## 1NC

### Topicality

#### Interpretation-The affirmative is limited to defending the adoption of statutory or judicial restrictions

#### 1. Should means the debate is about USFG policy change

Ericson 2003 Jon M., Dean Emeritus of the College of Liberal Arts – California Polytechnic U., et al., The Debater’s Guide, Third Edition, p. 4

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

#### 2. Resolved with a colon indicates policy

Army Officer School ’04 (5-12, “# 12, Punctuation – The Colon and Semicolon”, http://usawocc.army.mil/IMI/wg12.htm)

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

#### Vote negative, debate is a game and when it lacks rules and constraints it loses its value, they undermine stable clash by taking vague stances which ultimately debilitates political change

Steinberg & Freeley 2008

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Debate is a means of settling differences, so there must be a difference of opinion or a conflict of interest before there can be a debate. If everyone is in agreement on a tact or value or policy, there is no need for debate: the matter can be settled by unanimous consent. Thus, for example, it would be pointless to attempt to debate "Resolved: That two plus two equals four," because there is simply no controversy about this statement. (Controversy is an essential prerequisite of debate. Where there is no clash of ideas, proposals, interests, or expressed positions on issues, there is no debate. In addition, debate cannot produce effective decisions without clear identification of a question or questions to be answered. For example, general argument may occur about the broad topic of illegal immigration. How many illegal immigrants are in the United States? What is the impact of illegal immigration and immigrants on our economy? What is their impact on our communities? Do they commit crimes? Do they take jobs from American workers? Do they pay taxes? Do they require social services? Is it a problem that some do not speak English? Is it the responsibility of employers to discourage illegal immigration by not hiring undocumented workers? Should they have the opportunity- to gain citizenship? Docs illegal immigration pose a security threat to our country? Do illegal immigrants do work that American workers are unwilling to do? Are their rights as workers and as human beings at risk due to their status? Are they abused by employers, law enforcement, housing, and businesses? I low are their families impacted by their status? What is the moral and philosophical obligation of a nation state to maintain its borders? Should we build a wall on the Mexican border, establish a national identification can!, or enforce existing laws against employers? Should we invite immigrants to become U.S. citizens? Surely you can think of many more concerns to be addressed by a conversation about the topic area of illegal immigration. Participation in this "debate" is likely to be emotional and intense. However, it is not likely to be productive or useful without focus on a particular question and identification of a line demarcating sides in the controversy. To be discussed and resolved effectively, controversies must be stated clearly. Vague understanding results in unfocused deliberation and poor decisions, frustration, and emotional distress, as evidenced by the failure of the United States Congress to make progress on the immigration debate during the summer of 2007. Someone disturbed by the problem of the growing underclass of poorly educated, socially disenfranchised youths might observe, "Public schools are doing a terrible job! They are overcrowded, and many teachers are poorly qualified in their subject areas. Even the best teachers can do little more than struggle to maintain order in their classrooms." That same concerned citizen, facing a complex range of issues, might arrive at an unhelpful decision, such as "We ought to do something about this" or. worse. "It's too complicated a problem to deal with." Groups of concerned citizens worried about the state of public education could join together to express their frustrations, anger, disillusionment, and emotions regarding the schools, but without a focus for their discussions, they could easily agree about the sorry state of education without finding points of clarity or potential solutions. A gripe session would follow. But if a precise question is posed—such as "What can be done to improve public education?"—then a more profitable area of discussion is opened up simply by placing a focus on the search for a concrete solution step. One or more judgments can be phrased in the form of debate propositions, motions for parliamentary debate, or bills for legislative assemblies. The statements "Resolved: That the federal government should implement a program of charter schools in at-risk communities" and "Resolved: That the state of Florida should adopt a school voucher program" more clearly identify specific ways of dealing with educational problems in a manageable form, suitable for debate. They provide specific policies to be investigated and aid discussants in identifying points of difference. To have a productive debate, which facilitates effective decision making by directing and placing limits on the decision to be made, the basis for argument should be clearly defined. If we merely talk about "homelessness" or "abortion" or "crime'\* or "global warming" we are likely to have an interesting discussion but not to establish profitable basis for argument. For example, the statement "Resolved: That the pen is mightier than the sword" is debatable, yet fails to provide much basis for clear argumentation. If we take this statement to mean that the written word is more effective than physical force for some purposes, we can identify a problem area: the comparative effectiveness of writing or physical force for a specific purpose. Although we now have a general subject, we have not yet stated a problem. It is still too broad, too loosely worded to promote well-organized argument. What sort of writing are we concerned with—poems, novels, government documents, website development, advertising, or what? What does "effectiveness" mean in this context? What kind of physical force is being compared—fists, dueling swords, bazookas, nuclear weapons, or what? A more specific question might be. "Would a mutual defense treaty or a visit by our fleet be more effective in assuring Liurania of our support in a certain crisis?" The basis for argument could be phrased in a debate proposition such as "Resolved: That the United States should enter into a mutual defense treatv with Laurania." Negative advocates might oppose this proposition by arguing that fleet maneuvers would be a better solution. This is not to say that debates should completely avoid creative interpretation of the controversy by advocates, or that good debates cannot occur over competing interpretations of the controversy; in fact, these sorts of debates may be very engaging. The point is that debate is best facilitated by the guidance provided by focus on a particular point of difference, which will be outlined in the following discussion.

#### Limits--- there are an infinite number of affs when you can advocate the plan as a thought experiment and garner advantages based on individual activism. This destroys research and dialogue

Hanghoj 2008

Thorkild, researcher for the Danish Research Centre on Education and Advanced Media Materials, http://static.sdu.dk/mediafiles/Files/Information\_til/Studerende\_ved\_SDU/Din\_uddannelse/phd\_hum/afhandlinger/2009/ThorkilHanghoej.pdf

Debate games are often based on pre-designed scenarios that include descriptions of issues to be debated, educational goals, game goals, roles, rules, time frames etc. In this way, debate games differ from textbooks and everyday classroom instruction as debate scenarios allow teachers and students to actively imagine, interact and communicate within a domain-specific game space. However, instead of mystifying debate games as a “magic circle” (Huizinga, 1950), I will try to overcome the epistemological dichotomy between “gaming” and “teaching” that tends to dominate discussions of educational games. In short, educational gaming is a form of teaching. As mentioned, education and games represent two different semiotic domains that both embody the three faces of knowledge: assertions, modes of representation and social forms of organisation (Gee, 2003; Barth, 2002; cf. chapter 2). In order to understand the interplay between these different domains and their interrelated knowledge forms, I will draw attention to a central assumption in Bakhtin’s dialogical philosophy. According to Bakhtin, all forms of communication and culture are subject to centripetal and centrifugal forces (Bakhtin, 1981). A centripetal force is the drive to impose one version of the truth, while a centrifugal force involves a range of possible truths and interpretations. This means that any form of expression involves a duality of centripetal and centrifugal forces: “Every concrete utterance of a speaking subject serves as a point where centrifugal as well as centripetal forces are brought to bear” (Bakhtin, 1981: 272). If we take teaching as an example, it is always affected by centripetal and centrifugal forces in the on-going negotiation of “truths” between teachers and students. In the words of Bakhtin: “Truth is not born nor is it to be found inside the head of an individual person, it is born between people collectively searching for truth, in the process of their dialogic interaction” (Bakhtin, 1984a: 110). Similarly, the dialogical space of debate games also embodies centrifugal and centripetal forces. Thus, the election scenario of The Power Game involves centripetal elements that are mainly determined by the rules and outcomes of the game, i.e. the election is based on a limited time frame and a fixed voting procedure. Similarly, the open-ended goals, roles and resources represent centrifugal elements and create virtually endless possibilities for researching, preparing, presenting, debating and evaluating a variety of key political issues. Consequently, the actual process of enacting a game scenario involves a complex negotiation between these centrifugal/centripetal forces that are inextricably linked with the teachers and students’ game activities. In this way, the enactment of The Power Game is a form of teaching that combines different pedagogical practices (i.e. group work, web quests, student presentations) and learning resources (i.e. websites, handouts, spoken language) within the interpretive frame of the election scenario. Obviously, tensions may arise if there is too much divergence between educational goals and game goals. This means that game facilitation requires a balance between focusing too narrowly on the rules or “facts” of a game (centripetal orientation) and a focusing too broadly on the contingent possibilities and interpretations of the game scenario (centrifugal orientation). For Bakhtin, the duality of centripetal/centrifugal forces often manifests itself as a dynamic between “monological” and “dialogical” forms of discourse. Bakhtin illustrates this point with the monological discourse of the Socrates/Plato dialogues in which the teacher never learns anything new from the students, despite Socrates’ ideological claims to the contrary (Bakhtin, 1984a). Thus, discourse becomes monologised when “someone who knows and possesses the truth instructs someone who is ignorant of it and in error”, where “a thought is either affirmed or repudiated” by the authority of the teacher (Bakhtin, 1984a: 81). In contrast to this, dialogical pedagogy fosters inclusive learning environments that are able to expand upon students’ existing knowledge and collaborative construction of “truths” (Dysthe, 1996). At this point, I should clarify that Bakhtin’s term “dialogic” is both a descriptive term (all utterances are per definition dialogic as they address other utterances as parts of a chain of communication) and a normative term as dialogue is an ideal to be worked for against the forces of “monologism” (Lillis, 2003: 197-8). In this project, I am mainly interested in describing the dialogical space of debate games. At the same time, I agree with Wegerif that “one of the goals of education, perhaps the most important goal, should be dialogue as an end in itself” (Wegerif, 2006: 61).

### EX Post CP

#### The United States Federal Government should substantially increase its statutory and/or judicial restrictions on the war powers authority of the President of the United States in one or more of the following areas: indefinite detention; offensive cyber operations; or introducing United States Armed Forces into hostilities. The United States Federal Judiciary should hold that United States’ targeted killing operations should be subject to judicial ex post review, including redress for family members.

#### Solves – comparatively better than ex ante review

Jaffer, Director-ACLU Center for Democracy, 13 (Jameel Jaffer, Director of the ACLU's Center for Democracy, “Judicial Review of Targeted Killings,” 126 Harv. L. Rev. F. 185 (2013), http://www.harvardlawreview.org/issues/126/april13/forum\_1002.php)

 The argument for some form of judicial review is compelling, not least because such review would clarify the scope of the government’s authority to use lethal force. The targeted killing program is predicated on sweeping constructions of the 2001 Authorization for Use of Military Force (AUMF) and the President’s authority to use military force in national self-defense. The government contends, for example, that the AUMF authorizes it to use lethal force against groups that had nothing to do with the 9/11 attacks and that did not even exist when those attacks were carried out. It contends that the AUMF gives it authority to use lethal force against individuals located far from conventional battlefields. As the Justice Department’s recently leaked white paper makes clear, the government also contends that the President has authority to use lethal force against those deemed to present “continuing” rather than truly imminent threats.These claims are controversial. They have been rejected or questioned by human rights groups, legal scholars, federal judges, and U.N. special rapporteurs. Even enthusiasts of the drone program have become anxious about its legal soundness. (“People in Washington need to wake up and realize the legal foundations are crumbling by the day,” Professor Bobby Chesney, a supporter of the program, recently said.) Judicial review could clarify the limits on the government’s legal authority and supply a degree of legitimacy to actions taken within those limits. It could also encourage executive officials to observe these limits. Executive officials would be less likely to exceed or abuse their authority if they were required to defend their conduct to federal judges. Even Jeh Johnson, the Defense Department’s former general counsel and a vocal defender of the targeted killing program, acknowledged in a recent speech that judicial review could add “rigor” to the executive’s decisionmaking process. In explaining the function of the Foreign Intelligence Surveillance Court, which oversees government surveillance in certain national security investigations, executive officials have often said that even the mere prospect of judicial review deters error and abuse. But to recognize that judicial review is indispensible in this context is not to say that Congress should establish a specialized court, still less that it should establish such a court to review contemplated killings before they are carried out. First, the establishment of such a court would almost certainly entrench the notion that the government has authority, even far away from conflict zones, to use lethal force against individuals who do not present imminent threats. When a threat is truly imminent, after all, the government will not have time to apply to a court for permission to carry out a strike. Exigency will make prior judicial review infeasible. To propose that a court should review contemplated strikes before they are carried out is to accept that the government should be contemplating strikes against people who do not present imminent threats. This is why the establishment of a specialized court would more likely institutionalize the existing program, with its elision of the imminence requirement, than narrow it. Second, judicial engagement with the targeted killing program does not actually require the establishment of a new court. In a case pending before Judge Rosemary Collyer of the District Court for the District of Columbia, the ACLU and the Center for Constitutional Rights represent the estates of the three U.S. citizens whom the CIA and JSOC killed in Yemen in 2011. The complaint, brought under Bivens v. Six Unknown Named Agents, seeks to hold senior executive officials liable for conduct that allegedly violated the Fourth and Fifth Amendments. It asks the court to articulate the limits of the government’s legal authority and to assess whether those limits were honored. In other words, the complaint asks the court to conduct the kind of review that many now seem to agree that courts should conduct. This kind of review—ex post review in the context of a Bivens action—could clarify the relevant legal framework in the same way that review by a specialized court could. But it also has many advantages over the kind of review that would likely take place in a specialized court. In a Bivens action, the proceedings are adversarial rather than ex parte, increasing their procedural legitimacy and improving their substantive accuracy. Hearings are open to the public, at least presumptively. The court can focus on events that have already transpired rather than events that might or might not transpire in the future. And a Bivens action can also provide a kind of accountability that could not be supplied by a specialized court reviewing contemplated strikes ex ante: redress for family members of people killed unlawfully, and civil liability for officials whose conduct in approving or carrying out the strike violated the Constitution. (Of course, in one profound sense a Bivens action will always come too late, because the strike alleged to be unlawful will already have been carried out. Again, though, if “imminence” is a requirement, ex ante judicial review is infeasible by definition.) Another advantage of the Bivens model is that the courts are already familiar with it. The courts quite commonly adjudicate wrongful death claims and “survival” claims brought by family members of individuals killed by law enforcement agents. In the national security context, federal courts are now accustomed to considering habeas petitions filed by individuals detained at Guantánamo. They opine on the scope of the government’s legal authority and they assess the sufficiency of the government’s evidence — the same tasks they would perform in the context of suits challenging the lawfulness of targeted killings. While Congress could of course affirm or strengthen the courts’ authority to review the lawfulness of targeted killings if it chose to do so, or legislatively narrow some of the judicially created doctrines that have precluded courts from reaching the merits in some Bivens suits, more than 40 years of Supreme Court precedent since Bivens makes clear that federal courts have not only the authority to hear after-the-fact claims brought by individuals whose constitutional rights have been infringed but also the obligation to do so.

### War DA

#### Their critique makes solving terrorism impossible

Anderson 13 (Kenneth, professor of international law at Washington College of Law, American University, Washington, visiting fellow at Hoover “The Case for Drones,” http://www.realclearpolitics.com/articles/2013/05/24/the\_case\_for\_drones\_118548-full.html)

Other critics argue that drone warfare is ineffective because killing one operational commander merely means that another rises to take his place. This is the source of the oft-heard remark that drone warfare is a “whack-a-mole” strategy: Kill one here and another pops up there. Drone warfare is nothing more than a tactic masquerading as a strategy, it is said. Worse, it indulges one of the oldest and most seductive quests of modern military technology, the one that says you can win a war from the air alone. The whack-a-mole criticism is wildly overstated and, as a matter of terrorist leadership, simply not true. Captured terrorist communications show that qualified and experienced operational commanders are not so easy to come by. One can argue that the failure to carry off large-scale attacks in the West is the result of the defensive hardening of targets and better homeland security, which is certainly true; but culling the ranks of terrorist leaders and the resulting inability to plan another 9/11 is also critical. Drone warfare today is integrated with a much larger strategic counterterrorism target—one in which, as in Afghanistan in the late 1990s, radical Islamist groups seize governance of whole populations and territories and provide not only safe haven, but also an honored central role to transnational terrorist groups. This is what current conflicts in Yemen and Mali threaten, in counterterrorism terms, and why the United States, along with France and even the UN, has moved to intervene militarily. Drone warfare is just one element of overall strategy, but it has a clear utility in disrupting terrorist leadership. It makes the planning and execution of complex plots difficult if only because it is hard to plan for years down the road if you have some reason to think you will be struck down by a drone but have no idea when. The unpredictability and terrifying anticipation of sudden attack, which terrorists have acknowledged in communications, have a significant impact on planning and organizational effectiveness.

#### They’ll target undersea cables-they have the means

Krepinevich 11**,** Center for Strategic and Budgetary Assessments president

(Andrew, “The Terrorist Threat Beneath the Waves”, 11-2, <http://online.wsj.com/article/SB10001424052970203687504577005811739173268.html>, ldg)

This vast infrastructure was built with the assumption that while it would have to weather natural disasters, it would not be a target in war. In military parlance, much of the infrastructure comprises "soft" targets that would not require much in the way of explosives to cause significant, and perhaps catastrophic, damage. Fortunately many of these targets have not been easy to reach—until now. This brings us to the second development: the diffusion of military technology and weaponry that can threaten the undersea economy with a new form of commerce raiding. In recent years, Latin-American narco-cartels have begun moving their cargo by submarine. While not even remotely in a class with the U.S. Navy's submarines, these simple boats are nevertheless capable of operating undersea in littoral waters while moving tons of cocaine. They have a range of up to 2,000 miles and cost but a few million dollars to build. These submarines can submerge to depths of a few dozen feet, which is sufficient to make detection difficult, allowing them to approach offshore oil platforms with little or no warning. Even more disturbing is the proliferation of unmanned underwater vehicles, or UUVs, which were once almost exclusively operated by Western militaries. With the growth of the undersea economy, civilian development and production took off in the 1980s. UUVs are now widely used for a variety of commercial and scientific purposes. These UUVs are perhaps best known for their role in locating sunken ships. Unlike the small submarines operated by narco-cartels, UUVs can descend to the ocean floor. If adapted for military purposes, they could carry mines and other explosives, as well as cameras and electronic sensors. They are also becoming cheaper, with a wide variety of systems available for sale in the private sector. Then there are naval mines, now manufactured in more than 30 countries. Some producers, like Russia, are developing mines with better sensors, target-recognition systems, stealthy coatings, and self-propulsion systems to enable them to move about. But mines don't need to be sophisticated to be effective, especially against the thousands of soft targets populating the continental shelf. While narco-cartels are interested in making money, not war, this is not the case with radical nonstate entities or their state sponsors. Some groups, including al Qaeda, seek to achieve victory not by defeating their enemies on the battlefield but by inflicting unacceptable pain or damage, either against defenseless civilians or economic infrastructure. Toward this end, radical Islamists have undertaken attacks, employing far less sophisticated means and with minimal success, on an oil tanker in the Gulf of Aden in October 2002 and Saudi oil production facilities in February 2006. Should the U.S. find itself in a confrontation with Iran, it might employ proxies to achieve similar ends. For a relatively small effort on their part, in short, America's enemies could potentially impose enormous costs on its undersea economy, including loss of energy resources, damaged infrastructure and environmental degradation.

#### Undersea cables are the lynchpin of the global economy and US warfighting

Matis 12, USNA commander and Master in Strategic Studies,

(Michael, “The Protection of Undersea Cables: A Global Security Threat”, July, online pdf, ldg)

Undersea cables are a valuable commodity in the 21st century global communication environment. The undersea consortium is owned by various international companies such as ATT, and these companies provide high-speed broadband connectivity and capacity for large geographic areas that are important entities of trade and communications around the globe.41 For example, the U.S. Clearing House Interbank Payment System processes in excess of $1 trillion a day for investment companies, securities and commodities exchange organizations, banks, and other financial institutions from more than 22 countries.42 The majority of their transactions are transmitted via undersea cables. In addition, the Department of Defense’s (DoD’s) <<NCW>> net-centric warfare and Global Information Grid <<GIG>> rely on the same undersea cables that service the information and economic spheres.43 If undersea cables were cut or disrupted outside of the U.S. territorial waters, even for a few hours, the capability of modern U.S warfare that encompasses battle space communications and awareness, protection, and the stability of the financial networks would be at risk. As one analyst has noted, “the increase demand is being driven primarily from data traffic that is becoming an integral part of the everyday telecommunications infrastructure and has no boundaries.44 Maintaining the viability of these cables is extremely important. An example of the magnitude of data that reaches the international market every day is demonstrated by the Society for Worldwide Interbank Financial Telecommunications (SWIFT), which is the global provider of secure financial messaging services.45 This organization transmits financial data between 208 countries via undersea fiber optic cables.46 In addition, the security of international transactions via undersea cables could create chaos for global markets if the cables linking U.S., Europe and/or Asia were cut. The disproportionate importance of these cables to the nation’s communication infrastructure cannot be overestimated. If all of these cables were suddenly cut, only seven percent of the U. S. traffic could be restored using every single satellite in the sky.47 Satellites were important to the global communication industry but, were overtaken by undersea fiber-optic cable technology in terms of volume and/or capacity amongst users in 1986.48 There is a misconception amongst telephone, cell phones, and internet recipients around the globe that believe satellites are the primary means of communicating. There are significant limitations utilizing satellites as an efficient means of communication. Finn and Yang, note that satellites take a quarter of a second for signals to make the round trip to and from a geostationary orbit 22,000 miles above the Earth and one bounce is enough to throw off the verbal timing of a conversation. Also, the transmission quality of the satellite system could be erratic with echoes, screeches or dead-air calls.49 A major portion of DoD data traveling on undersea cables is unmanned aerial vehicle (UAV) video. In 2010, UAVs flew 190,000 hours, and the Air Force estimates that it will need more than one million UAV hours annually to be prepared for future wars.50 The Department of State and its diplomatic and consular posts are also heavily dependent on uninterrupted global undersea cable traffic. The importance of these cables makes them a potential target for other states or terrorists.

#### Regardless of relative power, military operations solve all conflict.

Kagan and O’Hanlon 7

Frederick Kagan and Michael O’Hanlon, Fred’s a resident scholar at AEI, Michael is a senior fellow in foreign policy at Brookings, “The Case for Larger Ground Forces”, April 24, 2007, <http://www.aei.org/files/2007/04/24/20070424_Kagan20070424.pdf>

We live at a time when wars not only rage in nearly every region but threaten to erupt in many places where the current relative calm is tenuous. To view this as a strategic military challenge for the United States is not to espouse a specific theory of America’s role in the world or a certain political philosophy. Such an assessment flows directly from the basic bipartisan view of American foreign policy makers since World War II that overseas threats must be countered before they can directly threaten this country’s shores, that the basic stability of the international system is essential to American peace and prosperity, and that no country besides the United States is in a position to lead the way in countering major challenges to the global order. Let us highlight the threats and their consequences with a few concrete examples, emphasizing those that involve key strategic regions of the world such as the Persian Gulf and East Asia, or key potential threats to American security, such as the spread of nuclear weapons and the strengthening of the global Al Qaeda/jihadist movement. The Iranian government has rejected a series of international demands to halt its efforts at enriching uranium and submit to international inspections. What will happen if the US—or Israeli—government becomes convinced that Tehran is on the verge of fielding a nuclear weapon? North Korea, of course, has already done so, and the ripple effects are beginning to spread. Japan’s recent election to supreme power of a leader who has promised to rewrite that country’s constitution to support increased armed forces—and, possibly, even nuclear weapons— may well alter the delicate balance of fear in Northeast Asia fundamentally and rapidly. Also, in the background, at least for now, SinoTaiwanese tensions continue to flare, as do tensions between India and Pakistan, Pakistan and Afghanistan, Venezuela and the United States, and so on. Meanwhile, the world’s nonintervention in Darfur troubles consciences from Europe to America’s Bible Belt to its bastions of liberalism, yet with no serious international forces on offer, the bloodletting will probably, tragically, continue unabated. And as bad as things are in Iraq today, they could get worse. What would happen if the key Shiite figure, Ali al Sistani, were to die? If another major attack on the scale of the Golden Mosque bombing hit either side (or, perhaps, both sides at the same time)? Such deterioration might convince many Americans that the war there truly was lost—but the costs of reaching such a conclusion would be enormous. Afghanistan is somewhat more stable for the moment, although a major Taliban offensive appears to be in the offing. Sound US grand strategy must proceed from the recognition that, over the next few years and decades, the world is going to be a very unsettled and quite dangerous place, with Al Qaeda and its associated groups as a subset of a much larger set of worries. The only serious response to this international environment is to develop armed forces capable of protecting America’s vital interests throughout this dangerous time. Doing so requires a military capable of a wide range of missions—including not only deterrence of great power conflict in dealing with potential hotspots in Korea, the Taiwan Strait, and the Persian Gulf but also associated with a variety of Special Forces activities and stabilization operations. For today’s US military, which already excels at high technology and is increasingly focused on re-learning the lost art of counterinsurgency, this is first and foremost a question of finding the resources to field a large-enough standing Army and Marine Corps to handle personnel intensive missions such as the ones now under way in Iraq and Afghanistan.

**Nuclear terrorism is likely-means and motive**

Luongo et al. 12, Partnership for Global Security president, 2012

(Kenneth, “Nuclear Terrorism: A Clear Danger”, 3-15, <http://www.nytimes.com/2012/03/16/opinion/nuclear-terrorism-a-clear-danger.html?_r=1&>, ldg)

Terrorists exploit gaps in security. The current global regime for protecting the nuclear materials that terrorists desire for their ultimate weapon is far from seamless. It is based largely on unaccountable, voluntary arrangements that are inconsistent across borders. Its weak links make it dangerous and inadequate to prevent nuclear terrorism. Later this month in Seoul, the more than 50 world leaders who will gather for the second Nuclear Security Summit need to seize the opportunity to start developing an accountable regime to prevent nuclear terrorism. There is a consensus among international leaders that the threat of nuclear terrorism is real, not a Hollywood confection. President Obama, the leaders of 46 other nations, the heads of the International Atomic Energy Agency and the United Nations, and numerous experts have called nuclear terrorism one of the most serious threats to global security and stability. It is also preventable with more aggressive action. At least four terrorist groups, including Al Qaeda, have demonstrated interest in using a nuclear device. These groups operate in or near states with histories of questionable nuclear security practices. Terrorists do not need to steal a nuclear weapon. It is quite possible to make an improvised nuclear device from highly enriched uranium or plutonium being used for civilian purposes. And there is a black market in such material. There have been 18 confirmed thefts or loss of weapons-usable nuclear material. In 2011, the Moldovan police broke up part of a smuggling ring attempting to sell highly enriched uranium; one member is thought to remain at large with a kilogram of this material. A terrorist nuclear explosion could kill hundreds of thousands, create billions of dollars in damages and undermine the global economy. Former Secretary General Kofi Annan of the United Nations said that an act of nuclear terrorism “would thrust tens of millions of people into dire poverty” and create “a second death toll throughout the developing world.” Surely after such an event, global leaders would produce a strong global system to ensure nuclear security. There is no reason to wait for a catastrophe to build such a system. The conventional wisdom is that domestic regulations, U.N. Security Council resolutions, G-8 initiatives, I.A.E.A. activities and other voluntary efforts will prevent nuclear terrorism. But existing global arrangements for nuclear security lack uniformity and coherence. There are no globally agreed standards for effectively securing nuclear material. There is no obligation to follow the voluntary standards that do exist and no institution, not even the I.A.E.A., with a mandate to evaluate nuclear security performance. This patchwork approach provides the appearance of dealing with nuclear security; the reality is there are gaps through which a determined terrorist group could drive one or more nuclear devices.

#### Rejecting war collapses deterrence and risks nuclear war—ideological conflict assures escalation

Dipert 6 (Randall, PhD, Professor of Philosophy, University at Buffalo, Buffalo, “Preventive War and the Epistemological Dimension of the Morality of War,” https://www.law.upenn.edu/live/files/1291-dipert-preventive-war)

One might think that this principle would give little guidance in recommending anticipatory wars. However, let us suppose that John Rawls, following Raymond Aron and others, is correct in claiming that democratic states (‘liberal constitutional democracies’) have very few except legitimate reasons to go to war, and consequently rarely do go to war for ‘bad’ reasons (Rawls 1999: 47).42 Some wars might still occur because of epistemic mistakes or from (legitimate) mutual fear and distrust trust\*/something Rawls seems not to consider. Let us further suppose that this general level of warfare in a region or in the world gradually decreases in those places where there exist nothing but constitutional democracies. Let us further suppose that democracy can be imposed, or the conditions for democracy can be created, by the correct application of military force. Then there are circumstances in which, if the conditions for the permissibility of preventive of war are met, then preventive war is further recommended by this second principle. There is an interesting question here, beyond philosophical considerations, about whether a nation should formulate and announce policies of exactly what conditions will, and what conditions will not, trigger preventive war. 43 But there is another and telling side of this coin: what if we should have and announce a policy of never engaging in any preemptive or preventive war? Here I think we are encouraging a hostile enemy to prepare an offensive, including weapons development, right up an actual attack. If there do exist, or can possibly exist, truly devastating weapons, this is to invite their development and one’s own annihilation. Even a small nuclear power with ballistic missiles (perhaps positioning missiles on ocean freighters on the high seas) would be free to inflict devastating attacks. While large, stable countries such as China and the former USSR, have historically been deterred by the policy of massive nuclear retaliation, it is unlikely that all nuclear nations with ballistic missiles (including terrorist organizations), will remain deterrable. I believe that such a policy of banning or foreswearing preventive war would almost certainly result in more, rather than fewer, wars and deaths, because it would embolden more state-like entities to believe that they could succeed in an unjust war, especially in ideological wars whose ‘success’ consists simply in inflicting harm on its enemy at all costs.44 To announce a policy of rejecting any preemptive or preventive war is thus almost certainly mistaken and violates my second principle insofar as it increases possible threats. The rare and careful use of restricted preemptive and preventive war, under unspecified conditions, in the world we are likely to have for centuries\*/without, for example, militarily dominant international organizations willing to punish with force the illegitimate use of force\*/is actually likely to make the world more safe. This is not a conclusion that I am especially happy with.45

### Case

#### Our epistemology based in argumentation and empiricism is robust, pragmatic, and life affirming---argumentation should start from empirical method using a reasoned process to avoid nihilism

Robert Rowland 95, Professor of Communication at the University of Kansas, “In Defense of Rational Argument: A Pragmatic Justification of Argumentation Theory and Response to the Postmodern Critique” Philosophy & Rhetoric Vol. 28, No. 4Oct 1, 1995, EBSCO

A pragmatic theory of argument¶ The first step in developing a justifiable theory of rational argument that can account for the epistemological and axiological attacks is to recognize the **performative contradiction at the heart of the postmodern critique**. Postmodernists rely on rational argument in order to attack rational argument and they consistently claim that their positions are in some way superior to those of their modernist opponents. Writing of post-structuralism, Amanda Anderson notes "the incommensurability between its epistemological stance and its political aims, between its descriptions and its prescriptions, between the pessimism of its intellect and, if not the optimism, at least the intrusiveness of its moral and political will" (1992, 64).¶ The performative contradiction at the heart of postmodernism is nowhere more evident than in the epistemological critique of modernism. The two most important points made by postmodernists in relation to epistemology are that humans can understand the world only through their symbols and that there is no means of using "reality" to test a symbolic description. Advocates of traditional approaches to rationality have not been able to satisfactorily answer these positions, precisely because they seem to be "true" in some sense. This "truth," however, suggests that a theory of rational argument may be salvageable. If postmodernists can defend their views as in some sense "truer" than those of their modernist opponents, then there must be some standard for judging "truth" that can withstand the postmodern indictment. That standard is **pragmatic efficacy** in fulfilling a purpose in relation to a given problem.¶ Both modernists and postmodernists generally assume that truth and fact are equivalent terms. Thus, a "true" statement is one that is factually correct in all circumstances. By this standard, of course, there are no totally "true" statements. However, if no statement can be proved factually true, then a focus on facts is an inappropriate standard for judging truth.¶ I suggest that knowledge and truth should be understood **not as factual statements** that are **certain**, but as symbolic statements that function as **useful problem-solving tools**. When we say that a view is true, we really mean that a given symbolic description consistently solves a particular problem. Thus, the statement "the sun will come up tomorrow" can be considered "true," despite ambiguities that a postmodernist might point to in regard to the meaning of sun or tomorrow, because it usefully and consistently solves a particular epistemic problem.¶ **The standard for "truth" is pragmatic utility** in fulfilling a purpose in relation to a particular problem. A true statement is one that "**works" to solve the problem**. Both the nature of the problem and the arguer's purpose in relation to that problem infiuence whether a given statement is viewed as true knowledge. This explains why biological researchers and physicians often seem to have different definitions of truth in regard to medical practice. The researcher is concerned with fully understanding the way that the body works. His or her purpose dictates application of rigorous standards for evaluating evidence and causation. By contrast, the physician is concerned with treating patients and therefore may apply a much lower standard for evaluating new treatments. The pragmatic theory of argument I am defending draws heavily on the work of William James, who believed that "the only test of probable truth is what works" (1982, 225). Alan Brinton explains that for jEunes "the ultimate question of truth is a question about the concepts and their fruitfulness in serving the purposes for which they were created and imposed. Ideas are true insofar as they serve these purposes, and false insofar as they fail to do so" (1982, 163). Some contemporary pragmatists take a similar view. For example, Nicholas Rescher writes in relation to methodology that "the proper test for the correctness or appropriateness of anything methodological in nature is plainly and obviously posed by the paradigmatically pragmatic questions: Does it work? Does it attain its intended purposes?" (1977, 3). Similarly, Celeste Condit Railsback argues that "truth is . . . relative to the language and purposes of the persons who are using it" (1983, 358-59). At this point, someone like Derrida might argue that while the pragmatic approach accounts for the symbolic nature of truth, it does not deal with the inability of humans to get at reality directly. Although the postmodern critique denies that humans can directly experience "the facts," **it does not deny that a real-world exists**.¶ Thus, a pragmatist endorses a given scientific theory because the symbolic description present in that theory does a better job than its competitors of fulfilling a set of purposes in a given context. Because it fulfills those purposes, we call the theory "true." We cannot attain knowledge about "the facts," but we can test the relative adequacy of competing problem-solving statements against those facts. Michael Redhead, a professor of history and philosophy of science at Cambridge University, notes that "we can always conjecture, but there is some control. The world kicks back" (in Peterson 1992,175; emphasis added). Knowledge is not about "facts." It is about finding symbolic descriptions of the world that work, that is, avoiding nature's kicks in fulfilling a given purpose.¶ The foregoing suggests that a principled pragmatic theory of argument **sidesteps the postmodern critique**. Argumentation theory ¶ should be understood as a set of pragmatic rules of thumb about the kinds of symbolic statements that effectively solve ¶ problems. These statements exist at varying levels of generality. A consistency principle , for example, is really a rule of thumb stating something like "All other things being equal, consistent symbolic descriptions are more likely to prove useful for solving a particular problem in relation to a given purpose than are inconsistent descriptions." Other principles are linked to narrower purposes in more specific contexts. Thus, the standards for evaluating arguments in a subfield of physics will be tied to the particular purposes and problems found in that subfield. The key point is that all aspects of a theory of argument can be justified **pragmatically**, based on their value for producing **useful solutions to problems**.¶ A pragmatic theory of argument can be understood as operating at three levels, all of which are tied to functionality. At the first or definitional level, argument is best understood as a kind of discourse or interaction in which reasons and evidence are presented in support of a claim. Argument as a symbolic form is valued based on its **ability to deal with problems**; the business of argument is **problem solving**. At a second or theoretical level, what Toulmin would call fieldinvariant, general principles of rational argument are justified pragmatically based on their **capacity to solve problems**. Thus, tests of evidence, general rules for describing argument, standards relating to burden of proof or presumption, and fallacies, all can be justified pragmatically based on the general problem-solving purpose served by all argument. For example, the requirement that claims must be supported with evidence can be justified as a general ~~rule of thumb~~ for distinguishing between strong and weak (that is, useful and useless) arguments. Certainly, there are cases in which unsupported assertions are "true" in some sense. However, the principle that any claim on belief should be supported with evidence of some type is a functional one for distinguishing between claims that are likely to be useful and those that are less likely to be useful.¶ At a third level, that of specific fields or subfields, principles of argumentation are linked to pragmatic success in solving problems in the particular area (see Rowland 1982). Thus, for instance, the rules of evidence found in the law are linked directly to the purposes served by legal argument. This explains why the burden of proof in a criminal trial is very different from that found in the civil law. The purpose of protecting the innocent from potential conviction requires that a higher standard of proof be applied in this area than elsewhere.¶ The pragmatic perspective I have described is quite different from that of interpretive pragmatists such as Richard Rorty (1979, 1982, 1985, 1987) and Stanley Fish (1980, 1989a, 1989b). Rorty, while denying the existence of legitimate formal or content-based standards for "proof" (1982,277), endorses a processual epistemology based on "the idea of [substituting] 'unforced agreement' for that of 'objectivity' " (41-42). Janet Home summarizes Rorty's views, noting that "the difference between 'certified knowledge' and 'mere belief is based upon intersubjective agreement rather than correspondence" (1989, 249). By contrast. Fish grounds reason in the practices of particular "interpretive communities" (1989b, 98). In this view, "Particular facts are firm or in question insofar as the perspective . . . within which they emerge is firmly in place, settled" (Fish 1989a, 308).¶ Unfortunately, a theory of argumentation cannot be salvaged merely by grounding reason in conversational practice or community assent. If there are no agreed upon standards, then how does one "rationally" test a claim intersubjectively or in process? Fish and Rorty beg the question when they ground reason in community and conversational process. Unlike Rorty and Fish, who reject the ideas of "truth" and "knowledge," I argue that those concepts must be redefined in relation to problem solving.¶ The pragmatic theory of argument that I have advanced provides a principled means of choosing among competing alternatives, regardless of the context. One always should ask whether or not a particular symbolic description of the world fulfills its purposes. In so doing, methodological principles for testing knowledge claims, such as tests of evidence, fallacies, and more precise field standards, can be justified, and then they can be applied within the conversation or by the community. The approach, therefore, provides standards to be applied in Rorty's process or by Fish's community and avoids the tautology that otherwise confronts those approaches. The perspective neatly **avoids the problems associated with modernism**, but also provides a principled approach to argument that does not lead to **relativism**.¶ In defense of rational argument¶ When argument is viewed as a pragmatic problem-solving tool, the power of the postmodern critique largely dissipates. At the most basic level, a pragmatic theory of argument is based on premises such as the following:¶ 'Statements **supported by evidence and reasoning** are more likely to be useful for satisfactorily solving a problem than ones that lack that support.¶ 'Consistent arguments are more likely to be generalizable than inconsistent ones.¶ **'Experts** are **more likely to have useful viewpoints** about technical questions tied to a particular field than nonexperts. These statements are **not "true" in the factual sense**, but they are universally recognized as useful, a point that is emphasized in the work of even the most committed postmodernist. Even someone like Derrida demands that his opponents support their claims with evidence and consistent reasoning. In so doing, Derrida clearly recognizes the functional utility of general standards for testing argument form and process.¶ Arguing should be understood as a **pragmatic process** for **locating solutions to problems**. The ultimate justification of argument as a discipline is that it produces useful solutions. Of course, not all arguments lead to successful solutions because the world is a complex place and the people who utilize the form/process are flawed. However, the general functional utility of argument as a method of ¶ invention or discovery and the method of justification is undisputed. The pragmatic approach to argument also provides a means of answering the axiological objections to traditional reason. Initially, the view that argument is often a means of enslaving or disempowering people is based on a misunderstanding of how argument as a form of discourse functions. In fact, the danger of symbolic oppression is less applicable to argument as a type of symbol use than to other forms. Argument tells us how to solve problems. It can be a force for enslavement only to the degree that a successful problem-solution is enslaving. This is a **rare event** in **any society** grounded in **democratic ethics**.¶ Additionally, argument as a form and process is inherently person-respecting because in argument it is not status or force that matters, but only the reasoning (see Brockriede 1972). In a pure argumentative encounter, it does not matter whether you are President of the United States or a college junior; all that is relevant is what you have to say. Of course, this ideal is rarely realized, but the principle that humans should test their claims against standards of argumentation theory that are tied to pragmatic problem solving (and not base conclusions on power) is one that recognizes the fundamental humanity in all people.¶ Furthermore, argument is one of the most important means of protecting society from symbolic oppression. Argument as an internal process within an individual and external process within society provides a method of testing the claims of potential oppressors. Therefore, training in argument should be understood as a means of providing pragmatic tools for breaking out of terministic or disciplinary prisons.¶ Against this view, it could be argued that pragmatism, because of its "practical" bent, inevitably degenerates into "hegemonic instrumental reason" in which technocratic experts control society. In Eclipse of Reason, Max Horkheimer takes the position that "in its instrumental aspect, stressed by pragmatism," reason "has become completely harnessed to the social process. Its operational value, its role in the domination of men and nations has been made the sole criterion" (1947, 21). Later, he notes that "pragmatism is the counterpart of modern industrialism for which the factory is the prototype of human existence" (50).¶ The claims that pragmatism reduces reason to a mere instrument of production or leads to undemocratic technocratic control of society are, however, **misguided**. Initially, it is worth noting that Horkeimer's aim is not to indict rationality per se, but to focus on the inadequacy of a purely instrumental form of rationality, which he labels "subjective reason." Near the conclusion of Eclipse of Reason, Horkheimer defends "objective reason": "This concept of truth—the adequation of name and thing—inherent in every genuine philosophy, enables thought to withstand if not to overcome the demoralizing and mutilating effects of formalized reason" (1947, 180). The goal of this essay, to develop a theory of rational argument that can withstand the postmodern indictment, is quite consistent with Horkheimer's view that humans need "objective reason" in order to "unshackle . . . independent thought" and oppose "cynical nihilism" (127, 174). While there can be no **purely "objective reason**," field-invariant and field-dependent principles of argumentation can be justified pragmatically to serve the aims that Horkheimer assigns to that form.¶ Moreover, a pragmatic theory of argument should not be confused with a decision-making approach based on mere practicality or self-interest. Principles of argument are justified pragmatically, that is, because they work consistently to solve problems. But after justification, the invariant and relevant field-dependent principles may be used to test the worth of any argument and are **not tied to a simple utilitarian benefit/loss calculus**. The misconception that a pragmatic theory of truth is tied to a simplistic instrumentalism is a common one. John Dewey notes, for instance, that William James's reference to the "cash value" of reasoning was misinterpreted by some "to mean that the consequences themselves of our rational conceptions must be narrowly limited by their pecuniary value" (1982, 33). In fact, pragmatism "concerns not the nature of consequences but **the nature of knowing**" (Dewey 1960,331). Or as James himself put it, "The possession of true thoughts means everywhere the possession of **invaluable instruments of action**" (1948, 161). Pragmatism "is a method only," which "does not stand for any special result" (James 1982, 213), but that method can be used to justify principles of argument that in turn can be used to **check the excesses of instrumental reason**. Moreover, a pragmatic approach to argument is **self-correcting**. According to James, pragmatism "means the open air and possibilities of nature, as **against dogma,** artificiality and the pretense of finality in truth" (213). Dewey makes the same point when he claims that pragmatic theory involves "the use of intelligence to **liberate and liberalize action**" (1917,63). **Nor does pragmatism necessarily lead to expert domination**. A pragmatic argumentation theory endorses deference to the opinion of experts **only on questions for which the expert possesses special knowledge** relevant to a particular problem. And even on such issues, the views of the expert would be subject to rigorous testing. It would be quite unpragmatic to defer to expert opinion, absent good reasons and strong evidence.¶ The previous analysis in no way denies the risks associated with technical reason. It is, however precisely because of such risks that a principled pragmatic theory of argument is needed. Given that we live in an advanced technological society, **it is inevitable that technical reason will play a role**. Postmodernism points to the dangers of technical reason, but provides **no means of avoiding those risks**. A pragmatic theory of argument, by contrast, **justifies principles of rationality** that can be used to **protect society** from the **nihilistic excesses** of a **purely instrumental reason**.

#### Only regulated violence in a utilitarian framework solves – terrorists are ideological and won’t negotiate

Whitman 7 (Jeffery, Prof of Philosophy, Religion, and Classical Studies Susquehanna University, “Just War Theory and the War on Terrorism A Utilitarian Perspective,” http://www.mesharpe.com/PIN/05Whitman.pdf)

Nonetheless, there was something different about the 9/11 attacks that is troubling, and that difference is the nihilistic nature of the attackers. Most, but not all, terrorist activity has a political or religious goal of some sort as its aim—the liberation of a minority group, the establishment of a new state, the removal of a perceived oppressor. Al-Qaeda professes a political goal, but its actions belie its claims. It claims to be fighting for the cause of Palestinian freedom and for oppressed Muslims everywhere, but it has appropriated the Islamic religion and the concept of jihad in order to recruit suicide bombers with the promise of martyrdom and entry into Paradise. In so doing, the political goal, if it ever existed, has become subservient to eschatological concerns. Political failure has become an irrelevant distraction that is trumped by the reward of eternal life. As Michael Ignatieff notes concerning al-Qaeda, their goals are less political than apocalyptic, securing immortality for themselves while calling down a mighty malediction on the Great Satan. Goals that are political can be engaged politically. Apocalyptic goals, on the other hand, are impossible to negotiate with. They can only be fought by force of arms. (2004, 125–126) This version of Islamic fundamentalist terrorism, represented by such groups as Hamas, Hezbollah, and al-Qaeda, seems particularly intractable. These groups, especially insofar as they employ suicide-bomber tactics, have become death cults (Ignatieff 2004, 126–127). There can be no negotiated settlement, so the only solution seems to be a violent one aimed at the utter destruction of the terrorists. And yet, a purely violent and largely military response runs significant risks, both morally and pragmatically, for the counterterrorist forces. The risks are especially poignant for a liberal democracy like the United States, for the use of purely military means, particularly the brutal military means that may seem necessary to defeat terrorism, may run contrary to the very principles a liberal democracy represents (Ignatieff 2004, 133–136).6 Thus the terrorist threat represented by al-Qaeda–like groups presents a difficult and somewhat unique challenge for the United States. Nonetheless, I remain convinced that a utilitarian conceptualization of just war theory can help us to successfully navigate between the Scylla of losing the fight against terrorism and the Charybdis of abandoning the principles that define our liberal democracy.

#### Utilitarianism is key---calculative thought is key to make objective decisions, prevents dogmatism

Whitman 7 (Jeffery, Prof of Philosophy, Religion, and Classical Studies Susquehanna University, “Just War Theory and the War on Terrorism A Utilitarian Perspective,” http://www.mesharpe.com/PIN/05Whitman.pdf)

Nonetheless, many argue that utilitarianism suffers from a multitude of sins and is thus an inappropriate basis for morality in general, let alone for moral judgments concerning war. For example, the coldly calculating nature of utilitarian thinking, along with its emphasis solely on the consequences of actions, tends to ignore other equally (or perhaps more important) aspects of moral value and the moral life. The lost values include certain absolutist moral principles (e.g., respect for persons as such, human rights, our moral integrity), the felt connections to friends and family that motivate much of human morality, the intentions of the moral agent despite the outcome of his or her actions, and higher, aesthetic values that may have no or minimal utility. These criticisms are important and serious criticisms of utilitarianism, but they are criticisms that seem more appropriate to utilitarianism as a personal moral code than as a moral framework for public policy. And when the subject is just war theory, especially as it concerns decisions about war made by states, the perceived weaknesses of utilitarianism as a private morality actually turn into strengths (Goodin 1995, 8–11).16 The impersonal nature of utilitarianism, while it may not be appropriate when dealing with, for example, the everyday moral dilemmas of family life, seems entirely appropriate in the public policy arena, because it guarantees a measure of impartiality. In just war theory, this impartiality seems crucial so as not to overinflate the dangers to one’s own country when contemplating resort to war, or give preference to one’s own side when applying the laws of war as they pertain to “protected persons,” just to give a few examples.17 As for the coldly calculating “sin” of utilitarianism, it becomes a virtue insofar as it enjoins public officials not to allow their hearts to rule their heads. Having attained victory in a war, a nation might issue a public outcry for onerous compensation or revenge against the former enemy. And while government officials may be sympathetic to such sentiments, they must overcome these natural feelings of the public through the application of “coldly calculating” reason if they are to attain the goal of a better state of peace, as jus post bellum principles dictate. Furthermore, while we may wish that officials would aim carefully at the production of public good, the results are all that we are really interested in from a public policy perspective. Motives and intentions seem superfluous. Perhaps President George H.W. Bush’s primary motive for going to war against Saddam Hussein in the 1991 Gulf War was to protect the oil interests of multinational corporations, and he and his administration had little interest in restoring the sovereignty of Kuwait. Nonetheless, the Gulf War has been largely judged to have been morally justified because it was a response to the aggression of Iraq and had the effect of restoring Kuwaiti sovereignty, regardless of the Bush administration’s “real” intentions. Additionally, as this example also illustrates, what officials do in the public realm may be the product of a number of different intentions, some more noble than others. In the end, however, the only thing we can morally judge is the outcome of the policy decisions. Motivations and intentions are subject to endless speculation and may even be falsely recalled and reported. Utilitarianism operating at the public policy level recognizes this problem and correctly discounts the motives and intentions of policymakers in favor of results. So it is true that the consequentialism of utilitarianism means that the focus of decision-making is on results and not on absolutist moral principles. When it comes to public policy decisions, however, this focus seems entirely correct, rather than a weakness. In making decisions for the greater public good, officials may be morally obligated to violate seemingly inviolate moral principles and “dirty their hands.” Hard as this choice may be, it is a choice officials are expected to make. “Doing right though the heavens may fall is not (nowadays anyway) a particularly attractive posture for public officials to adopt” (Goodin 1995, 10). Even Walzer (2000), a strong advocate of a human rights perspective on just war theory, recognizes that there may be instances in war (what he labels a “supreme emergency”) where the rights of innocent people may be violated in the service of the public good (chap. 16).18

#### Consider the consequences of enacting the plan---otherwise you are shirking political responsibility which makes you complicit in injustice

**Issac 2**—Professor of Political Science at Indiana-Bloomington, Director of the Center for the Study of Democracy and Public Life, PhD from Yale (Jeffery C., Dissent Magazine, Vol. 49, Iss. 2, “Ends, Means, and Politics,” p. Proquest)

As a result, the most important political questions are simply not asked. **It is assumed that U.S. military intervention is an act of "aggression," but no consideration is given to the aggression to which intervention is a response**. **The status quo ante in Afghanistan is not, as peace activists would have it, peace, but rather terrorist violence abetted by a regime--the Taliban--that rose to power through brutality and repression**. This requires us to ask a question that most "peace" activists would prefer not to ask: **What should be done to respond to the violence of a Saddam Hussein, or a Milosevic, or a Taliban regime?** What means are likely to stop violence and bring criminals to justice? **Calls for diplomacy and international law are well intended and important; they implicate a decent and civilized ethic of global order. But they are also vague and empty, because they are not accompanied by any account of how diplomacy or international law can work effectively to address the problem at hand**. The campus left offers no such account. **To do so would require it to contemplate tragic choices in which moral goodness is of limited utility.** Here what matters is not purity of intention but the intelligent exercise of power. Power is not a dirty word or an unfortunate feature of the world. It is the core of politics. Power is the ability to effect outcomes in the world. **Politics, in large part, involves contests over the distribution and use of power. To accomplish anything in the political world, one must attend to the means that are necessary to bring it about**. And to develop such means is to develop, and to exercise, power. **To say this is not to say that power is beyond morality. It is to say that power is not reducible to morality**. As writers such as Niccolo Machiavelli, Max Weber, Reinhold Niebuhr, and Hannah Arendt have taught, **an unyielding concern with moral goodness undercuts political responsibility**. The concern may be morally laudable, reflecting a kind of personal integrity, but it suffers from three fatal flaws: (1) It fails to see that the purity of one's intention does not ensure the achievement of what one intends. **Abjuring violence or refusing to make common cause with morally compromised parties may seem like the right thing; but if such tactics entail impotence, then it is hard to view them as serving any moral good beyond the clean conscience of their supporters;** (2) **it fails to see that in a world of real violence and injustice, moral purity is not simply a form of powerlessness; it is often a form of complicity in injustice**. This is why, **from the standpoint of politics--as opposed to religion--pacifism is always a potentially immoral stand. In categorically repudiating violence, it refuses in principle to oppose certain violent injustices with any effect; and** (3) **it fails to see that politics is as much about unintended consequences as it is about intentions; it is the effects of action, rather than the motives of action, that is most significant**. Just as the alignment with "good" may engender impotence, it is often the pursuit of "good" that generates evil. This is the lesson of communism in the twentieth century: it is not enough that one's goals be sincere or idealistic; **it is equally important, always, to ask about the effects of pursuing these goals and to judge these effects in pragmatic and historically contextualized ways. Moral absolutism inhibits this judgment. It alienates those who are not true believers. It promotes arrogance. And it undermines political effectiveness.**

#### No risk of endless warfare

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7. A policy that favors preventive warfare expresses a futile quest for absolute security. It could do so. Most controversial policies contain within them the possibility of misuse. **In the hands of a paranoid**or boundlessly ambitious **political leader, prevention could be a policy for endless warfare. However, the American political system, with its checks and balances, was designed explicitly for the purpose of constraining the executive from**excessive **folly. Both the Vietnam and the contemporary Iraq**i **experiences reveal clearly that** although **the conduct of war is** an executive prerogative, in practice that authority is **disciplined by public attitudes**. Clausewitz made this point superbly with his designation of the passion, the sentiments, of the people as a vital component of his trinitarian theory of war. 51 It is true to claim that power can be, and indeed is often, abused, both personally and nationally. It is possible that a state could acquire a taste for the apparent swift decisiveness of preventive warfare and overuse the option. One might argue that the easy success achieved against Taliban Afghanistan in 2001, provided fuel for the urge to seek a similarly rapid success against Saddam Hussein’s Iraq. In other words, the delights of military success can be habit forming. On balance, claim seven is not persuasive, though it certainly contains a germ of truth. A country with unmatched wealth and power, unused to physical insecurity at home—notwithstanding 42 years of nuclear danger, and a high level of gun crime—is vulnerable to demands for policies that supposedly can restore security. But**we ought not to endorse the argument** that **the U**nited **S**tates **should eschew the preventive war option because it could lead to a futile, endless search for absolute security. One might as well argue that** the United States should adopt a defense policy and develop capabilities shaped strictly for homeland security approached in a narrowly geographical sense. **Since a president might misuse a military instrument that had a global reach, why not deny the White House even the possibility of such misuse? In other words, constrain policy ends by limiting policy’s military means.**This argument has circulated for many decades and, it must be admitted, it does have a certain elementary logic. It is the opinion of this enquiry, however, that **the claim that a policy which includes the preventive option might lead to a search for total security is not at all convincing**. Of course, folly in high places is always possible, which is one of the many reasons why popular democracy is the superior form of government**. It would be absurd to permit the fear of a futile and dangerous quest for absolute security to preclude prevention as a policy option. Despite its absurdity, this rhetorical charge against prevention is a stock favorite among prevention’s critics. It should be recognized and dismissed for what it is, a debating point with little pragmatic merit. And strategy**, though not always policy, **must be nothing if not pragmatic.**

#### Changing representational practices won’t alter policy—looking to structures and politics is more vital

Tuathail, Professor of Geography at Virginia Polytechnic Institute, 96 (Gearoid, Political Geography, Vol 15 No 6-7, p. 664, Science Direct)

While theoretical debates at academic conferences are important to academics, the discourse and concerns of foreign-policy decision- makers are quite different, so different that they constitute a distinctive problem- solving, theory-averse, policy-making subculture. There is a danger that academics assume that the discourses they engage are more significant in the practice of foreign policy and the exercise of power than they really are. This is not, however, to minimize the obvious importance of academia as a general institutional structure among many that sustain certain epistemic communities in particular states. In general, I do not disagree with Dalby’s fourth point about politics and discourse except to note that his statement-‘Precisely because reality could be represented in particular ways political decisions could be taken, troops and material moved and war fought’-evades the important question of agency that I noted in my review essay. The assumption that it is representations that make action possible is inadequate by itself. Political, military and economic structures, institutions, discursive networks and leadership are all crucial in explaining social action and should be theorized together with representational practices. Both here and earlier, Dalby’s reasoning inclines towards a form of idealism. In response to Dalby’s fifth point (with its three subpoints), it is worth noting, first, that his book is about the CPD, not the Reagan administration. He analyzes certain CPD discourses, root the geographical reasoning practices of the Reagan administration nor its public-policy reasoning on national security. Dalby’s book is narrowly textual; the general contextuality of the Reagan administration is not dealt with. Second, let me simply note that I find that the distinction between critical theorists and post- structuralists is a little too rigidly and heroically drawn by Dalby and others. Third, Dalby’s interpretation of the reconceptualization of national security in Moscow as heavily influenced by dissident peace researchers in Europe is highly idealist, an interpretation that ignores the structural and ideological crises facing the Soviet elite at that time. Gorbachev’s reforms and his new security discourse were also strongly self- interested, an ultimately futile attempt to save the Communist Party and a discredited regime of power from disintegration. The issues raised by Simon Dalby in his comment are important ones for all those interested in the practice of critical geopolitics. While I agree with Dalby that questions of discourse are extremely important ones for political geographers to engage, there is a danger of fetishizing this concern with discourse so that we neglect the institutional and the sociological, the materialist and the cultural, the political and the geographical contexts within which particular discursive strategies become significant. Critical geopolitics, in other words, should not be a prisoner of the sweeping ahistorical cant that sometimes accompanies ‘poststructuralism nor convenient reading strategies like the identity politics narrative; it needs to always be open to the patterned mess that is human history.

#### Rises in terrorist recruitment have nothing to do with drones

Swift, Ph.D of National Security Studies at Georgetown, 7/1/13 (Christopher, Adjunct Professor of National Security Studies at Georgetown University and a Fellow at the University of Virginia Law School’s Center for National Security Law. An attorney and political scientist, his research examines the intersection between constitutional law, international law, and national security affairs, “The Drone Blowback Fallacy” <http://christopher-swift.com/publications/the-drone-blowback-fallacy>)

Last month, I traveled to Yemen to study how AQAP operates and whether the conventional understanding of the relationship between drones and recruitment is correct. While there, I conducted 40 interviews with tribal leaders, Islamist politicians, Salafist clerics, and other sources. These subjects came from 14 of Yemen’s 21 provinces, most from rural regions. Many faced insurgent infiltration in their own districts. Some of them were actively fighting AQAP. Two had recently visited terrorist strongholds in Jaar and Zinjibar as guests. I conducted each of these in-depth interviews using structured questions and a skilled interpreter. I have withheld my subjects’ names to protect their safety — a necessity occasioned by the fact that some of them had survived assassination attempts and that others had recently received death threats. These men had little in common with the Yemeni youth activists who capture headlines and inspire international acclaim. As a group, they were older, more conservative, and more skeptical of U.S. motives. They were less urban, less wealthy, and substantially less secular. But to my astonishment, none of the individuals I interviewed drew a causal relationship between U.S. drone strikes and al Qaeda recruiting. Indeed, of the 40 men in this cohort, only five believed that U.S. drone strikes were helping al Qaeda more than they were hurting it. Al Qaeda exploits U.S. errors, to be sure. As the Yemen scholar Gregory Johnsen correctly observes, the death of some 40 civilians in the December 2009 cruise missile strike on Majala infuriated ordinary Yemenis and gave AQAP an unexpected propaganda coup. But the fury produced by such tragedies is not systemic, not sustained, and, ultimately, not sufficient. As much as al Qaeda might play up civilian casualties and U.S. intervention in its recruiting videos, the Yemeni tribal leaders I spoke to reported that the factors driving young men into the insurgency are overwhelmingly economic. From al Hudaydah in the west to Hadhramaut in the east, AQAP is building complex webs of dependency within Yemen’s rural population. It gives idle teenagers cars, khat, and rifles — the symbols of Yemeni manhood. It pays salaries (up to $400 per month) that lift families out of poverty. It supports weak and marginalized sheikhs by digging wells, distributing patronage to tribesmen, and punishing local criminals. As the leader of one Yemeni tribal confederation told me, “Al Qaeda attracts those who can’t afford to turn away.” Religious figures echoed these words. Though critical of the U.S. drone campaign, none of the Islamists and Salafists I interviewed believed that drone strikes explain al Qaeda’s burgeoning numbers. “The driving issue is development,” an Islamist parliamentarian from Hadramout province said. “Some districts are so poor that joining al Qaeda represents the best of several bad options.” (Other options include criminality, migration, and even starvation.) A Salafi scholar engaged in hostage negotiations with AQAP agreed. “Those who fight do so because of the injustice in this country,” he explained. “A few in the north are driven by ideology, but in the south it is mostly about poverty and corruption.” Despite Yemenis’ antipathy toward drones, my conversations also revealed a surprising degree of pragmatism. Those living in active conflict zones drew clear distinctions between earlier U.S. operations, such as the Majala bombing, and more recent strikes on senior al Qaeda figures. “Things were very bad in 2009,” a tribal militia commander from Abyan province told me, “but now the drones are seen as helping us.” He explained that Yemenis could “accept [drones] as long as there are no more civilian casualties.” An Islamist member of the separatist al-Harak movement offered a similar assessment. “Ordinary people have become very practical about drones,” he said. “If the United States focuses on the leaders and civilians aren’t killed, then drone strikes will hurt al Qaeda more than they help them.” Some of the men I interviewed admitted that they had changed their minds about drone strikes. Separatists in Aden who openly derided AQAP as a proxy of Yemen’s recently deposed president, Ali Abdullah Saleh, privately acknowledged the utility of the U.S. drone campaign. “Saleh created this crisis in order to steal from America and stay in power,” a former official from the now-defunct People’s Democratic Republic of Yemen told me. “Now it is our crisis, and we need every tool to solve it.” Yemeni journalists, particularly those with firsthand exposure to AQAP, shared this view: “I opposed the drone campaign until I saw what al Qaeda was doing in Jaar and Zinjibar,” an independent reporter in Aden said. “Al Qaeda hates the drones, they’re absolutely terrified of the drones … and that is why we need them.”

#### Civilian casualties don’t incite more terrorism – revenge emotions don’t outweigh safety concerns

Johnston and Sarbahi, Ph.Ds in Political Science 1/3/13 (\*Patrick, associate political scientist at the Rand Corporation, Ph.D in Political Science, Northwestern University, \*Anoop, received his PhD in political science from the University of California, Los Angeles in 2011. His research interests include civil wars, counter insurgency, post-conflict transition and state rebuilding, electoral dynamics and political violence, democratization and democratic processes, and political economy of inter-group and inter-regional disparities, “The Impact of US Drone Strikes on Terrorism in Pakistan and Afghanistan” patrickjohnston.info/materials/drones.pdf)

The observed dampening effect of drone strikes on militant violence would also cast doubt on certain conventionally held views regarding how civilians respond to violence. Specifically, to the extent that Muslims, especially Pashtuns, living in the region have a strong disdain for the drones' persistent surveillance and periodic destruction, they either have less agency to mobilize as mujahideen fighters or less interest in doing so than both academic theories of emotion and violence (revenge, in particular) and military doctrine that emphasizes the importance of “hearts and minds" would predict. If this were true, it would suggest either that the militant organization in particular, the networks through which militants operate is their center-of-gravity rather than the population. Alternatively, it could mean that the population behaves more rationally than many would expect based on the narratives about popular anger stemming from drone strikes. This would imply that as angry and spiteful as parts of the population might feel as a result of drone strikes, emotions ultimately take a backseat to individuals' primary interest in their own safety, which is much higher as a civilian than as a fighter who associates with other possible targets of the drones, thus risking becoming a target himself.

## 2NC

### Limits Impact---2NC

#### The vast majority of students thought it was unfair.

Preston 3—Thomas Preston, Professor of communications at the University of Missouri-St. Louis [Summer 2003, “No-topic debating in Parliamentary Debate: Students and Critic Reactions,” http://cas.bethel.edu/dept/comm/npda/journal/vol9no5.pdf]

The study involved forty-three students and nine critics who participated in a parliamentary debate tournament where no topic was assigned for the fourth round debates. True to the idea of openness, no rules regarding the topic were announced; no topic, or written instructions other than time limits and judging instruction, were provided. In this spirit, the participants first provided anecdotal reactions to the no-topic debate, so that the data from this study could emerge from discussion. Second, respondents provided demographic data so that patterns could be compared along three dimensions. These dimensions, the independent variables for the student portion of the study, involved three items: 1) level of debate experience; 2) whether NPDA was the only format of parliamentary debate the students had experienced; and 3) whether students had participated in NDT or CEDA policy debate. Third, the questions were to determine how students rated the debates based on criteria for good debate-educational value, clash, and a fair division of ground. Students were also asked two general questions: whether they would try the no-topic debate again, and whether they liked the no-topic round. These questions constituted the dependent variables for the student study. Because the sample was small, descriptive statistical data were gathered from critics. Taking into account the experience of the critics, additional questions concerning items such as whether no-topic debating deepened discussion. Both students and critics were asked which side they thought the no-topic approach favored, and the students with NDT/ CEDA policy debating experience were asked if a no-topic debating season would be good for policy debate.For the objective items, critics and students were asked to circle a number between 1 and 7 to indicate the strength of reaction to each item (Appendix I and Appendix II). In scoring responses, the most favorable rating received the highest score of seven and the least favorable rating a score of one. In some instances, values that were circled on the sheet were reversed such that the most favorable reaction to that category received the higher score. Frequency distributions and statistics were then tabulated for each question, and the anecdotal remarks were tabulated. For the student empirical data, t-tests were conducted to determine whether overall debate experience, NPDA experience, or policy experience affected how the students reacted to an item. As a test for significance, p was set to less than or equal to .05. Finally, of the 43 responses, 35, or 81.4 per cent, felt that the no-topic debate skewed the outcome of the debate toward one side or the other. Of those responses, 32 (91.4 per cent of those indicating a bias, or 74.4 per cent of all respondents) indicated that the no-topic debate gave an advantage to the Government. Three (8.6 per cent of those indicating a bias, or 7.0 per cent of all respondents) indicated that the no-topic debate gave an advantage to the Opposition.

#### And---participation decreased, proves we have a brain drain DA which turns all of their offense

Preston 3—Thomas Preston, Professor of communications at the University of Missouri-St. Louis [Summer 2003, “No-topic debating in Parliamentary Debate: Students and Critic Reactions,” http://cas.bethel.edu/dept/comm/npda/journal/vol9no5.pdf]

For the overall student data, each the mean of each item was slightly below 4.0, but mostly, the kurtosis figures were negative, and the standard deviations high, indicating a bipolar response to each question. The frequency tables bear out strong negative reactions, but a number of positive reactions which tended to be less strong. On the one hand, a substantial number of students and critics felt very strongly that the experience was negative, with the mode=l for each item on the survey; however, on others, a substantial number of respondents rated aspects of the experience at 4 and above. The educational value had the highest central tendencies (mean=3.65, median=4.0, and mode=1.0), whereas the question over whether the students liked the experience was the lowest (mean=3.19, median=3.0, mode=1.0). Although there was a weak positive pole to the responses, those who had NDT/CEDA experience strongly opposed the idea of a no-topic year of debating in those organizations (mean=2.77, median =1.00, mode=1.00). cont. Reduced to absurdity, the notion of no rules for a debate tournament would result in chaos, bringing up an infinite regress into whether or not chaos is a good thing! At least on the surface, the results of this particular study would seem to discourage repeating this experiment as conducted for the present study. A number of participants may not want to return to the tournament because of the confusion and perceived lack of educational value. However, an exact representation and t-tests between results could help not only assess the validity and reliability of the instrument, but whether attitudes and perceptions have changed toward no-topic debating. Therefore, whereas Option III may seem to be out of the questions, benefits can still be gained from it in terms of studying the evolution of parliamentary debate form.

third, limits are key to creativity, being forced within some confines spurs innovation.

Mayer 6 – Marissa Ann Mayer, vice-president for search products and user experience at Google, February 13, 2006, “Creativity Loves Constraints,” online: http://www.businessweek.com/print/magazine/content/06\_07/b3971144.htm?chan=gl

When people think about creativity, they think about artistic work -- unbridled, unguided effort that leads to beautiful effect. But if you look deeper, you'll find that some of the most inspiring art forms, such as haikus, sonatas, and religious paintings, are fraught with constraints. They are beautiful because creativity triumphed over the "rules." Constraints shape and focus problems and provide clear challenges to overcome. Creativity thrives best when constrained.But constraints must be balanced with a healthy disregard for the impossible. Too many curbs can lead to pessimism and despair. Disregarding the bounds of what we know or accept gives rise to ideas that are non-obvious, unconventional, or unexplored. The creativity realized in this balance between constraint and disregard for the impossible is fueled by passion and leads to revolutionary change. A few years ago, I met Paul Beckett, a talented designer who makes sculptural clocks. When I asked him why not do just sculptures, Paul said he liked the challenge of making something artistically beautiful that also had to perform as a clock. Framing the task in that way freed his creative force. Paul reflected that he also found it easier to paint on a canvas that had a mark on it rather than starting with one that was entirely clean and white. This resonated with me. It is often easier to direct your energy when you start with constrained challenges (a sculpture that must be a clock) or constrained possibilities (a canvas that is marked).

### link

#### Failure to specify their agent is illegitimate and a voting issue-the resolution was written to give you flexibility of choice but you need to pick one—it’s the core of all of our ground

Kurr et al 13 (Jeff Kurr—Baylor University Kevin D. Kuswa, PhD—Fresno State Paul E. Mabrey III—James Madison University “Agents Wording Paper: Passive Voice, the Judiciary, and Other Odds and Ends,” <http://www.cedadebate.org/forum/index.php?action=dlattach;topic=4848.0;attach=1690>)

In short, this topic is all about the agent of action. The “object to be reduced” is the power possessed by a particular agent (the President) and the controversy is how the other governmental agents can restrict the authority held by the executive. Who should do the restraining? Congress? The Court? Other entities? The Executive herself? These are key questions. This topic literature is uniquely about the agent/actor question surrounding the restraint of presidential war powers. The fact that the literature is so divided and diverse on possible ways that certain agents should restrict PWP, may mean that we should privilege the agent by not specifying. Furthermore, the problem concerning the ability to generate good solvency (i.e., the president will ignore, congress doesn't act, courts fail etc.) means we should err on the side aff choice/flexibility in terms of being able to choose the means of defending the resolution through the agent the aff selects.

#### ---Failure to specify your agent is a voting issue-The allocation of war power IS the core of the topic---they eliminate germane mechanism counterplans and separation of power disads which is the majority of aff and neg ground---the last 200 years of war power debates have been all about who has authority!

Waxman 13 (Matthew Waxman is a law professor at Columbia Law School, where he co-chairs the Roger Hertog Program on Law and National Security, Adjunct Senior Fellow for Law and Foreign Policy at the Council on Foreign Relations, “The Constitutional Power to Threaten War,” http://www.lawfareblog.com/2013/08/the-constitutional-power-to-threaten-war/)

The implicit consensus that the President is constitutionally empowered to threaten military force in this situation is, in my view, correct, but it presents an anomaly: proponents of drawing that line argued that doing so was necessary to prevent a war (or at least a bigger and more destructive war) down the road, while critics argued that it would needlessly provoke or drag the United States into a war — the very sorts of concerns that usually animate strident war powers debates. More generally, the allocation of constitutional war powers is thought to be of paramount import because it could affect whether or when the United States goes to war and it implicates core questions about how our democracy should decide matters of such consequence. Yet legal discourse in this area excludes almost completely some central ways in which the United States actually wields its military power, namely, with threats of war or force. This Article breaks down that barrier and connects the legal issues with the strategic ones. As to the constitutional issues, there is wide agreement among legal scholars on the general historical saga of American war powers – by which I mean here the authority to use military force, and not the specific means or tactics by which war is waged once initiated – though there remains intense disagreement about whether this is an optimistic or pessimistic story from the perspective of constitutional values and protection of American interests. Generally speaking, the story goes like this: The Founders placed decisions whether actively to engage in military hostilities in Congress’s hands, and Presidents mostly (but not always) respected this allocation for the first century and a half of our history. At least by the Cold War, however, Presidents began exercising this power unilaterally in a much wider set of cases, and Congress mostly allowed them to; an effort to realign legislatively the allocation after the Vietnam War failed, and today the President has a very free hand in using military force that does not rise to the level of “war” (in constitutional terms, which is usually confined to large-scale and long-duration uses of ground forces). From a functional standpoint, this dramatic shift in constitutional power is seen as either good, because decisions to use force require policy dexterity inherent in the presidency, or bad, because unilateral presidential decisions to use force are more prone than congressionally-checked ones to be dangerously rash. With this story and split in resulting views in mind, lawyers and legal scholars continue to debate a series of familiar constitutional questions: Does the historical gloss of practice among the political branches – the patterns of behavior by the President and Congress with respect to using force – provide legal justification for this shift toward executive power? Without requiring congressional authorization before engaging in hostilities, are there sufficient checks on executive action? Does this shift in power lead the United States into needless and costly wars, and if so should it be remedied with more potent checks, whether led by Congress or courts, to reestablish a constitutional formula closer to the original one?

1. “And/or” means one or the other or both – must choose

Collins English Dictionary 2009

(http://dictionary.reference.com/browse/and%2For)

and/or

— conj

( coordinating ) used to join terms when **either one or the other or both** is indicated: passports and/or other means of identification

2. Aff conditionality – violates “Resolved”

Random House Unabridged Dictionary, 1997

(http://www.infoplease.com/dictionary/resolved)

firm in purpose or intent; determined.

Violation: The plan does not choose statutory or judicial restrictions

Vote neg

a. Presumption—

CMS ‘3

(http://www.chicagomanualofstyle.org/CMS\_FAQ/CapitalizationTitles/CapitalizationTitles32.html, accessed 10/16/07, re-accessed at <http://www.chicagomanualofstyle.org/qanda/data/faq/topics/CapitalizationTitles/faq0015.html>, 8/19/2013)

Q. When I refer to the government of the United States in text, should it be US Federal Government or US federal government?

A. **The government of the** United States **is not a single official entity**. Nor is it when it is referred to as the federal government or the U.S. government or the U.S. federal government. It’s just a government, which, like those in all countries, has some official bodies that act and operate in the name of government: the Congress, the Senate, the Department of State, etc.

#### Statutory restrictions are 5 things—they don’t specify

KAISER 80—the Official Specialist in American National Government, Congressional Research Service, the Library of Congress [Congressional Action to Overturn Agency Rules: Alternatives to the Legislative Veto; Kaiser, Frederick M., 32 Admin. L. Rev. 667 (1980)]

In addition to direct statutory overrides, there are a variety of statutory and nonstatutory techniques that have the effect of overturning rules, that prevent their enforcement, or that seriously impede or even preempt the promulgation of projected rules. For instance, a statute may alter the jurisdiction of a regulatory agency or extend the exemptions to its authority, thereby affecting existing or anticipated rules. Legislation that affects an agency's funding may be used to prevent enforcement of particular rules or to revoke funding discretion for rulemaking activity or both. Still other actions, less direct but potentially significant, are mandating agency consultation with other federal or state authorities and requiring prior congressional review of proposed rules (separate from the legislative veto sanctions). These last two provisions may change or even halt proposed rules by interjecting novel procedural requirements along with different perspectives and influences into the process.

It is also valuable to examine nonstatutory controls available to the Congress:

1. legislative, oversight, investigative, and confirmation hearings;

2. establishment of select committees and specialized subcommittees to oversee agency rulemaking and enforcement;

3. directives in committee reports, especially those accompanying legislation, authorizations, and appropriations, regarding rules or their implementation;

4. House and Senate floor statements critical of proposed, projected, or ongoing administrative action; and

5. direct contact between a congressional office and the agency or office in question.

Such mechanisms are all indirect influences; unlike statutory provisions, they are neither self-enforcing nor legally binding by themselves. Nonetheless, nonstatutory devices are more readily available and more easily effectuated than controls imposed by statute. And some observers have attributed substantial influence to nonstatutory controls in regulatory as well as other matters.3

It is impossible, in a limited space, to provide a comprehensive and exhaustive listing of congressional actions that override, have the effect of overturning, or prevent the promulgation of administrative rules. Consequently, this report concentrates upon the more direct statutory devices, although it also encompasses committee reports accompanying bills, the one nonstatutory instrument that is frequently most authoritatively connected with the final legislative product. The statutory mechanisms surveyed here cross a wide spectrum of possible congressional action:

1. single-purpose provisions to overturn or preempt a specific rule;

2. alterations in program authority that remove jurisdiction from an agency;

3. agency authorization and appropriation limitations;

4. inter-agency consultation requirements; and

5. congressional prior notification provisions.

### Ext—Limits k2 com

#### Defining words w/ limits is key to communication

Garth Kemerling, professor of philosophy at Newberry College, 1997

 <http://www.philosophypages.com/lg/e05.htm>

We've seen that sloppy or misleading use of ordinary language can seriously limit our ability to create and communicate correct reasoning. As philosopher [John Locke](http://www.philosophypages.com/ph/lock.htm) pointed out three centuries ago, the achievement of human knowledge is often hampered by the use of words without fixed signification. Needless controversy is sometimes produced and perpetuated by an unacknowledged ambiguity in the application of key terms. We can distinguish disputes of three sorts: Genuine disputes involve disagreement about whether or not some specific proposition is true. Since the people engaged in a genuine dispute agree on the meaning of the words by means of which they convey their respective positions, each of them can propose and assess logical arguments that might eventually lead to a resolution of their differences. Merely [verbal disputes](http://www.philosophypages.com/dy/v.htm#verbal), on the other hand, arise entirely from ambiguities in the language used to express the positions of the disputants. A verbal dispute disappears entirely once the people involved arrive at an agreement on the meaning of their terms, since doing so reveals their underlying agreement in belief. Apparently verbal but really genuine disputes can also occur, of course. In cases of this sort, the resolution of every ambiguity only reveals an underlying genuine dispute. Once that's been discovered, it can be addressed fruitfully by appropriate methods of reasoning. We can save a lot of time, sharpen our reasoning abilities, and communicate with each other more effectively if we watch for disagreements about the meaning of words and try to resolve them whenever we can. Kinds of Definition The most common way of preventing or eliminating differences in the use of languages is by agreeing on the [definition](http://www.philosophypages.com/dy/d2.htm#def) of our terms. Since these explicit accounts of the meaning of a word or phrase can be offered in distinct contexts and employed in the service of different goals, it's useful to distinguish definitions of several kinds: A [lexical definition](http://www.philosophypages.com/dy/l5.htm#lexi) simply reports the way in which a term is already used within a language community. The goal here is to inform someone else of the accepted meaning of the term, so the definition is more or less correct depending upon the accuracy with which it captures that usage. In these pages, my definitions of technical terms of logic are lexical because they are intended to inform you about the way in which these terms are actually employed within the discipline of logic. At the other extreme, a [stipulative definition](http://www.philosophypages.com/dy/s9.htm#stip) freely assigns meaning to a completely new term, creating a usage that had never previously existed. Since the goal in this case is to propose the adoption of shared use of a novel term, there are no existing standards against which to compare it, and the definition is always correct (though it might fail to win acceptance if it turns out to be inapt or useless). If I now decree that we will henceforth refer to Presidential speeches delivered in French as "glorsherfs," I have made a (probably pointless) stipulative definition. Combining these two techniques is often an effective way to reduce the [vagueness](http://www.philosophypages.com/dy/v.htm#vag) of a word or phrase. These [precising definitions](http://www.philosophypages.com/dy/p7.htm#prec) begin with the lexical definition of a term but then propose to sharpen it by stipulating more narrow limits on its use. Here, the lexical part must be correct and the stipulative portion should appropriately reduce the troublesome vagueness. If the USPS announces that "proper notification of a change of address" means that an official form containing the relevant information must be received by the local post office no later than four days prior to the effective date of the change, it has offered a (possibly useful) precising definition.

### Topic Good-Drones

#### The alternative to increased public scrutiny especially in the area of technology-driven warfare is unchecked aggression and violence

Druck-J.D. Candidate, Cornell Law School-10

Droning On: The War Powers Resolution and the Numbing Effect of Technology-Driven Warfare. Cornell Law Review, 98(1), 209-238.

A. Why an Unconstrained Executive Matters Today If public scrutiny acts as a check on presidential action by pressuring Congress into enforcing domestic law (namely, the WPR), then that check has weakened given the increased use of technology-driven warfare abroad.135 As a result, fewer checks on presidential military actions exist, implying that we will see more instances of unilateral presidential initiatives. But if the new era of warfare removes the very issues associated with traditional warfare, should we be concerned about the American public’s increasing numbness to it all? The answer is undoubtedly yes. First, from a practical standpoint, the psychology surrounding mechanized warfare makes it easier for the United States to enter hostilities initially.136 Without having to worry about any of the traditional costs of war (such as a draft, rationing, casualties, etc.), the triggers that have historically made the public wary of war are now gone. When machines, rather than human beings, are on the front lines, the public (and, as a result, politicians and courts) will not act to stop the continued use of drones. In other words, people will simply stop caring about our increased actions abroad, regardless of their validity, constitutionality, or foreign harm. But again one must wonder: should we care? After all, even if we increase the number of military conflicts abroad, the repercussions hardly seem worth worrying about. For example, worrying that WPR violations will cause significant harm to the United States seems somewhat misplaced given the limited nature of technology-driven warfare. Granted, this style of warfare might make it easier to enter hostilities, but the risk of subsequent harm (at least to the United States) is low enough to mitigate any real danger. Furthermore, even if the effects of warfare might become increasingly dulled, any use of force that would eventually require traditional, Vietnam-esque types of harms as the result of technology-driven warfare would in a sense “wake up the populace” in order to check potentially unconstitutional action.137 Thus, if our level of involvement requires machines and only machines, why worry about a restrained level of public scrutiny? The answer is that a very real risk of harm exists nonetheless. War by its very nature is unpredictable.138 Indeed, one of the major grievances concerning the war in Vietnam was that we ended up in a war we did not sign up for in the first place.139 The problem is not the initial action itself but the escalation. Therefore, while drone strikes might not facially involve any large commitment, the true threat is the looming possibility of escalation.140 That threat exists in the context of drones, whether because of the risk of enemy retaliation or because of a general fear that an initial strike would snowball into a situation that would require troops on the ground.141 In both cases, an apparently harmless initial action could eventually unravel into a situation involving harms associated with traditional warfare.142 Worse yet, even if that blowback was sufficient to incentivize the populace and Congress to mobilize, the resulting involvement would only occur after the fact.143 If we want restraints on presidential action, they should be in place before the United States is thrown into a war, and this would require public awareness about the use of drones.144 As such, whether it is unforeseen issues arising out of the drones themselves145 or unforeseen consequences stemming from what was ostensibly a minor military undertaking, there is reason to worry about a populace who is unable to exert any influence on military actions, even as we shift toward a more limited form of warfare.146 Another issue associated with a toothless WPR in the era of technology-drive warfare involves humanitarian concerns. If one takes the more abstract position that the public should not allow actions that will kill human beings to go unchecked, regardless of their legality or underlying rationale, then that position faces serious pressure in the era of technology-driven warfare. As the human aspect of warfare becomes more attenuated, the potential humanitarian costs associated with war will fade out of the collective consciousness, making it easier for the United States to act in potentially problematic ways without any substantial backlash. Rather than take note of whom we target abroad, for example, the numbing effect of technology-driven warfare forces the public to place “enormous trust in our leaders” despite the fact that good faith reliance on intelligence reports does not necessarily guarantee their accuracy.147 Accordingly, as the level of public scrutiny decreases, so too will our ability to limit unwarranted humanitarian damage abroad.148 At the very least, some dialogue should occur before any fatal action is taken; yet, in the technology-driven warfare regime, that conversation never occurs.149 Of course, this Note has argued that the issues associated with technology-driven warfare (an increased level of military involvement abroad, potential for escalation, humanitarian difficulties, etc.) though very real, are less prominent than the harms associated with traditional warfare. But perhaps this premise is incorrect; that is, perhaps technology-driven warfare does present sufficient harm to trigger social and political scrutiny. For example, pecuniary harms are very real contemporary concerns, and they seem to play an increased role in determining a country’s standing.150 In this respect, given the financial costs of drone strikes (and military spending in general),151 perhaps we need not be worried about an absence of public scrutiny. Yet given the traditional costs of war, pecuniary harm hardly seems like the type of concern sufficient to create the type of political checks present in the Civil War, World War I, Vietnam, or Iraq. In all four situations, American lives were at stake, entire households faced life-changing effects of war in a very real way, and the entire country saw major social and political transformations. Economic harm is certainly an issue worth considering, especially as the United States takes on more and more debt; yet, whether that sort of harm rises to the level sufficient to trigger mass citizen mobilization remains to be seen.152 Indeed, if the recent actions in Libya are any indication, financial harm is far too attenuated to create any sort of substantial backlash. Future technology-driven conflicts will likely create a clearer picture of the role of pecuniary damage, but as it stands, this sort of harm fails to “rally the troops” for public attentiveness.

#### Changing representational practices won’t alter policy—looking to structures and politics is more vital

Tuathail, Professor of Geography at Virginia Polytechnic Institute, 96 (Gearoid, Political Geography, Vol 15 No 6-7, p. 664, Science Direct)

While theoretical debates at academic conferences are important to academics, the discourse and concerns of foreign-policy decision- makers are quite different, so different that they constitute a distinctive problem- solving, theory-averse, policy-making subculture. There is a danger that academics assume that the discourses they engage are more significant in the practice of foreign policy and the exercise of power than they really are. This is not, however, to minimize the obvious importance of academia as a general institutional structure among many that sustain certain epistemic communities in particular states. In general, I do not disagree with Dalby’s fourth point about politics and discourse except to note that his statement-‘Precisely because reality could be represented in particular ways political decisions could be taken, troops and material moved and war fought’-evades the important question of agency that I noted in my review essay. The assumption that it is representations that make action possible is inadequate by itself. Political, military and economic structures, institutions, discursive networks and leadership are all crucial in explaining social action and should be theorized together with representational practices. Both here and earlier, Dalby’s reasoning inclines towards a form of idealism. In response to Dalby’s fifth point (with its three subpoints), it is worth noting, first, that his book is about the CPD, not the Reagan administration. He analyzes certain CPD discourses, root the geographical reasoning practices of the Reagan administration nor its public-policy reasoning on national security. Dalby’s book is narrowly textual; the general contextuality of the Reagan administration is not dealt with. Second, let me simply note that I find that the distinction between critical theorists and post- structuralists is a little too rigidly and heroically drawn by Dalby and others. Third, Dalby’s interpretation of the reconceptualization of national security in Moscow as heavily influenced by dissident peace researchers in Europe is highly idealist, an interpretation that ignores the structural and ideological crises facing the Soviet elite at that time. Gorbachev’s reforms and his new security discourse were also strongly self- interested, an ultimately futile attempt to save the Communist Party and a discredited regime of power from disintegration. The issues raised by Simon Dalby in his comment are important ones for all those interested in the practice of critical geopolitics. While I agree with Dalby that questions of discourse are extremely important ones for political geographers to engage, there is a danger of fetishizing this concern with discourse so that we neglect the institutional and the sociological, the materialist and the cultural, the political and the geographical contexts within which particular discursive strategies become significant. Critical geopolitics, in other words, should not be a prisoner of the sweeping ahistorical cant that sometimes accompanies ‘poststructuralism nor convenient reading strategies like the identity politics narrative; it needs to always be open to the patterned mess that is human history.

### SSD

---SSD allows us to TEST ideas and experiment with arguments---the static fixedness under their interpretation cannot result in the same educational benefits

Koehle 2010

Joe, Phd candidate in communications at Kansas, former West Georgia debater, http://mccfblog.org/actr/wp-content/uploads/2010/12/Koehle\_Paper\_ACTR-editedPDF.pdf.

Much like criticism of the sophists has persisted throughout time; **criticism of switch side debate has been a constant feature** since the advent of tournament-style debating. Harrigan documents how numerous these criticisms have been in the last century, explaining that Page 15 Koehle 15 complaints about the mode of debate are as old as the activity itself (9). **The most famous controversy** over modern switch side debate occurred in 1954, **when the U.S. military academies** and the Nebraska teachers‟ colleges **decided to boycott the resolution**: “Resolved: That the United States should extend diplomatic relations to the communist government of China.” The schools that boycotted the topic argued that it was ethically and educationally indefensible to defend a recognition of communists, and even went so far as to argue that “a pro-recognition stand by men wearing the country‟s uniforms would lead to misunderstanding on the part of our friends and to distortion by our enemies” (English et al. 221). Switch side debate was on the defensive, and debate coaches of the time were engaged in virulent debate over the how to debate. The controversy made the national news when the journalist Edward Murrow became involved and opined on the issue in front of millions of TV viewers. English et al. even go so far as to credit **the “debate about debate” with helping accelerate the implosion of the famous red- baiting Senator Joseph McCarthy** (222). The debate about debate fell back out of the national spotlight after the high-profile incident over the China resolution, but it never ended in the debate community itself. The tenor of **the debate reached a fever pitch when outright accusations of modern sophistry** (the bad kind) **were published** in the Spring 1983 edition of the National Forensic Journal, **when** **Bernard K. Duffy** wrote, “The Ethics of Argumentation in Intercollegiate Debate: A Conservative Appraisal.” Echoing the old Platonic argument against sophistic practice, **Duffy argued that switch side debate has ignored ethical considerations** in the pursuit of teaching cheap techniques for victory (66). The 1990‟s saw a divergence of criticisms into two different camps. The first camp was comprised of traditional critics who argued that debate instruction and practice promoted form over substance. For example, a coach from Boston College lamented that absent a change, “Debate instructors and their students will become the sophists of our age, susceptible to the traditional indictments elucidated by Isocrates and others” (Herbeck). Dale Bertelstein published a response to the previously cited article by Muir about switch side debate that launched into an extended discussion of debate and sophistry. This article continued the practice of coaches and communications scholars developing and applying the Platonic critique of the sophists to contemporary debate practices. Alongside this traditional criticism **a newer set of critiques of switch side debate emerged.** Armed with the language of Foucauldian criticism, Critical Legal Studies, and critiques of normativity and statism, many people who were uncomfortable with the debate tradition of arguing in favor of government action began to question the reason why one should ever be obliged to advocate government action. They began **to argue that switch side debate was a mode of debate that unnecessarily constrained people to the hegemony of debating the given topic.** These newer criticisms of switch side debate gained even more traction after the year 2000, with several skilled teams using these arguments to avoid having to debate one side of the topic. William Spanos, a professor of English at SUNY Binghamton decided to link the ethos of switch side debate to that of neo-conservatism after observing a debate tournament, saying that “the arrogant neocons who now saturate the government of the Bush…learned their „disinterested‟ argumentative skills in the high school and college debate societies and that, accordingly, they have become masters at disarming the just causes of the oppressed.” (Spanos 467) **Contemporary policy debate is now under attack from all sides**, caught in its own dissoi logoi. Given the variety of assaults upon switch side debate by both sides of the political spectrum, **how can switch side debate be justified**? Supporters of switch side debate have made many arguments justifying the value of the practice that are not related to any defense of sophist Page 17 Koehle 17 techniques. I will only briefly describe them so as to not muddle the issue, but they are worthy of at least a cursory mention. The first defense is the most pragmatic reason of all: **Mandating people debate both sides of a topic is most fair to participants** **because it helps mitigate the potential for a topic that is biased towards one side**. More theoretical justifications are given, however. Supporters of switch side debate have argued that **encouraging students to play the devil‟s advocate creates a sense of self-reflexivity that is crucial to promoting tolerance and preventing dogmatism** (Muir 287). Others have attempted to justify switch side debate in educational terms and advocacy terms, explaining that it is a path to diversifying a student‟s knowledge by encouraging them to seek out paths they may have avoided otherwise, which in turn creates better public advocates (Dybvig and Iversen). In fact, **contemporary policy debate and its reliance upon switching sides creates an oasis of argumentation free from the demands of advocacy, allowing students to test out ideas and become more well-rounded advocates** as they leave the classroom and enter the polis (Coverstone). Finally, **debate empowers individuals to become critical thinkers capable of making sound decisions** (Mitchell, “Pedagogical Possibilities”, 41).

#### ---Switch side debate empirically improves policymaking --- EPA water policy.

Mitchell 2010

Gordon R., Associate Professor and Director of Graduate Studies in the Department of Communication at the University of Pittsburgh, Switch-Side Debating Meets Demand-Driven Rhetoric of Science, Rhetoric & Public Affairs, http://www.pitt.edu/~gordonm/JPubs/Mitchell2010.pdf

Yet the picture grows more complex when one considers what is happening over at the Environmental Protection Agency (EPA), where environmental scientist Ibrahim Goodwin is collaborating with John W. Davis on a project that uses switch-side debating to clean up air and water. In April 2008, that initiative brought top intercollegiate debaters from four universities to Washington, D.C., for a series of debates on the topic of water quality, held for an audience of EPA subject matter experts working on interstate river pollution and bottled water issues. An April 2009 follow-up event in Huntington Beach, California, featured another debate weighing the relative merits of monitoring versus remediation as beach pollution strategies. “We use nationally ranked intercollegiate debate programs to research and present the arguments, both pro and con, devoid of special interest in the outcome,” explains Davis. “In doing so, agency representatives now remain squarely within the decision-making role thereby neutralizing overzealous advocacy that can inhibit learned discourse.”

### Uncertainty

#### Predictability maintains meaningful politics and empathy even if somewhat rigid

Massaro 89 (Toni, Florida law professor, “Legal Storytelling: Empathy, Legal Storytelling, And The Rule Of Law: New Words, Old Wounds?”, August, 87 Mich. L. Rev. 2099, lexis)

Yet despite their acknowledgment that some ordering and rules are necessary, empathy proponents tend to approach the rule-of-law model as a villain. Moreover, they are hardly alone in their deep skepticism about the rule-of-law model. Most modern legal theorists question the value of procedural regularity when it denies substantive justice. 52 Some even question the whole notion of justifying a legal [\*2111] decision by appealing to a rule of law, versus justifying the decision by reference to the facts of the case and the judges' own reason and experience. 53 I do not intend to enter this important jurisprudential debate, except to the limited extent that the "empathy" writings have suggested that the rule-of-law chills judges' empathic reactions. In this regard, I have several observations. My first thought is that the rule-of-law model is only a model. If the term means absolute separation of legal decision and "politics," then it surely is both unrealistic and undesirable. 54 But our actual statutory and decisional "rules" rarely mandate a particular (unempathetic) response. Most of our rules are fairly open-ended. "Relevance," "the best interests of the child," "undue hardship," "negligence," or "freedom of speech" -- to name only a few legal concepts -- hardly admit of precise definition or consistent, predictable application. Rather, they represent a weaker, but still constraining sense of the rule-of-law model. Most rules are guidelines that establish spheres of relevant conversation, not mathematical formulas. Moreover, legal training in a common law system emphasizes the indeterminate nature of rules and the significance of even subtle variations in facts. Our legal tradition stresses an inductive method of discovering legal principles. We are taught to distinguish different "stories," to arrive at "law" through experience with many stories, and to revise that law as future experience requires. Much of the effort of most first-year law professors is, I believe, devoted to debunking popular lay myths about "law" as clean-cut answers, and to illuminate law as a dynamic body of policy determinations constrained by certain guiding principles. 55 As a practical matter, therefore, our rules often are ambiguous and fluid standards that offer substantial room for varying interpretations. The interpreter, usually a judge, may consult several sources to aid in decisionmaking. One important source necessarily will be the judge's own experiences -- including the experiences that seem to determine a person's empathic capacity. In fact, much ink has been spilled to illuminate that our stated "rules" often do not dictate or explain our legal results. Some writers even have argued that a rule of law may be, at times, nothing more than a post hoc rationalization or attempted legitimization [\*2112] of results that may be better explained by extralegal (including, but not necessarily limited to, emotional) responses to the facts, the litigants, or the litigants' lawyers, 56 all of which may go unstated. The opportunity for contextual and empathic decisionmaking therefore already is very much a part of our adjudicatory law, despite our commitment to the rule-of-law ideal. Even when law is clear and relatively inflexible, however, it is not necessarily "unempathetic." The assumed antagonism of legality and empathy is belied by our experience in rape cases, to take one important example. In the past, judges construed the general, open-ended standard of "relevance" to include evidence about the alleged victim's prior sexual conduct, regardless of whether the conduct involved the defendant. 57 The solution to this "empathy gap" was legislative action to make the law more specific -- more formalized. Rape shield statutes were enacted that controlled judicial discretion and specifically defined relevance to exclude the prior sexual history of the woman, except in limited, justifiable situations. 58 In this case, one can make a persuasive argument not only that the rule-of-law model does explain these later rulings, but also that obedience to that model resulted in a triumph for the human voice of the rape survivor. Without the rule, some judges likely would have continued to respond to other inclinations, and admit this testimony about rape survivors. The example thus shows that radical rule skepticism is inconsistent with at least some evidence of actual judicial behavior. It also suggests that the principle of legality is potentially most critical for people who are least understood by the decisionmakers -- in this example, women -- and hence most vulnerable to unempathetic ad hoc rulings. A final observation is that the principle of legality reflects a deeply ingrained, perhaps inescapable, cultural instinct. We value some procedural regularity -- "law for law's sake" -- because it lends stasis and structure to our often chaotic lives. Even within our most intimate relationships, we both establish "rules," and expect the other [\*2113] party to follow them. 59 Breach of these unspoken agreements can destroy the relationship and hurt us deeply, regardless of the wisdom or "substantive fairness" of a particular rule. Our agreements create expectations, and their consistent application fulfills the expectations. The modest predictability that this sort of "formalism" provides actually may encourage human relationships. 60

### Topical AFF---2NC

Public deliberation about drone policy is critical to checking unilateral adventurism---that’s a solvency advocate and a DA to talking about the topic in broad generalizations

Druck-J.D. Candidate, Cornell Law School-10

Droning On: The War Powers Resolution and the Numbing Effect of Technology-Driven Warfare. Cornell Law Review, 98(1), 209-238.

On March 19, 2011, American forces began attacking various targets controlled by Muammar el-Qaddafi as part of NATO’s support for the Libyan antigovernment resistance.1 Promising that no ground troops would be used during these operations,2 President Barack Obama ordered strikes on Qaddafi forces using Tomahawk missiles and bombings from warplanes.3 This order would later include the use of unmanned Predator drones, signaling a shift toward a supporting role for NATO.4 Fighting lasted for months, ultimately culminating in the ousting of Qaddafi by rebel forces.5 Despite the limited nature of the U.S. intervention, questions concerning the legality of the President’s actions quickly arose.6 Under the 1973 War Powers Resolution (WPR),7 which was enacted in the wake of protests during the Vietnam War, the President is required to cease any use of military forces in “hostilities” within sixty days of the conflict’s beginning unless he receives congressional authorization to the contrary.8 Having acted without any support from Congress in the first sixty days, the President had seemingly presented a clear example of a WPR violation. Yet President Obama and State Department legal adviser Harold Koh rejected this view by arguing that the use of force in Libya had not involved the type of “hostilities” covered by the WPR.9 Emphasizing the absence of U.S. casualties and lack of exposure to “exchanges of fire with hostile forces,” the President stood firmly behind his decision to intervene in Libya without consulting Congress.10 Legislators, pundits, and academics alike broadly criticized this legal analysis.11 Yet aside from these particularized complaints, the President ultimately faced no discernible repercussions (judicial, legislative, or social challenges) for his actions.12 From a historical perspective, the absence of substantial backlash is unsurprising: since its inception, the WPR has generally failed to prevent presidents from using military action in an arguably illegal manner.13 In those situations, courts,14 legislators,15 and social movements16 have failed to challenge this sort of presidential action, setting the stage for President Obama’s similar neglect of the WPR. But perhaps we can examine the apathetic treatment of President Obama’s actions in Libya in a different light, one that focuses on the changing nature and conception of warfare itself. Contrary to larger scale conflicts like the Vietnam War, where public (and political) outrage set the stage for Congress’s assertion of war-making power through the WPR,17 the recent U.S. intervention did not involve a draft, nor a change in domestic industry (requiring, for example, civil ians to ration food), and, perhaps most importantly, did not result in any American casualties.18 Consequently, most analyses of the Libyan campaign focused on its monetary costs and other economic harms to American taxpayers.19 This type of input seems too nebulous to cause any major controversy, especially when contrasted with the concurrent costs associated with the wars in Iraq and Afghanistan.20 In a sense, less is at stake when drones, not human lives, are on the front lines, limiting the potential motivation of a legislator, judge, or antiwar activist to check presidential action.21 As a result, the level of nonexecutive involvement in foreign military affairs has decreased. The implications are unsettling: by ameliorating many of the concerns often associated with large-scale wars, technology-driven warfare has effectively removed the public’s social and political limitations that previously discouraged a President from using potentially illegal military force. As President Obama’s conduct illustrates, removing these barriers has opened the door to an unfettered use of unilateral executive action in the face of domestic law.22 Consequently, as war becomes more and more attenuated from the American psyche, a President’s power to use unilateral force without repercussions will likely continue to grow Should the public care that the WPR no longer seems to present a barrier to presidential action? Or, put another way, if the WPR stands for the proposition that the President should not use force unilaterally,23 does that purpose remain relevant given the increased use of technology in modern warfare? This Note answers that question in the affirmative by illustrating the issues created by a toothless WPR in the face of modern advances in military technology and tactics. While the limited nature of technology-driven warfare might ostensibly remove the traditional costs associated with war, many of the concerns held by those who drafted the WPR nevertheless remain. Part I provides a brief history of the WPR, including its creation and subsequent treatment by presidents, courts, and legislators. Specifically, this Part reviews a number of military actions that arguably violated the WPR but were largely ignored by the judiciary and Congress. Part II examines the ways in which an increased level of citizen attentiveness and mobilization has previously carried significant political weight during wartime, only to wane through the advent of technology-driven warfare and the modern trend toward a limited, “no troops on the ground” style of warfare. This Part further examines the effects of such a shift: namely, that technology-driven warfare removes many of the more obvious costs of war seen in larger-scale conflicts, which in turn has limited the will of politicians and activists to mobilize in order to check potentially illegal presidential action. Part III explains why a President unrestrained by the WPR, even in the era of technology-driven warfare, creates significant risks that will become prominent as warfare

## 1NR

### Framing

#### Vote aff despite prior questions—impact timeframe means you gotta act on the best info available

Kratochwil, professor of international relations – European University Institute, 2008 (Friedrich, “The Puzzles of Politics,” pg. 200-213)

The lesson seems clear. Even at the danger of “fuzzy boundaries”, when we deal with “practice” ( just as with the “pragmatic turn”), we would be well advised to rely on the use of the term rather than on its reference (pointing to some property of the object under study), in order to draw the bounds of sense and understand the meaning of the concept. My argument for the fruitful character of a pragmatic approach in IR, therefore, does not depend on a comprehensive mapping of the varieties of research in this area, nor on an arbitrary appropriation or exegesis of any specific and self-absorbed theoretical orientation. For this reason, in what follows, I will not provide a rigidly specified definition, nor will I refer exclusively to some prepackaged theoretical approach. Instead, I will sketch out the reasons for which a pragmatic orientation in social analysis seems to hold particular promise. These reasons pertain both to the more general area of knowledge appropriate for praxis and to the more specific types of investigation in the field. The follow- ing ten points are – without a claim to completeness – intended to engender some critical reflection on both areas. Firstly, a pragmatic approach does not begin with objects or “things” (ontology), or with reason and method (epistemology), but with “acting” (prattein), thereby preventing some false starts. Since, **as historical beings placed in a** specific situations**, we do not have the luxury** of deferring decisions **until we have** found the “truth”, **we have to act and must do so always under time pressures and in the face of incomplete information.** Pre- cisely because the social world is characterised by strategic interactions, what a situation “is”, is hardly ever clear ex ante, because it is being “produced” by the actors and their interactions, and the multiple possibilities are rife with incentives for (dis)information. This puts a premium on quick diagnostic and cognitive shortcuts informing actors about the relevant features of the situ- ation, and on leaving an alternative open (“plan B”) in case of unexpected difficulties. Instead of relying on certainty and universal validity gained through abstraction and controlled experiments, we know that completeness and attentiveness to detail, rather than to generality, matter. To that extent, likening practical choices to simple “discoveries” of an already independently existing “reality” which discloses itself to an “observer” – or relying on optimal strategies – is somewhat heroic. These points have been made vividly by “realists” such as Clausewitz in his controversy with von Bülow, in which he criticised the latter’s obsession with a strategic “science” (Paret et al. 1986). While Clausewitz has become an icon for realists, only a few of them (usually dubbed “old” realists) have taken seriously his warnings against the misplaced belief in the reliability and use- fulness of a “scientific” study of strategy. Instead, most of them, especially “neorealists” of various stripes, have embraced the “theory”-building based on the epistemological project as the via regia to the creation of knowledge. A pragmatist orientation would most certainly not endorse such a position. Secondly, since acting in the social world often involves acting “for” someone, special responsibilities arise that aggravate both the incompleteness of knowledge as well as its generality problem. Since we owe special care to those entrusted to us, for example, as teachers, doctors or lawyers, we cannot just rely on what is generally true, but have to pay special attention to the particular case. Aside from avoiding the foreclosure of options, we cannot refuse to act on the basis of incomplete information or insufficient know- ledge, and the necessary diagnostic will involve typification and comparison, reasoning by analogy rather than generalization or deduction. Leaving out the particularities of a case, be it a legal or medical one, in a mistaken effort to become “scientific” would be a fatal flaw. Moreover, **there still remains the crucial element of “timing” –** of knowing when to act. Students of crises have always pointed out the importance of this factor but, in attempts at building a general “theory” of international politics analogously to the natural sci- ences, such elements are neglected on the basis of the “continuity of nature” and the “large number” assumptions. Besides, “timing” seems to be quite recalcitrant to analytical treatment.

#### Discussing the implications of applying the law to drones is key to predictability and a norms that restrict violence

Leahy 10 (Mary-Kate Leahy, Colonel, US military, “KEEPING UP WITH THE DRONES: IS JUST WAR THEORY OBSOLETE?,” http://www.dtic.mil/dtic/tr/fulltext/u2/a526187.pdf)

Failure to examine whether the laws of war remain relevant or should be modified is dangerous. If we delay or indefinitely defer this discussion the risks associated with this procrastination will continue to accumulate. Without broad agreement on the fundamental issue of who is a legal combatant, ordinary civilians who develop this technology and elected leaders who approve its employment potentially become targets at home and abroad. As the operators of weapon systems become more distant from the physical battlefield, the killing process is “sanitized”; UAS operators‟ exemption from physical danger creates a scenario in which “virtueless” war becomes the norm. In such an environment, the warrior ethos is potentially forever altered – and not for the good. Another risk we face if employment of this technology proceeds unchecked and its moral implications unexamined, is the arrival of the day when a “human in the loop” in UAS employment becomes unnecessary. If that day arrives, the principle of proportionality is irrelevant – because human assessment of the cost versus benefit decision regarding a military strike will have been eliminated. These are just a few of the eventualities which await us if we fail to adequately address how UAS changes the conduct of modern warfare. The seriousness of these issues makes this an issue of strategic importance for the United States, as well as both our friends and our adversaries around the globe.

### AT: USFG Bad

#### 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.

#### No alternative to the law/legal system---other ideas bring more inequality and abuse

Jerold S. Auerbach 83, Professor of History at Wellesley, “Justice Without Law?”, 1983, p. 144-146

As cynicism about the legal system increases, so does enthusiasm for alternative dispute-settlement institutions. The search for alternatives accelerates, as Richard Abel has suggested, "when some fairly powerful interest is threatened by an increase in the number or magnitude of legal rights.\*'6 Alternatives are designed to provide a safety valve, to siphon discontent from courts. With the danger of political confrontation reduced, the ruling power of legal institutions is preserved, and the stability of the social system reinforced. Not incidentally, alternatives prevent the use of courts for redistributive purposes in the interest of equality, by consigning the rights of disadvantaged citizens to institutions with minimal power to enforce or protect them. It is, therefore, necessary to beware of the seductive appeal of alternative institutions. They may deflect energy from political organization by groups of people with common grievances; or discourage effective litigation strategies that could provide substantial benefits. They may, in the end, create a two-track justice system that dispenses informal "justice" to poor people with "small" claims and "minor" disputes, who cannot afford legal services, and who are denied access to courts. (Bar associations do not recommend that corporate law firms divert their clients to mediation, or that business deductions for legal expenses—a gigantic government subsidy for litigation—be eliminated.) Justice according to law will be reserved for the affluent, hardly a novel development in American history but one that needs little encouragement from the spread of alternative dispute-settlement institutions.¶ It is social context and political choice that determine whether courts, or alternative institutions, can render justice more or less accessible—and to whom. Both can be discretionary, arbitrary, domineering—and unjust. Law can symbolize justice, or conceal repression. It can reduce exploitation, or facilitate it. It can prohibit the abuse of power, or disguise abuse in procedural forms. It can promote equality, or sustain inequality. Despite the resiliency and power of law, it seems unable to eradicate the tension between legality and justice: even in a society of (legal) equals, some still remain more equal than others. But diversion from the legal system is likely to accentuate that inequality. Without legal power the imbalance between aggrieved individuals and corporations, or government agencies, cannot be redressed. In American society, as Laura Nader has observed, "disputing without the force of law ... [is| doomed to fail."7 Instructive examples document the deleterious effect of coerced informality (even if others demonstrate the creative possibilities of indigenous experimentation). Freed slaves after the Civil War and factory workers at the turn of the century, like inner-city poor people now, have all been assigned places in informal proceedings that offer substantially weaker safeguards than law can provide. Legal institutions may not provide equal justice under law, but in a society ruled by law it is their responsibility.¶ It is chimerical to believe that mediation or arbitration can now accomplish what law seems powerless to achieve. The American deification of individual rights requires an accessible legal system for their protection. Understandably, diminished faith in its capacities will encourage the yearning for alternatives. But the rhetoric of "community" and "justice" should not be permitted to conceal the deterioration of community life and the unraveling of substantive notions of justice that has accompanied its demise. There is every reason why the values that historically are associated with informal justice should remain compelling: especially the preference for trust, harmony, and reciprocity within a communal setting. These are not, however, the values that American society encourages or sustains; in their absence there is no effective alternative to legal institutions.¶ The quest for community may indeed be "timeless and universal."8 In this century, however, the communitarian search for justice without law has deteriorated beyond recognition into a stunted off-shoot of the legal system. The historical progression is clear: from community justice without formal legal institutions to the rule of law, all too often without justice. But injustice without law is an even worse possibility, which misguided enthusiasm for alternative dispute settlement now seems likely to encourage. Our legal culture too accurately expresses the individualistic and materialistic values that most Americans deeply cherish to inspire optimism about the imminent restoration of communitarian purpose. For law to be less conspicuous Americans would have to moderate their expansive freedom to compete, to acquire, and to possess, while simultaneously elevating shared responsibilities above individual rights. That is an unlikely prospect unless Americans become, in effect, un-American. Until then, the pursuit of justice without law does incalculable harm to the prospect of equal justice.

### AT: Endless War

#### No risk of endless warfare

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7. A policy that favors preventive warfare expresses a futile quest for absolute security. It could do so. Most controversial policies contain within them the possibility of misuse. In the hands of a paranoid or boundlessly ambitious political leader, prevention could be a policy for endless warfare. However, the American political system, with its checks and balances, was designed explicitly for the purpose of constraining the executive from excessive folly. Both the Vietnam and the contemporary Iraqi experiences reveal clearly that although the conduct of war is an executive prerogative, in practice that authority is disciplined by public attitudes. Clausewitz made this point superbly with his designation of the passion, the sentiments, of the people as a vital component of his trinitarian theory of war. 51 It is true to claim that power can be, and indeed is often, abused, both personally and nationally. It is possible that a state could acquire a taste for the apparent swift decisiveness of preventive warfare and overuse the option. One might argue that the easy success achieved against Taliban Afghanistan in 2001, provided fuel for the urge to seek a similarly rapid success against Saddam Hussein’s Iraq. In other words, the delights of military success can be habit forming. On balance, claim seven is not persuasive, though it certainly contains a germ of truth. A country with unmatched wealth and power, unused to physical insecurity at home—notwithstanding 42 years of nuclear danger, and a high level of gun crime—is vulnerable to demands for policies that supposedly can restore security. But we ought not to endorse the argument that the United States should eschew the preventive war option because it could lead to a futile, endless search for absolute security. One might as well argue that the United States should adopt a defense policy and develop capabilities shaped strictly for homeland security approached in a narrowly geographical sense. Since a president might misuse a military instrument that had a global reach, why not deny the White House even the possibility of such misuse? In other words, constrain policy ends by limiting policy’s military means. This argument has circulated for many decades and, it must be admitted, it does have a certain elementary logic. It is the opinion of this enquiry, however, that the claim that a policy which includes the preventive option might lead to a search for total security is **not at all convincing**. Of course, folly in high places is always possible, which is one of the many reasons why popular democracy is the superior form of government. It would be absurd to permit the fear of a futile and dangerous quest for absolute security to preclude prevention as a policy option. Despite its absurdity, this rhetorical charge against prevention is a stock favorite among prevention’s critics. It should be recognized and dismissed for what it is, a debating point with little pragmatic merit. And strategy, though not always policy, **must be nothing if not pragmatic**.

### Violence Key

#### A violent war on terror is the only way to solve—nonviolent solutions empirically fail

Hanson 10—Senior Fellow, Hoover. Former visiting prof, classics, Stanford. PhD in classics, Stanford (Victor Davis, The Tragic Truth of War, 19 February 2010, http://www.victorhanson.com/articles/hanson021910.html)

Victory has usually been defined throughout the ages as forcing the enemy to accept certain political objectives. “Forcing” usually meant killing, capturing, or wounding men at arms. In today’s polite and politically correct society we seem to have forgotten that nasty but eternal truth in the confusing struggle to defeat radical Islamic terrorism. What stopped the imperial German army from absorbing France in World War I and eventually made the Kaiser abdicate was the destruction of a once magnificent army on the Western front — superb soldiers and expertise that could not easily be replaced. Saddam Hussein left Kuwait in 1991 when he realized that the U.S. military was destroying his very army. Even the North Vietnamese agreed to a peace settlement in 1973, given their past horrific losses on the ground and the promise that American air power could continue indefinitely inflicting its damage on the North. When an enemy finally gives up, it is for a combination of reasons — material losses, economic hardship, loss of territory, erosion of civilian morale, fright, mental exhaustion, internal strife. But we forget that central to a concession of defeat is often the loss of the nation’s soldiers — or even the threat of such deaths. A central theme in most of the memoirs of high-ranking officers of the Third Reich is the attrition of their best warriors. In other words, among all the multifarious reasons why Nazi Germany was defeated, perhaps the key was that hundreds of thousands of its best aviators, U-boaters, panzers, infantrymen, and officers, who swept to victory throughout 1939–41, simply perished in the fighting and were no longer around to stop the allies from doing pretty much what they wanted by 1944–45. After Stalingrad and Kursk, there were not enough good German soldiers to stop the Red Army. Even the introduction of jets could not save Hitler in 1945 — given that British and American airmen had killed thousands of Luftwaffe pilots between 1939 and 1943. After the near destruction of the Grand Army in Russia in 1812, even Napoleon’s genius could not restore his European empire. Serial and massive Communist offensives between November 1950 and April 1951 in Korea cost Red China hundreds of thousands of its crack infantry — and ensured that, for all its aggressive talk, it would never retake Seoul in 1952–53. But aren’t these cherry-picked examples from conventional wars of the past that have no relevance to the present age of limited conflict, terrorism, and insurgency where ideology reigns? Not really. We don’t quite know all the factors that contributed to the amazing success of the American “surge” in Iraq in 2007–08. Surely a number of considerations played a part: Iraqi anger at the brutish nature of al-Qaeda terrorists in their midst; increased oil prices that brought massive new revenues into the country; General Petraeus’s inspired counterinsurgency tactics that helped win over Iraqis to our side by providing them with jobs and security; much-improved American equipment; and the addition of 30,000 more American troops. But what is unspoken is also the sheer cumulative number of al Qaeda and other Islamic terrorists that the U.S. military killed or wounded between 2003 and 2008 in firefights from Fallujah to Basra. There has never been reported an approximate figure of such enemy dead — perhaps wisely, in the post-Vietnam age of repugnance at “body counts” and the need to create a positive media image. Nevertheless, in those combat operations, the marines and army not only proved that to meet them in battle was a near death sentence, but also killed thousands of low-level terrorists and hundreds of top-ranking operatives who otherwise would have continued to harm Iraqi civilians and American soldiers. Is Iraq relatively quiet today because many who made it so violent are no longer around? Contemporary conventional wisdom tries to persuade us that there is no such thing as a finite number of the enemy. Instead, killing them supposedly only incites others to step up from the shadows to take their places. Violence begets violence. It is counterproductive, and creates an endless succession of the enemy. Or so we are told. We may wish that were true. But military history suggests it is not quite accurate. In fact, there was a finite number of SS diehards and kamikaze suicide bombers even in fanatical Nazi Germany and imperial Japan. When they were attrited, not only were their acts of terror curtailed, but it turned out that far fewer than expected wanted to follow the dead to martyrdom. The Israeli war in Gaza is considered by the global community to be a terrible failure — even though the number of rocket attacks against Israeli border towns is way down. That reduction may be due to international pressure, diplomacy, and Israeli goodwill shipments of food and fuel to Gaza — or it may be due to the hundreds of Hamas killers and rocketeers who died, and the thousands who do not wish to follow them, despite their frequently loud rhetoric about a desire for martyrdom. Insurgencies, of course, are complex operations, but in general even they are not immune from eternal rules of war. Winning hearts and minds is essential; providing security for the populace is crucial; improving the economy is critical to securing the peace. But all that said, we cannot avoid the pesky truth that in war — any sort of war — killing enemy soldiers stops the violence. For all the much-celebrated counterinsurgency tactics in Afghanistan, note that we are currently in an offensive in Helmand province to “secure the area.” That means killing the Taliban and their supporters, and convincing others that they will meet a violent fate if they continue their opposition. Perhaps the most politically incorrect and Neanderthal of all thoughts would be that the American military’s long efforts in both Afghanistan and Iraq to kill or capture radical Islamists has contributed to the general safety inside the United States. Modern dogma insists that our presence in those two Muslim countries incited otherwise non-bellicose young Muslims to suddenly prefer violence and leave Saudi Arabia, Yemen, or Egypt to flock to kill the infidel invader. A more tragic view would counter that there was always a large (though largely finite) number of radical jihadists who, even before 9/11, wished to kill Americans. They went to those two theaters, fought, died, and were therefore not able to conduct as many terrorist operations as they otherwise would have, and also provided a clear example to would-be followers not to emulate their various short careers. That may explain why in global polls the popularity both of bin Laden and of the tactic of suicide bombing plummeted in the Middle Eastern street — at precisely the time America was being battered in the elite international press for the Iraq War. Even the most utopian and idealistic do not escape these tragic eternal laws of war. Barack Obama may think he can win over the radical Islamic world — or at least convince the more moderate Muslim community to reject jihadism — by means such as his Cairo speech, closing Guantanamo, trying Khalid Sheikh Mohammed in New York, or having General McChrystal emphatically assure the world that killing Taliban and al-Qaeda terrorists will not secure Afghanistan. Of course, such soft- and smart-power approaches have utility in a war so laden with symbolism in an age of globalized communications. But note that Obama has upped the number of combat troops in Afghanistan, and he vastly increased the frequency of Predator-drone assassination missions on the Pakistani border. Indeed, even as Obama damns Guantanamo and tribunals, he has massively increased the number of targeted assassinations of suspected terrorists — the rationale presumably being either that we are safer with fewer jihadists alive, or that we are warning would-be jihadists that they will end up buried amid the debris of a mud-brick compound, or that it is much easier to kill a suspected terrorist abroad than detain, question, and try a known one in the United States. In any case, the president — immune from criticism from the hard Left, which is angrier about conservative presidents waterboarding known terrorists than liberal ones executing suspected ones — has concluded that one way to win in Afghanistan is to kill as many terrorists and insurgents as possible. And while the global public will praise his kinder, gentler outreach, privately he evidently thinks that we will be safer the more the U.S. marines shoot Taliban terrorists and the more Hellfire missiles blow up al-Qaeda planners. Why otherwise would a Nobel Peace Prize laureate order such continued offensive missions? Victory is most easily obtained by ending the enemy’s ability to resist — and by offering him an alternative future that might appear better than the past. We may not like to think all of that entails killing those who wish to kill us, but it does, always has, and tragically always will — until the nature of man himself changes.