/2010/02/4384885)

Congress must be equally vigorous in resisting expansive interpretations of executive authority. Hasty and ill-considered executive decisions may burden the country with untenable and counterproductive policies whose consequences endure for decades. No issue makes this point more clearly than the Bush administration’s policies regarding the detainees at Guantanamo Bay, Cuba. The Bush administration asserted broad authority to detain suspected terrorists, asserting that they were neither lawful combatants fully protected by the Geneva Conventions nor criminal suspects fully protected by the Constitution. The Supreme Court ultimately rejected these arguments, but not before these policies did substantial damage to America’s reputation around the world. Greater congressional oversight in the formulation of the Bush administration’s detention policies might have prevented this. The Founders provided Congress with ample authority to conduct such oversight, including the appropriation of funds and the confirmation of executive branch nominees. The Founders did not provide the executive with expanded power in time of war, and placed the authority to suspend the writ of habeas corpus under Congress. The Founders were not naive and understood that not every exigency of war could be anticipated and satisfactorily resolved by the law. Even strong advocates of legislative supremacy recognized the possibility that an executive might act contrary to the law for the purpose of preserving the state. John Locke, whose “Second Treatise on Government” powerfully influenced the Founders’ thinking, acknowledged the possibility of executive prerogative, defined as “power to act according to the discretion for the public good, without the prescription of the law, and sometimes even against it.” However, Locke warned that “the people shall be judge” as to whether such sweeping executive action was intended for the public good. Lincoln’s suspension of the Great Writ in the Civil War, imposed during congressional recess and affirmed only after the fact, is an example of the exercise of executive prerogative for the public good. Especially in times of war, the people’s elected representatives must balance executive demands for broad discretion with equally important concerns for accountability and oversight.

#### CMR is key to democracy

**USDOS ‘8** [U.S. Department of State's Bureau of International Information Programs. July 2008. “Principal of Democracy: Civil-Military Relations” http://usinfo.state.gov/products/pubs/principles/civil.htm]

Issues of war and peace are the most momentous any nation can face, and at times of crisis, many nations turn to their military for leadership. Not in democracies. In democracies, questions of peace and war or other threats to national security are the most important issues a society faces, and thus must be decided by the people, acting through their elected representatives. A democratic military serves its nation rather than leads it. Military leaders advise the elected leaders and carry out their decisions. Only those who are elected by the people have the authority and the responsibility to decide the fate of a nation. This idea of civilian control and authority over the military is thus, fundamental to democracy. Civilians need to direct their nation's military and decide issues of national defense not because they are necessarily wiser than military professionals, but precisely because they are the people's representatives and as such are charged with the responsibility for making these decisions and remaining accountable for them. The military in a democracy exists to protect the nation and the freedoms of its people. It does not represent or support any political viewpoint or ethnic and social group. Its loyalty is to the larger ideals of the nation, to the rule of law, and to the principle of democracy itself. Civilian control assures that a country's values, institutions, and policies are the free choices of the people rather than the military. The purpose of a military is to defend society, not define it. Any democratic government values the expertise and advice of military professionals in reaching policy decisions about defense and national security. Civilian officials rely upon the military for expert advice on these matters and to carry out the decisions of the government. But only the elected civilian leadership should make ultimate policy decisions -- which the military then implements in its sphere. Military figures may, of course, participate fully and equally in the political life of their country just like any other citizens - but only as individual voters. Military people must first retire from military service before becoming involved in politics; armed services must remain separate from politics. The military are the neutral servants of the state, and the guardians of society. Ultimately, civilian control of the military ensures that defense and national security issues do not compromise the basic democratic values of majority rule, minority rights, and freedom of speech, religion, and due process. It is the responsibility of all political leaders to enforce civilian control and the responsibility of the military to obey the lawful orders of civilian authorities.

#### U.S. CMR’s modeled globally---key to democratic consolidation

**Perry 96** – William Perry, Former Secretary of Defense, 1996, Foreign Affairs

Many nations around the world have come to agree that democracy is the best system of government. But important steps must be taken before worldwide consensus can become a worldwide reality. Most of the new democracies are fragile. Elections are a necessary but insufficient condition for a free society; democracy is learned behavior. Democratic values must be embedded in the key institutions of these nations if they are to flourish as democracies. The Defense Department has a pivotal role to play in that effort. In virtually every new democracy -- in the former Soviet Union, in Central and Eastern Europe, in South America, and in Asia -- the military is a major force. In many cases it is the most cohesive institution in the country, containing a large percentage of the educated elite and controlling important resources. In short, it is an institution that can help support democracy or subvert it. Societies undergoing the transformation from totalitarianism to democracy may well be tested at some point by a crisis, whether economic, a reversal on human rights and freedoms, or a border or an ethnic dispute with a neighboring country. If such a crisis occurs, the United States wants that nation's military to come down on the side of democracy and economic reform and play a positive role in resolving the crisis, not a negative role in fanning the flames or using the crisis as a pretext for a military coup. This administration has sought to exert a positive influence on these important institutions through regular, working contacts with U.S. military and civilian defense personnel -- a task made easier by the fact that every military in the world looks to the U.S. armed forces as the model to be emulated.

#### Democracy solves war—the democratic peace theory is correct

**Moore 04** – John is the Director at the Center for Security Law at the University of Virginia, 7-time Presidential Appointee, and Honorary Editor of the American Journal of International Law. (“Beyond the Democratic Peace: Solving the War Puzzle”, 44 Va. J. Int'l L. 341, Winter 2004, lexis)

On the eve of World War I, Norman Angell wrote in a popular bestseller that the high level of interaction among nations made war a "great illusion." Since war would not benefit the people of England or Germany, war would no longer occur. n1 Angell's thesis, embraced by [\*342] even the Chairman of Britain's War Committee, died with the guns of August. It has taken almost a century for any other theory of war avoidance to gain the intellectual following enjoyed by Angell's The Great Illusion. Today, despite continuing protestations of skeptics, the "democratic peace" has achieved broad support across the political spectrum. n2 In its more cautious form, the "democratic peace" posits that major war will occur only rarely, if at all, between well-established democratic nations. But obviously, since major war has been occurring at a lusty rate between democratic and nondemocratic nations, the "democratic peace," despite its impressive acceptance, is not an adequate theory for war avoidance. n3 Equally, however, since the "democratic peace" seems to be one of the most robust correlations with war avoidance found to date, approaches that ignore it would seem themselves to be seriously incomplete. Is there a more complete approach that offers better guidance for war avoidance yet that incorporates the insights of the "democratic peace?" The answer seems to be a cautious yes. Further, the more complete approach may offer better guidance for virtually all major foreign policy goals and thus [\*343] serve as a more effective foreign policy paradigm. The "democratic peace" has achieved broad contemporary support because it reflects an impressive reality about war. Major international war, that is, interstate war with over one thousand casualties, occurs at an extraordinarily low rate, if at all, among well-established democracies. This insight, postulated by Immanuel Kant over 200 years ago, n4 seems powerfully supported by recent scholarship, particularly the work of Professors Rudy Rummel and Bruce Russett. n5 According to Rummel, of 353 pairings of nations fighting in major international wars between 1816 and 1991, zero occurred between two democracies. n6 Perhaps a better way to perceive this data is that 100 percent of such wars in this period involved one or more nondemocracies. n7 And in Grasping the Democratic Peace published in 1993, Professor Russett, a former chairman of the Political Science Department at Yale, lends powerful support to the basic proposition, including a careful refutation of the most common counterarguments. n8 While a few scholars still [\*344] challenge the statistical reality of this seminal proposition, n9 argue that it is principally a product of a unifying Soviet threat during the Cold War, n10 question whether it holds during prolonged transitions to democracy, n11 or question whether it would necessarily hold in a world of all democracies, n12 most now accept that the democratic peace is one [\*345] of the most important correlations found to date about the nature of war. The significance of this finding is powerfully supported by studies of the relationship between the type or "structure" of government and other widely shared goals, including human rights, economic development, environmental protection, famine avoidance, control of terrorism, corruption avoidance, and even ending mass refugee flows. On each of these major human goals, government structures rooted in democracy, the rule of law, and human freedom perform impressively better than totalitarian and authoritarian models rooted in Hegelian statist mystique.

**Independently, strong civil-military relations prevent global conflict
Cohen** **97 (Eliot, “Civil-military relations – Are U.S. Forces Overstretched”,** <http://findarticles.com/p/articles/mi_m0365/is_n2_v41/ai_19416332/?tag=content;col1>**)**

Left uncorrected, the trends in American civil-military relations could breed certain pathologies. The most serious possibility is that of a dramatic civil-military split during a crisis involving the use of force. In the recent past, such tensions did not result in open division; for example, Franklin Roosevelt insisted that the United States invade North Africa in 1942, though the chiefs of both the army and the navy vigorously opposed such a course, favoring instead a buildup in England and an invasion of the continent in 1943. Back then it was inconceivable that a senior military officer would leak word of such a split to the media, where it would have reverberated loudly and destructively. To be sure, from time to time individual officers broke the vow of professional silence to protest a course of action, but in these isolated cases the officers paid the accepted price of termination of their careers. In the modern environment, such cases might no longer be isolated. Thus, presidents might try to shape U.S. strategy so that it complies with military opinion, and rarely in the annals of statecraft has military opinion alone been an adequate guide to sound foreign policy choices. Had Lincoln followed the advice of his senior military advisors there is a good chance that the Union would have fallen. Had Roosevelt deferred to General George C. Marshall and Admiral Ernest J. King there might well have been a gory debacle on the shores of France in 1943. Had Harry S Truman heeded the advice of his theater commander in the Far East (and it should be remembered that the Joint Chiefs generally counseled support of the man on the spot) there might have been a third world war. Throughout much of its history, the U.S. military was remarkably politicized by contemporary standards. One commander of the army, Winfield Scott, even ran for president while in uniform, and others (Leonard Wood, for example) have made no secret of their political views and aspirations. But until 1940, and with the exception of periods of outright warfare, the military was a negligible force in American life, and America was not a central force in international politics. That has changed. Despite the near halving of the defense budget from its high in the 1980s, it remains a significant portion of the federal budget, and the military continues to employ millions of Americans. More important, civil-military relations in the United States now no longer affect merely the closet-room politics of Washington, but the relations of countries around the world. American choices about the use of force, the shrewdness of American strategy, the soundness of American tactics, and the will of American leaders have global consequences. What might have been petty squabbles in bygone years are now magnified into quarrels of a far larger scale, and conceivably with far more grievous consequences. To ignore the problem would neglect one of the cardinal purposes of the federal government: "to provide for the common defense" in a world in which security cannot be taken for granted.

#### Also, JSOC/CIA conflation means prosecution threat ends SOF effectiveness

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

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

#### Legal challenges are coming now---failure to get out in front of the issue crushes US security strategy---Congress is key

**Anderson 9** – Prof. of Law @ American University & Research Fellow @ Hoover, Kenneth Anderson, Professor of Law, Washington College of Law, American University, and Research Fellow, The Hoover Institution, Stanford University and Member of its Task Force on National Security and the Law, 5/11/2009, Targeted Killing in U.S. Counterterrorism Strategy and Law,

http://www.brookings.edu/~/media/research/files/papers/2009/5/11%20counterterrorism%20anderson/0511\_counterterrorism\_anderson.pdf

Does this analysis offer any practical policy prescriptions for Congress and the administration? The problem is not so much a need for new legislation to create new structures or new policies. The legislative category in which many instances of targeted killing might take place in the future already exists. The task for Congress and the administration, rather, is instead to preserve a category that is likely to be put under pressure in the future and, indeed, is already seen by many as a legal non-starter under international law. Before addressing what Congress should do in this regard, we might ask from a strictly strategic political standpoint whether, given that the Obama Administration is committed to this policy anyway, whether it is politically prudent to draw public attention to the issue at all. Israeli officials might be threatened with legal action in Spain; but so far no important actor has shown an appetite for taking on the Obama Administration. Perhaps it is better to let sleeping political dogs lie. These questions require difficult political calculations. However, the sources cited above suggest that even if no one is quite prepared at this moment to take on the Obama Administration on targeted killing, the intellectual and legal pieces of the challenge are already set up and on the table. Having asserted certain positions concerning human rights law and its application and the United States having unthinkingly abandoned its self-defense rationale for its policy, the play can be made at any time—at some later time in the Obama Administration or in the next Republican administration, prying apart the “American” position to create a de facto alliance among Democrats and Europeans and thereby undermining the ability of the United States to craft a unified American security strategy. 101 The United States would be best served if the Obama Administration did that exceedingly rare thing in international law and diplomacy: Getting the United States out in front of the issue by making plain the American position, rather than merely reacting in surprise when its sovereign prerogatives are challenged by the international soft-law community.

**Although no CIA officials have been prosecuted yet, that is due to considerable US diplomatic power – the continuation of current targeted killing practices will ensure legal challenges increase**

**Alston 11** (Philip Alston, Norton Pomeroy Professor of Law. New York University School of Law “ARTICLE: The CIA and Targeted Killings Beyond Borders,” Harvard National Security Journal, 2011 Harvard National Security Journal 2 Harv. Nat'l Sec. J. 283)

A more pragmatic reason is that judicial action against CIA personnel is certain to increase in the years ahead as the agency becomes more actively engaged at an operational level in targeted killings. The United States would be better placed to counter such actions if it could demonstrate that it is acting in compliance with the applicable international law. Recent years have seen high-profile prosecutions in several countries in which the CIA has been operating. In the 2011 case of Raymond Davis, a CIA official widely reported to have been involved in drone-based targeted killing operations, was accused of two murders in Lahore. The United States indicated that diplomatic and other relations between the two countries would suffer greatly unless he was released. Although the local court system had insisted on proceeding to trial, blood money (*diyya)* was paid to the families of the two deceased and the case was closed, amid allegations of coercion and bribery.568 In 2007 courts in both Germany and Italy opened prosecutions against CIA agents. In Italy, an Egyptian cleric named Abu Omar was kidnapped on the streets of Milan, rendered to Egypt, and tortured and interrogated. Italian prosecutors charged 22 CIA officials.569 In Germany, a Lebanese-born German national named Khaled el-Masri was seized in Macedonia, and rendered to a CIA prison in Afghanistan where he was interrogated and tortured. Prosecutors issued arrest warrants for 13 CIA officers alleged to have been responsible. In both the German and Italian cases, United States diplomatic cables reveal strong and determined high-level lobbying by U.S. officials who warned their counterparts of extremely serious repercussions if the prosecutions went forward. In the German case, they were abandoned,570 and in the Italian case the courts went ahead and convicted the CIA officers in absentia but the Italian Government, responding to representations by the U.S. Secretary of Defense to the Italian Prime Minister, refrained from taking the steps necessary to pursue the convictions internationally.571 In all known cases the United States has applied immense diplomatic and perhaps other pressure in order to ensure that CIA agents have not had to answer for alleged violations of the law of the states concerned. But these responses have come at a high price in terms of the public standing of the United States in the countries concerned and future prosecutions are likely. At present the German Federal Prosecutor’s Office is examining the possibility of bringing charges over the killing of a German citizen by a drone attack in Pakistan in October 2010,572 and in July 2011 a complaint was filed in Pakistan against a former CIA official for his involvement in drone strikes.573

#### Even if lawsuits are lost, that crushes special operations

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

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

#### SOF key to counter A2/AD capabilities globally---key to effective power projection and U.S. defense alliances

Jim **Thomas 13**, Vice President and Director of Studies at the Center for Strategic and Budgetary Assessments, and Chris Dougherty is a Research Fellow at the Center for Strategic and Budgetary Assessments, 2013, “BEYOND THE RAMPARTS THE FUTURE OF U.S. SPECIAL OPERATIONS FORCES,” http://www.csbaonline.org/wp-content/uploads/2013/05/SOF-Report-CSBA-Final.pdf

The spread of advanced military technologies, such as precision-guided munitions, is enabling a number of countries to construct A2/AD networks that could erode the United States’ ability to project military power into key regions. Nations such as China and Iran are actively seeking to acquire and field A2/AD capabilities, including precision-guided ballistic and cruise missiles, attack submarines, fast-attack craft, anti-satellite (ASAT) weapons, computer-network attack capabilities, advanced fighter aircraft, and integrated air defenses, that may challenge the U.S. military’s ability to project power. The cumulative effect of spreading A2/ AD systems is that the land, air, sea, space, and cyberspace domains will be far less permissive for U.S. military operations. In the face of growing A2/AD threats, the value of low-signature forces capable of operating independently and far forward in denied areas is likely to increase substantially. SOF may offer the most viable ground-force option in future A2/AD environments, either executing direct action against key targets or working by, with, and through partner forces to conduct peripheral campaigns (i.e., operations designed to impose costs and conducted beyond the territory or reach of the enemy). Prior to hostilities, SOF could carry out preparation of the environment (PE) and special reconnaissance (SR) missions. At the outset of hostilities, SOF might serve as an early-entry force to blind or disrupt enemy command, control, communications, computers, intelligence, surveillance, and reconnaissance (C4ISR) networks, thereby enabling higher-signature conventional forces to penetrate A2/AD networks. Inserting or extracting SOF from denied environments, and supporting them once there, will challenge SOF aviation and undersea capabilities. Accordingly, SOF will need stealthy means of insertion from the air and sea. SOF may also need to conduct foreign external defense (FED) missions in states to build their capacity to repel foreign military aggression. This could entail helping key partners to create their own versions of A2/AD networks.¶ The proliferation of WMD and A2/AD capabilities will erode the conventional power-projection capability of not only the United States, but of other countries as well. In the future, states may therefore avoid direct confrontations and be more inclined to use unconventional methods and measures short of war to gain influence and achieve their foreign policy goals. States may also turn to third-party proxies to maintain plausible deniability for their actions. States could engage in influence campaigns and proxy competitions to achieve objectives such as: imposing costs on major competitors, foreclosing opportunities for other countries or non-state actors to gain a foothold in a region, “peeling away” allies or partners from competitors, diverting the attention and resources of competitors (misdirection), conducting cross-border operations against a major power with less risk of confrontation, or controlling (or denying) critical resources and trade routes. SOF will be critical to success in persistent influence campaigns and pro􀁛y competitions. They will need exquisite, local-area expertise and language skills, along with deep, longstanding relationships with key local actors built over time by embedding and living with foreign partner forces. Though SOF already operate in smaller units than GPF, the breadth, specificity, and need to minimize the visibility of these operations will place an emphasis on even smaller SOF teams and single operators working in close collaboration with other government agencies. These four security challenges􀂲coming to the fore during a time of 􀂿scal austerity in the United States and global economic uncertainty􀂲are likely to dominate the national security agenda for decades to come. These challenges are not mutually e􀁛clusive and, in almost every case, the challenges are intertwined with opportunities for SOF to impose costs on U.S. adversaries. Given their global nature, and recognizing the interrelationship between the various challenges and opportunities, SOF are uniquely suited to address them asymmetrically.

#### Solves a laundry list of nuclear conflicts

Mackenzie **Eaglen 11**, research fellow for national security – Heritage, and Bryan McGrath, former naval officer and director – Delex Consulting, Studies and Analysis, “Thinking About a Day Without Sea Power: Implications for U.S. Defense Policy,” Heritage Foundation

Global Implications. Under a scenario of dramatically reduced naval power, the United States would cease to be active in any international alliances. While it is reasonable to assume that land and air forces would be similarly reduced in this scenario, the lack of credible maritime capability to move their bulk and establish forward bases would render these forces irrelevant, even if the Army and Air Force were retained at today’s levels. In Iraq and Afghanistan today, 90 percent of material arrives by sea, although material bound for Afghanistan must then make a laborious journey by land into theater. China’s claims on the South China Sea, previously disputed by virtually all nations in the region and routinely contested by U.S. and partner naval forces, are accepted as a fait accompli, effectively turning the region into a “Chinese lake.” China establishes expansive oil and gas exploration with new deepwater drilling technology and secures its local sea lanes from intervention. Korea, unified in 2017 after the implosion of the North, signs a mutual defense treaty with China and solidifies their relationship. Japan is increasingly isolated and in 2020–2025 executes long-rumored plans to create an indigenous nuclear weapons capability.[11] By 2025, Japan has 25 mobile nuclear-armed missiles ostensibly targeting China, toward which Japan’s historical animus remains strong. China’s entente with Russia leaves the Eurasian landmass dominated by Russia looking west and China looking east and south. Each cedes a sphere of dominance to the other and remains largely unconcerned with the events in the other’s sphere. Worldwide, trade in foodstuffs collapses. Expanding populations in the Middle East increase pressure on their governments, which are already stressed as the breakdown in world trade disproportionately affects food importers. Piracy increases worldwide, driving food transportation costs even higher. In the Arctic, Russia aggressively asserts its dominance and effectively shoulders out other nations with legitimate claims to seabed resources. No naval power exists to counter Russia’s claims. India, recognizing that its previous role as a balancer to China has lost relevance with the retrenchment of the Americans, agrees to supplement Chinese naval power in the Indian Ocean and Persian Gulf to protect the flow of oil to Southeast Asia. In exchange, China agrees to exercise increased influence on its client state Pakistan. The great typhoon of 2023 strikes Bangladesh, killing 23,000 people initially, and 200,000 more die in the subsequent weeks and months as the international community provides little humanitarian relief. Cholera and malaria are epidemic. Iran dominates the Persian Gulf and is a nuclear power. Its navy aggressively patrols the Gulf while the Revolutionary Guard Navy harasses shipping and oil infrastructure to force Gulf Cooperation Council (GCC) countries into Tehran’s orbit. Russia supplies Iran with a steady flow of military technology and nuclear industry expertise. Lacking a regional threat, the Iranians happily control the flow of oil from the Gulf and benefit economically from the “protection” provided to other GCC nations. In Egypt, the decade-long experiment in participatory democracy ends with the ascendance of the Muslim Brotherhood in a violent seizure of power. The United States is identified closely with the previous coalition government, and riots break out at the U.S. embassy. Americans in Egypt are left to their own devices because the U.S. has no forces in the Mediterranean capable of performing a noncombatant evacuation when the government closes major airports. Led by Iran, a coalition of Egypt, Syria, Jordan, and Iraq attacks Israel. Over 300,000 die in six months of fighting that includes a limited nuclear exchange between Iran and Israel. Israel is defeated, and the State of Palestine is declared in its place. Massive “refugee” camps are created to house the internally displaced Israelis, but a humanitarian nightmare ensues from the inability of conquering forces to support them. The NATO alliance is shattered. The security of European nations depends increasingly on the lack of external threats and the nuclear capability of France, Britain, and Germany, which overcame its reticence to military capability in light of America’s retrenchment. Europe depends for its energy security on Russia and Iran, which control the main supply lines and sources of oil and gas to Europe. Major European nations stand down their militaries and instead make limited contributions to a new EU military constabulary force. No European nation maintains the ability to conduct significant out-of-area operations, and Europe as a whole maintains little airlift capacity. Implications for America’s Economy. If the United States slashed its Navy and ended its mission as a guarantor of the free flow of transoceanic goods and trade, globalized world trade would decrease substantially. As early as 1890, noted U.S. naval officer and historian Alfred Thayer Mahan described the world’s oceans as a “great highway…a wide common,” underscoring the long-running importance of the seas to trade.[12] Geographically organized trading blocs develop as the maritime highways suffer from insecurity and rising fuel prices. Asia prospers thanks to internal trade and Middle Eastern oil, Europe muddles along on the largesse of Russia and Iran, and the Western Hemisphere declines to a “new normal” with the exception of energy-independent Brazil. For America, Venezuelan oil grows in importance as other supplies decline. Mexico runs out of oil—as predicted—when it fails to take advantage of Western oil technology and investment. Nigerian output, which for five years had been secured through a partnership of the U.S. Navy and Nigerian maritime forces, is decimated by the bloody civil war of 2021. Canadian exports, which a decade earlier had been strong as a result of the oil shale industry, decline as a result of environmental concerns in Canada and elsewhere about the “fracking” (hydraulic fracturing) process used to free oil from shale. State and non-state actors increase the hazards to seaborne shipping, which are compounded by the necessity of traversing key chokepoints that are easily targeted by those who wish to restrict trade. These chokepoints include the Strait of Hormuz, which Iran could quickly close to trade if it wishes. More than half of the world’s oil is transported by sea. “From 1970 to 2006, the amount of goods transported via the oceans of the world…increased from 2.6 billion tons to 7.4 billion tons, an increase of over 284%.”[13] In 2010, “$40 billion dollars [sic] worth of oil passes through the world’s geographic ‘chokepoints’ on a daily basis…not to mention $3.2 trillion…annually in commerce that moves underwater on transoceanic cables.”[14] These quantities of goods simply cannot be moved by any other means. Thus, a reduction of sea trade reduces overall international trade. U.S. consumers face a greatly diminished selection of goods because domestic production largely disappeared in the decades before the global depression. As countries increasingly focus on regional rather than global trade, costs rise and Americans are forced to accept a much lower standard of living. Some domestic manufacturing improves, but at significant cost. In addition, shippers avoid U.S. ports due to the onerous container inspection regime implemented after investigators discover that the second dirty bomb was smuggled into the U.S. in a shipping container on an innocuous Panamanian-flagged freighter. As a result, American consumers bear higher shipping costs. The market also constrains the variety of goods available to the U.S. consumer and increases their cost. A Congressional Budget Office (CBO) report makes this abundantly clear. A one-week shutdown of the Los Angeles and Long Beach ports would lead to production losses of $65 million to $150 million (in 2006 dollars) per day. A three-year closure would cost $45 billion to $70 billion per year ($125 million to $200 million per day). Perhaps even more shocking, the simulation estimated that employment would shrink by approximately 1 million jobs.[15] These estimates demonstrate the effects of closing only the Los Angeles and Long Beach ports. On a national scale, such a shutdown would be catastrophic. The Government Accountability Office notes that: [O]ver 95 percent of U.S. international trade is transported by water[;] thus, the safety and economic security of the United States depends in large part on the secure use of the world’s seaports and waterways. A successful attack on a major seaport could potentially result in a dramatic slowdown in the international supply chain with impacts in the billions of dollars.[16]

#### Independently, Chinese a2/d2 tech will destabilize Asia

**Bosworth, 11** (LCDR Richard L Bosworth, USN, 5/4/11, Naval War College, “Effects of China’s sovereignty claims in the South China Sea”)

Conclusion The freedom of maneuver and dominant presence of US maritime and air forces in the Pacific has secured lines of communication and reinforced stability in Asia for decades.36 America will expect the Navy to exert maritime dominance and influence in the face of challenges presented by China‘s modernization.37 Recent activity suggests that China believes it can now throw its economic and military weight around. China is on its way to acquiring both the means to hold US and allied forces in the region at risk and to project its own power into the resulting vacuum.38 The capabilities that China has and continues to acquire are structured not to reinforce security in the Asia-Pacific, but to destabilize the current order maintained by the US.39 The US must remain a resident power, providing inshore defense. There is no way to project the kind of power the US has historically needed in the region from offshore. The US ability to rapidly deploy forces into the Western Pacific has allowed the US to project power onto the Asian continent in Korea, Vietnam and to intervene to quiet China‘s intimidation of Taiwan. Responses over the past year to China‘s stance regarding South China Sea economic and sovereignty claims clearly illustrate the importance of US leadership to ease regional fears of an unconstrained China.40 US and allied counters to anti-access strategies are important indicators of resolve regarding crisis response and escalation control in the western Pacific.41

#### That causes a nuclear war Landay, 2k

(Jonathon S, national security and intelligence correspondent, “Top administration officials warn stakes for U.S. are high in Asian conflicts”, Knight Ridder)

Few if any experts think China and Taiwan, North Korea and South Korea, or India and Pakistan are spoiling to fight. But even *a minor miscalculation* by any of them could destabilize Asia, jolt the global economy and even start a nuclear war. India, Pakistan and China all have nuclear weapons, and North Korea may have a few, too. Asia lacks the kinds of *organizations, negotiations* and *diplomatic relationships* that helped keep an uneasy peace for five decades in Cold War Europe. "Nowhere else on Earth are the stakes as high and relationships so fragile," said Bates Gill, director of northeast Asian policy studies at the Brookings Institution, a Washington think tank. "We see the convergence of great power interest overlaid with lingering confrontations with no institutionalized security mechanism in place. There are elements for potential disaster."

## 2AC

### 2ac

#### We meet- we ban the president’s authority to conduct strikes using the CIA-and that’s Authority

**Chesney 12**  (2012, Robert, Charles I. Francis Professor in Law at the University of Texas School of Law, non-resident Senior Fellow of the Brookings Institution, “Military-Intelligence Convergence and the Law of the Title 10/Title 50 Debate,” JOURNAL OF NATIONAL SECURITY LAW and POLICY, Vol. 5:539)

Title 50 is a portion of the U.S. Code that contains a diverse array of statutes relating to national security and foreign affairs. These include the standing affirmative grants of authority through which Congress originally empowered the CIA to carry out its various functions. That set in turn includes the sweeping language of the so-called fifth function, which the executive branch has long construed to grant authority to engage in covert action. Separately, Title 50 also contains the statutes that define covert action, require presidential findings in support of them, and oblige notification of them to SSCI and HPSCI. As a result, Title 50 authority has also become a shorthand, in this case one that refers to the domestic law authorization for engaging in quintessential intelligence activities such as intelligence collection and covert action.

#### 2. we meet- by definition the Pesident can not act without money to carry out the strike, means authority is limited

#### C/I Authority includes power to act or conduct an act

#### Hill 05 Free Legal Dictionary definition. <http://legal-dictionary.thefreedictionary.com/authority> (Gerald and Kathleen Hill are co-authors of 25 books, including The People's Law Dictionary, Real Life Dictionary of the Law, Encyclopedia of Federal Agencies and Commissions, Facts On File Dictionary of American Politics, and the popular Hill Guides: Sonoma Valley: The Secret Wine Country, Napa Valley: Land of Golden Vines; Victoria and Vancouver Island: the Almost Perfect Eden; Northwest Wine Country; Santa Barbara and the Central Coast: California's Riviera; and Monterey and Carmel: Eden by the Sea. Gerald has practiced law for more than four decades in both San Francisco's financial district and the town of Sonoma, California. He has an A.B. from Stanford University and Juris Doctor from Hastings College of the Law of the University of California. He was Executive Director of the California Governor’s Housing Commission, drafted legislation, taught at Golden Gate University Law School, served as an arbitrator and pro tem judge, edited and co-authored Housing in California, was an elected trustee of a public hospital, and has testified before Congressional committees.)

authority n. permission, a right coupled with the power to do an act or order others to act. Often one person gives another authority to act, as an employer to an employee, a principal to an agent, a corporation to its officers, or governmental empowerment to perform certain functions. There are different types of authority including "apparent authority" when a principal gives an agent various signs of authority to make others believe he or she has authority, "express authority" or "limited authority" which spell out exactly what authority is granted (usually a written set of instructions), "implied authority" which flows from the position one holds, and "general authority" which is the broad power to act for another.

#### Funding restrictions are restrictions on authority , rooted in U.S. code

Richard F. Grimmett, Specialist in National Defense Foreign Affairs, Defense, and Trade Division, 2007 CRS, Congressional Use of Funding Cutoffs Since 1970 Involving U.S. Military Forces and Overseas Deployments

Uses by Congress of Funding Restrictions to Affect Presidential Policy Toward Foreign Military/Paramilitary Operations

Although not directly analogous to efforts to seek withdrawal of American military forces from abroad by use of funding cutoffs, Congress has used funding restrictions to limit or prevent foreign activities of a military or paramilitary nature. As such, these actions represent alternative methods to affect elements of presidentially sanctioned foreign military operations. Representative examples of these actions are in legislation relating to Angola and Nicaragua, which are summarized below. In 1976, controversy over U.S. covert assistance to paramilitary forces in Angola led to legislative bans on such action. These legislative restrictions are summarized below. ! The Defense Department Appropriations Act for FY1976, P.L. 94-212, signed February 9, 1976, provided that none of the funds “appropriated in this Act may be used for any activities involving Angola other than intelligence gathering....” This funding limitation would expire at the end of this fiscal year. Consequently, Congress provided for a ban in permanent law, which embraced both authorization and appropriations acts, in the International Security Assistance and Arms Export Control Act of 1976. ! Section 404 of the International Security Assistance and Arms Export Control Act of 1976, P.L. 94-329, signed June 30, 1976, stated that “Notwithstanding any other provision of law, no assistance of any kind may be provided for the purpose, or which would have the effect, of promoting, augmenting, directly or indirectly, the capacity of any nation, group, organization, movement, or individual to conduct military or paramilitary operations in Angola, unless and until Congress expressly authorizes such assistance by law enacted after the date of enactment of this section.” This section also permitted the President to provide the prohibited assistance to Angola if he made a detailed, unclassified report to Congress stating the specific amounts and categories of assistance to be provided and the proposed recipients of the aid. He also had to certify that furnishing such aid was “important to the national security interests of the United States.” ! Section 109 of the Foreign Assistance and Related Programs Appropriations Act for FY1976, P.L. 94-330, signed June 30, 1976, provided that “None of the funds appropriated or made available pursuant to this Act shall be obligated to finance directly or indirectly any type of military assistance to Angola.” In 1984, controversy over U.S. assistance to the opponents of the Nicaraguan government (the anti-Sandinista guerrillas known as the “contras”) led to a prohibition on such assistance in a continuing appropriations bill. This legislative ban is summarized below. ! The continuing appropriations resolution for FY1985, P.L. 98-473, 98 Stat. 1935-1937, signed October 12, 1984, provided that “During fiscal year 1985, no funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement or individual.” This legislation also provided that after February 28, 1985, if the President made a report to Congress specifying certain criteria, including the need to provide further assistance for “military or paramilitary operations” prohibited by this statute, he could expend $14 million in funds if Congress passed a joint resolution approving such action.

#### Prefer our interpriation

1. Key to real world education- learning about how congress appropriates money is necessary to learn about the real world.

#### 1) Prefer our definition: Congresses enforcement power is the purse – any affirmative that fails to specify has no leverage power - they’re a resolution

#### 2) Turn – we increase your ground by specifying our enforcement, you can counterplan out or run disads

**3) Their interp crushes aff innovation, it’s easy to be negative on this topic – repertoire of Ks, Cps, and disads makes it important for the aff to be able to adapt**

#### 4) Prevents bidirectionality – checks aff circumvention good arguments

#### 5) Literature and substantial check limits explosions

#### 6) Vietnam proves – congress threatened to cut funding if the president failed to withdrawal. Our interp accesses historic and topic specific education

#### No ground loss- they still can read all of their Das based off of a reduction of war powers.

#### Default to reasonability – competing interpretations forces a race to the bottom and leads to stale, hyper-generic debates.

#### Our impacts are local claims which can be accepted without legitimizing overarching systems of morality

**Tushnet ‘92**

 (Mark, Professor of Law, Georgetown University, Michigan Law Review, THE LEFT CRITIQUE OF NORMATIVITY: A COMMENT, p. Lexis)

The answer lies in their definition of normativity. In Pierre Schlag's terms, the "aim" of "normative legal thought" is "to articulate or develop a norm that is complete, self-sufficient, discrete, separable, trans-situational, non-contradictory, and non-paradoxical within its intellectual or legal jurisdiction." **[5](https://www.lexis.com/research/retrieve?_m=a15ef486e6a10cfbeebcb5fc83c314cb&csvc=bl&cform=searchForm&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLzVlz-zSkAt&_md5=17a59040624194c5927d567302277704" \l "n5" \t "_self)** For Richard Delgado, the target is "grand normative theory." **[6](https://www.lexis.com/research/retrieve?_m=a15ef486e6a10cfbeebcb5fc83c314cb&csvc=bl&cform=searchForm&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLzVlz-zSkAt&_md5=17a59040624194c5927d567302277704" \l "n6" \t "_self)** For these authors, then, "normativity" is what I label comprehensive normative rationality. They argue that the claims for comprehensive normative rationality cannot be sustained. Their reasons need not be addressed in this essay, whose topic is not the merits of the arguments deployed in the critique of normativity. Yet the articles contain a number of obviously normative statements, and those statements provide my starting point. As Margaret Jane Radin and Frank Michelman noted in their comment on the principal articles, the very statement, "We should talk more normatively," **[7](https://www.lexis.com/research/retrieve?_m=a15ef486e6a10cfbeebcb5fc83c314cb&csvc=bl&cform=searchForm&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLzVlz-zSkAt&_md5=17a59040624194c5927d567302277704" \l "n7" \t "_self)** which they quote from another of Schlag's articles, is itself a normative statement. For rhetorical purposes, Schlag gives the normative sentence, "[T]hey [certain normative questions] are the wrong ones," a prominent place in his symposium article. **[8](https://www.lexis.com/research/retrieve?_m=a15ef486e6a10cfbeebcb5fc83c314cb&csvc=bl&cform=searchForm&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLzVlz-zSkAt&_md5=17a59040624194c5927d567302277704" \l "n8" \t "_self)** Delgado says that we could replace *normative*  [\*2327]  legal thought by legal thought pure and simple, "actually observing it and describing it. . . . We might begin to notice things like beggars or the countless other wounded that our system throws up. We might focus for the first time on subsistence claims, appreciate the dance between huge bureaucracies and those they serv(ic)e." **[9](https://www.lexis.com/research/retrieve?_m=a15ef486e6a10cfbeebcb5fc83c314cb&csvc=bl&cform=searchForm&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLzVlz-zSkAt&_md5=17a59040624194c5927d567302277704" \l "n9" \t "_self)** Winter writes that "we are saddled by a futile and increasingly counterproductive model of social order," and urges "more productive attention on fostering the kinds of conditions of community that might enable a more meaningful normative practice." **[10](https://www.lexis.com/research/retrieve?_m=a15ef486e6a10cfbeebcb5fc83c314cb&csvc=bl&cform=searchForm&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLzVlz-zSkAt&_md5=17a59040624194c5927d567302277704" \l "n10" \t "_self)** In an earlier critique of comprehensive normative rationality, Joseph Singer offered a normative agenda that began with these paragraphs: We should prevent cruelty. Right now, people are being dragged from their homes, in darkness, and even in broad daylight. It is someone's daughter, someone's son, someone's husband. They are tortured and raped and made to endure cruel games. Then they are killed in gruesome and inventive ways. In some instances, the American government subsidizes the people who commit these acts. The government reprimands the people, sternly. And the subsidies continue. **[11](https://www.lexis.com/research/retrieve?_m=a15ef486e6a10cfbeebcb5fc83c314cb&csvc=bl&cform=searchForm&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLzVlz-zSkAt&_md5=17a59040624194c5927d567302277704" \l "n11" \t "_self)** These normative statements, unlike those associated with comprehensive normative rationality, are small scale. They make what have been called "local" claims about good and bad practices, **[12](https://www.lexis.com/research/retrieve?_m=a15ef486e6a10cfbeebcb5fc83c314cb&csvc=bl&cform=searchForm&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLzVlz-zSkAt&_md5=17a59040624194c5927d567302277704" \l "n12" \t "_self)** without attempting to offer what their authors believe will inevitably be inadequate -- or futile -- general, or abstract, or comprehensive, accounts of why the practices are good or bad. The problem with comprehensive normative rationality, then, must be that it is comprehensive and/or rational, not that it is normative. Arthur Leff's famous prose poem pointed to one obvious difficulty with small-scale or local normativity. Left concluded his skeptical critique of normativity: As things now stand, everything is up for grabs. Nevertheless: Napalming babies is bad. Starving the poor is wicked. Buying and selling each other is depraved. Those who stood up to and died resisting Hitler, Stalin, Amin, and Pol Pot -- and General Custer too -- have earned salvation.  [\*2328]  Those who acquiesced deserve to be damned. There is in the world such a thing as evil. **[13](https://www.lexis.com/research/retrieve?_m=a15ef486e6a10cfbeebcb5fc83c314cb&csvc=bl&cform=searchForm&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLzVlz-zSkAt&_md5=17a59040624194c5927d567302277704" \l "n13" \t "_self)**

### Threats real

#### Threats real and not constructed—rational risk assessment goes aff

**Knudsen 1**– PoliSci Professor at Sodertorn (Olav, Post-Copenhagen Security Studies, Security Dialogue 32:3)

Moreover, I have a problem with the underlying implication that it is unimportant whether states 'really' face dangers from other states or groups. In the Copenhagen school, threats are seen as coming mainly from the actors' own fears, or from what happens when the fears of individuals turn into paranoid political action. In my view, this emphasis on the subjective is a **misleading conception of threat**, in that it discounts an independent existence for what- ever is perceived as a threat. Granted, political life is often marked by misperceptions, mistakes, pure imaginations, ghosts, or mirages, but such phenomena **do not occur simultaneously** to large numbers of politicians, and **hardly most of the time**. During the Cold War, threats - in the sense of plausible possibilities of danger - referred to 'real' phenomena, and they **refer to 'real' phenomena** now. The objects referred to are often not the same, but that is a different matter. Threats have to be dealt with both ín terms of perceptions and in terms of the phenomena which are perceived to be threatening. The point of Waever’s concept of security is not the potential existence of danger somewhere but the use of the word itself by political elites. In his 1997 PhD dissertation, he writes, ’One can View “security” as that which is in language theory called a speech act: it is not interesting as a sign referring to something more real - it is the utterance itself that is the act.’24 The deliberate disregard of objective factors is even more explicitly stated in Buzan & WaeVer’s joint article of the same year.” As a consequence, the phenomenon of threat is reduced to a matter of pure domestic politics.” It seems to me that the security dilemma, as a central notion in security studies, then loses its foundation. Yet I see that Waever himself has no compunction about referring to the security dilemma in a recent article." This discounting of the objective aspect of threats shifts security studies to insignificant concerns. What has long made 'threats' and ’threat perceptions’ important phenomena in the study of IR is the implication that **urgent action may be required**. Urgency, of course, is where Waever first began his argument in favor of an alternative security conception, because a convincing sense of urgency has been the chief culprit behind the abuse of 'security' and the consequent ’politics of panic', as Waever aptly calls it.” Now, here - in the case of urgency - another baby is thrown out with the Waeverian bathwater. When real situations of urgency arise, those situations are challenges to democracy; they are actually at the core of the problematic arising with the process of making security policy in parliamentary democracy. But in Waever’s world, threats are merely more or less persuasive, and the claim of urgency is just another argument. I hold that instead of 'abolishing' threatening phenomena ’out there’ by reconceptualizing them, as Waever does, we should continue paying attention to them, because **situations with a credible claim to urgency will keep coming back** and then we need to know more about how they work in the interrelations of groups and states (such as civil wars, for instance), not least to find adequate democratic procedures for dealing with them.’

### Predictions good

#### Scenario planning is good. In a catastrophe-ridden world it’s vital to make predictions about the future.

Kurasawa, 2004

[Fuyuki, Professor of Sociology at York University, “Cautionary Tales: The Global Culture of Prevention

and the Work of Foresight.” 2004, Constellations, Vol. 11, No. 4]

Independently of this room for maneuver and the chances of success. Humanitarian, environmental, and techno-scientific activists have convincingly shown that we cannot afford not to engage in preventive labor. contractualist justification, global civil society actors are putting forth a number of arguments countering temporal myopia on rational grounds. They make the case that no generation, and no part of the world, is immune from catastrophe. Complacency and parochialism are deeply flawed in that even if we earn a temporary reprieve, our children and grandchildren will likely not be so fortunate unless steps are taken today. Similarly, though it might be possible to minimize or contain the risks and harms of actions to faraway places over the short-term, parrying the eventual blowback or spillover effect is improbable. In fact, as I argued in the previous section, all but the smallest and most isolated of crises are rapidly becoming globalized due to the existence of transnational circuits of ideas, images, people, and commodities. Regardless of where they live, our descendants will increasingly be subjected to the impact of environmental degradation, the spread of epidemics, gross North-South socioeconomic inequalities, refugee flows, civil wars, and genocides. What may have previously appeared to be temporally and spatially remote risks are ‘coming home to roost’ in ever faster cycles. In a word, then, procrastination makes little sense for three principal reasons: it exponentially raises the costs of eventual future action; it reduces preventive options; and it erodes their effectiveness. With the foreclosing of long-range alternatives, later generations may be left with a single course of action, namely, that of merely reacting to large-scale emergencies as they arise. We need only think of how it gradually becomes more difficult to control climate change, let alone reverse it, or to halt mass atrocities once they are underway. Preventive foresight is grounded in the opposite logic, whereby the decision to work through perils today greatly enhances both the subsequent Moreover, I would contend that farsighted cosmopolitanism is not as remote or idealistic a prospect as it appears to some, for as Falk writes, “[g]lobal justice between temporal communities, however, actually seems to be increasing, as evidenced by various expressions of greater sensitivity to past injustices and future dangers.”36 Global civil society may well be helping a new generational self-conception take root, according to which we view ourselves as the provisional caretakers of our planetary commons. Out of our sense of responsibility for the well-being of those who will follow us, we come to be more concerned about the here and now.

### Nonviolence K

#### Preventing death is the first ethical priority – it’s the only impact you can’t recover from.

Zygmunt **Bauman,** University of Leeds Professor Emeritus of Sociology, 1995, Life In Fragments: Essays In Postmodern Morality, p. 66-71

The being‑for is like living towards‑the‑future: a being filled with anticipation, a being aware of the abyss between future foretold and future that will eventually be; it is this gap which, like a magnet, draws the self towards the Other,as it draws life towards the future, making life into an activity of overcoming, transcending, leaving behind. The self stretches towards the Other, as life stretches towards the future; neither can grasp what it stretches toward, but it is in this hopeful and desperate, never conclusive and never abandoned stretching‑toward that the self is ever anew created and life ever anew lived. In the words of M. M. Bakhtin, it is only in this not‑yet accomplished world of anticipation and trial, leaning toward stubbornly an‑other Other, that life can be lived ‑ not in the world of the `events that occurred'; in the latter world, `it is impossible to live, to act responsibly; in it, I am not needed, in principle I am not there at all." Art, the Other, the future: what unites them, what makes them into three words vainly trying to grasp the same mystery, is the modality of possibility. A curious modality, at home neither in ontology nor epistemology; itself, like that which it tries to catch in its net, `always outside', forever `otherwise than being'. The possibility we are talking about here is not the all‑too‑familiar unsure‑of‑itself, and through that uncertainty flawed, inferior and incomplete being, disdainfully dismissed by triumphant existence as `mere possibility', `just a possibility'; possibility is instead `plus que la reahte' ‑ both the origin and the foundation of being. The hope, says Blanchot, proclaims the possibility of that which evades the possible; `in its limit, this is the hope of the bond recaptured where it is now lost."' The hope is always the hope of *being fu filled,* but what keeps the hope alive and so keeps the being open and on the move is precisely its *unfu filment.* One may say that the paradox *of hope* (and the paradox of possibility founded in hope) is that it may pursue its destination solely through betraying its nature; the most exuberant of energies expends itself in the urge towards rest. Possibility uses up its openness in search of closure. Its image of the better being is its own impoverishment . . . The togetherness of the being‑for is cut out of the same block; it shares in the paradoxical lot of all possibility. It lasts as long as it is unfulfilled, yet it uses itself up in never ending effort of fulfilment, of recapturing the bond, making it tight and immune to all future temptations. In an important, perhaps decisive sense, it is selfdestructive and self‑defeating: its triumph is its death. The Other, like restless and unpredictable art, like the future itself, is a *mystery.* And being‑for‑the‑Other, going towards the Other through the twisted and rocky gorge of affection, brings that mystery into view ‑ makes it into a challenge. That mystery is what has triggered the sentiment in the first place ‑ but cracking that mystery is what the resulting movement is about. The mystery must be unpacked so that the being‑for may focus on the Other: one needs to know what to focus on. (The `demand' is *unspoken,* the responsibility undertaken is *unconditional;* it is up to him or her who follows the demand and takes up the responsibility to decide what the following of that demand and carrying out of that responsibility means in practical terms.) Mystery ‑ noted Max Frisch ‑ (and the Other is a mystery), is an exciting puzzle, but one tends to get tired of that excitement. `And so one creates for oneself an image. This is a loveless act, the betrayal." Creating an image of the Other leads to the substitution of the image for the Other; the Other is now fixed ‑ soothingly and comfortingly. There is nothing to be excited about anymore. I know what the Other needs, I know where my responsibility starts and ends. Whatever the Other may now do will be taken down and used against him. What used to be received as an exciting surprise now looks more like perversion; what used to be adored as exhilarating creativity now feels like wicked levity. Thanatos has taken over from Eros, and the excitement of the ungraspable turned into the dullness and tedium of the grasped. But, as Gyorgy Lukacs observed, `everything one person may know about another is only expectation, only potentiality, only wish or fear, acquiring reality only as a result of what happens later, and this reality, too, dissolves straightaway into potentialities'. Only death, with its finality and irreversibility, puts an end to the musical‑chairs game of the real and the potential ‑ it once and for all closes the embrace of togetherness which was before invitingly open and tempted the lonely self." `Creating an image' is the dress rehearsal of that death. But creating an image is the inner urge, the constant temptation, the *must* of all affection . . . It is the loneliness of being abandoned to an unresolvable ambivalence and an unanchored and formless sentiment which sets in motion the togetherness of being‑for. But what loneliness seeks in togetherness is an end to its present condition ‑ an end to itself. Without knowing ‑ without being capable of knowing ‑ that the hope to replace the vexing loneliness with togetherness is founded solely on its own unfulfilment, and that once loneliness is no more, the togetherness ( the being‑for togetherness) must also collapse, as it cannot survive its own completion. What the loneliness seeks in togetherness (suicidally for its own cravings) is the foreclosing and pre‑empting of the future, cancelling the future before it comes, robbing it of mystery but also of the possibility with which it is pregnant. Unknowingly yet necessarily, it seeks it all to its own detriment, since the success (if there is a success) may only bring it back to where it started and to the condition which prompted it to start on the journey in the first place. The togetherness of being‑for is always in the future, and nowhere else. It is no more once the self proclaims: `I have arrived', `I have done it', `I fulfilled my duty.' The being‑for starts from the realization of the bottomlessness of the task, and ends with the declaration that the infinity has been exhausted. This is the tragedy of being‑for ‑ the reason why it cannot but be death‑bound while simultaneously remaining an undying attraction. In this tragedy, there are many happy moments, but no happy end. Death is always the foreclosure of possibilities, and it comes eventually in its own time, even if not brought forward by the impatience of love. The catch is to direct the affection to staving off the end, and to do this against the affection's nature. What follows is that, if moral relationship is grounded in the being-for togetherness (as it is), then it can exist as a project, and guide the self's conduct only as long as its nature of a project (a not yet-completed project) is not denied. Morality, like the future itself, is forever not‑yet. (And this is why the ethical code, any ethical code, the more so the more perfect it is by its own standards, supports morality the way the rope supports the hanged man.) It is because of our loneliness that we crave togetherness. It is because of our loneliness that we open up to the Other and allow the Other to open up to us. It is because of our loneliness (which is only belied, not overcome, by the hubbub of the being‑with) that we turn into moral selves. And it is only through allowing the togetherness its possibilities which only the future can disclose that we stand a chance of acting morally, and sometimes even of being good, in the present.

#### Perm do the plan and embrace nonviolence in all other instnaces.

#### Legal restraints on use of force are the best check against militarism---rejecting all intervention goes too far and won’t be accepted

Falk 1 (Richard, Professor Emeritus of International Law at Princeton University, "Defining a Just War", The Nation, 10-11, http://www.thenation.com/article/defining-just-war)

I. ANTIWAR/PACIFIST APPROACH The pacifist position opposing even limited military action overlooks the nature of the threat and is thus irrelevant to meeting the central challenge of restoring some sense of security among our citizenry and in the world generally. Also, in the current setting, unlike in the civil rights movement and the interventionist conflicts of the cold war era (especially Vietnam), antiwar and pacifist stands possess little or no cultural resonance with the overwhelming majority of Americans. It may be that at later stages of the war this assessment will prove to have been premature, and even now Quaker, Christian, Gandhian and Buddhist forms of pacifism offer a profound critique of wars. These critiques should be seriously heeded, since they lend weight to the the view that the use of force should be marginal and kept to an absolute minimum. Certainly the spiritually motivated pacifist witness can be both inspirational and instructive, and help to mitigate and interrogate militarist postures. Another form of antiwar advocacy rests on a critique of the United States as an imperialist superpower or empire. This view also seems dangerously inappropriate in addressing the challenge posed by the massive crime against humanity committed on September 11. Whatever the global role of the United States--and it is certainly responsible for much global suffering and injustice, giving rise to widespread resentment that at its inner core fuels the terrorist impulse--it cannot be addressed so long as this movement of global terrorism is at large and prepared to carry on with its demonic work. These longer-term concerns--which include finding ways to promote Palestinian self-determination, the internationalization of Jerusalem and a more equitable distribution of the benefits of global economic growth and development--must be addressed. Of course, much of the responsibility for the failure to do so lies with the corruption and repressive policies of governments, especially in the Middle East, outside the orbit of US influence. A distinction needs to be drawn as persuasively as possible between inherently desirable lines of foreign policy reform and retreating in the face of terrorism. II. LEGALIST/UN APPROACH International treaties that deal with terrorism on civil aircraft call for cooperation in apprehending suspects and allow for their subsequent indictment and prosecution by national courts. Such laws could in theory be invoked to capture Osama bin Laden and his leading associates and charge them with international crimes, including crimes against humanity. A tribunal could be constituted under the authority of the United Nations, and a fair trial could then be held that would avoid war and the ensuing pain, destruction and associated costs. The narrative of apocalyptic terrorism could be laid before the world as the crimes of Nazism were bared at Nuremberg. But this course is unlikely to deal effectively with the overall threat. A public prosecution would give bin Laden and associates a platform to rally further support among a large constituency of sympathizers, and conviction and punishment would certainly be viewed as a kind of legal martyrdom. It would be impossible to persuade the United States government to empower such a tribunal unless it was authorized to impose capital punishment, and it is doubtful that several of the permanent members of the Security Council could be persuaded to allow death sentences. Beyond this, the evidence linking bin Laden to the September 11 attacks and other instances of global terrorism may well be insufficient to produce an assured conviction in an impartial legal tribunal, particularly if conspiracy was not among the criminal offenses that could be charged. European and other foreign governments are unlikely to be willing to treat conspiracy as a capital crime. And it strains the imagination to suppose that the Bush Administration would relinquish control over bin Laden to an international tribunal. On a more general level, it also seems highly improbable that the US government can be persuaded to rely on the collective security mechanisms of the UN even to the unsatisfactory degree permitted during the Gulf War. To be sure, the UN Security Council has provided a vague antiterrorist mandate as well as an endorsement of a US right of response, but such legitimizing gestures are no more than that. For better and worse, the United States is relying on its claimed right of self-defense, and Washington seems certain to insist on full operational control over the means and ends of the war that is now under way. Such a reliance is worrisome, given past US behavior and the somewhat militaristic character of both the leadership in Washington and the broader societal orientation in America toward the use of overwhelming force against the nation's enemies. Yet at this stage it is unreasonable to expect the US government to rely on the UN to fulfill its defensive needs. The UN lacks the capability, authority and will to respond to the kind of threat to global security posed by this new form of terrorist world war. The UN was established to deal with wars among states, while a transnational actor that cannot be definitively linked to a state is behind the attacks on the United States. Al Qaeda's relationship to the Taliban regime in Afghanistan is contingent, with Al Qaeda being more the sponsor of the state rather than the other way around. Undoubtedly, the world would be safer and more secure with a stronger UN that had the support of the leading states in the world. The United States has for years acted more to obstruct than to foster such a transformation. Surely the long-term effects of this crisis should involve a new surge of support for a reformed UN that would have independent means of financing its operations, with its own peacekeeping and enforcement capabilities backed up by an international criminal court. Such a transformed UN would generate confidence that it could and would uphold its charter in an evenhanded manner that treats people equally. But it would be foolish to pretend that the UN today, even if it were to enjoy a far higher level of US support than it does, could mount an effective response to the September 11 attacks. III. MILITARIST APPROACH Unlike pacifism and legalism, militarism poses a practical danger of immense proportions. Excessive reliance on the military will backfire badly, further imperiling the security of Americans and others, spreading war and destruction far afield, as well as emboldening the government to act at home in ways that weaken US democracy. So far the Bush Administration has shown some understanding of these dangers, going slowly in its reliance on military action and moving relatively cautiously to bolster its powers over those it views as suspicious or dangerous, so as to avoid the perception of waging a cultural war against Islam. The White House has itself repeatedly stressed that this conflict is unlike previous wars, that nonmilitary means are also important, that victory will come in a different way and that major battlefield encounters are unlikely to occur. Such reassurances, however, are not altogether convincing. The President's current rhetoric seems to reflect Secretary of State Colin Powell's more prudent approach, which emphasizes diplomacy and nonmilitary tactics, and restricts military action to Al Qaeda and the Taliban regime. Even here, there is room for dangerous expansion, depending on how the Al Qaeda network is defined. Some maximalists implicate twenty or more countries as supporters of terrorism. Defense Secretary Donald Rumsfeld, his deputy Paul Wolfowitz and others are definitely beating the drums for a far wider war; they seem to regard the attacks as an occasion to implement their own vision of a new world, one that proposes to rid the world of "evil" and advances its own apocalyptic vision. This vision seeks the destruction of such organizations as Hezbollah and Hamas, which have only minimal links to Al Qaeda and transnational terror, and which have agendas limited mainly to Palestinian rights of self-determination and the future of Jerusalem. These organizations, while legally responsible for terrorist operations within their sphere of concerns, but also subject to terrorist provocations, have not shown any intention of pursuing bin Laden's apocalyptic undertaking. Including such groups on the US target list will surely undermine the depth and breadth of international support and engender dangerous reactions throughout the Islamic world, and possibly in the West as well. Beyond this, there is speculation that there will be a second stage of response that will include a series of countries regarded as hostile to the United States, who are in possession of weapons of mass destruction but are not currently related to global terrorism in any significant fashion. These include Iraq, Libya and possibly even Syria, Iran and Sudan. To expand war objectives in this way would be full of risks, require massive military strikes inflicting much destruction and suffering, and would create a new wave of retaliatory violence directed against the United States and Americans throughout the world. If military goals overshoot, either by becoming part of a design to destroy Israel's enemies or to solve the problem of proliferation of weapons of mass destruction, the war against global terrorism will be lost, and badly. Just as the pacifist fallacy involves unrealistic exclusion of military force from an acceptable response, the militarist fallacy involves an excessive reliance on military force in a manner that magnifies the threat it is trying to diminish or eliminate. It also expands the zone of violence in particularly dangerous ways that are almost certain to intensify and inflame anti-Americanism. It should be kept in mind that war occasions deep suffering, and recourse to international force should be both a last resort and on as limited a scale as possible. But there is a fourth response, which has gained support among foreign policy analysts and probably a majority of Americans. IV. LIMITING MEANS AND ENDS Unlike in major wars of the past, the response to this challenge of apocalyptic terrorism can be effective only if it is also widely perceived as legitimate. And legitimacy can be attained only if the role of military force is marginal to the overall conduct of the war and the relevant frameworks of moral, legal and religious restraint are scrupulously respected. Excessive use of force in pursuing the perpetrators of September 11 will fan the flames of Islamic militancy and give credence to calls for holy war. What lent the WTC/Pentagon attack its quality of sinister originality was the ability of a fanatical political movement to take advantage of the complex fragility and vulnerability of advanced technology. Now that this vulnerability has been exposed to the world, it is impossible to insure that other extremists will not commit similar acts--even if Osama bin Laden is eliminated. The only way to wage this war effectively is to make sure that force is used within relevant frameworks of restraint. Excessive force can take several forms, like the pursuit of political movements remote from the WTC attack, especially if such military action is seen as indirectly doing the dirty work of eliminating threats to Israel's occupation of Palestinian territories and Jerusalem. Excessiveness would also be attributed to efforts to destroy and restructure regimes, other than the Taliban, that are hostile to the United States but not significantly connected with either the attack or Al Qaeda. The second, closely related problem of successfully framing a response is related to the US manner of waging war: The US temperament has tended to approach war as a matter of confronting evil. In such a view, victory can be achieved only by the total defeat of the other, and with it, the triumph of good. In the current setting, goals have not been clarified, and US leaders have used grandiose language about ending terrorism and destroying the global terrorist network. The idea of good against evil has been a consistent part of the process of public mobilization, with the implicit message that nothing less than a total victory is acceptable. What are realistic ends? Or put differently, what ends can be reconciled with a commitment to achieve an effective response? What is needed is extremely selective uses of force, especially in relation to the Taliban, combined with criminal law enforcement operations--cutting off sources of finance, destroying terrorist cells, using policing techniques abetted, to the extent necessary, by paramilitary capabilities. Also troubling is the Bush Administration's ingrained disdain for multilateralism and its determination to achieve security for the United States by military means--particularly missile defense and space weaponization. This unilateralism has so far been masked by a frantic effort to forge a global coalition, but there is every indication that the US government will insist on complete operational control over the war and will not be willing to accept procedures of accountability within the UN framework. The Administration has often said that many of the actions in this war will not be made known to the public. But an excessive emphasis on secrecy in the conduct of military operations is likely to make the uses of force more difficult to justify to those who are skeptical about US motives and goals, thus undercutting the legitimacy of the war. In building a global coalition for cooperative action, especially with respect to law enforcement in countries where Al Qaeda operates, the US government has struck a number of Faustian bargains. It may be necessary to enter into arrangements with governments that are themselves responsible for terrorist policies and brutal repression, such as Russia in Chechnya and India in Kashmir. But the cost of doing so is to weaken claims that a common antiterrorist front is the foundation of this alliance. For some governments the war against apocalyptic terrorism is an opportunity to proceed with their own repressive policies free from censure and interference. The US government should weigh the cost of writing blank checks against the importance of distinguishing its means and ends from the megaterrorist ethos that animated the September 11 attacks. There are some difficult choices ahead, including the extent to which Afghan opposition forces, particularly the Northern Alliance, should be supported in view of their own dubious human rights record. How, then, should legitimacy be pursued in the current context? The first set of requirements is essentially political: to disclose goals that seem reasonably connected with the attack and with the threat posed by those who planned, funded and carried it out. In this regard, the destruction of both the Taliban regime and the Al Qaeda network, including the apprehension and prosecution of Osama bin Laden and any associates connected with this and past terrorist crimes, are appropriate goals. In each instance, further specification is necessary. With respect to the Taliban, its relation to Al Qaeda is established and intimate enough to attribute primary responsibility, and the case is strengthened to the degree that its governing policies are so oppressive as to give the international community the strongest possible grounds for humanitarian intervention. We must make a distinction between those individuals and entities that have been actively engaged in the perpetration of the visionary program of international, apocalyptic terrorism uniquely Al Qaeda's and those who have used funds or training to advance more traditional goals relating to grievances associated with the governance of a particular country and have limited their targets largely to the authorities in their countries, like the ETA in Spain and the IRA in Ireland and Britain. Legitimacy with respect to the use of force in international settings derives from the mutually reinforcing traditions of the "just war" doctrine, international law and the ideas of restraint embedded in the great religions of the world. The essential norms are rather abstract in character, and lend themselves to debate and diverse interpretation. The most important ideas are: § the principle of discrimination: force must be directed at a military target, with damage to civilians and civilian society being incidental; § the principle of proportionality: force must not be greater than that needed to achieve an acceptable military result and must not be greater than the provoking cause; § the principle of humanity: force must not be directed even against enemy personnel if they are subject to capture, wounded or under control (as with prisoners of war); § the principle of necessity: force should be used only if nonviolent means to achieve military goals are unavailable. These abstract guidelines for the use of force do not give much operational direction. In each situation we must ask: Do the claims to use force seem reasonable in terms of the ends being pursued, including the obligation to confine civilian damage as much as possible? Such assessments depend on interpretation, but they allow for debate and justification, and clear instances of violative behavior could be quickly identified. The justice of the cause and of the limited ends will be negated by the injustice of improper means and excessive ends. Only the vigilance of an active citizenry, alert to this delicate balance, has much hope of helping this new war to end in a true victory.

#### Resisting war is useless – military deterrence provides an opportunity to expand peace

**Futterman**, **95** (J.A.H., Researcher at Lawrence Libermore Lab, Obscenity and Peace : Mediations on the Bomb http://www.dogchurch.org/scriptorium/nuke.html )

Internationally, peace requires empowerment of some groups that seem eager to earn the hatred of the civilized world — like the Palestinians. Now that nuclear deterrence and economic necessity have combined to bring about more freedom, empowerment, and therefore peace in Europe, the Middle East is one of the next hot-spots for triggering a nuclear war. In order to have peace, the world must empower the Palestinians to determine their political and economic destiny, while at the same time it must deter them from warring with Israel. Such empowerment and deterrence will require the active involvement of the Islamic nations who thus far have been unwilling to empower the Palestinians to engage in much beyond stone-throwing and terrorism. May the Palestinians awaken to how they have been used by their brethren. So we need to make peace, at home and abroad. Before you demonstrate to make your town a nuclear-free zone or to stop nuclear testing, [12] consider what you can do to enlarge someone's freedom, or to help them obtain the power to determine a better life for themselves. In other words, rather than fight against nuclear weapons or even against war, try making peace. Meanwhile, I do what I can to make waging unlimited war dangerous, and preparation for it expensive. I can provide palliative treatment, but you, physicians/patients, must heal yourselves. Or to put it more bluntly, as long as we continue to express our human nature in disenfranchising, disempowering ways, we will cling to armament -- nuclear or worse -- to distance ourselves from our own nearness to war.

#### Political checks alone are ineffective – they have to be combined with legal restrictions

**Huq, 12** - Assistant Professor of Law, University of Chicago Law School (Aziz, “BINDING THE EXECUTIVE (BY LAW OR BY POLITICS)”, August, <http://www.law.uchicago.edu/files/file/400-ah-binding.pdf>) **PV = Posner and Vermeule**

This Part turns to the second element of the strong law/politics dichotomy: the thesis that political forces bind the executive in ways legal rules cannot. The “political” mechanisms identified by PV are organized around two concepts: credibility and popularity. Presidents want credibility and popularity, PV argue, and these preferences induce the executive branch to share authorities. Political incentives as a result “at least block the most lurid forms of executive abuse” in ways legal constraints cannot (p 5).149 In this Part, I argue that neither credibility nor popularity mechanisms can generate stable effects on executive behavior standing on their own. I focus here not solely on the question whether an executive under political constraints will diverge from median popular preferences, but also on whether it will violate deeply held deontological values, such as those embodied in generally recognized constitutional entitlements under the Bill of Rights. Considering the effect of political bonds upon both genres of “abuse” suggests that the political mechanisms limned by PV work best (or only) when they interact with legal limits on executive authority. The possibility of such complementary interactions will be taken up at greater length in Part IV.

#### Legal restraints work---exception theory is self-serving and wrong

William E. Scheuerman 6, Professor of Political Science at Indiana University, Carl Schmitt and the Road to Abu Ghraib, Constellations, Volume 13, Issue 1

Yet this argument relies on Schmitt’s controversial model of politics, as outlined eloquently but unconvincingly in his famous Concept of the Political. To be sure, there are intense conflicts in which it is naïve to expect an easy resolution by legal or juridical means. But the argument suffers from a troubling circularity: Schmitt occasionally wants to define “political” conflicts as those irresolvable by legal or juridical devices in order then to argue against legal or juridical solutions to them. The claim also suffers from a certain vagueness and lack of conceptual precision. At times, it seems to be directed against trying to resolve conflicts in the courts or juridical system narrowly understood; at other times it is directed against any legal regulation of intense conflict. The former argument is surely stronger than the latter. After all, legal devices have undoubtedly played a positive role in taming or at least minimizing the potential dangers of harsh political antagonisms. In the Cold War, for example, international law contributed to the peaceful resolution of conflicts which otherwise might have exploded into horrific violence, even if attempts to bring such conflicts before an international court or tribunal probably would have failed.22¶ Second, Schmitt dwells on the legal inconsistencies that result from modifying the traditional state-centered system of international law by expanding protections to non-state fighters. His view is that irregular combatants logically enjoyed no protections in the state-centered Westphalian model. By broadening protections to include them, international law helps undermine the traditional state system and its accompanying legal framework. Why is this troubling? The most obvious answer is that Schmitt believes that the traditional state system is normatively superior to recent attempts to modify it by, for example, extending international human rights protections to individuals against states. 23 But what if we refuse to endorse his nostalgic preference for the traditional state system? Then a sympathetic reading of the argument would take the form of suggesting that the project of regulating irregular combatants by ordinary law must fail for another reason: it rests on a misguided quest to integrate incongruent models of interstate relations and international law. We cannot, in short, maintain core features of the (state-centered) Westphalian system while extending ambitious new protections to non-state actors.¶ This is a powerful argument, but it remains flawed. Every modern legal order rests on diverse and even conflicting normative elements and ideals, in part because human existence itself is always “in transition.” When one examines the so-called classical liberal legal systems of nineteenth-century England or the United States, for example, one quickly identifies liberal elements coexisting uneasily alongside paternalistic and authoritarian (e.g., the law of slavery in the United States), monarchist, as well as republican and communitarian moments. The same may be said of the legal moorings of the modern welfare state, which arguably rest on a hodgepodge of socialist, liberal, and Christian and even Catholic (for example, in some European maternity policies) programmatic sources. In short, it is by no means self-evident that trying to give coherent legal form to a transitional political and social moment is always doomed to fail. Moreover, there may be sound reasons for claiming that the contemporary transitional juncture in the rules of war is by no means as incongruent as Schmitt asserts. In some recent accounts, the general trend towards extending basic protections to non-state actors is plausibly interpreted in a more positive – and by no means incoherent – light.24¶ Third, Schmitt identifies a deep tension between the classical quest for codified and stable law and the empirical reality of a social world subject to permanent change: “The tendency to modify or even dissolve classical [legal] concepts…is general, and in view of the rapid change of the world it is entirely understandable” (12). Schmitt’s postwar writings include many provocative comments about what contemporary legal scholars describe as the dilemma of legal obsolescence. 25 In The Partisan, he suggests that the “great transformations and modifications” in the technological apparatus of modern warfare place strains on the aspiration for cogent legal norms capable of regulating human affairs (17; see also 48–50). Given the ever-changing character of warfare and the fast pace of change in military technology, it inevitably proves difficult to codify a set of cogent and stable rules of war. The Geneva Convention proviso that legal combatants must bear their weapons openly, for example, seems poorly attuned to a world where military might ultimately depends on nuclear silos buried deep beneath the surface of the earth, and not the success of traditional standing armies massed in battle on the open field. “Or what does the requirement mean of an insignia visible from afar in night battle, or in battle with the long-range weapons of modern technology of war?” (17).¶ As I have tried to show elsewhere, these are powerful considerations deserving of close scrutiny; Schmitt is probably right to argue that the enigma of legal obsolescence takes on special significance in the context of rapid-fire social change.26 Unfortunately, he seems uninterested in the slightest possibility that we might successfully adapt the process of lawmaking to our dynamic social universe. To be sure, he discusses the “motorization of lawmaking” in a fascinating 1950 publication, but only in order to underscore its pathological core.27 Yet one possible resolution of the dilemma he describes would be to figure how to reform the process whereby rules of war are adapted to novel changes in military affairs in order to minimize the danger of anachronistic or out-of-date law. Instead, Schmitt simply employs the dilemma of legal obsolescence as a battering ram against the rule of law and the quest to develop a legal apparatus suited to the special problem of irregular combatants.

#### Alt fails, transparency is key to check presidential war powers

RUDD 5- JEFFREY, Adjunct Professor of Law, University of Montana; University of Wisconsin-Madison, William and Mary Environmental Law and Policy Review, Spring, 29 Wm. and Mary Envtl. L. and Pol'y Rev. 551

Society should give up the unproductive pursuit of unifying theories purporting to explain the underlying structure of environmental law, policy, and regulation, and focus instead on the particular regulations and agency decision-making processes impeding the resolution of environmental conflicts. Practical solutions to regulatory problems develop in context, not through philosophical holism justified by "unifying" theories. Foundationalist 2 8 theories will never "screen off' 2 9 uncertainty or eliminate normative influences from regulatory decisions. Democratic principles should guide efforts to improve the quality of the environmental regulatory system and its decision-making organizations. The hopeless endeavor of searching for "unifying" principles diverts valuable time and energy away from a productive, democratic renaissance in environmental law and regulation. "The answer to the defects of democracy is not denial of the democratic idea."

#### Legal restraints work---exception theory is self-serving and wrong

William E. Scheuerman 6, Professor of Political Science at Indiana University, Carl Schmitt and the Road to Abu Ghraib, Constellations, Volume 13, Issue 1

Yet this argument relies on Schmitt’s controversial model of politics, as outlined eloquently but unconvincingly in his famous Concept of the Political. To be sure, there are intense conflicts in which it is naïve to expect an easy resolution by legal or juridical means. But the argument suffers from a troubling circularity: Schmitt occasionally wants to define “political” conflicts as those irresolvable by legal or juridical devices in order then to argue against legal or juridical solutions to them. The claim also suffers from a certain vagueness and lack of conceptual precision. At times, it seems to be directed against trying to resolve conflicts in the courts or juridical system narrowly understood; at other times it is directed against any legal regulation of intense conflict. The former argument is surely stronger than the latter. After all, legal devices have undoubtedly played a positive role in taming or at least minimizing the potential dangers of harsh political antagonisms. In the Cold War, for example, international law contributed to the peaceful resolution of conflicts which otherwise might have exploded into horrific violence, even if attempts to bring such conflicts before an international court or tribunal probably would have failed.22¶ Second, Schmitt dwells on the legal inconsistencies that result from modifying the traditional state-centered system of international law by expanding protections to non-state fighters. His view is that irregular combatants logically enjoyed no protections in the state-centered Westphalian model. By broadening protections to include them, international law helps undermine the traditional state system and its accompanying legal framework. Why is this troubling? The most obvious answer is that Schmitt believes that the traditional state system is normatively superior to recent attempts to modify it by, for example, extending international human rights protections to individuals against states. 23 But what if we refuse to endorse his nostalgic preference for the traditional state system? Then a sympathetic reading of the argument would take the form of suggesting that the project of regulating irregular combatants by ordinary law must fail for another reason: it rests on a misguided quest to integrate incongruent models of interstate relations and international law. We cannot, in short, maintain core features of the (state-centered) Westphalian system while extending ambitious new protections to non-state actors.¶ This is a powerful argument, but it remains flawed. Every modern legal order rests on diverse and even conflicting normative elements and ideals, in part because human existence itself is always “in transition.” When one examines the so-called classical liberal legal systems of nineteenth-century England or the United States, for example, one quickly identifies liberal elements coexisting uneasily alongside paternalistic and authoritarian (e.g., the law of slavery in the United States), monarchist, as well as republican and communitarian moments. The same may be said of the legal moorings of the modern welfare state, which arguably rest on a hodgepodge of socialist, liberal, and Christian and even Catholic (for example, in some European maternity policies) programmatic sources. In short, it is by no means self-evident that trying to give coherent legal form to a transitional political and social moment is always doomed to fail. Moreover, there may be sound reasons for claiming that the contemporary transitional juncture in the rules of war is by no means as incongruent as Schmitt asserts. In some recent accounts, the general trend towards extending basic protections to non-state actors is plausibly interpreted in a more positive – and by no means incoherent – light.24¶ Third, Schmitt identifies a deep tension between the classical quest for codified and stable law and the empirical reality of a social world subject to permanent change: “The tendency to modify or even dissolve classical [legal] concepts…is general, and in view of the rapid change of the world it is entirely understandable” (12). Schmitt’s postwar writings include many provocative comments about what contemporary legal scholars describe as the dilemma of legal obsolescence. 25 In The Partisan, he suggests that the “great transformations and modifications” in the technological apparatus of modern warfare place strains on the aspiration for cogent legal norms capable of regulating human affairs (17; see also 48–50). Given the ever-changing character of warfare and the fast pace of change in military technology, it inevitably proves difficult to codify a set of cogent and stable rules of war. The Geneva Convention proviso that legal combatants must bear their weapons openly, for example, seems poorly attuned to a world where military might ultimately depends on nuclear silos buried deep beneath the surface of the earth, and not the success of traditional standing armies massed in battle on the open field. “Or what does the requirement mean of an insignia visible from afar in night battle, or in battle with the long-range weapons of modern technology of war?” (17).¶ As I have tried to show elsewhere, these are powerful considerations deserving of close scrutiny; Schmitt is probably right to argue that the enigma of legal obsolescence takes on special significance in the context of rapid-fire social change.26 Unfortunately, he seems uninterested in the slightest possibility that we might successfully adapt the process of lawmaking to our dynamic social universe. To be sure, he discusses the “motorization of lawmaking” in a fascinating 1950 publication, but only in order to underscore its pathological core.27 Yet one possible resolution of the dilemma he describes would be to figure how to reform the process whereby rules of war are adapted to novel changes in military affairs in order to minimize the danger of anachronistic or out-of-date law. Instead, Schmitt simply employs the dilemma of legal obsolescence as a battering ram against the rule of law and the quest to develop a legal apparatus suited to the special problem of irregular combatants.

#### The only way to mitigate warming is through an international treaty in which the CIA plays a critical role. It’s reverse causal. Mitigation fails with poor intelligence management.

Bruhnke 13. Loius Bruhnke, Naval Postgraduate school. “Climate Change mitigation. Can the U.S. intelligence community help?” June 2013. <https://calhoun.nps.edu/public/bitstream/handle/10945/34635/13Jun_Bruhnke_Louis.pdf?sequence=1> (Associate Director and Regional Disaster Coordinator, North Coast Emergency Medical Services Agency.)

For over a century, earth scientists have contemplated the likely climatic disruptions that would occur should humans continue to increase the relative proportion of atmospheric carbon dioxide through their burning of fossil fuels. Mankind has already increased the amount of carbon dioxide, the most potent greenhouse gas, to levels beyond what the earth has experienced for at least 800-thousand—and likely—more than 15 million years. The earth’s oceans and atmosphere have departed from a state of chemical equilibrium established approximately 11-thousand years ago. There is ample evidence in the form of historically unprecedented planetary events, including the seasonal disappearance of millions of square miles of arctic sea ice, and frequent record breaking weather events, that **we have entered an age of environmental uncertainty precisely when globalization has irreversibly altered human social dynamics. This confluence of uncertainty and its attendant societal dislocations will worsen unless humans are able to stabilize the climate. Damage to the atmosphere is cumulative and pervasive, and climate change mitigation can only be accomplished through concerted international effort**. The result of a multiyear international discussion under the auspices of the United Nations Framework Convention on Climate Change (UNFCCC), the 1997 Kyoto Protocol represented the most important international effort to mitigate climate change to date. Economic fears, along with a disinformation campaign funded by industries reliant on fossil fuel combustion, resulted in widespread public misunderstanding about the expert consensus behind of the growing body of climate science, and in the U.S. failure to ratify the Kyoto treaty. The scientific and observable evidence of climate change and its perils continues to mount. At some future moment, it seems probable that **the U.S. will once again engage in some international effort** to reduce the ongoing human caused accumulation of atmospheric CO2. For lack of other practical alternatives, the U.S. is likely to pursue an approach similar to the Kyoto Protocol. Signatory commitments to Kyoto were not accompanied by any formal monitoring regime, and this **lack of a verification mechanism—along with other shortcomings—is often blamed for Kyoto’s limited achievements. It is likely that the design of any future international CO2 emissions limitation agreement (ICELA) will include a monitoring mechanism**. The Intelligence Community and Treaty Monitoring Most science based U.S. governmental institutions, including those that comprise and inform the national security establishment, recognize the unprecedented threat that CO2 emissions pose to the nation. The potential economic ramifications of reducing national CO2 emissions include the alteration of existing geopolitical relations. **The CIA** has already opened—and subsequently, in the face of persistent conservative Congressional criticism, closed—a **Climate Change Center. Among the stated objectives of this center was the verification of future international climate change agreements. Should the U.S. instigate or participate in a new Kyoto-type initiative, it is reasonable to assume that the Intelligence Community (IC) will be tasked with using its covert sources to identify treaty violations. This would present the IC with a unique opportunity to make an unprecedented contribution to the welfare of the nation and to the entire planet. Poorly managed, however, the IC’s monitoring activities could undermine the international trust on which any such effort will depend.**

#### Unmitigated climate changes risk extinction

Flournoy 11– (Dec. 2011, citing Feng Hsu, PhD in Engingeering Science, NASA scientist at Goddard Space Flight Center, former research fellow of Brookhaven National Laboratory in the fields of risk assessment, risk-based decision making, safety & reliability and mission assurances for nuclear power, space launch, energy infrastructure and other social and engineering systems, Don Flournoy, PhD, University of Texas, Project Manager for University/Industry Experiments for the NASA ACTS Satellite, Professor of Telecommunications, Scripps College of Communications, Ohio University, "Solar Power Satellites," January, Springer Briefs in Space Development, p. 10-1)

In the Online Journal of Space Communication , Dr. Feng Hsu, a  NASA scientist at Goddard Space Flight Center, a research center in the forefront of science of space and Earth, writes, “The evidence of global warming is alarming,” noting the potential for a catastrophic planetary climate change is real and troubling(Hsu 2010 ) . Hsu and his  NASA colleagues were engaged in monitoring and analyzing climate changes on a global scale, through which they received first-hand scientific information and data relating to global warming issues, including the dynamics of polar ice cap melting. After discussing this research with colleagues who were world experts on the subject, he wrote: I now have no doubt global temperatures are rising, and that global warming is a serious problem confronting all of humanity. No matter whether these trends are due to human interference or to the cosmic cycling of our solar system, there are two basic facts that are crystal clear: (a)there is overwhelming scientific evidence showing positive correlations between the level of CO2 concentrations in Earth’s atmosphere with respect to the historical fluctuations of global temperature changes; and (b) the overwhelming majority of the world’s scientific community is in agreement about the risks of a potential catastrophic global climate change. That is, if we humans continue to ignore this problem and do nothing, if we continue dumping huge quantities of greenhouse gases into Earth’s biosphere, humanity will be at dire risk (Hsu 2010 ) . As a technology risk assessment expert, Hsu says he can show with some confidence that the planet will face more risk doing nothing to curb its fossil-based energy addictions than it will in making a fundamental shift in its energy supply. “This,” he writes, “is because the risks of a catastrophic anthropogenic climate change can be potentially the extinction of human species, a risk that is simply too high for us to take any chances” (Hsu 2010 ) .