**1**

**“Introducing USAF into hostilities” refers to human personnel- explicitly excludes nukes**

NAME: Ray **Forrester 89** \* BIO: \* Professor, Hastings College of the Law, University of California. Former dean of the law schools at Vanderbilt, Tulane, and Cornell. The George Washington Law Review AUGUST, 1989 57 Geo. Wash. L. Rev. 1636 LENGTH: 2998 words ESSAY: Presidential Wars in the Nuclear Age: An Unresolved Problem. Lexis

Even if the Court assumed its responsibility to tell us whether the Constitution gives Congress the necessary power to check the President, the War Powers Resolution itself is unclear. Does the Resolution require the President to consult with Congress before launching a nuclear attack? It has been asserted that "**introducing United States Armed Forces into hostilities" refers only to military personnel and does not include the launching of nuclear missiles alone**. In support of this interpretation, it has been argued that Congress was concerned about the human losses in Vietnam and in other presidential wars, rather than about the weaponry

**Limits- they exponentially multiply the size of the topic- justifies the entire nukes topic, space weapons, missile defense, EMP, ASATs, bioweapons—even hypothetical future weapons that may or may not be invented like AI or chemical soldiers- draw a line early in the year to protect neg research**

**Ground—avoid links to “hostilities” because no US personnel are in danger**

**2**

**A. Interpretation**

**“Statutory restrictions” require congressional action**

**Kershner 10** (Joshua, Articles Editor, Cardozo Law Review. J.D. Candidate (June 2011), Benjamin N. Cardozo School of Law, “Political Party Restrictions and the Appointments Clause: The Federal Election Commission's Appointments Process Is Constitutional” Cardozo Law Review de novo 2010 Cardozo L. Rev. De Novo 615)

**The process by which the President fills an Executive Branch position is governed by the Appointments Clause:**

[The President] shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments. n81

**This process is divided into three phases: (1) Congress creates an Executive Branch position by statute**; n82 (2) the President nominates an individual to fill the position; n83 and (3) the Senate confirms the nominee. n84 The Clause covers a specified list of positions and the generic "other Officers of the United States." n85 **The Clause controls who nominates, appoints, and confirms an individual for such a position**. n86 Finally, the Clause defines a separate process for inferior officers. n87 It should be noted, however, that the Appointments Clause limits but does not empower Congress to create positions. n88 That power comes from the Necessary and Proper Clause. n89

**The House of Representatives has no role in the process of nomination and appointment and is specifically not mentioned in the [\*626] Appointments Clause**. All of **the powers contained in the Appointments Clause are reserved to the President, the Senate, or both**. n90 The Appointments Clause makes a distinction between the power to nominate and the separate power to appoint. **The power of nomination is textually reserved to the President of the United States, n91 whereas the power of appointment is shared by the President and the Senate**. n92 **Statutory restrictions violate the plain text of the Appointments Clause because the very act of passing a statute requires the involvement of the House of Representatives.** n93

**Statutory restrictions on the appointments process are further problematic because the Appointments Clause's power to nominate is vested solely in the President**. n94 Those statutory restrictions that limit the President's power to nominate violate the plain text of the Clause. n95 **Where the Constitution provides a clear procedural process, the Supreme Court has consistently applied strict principles of formalism,** construing the text so as to limit, rather than expand, the powers of the various branches of government. n96

The Senate's role in the appointments process is the final confirmation of a nominee. n97 The "advice and consent" of the Senate applies only to the appointment power. n98 The President and the Senate have interpreted advice as non-binding guidance, and have interpreted [\*627] consent as the act of confirmation. n99 Thus, the Appointments Clause gives the Senate only the narrow function of confirming nominees. n100

**Judicial restrictions” are imposed by the court**

**Singer 7** (Jana, Professor of Law, University of Maryland School of Law, SYMPOSIUM A HAMDAN QUARTET: FOUR ESSAYS ON ASPECTS OF HAMDAN V. RUMSFELD: HAMDAN AS AN ASSERTION OF JUDICIAL POWER, Maryland Law Review 2007 66 Md. L. Rev. 759)

n25. See, e.g., Dep't of the Navy v. Egan, 484 U.S. 518, 530 (1988) (**noting the reluctance of courts "to intrude upon the authority of the Executive in military and national security affairs**"); see also Katyal, supra note 1, at 84 (noting that "in war powers cases, the passive virtues operate at their height to defer adjudication, sometimes even indefinitely"); Harold Hongju Koh, Why the President (Almost) Always Wins in Foreign Affairs: Lessons of the Iran-Contra Affair, 97 Yale L.J. 1255, 1313-17 (1988) (**discussing the Court's use of justiciability doctrines to refuse to hear challenges to the President's authority in cases involving foreign affairs**); Gregory E. Maggs, The Rehnquist Court's Noninterference with the Guardians of National Security, 74 Geo. Wash. L. Rev. 1122, 1124-38 (2006) (discussing the Rehnquist Court's general policy of nonintervention in cases concerning actions of governmental agencies and political entities in national security matters); Peter E. Quint, **Reflections on the Separation of Powers and Judicial Review at the End of the Reagan Era**, 57 Geo. Wash. L. Rev. 427, 433-34 (1989) (**discussing the use of the political question doctrine as a means to avoid judicial restrictions on presidential power in cases involving military force**).

**B. Violation—the aff does not advocate an increase in statuatory or judicial restrictions**

**C. Vote negative**

**1. Limits—by arbitrarily choosing to not defend parts of the topic, they explode the possible number of affs—makes neg research prep impossible**

**A limited topic with equitable ground is necessary to foster decision-making and clash**

**Steinberg & Freeley 8** \*Austin J. Freeley is a Boston based attorney who focuses on criminal, personal injury and civil rights law, AND \*\*David L. Steinberg , Lecturer of Communication Studies @ U Miami, **Argumentation and** Debate: Critical Thinking for Reasoned Decision Making pp 45-

**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.**

**2. Topic education—they avoid the core question of the resolution, which is how authority can be limited—allows them to spike out of circumvention arguments which kills negative ground**

**Discussing implementation is crucial to influence real policymakers—without tying advocacy to the details of policy, debate becomes irrelevant**

**Nye 09** - Joseph Nye, professor at Harvard University and former dean of the Harvard Kennedy School, 4-13-2009, Washington Post, http://www.washingtonpost.com/wp-dyn/content/article/2009/04/12/AR2009041202260\_pf.html 4-13-09

President Obama has appointed some distinguished academic economists and lawyers to his administration, but few high-ranking political scientists have been named. In fact, the editors of a recent poll of more than 2,700 international relations experts declared that "**the walls surrounding the ivory tower have never seemed so high**." While important American scholars such as Henry Kissinger and Zbigniew Brzezinski took high-level foreign policy positions in the past, that path has tended to be a one-way street. **Not many top-ranked scholars** of international relations **are going into government**, and even fewer return to contribute to academic theory. The 2008 Teaching, Research and International Policy (TRIP) poll, by the Institute for Theory and Practice in International Relations, showed that of the 25 scholars rated as producing the most interesting scholarship during the past five years, only three had ever held policy positions (two in the U.S. government and one in the United Nations). **The fault** for this growing gap **lies** not with the government but **with** the **academics**. **Scholars** are **pay**ing **less attention to** questions about **how their work relates to the policy world**, and in many departments a focus on policy can hurt one's career. Advancement comes faster for those who develop mathematical models, new methodologies or theories expressed in jargon that is unintelligible to policymakers. A survey of articles published over the lifetime of the American Political Science Review found that about one in five dealt with policy prescription or criticism in the first half of the century, while only a handful did so after 1967. Editor Lee Sigelman observed in the journal's centennial issue that "if 'speaking truth to power' and contributing directly to public dialogue about the merits and demerits of various courses of action were still numbered among the functions of the profession, one would not have known it from leafing through its leading journal." As citizens, **academics might be considered to have an obligation to help improve on policy ideas when they can**. Moreover, **such engagement can enhance** and enrich **academic work, and** thus **the ability of academics to teach the next generation**. As former undersecretary of state David Newsom argued a decade ago, "**the** growing **withdrawal of** university **scholars behind curtains of theory** and modeling **would** not have wider significance if this trend did not **raise questions regarding the preparation of new generations and the future influence of the academic community on public and official perceptions of international issues** and events. **Teachers plant seeds that shape the thinking of each new generation**; **this is** probably **the academic world's most lasting contribution**." Yet too often scholars teach theory and methods that are relevant to other academics but not to the majority of the students sitting in the classroom before them. **Some** academics **say that while the** growing **gap between theory and policy may have costs for policy**, **it** has **produced better social science theory**, and that **this is more important than whether such scholarship is relevant**. Also, to some extent, the gap is an inevitable result of the growth and specialization of knowledge. Few people can keep up with their subfields, much less all of social science. But **the danger is** that **academic theorizing will say more and more about less and less**. Even when **academics** supplement their usual trickle-down approach to policy by writing in journals, newspapers or blogs, or by consulting for candidates or public officials, they **face** many **competitors for attention**. More than 1,200 **think tanks** in the United States **provide not only ideas but also experts ready to comment** or consult **at a moment's notice**. Some of these new transmission belts serve as translators and additional outlets for academic ideas, but **many add a bias** provided by their founders and funders. As a group, think tanks are heterogeneous in scope, funding, ideology and location, but **universities generally offer a more neutral viewpoint.** While pluralism of institutional pathways is good for democracy, **the policy process is diminished by the withdrawal of the academic community**. **The solutions must come via a reappraisal within the academy itself**. Departments should give greater weight to real-world relevance and impact in hiring and promoting young scholars. Journals could place greater weight on relevance in evaluating submissions. Studies of specific regions deserve more attention. Universities could facilitate interest in the world by giving junior faculty members greater incentives to participate in it. That should include greater toleration of unpopular policy positions. One could multiply such useful suggestions, but young people should not hold their breath waiting for them to be implemented. If anything, the trends in academic life seem to be headed in the opposite direction.

### 3

**U.S. has nuclear primacy now—first strike capacity key to deterring nuclear-armed adversaries, checking war**

[China, Iran, North Korea]

Keir A. **Lieber**, Associate Professor, Georgetown University and Daryl G. Press, Associate Professor, Dartmouth College, “The new Era of Nuclear Weapons, Deterrence, and Conflict,” STRATEGIC STUDIES QUARTERLY v. 7 n. 1, Spring 20**13**, Gale.

The Counterforce Revolution and US Nuclear Primacy¶ The first set of arguments is about an important, yet virtually unnoticed, consequence of changes in military technology and the balance of power. In a nutshell, the same revolution in accuracy that has transformed conventional warfare has had equally momentous consequences for nuclear weapons and deterrence. (2) **Very accurate delivery systems, new reconnaissance technologies, and the downsizing of arsenals from Cold War levels have made** both conventional and **nuclear counterforce strikes against nuclear arsenals much more feasible than ever before.** Perhaps most surprising, **pairing highly accurate delivery systems with nuclear weapons permits target strategies that would create virtually no radioactive fallout, hence, vastly reduced fatalities.¶** **For** nuclear **analysts weaned on** two seeming **truths** of the Cold War era--**that nuclear arsenals reliably deter attacks** via the threat of retaliation, **and that nuclear weapons use is tantamount to mass slaughter**--the **implications of the counterforce revolution should be jarring.¶** The conventional view linking nuclear weapons to stalemate and slaughter was correct during the latter decades of the Cold War. By the mid 1960s, a truly effective nuclear counterforce strike by either side--that is, a disarming blow by one superpower against the nuclear arsenal of the other--had become impossible. (3) Each of the superpowers wielded an enormous arsenal, which was deployed on a diverse set of delivery systems. The sheer number of targets that would have to be destroyed, combined with the limitations of contemporary guidance systems, virtually guaranteed that any disarming attack would fail, leaving the enemy with a large number of surviving weapons with which to retaliate. Furthermore, any significant counterforce strike would have produced enormous quantities of lethal radioactive fallout and hence caused millions of civilian casualties. (4) Most Cold War strategists--many of whom are still active in the nuclear analytical community today--came to instinctively associate nuclear weapons with stalemate and nuclear use with Armageddon.¶ But nuclear weapons--like virtually all other weapons--have changed dramatically over the past four decades. **Modern guidance systems permit nuclear planners to achieve "probabilities of damage" against hardened nuclear targets that were unheard of during the Cold War. And heightened accuracy also permits nontraditional targeting strategies that would further increase the effectiveness of counterforce strikes and greatly reduce casualties.** (5) **The revolution in accuracy and sensors, and the relatively small contemporary arsenals, mean that nuclear balances around the world--for example, between the U**nited **S**tates **and China**, the United **States and North Korea**, **and** perhaps in the future between **Iran** and Israel--**bear little resemblance to the Cold War superpower standoff.¶** To illustrate the revolution in accuracy, in 2006 **we modeled the hardest case for our claim: a hypothetical US first strike on** the next largest nuclear arsenal in the world, that of **Russia**. The same **models** that were used during the Cold War to demonstrate the inescapability of stalemate--the condition of "mutual assured destruction," or MAD--now **suggested that even the large Russian arsenal could be destroyed in a disarming strike.** (6) Furthermore, the dramatic leap in accuracy--which is the foundation for effective counterforce--is based on widely available technologies within reach of other nuclear-armed states, including Russia, China, Pakistan, and others. Our overriding message is not about the US-Russian nuclear balance per se. Rather, our point is that key beliefs about nuclear weapons have been overturned; scholars and analysts need to reexamine their underlying assumptions about nuclear stalemate and deterrence.¶ Since 2006, we have discussed these issues with many nuclear analysts, US government officials, and military officers involved with the nuclear mission. Almost everything we learned reinforced our views about the counterforce revolution and suggests our earlier work understated the leap in US counterforce capabilities--with one exception. We previously argued that US "nuclear primacy"--the ability to use nuclear weapons to destroy the strategic forces of any other country--appeared to be an intentional goal of US policymakers. We noted that **even as the U**nited **S**tates **greatly reduced its nuclear arsenal, it retained, and in some cases improved, those nuclear forces that were ideally suited to the counterforce mission.** Based on what we have subsequently learned, we would recast and sharpen this part of our argument to contend that **the U**nited **S**tates **is intentionally pursuing "strategic primacy"--meaning** that **Washington seeks the ability to defeat enemy nuclear forces** (as well as other WMD)--but that US nuclear weapons are but one dimension of that effort. In fact, the effort to neutralize adversary strategic forces--that is, achieve strategic primacy--spans nearly every realm of warfare: for example, ballistic missile defense, antisubmarine warfare, intelligence-surveillance-and-reconnaissance systems, offensive cyber warfare, conventional precision strike, and long-range precision strike, in addition to nuclear strike capabilities.¶ In sum, two fundamental "truths" about nuclear weapons--they reliably produce stalemate and their use would necessarily create mass casualties--have been quietly overturned by changes in technology and dramatic force reductions. Unfortunately, many contemporary analyses of nuclear politics seem to rest on the assumption that nuclear deterrence still functions as it did in the 1970s. The stipulation of mass slaughter under MAD conditions may be true for some nuclear relationships in the world but not for others. And new conditions generate new questions: for example, how is deterrence likely to work when nuclear use does not automatically imply suicide and mass slaughter? In particular, what are the implications for US nuclear policy?¶ The Problem of Coercive Escalation and US Nuclear Modernization¶ A second set of arguments stems from the problem of nuclear escalation and the future of the US nuclear arsenal. Our main claim is that **deterring nuclear conflict will be much more difficult in the coming decades** than many analysts realize. **As nuclear weapons proliferate, it becomes increasingly likely that the United States will find itself in conventional conflicts with nuclear-armed adversaries. Those adversaries understand the consequences of losing a war to the U**nited **S**tates--prison or death typically awaits enemy leaders. (7) **Coercive nuclear escalation as a means of creating stalemate** and remaining in power **is one of the only trump cards available to countries fighting the United States.¶** Some analysts might scoff at the notion that **a rational leader would use nuclear weapons against** a superpower like **the U**nited **S**tates. But that retort conflates the logic of peacetime deterrence with the logic of war, and it ignores history. During peacetime, almost any course of action is better than starting a nuclear war against a superpower. But **during war**--when that superpower's planes are bombing command and leadership sites, and when its tanks are seizing territory--**the greatest danger may be to refrain from escalation and let the war run its course. Leaders of weaker states--those unlikely to prevail on the conventional battlefield--face life-and-death pressures to compel a stalemate.** And nuclear weapons provide a better means of coercive escalation than virtually any other.¶ **The notion of countries escalating conflict to avoid conventional defeat** may sound far-fetched, but it **is well grounded in history.** When nuclear-armed states face overwhelming conventional threats--or worry about the possibility of catastrophic conventional defeat--they often adopt coercive escalatory doctrines to deter war or stalemate a conflict that erupts. **Pakistan openly intends to use nuclear weapons to counter an overwhelming conventional Indian invasion. Russia claims it needs theater nuclear weapons to counter NATO's conventional advantages. Israel expects to win its conventional wars but retains the capability for nuclear escalation** to prevent conquest in case its conventional forces suffer a catastrophic defeat.¶ The discussion of coercive nuclear escalation should sound familiar to Western analysts, as it was NATO's strategy for three decades. From the mid 1960s until the end of the Cold War, NATO planned to deter war, and stalemate it if necessary, through coercive nuclear escalation. NATO understood that--by the mid 1960s--it could no longer win a nuclear war against the Soviet Union, but it still based its national security strategy on coercive escalation because it believed Warsaw Pact conventional forces were overwhelming.¶ In short, the escalatory dynamics that existed during the Cold War exist today--and they are just as powerful. States still face the same critical national security problem they faced during the Cold War and throughout history: namely, how to prevent stronger countries from conquering them. **The high-stakes poker game of international politics has not ended**; the players and the cards dealt have merely changed. Those who were weak during the Cold War are now strong, and another set of militarily "weak" countries--such as North Korea, Iran, Pakistan, and even China and Russia--now clutch or seek nuclear weapons to defend themselves from overwhelming military might, just as NATO once did.¶ **What can the U**nited **S**tates **do to mitigate the problem of escalation?** Ideally, it should avoid wars against nuclear-armed enemies. But that option may not be possible given current US foreign policy and alliances. **War may erupt on the Korean Peninsula, ensnaring the United States in a battle against a desperate nuclear-armed foe.** In the future**, Washington may fight a nuclear-armed Iran over sea lanes** in the Persian Gulf. And **the U**nited **States could someday be dragged into war by a clash between Chinese and Japanese naval forces** near disputed islands.¶ Alternatively, the United States could seek to develop conventional war plans designed to wage limited war without triggering enemy escalation. Development of alternative plans is sensible, but history shows that wars are difficult to contain, and modern conventional warfare is inherently escalatory.¶ **A** third **option to mitigate these dangers is to retain**, and improve, **US nuclear** and nonnuclear **counterforce capabilities. Fielding powerful counterforce weapons may help deter adversary escalation during war--by convincing enemy leaders to choose a "golden parachute" rather than escalation--and would give US leaders better response options if deterrence failed.** In particular, the United States should retain and develop nuclear weapons that bring together three key characteristics of counterforce: high accuracy, flexible yield, and prompt delivery.¶ To be clear, sharpening US counterforce capabilities is not a "solution" to the problem of adversary nuclear weapons. Although, ceteris paribus, it would be better to have excellent counterforce capabilities than to lack them, given enough time and motivation, many countries could greatly increase the survivability of their forces. But **given the plausible prospect that the United States will find itself waging war against nuclear-armed states, and given the powerful incentives of US adversaries to brandish or use nuclear weapons, it would be reckless to proceed without a full suite of modern nuclear** and nonnuclear **counterforce capabilities.**

**Perceived deterrence decline risks great power nuclear war**

John P. **Caves** Jr., senior Research fellow, Center for the Study of Weapons of Mass Destruction, National Defense University, “Avoiding a Crisis of Confidence in the U.S. Nuclear Deterrent,” STRATEGIC FORUM n. 252, 1—**10**, http://wmdcenter.dodlive.mil/files/2012/01/SF252.pdf

**Perceptions of a compromised U.S. nuclear deterrent** as described above **would have** **profound policy implications**, **particularly if they emerge at a time when** **a nuclear-armed great power is pursuing a more aggressive strategy** **toward U.S. allies and partners in its region in a bid to enhance its regional and global clout.** ¶ A dangerous period of vulnerability would open for the United States and those nations that depend on U.S. protection while the United States attempted to rectify the problems with its nuclear forces. As it would take more than a decade for the United States to produce new nuclear weapons, ensuing events could preclude a return to anything like the status quo ante.¶ **The assertive, nuclear-armed great power**, **and other major adversaries**, **could be willing to challenge U.S. interests more directly** **in the expectation that the U**nited **S**tates **would be less prepared to threaten or deliver a military response that could lead to direct conflict**. **They will want to keep the U**nited **S**tates **from reclaiming its earlier power position**.¶ **Allies and partners** **who have relied upon** explicit or implicit assurances of **U.S. nuclear protection** as a foundation of their security **could lose faith in those assurances**. **They** **could compensate by accommodating U.S. rivals**, **especially in the short term**, **or acquiring their own nuclear deterrents**, which in most cases could be accomplished only over the mid- to long term. A more nuclear world would likely ensue over a period of years.¶ **Important U.S. interests could be compromised or abandoned**, or **a major war could occur** **as adversaries and/or the U**nited **S**tates **miscalculate new boundaries of deterrence and provocation**. At worst, **war could lead to state-on-state employment of** weapons of mass destruction (**WMD) on a scale far more catastrophic than what nuclear-armed terrorists alone could inflict.**

### Case

**Wrong Forum DA—you’re making the demand on the wrong people—debaters already agree with you, and they aren’t going to listen to your aff and take action, they’re too busy cutting politics updates and trying to win trophies—vote neg to incentive them to take it to the streets instead of reading it here.**

**Generalities are not enough; Debating specific policies on both sides 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 T**his 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

**Debating the intricacies of the topic is key reverse excessive presidential authority-impact is constant and unlimited military actions**

Kelly Michael **Young 13**, Associate Professor of Communication and Director of Forensics at Wayne State University, "Why Should We Debate About Restriction of Presidential War Powers", 9/4, public.cedadebate.org/node/13

**Beyond its obviously timeliness, we believed debating about presidential war powers was important because of the stakes involved in the controversy. Since the Korean War, scholars and pundits have grown increasingly alarmed by the growing scope** and techniques **of presidential war making**. In 1973, in the wake of Vietnam, Congress passed the joint War Powers Resolution (WPR) to increase Congress’s role in foreign policy and war making by requiring executive consultation with Congress prior to the use of military force, reporting within 48 hours after the start of hostiles, and requiring the close of military operations after 60 days unless Congress has authorized the use of force. **Although the WPR was a significant legislative feat, 30 years since its passage, presidents** have frequently **ignore**s **the WPR requirements and the changing nature of conflict does not fit neatly into these regulations.** After the terrorist attacks on 9-11, **many experts worry that executive war powers have expanded far beyond healthy limits. Consequently, there is a fear that continued expansion of these powers will undermine the constitutional system of checks and balances that maintain the democratic foundation of this country and risk constant and unlimited military actions**, particularly in what Stephen Griffin refers to as a “long war” period like the War on Terror (http://www.hup.harvard.edu/catalog.php?isbn=9780674058286). In comparison, pro-presidential powers advocates contend that new restrictions undermine flexibility and timely decision-making necessary to effectively counter contemporary national security risks. Thus, **a debate about presidential wars powers is important to investigate a number of issues that have serious consequences on** the status of **democratic checks and national security** of the United States.¶ Lastly, **debating presidential war powers is important because we the people have an important role in affecting the use of presidential war powers**. As many legal scholars contend, regardless of the status of legal structures to check the presidency, **an important political restrain on presidential war powers is the presence of a well-informed and educated public**. **As Justice Potter Stewart explains, “the only effective restraint upon executive policy and power…may lie in an enlightened citizenry – in an informed and critical public opinion which alone can protect the values of a democratic government”** (http://www.law.cornell.edu/supct/html/historics/USSC\_CR\_0403\_0713\_ZC3.html). As a result, **this is not simply an academic debate about institutions and powers that that do not affect us. As the numerous recent foreign policy scandals make clear, anyone who uses a cell-phone or the internet is** potential **affected by unchecked presidential war powers. Even if we agree that these powers are justified, it is important that today’s college students understand and appreciate the scope and consequences of presidential war powers, as these students’ opinions will stand as an important potential check on the presidency.**

**They’re not a deliberation over nuclear policy—they’re a deliberation over whether or not we should deliberate over nuclear policy—means they don’t solve and you vote neg on presumption**

**Plan will be circumvented - Institutional incentives– obama will fight harder than congress**

**Dickinson,** Middlebury college political science professor**, 2011**

(Matthew, “Will You End Up in Guantanamo Bay Prison?”, 12-3, <http://sites.middlebury.edu/presidentialpower/2011/12/03/will-you-end-up-in-guantanamo-bay/>,)

Despite the overwhelming Senate support for passage (the bill passed 93-7 and will be reconciled with a House version. Senators voting nay included three Democrats, three Republicans and one independent), however, President **Obama is** still **threatening to veto the bill** in its current form. However, if administration spokespersons are to be believed, **Obama’s objection is based** not so much on concern for civil liberties as it is **on preserving the president’s authority and flexibility in fighting the war on terro**r. According to White House press secretary Jay Carney, “Counterterrorism officials from the Republican and Democratic administrations have said that the language in this bill would jeopardize national security by restricting flexibility in our fight against Al Qaeda.” (The administration also objects to language in the bill that would restrict any transfer of detainees out of Guantanamo Bay prison for the next year.) For these reasons, the President is still threatening to veto the bill, which now goes to the Republican-controlled House where it is unlikely to be amended in a way that satisfies the President’s concerns. If not, this sets up an interesting scenario in which the President may have to decide whether to stick by his veto threat and hope that partisan loyalties kick in to prevent a rare veto override. **The debate** over the authorization bill **is a**nother **reminder** of a point that you have heard me make before: **that when it comes to national security issues and the War on Terror, President** **Obama’s views are much closer to his** predecessor’s George W. **Bush’s than** they are to **candidate Obama’s**. **The reason**, of course, **is that once in office, the president**—as the elected official that comes closest to embodying national sovereignty—**feels the pressure of protecting the nation from attack much more acutely than anyone else**. **That pressure drives them to seek maximum flexibility in their ability to respond to external threats, and to resist any provision that appears to constrain their authority**. **This is why Obama’s conduct of the War on Terror has followed so closely in Bush’s footsteps—both are motivated by the same institutional incentives and concerns.** The Senate debate, however, also illustrates a second point. We often array elected officials along a single ideological line, from most conservative to most liberal. Think Bernie Sanders at one end and Jim DeMint at the other. In so doing, we are suggesting that those individuals at the farthest ends of the spectrum have the greatest divergence in ideology. But on some issues, including this authorization bill, that ideological model is misleading. Instead, it is better to think of legislators arrayed in a circle, with libertarian Republicans and progressive Democrats sitting much closer together, say, at the top of the circle, joined together in their resistance to strong government and support for civil liberties. At the “bottom” of the circle are Republicans like Graham and Democrats like Levin who share an affinity for strengthening the government’s ability to protect the nation’s security. **For Obama**, however, **the central issue is not the clash of civil liberties and national security—it is the relative authority of the President versus Congress to conduct the War on Terror**. **That explains why he has stuck by his veto threat despite the legislative compromise**. And it raises an interesting test of power. To date he has issued only two presidential vetoes, by far the lowest number of any President in the modern era. His predecessor George W. Bush issued 12, and saw Congress override four—a historically high percentage of overrides. On average, presidential vetoes are overridden about 7% of the time. These figures, however, underplay the use of veto threats as a bargaining tool. In the 110th (2007-08) Congress alone, Bush issued more than 100 veto threats. I’ve not calculated Obama’s veto threats, but it is easy enough to do by going to the White House’s website and looking under its Statements of Administrative Policy (SAP’s) listings. Those should include veto threats. Note that most veto threats are relatively less publicized and often are issued early in the legislative process. This latest veto threat, in contrast, seems to have attracted quite a bit of press attention. It will be interesting to see whether, if the current authorization language remains unchanged, Obama will stick to his guns.

**Secrecy takes out the aff—if experts keep nuclear strategy secret, there is no way for us to check them**

**Two-thousand years of history and robust statistical analysis prove**

William **Wohlforth 8** Daniel Webster Professor of Government, Dartmouth. BA in IR, MA in IR and MPhil and PhD in pol sci, Yale, Unipolarity, Status Competition, and Great Power War, October 2008, World Politics Vol. 61, Iss. 1; pg. 28, 31 pgs, Proquest

Despite increasingly compelling findings concerning the importance of status seeking in human behavior, research on its connection to war waned some three decades ago.38 Yet **empirical studies of the relationship between** both systemic and dyadic **capabilities distributions and war have continued to cumulate. If the relationships implied by the status theory run afoul** of well-established patterns or general historical findings, **then there is little reason to continue investigating them. The clearest empirical implication** of the theory **is that** status **competition is unlikely to cause great power military conflict in unipolar systems. If status competition is an important contributory cause of great power war, then,** ceteris paribus, **unipolar systems should be markedly less war-prone** than bipolar or multipolar systems. And this appears to be the case. As Daniel Geller notes **in a review of the empirical literature: "The only polar structure that appears to influence conflict probability is unipolarity."**39 In addition, a larger number of studies at the dyadic level support the related expectation that narrow capabilities gaps and ambiguous or unstable capabilities hierarchies increase the probability of war.40 These studies are based entirely on post-sixteenth-century European history, and most are limited to the post-1815 period covered by the standard data sets. Though the systems coded as unipolar, near-unipolar, and hegemonic are all marked by a high concentration of capabilities in a single state, these studies operationalize unipolarity in a variety of ways, often very differently from the definition adopted here. **An ongoing collaborative project looking at ancient interstate systems over** the course of **two thousand years suggests** **that** **historical systems** **that come closest to** the definition of unipolarity used here **exhibit precisely the** **behavioral** **properties implied by the theory**. 41 As David C. Kang's research shows, the **East Asian system between 1300 and 1900 was** an unusually stratified **unipolar** structure, **with** an economic and militarily dominant **China interacting with** a small number of geographically proximate, clearly weaker East Asian **states**.42 Status politics existed, but actors were channeled by elaborate cultural understandings and interstate practices into clearly recognized ranks. **Warfare was exceedingly rare, and the major outbreaks occurred precisely when the theory would predict: when China's capabilities waned**, reducing the clarity of the underlying material hierarchy and increasing status dissonance for lesser powers. Much more research is needed, but initial exploration of other arguably unipolar systems-for example, Rome, Assyria, the Amarna system-appears consistent with the hypothesis.43 Status Competition and Causal Mechanisms **Both theory and evidence demonstrate convincingly that competition for status is a driver of human behavior, and social** identity **theory** and related literatures **suggest** the **conditions under which it might come to the fore in great power relations.** **Both the systemic and dyadic findings presented in large-N studies are broadly consistent with the theory**, but they are also consistent with power transition and other rationalist theories of hegemonic war.

**Realism is inevitable and good**

John J. **Mearsheimer**, Realism Heavyweight Champion, “A Realist Reply,” International Security, v 20 n 1, Summer 19**95**, p. 82-93.

Realists believe **that state behavior is largely shaped by the material structure of the international system.** The distribution of material capabilities among states is the key factor for understanding world politics. For realists, some level of **security competition among great powers is inevitable because of the material structure of the international system. Individuals are free to adopt non-realist discourses, but** in the final analysis, **the system forces states to behave according to the dictates of realism, or risk destruction.** Critical theorists, on the other hand, focus on the social structure of the international system. They believe that "world politics is socially constructed," which is another way of saying that shared discourse, or how communities of individuals think and talk about the world, largely shapes the world. Wendt recognizes that "material resources like gold and tanks exist," but he argues that "such capabilities . . . only acquire meaning for human action through the structure of shared knowledge in which they are embedded." **Significantly for critical theorists, discourse can change, which means that realism is not forever,** and that therefore it might be possible to move beyond realism to a world where institutionalized norms cause states to behave in more communitarian and peaceful ways. The most revealing aspect of Wendt's discussion is that he did not respond to the two main charges leveled against critical theory in "False Promise**." The first problem with critical theory is that although the theory is deeply concerned with radically changing state behavior, it says little about how change comes about. The theory does not tell us why particular discourses become dominant, and others fall by the wayside.** Specifically, **Wendt does not explain why realism has been the dominant discourse in world politics for well over a thousand years**, although I explicitly raised this question in "False Promise" (p. 42). Moreover, he sheds no light on why the time is ripe for unseating realism, nor on why realism is likely to be replaced by a more peaceful, communitarian discourse, although I explicitly raised both questions. Wendt's failure to answer these questions has important ramifications for his own arguments. For example, he maintains that if it is possible to change international political discourse and alter state behavior, "then it is irresponsible to pursue policies that perpetuate destructive old orders [i.e., realism], especially if we care about the well-being of future generations." The clear implication here is that realists like me are irresponsible and do not care much about the welfare of future generations. However, **even if we change discourses and move beyond realism**, a fundamental problem with Wendt's argument remains: because his theory cannot predict the future**, [s]he cannot know whether the discourse that ultimately replaces realism will be more benign than realism. He has no way of knowing whether a fascistic discourse more violent than realism will emerge as the hegemonic discourse. For example, he obviously would like another Gorbachev to come to power in Russia, but he cannot be sure we will not get a Zhirinovsky instead. So even from a critical theory perspective, defending realism might very well be the more responsible policy choice. The second major problem with critical theory** is that its **proponents have offered little empirical support for their theory**. For example, I noted in "False Promise" that critical theorists concede that realism has been the dominant discourse in international politics from about 1300 to 1989, a remarkably long period of time. Wendt does not challenge this description of the historical record by pointing to alternative discourses that influenced state behavior during this period. In fact, Wendt's discussion of history is obscure. I also noted in "False Promise" that although critical theorists largely concede the past to realism, many believe that the end of the Cold War presents an excellent opportunity to replace realism as the hegemonic discourse, and thus fundamentally change state behavior. I directly challenged this assertion in my article, but Wendt responds with only a few vague words about this issue. Wendt writes in his response that "if critical theories fail, this will be because they do not explain how the world works, not because of their values." I agree completely, but critical theorists have yet to provide evidence that their theory can explain very much. In fact, the distinguishing feature of the critical theory literature, Wendt's work included, is its lack of empirical content. Possibly that situation will change over time, but until it does, critical theory will not topple realism from its commanding position in the international relations literature.

**The law is indeterminate and is no means perfect, but the alternative is worse—we should recognize the constraints of the law and use that to construct better legal strategies**

**Margulies and Metcalf 11, Clinical Professor of Law**

(“Terrorizing Academia” http://www.swlaw.edu/pdfs/jle/jle603jmarguilies.pdf, Joseph Margulies is a Clinical Professor, Northwestern University School of Law. He was counsel of record for the petitioners in Rasul v. Bush and Munaf v. Geren. He now is counsel of record for Abu Zubaydah, for whose torture (termed harsh interrogation by some) Bush Administration officials John Yoo and Jay Bybee wrote authorizing legal opinions. Earlier versions of this paper were presented at workshops at the American Bar Foundation and the 2010 Law and Society Association Conference in Chicago. Margulies expresses his thanks in particular to Sid Tarrow, AzizHuq, BaherAzmy, Hadi Nicholas Deeb, Beth Mertz, Bonnie Honig, and Vicki Jackson.Hope Metcalf is a Lecturer, Yale Law School. Metcalf is co-counsel for the plaintiffs/petitioners in Padilla v. Rumsfeld, Padilla v. Yoo, Jeppesen v. Mohammed, and Maqaleh v. Obama. She has written numerous amicus briefs in support of petitioners in suits against the government arising out of counterterrorism policies, including in Munaf v. Geren and Boumediene v. Bush. Metcalf expresses her thanks to Muneer Ahmad, Stella Burch Elias, Margot Mendelson, Jean Koh Peters, and Judith Resnik for their feedback, as well as to co-teachers Jonathan Freiman, RamziKassem, Harold HongjuKoh and Michael Wishnie, whose dedication to clients, students and justice continues to inspire., Journal of Legal Education, Volume 60, Number 3 (February 2011))

**V. Conclusions and Implications**

From the vantage of 2010, **it appears the interventionist position**—our position—**has failed.** As we see it, **it failed because it was premised upon a legalistic view of rights** that simply cannot be squared with the reality of the American political experience. Yet **the interventionist stance holds an undeniable attraction.** **Of all the positions advanced** since 9/11, **it holds out the best promise of preserving the pluralist ideals of a liberal democracy.** **The challenge going forward**, therefore, **is to re-imagine the interventionist intellectual endeavor.** **To retain relevance, we must translate the lessons of the social sciences into the language of the law,** which likely requires that we knock law from its lofty perch. As a beginning, **scholarship should be more attuned to the limitations of the judiciary**, **and mindful of the complicated tendency of narratives to generate backlash** and counter-narratives. But **there is another tendency we must resist, and that is the impulse to nihilism**—**to throw up our hands in despair, with the lament that nothing works and repression is inevitable.** **Just how to integrate the political and the ideal is**, of course**, a problem that is at least as old as legal realism itself** and one we do not purport to solve in this essay.154 Still, **we are heartened by the creative work undertaken in other arenas**, ranging from poverty law to gay rights, **that explores how, done properly, lawyering (and even litigation) can make real differences in the lives of marginalized people.**155 **We hope that the next decade of reflections on the policies undertaken in the name of national security will follow their lead in probing not just what the law should be, but how it functions and whom it serve**s. We close this essay on a personal note. **Margulies was counsel of record in Rasul v. Bush. He and his colleagues at the Center for Constitutional Rights began work on that litigation** in November, 2001, not long after Alan Dershowitz first started to press his proposal for “torture warrants.” By the time this essay appears, **Margulies’ uninterrupted involvement in these issues will have lasted more than nine years, with no sign of ending anytime soon**. **He vividly recalls the state of play when Rasul was filed** in February, 2002, **and when one of his co-counsel received a death threat** at his home in New Orleans. With considerable regret, **Margulies now looks back on Rasul as a failure.** But in 2002, **there was no other choice**. **The Bush Administration had created a prison beyond the law, Congress was a stony monolith, and the parents and family of lost prisoners pleaded that their loved ones not be abandoned**. At that moment, **there was no choice but to litigate.** **He would do it again tomorrow**, were the circumstances the same. **His mistake**, for which he takes sole responsibility, **was to believe that law**, in an intensely legalistic society, **was enough.**

**K’s not prior – policy relevant debate is critical**

Ewan E. **Mellor 13**, European University Institute, Political and Social Sciences, Graduate Student, Paper Prepared for BISA Conference, “Why policy relevance is a moral necessity: Just war theory, impact, and UAVs”, <http://www.academia.edu/4175480/Why_policy_relevance_is_a_moral_necessity_Just_war_theory_impact_and_UAVs>

**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**. § Marked 15:45 § 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

**The AFF’s approach to the topic is a method for dispute resolution – normative policy prescriptions are educationally valuable and don’t deny agency**

**Ellis, et al, 09** [Richard, LOL that’s my Debate partner, but actually…. Ph.D. University of California, Berkeley, degree completed December 1989, M.A. University of California, Berkeley, Political Science, 1984, B.A. University of California, Santa Cruz, Politics, 1982, Debating the Presidency: Conflicting Perspectives on the American Executive, p. google books,]

In 1969 the political scientist Aaron Wildavsky published a hefty reader on the American presidency. He prefaced it with the observation that “the presidency is the most important political institution in American life” and then noted the paradox that an institution of such overwhelming importance had been studied so little. “The eminence of the institution,” Wildavsky wrote, “is matched only by the extraordinary neglect shown to it by political scientists. Compared to the hordes of researchers who regularly descend on Congress, local communities, and the most remote foreign principalities, **there is an extraordinary dearth of students of the presidency**, although scholars ritually swear that the presidency is where the action is before they go somewhere else to do their research.”1 Political scientists have come a long way since 1969**. The presidency remains** as **central to national life** as it was then, and perhaps even more so. The state of scholarly research on the presidency today is unrecognizable compared with what it was forty years ago. A rich array of new studies has reshaped our understanding of presidential history, presidential character, the executive office, and the presidency’s relationship with the public, interest groups, parties, Congress, and the executive branch. Neglect is no longer a problem in the study of the presidency. In addition, those who teach about the presidency no longer lack for good textbooks on the subject. A number of terrific books explain how the office has developed and how it works. **Although students gain a great deal from reading these texts, even the best of them can inadvertently promote a passive learning experience. Textbooks convey what political scientists know, but the balance and impartiality that mark a good text can obscure the contentious nature of the scholarly enterprise**. **Sharp disagreements** **are often smoothed over in the writing.** **The primary purpose of Debating** the Presidency **is to allow students to participate directly in the ongoing real-world controversies swirling around the presidency and to judge for themselves which side is right.** **It is premised philosophically on our view of students as active learners to be engaged rather than as passive receptacles to be filled. The book is** **designed to promote a** classroom **experience in which students debate** and discuss issues **rather than simply listen** to lectures. Some issues, of course, lend themselves more readily to this kind of classroom debate. In our judgment, **questions of a normative nature** —**asking not just what is**, **but what ought to be**—**are likely to foster the most** interesting and **engaging** classroom **discussions**. So in selecting topics for debate, **we** generally **eschewed narrow** but important empirical **questions** of political science—such as whether the president receives greater support from Congress on foreign policy than on domestic issues—**for broader questions that include** empirical as well as normative components—such as **whether the president has usurped the war power** that rightfully belongs to Congress. **We aim not only to teach students to think like political scientists, but also to encourage them to think like democratic citizens**. Each of the thirteen issues selected for debate in this book’s second edition poses questions on which thoughtful people differ. These include whether the president should be elected directly by the people, whether the media are too hard on presidents, and whether the president has too much power in the selection of judges. Scholars are trained to see both sides of an argument, but we invited our contributors to choose one side and defend it vigorously. Rather than provide balanced scholarly essays impartially presenting the strengths and weaknesses of each position, Debating the Presidency leaves the balancing and weighing of arguments and evidence to the reader. The essays contained in the first edition of this book were written near the end of President George W. Bush’s fifth year in office; this second edition was assembled during and after Barack Obama’s first loo days as president. The new edition includes four new debate resolutions that should spark spirited classroom discussion about the legitimacy of signing statements, the war on terror, the role of the vice presidency, and the Twenty-second Amendment. Nine debate resolutions have been retained from the first edition and, wherever appropriate, the essays have been revised to reflect recent scholarship or events. For this edition we welcome David Karol, Tom Cronin, John Yoo, Lou Fisher, Peter Shane, Nelson Lund, Doug Kriner, and Joel Goldstein, as well as Fred Greenstein, who joins the debate with Stephen Skowronek over the importance of individual attributes in accounting for presidential success. In deciding which debate resolutions to retain from the first edition and which ones to add, we were greatly assisted by advice we received from many professors who adopted the first edition of this book. Particularly helpful were the reviewers commissioned by CQ Press: Craig Goodman of Texas Tech University, Delbert J. Ringquist of Central Michigan University, Brooks D. Simpson of Arizona State University, and Ronald W. Vardy of the University of Houston. We are also deeply grateful to chief acquisitions editor Charisse Kiino for her continuing encouragement and guidance in developing this volume. Among the others who helped make the project a success were editorial assistants Jason McMann and Christina Mueller, copy editor Mary Marik, and the book’s production editor, Gwenda Larsen. Our deepest thanks go to the contributors, not just for their essays, but also for their excellent scholarship on the presidency.

## 2NC

### Nukes DA: Impact 2NC

#### Strong nuclear deterrence controls conflict escalation—impacts only happen in a world of deterrence decline

C. Paul Robinson, Director, Sandia National Laboratories, “Pursuing a New Nuclear Weapons Policy for the 21st Century,” White Paper, Sandia National Laboratories, 3—22—01, www.nukewatch.org/importantdocs/resources/pursuing\_a\_new\_nuclear\_weapons\_p.html

I served as an arms negotiator on the last two agreements before the dissolution of the Soviet Union and have spent most of my career enmeshed in the complexity of nuclear weapons issues on the government side of the table. It is abundantly clear (to me) that formulating a new nuclear weapons policy for the start of the 21st Century will be a most difficult undertaking. While the often over-simplified picture of deterrence during the Cold War—two behemoths armed to the teeth, staring each other down—has thankfully retreated into history, there are nevertheless huge arsenals of nuclear weapons and delivery systems, all in quite usable states, that could be brought back quickly to their Cold War postures. Additionally, throughout the Cold War and ever since, there has been a steady proliferation of nuclear weapons and other weapons of mass destruction by other nations around the globe. The vast majority of these newly armed states are not U.S. allies, and some already are exhibiting hostile behaviors, while others have the potential to become aggressors toward the U.S., our allies, and our international interests. Russia has already begun to emphasize the importance of its arsenal of nuclear weapons to compensate for its limited conventional capabilities to deal with hostilities that appear to be increasing along its borders. It seems inescapable that the U.S. must carefully think through how we should be preparing to deal with new threats from other corners of the world, including the role that nuclear weapons might serve in deterring these threats from ever reaching actual aggressions. I personally see the abolition of nuclear weapons as an impractical dream in any foreseeable future. I came to this view from several directions. The first is the impossibility of ever “uninventing” or erasing from the human mind the knowledge of how to build such weapons. While the sudden appearance of a few tens of nuclear weapons causes only a small stir in a world where several thousands of such weapons already exist, their appearance in a world without nuclear weapons would produce huge effects. (The impact of the first two weapons in ending World War II should be a sufficient example.) I believe that the words of Winston Churchill, as quoted by Margaret Thatcher to a special joint session of the U.S. Congress on February 20, 1985, remain convincing on this point: “Be careful above all things not to let go of the atomic weapon until you are sure, and more sure than sure, that other means of preserving the peace are in your hands.” Similarly, it is my sincere view that the majority of the nations who have now acquired arsenals of nuclear weapons believe them to be such potent tools for deterring conflicts that they would never surrender them. Against this backdrop, I recently began to worry that because there were few public statements by U.S. officials in reaffirming the unique role which nuclear weapons play in ensuring U.S. and world security, far too many people (including many in our own armed forces) were beginning to believe that perhaps nuclear weapons no longer had value. It seemed to me that it was time for someone to step forward and articulate the other side of these issues for the public: first, that nuclear weapons remain of vital importance to the security of the U.S. and to our allies and friends (today and for the near future); and second, that nuclear weapons will likely have an enduring role in preserving the peace and **preventing world wars for the foreseeable future.** These are my purposes in writing this paper. For the past eight years, I have served several Commanders-in-Chief of the U.S. Strategic Command by chairing the Policy Subcommittee of the Strategic Advisory Group (SAG). This group was asked to help develop a new terms of reference for nuclear strategy in the post-Cold War world. This paper draws on many of the discussions with my SAG colleagues (although one must not assume their endorsement of all of the ideas presented here). We addressed how nuclear deterrence might be extended—not just to deter Russia—but how it might serve a continuing role in deterring wider acts of aggression from any corner of the world, including deterring the use of nuclear, chemical or biological weapons. [Taken together, these are normally referred to as Weapons of Mass Destruction (WMD).] My approach here will be to: (1) examine what might be the appropriate roles for nuclear weapons for the future, (2) propose some new approaches to developing nuclear strategies and policies that are more appropriate for the post-Cold War world, and (3) consider the kinds of military systems and nuclear weapons that would be needed to match those policies. The Role(s) of Nuclear Weapons The Commander-in-Chief of the Strategic Command, Admiral Rich Mies, succinctly reflected the current U.S. deterrent policy last year in testimony to the U.S. Senate: “Deterrence of aggression is a cornerstone of our national security strategy, and **strategic nuclear forces serve as the most visible and most important element** of our commitment Š (further) deterrence of major military attack on the United States and its allies, particularly attacks involving weapons of mass destruction, remains our highest defense priority.” While the application of this policy seemed clear, perhaps we could have said even “straightforward,” during the Cold War; application of that policy becomes even more complicated if we consider applying it to any nation other than Russia. Let me first stress that nuclear arms must never be thought of as a single “cure-all” for security concerns. For the past 20 years, only 10 percent of the U.S. defense budget has been spent on nuclear forces. The other 90 percent is for “war fighting” capabilities. Indeed, conflicts have continued to break out every few years in various regions of the globe, and these nonnuclear capabilities have been regularly employed. By contrast, we have not used nuclear weapons in conflict since World War II. This is an important distinction for us to emphasize as an element of U.S. defense policy, and one not well understood by the public at large. Nuclear weapons must never be considered as war fighting tools. Rather we should rely on the catastrophic nature of nuclear weapons to **achieve war prevention**, to **prevent a conflict from escalating** (e.g., to the use of weapons of mass destruction), or to help **achieve war termination** when it cannot be achieved by other means, e.g., if the enemy has already escalated the conflict through the use of weapons of mass destruction. Conventional armaments and forces will remain the backbone of U.S. defense forces, but **the inherent threat to escalate to nuclear use can help to prevent conflicts from ever starting, can prevent their escalation, as well as bring these conflicts to a swift and certain end.** In contrast to the situation facing Russia, I believe we cannot place an over-reliance on nuclear weapons, but that we must maintain adequate conventional capabilities to manage regional conflicts in any part of the world. Noting that the U.S. has always considered nuclear weapons as “weapons of last resort,” we need to give constant attention to improving conventional munitions in order to raise the threshold for which we would ever consider nuclear use. It is just as important for our policy makers to understand these interfaces as it is for our commanders. Defenses Although it is beyond the scope of this paper to strictly consider “defensive” tactics and armaments, I believe it is important for the United States to consider a continuum of defensive capabilities, from boost phase intercept to terminal defenses. Defenses have always been an important element of war fighting, and are likely to be so when defending against missiles. Defenses will also provide value in deterring conflicts or limiting escalations. Moreover, the existence of a credible defense to blunt attacks by armaments emanating from a rogue state could well eliminate that rogue nation’s ability to dissuade the U.S. from taking military actions. If any attack against the U.S., its allies, or its forces should be undertaken with nuclear weapons or other weapons of mass destruction, there should be no doubt in the attacker’s mind that the United States might retaliate for such an attack with nuclear weapons; but the choice would be in our hands. If high effectiveness defenses can be achieved, they will enhance deterrence by eliminating an aggressor’s confidence in attacking the U.S. homeland with long-range missiles, and thus make our use of nuclear weapons more credible (if the conflict could not be terminated otherwise.) Whereas, nuclear weapons should always remain weapons of last resort, defensive systems would likely be our weapons of first resort. Nuclear Weapons: An Enduring Strategic Tool? Throughout my career, I have had the opportunity to participate in a number of “war games” in which the roles and uses of nuclear weapons had to be faced in scenarios that imagined military conflicts developing between the U.S. and other potential adversaries. The totality of those games brought new realizations as to the role and purpose of nuclear weapons, in particular, how essential it is that deterrence be tailored in a different way for each potential aggressor nation. It also seemed abundantly clear that any use of nuclear weapons is, and always will be, strategic. Thus, I would propose we ban the term “nonstrategic nuclear weapons” as a non sequitur. The intensity of the environment of any war game also demonstrates just how critical it is for the U.S. to have thought through in advance exactly what messages we would want to send to other nations (combatants and noncombatants) and to “history,” should there be any future use of nuclear weapons—including threatened use—in conflicts. Similarly, it is obvious that we must have policies that are well thought through in advance as to the role of nuclear weapons in deterring the use of, or retaliating for the use of, all weapons of mass destruction. Let me then state my most important conclusion directly: I believe nuclear weapons must have an abiding place in the international scene for the foreseeable future. I believe that the world, in fact, would become more dangerous, not less dangerous, were U.S. nuclear weapons to be absent. The most important role for our nuclear weapons is to serve as a “sobering force,” one that can **cap the level of destruction of military conflicts and thus force all sides to come to their senses.** This is the enduring purpose of U.S. nuclear weapons in the post-Cold War world. I regret that we have not yet captured such thinking in our public statements as to why the U.S. will retain nuclear deterrence as a cornerstone of our defense policy, and urge that we do so in the upcoming Nuclear Posture Review. Nuclear deterrence becomes in my view a “countervailing” force and, in fact, a potent antidote to military aggression on the part of nations. But to succeed in harnessing this power, effective nuclear weapons strategies and policies are necessary ingredients to help shape and maintain a stable and peaceful world.

#### Also prevents miscalc’d wars

Robert Spulak, senior analyst, Strategic Studies Center, WEAPONS OF MASS DESTRUCTION: OPPOSING VIEWPOINTS, 1999, p. 53-54.

The need for nuclear deterrence will not disappear. There are still powerful nations in the world which are potential adversaries, both immediate and future. The interests of these other nations will, at times, be in conflict with the interests of the United States. It is inevitable that another great power or a coalition of powers will arise to oppose the hegemony of the United States. Although the Cold War is over, Russia still has the capability to destroy the United States; the strong showing of the nationalists and communists in the Russian elections, the obvious failure of reforms, the desire of Russia to be recognized as a great power, and replacement of the reformers in the Russian government with officials from the communist era have refocused our concerns on this point. In a few years Japan, a Western European state, or China could pose a strategic threat to our broad security interests; China is rapidly modernizing its arsenal and could soon be a strategic nuclear threat. Since we will be cautious about attacking any nuclear power with conventional forces, it will be difficult to deter even smaller nuclear powers such as North Korea, Iran, or Iraq if our nuclear threat to them is not credible. Credibility is important for deterrence because the conditions under which the United States would actually use nuclear weapons, and therefore the conditions under which nuclear deterrence even exists, depend on limitations we place on ourselves. Credibility has been one of the most important aspects of nuclear policy from the beginning. For example, the lack of credibility of the U.S. policy of massive retaliation led to the more limited U.S. doctrines that were then developed. The development of warfighting capabilities as a contribution to deterrence was based on the need to demonstrate that there was a likelihood that nuclear weapons would actually be used. Minimizing and stigmatizing our nuclear weapons can create a self-imposed taboo with respect to even nuclear adversaries, thereby delegitimizing deterrence and inviting threats to our interests. This self-injury to our nuclear deterrence is not the delegitimization of all nuclear weapons that the proponents of nuclear stigma hope for. It is neither reciprocal with our potential enemies nor permanent, even for ourselves. Credible nuclear deterrence is robust, not delicate. Policies and actions that establish credibility couple with our nuclear arsenal to create the possibility that in a war with the United States an enemy may face a risk of annihilation. A potential enemy need not even be very rational to be deterred from actions that ensure his own destruction. (This is not to argue for belligerence; we can keep the threshold for nuclear use high without undermining credibility.) This creates extreme caution in the behavior of other states if they wish to threaten vital U.S. security interests, and it **substantially reduces the likelihood of miscalculation**.

#### Primacy is the only think preventing conventional wars from going nuclear

Keir A. Lieber Assistant Professor, Political Science and Daryl G. Press, Associate Professor, Political Science, “Second Strike: Is the U.S. Nuclear Arsenal Outmoded?” FOREIGN AFFAIRS, March/April 2010, ASP.

Nuclear weapons are a boon for vulnerable states. During the Cold War, the United States deployed them in Europe to defend NATO because Soviet conventional forces seemed overwhelming. Now, the tables are turned: the United States' potential adversaries see nuclear weapons as a vital tool to counter U.S. conventional military superiority. Facing defeat on the battlefield, adversaries would have powerful incentives to use nuclear forces coercively, just as NATO planned to do during the Cold War. The fates of Manuel Noriega, Slobodan Milosevic, Radovan Karadzic, and Saddam Hussein have taught a grim lesson: use every weapon at your disposal to prevent defeat. When Jan Lodal and James Acton call for the elimination or devaluation of nuclear weapons, they assume that U.S. adversaries can be convinced to accept perpetual vulnerability. The Soviet Union could not talk NATO into surrendering its nuclear arsenal during the Cold War, nor can the United States dupe its adversaries into disarming today. The challenge is to grapple with the problem of deterring nuclear escalation during conventional wars, when U.S. adversaries will have every incentive to use their nuclear arsenals to compel a cease-fire. Toward this end, Washington must retain a range of counterforce capabilities, including conventional and low-casualty nuclear weapons. Hans Kristensen, Matthew McKinzie, and Ivan Oelrich raise several technical objections concerning the United States' ability to launch a successful counterforce strike. They dispute whether 3,000 pounds per square inch (PSI) of overpressure produced by low-yield airbursts would be enough to wreck Chinese silos. The use of 3,000 PSI in our model, however, is conservative. Many analysts believe that U.S. Cold War estimates exaggerated the hardness of enemy silos, and analysts with considerable technical expertise on this matter believe that our estimated requirement of 3,000 PSI probably overstates the hardness of China's silos. Most important, our results are not sensitive to moderate changes in assumptions about silo hardness. The United States could conduct a low-casualty nuclear strike--producing fewer than 1,000 fatalities--against all 20 Chinese silos even if they were built to withstand 5,000 PSI. Kristensen, McKinzie, and Oelrich also contend that airbursts alone cannot destroy missile silos. This is incorrect. Airbursts can produce sufficient overpressure to crush the caps that protect missiles in the ground. In fact, the Pentagon assigns "vulnerability numbers" to silos on the basis of their resistance to overpressure. And McKinzie co-authored a 2001 Natural Resources Defense Council report that contradicts the claims that he, Kristensen, and Oelrich make here. The report listed the overpressures required to destroy various Russian missile silos, and it argued that even Russia's silos--which are probably much more robust than China's--are highly vulnerable to a U.S. airburst attack. Our critics further suggest that the existence of mobile missiles obviates our analysis. If the launchers can be located, the argument goes, conventional weapons are sufficient to destroy them; if the launchers cannot be found, even nuclear weapons are useless. But the greatest challenge of targeting mobile missiles is not locating them momentarily; it is continuously tracking them and identifying where they have stopped. Hitting mobile launchers with conventional weapons requires near-perfect real-time intelligence--locating them within a few dozen yards. Even low-yield nuclear warheads would significantly reduce the targeting problem; locating the launchers within about half a mile would suffice if a five-kiloton warhead were used. Kristensen, McKinzie, and Oelrich also note that the U.S. military's current delivery systems are not optimized for a counterforce mission: the most accurate systems (bombs and cruise missiles) are not prompt, and the most prompt systems (ballistic missiles) are not the most accurate. This is true. But current U.S. delivery systems are adequate given the weakness of the adversaries the United States now faces. If Washington wishes to retain effective low-casualty counterforce options, the next generation of nuclear delivery systems should further combine prompt delivery with high accuracy. Lodal tries to link our discussion of counterforce options with the views held by senior officials in the George W. Bush administration. The fact of the matter is that nuclear counterforce options have been a core element of U.S. deterrence doctrine during every administration since Harry Truman's. U.S. strategic planners have understood that for deterrence to be credible, the president needs retaliatory options that he might actually use. Especially today, low-yield nuclear counterforce strikes are a better retaliatory option than high-yield nuclear strikes that, regardless of their target, would kill millions of civilians. The latter would be a disproportionate response to many possible enemy uses of nuclear weapons. Critics of our policy prescriptions must confront two core issues. First, nuclear weapons have fundamentally changed since the Cold War. They once produced stalemate, and nuclear war once meant mass slaughter. For good or ill, that has changed. The revolution in accuracy means that enemy arsenals can be destroyed, and in ways that produce few civilian casualties. Theories of deterrence and beliefs about strategic stability and nuclear force requirements must be reevaluated accordingly.

**Confronting the apocalypse causes social transcendence—it’s the only way to rescue people**

**Wink**, 20**01** [Walter, nqa, “Apocalypse Now?” Christian Century, Oct 17, http://www.findarticles.com/p/articles/mi\_m1058/is\_28\_118/ai\_79514992 //]

If that were the whole story about apocalyptic, many of us would want nothing to do with it. That is not the whole story, however. There is a positive role for apocalyptic as well as its better-known negative. **The positive power of apocalyptic lies in its capacity to force humanity to face threats of unimaginable proportions in order to galvanize efforts at self and social transcendence. Only such** Herculean **responses can actually rescue people from the threat and make possible the continuation of humanity on the other side**. Paradoxically, **the apocalyptic warning is intended to remove the apocalyptic threat by acts of apocalyptic transcendence**.

#### Security K is backwards

Joanna **Macy**, General Systems Scholar and Deep Ecologist, Ecopsychology: RESTORING THE EARTH, HEALING THE MIND, 19**95**, p. 246-7.

**There is** also **the superstition that negative thoughts are self-fulfilling. This is of a piece with the notion**, popular in New Age circles, **that we create our own reality**. I have had people tell me that **'**To speak of catastrophe will just make it more likely to happen." Actually, the contrary is nearer to the truth.Psychoanalytic theory and personal experience show us that it **is precisely what we repress that eludes our conscious control and tends to erupt into behavior**. As Carl Jung observed, "When an inner situation is not made conscious, it happens outside as fate." But ironically, in our current situation**, the person who gives warning of a likely ecological holocaust is often made to feel guilty of contributing to that very fate.**

#### Flexibility key to deterrence,

Dr. Keith B. Payne, President, National Institute for Public Policy, “Maintaining Flexible and Resilient Capabilities for Nuclear Deterrence,” STRATEGIC STUDIES QUARTERLY, Summer 2011, Ebsco.

Will adequate flexibility and resilience ensure deterrence? Of course not; nothing can do that. But it should reduce the risk that deterrence will fail be- cause we do not have the threat options suitable for the occasion. Correspond- ingly, it can help to assure allies who rely on the US nuclear umbrella and may otherwise fear that the degradation of US deterrent capabilities endangers their own security. These fears could lead some allies and friends to reconsider their own need for nuclear weapons and thereby promote nuclear prolifera- tion. We already see this dynamic in play among some allies.49 It is useful to close with the observation that our preferred force numbers and types should follow the demands of strategy, not the reverse. This is no less true when that strategy is deterrence. Credible deterrence is a pre- cious product that defies easy or precise prediction. But, we do know that in the past, nuclear deterrence contributed to preventing conflict or esca- lation, and it may be necessary to do so again when we face severe risks. Consequently, the maintenance of credible nuclear deterrence should continue to be a national priority.

#### Deterrence strong now but all capabilities are key

Chilton & Weaver '09

[Kevin Chilton, ommander of US Strategic Command, Offutt AFB, Nebraska & Greg Weaver, senior advisor for Strategy and Plans in the USSTRATCOM, “Waging Deterrence in the 21st Century” Strategic Studies Quarterly, Spring, 2009, <http://www.au.af.mil/au/ssq/2009/Spring/chilton.pdf>]

For US nuclear forces to be effective in playing these vital deterrence roles, they must have certain key attributes. They must be sufficient in number and survivability to hold at risk those things our adversaries value most and to hedge against technical or geopolitical surprise. Both the delivery systems and warheads must be highly reliable, so that no one could ever rationally doubt their effectiveness or our willingness to use them in war. The warheads must be safe and secure, both to prevent accidents and to prevent anyone from ever being able to use an American nuclear weapon should they somehow get their hands on one. And they must be sufficiently diverse and operationally flexible to provide the president with the necessary range of options for their use and to hedge against the technological failure of any particular delivery system or warhead design. Our forces have these attributes today, but we are rapidly approaching decision points that will determine the extent to which they continue to have them in the future. We are the only acknowledged nuclear weapons state that does not have an active nuclear weapons production program. Our nuclear weapons stockpile is aging, and we will not be able to maintain the reliability of our current nuclear warheads indefinitely. We will need to revitalize our nuclear weapons design and production infrastructure if we are to retain a viable nuclear arsenal in a rapidly changing and uncertain twenty-first-century security environment. Similarly, we face critical decisions regarding the modernization of our nuclear delivery systems, due not to their impending obsolescence—all will remain viable for at least a decade, some for two or three—but rather because of the long lead times involved in designing and building their replacements. If, through negotiations or unilateral decisions, we make a deliberate national decision to forego nuclear weapons in the future, we will have to reconsider our fundamental deterrence strategy, for it will no longer be built on the firm foundation that our nuclear arsenal provides.

### groupthink

#### Groupthink theory is based on over-generalizations, skewed studies, and ignores potential positives

**Aldag et al., Wisconsin Management and Human resources professor, 1993**

(Ramon, “Beyond Fiasco : A Reappraisal of the Groupthink Phenomenon and a New Model of Group Decision Processes”, Psychological Bulletin, 113.3, ebsco)

Groupthink has been overwhelmingly viewed as an unalayed evil, leading to uniformly negative outcomes. Indeed, such a view is universally implicit in the language of groupthink (e.g., the common references to “symptoms of groupthink,” “victims of groupthink,” and “defects of groupthink”). When used in groupthink research, such negative terminology can invite distortions in responses caused by scale-use tendencies and related psychometric difficulties and can also result in framing effects.¶ Individuals (whether subjects or researchers) presented with negatively framed terminology may adopt the readily available negative frame and respond accordingly ( Bazerman, 1990; Tversky & Kahneman, 1986). Therefore, even simple attempts by the subjects to give responses that are consistent with the tone of the questions would result in negatively oriented responses. In many cases, failed decisions are examined and characteristics of groupthink are then sought. There is evidence that when individuals are provided with knowledge of a negative outcome, they infer a negative process ( Guzzo, Wagner, Maguire, Herr, & Hawley, 1986). Furthermore, a focus only on the conjunction of groupthink characteristics and negative outcomes invites illusory correlation (cf. Einhorn, 1980; Hogarth, 1980; Kleinmuntz, 1990).¶ On a more fundamental level, this framing has resulted in a focus on error rather than on decision quality per se. Janis (1982) noted that he began studying fiascoes “for the purposes of studying sources of error in foreign policy decision-making” (p. 9). However, there is more to the performance of a football team than the absence of fumbles and interceptions, and there is more to group decision quality than the absence of error. A focus on negative outcomes of group processes may divert attention from group synergies. One example is the assembly effect bonus, which, as noted by Collins and Guetzkow (1964), “is productivity which exceeds the potential of the most capable member and also exceeds the sum of the efforts of the group members working separately” (p. 58). There is considerable evidence for this assembly effect bonus, at least in some contexts (e.g., Burleson, Levine, & Samter, 1984). Thus, researchers may learn little about superior group performance by a focus solely on fiascoes. Instead, a focus on decisions with a broad range of outcomes, including superior performance, is necessary.¶ The consequences of the groupthink model's focus on fiascoes are doubly ironic. First, the consideration only of fiascoes precludes generalization to other decision situations used in virtually all attempts to assess the validity of groupthink. Second, the focus on fiascoes makes it impossible to say anything even about the determinants of fiascoes.

#### Groupthink theory is wrong

**Hempell, User Experience Consulting Senior Information Architect, 2004**

(Anthony, “Groupthink: An introduction to Janis' theory of concurrence-seeking tendencies in group work”, 3-3, http://www.anthonyhempell.com/papers/groupthink/)

In the thirty years since Janis first proposed the groupthink model, there is still little agreement as to the validity of the model in assessing decision-making behaviour (Park, 2000). Janis' theory is often criticized because it does not present a framework that is suitable for empirical testing; instead, the evidence for groupthink comes from largely qualitative, historical or archival methods (Sunstein, 2003). Some critics go so far as to say that Janis's work relies on "anecdote, casual observation, and intuitive appeal rather than rigorous research" (Esser, 1998, cited in Sunstein, 2003, p.142). While some studies have shown support for the groupthink model, the support tends to be mixed or conditional (Esser, 1998); some studies have revealed that a closed leadership style and external threats (in particular, time pressure) promote groupthink and defective decision making (Neck & Moorhead, 1995, cited by Choi & Kim, 1999); the effect of group cohesiveness is still inconclusive (Mullen, Anthony, Salas & Driskel, 1994, cited by Choi & Kim, 1999). Janis's model tends to be supported by studies that employ a qualitative case-study approach as opposed to experimental research, which tends to either partially support or not support Janis's thesis (Park, 2000). The lack of success in experimental validation of groupthink may be due to difficulties in operationalizing and conceptualizing it as a testable variable (Hogg & Hains, 1998; Park, 2000). Some researchers have criticized Janis for categorically denouncing groupthink as a negative phenomenon (Longley & Pruitt, 1980, cited in Choi & Kim, 1999). Sniezek (1992) argues that there are instances where concurrence-seeking may promote group performance. When used to explain behaviour in a practical setting, groupthink has been frames as a detrimental group process; the result of this has been that many corporate training programs have created strategies for avoiding groupthink in the workplace (Quinn, Faerman, Thompson & McGrath, 1990, cited in Choi & Kim, 1999). Another criticism of groupthink is that Janis overestimates the link between the decision-making process and the outcome (McCauley, 1989; Tetlock, Peterson, McGuire, Chang & Feld, 1992; cited in Choi & Kim, 1999). Tetlock et al argue that there are many other factors between the decision process and the outcome. The outcome of any decision-making process, they argue, will only have a certain probability of success due to various environmental factors (such as luck). A large-scale study researching decision-making in seven major American corporations concluded that decision-making worked best when following a sound information processing method; however these groups also showed signs of groupthink, in that they had strong leadership which attempted to persuade others in the group that they were right (Peterson et al, 1998, cited in Sunstein, 2003). Esser (1998) found that groupthink characteristics were correlated with failures; however cohesiveness did not appear to be a factor: groups consisting of strangers, friends, or various levels of previous experience together did not appear to effect decision-making ability. Janis' claims of insulation of groups and groups led by autocratic leaders did show that these attributes were indicative of groupthink symptoms. Moorhead & Montanari conducted a study where they concluded that groupthink symptoms had no significant effect on group performance, and that "the relationship between groupthink-induced decision defects and outcomes were not as strong as Janis suggests" (Moorhead & Montanari, 1986, p. 399; cited by Choi & Kim, 1999).

#### Obama avoids groupthink

**Kennedy 12** – JD from the University of Southern California Gould School of Law [Brandon Kennedy (MA in Regional Studies (Middle East) from Harvard Graduate School of Arts and Sciences), “NOTE: THE HIJACKING OF FOREIGN POLICY DECISION MAKING: GROUPTHINK AND PRESIDENTIAL POWER IN THE POST-9/11 WORLD,” Southern California Interdisciplinary Law Journal, 21 S. Cal. Interdis. L.J. 633, Spring 2012

A. Anti-Groupthink Decision-Making Practices
The Obama team adopted several decision-making practices that helped counter the groupthink that had plagued the Bush team. These practices produced a moderate level of cohesiveness, greatly limited structural organizational faults, and reduced threats that could give rise to a provocative situational context.

1. Building Moderate Cohesiveness
"Hillary and I were friends before this started ... . We had this very vituperative campaign, but, you know, she is smart and we ought to be able to do something with her." n225 After his election, Obama sought out people to fill the Cabinet and White House staff positions based on each member's experience and the different contributions they could bring to the table. While political ideology was one factor to consider, it was not elevated above other qualities. Above all, Obama seemed to want to succeed by considering all possible options, and the only way to do that was by including people who thought differently from him and who would challenge his thinking. n226

Obama thus set about to build a team that would work well together, but whose members would also engage in critical thinking and evaluate all possible options when making decisions. Obama sought to strike this balance by including both friends and political allies, such as David Axelrod and Rahm Emanuel, and also outsiders and even former rivals. n227 For example, in a somewhat controversial move, Obama chose to keep Bush's Secretary of Defense, Robert Gates, citing the importance of continuity and expertise. n228 Obama also wished to heal the wounds inflicted  [\*671]  during a bitter nomination campaign and appoint a strong Secretary of State, so he offered Hillary Clinton the post. n229 For the position of CIA Director, Obama chose Leon Panetta, who, as an outsider, would help improve the Agency's image, which had been severely tarnished due to controversial pre-Iraq War intelligence, interrogation techniques, and its domestic spying program. n230 Thus, the manner in which Obama built his decision-making group laid the foundation for avoiding groupthink.

### epi

#### Epistemology does not come first – defer to rationality, empiricism is “good enough” if uncertain

Owen 2 [David Owen, Reader of Political Theory at the Univ. of Southampton, Millennium, Vol 31, No 3]

Commenting on the ‘philosophical turn’ in IR, Wæver remarks that ‘[a] frenzy for words like “epistemology” and “ontology” often signals this philosophical turn’, although he goes on to comment that these terms are often used loosely.4 However, loosely deployed or not, it is clear that debates concerning ontology and epistemology play a central role in the contemporary IR theory wars. In one respect, this is unsurprising since it is a characteristic feature of the social sciences that periods of disciplinary disorientation involve recourse to reflection on the philosophical commitments of different theoretical approaches, and there is no doubt that such reflection can play a valuable role in making explicit the commitments that characterise (and help individuate) diverse theoretical positions. Yet, such a philosophical turn is not without its dangers and I will briefly mention three before turning to consider a confusion that has, I will suggest, helped to promote the IR theory wars by motivating this philosophical turn. The first danger with the philosophical turn is that it has an inbuilt tendency to prioritise issues of ontology and epistemology over explanatory and/or interpretive power as if the latter two were merely a simple function of the former. But while the explanatory and/or interpretive power of a theoretical account is not wholly independent of its ontological and/or epistemological commitments (otherwise criticism of these features would not be a criticism that had any value), it is by no means clear that it is, in contrast, wholly dependent on these philosophical commitments. Thus, for example, one need not be sympathetic to rational choice theory to recognise that it can provide powerful accounts of certain kinds of problems, such as the tragedy of the commons in which dilemmas of collective action are foregrounded. It may, of course, be the case that the advocates of rational choice theory cannot give a good account of why this type of theory is powerful in accounting for this class of problems (i.e., how it is that the relevant actors come to exhibit features in these circumstances that approximate the assumptions of rational choice theory) and, if this is the case, it is a philosophical weakness—but this does not undermine the point that, for a certain class of problems, rational choice theory may provide the best account available to us. In other words, while the critical judgement of theoretical accounts in terms of their ontological and/or epistemological sophistication is one kind of critical judgement, it is not the only or even necessarily the most important kind. The second danger run by the philosophical turn is that because prioritisation of ontology and epistemology promotes theory-construction from philosophical first principles, it cultivates a theory-driven rather than problem-driven approach to IR. Paraphrasing Ian Shapiro, the point can be put like this: since it is the case that there is always a plurality of possible true descriptions of a given action, event or phenomenon, the challenge is to decide which is the most apt in terms of getting a perspicuous grip on the action, event or phenomenon in question given the purposes of the inquiry; yet, from this standpoint, ‘theory-driven work is part of a reductionist program’ in that it ‘dictates always opting for the description that calls for the explanation that flows from the preferred model or theory’.5 The justification offered for this strategy rests on the mistaken belief that it is necessary for social science because general explanations are required to characterise the classes of phenomena studied in similar terms. However, as Shapiro points out, this is to misunderstand the enterprise of science since ‘whether there are general explanations for classes of phenomena is a question for social-scientific inquiry, not to be prejudged before conducting that inquiry’.6 Moreover, this strategy easily slips into the promotion of the pursuit of generality over that of empirical validity. The third danger is that the preceding two combine to encourage the formation of a particular image of disciplinary debate in IR—what might be called (only slightly tongue in cheek) ‘the Highlander view’—namely, an image of warring theoretical approaches with each, despite occasional temporary tactical alliances, dedicated to the strategic achievement of sovereignty over the disciplinary field. It encourages this view because the turn to, and prioritisation of, ontology and epistemology stimulates the idea that there can only be one theoretical approach which gets things right, namely, the theoretical approach that gets its ontology and epistemology right. This image feeds back into IR exacerbating the first and second dangers, and so a potentially vicious circle arises.

### chernis Ans

Nuke fear causes action

Lynda **Hurst**, writer for the Toronto Star, May 30, **2009**, “Why we should start worrying and learn to fear the bomb again” <http://www.thestar.com/comment/columnists/article/642826>

It has been a while since the world heard the kind of thumping rhetorical menace that burst out of **North Korea** this week. **After conducting its second nuclear test**, the isolated totalitarian state **warned** **that "even a minor accidental clash could lead to nuclear war.** It's a matter of time when a fuse for war is triggered." **That kind of** confrontational **language** – best **exemplified by** Soviet Premier Nikita Khrushchev's "**We will bury you**" outburst in 1956 – **terrified people back in the Cold War**. **But the world has since got used to provocative threats**. **The visceral fear of atomic Armageddon that gripped people in the 1950s and '60s no longer exists. The last big public protests against nuclear arms ended in the 1980s.** Today, many regard the spread of the technology as inevitable, if not already a fait accompli. Perhaps **desensitization is a natural phenomenon, especially when other pressures, the looming environmental crisis** chief among them, **grab centre-stage. Or maybe people simply accept the threat as permanent white noise in the background that can be tuned out – until the volume is** temporarily **turned up by someone** like North Korea's erratic president, Kim Jong-il, or Iran's Mahmoud Ahmadinejad. "**There's a generation and a half of citizens who just say `whatever' even when a bad regime gets into the nuclear arena,"** says George Lopez, a Notre Dame University peace studies specialist. He sees it in his classes all the time. "**They've never experienced the actual threat of nuclear war, never had to hide under their desks like schoolchildren did during the Cold War."**  **Younger people may worry about a terrorist dirty bomb, but not an exchange between states**. "It's like people in San Francisco who know they're living on top of a faultline but don't think an earthquake will happen in their lifetime." **People respond to the risk of environmental collapse because they feel they personally can do something to prevent** or mitigate **it**, says Lopez. "**But with nuclear politics, real citizens don't get a chance to play. It belongs to the elites**." **That**, he predicts, **is about to change**. Canadian **Nobel laureate** John **Polanyi**, a long-time disarmament advocate, agrees. "I think the looming environmental crisis will pull attention back to the nuclear issue because the two are linked, they're both about mass destruction. Reason will impel the public." Remember the Doomsday clock? Begun in 1947 by a group of atomic scientists to track the U.S.-Soviet arms race, it advances or retreats toward midnight – midnight symbolizing humanity's nuclear self-destruction. In 1991, after the fall of communism, the hands of the clock were put back as far as they'd ever been: 17 minutes to midnight. In the warm glow of the Cold War's end, the U.S. stopped making nuclear arms. In 1996, it was the first nation to sign the Comprehensive Nuclear Test Ban Treaty. But the optimism was short-lived. Committed to the test ban in principle – certainly in regard to other nations – the U.S. wanted to keep its options open and in 1999, to universal dismay, refused to ratify the treaty. Though signed by 180 other countries, it has never come into effect. Result? A second, even more dangerous, era of proliferation. The U.N. says **more than 40 nations now have the nuclear wherewithal to make weapons**, some undoubtedly customers of rogue scientists such as Pakistan's infamous Abdul Qadeer Khan. His 20-year trafficking network wasn't halted until 2004, long after he'd sold centrifuge parts to North Korea, Iran and, before it recanted its nuclear aspirations, Libya. The International Atomic Energy Agency reports that 827 nuclear smuggling incidents occurred between 1993 and 2005, several involving plutonium or highly enriched uranium. U.S. President Barack **Obama's call last month for a nuclear-free planet may have been lashed by critics as naive, but no one could accuse him of not understanding what the world is up against**. "Black markets trade in nuclear secrets and materials," he said. "The technology to build a bomb has spread. Terrorists are determined to buy, build or steal one... As more people and nations break the rules, we could reach the point when the centre cannot hold." And **the Doomsday clock**? It **has ticked forward to five minutes to midnight**. No one knows precisely how many nuclear weapons there are in the world. They're state secrets. But the best-expert estimates are about 24,000 bombs of varying strengths, 8,100 of them operational. North Korea, the ninth nation to conduct tests, is believed to have enough plutonium on hand to built eight warheads. That fact could trigger a broader East Asian arms race, as Japan, South Korea and Taiwan are forced to assess whether to go nuclear for self-protection. Japan, the first victim of nuclear weapons, has said it could build one within six months. Chain effects have occurred before. After India's first nuclear test in 1974, Pakistan successfully hustled to keep par. And Israel's (unadmitted) stockpile of 200 warheads is seen as the prime driver of Iran's move into the nuclear arena. As a result of Iran's decision, Egypt and Saudi Arabia suddenly did an about-face on previous policy, announcing plans to develop "peaceful" programs. But once in place, the infrastructure can easily be retooled for military use. The public doesn't realize it, says Kennette Benedict, publisher of the Bulletin of the Atomic Scientists, whose board operates the Doomsday clock, but the U.S. and Russia still have more than 2,200 warhead on constant high alert. "That means they're ready to launch within 10 minutes," she says from Chicago. "People aren't aware of the ongoing state of readiness or the size of the U.S. stockpile or the fact that the command and control system has been hacked into twice." Though both nations have dismantled some weapons, the U.S. clings to a large nuclear arsenal of about 9,500. Russia also remains heavily fortified with about 13,000 operational warheads. An ongoing concern is that half its arsenal, which is spread throughout former Soviet states, is poorly stored and vulnerable to theft by terrorists or sale by corrupt guards. The road to a nuclear-free world is also complicated by the massive global stockpile of fissile material (highly enriched uranium and plutonium) that could fuel thousands of explosives. The greater the number of states that have this material the greater the chances of it falling into the hands of terrorists. While Obama has unveiled plans to choke off fissile production and secure loose nuclear material around the world within four years, some argue it's already too late; the illicit spread cannot be checked. Critics say getting control of the known nuclear situation and halting proliferation are formidable enough goals. They would require all nuclear weapons to be acknowledged and accounted for, to be verifiably and irreversibly dismantled, and an effective system to stop cheaters put in place. Is that remotely achievable? Yes, with persistence and patience, Obama has said, though it won't be reached anytime soon, "perhaps not in my lifetime." Kennette Benedict says bluntly **the public must once again**, as in decades past, **start pressuring leaders: "It will take citizen involvement to get** political action." Earlier this month, 17 Noble laureates issued a declaration warning that either the course toward abolition is set or the horrors of Hiroshima and Nagasaki will be repeated. Eliminating nuclear weapons is possible, they wrote, and "we call on the citizens of the world to press their **leaders to grasp the peril of inaction**."

### Case

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

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

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

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

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

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

#### **---The reason this is a topic is because of vagueness of who has the authority over power; proves solvency is indeterminate; also they spike the core of the literature**

Smith 7 (R. Andrew Smith graduated from the Valparaiso University School of Law in 2006,

and is licensed to practice in the state of Illinois “Breaking the Stalemate: The Judiciary's Constitutional Role in Disputes over the War Powers,” http://scholar.valpo.edu/cgi/viewcontent.cgi?article=1194&context=vulr)

Historically, the goal of the three-part American government structure is to separate and balance the power to govern.1 Separation prevents any branch of the government from straying from its intended purpose and in turn, fosters democratic values as a result.2 Ideally, this prevents one branch of government from over-exercising its power over the others. However, language in the Constitution gives little guidance on when one branch of the government may be acting outside the sphere of its authority. Constitutional ambiguities and overlapping powers result in struggles between different arms of the government. The purpose of this Article is to explore the role of the judiciary in mediating the power struggles between the legislative and executive branches of government. Justiciability restrictions, such as the political question doctrine, can make the Court’s role in such disputes unclear. Recently, the disclosure of President Bush’s warrantless electronic surveillance program3 and subsequent lawsuit challenging the constitutionality of the program4 have thrown these intra-governmental tensions into sharp relief by questioning the breadth of the executive war power5 juxtaposed to the legislative war power.6 In this Article, President Bush’s warrantless domestic surveillance program provides a focal point for analysis of separation of powers in general and the problem of overlapping constitutional grants of authority. The Constitution reflects James Madison’s concept of multifaceted government.7 However, the powers annunciated in Article II fail to clearly define the powers of the executive branch.8 The division of power between the three branches, the ambiguous nature of power provided to the president, and the Supreme Court’s use of the political question doctrine ultimately create an impasse between the three branches and their constitutionally delegated power. The purpose of separating governmental function is to prevent a tyrannical majority from coming to power.9 A reasonable construction of the Constitution requires keeping the three branches separate “in all cases in which they were not expressly blended.”10 However, the constitutional text itself blends some governmental activities. These intersections of power between the branches operate to curb the unilateral control of any one branch over the others and supports the notion of “checks and balances,” which works in conjunction with the separation of powers.11 However, the Constitution should not be interpreted to blend the operation of the branches more than its text requires12 because such an interpretation would allow one branch to usurp the power of another branch subverting the liberty interests that undergird the structure. This structure prevents Congress from removing or including itself in the exercise of another branch’s power.13 The Supreme Court has used the separation of powers to invalidate legislation that permitted Congress to invade the president’s appointment power,14 define the extent to which Congress may create rules of procedure for the courts,15 preserve the finality of judicial determinations,16 and limit the exercise of judicial power.17 In many ways, the separation of powers doctrine has been used to preserve the power attributed to the judiciary in the Constitution.18 However, these examples also illustrate an operational problem within the doctrine. Though the purpose of delineating governmental powers aims to preserve the people’s liberty interest,19 the Supreme Court has observed that the perfect operation of this concept is largely theoretical and unattainable in practice.20 In Federalist No. 48, James Madison explicitly stated that a strict practical application of separate powers is pragmatically impossible.21 Rather, the doctrine should operate in a way that would prevent one branch from invading the powers of another.22 Madison’s own conclusion at the end of Federalist No. 48 notes that the mere demarcation of government structure on paper is insufficient to guard against government tyranny.23 The operation of the judiciary in this scheme is summed up in Federalist No. 78, where Alexander Hamilton stated that the separated powers will allow the judiciary to keep the legislature “within the limits assigned to their authority.”24 Somewhere between the theoretical underpinnings of the doctrine and its practical application rests a momentary vacuum of government power. Ideally, the doctrine of the separation of powers operates to prevent this power gap by permitting the judiciary to interpret and define the divisions of power. But unfortunately, the language of the Constitution is not always clear. The overlapping powers attributed to the president in Article II and to the legislature in Article I exemplify this ambiguity. These mixed responsibilities create problems of constitutional interpretation and blur the operation of the separate powers.

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**The Process of debate solves better than their aff**

**Lundberg 10** - Christian O. Lundberg 10 Professor of Communications @ University of North Carolina, Chapel Hill, “Tradition of Debate in North Carolina” in Navigating Opportunity: Policy Debate in the 21st Century By Allan D. Louden, p311

The second major problem with the critique that identifies a naivety in articulating debate and democracy is that it presumes that the primary pedagogical outcome of debate is speech capacities. But **the democratic capacities built by debate are not limited to speech**—as indicated earlier, **debate builds capacity for critical thinking**, analysis of public claims, **informed decision making, and better public judgment**. **If the picture of modem political life that underwrites this critique of debate is a pessimistic view of increasingly labyrinthine and bureaucratic administrative politics, rapid** scientific and technological **change** outpacing the capacities of the citizenry to comprehend them, **and ever-expanding insular special-interest- and money-driven politics, it is a puzzling solution, at best, to argue that these conditions warrant giving up on debate**. If democracy is open to rearticulation, it is open to rearticulation precisely because **as the challenges of modern political life proliferate, the citizenry's capacities can change, which is one of the primary reasons that theorists of democracy** such as Ocwey in The Public awl Its Problems **place such a high premium on education** (Dewey 1988,63, 154). **Debate provides an indispensible form of education in the modem articulation of democracy because it builds precisely the skills that allow the citizenry to research and be informed about policy decisions that impact them**, to son rhroueh and evaluate the evidence for and relative merits of arguments for and against a policy in an increasingly infonnation-rich environment, and to prioritize their time and political energies toward policies that matter the most to them. The merits of debate as a tool for building democratic capacity-building take on a special significance in the context of information literacy. John Larkin (2005, HO) argues that one of the primary failings of modern colleges and universities is that they have not changed curriculum to match with the challenges of a new information environment. This is a problem for the course of academic study in our current context, but perhaps more important, argues Larkin, for the future of a citizenry that will need to make evaluative choices against an increasingly complex and multimediatcd information environment (ibid-). Larkin's study tested the benefits of debate participation on information-literacy skills and concluded that in-class debate participants reported significantly higher self-efficacy ratings of their ability to navigate academic search databases and to effectively search and use other Web resources: To analyze the self-report ratings of the instructional and control group students, we first conducted a multivariate analysis of variance on all of the ratings, looking jointly at the effect of instmction/no instruction and debate topic . . . that it did not matter which topic students had been assigned . . . students in the Instnictional [debate) group were significantly more confident in their ability to access information and less likely to feel that they needed help to do so----These findings clearly indicate greater self-efficacy for online searching among students who participated in (debate).... These results constitute strong support for the effectiveness of the project on students' self-efficacy for online searching in the academic databases. There was an unintended effect, however: After doing ... the project, instructional group students also felt more confident than the other students in their ability to get good information from Yahoo and Google. It may be that the library research experience increased self-efficacy for any searching, not just in academic databases. (Larkin 2005, 144) Larkin's study substantiates Thomas Worthcn and Gaylcn Pack's (1992, 3) claim that **debate in the college classroom plays a critical role in fostering the kind of problem-solving skills demanded by the increasingly rich media and information environment of modernity**. Though their essay was written in 1992 on the cusp of the eventual explosion of the Internet as a medium, Worthcn and Pack's framing of the issue was prescient: the primary question facing today's student has changed from how to best research a topic to the crucial question of learning how to best evaluate which arguments to cite and rely upon from an easily accessible and veritable cornucopia of materials. There are, without a doubt, a number of important criticisms of employing debate as a model for democratic deliberation. But cumulatively, **the evidence presented here warrants strong support for expanding debate practice** in the classroom as a technology **for enhancing democratic deliberative capacities. The unique combination of critical thinking skills, research and information processing skills, oral communication skills, and capacities for listening and thoughtful, open engagement with hotly contested issues argues for debate as a crucial component of a rich and vital democratic life**. In-class debate practice both aids students in achieving the best goals of college and university education, **and serves as an unmatched practice for creating thoughtful, engaged, open-minded and self-critical students who are open to the possibilities of meaningful political engagement and new articulations of democratic life. Expanding this practice is crucial, if only because the more we produce citizens that can actively and effectively engage the political process, the more likely we are to produce revisions of democratic life that are necessary if democracy is not only to survive, but to thrive. Democracy faces a myriad of challenges, including**: domestic and international **issues of class, gender, and racial justice**; **wholesale environmental destruction and the potential for rapid climate change**; emerging **threats to international stability** in the form of terrorism, intervention and new possibilities for great power conflict; **and increasing challenges of rapid globalization** including an increasingly volatile global economic structure. **More than any specific policy or proposal, an informed and active citizenry that deliberates with greater skill** and sensitivity **provides one of the best hopes for responsive and effective democratic governance, and by extension, one of the last best hopes for dealing with** the **existential challenges** to democracy [in an] increasingly complex world.

#### Negotiated stasis is necessary for debate—without a starting point, teams just talk past each other

**O’Donnell 4** – PhD, director of debate at Mary Washington (Tim, WFU Debaters Research Guide, “Blue helmet blues”, ed. Bauschard& Lacy, http://groups.wfu.edu/debate/MiscSites/DRGArticles/DRGArtiarticlesIndex.htm)

The answer, I believe, resides deep in the rhetorical tradition in the often overlooked notion of stasis. Although the concept can be traced to Aristotle’s Rhetoric, it was later expanded by Hermagoras whose thinking has come down to us through the Roman rhetoricians Cicero and Quintillian. Stasis is a Greek word meaning to “stand still.” It has generally been considered by argumentation scholars to be the point of clash where two opposing sides meet in argument.Stasis recognizes the fact that interlocutors engaged in a conversation, discussion, or debate need to have some level of expectation regarding what the focus of their encounter ought to be. To reach stasis, participants need to arrive at a decision about what the issue is prior to the start of their conversation. Put another way, they need to mutually acknowledge the point about which they disagree. What happens when participants fail to reach agreement about what it is thatthey are arguing about? They talk past each other with little or no awareness of what the other is saying.The oft used cliché of two ships passing in the night, where both are in the dark about what the other is doing and neither stands still long enough to call out to the other, is the image most commonly used to describe what happens when participants in an argument fail to achieve stasis. In such situations, genuine engagement is not possible because participants have not reached agreement about what is in dispute. For example, when one advocate says that the United States should increase international involvement in the reconstruction of Iraq and their opponent replies that the United States should abandon its policy of preemptive military engagement, they are talking past each other. When such a situation prevails, it is hard to see how a productive conversation can ensue. I do not mean to suggest that dialogic engagement always unfolds along an ideal plain where participants always can or even ought to agree on a mutual starting point. The reality is that many do not. In fact, refusing to acknowledge an adversary’s starting point is itself a powerful strategic move. However, it must be acknowledged that when such situations arise, and participants cannot agree on the issue about which they disagree, the chances that their exchange will result in a productive outcome are diminished significantly. In an enterprise like academic debate, where the goals of the encounter are cast along both educational and competitive lines, the need to reach accommodation on the starting point is urgent. This is especially the case when time is limited and there is no possibility of extending the clock. The sooner such agreement is achieved, the better. Stasis helps us understand that we stand to lose a great deal when we refuse a genuine starting point.

The benefits of debate can only be achieved by focusing on a **stable resolution**---debate’s unique from a conversation among friends where tangential relevance to the topic at hand has no implication---given the multiplicity of perspectives about the resolution, formal rules are crucial

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No doubt, in the course of discussion, csomeone may feel that it would be wiser for the assembly to discuss a somewhat different proposition than the one specified, perhaps worded in a subtly or substantially different way. But if they want to press the point, the parliamentary rule is that they must move an amendment, changing the wording of the motion under discussion, once again in a specifically formulated way. Proceedings are then devoted to a discussion of the virtues of the amendment, qua amendment, and a vote is taken on that, before the substantive discussion is resumed. And again, we see the virtue of this way of doing things in a diverse assembly. In conversation among friends, the topic may shift in an open-ended way, and people familiar with one another have both the willingness and the ability to keep track. But in an assembly consisting of people who are largely strangers to one another, deliberation would be hopeless if there was a sense that the topic might or might not have shifted slightly after every contribution. So, although amendment processes exist, their formulaic character and the rules governing their proposal and adoption provide a way of keeping track of where thediscussion is, a way of keeping track which does not depend upon implicit understandings that some of the members may not share.¶When discussion is exhausted, a vote may be called for, and-if my experience of law faculty meetings is any indication-someone will immediately leap to their feet and say: "I'm confused. What exactly are we voting on?" In a well-run assembly, the clerk or secretary will be in a position at that stage to read out the proposition (as amended) which now is the focus of the final vote. Once again, the determinacy of that proposition, as formulated and as amended, is important to establish a sense that we are all orienting our actions in voting to the same object. It is important for me to know, for example, that what I take myself to be voting against is exactly what my opponent takes himself to be voting in favor of. Otherwise, the idea that our votes, on a given occasion, are to be aggregated and weighed against one another becomes a nonsense.¶ What I have just described is rudimentary by comparison with the processes employed in actual legislative assemblies such as the Congress of the United States. Bills are longer and more complex than the sort of motions one hears at faculty meetings. They have usually been drafted-more or less competently-in advance, and there are many stages of deliberation (including committee stages, whose proceedings may be much less formal) that bills must go through before they are adopted. And, this is to say nothing of the vicissitudes of bicamerality, conference committees, and the rest.¶ For the most part, however, these complications enhance the need for a determinate text to focus and coordinate the various stages of the legislative process. Without a text to consider, to mark up, to amend, to confer about, and to vote upon, the process of law-making in a large and unwieldy assembly would have even a greater air of babel-like futility than that which is currently associated with Congress.¶ Thus, whether we are talking about a small-scale meeting or a large-scale legislative process, the positing of a formulated text as the resolution under discussion provides a focus for the ordering of deliberation at every stage. The existence of a verbalized bill, motion, or resolution is key to norms of relevance, and key to the sense, which procedural rules are supposed to provide, that participants' contributions are relevant to one another and that they are not talking at cross purposes. Maybe, a one-person deliberative body can do without this-though even there, many of us are familiar with the mnemonic virtues of a formulated proposition in our own solitary decision-making. And maybe, decision-making in a small group of oligarchs or in a junta of familiars can do without this as well, if they can move toward consensus on the basis of conversational informality. But the sense of a determinate focus for discussion-something whose existence is distinct from the will or tacit understandings of particular members'- seems absolutely indispensable for a large and diverse assembly of people whose knowledge and trust of one another is limited.¶ VIII If there is anything to this hypothesis, then we might want to start thinking about the textual canonicity of legislation in a slightly different way. I said in Part I that one of the values most commonly associated in the modern world with legislation is democratic legitimacy: We should defer to statutes because they have been enacted by a democratically elected entity. Just as the idea of democracy is insufficient to explain why we prefer a large elected legislature to a single elected legislator, so the democratic principle is insufficient to explain the particular way in which authority is accorded to legislation in the mod- ern world, viz., by taking seriously the exact words that were used in the formulations that emerged from the legislative chamber. If I am right, we now have an explanation for the importance of the ipsissimaverba which is oriented primarily to the legislators' dealings among themselves, rather than directly to the issue of their collective authority vis-a-vis the people. The final step, then, in pursuit of this hypothesis would be to show how this account of the importance of a text to the legislators is connected with the authority of the text for its intended audience. Here there are a couple of lines to pursue. First, as we have seen, the existence of orderly discussion is necessary to secure whatever Aristotelian advantages accrue from deliberation in a large and diverse group. Unless the diverse experiences and knowledge of the various legislators can connect and be synthesized, it is unlikely that their interaction will produce standards that are superior to those that any individual citizen could work out for herself. The conditions for orderly discussion, then, are indirectly conditions for the legislature's authority, in the Razian sense.8 9 In other words, authority requires superior expertise; superior expertise comes from deliberation among those who aredifferent from one another; deliberation among those who are different from one another is possible only on the basis of formal rules of order; and crucial to rules of order is the postulation of an agreed text as the focus of discussion.*¶*Second, respect for statute law is partly a matter of respect for the legislature as a forumwhose representativeness is an aspect of the fairness90 of the way a community makes its decisions. To the extent that representativeness requires diversity in the assembly, respect for that fairness is a matter of respecting the conditions under which diverse representatives can deliberate coherently. Thus, fairness-based respect for thelegislature as a body may require not only that we respect the standards which it posits, but also that we respect these more formal aspects of the way in which its posited standards are arrived at- and thus that we respect the standards in question under the auspices of text-based formality.9 '