## 1NC

### T-1NC

#### 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

#### 1.Limits--- there are an infinite number of aff when you just have to mention the resolution and don’t have to defend it, limits explosion makes research impossible and destroys 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).

#### ---Specific, limited resolutions ensure mutual ground which is key to sustainable argumentative clash without sacrificing the potential for creativity or openness, crucial to decision making

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.

#### And, they are a prerequisite to debate

Ruth Lessl Shively, Assoc Prof Polisci at Texas A&M, 2000 Political Theory and Partisan Politics p. 181-2

The requirements given thus far are primarily negative. The ambiguists must say "no" to—they must reject and limit—some ideas and actions. In what follows, we will also find that they must say "yes" to some things. In particular, they must say "yes" to the idea of rational per­suasion. This means, first, that they must recognize the role of agreement in political contest, or the basic accord that is necessary to discord. The mistake that the ambiguists make here is a common one. The mistake is in thinking that agreement marks the end of contest—that consen­sus kills debate. But this is true only if the agreement is perfect—if there is nothing at all left to question or contest. In most cases, however, our agreements are highly imperfect. We agree on some matters but not on others, on generalities but not on specifics, on principles but not on their applications, and so on. And this kind of limited agreement is the starting condition of contest and debate. As John Courtney Murray writes: We hold certain truths; therefore we can argue about them. It seems to have been one of the corruptions of intelligence by positivism to assume that argument ends when agreement is reached. In a basic sense, the reverse is true. There can be no argument except on the premise, and within a context, of agreement. (Murray 1960, 10) In other words, we cannot argue about something if we are not com­municating: if we cannot agree on the topic and terms of argument or if we have utterly different ideas about what counts as evidence or good argument. At the very least, we must agree about what it is that is being debated before we can debate it. For instance, one cannot have an argument about euthanasia with someone who thinks euthanasia is a musical group. One cannot successfully stage a sit-in if one's target audience simply thinks everyone is resting or if those doing the sitting have no complaints. Nor can one demonstrate resistance to a policy if no one knows that it is a policy. In other words, contest is meaningless if there is a lack of agreement or communication about what is being contested. Resisters, demonstrators, and debaters must have some shared ideas about the subject and/or the terms of their disagree­ments. The participants and the target of a sit-in must share an under­standing of the complaint at hand. And a demonstrator's audience must know what is being resisted. In short, the contesting of an idea presumes some agreement about what that idea is and how one might go about intelligibly contesting it. In other words, contestation rests on some basic agreement or harmony.

#### Generalities are not enough; Debating specific policies on both sides of the targeted killing debate is critical to make us better advocates against government violence—criticizing war without being willing to discuss actual policy details is a bankrupt strategy for social resistance.

--we can use these categories to critique them; simulation does not undercut our potential for critique

--have to roll-play the enemy to know their language and learn their strategies

Mellor 13 (Ewan E. Mellor – European University Institute, Why policy relevance is a moral necessity: Just war theory, impact, and UAVs, Paper Prepared for BISA Conference 2013, accessed: http://www.academia.edu/Documents/in/Drones\_Targeted\_Killing\_Ethics\_of\_War)

This section of the paper considers more generally the need for just war theorists to engage with policy debate about the use of force, as well as to engage with the more fundamental moral and philosophical principles of the just war tradition. It draws on John Kelsay’s conception of just war thinking as being a social practice,35 as well as on Michael Walzer’s understanding of the role of the social critic in society.36 It argues that the just war tradition is a form of “practical discourse” which is concerned with questions of “how we should act.”37 Kelsay argues that: [T]he criteria of jus ad bellum and jus in bello provide a framework for structured participation in a public conversation about the use of military force . . . citizens who choose to speak in just war terms express commitments . . . [i]n the process of giving and asking for reasons for going to war, those who argue in just war terms seek to influence policy by persuading others that their analysis provides a way to express and fulfil the desire that military actions be both wise and just.38 He also argues that “good just war thinking involves continuous and complete deliberation, in the sense that one attends to all the standard criteria at war’s inception, at its end, and throughout the course of the conflict.”39 This is important as it highlights the need for just war scholars to engage with the ongoing operations in war and the specific policies that are involved. The question of whether a particular war is just or unjust, and the question of whether a particular weapon (like drones) can be used in accordance with the jus in bello criteria, only cover a part of the overall justice of the war. Without an engagement with the reality of war, in terms of the policies used in waging it, it is impossible to engage with the “moral reality of war,”40 in terms of being able to discuss it and judge it in moral terms. Kelsay’s description of just war thinking as a social practice is similar to Walzer’s more general description of social criticism. The just war theorist, as a social critic, must be involved with his or her own society and its practices. In the same way that the social critic’s distance from his or her society is measured in inches and not miles,41 the just war theorist must be close to and must understand the language through which war is constituted, interpreted and reinterpreted.42 It is only by understanding the values and language that their own society purports to live by that the social critic can hold up a mirror to that society to demonstrate its hypocrisy and to show the gap that exists between its practice and its values.43 The tradition itself provides a set of values and principles and, as argued by Cian O’Driscoll, constitutes a “language of engagement” to spur participation in public and political debate.44 This language is part of “our common heritage, the product of many centuries of arguing about war.”45 These principles and this language provide the terms through which people understand and come to interpret war, not in a deterministic way but by providing the categories necessary for moral understanding and moral argument about the legitimate and illegitimate uses of force.46 By spurring and providing the basis for political engagement the just war tradition ensures that the acts that occur within war are considered according to just war criteria and allows policy-makers to be held to account on this basis. Engaging with the reality of war requires recognising that war is, as Clausewitz stated, a continuation of policy. War, according to Clausewitz, is subordinate to politics and to political choices and these political choices can, and must, be judged and critiqued.47 Engagement and political debate are morally necessary as the alternative is disengagement and moral quietude, which is a sacrifice of the obligations of citizenship.48 This engagement must bring just war theorists into contact with the policy makers and will require work that is accessible and relevant to policy makers, however this does not mean a sacrifice of critical distance or an abdication of truth in the face of power. By engaging in detail with the policies being pursued and their concordance or otherwise with the principles of the just war tradition the policy-makers will be forced to account for their decisions and justify them in just war language. In contrast to the view, suggested by Kenneth Anderson, that “the public cannot be made part of the debate” and that “[w]e are necessarily committed into the hands of our political leadership”,49 it is incumbent upon just war theorists to ensure that the public are informed and are capable of holding their political leaders to account. To accept the idea that the political leadership are stewards and that accountability will not benefit the public, on whose behalf action is undertaken, but will only benefit al Qaeda,50 is a grotesque act of intellectual irresponsibility. As Walzer has argued, it is precisely because it is “our country” that we are “especially obligated to criticise its policies.”51 Conclusion This paper has discussed the empirics of the policies of drone strikes in the ongoing conflict with those associate with al Qaeda. It has demonstrated that there are significant moral questions raised by the just war tradition regarding some aspects of these policies and it has argued that, thus far, just war scholars have not paid sufficient attention or engaged in sufficient detail with the policy implications of drone use. As such it has been argued that it is necessary for just war theorists to engage more directly with these issues and to ensure that their work is policy relevant, not in a utilitarian sense of abdicating from speaking the truth in the face of power, but by forcing policy makers to justify their actions according to the principles of the just war tradition, principles which they invoke themselves in formulating policy. By highlighting hypocrisy and providing the tools and language for the interpretation of action, the just war tradition provides the basis for the public engagement and political activism that are necessary for democratic politics.52

#### 2. Switch Side Debate The forum of college debate is vitally important for creating effective forms of public deliberation necessary to challenge illegitimate national security policy-switch side debate is intrinsically linked to this process.

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Bridging Competitive Debate and Public Deliberation on Presidential War Powers

http://public.cedadebate.org/node/14

The second major function concerns the specific nature of deliberation over war powers. Given the connectedness between presidential war powers and the preservation of national security, deliberation is often difficult. Mark Neocleous describes that when political issues become securitized; it “helps consolidate the power of the existing forms of social domination and justifies the short-circuiting of even the most democratic forms.” (2008, p. 71). Collegiate debaters, through research and competitive debate, serve as a bulwark against this “short-circuiting” and help preserve democratic deliberation. This is especially true when considering national security issues. Eric English contends, “The success … in challenging the dominant dialogue on homeland security politics points to efficacy of academic debate as a training ground.” Part of this training requires a “robust understanding of the switch-side technique” which “helps prevent misappropriation of the technique to bolster suspect homeland security policies” (English et. al, 2007, p. 224). Hence, competitive debate training provides foundation for interrogating these policies in public. Alarmism on the issues of war powers is easily demonstrated by Obama’s repeated attempts to transfer detainees from Guantanamo Bay. Republicans were able to launch a campaign featuring the slogan, “not in my backyard” (Schor, 2009). By locating the nexus of insecurity as close as geographically possible, the GOP were able to instill a fear of national insecurity that made deliberation in the public sphere not possible. When collegiate debaters translate their knowledge of the policy wonkery on such issues into public deliberation, it serves to cut against the alarmist rhetoric purported by opponents. In addition to combating misperceptions concerning detainee transfers, the investigative capacity of collegiate debate provides a constant check on governmental policies. A new trend concerning national security policies has been for the government to provide “status updates” to the public. On March 28, 2011, Obama gave a speech concerning Operation Odyssey Dawn in Libya and the purpose of the bombings. Jeremy Engels and William Saas describe this “post facto discourse” as a “new norm” where “Americans are called to acquiesce to decisions already made” (2013, p. 230). Contra to the alarmist strategy that made policy deliberation impossible, this rhetorical strategy posits that deliberation is not necessary. Collegiate debaters researching war powers are able to interrogate whether deliberation is actually needed. Given the technical knowledge base needed to comprehend the mechanism of how war powers operate, debate programs serve as a constant investigation into whether deliberation is necessary not only for prior action but also future action. By raising public awareness, there is a greater potential that “the public’s inquiry into potential illegal action abroad” could “create real incentives to enforce the WPR” (Druck, 2010, p. 236). While this line of interrogation could be fulfilled by another organization, collegiate debaters who translate their competitive knowledge into public awareness create a “space for talk” where the public has “previously been content to remain silent” (Engels & Saas, 2013, p. 231). Given the importance of presidential war powers and the strategies used by both sides of the aisle to stifle deliberation, the import of competitive debate research into the public realm should provide an additional check of being subdued by alarmism or acquiescent rhetorics. After creating that space for deliberation, debaters are apt to influence the policies themselves. Mitchell furthers, “Intercollegiate debaters can play key roles in retrieving and amplifying positions that might otherwise remain sedimented in the policy process” (2010, p. 107). With the timeliness of the war powers controversy and the need for competitive debate to reorient publicly, the CEDA/Miller Center series represents a symbiotic relationship that ought to continue into the future. Not only will collegiate debaters become better public advocates by shifting from competition to collaboration, the public becomes more informed on a technical issue where deliberation was being stifled. As a result, debaters reinvigorate debate.

### 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 endless war by substantially restricting drone use

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.

### Case

#### 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.

#### 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.**

#### Agamben’s theory of bare life is wrong --- Bare life is a precondition for resistance not the beginnings of genocide.

Hardt & Negri 2000

Michael, Associate Professor of Literature and Romance Studies at Duke University, and Antonio Negri, independent researcher and writer and an inmate at Rebibbia Prison, former Lecturer in Political Science at the University of Paris and a Professor of Political Science at the University of Padua, Empire, p. 366

It should be clear at this point what constitutes social cooperation here on the surfaces of imperial society: the synergies of life, or really the productive manifestations of naked life. Giorgio Agamben has used the term "naked life" to refer to the negative limit of humanity and to expose behind the political abysses that modern totalitarianism has constructed the (more or less heroic) conditions of human passivity.[[20]](http://textz.gnutenberg.net/#text_20) We would say, on the contrary, that through their monstrosities of reducing human beings to a minimal naked life, fascism and Nazism tried in vain to destroy the enormous power that naked life could become and to expunge the form in which the new powers of productive cooperation of the multitude are accumulated. One might say in line with this idea that the reactionary deliriums of fascism and Nazism were unleashed when capital discovered that social cooperation was no longer the result of the investment of capital but rather an autonomous power, the a priori of every act of production. When human power appears immediately as an autonomous cooperating collective force, capitalist prehistory comes to an end. In other words, capitalist prehistory comes to an end when social and subjective cooperation is no longer a product but a presupposition, when naked life is raised up to the dignity of productive power, or really when it appears as the wealth of virtuality.

#### Consequences must come first

Williams 2000 (Michael, Professor of International Politics at the University of Wales—Aberystwyth, The Realist Tradition and the Limits of International Relations, p. 174-176)

A **commitment to an ethic of consequences reflects a deeper ethic of criticism**, of ‘self-clarification’, and thus of reflection upon the values adopted by an individual or a collectivity. It is part of an attempt to make critical evaluation an intrinsic element of responsibility. Responsibility to this more fundamental ethic gives the ethic of consequences meaning. Consequentialism and responsibility are here drawn into what Schluchter, in terms that will be familiar to anyone conversant with constructivism in International Relations, has called a ‘reflexive principle’. In the wilful Realist vision, **scepticism and consequentialism are linked in an attempt to construct not just** a more substantial vision of **political responsibility, but also the kinds of actors who might adopt it, and the kinds of social structures that might support it**. A consequentialist ethic is not simply a choice adopted by actors: it is a means of trying to foster particular kinds of self-critical individuals and societies, and in so doing to encourage a means by which one can justify and foster a politics of responsibility. **The ethic** of responsibility in wilful Realism **thus involves a commitment to both autonomy and limitation, to freedom and restraint, to an acceptance of limits and the criticism of limits**. Responsibility clearly involves prudence and an accounting for current structures and their historical evolution; but it is not limited to this, for it seeks ultimately the creation of responsible subjects within a philosophy of limits. Seen in this light, the Realist commitment to objectivity appears quite differently. Objectivity in terms of consequentialist analysis does not simply take the actor or action as given, it is a political practice — an attempt to foster a responsible self, undertaken by an analyst with a commitment to objectivity which is itself based in a desire to foster a politics of responsibility. **Objectivity in the sense of coming to terms with the ‘reality’ of contextual conditions and likely outcomes** of action **is not only necessary for success, it is vital for self-reflection, for sustained engagement with the practical and ethical adequacy of one’s views**. The blithe, self-serving, and **uncritical stances of abstract moralism** or rationalist objectivism **avoid self-criticism by refusing to engage with the intractability of the world ‘as it is’. Reducing the world to an expression of their** theoretical models, political platforms, or **ideological programmes, they fail to engage with this reality, and thus avoid the process of self-reflection at the heart of responsibility**. By contrast, Realist objectivity takes an engagement with this intractable ‘object’ that is not reducible to one’s wishes or will as a necessary condition of ethical engagement, self-reflection, and self-creation.7 Objectivity is not a naïve naturalism in the sense of scientific laws or rationalist calculation; it is a necessary engagement with a world that eludes one’s will. **A recognition of the limits imposed by ‘reality’ is a condition for a recognition of one’s own limits — that the world is not simply an extension of one’s own will.** **But it is also a challenge to use that intractability as a source of possibility, as providing a set of openings** within which a suitably chastened and yet paradoxically energised will to action can responsibly be pursued. In the wilful Realist tradition, the essential opacity of both the self and the world are taken as limiting principles. **Limits upon** understanding provide chastening parameters for claims about the world and actions within it. But they also **provide challenging and creative openings within which diverse forms of life can be developed: the limited unity of the self and the political order is the precondition for freedom.** **The** ultimate **opacity of the world is not to be despaired of: it is a condition of possibility for the wilful, creative construction of selves and social orders which embrace the diverse human potentialities** which this lack of essential or intrinsic order makes possible.8 But it is also to be aware of the less salutary possibilities this involves. Indeterminacy is not synonymous with absolute freedom — it is both a condition of, and imperative toward, responsibility.

#### No risk of endless warfare

**Gray 7**—Director of the Centre for Strategic Studies and Professor of International Relations and Strategic Studies at the University of Reading, graduate of the Universities of Manchester and Oxford, Founder and Senior Associate to the National Institute for Public Policy, formerly with the International Institute for Strategic Studies and the Hudson Institute (Colin, July, “The Implications of Preemptive and Preventive War Doctrines: A Reconsideration”, <http://www.ciaonet.org/wps/ssi10561/ssi10561.pdf>)

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**.

#### And drone strikes are moral from baseline historical standards – you can’t criticize without an alternative

Anderson Ph.D in Law, 11 (Kenneth, professor of law at Washington College of Law “Efficiency in Bello and ad Bellum: Targeted Killing Through Drone Warfare” Accessed @ SSRN)

The undefended factual assumption of this argument is that targeted killing using drones results in significantly – vastly – less collateral damage and civilian deaths than other forms of attack. The alternatives include other forms of attack from manned attack aircraft, or attack by human special operations teams on the ground. It is true that there would presumably be no collateral damage if no attack were carried out at all, but that alters the fundamental question beyond recognition. This chapter takes that assumption as given and does not defend it, but it is worth saying something as to why this is a plausible and, at this date, the best assumption regarding civilian harm from targeted killing using drones. The main approaches to collateral damage from targeted killing using drones in Afghanistan and Pakistan are three: First, various European campaigning groups purport to report using local sources, such as Pakistani newspapers and local media or governmental statements. Second, two American groups – with notably distinct political tendencies, the generally liberal New America Foundation and the generally conservative Long War Journal (Bill Roggio of the Foundation for the Defense of Democracies) – have each been estimating strikes and apparent civilian casualties since the mid-2000s. Third, although the US government does not comment openly on CIA operations or other secret strikes, senior officials have made anonymous comments to reporters, but more recently directly on the record, on what the US claims are the levels of civilian casualties. The general lines of those three, at this writing, can be summarized thus. The European campaigning groups suggest hundreds to thousands of civilian casualties over the decade that the US has been engaged in such strikes. The New America Foundation and the Long War Journal have separately estimated civilian casualties in the hundreds; their evaluations today suggest that despite sharply escalating levels of strikes, the rate of civilian casualties has been declining in the last two years. The US government has offered estimates, nearly all off the record, of a hyperbolic “zero” to civilian casualties in the two (sometimes said to be low two) digits. Some important notes on what counts in these attempts at tabulation. First, outsiders do not have direct, ground level access to strike locales, and so casualty counts are very much a function of local reports, which everyone grants carry much possibility of exaggeration or propaganda manipulation. It is not even clear the extent to which US intelligence has access to on the ground reports; it seems to rely heavily on continued Predator drone air surveillance to see what happens on the ground following a strike to determine who was killed, though it might well have intelligence assets on the ground as well. In my opinion as an informed (though entirely outside to government) observer, the truth of the matter is likely higher than the US government says, and unquestionably higher than its lowest estimates – but at most in the low hundreds, if not high two digits. If that is so, certainly I would endorse what now-former CIA director Leon Panetta has said about this technology – it is the most accurate weapon system in the history of warfare. That is so, frankly, even if the numbers are the higher, earlier estimates given by the American monitors. For what it is worth, I do not give much credence to the European campaigners’ estimates, though they are influential in various quarters, but even those estimates, compared to the history of civilian deaths in war, represent a very considerable improvement. This is not intended as a legal judgment as to proportionality, which would require many separate considerations. The point, rather, is that these technologies are making targeting in war more precise on any historical measure, and criticizing them on a snapshot basis – your technology killed civilians, it’s another war crime - rather than on their historical trend line, the horrors of urban battles in the Second World War as a baseline, seems to me morally indefensible. One should be encouraging improvements that will necessarily be incremental and over a long time.

#### The state of exception can be contained---no impact

Jennifer Mitzen 11, PhD, University of Chicago, Associate Professor of Political Science at Ohio State University, Michael E. Newell, “Crisis Authority, the War on Terror and the Future of Constitutional Democracy,” PDF

But what Agamben has potentially overlooked is the conversation between the government, public and media concerning the state of exception. Waever’s desecuritization theory tells us that it is possible for continued debate and media coverage to desecuritize a threat in whole or in part (Waever, 1995). As the War on Terror progressed, more academics and government officials began to speak out against the usefulness of interrogations, the reality of the terrorist threat and the morality of the administration’s policies. Some critics suggested that the terrorist threat was not as imminent as the Administration made it appear, and that “…fears of the omnipotent terrorist…may have been overblown, the threat presented within the United States by al Qaeda greatly exaggerated” (Mueller, 2006). Indeed, as Mueller points out, there have been no terrorist attacks in the United States five years prior and five years after September 11th. The resignation of administration officials, such as Jack Goldsmith, who, it was later learned, sparred with the administration over Yoo’s torture memos, their wiretapping program and their trial of suspected terrorists also contributed to this shift in sentiment (Rosen, 2007). The use of the terms “torture,” and “prisoner abuse,” that began to surface in critical media coverage of the War on Terror framed policies as immoral. As the public gradually learned more from media coverage, academic discourse, and protests from government officials, the administration and its policies saw plummeting popularity in the polls. Two-thirds of the country did not approve of Bush’s handling of the War on Terror by the end of his presidency (Harris Poll) and as of February 2009 two-thirds of the country wanted some form of investigation into torture and wiretapping policies (USA Today Poll, 2009).¶ In November 2008 a Democratic President was elected and Democrats gained substantial ground in Congress partly on promises of changing the policies in the War on Terror. Republican presidential nominees, such as Mitt Romney, who argued for the continuance of many of the Bush administration’s policies in the War on Terror, did not see success at the polls. Indeed, this could be regarded as Waever’s “speech-act failure” which constitutes the moment of desecuritization (Waever, 1995). In this sense, Agamben’s warning of “pure de-facto rule” in the War on Terror rings hollow because of one single important fact: the Bush administration peacefully transferred power to their political rivals after the 2008 elections. The terrorist threat still lingers in the far reaches of the globe, and a strictly Agamben-centric analysis would suggest that the persistence of this threat would allow for the continuance of the state of exception. If Agamben was correct that the United States was under “pure de-facto rule” then arguably its rulers could decide to stay in office and to use the military to protect their position. Instead, Bush and his administration left, suggesting that popular sovereignty remained intact.

#### Rejecting war collapses deterrence and risks nuclear war

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

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### topical version of the aff

#### Focusing public deliberation on the area of technology is critical to challenging modern war

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.

While others focus on the WPR itself,161 the emphasis of this Note is on the public’s role in preventing unilateral presidential action. In this respect, the simplest solution for the numbing effect of contemporary warfare is an increased level of public attentiveness and scrutiny concerning military actions abroad, regardless of the lack of visible costs at home. As we have seen, once the public becomes vigilant about our less-visible foreign actions, we can expect our politicians to become receptive to domestic law. But as this Note points out, the issues surrounding a toothless WPR will continue to grow and amplify as society enters a new age of technology-driven warfare. Thus, there is a pressing need for greater public awareness of the new, and perhaps less obvious, consequences of our actions abroad.162 Perhaps taking note of these unforeseen costs will improve the public’s inquiry into potential illegal action abroad and create real incentives to enforce the WPR.

### State bad

#### People can assert agency in the face of state power, invoking the concept of bare life destroys that

**Casarino et al. 4** (Cesare, Minnesota cultural studies professor,“It’s a Powerful Life: A Conversation on Contemporary Philosophy” Cultural Critique, 57, Spring, JSTOR)

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

---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).

#### ---There is no prerequisite to imagining new forms of institutions --- Their deferral from fiat and the imagination of material change collapses effective politics and ends in totalitarianism.

Leung 2012

Gilbert, University of London, Quoting Slavoj Zizek in ‘Rights, Politics and Paradise: Notes on Zizek’s Silent Voice of a New Beginning,’ Critical Legal Thinking, http://criticallegalthinking.com/2012/03/14/rights-politics-and-paradise-notes-on-zizek/

Zizek has been arguing for a long time that to effect real change, the first step we need to take is a backwards one, to retreat from pseudo-​​activities that make us feel as if we are doing something — including ad hoc and ephemeral protests — but which in reality change nothing. Such a retreat he has called “passive aggressivity”: the potent gesture of withdrawal from systems of ideological repres­sion, the dignified and even Ghandian refusal to parti­cip­ate. In this con­text, the title of his talk makes sense: the silent voice of a new beginning is the withdrawal from hegemonic discourses, the ‘no, we would prefer not to’ that precedes the ‘yes, we demand’. Today, Zizek sees the need for more. Saying ‘no’ is the first step, but the sub­sequent affirmation of the necessity for change requires not only the formulation of political demands, but also some idea of how an alternative society can be organized; or in his words: “ … I think it is important that we start to shift focus from the purely, let me call it ‘negative gesture’ — we reject this debt — to at least try to play with, to imagine, alternative modes of organization” [58m22s]. Zizek is concerned with ensuring the protests effect real change and with how any change can be maintained while avoiding the spectre of totalitarianism. Using Greece as an example, he wonders how things would be organized if the State were to collapse and the ‘people’ were to take over. What would happen at such a juncture? At this point there is an interesting and polemical intervention by Costas Douzinas, who suggests that Zizek has the problem the wrong way round. The question of what happens after some new régime takes over will involve, in Douzinas’s words, a “long process in which programmes will be created … a long democratic process”. The real problem, therefore, is not what is going to happen after any revolution, but how to get there in the first place. Following a series of arguments and counter-arguments over the pertinence, amongst other things, of direct democracy, the debate quickly escalates: Zizek: This is for me the crucial problem and when you say, “well, it’s a long process, we will find it”, it’s just rhetorics. Of course it’s a long process … but your position is basically, if I’ve got it correctly, we cannot say anything, we will see what happens. I mean this is for me a little bit too risky … The big problem is: can we imagine another way of what Gramsci called the “new order” of things functioning normally in a different way. Douzinas: But what you’re saying … the “new order” — this is total eschatology. Zizek: No, because I’m not saying that this is the end of history. Douzinas: No no, what you’re telling us is we have to know how paradise is. Before we know what paradise is we’re not going to make any attempt to get there. And what I’m say­ing is that it is much more import­ant to try to get to para­dise and once we get there we’ll work it out. Because your recipe and your advice all over the world to these move­ments, to people who are stand­ing up and mobil­iz­ing and so on, is that before you have a full blue­print of how soci­ety is going to be after the change you should not do any­thing. Do a bit of protest, do a bit of hippy­dom here and hippy­dom there, and since you do not have your full con­sti­tu­tional order and party in place, for­get it! Zizek: I never said this. What I said is, on the con­trary, that if you just want to go to a paradise without knowing where you are going you can well end in hell. Douz­i­nas: Indeed, this is the chance you take. As [Wal­ter] Ben­jamin said, the worst and best are very close to one another, but unless you aim for the best you don’t get anywhere. Zizek: Let me be concrete. I never spoke about what will be. Who knows what will be? … But my point is this one: I don’t think you can simply say how to get to paradise. Paradise is there. If there is a lesson to be drawn from the sad 20th century experience, it is that the germs of paradise must be already here in how we are organizing … and direct democracy is not enough … Douz­i­nas: You’re a very ima­gin­at­ive guy so use your ima­gin­a­tion and give us some alternative … Zizek: … our focus should … be … on different forms of representation. There lies the true creative work. In normal times, you cannot have permanent activity [in terms of horizontal or direct democracy], you need representation, but you need a type of representation, maybe even less democratic, I don’t know. Douzinas: I don’t think we disagree. Zizek: Yeah … can’t you see what worries me is that we will have a beautiful protest and then this protest will disappear and then all that will remain is that we will feel very well: what a nice time we had dur­ing the protest. Show me what will remain, show me what will remain as new institutional forms!

### A/T We’re T!!

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.

#### 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.

### AT: Government=The people

#### United States federal government refers to the three branches---

Black’s Law ‘90 (Dictionary, p. 695)

“[Government] In the United States, government consists of the executive, legislative, and judicial branches in addition to administrative agencies. In a broader sense, includes the federal government and all its agencies and bureaus, state and county governments, and city and township governments.”

### SSD Impact---2NC

#### Moreover, arguing both sides does not mean you have to stop having an identity, it is the same as keeping an open mind, their argument are analogous to the dogmatic positions that racists and homophobes take “I don’t hate gay black people, they just go against my personal beliefs”

English et al 2007

Eric English, Stephen Llano, Gordon R. Mitchell, Catherine E. Morrison, John Rief and Carly Woods, Communications—University of Pittsburg “Debate as a Weapon of Mass Destruction,” Communication and Critical/Cultural Studies, Volume 4, Number 2, June, http://www.pitt.edu/~gordonm/JPubs/EnglishDAWG.pdf

It is our position, however, that rather than acting as a cultural technology expanding American exceptionalism, switch-side debating originates from a civic attitude that serves as a bulwark against fundamentalism of all stripes. Several prominent voices reshaping the national dialogue on homeland security have come from the academic debate community and draw on its animating spirit of critical inquiry. For example, Georgetown University law professor Neal Katyal served as lead plaintiff ’s counsel in Hamdan , which challenged post-9/11 enemy combat defini- tions.12 The foundation for Katyal’s winning argument in Hamdan was laid some four years before, when he collaborated with former intercollegiate debate champion Laurence Tribe on an influential Yale Law Journal addressing a similar topic.13 Tribe won the National Debate Tournament in 1961 while competing as an undergraduate debater for Harvard University. Thirty years later, Katyal represented Dartmouth College at the same tournament and finished third. The imprint of this debate training is evident in Tribe and Katyal’s contemporary public interventions, which are characterized by meticulous research, sound argumentation, and a staunch commitment to democratic principles. Katyal’s reflection on his early days of debating at Loyola High School in Chicago’s North Shore provides a vivid illustration. ‘‘I came in as a shy freshman with dreams of going to medical school. Then Loyola’s debate team opened my eyes to a different world: one of argumentation and policy.’’ As Katyal recounts, ‘‘the most important preparation for my career came from my experiences as a member of Loyola’s debate team.’’14 The success of former debaters like Katyal, Tribe, and others in challenging the dominant dialogue on homeland security points to the efficacy of academic debate as a training ground for future advocates of progressive change. Moreover, a robust understanding of the switch-side technique and the classical liberalism which underpins it would help prevent misappropriation of the technique to bolster suspect homeland security policies. For buried within an inner-city debater’s files is a secret threat to absolutism: the refusal to be classified as ‘‘with us or against us,’’ the embracing of intellectual experimentation in an age of orthodoxy, and reflexivity in the face of fundamentalism. But by now, the irony of our story should be apparent \*the more effectively academic debating practice can be focused toward these ends, the greater the proclivity of McCarthy’s ideological heirs to brand the activity as a ‘‘weapon of mass destruction.’’

#### ---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.”

### A/T Spanos

#### ---Policy debate encourages interested engagement with other people which solves their offense better than interested engagement with abstract arguments.

Lacy 2002

Jean-Paul, former assistant debate coach for Wake Forest University, <http://cedadebate.org/pipermail/mailman/2002-February/039897.html>

Dr. Spanos: I congratulate you on your clairvoyance. In all the years I've taken part in debate, I've never been able to divine exactly what sort of thinking "debating foster[s]." You must be referring to a different type of institutionalized debate. In the form of debate we practice, it matters greatly what side one takes. We agree to argue about a topic and to take the \*opposite side\* from our opponents. This structural constraint makes all the difference. This kind of debating--where we argue and \*listen\* to both sides of a topic--is a practice in an ethics of listening & engagement which can't be replicated by other institutionalized forms of argument. This is an ethics that demands that we use all our faculties to understand, to hear what others say: Understand well enough that we are capable of articulating their best arguments ourselves. It matters what side one takes because if we just agreed with our opponents about the topic at hand, we would be practicing multi-level marketing rather than \*engaging\* arguments.

## 1NR

### Link

#### A. Restrictions are prohibitions on action --- excludes conditions

Jean Schiedler-Brown 12, Attorney, Jean Schiedler-Brown & Associates, Appellant Brief of Randall Kinchloe v. States Dept of Health, Washington, The Court of Appeals of the State of Washington, Division 1, http://www.courts.wa.gov/content/Briefs/A01/686429%20Appellant%20Randall%20Kincheloe%27s.pdf

3. The ordinary definition of the term "restrictions" also does not include the reporting and monitoring or supervising terms and conditions that are included in the 2001 Stipulation.

Black's Law Dictionary, 'fifth edition,(1979) defines "restriction" as;

A limitation often imposed in a deed or lease respecting the use to which the property may be put. The term "restrict' is also cross referenced with the term "restrain." Restrain is defined as; To limit, confine, abridge, narrow down, restrict, obstruct, impede, hinder, stay, destroy. To prohibit from action; to put compulsion on; to restrict; to hold or press back. To keep in check; to hold back from acting, proceeding, or advancing, either by physical or moral force, or by interposing obstacle, to repress or suppress, to curb.

In contrast, the terms "supervise" and "supervisor" are defined as; To have general oversight over, to superintend or to inspect. See Supervisor. A surveyor or overseer. . . In a broad sense, one having authority over others, to superintend and direct. The term "supervisor" means an individual having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but required the use of independent judgment.

Comparing the above definitions, it is clear that the definition of "restriction" is very different from the definition of "supervision"-very few of the same words are used to explain or define the different terms. In his 2001 stipulation, Mr. Kincheloe essentially agreed to some supervision conditions, but he did not agree to restrict his license.

#### B. Voting Issue---Precision—restrictions must be a distinct term for debate to occur

Heinze-Senior Lecturer Law, University of London-3

(Senior Lecturer in Law, University of London, Queen Mary. He has held fellowships from the Fulbright Foundation and the French and German governments. He teaches Legal Theory, Constitutional Law, Human Rights and Public International Law. JD Harvard) 2003 “The Logic of Liberal Rights A study in the formal analysis of legal discourse” http://mey.homelinux.org/companions/Eric%20Heinze/The%20Logic%20of%20Liberal%20Rights\_%20A%20Study%20in%20%20%28839%29/The%20Logic%20of%20Liberal%20Rights\_%20A%20Study%20in%20%20-%20Eric%20Heinze.pdf

Variety of ‘restrictions’

The term ‘restriction’, defined so broadly, embraces any number of familiar concepts: ‘deprivation’, ‘denial’, ‘encroachment’, ‘incursion’, ‘infringement’, ‘interference’, ‘limitation’, ‘regulation’. Those terms commonly comport differences in meaning or nuance, and are not all interchangeable in standard legal usage. For example, a ‘deprivation’ may be distinguished from a ‘limitation’ or ‘regulation’ in order to denote a full denial of a right (e.g. where private property is wholly appropriated by the state 16 Agents without compensation) as opposed to a partial constraint (e.g. where discrete restrictions are imposed on the use of property which nonetheless remains profitably usable). Similarly, distinctions between acts and omissions can leave the blanket term ‘restriction’ sounding inapposite when applied to an omission: if a state is accused of not doing enough to give effect to a right, we would not colloquially refer to such inaction as a ‘restriction’. Moreover, in a case of extreme abuse, such as extrajudicial killing or torture, it might sound banal to speak merely of a ‘restriction’ on the corresponding right. However, the term ‘restriction’ will be used to include all of those circumstances, in so far as they all comport a purpose or effect of extinguishing or diminishing the right-seeker’s enjoyment of an asserted right. (The only significant distinction which will be drawn will be between that concept of ‘restriction’ and the concept of ‘breach’ or ‘violation’. The terms ‘breach’ or ‘violation’ will be used to denote a judicial determination about the legality of the restriction.6) Such an axiom may seem unwelcome, in so far as it obliterates subtleties which one would have thought to be useful in law. It must be stressed that we are seeking to eliminate that variety of terms not for all purposes, but only for the very narrow purposes of a formal model, for which any distinctions among them are irrelevant.

### Predictions

#### ---We solve your turns --- Affirming prediction reclaims the future for the forces of pragmatic political change and sparks ideas on how to overcome problematic futurisms.

Kurasawa 2004

Fuyuki, Constellation, v. 11, no. 4, “Cautionary Tales,” Blackwell

As we float in a mood of post-millennial angst, the future appears to be out of favor. Mere mention of the idea of farsightedness – of trying to analyze what may occur in our wake in order to better understand how to live in the here and now – conjures up images of fortune-telling crystal balls and doomsday prophets, or of eccentric pundits equipped with data-crunching supercomputers spewing forth fanciful prognostications. The future, then, has seemingly become the province of mystics and scientists, a realm into which the rest of us rarely venture. This curious situation goes back to a founding paradox of early modernity, which sought to replace pagan divination and Judeo-Christian eschatology with its own rational system of apprehending time. Thus came into being the philosophy of history, according to which human destiny unfolds teleologically by following a knowable and meaningful set of chronological laws leading to a final state of perfection; Condorcet, Kant, Hegel, and Marx, to name but a few, are the children of this kind of historicism that expresses an unwavering faith in the Enlightenment’s credo of inherent progress over time. Yet in our post-metaphysical age, where the idea of discovering universal and stable temporal laws has become untenable, the philosophy of history lies in ruins. What has stepped into the breach is a variety of sciences of governance of the future, ranging from social futurism to risk management. By developing sophisticated modeling techniques, prognosticators aim to convert the future into a series of predictable outcomes extrapolated from present-day trends, or a set of possibilities to be assessed and managed according to their comparative degrees of risk and reward.1 Although commendable in their advocacy of farsightedness, these scientistic forms of knowledge are hampered by the fact that their longing for surefire predictive models have inevitably come up short. If historicism and scientistic governance offer rather unappealing paradigms for contemplating the future, a turn to the conventional political forecasts of the post-Cold War world order hardly offers more succor. Entering the fray, one is rapidly submerged by Fukuyama’s “end of history,” Huntington’s “clash of civilizations,” Kaplan’s “coming anarchy,” or perhaps most distressing of all, the so-called ‘Bush Doctrine’ of unilateral pre-emption. For the Left, this array of unpalatable scenarios merely prolongs the sense of hope betrayed and utopias crushed that followed the collapse of the socialist experiment. Under such circumstances, is it any wonder that many progressive thinkers dread an unwelcomed future, preferring to avert their gazes from it while eyeing foresight with equal doses of suspicion and contempt? But neither evasion nor fatalism will do. Some authors have grasped this, reviving hope in large-scale socio-political transformation by sketching out utopian pictures of an alternative world order. Endeavors like these are essential, for they spark ideas about possible and desirable futures that transcend the existing state of affairs and undermine the flawed prognoses of the post-Cold War world order; what ought to be and the Blochian ‘Not-Yet’ remain powerful figures of critique of what is, and inspire us to contemplate how social life could be organized differently. Nevertheless, my aim in this paper is to pursue a different tack by exploring how a dystopian imaginary can lay the foundations for a constructive engagement with the future.

### Nuclear Terror

Terrorism assures nuclear use

Etzioni 5 (Amitai, GWU Sociology Prof, "Enforcing Nuclear Disarmament," Winter, Lexis)

There are several reasons why nuclear terrorism is much more challenging than nuclear attacks from rogue states and hence deserves much more attention and greater dedication of resources than it currently receives. First of all, the list of rogue states is small and well known, and their actions can be monitored with relative ease. The opposite holds true for terrorists. Their numbers are large, their identities are often unknown, and their actions are difficult to track. Second, rogue states are easier to deter from using their nuclear arms than are terrorists, especially those willing to commit suicide, a sacrifice which more than a few have shown themselves ready to make. It is true that the leaders of some rogue states are unstable, and they could act irrationally or simply miscalculate, disregarding the fact that their regime-and they personally-would not survive if they employed nuclear weapons against the U.S. mainland or even one of its allies-or if it became known that they provided terrorists with such arms. However, miscalculations of the magnitude that would lead a Kim Jong-il or the mullahs of Iran to use nuclear weapons are very rare indeed. In contrast, if terrorists acquired a nuclear bomb or the material to make one, they would not fear retaliation, and they could not be deterred by a balance of terror. Indeed, terrorists often hold that if their actions lead to attacks on their own homelands, then support for their cause would increase. Moreover, because terrorists are not the army of one state, it is often difficult to determine against which nation to retaliate, and thus whom to deter and how. This dilemma was all too evident when the United States learned after 9/11 that 15 of the 19 hijackers were Saudi Arabian nationals. Therefore, there are several strong reasons to rank the danger of nuclear terrorism much higher than the danger of nuclear strikes by rogue states-yet U.S. foreign policy, its military, its intelligence agencies and their covert actions and other resources are focused on dealing with rogue nuclear states both alleged and real, and not the hundreds of sites from which terrorists can acquire nuclear material and the few from which they could obtain ready-made bombs.

#### Extinction – collapses traditional rationality calculus and escalates

**Morgan, Hankuk University of Foreign Studies, 2009**

(Dennis, World on fire: two scenarios of the destruction of human civilization and possible extinction of the human race Futures, Volume 41, Issue 10, December, ldg)

In a remarkable website on nuclear war, Carol Moore asks the question “Is Nuclear War Inevitable??” In Section , Moore points out what most terrorists obviously already know about the nuclear tensions between powerful countries. No doubt, they’ve figured out that the best way to escalate these tensions into nuclear war is to set off a nuclear exchange. As Moore points out, all that militant terrorists would have to do is get their hands on one small nuclear bomb and explode it on either Moscow or Israel. Because of the Russian “dead hand” system, “where regional nuclear commanders would be given full powers should Moscow be destroyed,” it is likely that any attack would be blamed on the United States” Israeli leaders and Zionist supporters have, likewise, stated for years that if Israel were to suffer a nuclear attack, whether from terrorists or a nation state, it would retaliate with the suicidal “Samson option” against all major Muslim cities in the Middle East. Furthermore, the Israeli Samson option would also include attacks on Russia and even “anti-Semitic” European cities In that case, of course, Russia would retaliate, and the U.S. would then retaliate against Russia. China would probably be involved as well, as thousands, if not tens of thousands, of nuclear warheads, many of them much more powerful than those used at Hiroshima and Nagasaki, would rain upon most of the major cities in the Northern Hemisphere. Afterwards, for years to come, massive radioactive clouds would drift throughout the Earth in the nuclear fallout, bringing death or else radiation disease that would be genetically transmitted to future generations in a nuclear winter that could last as long as a 100 years, taking a savage toll upon the environment and fragile ecosphere as well. And what many people fail to realize is what a precarious, hair-trigger basis the nuclear web rests on. Any accident, mistaken communication, false signal or “lone wolf’ act of sabotage or treason could, in a matter of a few minutes, unleash the use of nuclear weapons, and once a weapon is used, then the likelihood of a rapid escalation of nuclear attacks is quite high while the likelihood of a limited nuclear war is actually less probable since each country would act under the “use them or lose them” strategy and psychology; restraint by one power would be interpreted as a weakness by the other, which could be exploited as a window of opportunity to “win” the war. In other words, once Pandora's Box is opened, it will spread quickly, as it will be the signal for permission for anyone to use them. Moore compares swift nuclear escalation to a room full of people embarrassed to cough. Once one does, however, “everyone else feels free to do so. The bottom line is that as long as large nation states use internal and external war to keep their disparate factions glued together and to satisfy elites’ needs for power and plunder, these nations will attempt to obtain, keep, and inevitably use nuclear weapons. And as long as large nations oppress groups who seek self-determination, some of those groups will look for any means to fight their oppressors” In other words, as long as war and aggression are backed up by the implicit threat of nuclear arms, it is only a matter of time before the escalation of violent conflict leads to the actual use of nuclear weapons, and once even just one is used, it is very likely that many, if not all, will be used, leading to horrific scenarios of global death and the destruction of much of human civilization while condemning a mutant human remnant, if there is such a remnant, to a life of unimaginable misery and suffering in a nuclear winter. In “Scenarios,” Moore summarizes the various ways a nuclear war could begin: Such a war could start through a reaction to terrorist attacks, or through the need to protect against overwhelming military opposition, or through the use of small battle field tactical nuclear weapons meant to destroy hardened targets. It might quickly move on to the use of strategic nuclear weapons delivered by short-range or inter-continental missiles or long-range bombers. These could deliver high altitude bursts whose electromagnetic pulse knocks out electrical circuits for hundreds of square miles. Or they could deliver nuclear bombs to destroy nuclear and/or non-nuclear military facilities, nuclear power plants, important industrial sites and cities. Or it could skip all those steps and start through the accidental or reckless use of strategic weapons