# 2ac

## 2AC T “Restriction on Pres WPA”

### We meet-Indefinite detention is the determination of “enemy combatant” status and the justifications

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President Bush claims the power, as Commander in Chief of the Armed Forces, to¶ determine that any person, including an American citizen, who is suspected of being ¶ a member, agent, or associate of Al Qaeda, the Taliban, or possibly any other terrorist¶ organization, is an “enemy combatant” who can be detained in U.S. military custody¶ until hostilities end, pursuant to the international law of war (Dworkin 2002). ¶ Attorney General John Ashcroft has taken the view that the authority to detain “enemy¶ combatants” belongs to the president alone, and that any interference in that authority¶ by Congress would thus be unconstitutional (U.S. Senate 2002). Even if congressional¶ authority were necessary, the government argues, such permission can be found in ¶ the Authorization to Use Force (AUF; Pub. L. No. 107-40, 115 Stat. 224 [2001]). ¶ So far, the courts have agreed that Congress has authorized the detention of “enemy ¶ combatants.”

### “Restrict” is just limit

Google Dictionary

re·strict

riˈstrikt/Submit

verb

1.

put a limit on; keep under control.

"some roads may have to be closed at peak times to restrict the number of visitors"

### W/M- Constitutional basis is “Improper self-expansion without statutory authority”

Landau 12 (ARTICLE: CHEVRON MEETS YOUNGSTOWN: NATIONAL SECURITY AND THE ADMINISTRATIVE STATE Joseph Landau Associate Professor, Fordham Law School. December, 2012 Boston University Law Review 92 B.U.L. Rev. 1917. Lexis)

1. Step One Deference to Agency Self-Expansion One important question Chevron did not address explicitly is whether courts should defer when an agency self-expands and regulates activity that appears to fall beyond the scope of the zone of authority in which it operates. This problem arose in Dole v. United Steelworkers of America, 106 a case decided six years after Chevron. Dole held that the Office of Management and Budget (OMB) exceeded the scope of its authority under the Paperwork Reduction Act when it rejected Department of Labor (DOL) standards imposing various disclosure requirements on manufacturers intended to protect employees from exposure to hazardous chemicals. 107 Under the Paperwork Reduction Act, federal agencies are prohibited from adopting regulations imposing paperwork requirements on the public where the information is not available to the agency from another source within the federal government. 108 Citing its power to regulate "information collection requests" under the Paperwork Reduction Act, OMB disapproved of the DOL provisions, claiming that they lacked required exemptions and applied to scenarios in which the disclosures did not benefit employees. 109 However, the Court found that the Paperwork Reduction Act was intended to apply to "information-gathering rules," not "disclosure rules," and therefore did not clearly grant the OMB statutory authority to countermand agency regulations requiring disclosure by regulated entities directly to third parties. 110 Finding that OMB engaged in improper self-expansion, the Court refused to defer, and it reinstated the DOL rule. 111

### We’re a judicial interpretation of implied statutory limitations on “enemy combatant” status

David J. Barron, Professor of Law, Harvard Law School, & Martin S. Lederman, Visiting Professor of Law, Georgetown University Law Center, 2008, “THE COMMANDER IN CHIEF AT THE LOWEST EBB - FRAMING THE PROBLEM, DOCTRINE, AND ORIGINAL UNDERSTANDING,” Harvard Law Review, January, pp. LN.

4. Judicial Enforcement of Implied Statutory Restrictions. - The way the Supreme Court approaches war powers generally, when combined with the increased mass of potentially relevant legislative restrictions on the conduct of this military conflict, further increases the likelihood that the "lowest ebb" issue will be joined in the future. Principles of deference to executive authority tend to dominate academic discussion of statutory interpretation and war powers. As we have indicated, however, Hamdan, Youngstown, and other modern war powers cases demonstrate that the Court cannot be counted on to give the President the benefit of the doubt. And in many war powers cases, the Court has been perfectly willing to construe ambiguous statutory language against certain background rules that it presumes Congress intended to honor, n84 including a presumption that the Executive must [\*719] comply with the laws of war. n85 This general and longstanding judicial willingness to find implied limitations in ambiguous texts concerning the use of military force and national security powers is sometimes controversial. But whether justified or not, such an interpretive approach is of particular import now, given the sheer mass of preexisting statutes potentially applicable to the conflict with al Qaeda and the likelihood that this body of law will grow. Executive branch lawyers may be hard-pressed to advise their client agencies that creative construction can overcome the apparent statutory restrictions, at least if there is a reasonable prospect of judicial review (as there often will be in the war on terrorism due to its peculiar domestic connections). Instead, the prospect of judicial review will impel these lawyers to advise that the courts could well construe the potentially restrictive language to impose hard constraints on the Executive's preferred course of conduct - and that only the assertion of a superseding constitutional power of the President could, possibly, overcome such limits. Thus, the relatively weak deference the Court has long shown the President in many war powers cases, when combined with the relatively high likelihood in the war on terrorism of the applicability of restrictive but ambiguous statutory language and a justiciable case to hear, make constitutional assertions of preclusive executive powers a more likely occurrence than war powers scholarship typically assumes.

## intel

### State shift in law enforcement’s key to prevent existential Southeast European attacks

SET 9-12 (Experts: Prevention is the key to fighting terrorism 12/09/2013 By Linda Karadaku for Southeast European Times in Pristina http://www.setimes.com/cocoon/setimes/xhtml/en\_GB/features/setimes/features/2013/09/12/feature-02)

Officials at the Council of the European Union have said co-operation has been vital to preventing terrorism attacks in southeast Europe and in gaining convictions, although there have been some incidents, such as the 2012 tourist bus bombing in Burges, Bulgaria, and the February suicide bombing at the US embassy in Ankara. Experts said prevention efforts in Albania have been successful but must be improved to keep up with existing challenges. "The fact that no terrorist act has taken place [in Albania] means the continuous preventive measures, and also those undertaken in specific situations, have had results," Xhavit Shala of the Albanian Centre for National Security Studies, an NGO in Tirana, told SETimes. In Kosovo, authorities say a strategic approach is needed to prevent terrorism and acts of violent extremism. "There are extremists in every society. There are in Kosovo as well. A strategic approach is needed to deal with the issue, involving not only the law enforcement agencies, but more stakeholders, all state instruments, civil society, communities. A joint approach is needed, attacking the factors (that lay the ground for it). Addressing those factors does not allow the society to be vulnerable towards extremism and radicalism," Major Fatos Makolli, director of the directorate against terrorism in the Kosovo Police, told SETimes. Makolli said the state apparatus is not sufficient to raise awareness or deal by itself with the consequences of terrorism. Only by stakeholders jointly undermining the factors that contribute to the development of extremism will Kosovo reduce its vulnerability. Belgrade professor Obrad Savic said that the Muslim community in Kosovo is the integral part of European Muslims, "except small, radical Islamistic groups mainly organised in small villages, over local mosques around Pristina, as well as Sarajevo and Skopje." Such groups exist in many parts in Europe and the world, but what is important is the attitude by the populace toward them, Makolli said. "People's awareness of the issue and their education is the key," he said.

## Case-deference

### Presumption against authenticity of classified intel now—Precedent solves and spills over now is key

Benhalim 10 (The Emerging Law of Detention The Guantánamo Habeas Cases as Lawmaking\* Benjamin Wittes is a senior fellow in Governance Studies at The Brookings Institution. Robert M. Chesney is a nonresident senior fellow in Governance Studies at The Brookings Institution. Rabea Benhalim is a legal fellow in Governance Studies at The Brookings Institution. January 22, 2010 http://www.brookings.edu/~/media/research/files/papers/2010/1/22%20guantanamo%20wittes%20chesney/0122\_guantanamo\_wittes\_chesney.pdf)

However significant the admissibility vs. weight debate may have been (or may yet prove to be), there are a host of further issues concerning its practical application that the Circuit does not address in Al Bihani. For Judges Bates and Walton, for example, the existence of the reliability test means in practical terms that the judge must first make a threshold determination as to whether the government has given enough information about the underlying source of the statement for the court to conduct such an analysis. As Judge Bates explains: “if courts cannot assess reliability, then the evidence in question is inherently unreliable and may not be relied upon to justify detention.”118 Whether one views this point in terms of the admissibility of hearsay or merely the weight to afford it, it proves to be highly consequential. This approach has proven fatal on several occasions to government efforts to rely upon intelligence reports containing allegations from unidentified or loosely identified sources. In Khan, for example, Judge Bates individually assesses a dozen such reports, finding in each instance that he cannot make a reliability determination because the government has either not identified the original source of the relevant assertions or merely described the source as a senior Afghan tribal leader.119 Even where the government makes the identity of the source known, this will not necessarily suffice to permit the requisite reliability analysis. Judge Bates notes that the intelligence community itself espouses certain criteria for assessing source credibility, and he takes the view that the courts should adopt them in making hearsay reliability determinations.120 It follows that judges must have information sufficient to actually apply those criteria. The public version of Judge Bates’ opinion on this point does not clearly identify what these considerations are, but an unredacted passage in it does state that the reliability assessment should encompass such factors as how the source obtained the information, “what kind of control the collector had over the source, or what kind of motivation or wittingness the source had when making the statement.”121 Absent information permitting such an analysis, under this framework, the report will be excluded or, if admitted under Al Bihani, given no weight. Whether other judges will adopt this threshold adequacy-of-information test remains to be determined. In at least one instance, a judge has taken a more stringent approach. In a bench ruling on an unopposed motion to suppress detainee statements in Bacha, Judge Huvelle expressed intense frustration with the government’s reliance on intelligence reports at all—particularly those containing assertions from unspecified sources. After suppressing the detainee’s own statements, and after learning from government counsel that the government might respond by offering a new source of evidence against the petitioner, Judge Huvelle made clear that the new evidence would have to involve a specifically identified source, and even suggested that the source would have to testify subject to cross-examination either live at the evidentiary hearing or at least in the form of a deposition should the person be unavailable to the court.122 That aspect of Bacha may well be an idiosyncratic consequence of the unusual facts at issue in that case—facts which had Judge Huvelle particularly displeased with the government. Then again, it might be a harbinger of things to come. Either way, the fact that at least some of the judges are plainly hostile to the use of intelligence reports with unsourced or poorly-contextualized statements should have a significant impact on the government officials responsible for determining whether and to what extent information about an intelligence source should be disclosed in support of habeas litigation. Such officials at times will no doubt perceive tension between their interest in succeeding in particular cases and their interest in protecting sources and methods of intelligence collection. How they choose to mediate that tension in future cases—whether they choose to litigate at all or whether they simply transfer or release a detainee, and how they seek to defend a detention when they do attempt to do so—presumably will be influenced by their expectations regarding the judicial reception of hearsay statements that contain limited contextual information. At this point, it would be unwise for the government to expect a court to admit or give weight to any statement in an intelligence report when the source is entirely anonymous—or at least where the government does not share the source’s identity at a minimum with the court. Judge Walton, notably, has flagged the possibility of ex parte disclosure of source identity, with the judge then employing special procedures modeled on the Classified Information Procedures Act (CIPA) to determine whether in the circumstances it is appropriate for the judge to consider the evidence.123 Whether this option proves viable remains unclear.

### Exec deference is defunct—precedent has unquestionably shifted to the Courts

Landau 12 (ARTICLE: CHEVRON MEETS YOUNGSTOWN: NATIONAL SECURITY AND THE ADMINISTRATIVE STATE Joseph Landau Associate Professor, Fordham Law School. December, 2012 Boston University Law Review 92 B.U.L. Rev. 1917. Lexis)

C. Chevron's Detractors While the Supreme Court has rejected Executive Branch decisions lacking in congressional endorsement, the rulings do not necessarily validate the view of those who reject the idea of Executive Branch deference where national security is concerned. For scholars such as Deborah Pearlstein, Jenny Martinez, David Cole, and Martin Flaherty, courts should resolve rights questions at the core of national security disputes by articulating bright-line rules regarding the scope of individual liberty on questions concerning detention, conditions of confinement, surveillance, military commissions, renditions, and the like. 319 Some of these scholars argue, further, that the post-9/11 decisions, while not going far enough to protect the principles of liberty at stake, nonetheless demonstrate a commitment to a civil libertarian jurisprudence that indicates the decline, if not demise, of Chevron. But a fair reading of the doctrine is not consistent with such sweeping conclusions. For Pearlstein, the post-9/11 decisions epitomize the decline of Chevron and the ascendancy of the Marbury v. Madison principle "to say what the law is" on critical issues of individual liberty and executive power. 320 In the major [\*1967] post-9/11 Supreme Court decisions, "the Court has swept aside vigorous arguments by the executive that it refrain from engagement ... . Moreover, the Court has scarcely noted any doctrinal tradition of interpretive "deference' on the meaning of the laws." 321 Hence, for Pearlstein, "on descriptive and normative grounds, the events of the past decade have called the prevailing account [of foreign affairs exceptionalism] into question." 322 Other civil libertarian scholars have echoed this view. 323 Martin Flaherty argues that "in every major case arising out of 9/11, the Court has rejected the position staked out by the executive branch, even when supported by Congress." 324 As he sees it, the Supreme Court "reclaimed its primacy in legal interpretation" in the post-9/11 decisions, which "represent a stunning reassertion of the judiciary's proper role in foreign relations." 325

### No link but we solve—Rulings are light in conclusion but heavy in practice

Vladeck 11 (Stephen I., Professor of Law and Associate Dean for Scholarship, American University Washington College of Law. October 20, 2011, Columbia Law Review Sidebar, “ARTICLE: THE PASSIVE-AGGRESSIVE VIRTUES”)

As al-Kidd suggests, even when the Court has looked to the substantive law at issue in post-9/11 terrorism cases, it has treaded lightly. In Hamdi, for example, both of the Court's holdings were exceedingly narrow, with the plurality carefully circumscribing its holding that the Authorization for Use of Military Force (AUMF) n78 authorized Hamdi's detention, n79 and stressing that, although "some evidence" was an insufficient evidentiary burden to impose upon the government, the actual mechanics of resolving Hamdi's claims could--and should--be worked out by the lower courts. n80¶ And in Hamdan, the one case in which the Court categorically invalidated a post-September 11 counterterrorism policy, the Justices were at pains to stress the limited nature of their conclusion--turning, as it did, on the absence of statutory authorization for military commissions. n81 As Justice Breyer put it in his concurrence, "Nothing prevents the President from returning to Congress to seek the authority he believes necessary," n82 which is exactly what happened [\*133] next. n83¶ The above is not to suggest that no substantive law emerged from these decisions. On the contrary, Hamdi's analysis of the relationship between the AUMF and the laws of war have been a critical issue in the ongoing litigation in the D.C. Circuit arising out of Guantánamo, n84 and its outright rejection of the "some evidence" standard is also the likely culprit for the court of appeals's grudging adoption of a preponderance standard in those cases, as well. n85 Similarly, Hamdan's conclusion that the war on terrorism is not an international armed conflict triggering Common Article 3 of the Geneva Conventions was itself a massively important development, n86 as was the Court's more subtle repudiation of claims to indefeasible presidential power. n87 Even as the Court has stepped carefully, it has sent both indirect and thinly veiled messages to the Executive Branch that, without question, have had a salutary impact on the parameters of subsequent counterterrorism policy. n88 We may never know just how vital a role these assertions of judicial authority played in reshaping governmental conduct after September 11, but one need not look particularly hard to see the very real ways in which the government's approach changed after each of these decisions--even on issues on which the Supreme Court had provided no guidance whatsoever. Thus, one cannot plausibly argue--and I do not here suggest--that the Court's holdings in these cases have not dramatically shaped at least some aspects of counterterrorism policy over the past decade, especially with regard to the detention, treatment, and trial of enemy combatants. Clearly, they have.

## Cong cp

### Court’s key to successful Congress push

Landau 12 (ARTICLE: CHEVRON MEETS YOUNGSTOWN: NATIONAL SECURITY AND THE ADMINISTRATIVE STATE Joseph Landau Associate Professor, Fordham Law School. December, 2012 Boston University Law Review 92 B.U.L. Rev. 1917. Lexis)

While Chevron's advocates have frequently promoted the application of broad deference rules even in the absence of congressional legislation, 8 [\*1920] scholars at the opposite end of the spectrum question Chevron's application to the national security context. 9 According to these Chevron-detractors, even when national security policies are the product of joint political branch decisionmaking, the Supreme Court should "say what the law is" 10 and override the collective wisdom of the political branches when necessary. 11 While Chevron-backers and Chevron-detractors provide important insights into the role of administrative law as a source of decisionmaking in national security cases, both camps ignore Youngstown at their peril. 12 Under Jackson's framework in Youngstown, presidential powers are at their apogee when backed by congressional authorization and their "lowest ebb" when contrary to congressional will. 13 In between these two extremes are "zone of twilight" cases in which the President lacks a clear constitutional foundation or a basis in congressional authorization. 14 The post-9/11 decisions, following Youngstown, have focused less on the issue of deference as such and more on the shared responsibility of the political branches to create legislative schemes regarding national security policy. 15 Where Congress has [\*1921] responded by providing the Executive with a delegation concerning a particular security need, courts have typically construed those statutes deferentially. 16 However, where Congress has remained silent, courts have generally invoked Youngstown to catalyze greater inter-branch dialogue, 17 remanding issues to the political branches for additional legislative input. This process-oriented approach captures the Court's recent decisions more accurately than its apparent commitment to deference or non-deference where Executive power is concerned. By applying Youngstown, the Court has tamed Chevron's imperialistic aspirations, using judicial intervention as a way of resetting the proper institutional balance between Congress and the Executive. The post-9/11 decisions, understood through the lens of Youngstown, demonstrate congruities between national security cases and non-emergency administrative law rulings. In both domains, the Supreme Court has underscored the significance of congressional delegations for the scaling of judicial deference to the Executive Branch. By exploring cases in both the domestic and national security contexts, this Article indicates the importance of legislative authorization as a predicate for deference across different substantive arenas. By highlighting the intersection of "ordinary" administrative law decisions on the one hand, and recent national security cases on the other, it calls attention to an emerging middle-ground solution courts have used in national security cases that is consistent with, if not anchored squarely within, foundational principles of administrative law.

## Courts DA

#### The plan is DC District Court

Madhani 2011 (Aamer Madhani, June 15, 2011, “Lawmakers Sue Obama and Gates Over Libya,” National Journal, http://www.nationaljournal.com/nationalsecurity/lawmakers-sue-obama-and-gates-over-libya-20110615)

A bipartisan group of lawmakers has filed a federal lawsuit against President Obama and Defense Secretary Robert Gates, asking a court to prevent the administration from using U.S. funds for military action in Libya.¶ The lead plaintiffs, Rep. Dennis Kucinich, D-Ohio, and Rep. Walter Jones, R-N.C., filed the lawsuit at U.S. District Court in Washington on Wednesday afternoon, as the White House prepared to deliver a report to Congress to address a June 3 House resolution calling for Obama to answer what his ultimate goals are in Libya and why he hadn’t sought congressional authorization for U.S. troop involvement.¶ The White House did not address specific concerns raised in the lawsuit but noted that the administration is moving to do so.¶ "I would simply say that the report that we will be sending out to Congress later today answers a lot of questions that members have, continues a process of consultation that has been broad and deep and consistent," said White House Press Secretary Jay Carney.¶ From the onset of the Libya mission, the White House has underscored that U.S. involvement would be limited, and noted that American forces contribution has centered on providing NATO command with intelligence capabilities and refueling of aircraft enforcing a no-fly zone.¶ In addition to Kucinich and Jones, the plaintiffs are Democratic Reps. Michael Capuano of Massachusetts and John Conyers of Michigan; and Republican Reps. Roscoe Bartlett of Maryland, Dan Burton of Indiana, Howard Coble of North Carolina, John Duncan of Tennessee, Tim Johnson of Illinois, and Ron Paul of Texas.¶ "For too long, the Constitution has been put on the back shelf for so long when it comes to the issue of war," Jones said in an interview with National Journal. "I’m sure the drafters of the Constitution would be with us. For too long the Congress has stood in the stands and not been on the field when it comes to the issue of the war."¶ Among the arguments made in the 36-page lawsuit, the lawmakers contend that the president violated the law by going to war in Libya without a declaration of war from Congress as required by the War Powers Resolution. They also argue that the administration is violating the North Atlantic Treaty, which “allows only for military actions in defense of a member state” and requires that any U.S. involvement in a NATO action occur only in “accordance with [the] respective constitutional processes” of the United States.

#### It’s normal means and shields Supreme Court involvement

Tobias 1993 (Carl Tobias, Professor of Law, University of Montana, September 1993, “The D.C. Circuit as a National Court,” University of Miami Law Review, Lexis)

Many aspects of the D.C. Circuit's caseload warrant reliance on nationwide pools. The court's docket, although not unique, differs significantly from the caseloads of the remaining circuit courts. Most appeals to the D.C. Circuit are national in several respects, particularly in terms of where the suits originate and the impact of the court's decisions. Much of this is attributable to the District of Columbia's position as the seat of the federal government.¶ In some statutes, Congress has specifically authorized individuals, who claim that the United States has harmed them anywhere in the country, to sue the government in Washington, D.C. 87 In other statutes, principally social legislation such as environmental measures, Congress requires persons challenging certain administrative decisions to appeal directly from the agency to the D.C. Circuit. 88 In the District of Columbia, parties also institute actions involving disputes between the three branches of the federal government and between those branches and state and local governments.¶ This federal inter-branch litigation includes bitter fights between the Congress and the Executive over raw political power, high principle, and questions of the respective branches' authority to act, especially in areas that trench on one another's power. Additional cases implicate disagreements over the country's most cherished symbols and sacred institutions, such as the flag, religion, delicate issues of national security, the authority to dispatch troops into international combat, and even the prosecution of high-ranking public officials. 89¶ Nearly three-quarters of the D.C. Circuit's docket comprise exceedingly complex suits which seek review of federal administrative agency action. Many of these "cases arise under new statutory or regulatory regimes," have multiple issues or parties, present novel questions and [\*175] innovative arguments, and are extremely complicated. 90 A number of the actions involve cutting-edge issues of science, technology, economics, and ethics. Some of the lawsuits implicate difficult public policy choices about allocating scarce societal resources that Congress lacks either the substantive expertise or the political will to resolve. 91¶ Thus, most of the D.C. Circuit's caseload contrasts markedly with the dockets of other appeals courts. Many of the D.C. Circuit's suits bear little relationship to the geographic area where the court is situated and certain of the cases involve constitutional issues. These lawsuits, particularly those that seek review of federal administrative agency determinations, affect millions of Americans and have national and international ramifications.

#### Normal means is end-of-term announcement--- solves the link

Mondak 1992 (Jeffery J. Mondak, assistant professor of political science @ the University of Pittsburgh. “Institutional legitimacy, policy legitimacy, and the Supreme Court.” American Politics Quarterly, Vol. 20, No. 4, Lexis)

The process described by the political capital hypothesis acts as expected in the laboratory, and the logic of the link between institutional and policy legitimacy has thus gained strong empirical corroboration. However, the dynamic's pervasiveness defies precise estimation due to the limitations of available public opinion data. Still, the results reported here are provocative. First, this view of legitimation may apply to institutions beyond the Supreme Court. Consequently, efforts to use this theory in the study of other institutions may yield evidence supportive of a general process. A second concern is how the Court responds to its institutional limits. Specifically, strategy within the Court can be considered from the context of legitimacy. For example, what tactics may the Court employ to reduce the erosion of political capital? By releasing controversial rulings at the end of a term, for instance, the Court may afford itself a healing period, a time to repair damaged credibility prior to the next round of efforts at conferring policy legitimacy. This suggests a third issue, the manner in which institutional approval is replenished. Does institutional support return to some equilibrium once dispute surrounding a particular ruling fades, or must the Court release popular edicts to offset the effects of its controversial actions?

#### Controversial decisions boost capital

Ginsburg, 2009 (Tom Ginsburg, professor of law, the University of Chicago Law School, 9 Chi. J. Int'l L. 499, Winter, lexis)

In a recent contribution, David Law argues that courts can, counterintuitively, enhance their power by making unpopular or risky decisions--so long as the decisions generate compliance. 56 The key is to think of the court as interested in developing a reputation for generating effective focal points, in the form of decisions that are complied with. As the court is [\*513] successful in issuing such decisions, people will adjust their expectations of others' responses to future decisions, generating a potential cascade of compliance. Furthermore, from the perspective of an audience member evaluating the probability of compliance in a future case, it is surely more impressive that the court has generated compliance in an unpopular case than in a popular one. A risky and unpopular decision actually shores up the court's long-term reputation for generating focal points. 57

#### Econ collapse doesn’t cause war – prefer our studies

Samuel Bazzi (Department of Economics at University of California San Diego) and Christopher Blattman (assistant professor of political science and economics at Yale University) November 2011 “Economic Shocks and Conflict: The (Absence of?) Evidence from Commodity Prices” <http://www.chrisblattman.com/documents/research/2011.EconomicShocksAndConflict.pdf?9d7bd4>

VI. Discussion and conclusions A. Implications for our theories of political instability and conflict The state is not a prize?—Warlord politics and the state prize logic lie at the center of the most influential models of conflict, state development, and political transitions in economics and political science. Yet we see no evidence for this idea in economic shocks, even when looking at the friendliest cases: fragile and unconstrained states dominated by extractive commodity revenues. Indeed, we see the opposite correlation: if anything, higher rents from commodity prices weakly 22 lower the risk and length of conflict. Perhaps shocks are the wrong test. Stocks of resources could matter more than price shocks (especially if shocks are transitory). But combined with emerging evidence that war onset is no more likely even with rapid increases in known oil reserves (Humphreys 2005; Cotet and Tsui 2010) we regard the state prize logic of war with skepticism.17 Our main political economy models may need a new engine. Naturally, an absence of evidence cannot be taken for evidence of absence. Many of our conflict onset and ending results include sizeable positive and negative effects.18 Even so, commodity price shocks are highly influential in income and should provide a rich source of identifiable variation in instability. It is difficult to find a better-measured, more abundant, and plausibly exogenous independent variable than price volatility. Moreover, other time-varying variables, like rainfall and foreign aid, exhibit robust correlations with conflict in spite of suffering similar empirical drawbacks and generally smaller sample sizes (Miguel et al. 2004; Nielsen et al. 2011). Thus we take the absence of evidence seriously. Do resource revenues drive state capacity?—State prize models assume that rising revenues raise the value of the capturing the state, but have ignored or downplayed the effect of revenues on self-defense. We saw that a growing empirical political science literature takes just such a revenue-centered approach, illustrating that resource boom times permit both payoffs and repression, and that stocks of lootable or extractive resources can bring political order and stability. This countervailing effect is most likely with transitory shocks, as current revenues are affected while long term value is not. Our findings are partly consistent with this state capacity effect. For example, conflict intensity is most sensitive to changes in the extractive commodities rather than the annual agricultural crops that affect household incomes more directly. The relationship only holds for conflict intensity, however, and is somewhat fragile. We do not see a large, consistent or robust decline in conflict or coup risk when prices fall. A reasonable interpretation is that the state prize and state capacity effects are either small or tend to cancel one another out. Opportunity cost: Victory by default?—Finally, the inverse relationship between prices and war intensity is consistent with opportunity cost accounts, but not exclusively so. As we noted above, the relationship between intensity and extractive commodity prices is more consistent with the state capacity view. Moreover, we shouldn’t mistake an inverse relation between individual aggression and incomes as evidence for the opportunity cost mechanism. The same correlation is consistent with psychological theories of stress and aggression (Berkowitz 1993) and sociological and political theories of relative deprivation and anomie (Merton 1938; Gurr 1971). Microempirical work will be needed to distinguish between these mechanisms. Other reasons for a null result.—Ultimately, however, the fact that commodity price shocks have no discernible effect on new conflict onsets, but some effect on ongoing conflict, suggests that political stability might be less sensitive to income or temporary shocks than generally believed. One § Marked 15:36 § possibility is that successfully mounting an insurgency is no easy task. It comes with considerable risk, costs, and coordination challenges. Another possibility is that the counterfactual is still conflict onset. In poor and fragile nations, income shocks of one type or another are ubiquitous. If a nation is so fragile that a change in prices could lead to war, then other shocks may trigger war even in the absence of a price shock. The same argument has been made in debunking the myth that price shocks led to fiscal collapse and low growth in developing nations in the 1980s.19 B. A general problem of publication bias? More generally, these findings should heighten our concern with publication bias in the conflict literature. Our results run against a number of published results on commodity shocks and conflict, mainly because of select samples, misspecification, and sensitivity to model assumptions, and, most importantly, alternative measures of instability. Across the social and hard sciences, there is a concern that the majority of published research findings are false (e.g. Gerber et al. 2001). Ioannidis (2005) demonstrates that a published finding is less likely to be true when there is a greater number and lesser pre-selection of tested relationships; there is greater flexibility in designs, definitions, outcomes, and models; and when more teams are involved in the chase of statistical significance. The cross-national study of conflict is an extreme case of all these. Most worryingly, almost no paper looks at alternative dependent variables or publishes systematic robustness checks. Hegre and Sambanis (2006) have shown that the majority of published conflict results are fragile, though they focus on timeinvariant regressors and not the time-varying shocks that have grown in popularity. We are also concerned there is a “file drawer problem” (Rosenthal 1979). Consider this decision rule: scholars that discover robust results that fit a theoretical intuition pursue the results; but if results are not robust the scholar (or referees) worry about problems with the data or empirical strategy, and identify additional work to be done. If further analysis produces a robust result, it is published. If not, back to the file drawer. In the aggregate, the consequences are dire: a lower threshold of evidence for initially significant results than ambiguous ones.20

## 2AC Drone Shift

### That’s already triggered the shift—aff solves

David Ignatius 10, Washington Post, "Our default is killing terrorists by drone attack. Do you care?", December 2, www.washingtonpost.com/wp-dyn/content/article/2010/12/01/AR2010120104458.html

Every war brings its own deformations, but consider this disturbing fact about America's war against al-Qaeda: It has become easier, politically and legally, for the United States to kill suspected terrorists than to capture and interrogate them.¶ Predator and Reaper drones, armed with Hellfire missiles, have become the weapons of choice against al-Qaeda operatives in the tribal areas of Pakistan. They have also been used in Yemen, and the demand for these efficient tools of war, which target enemies from 10,000 feet, is likely to grow.¶ The pace of drone attacks on the tribal areas has increased sharply during the Obama presidency, with more assaults in September and October of this year than in all of 2008. At the same time, efforts to capture al-Qaeda suspects have virtually stopped. Indeed, if CIA operatives were to snatch a terrorist tomorrow, the agency wouldn't be sure where it could detain him for interrogation.¶ Michael Hayden, a former director of the CIA, frames the puzzle this way: "Have we made detention and interrogation so legally difficult and politically risky that our default option is to kill our adversaries rather than capture and interrogate them?"¶ It's curious why the American public seems so comfortable with a tactic that arguably is a form of long-range assassination, after the furor about the CIA's use of nonlethal methods known as "enhanced interrogation." When Israel adopted an approach of "targeted killing" against Hamas and other terrorist adversaries, it provoked an extensive debate there and abroad.¶ "For reasons that defy logic, people are more comfortable with drone attacks" than with killings at close range, says Robert Grenier, a former top CIA counterterrorism officer who now is a consultant with ERG Partners. "It's something that seems so clean and antiseptic, but the moral issues are the same."

### No link—shift is because of difficulty of CAPTURE not conviction

Robert Chesney 11, Charles I. Francis Professor in Law at the UT School of Law as well as a non-resident Senior Fellow at Brookings, "Examining the Evidence of a Detention-Drone Strike Tradeoff", October 17, www.lawfareblog.com/2011/10/examining-the-evidence-of-a-detention-drone-strike-tradeoff/

Yesterday Jack linked to this piece by Noah Feldman, which among other things advances the argument that the Obama administration has resorted to drone strikes at least in part in order to avoid having to grapple with the legal and political problems associated with military detention:¶ Guantanamo is still open, in part because Congress put obstacles in the way. Instead of detaining new terror suspects there, however, Obama vastly expanded the tactic of targeting them, with eight times more drone strikes in his first year than in all of Bush’s time in office.¶ Is there truly a detention-drone strike tradeoff, such that the Obama administration favors killing rather than capturing? As an initial matter, the numbers quoted above aren’t correct according to the New America Foundation database of drone strikes in Pakistan, 2008 saw a total of 33 strikes, while in 2009 there were 53 (51 subsequent to President Obama’s inauguration). Of course, you can recapture something close to the same point conveyed in the quote by looking instead to the full number of strikes conducted under Bush and Obama, respectively. There were relatively few drone strikes prior to 2008, after all, while the numbers jump to 118 for 2010 and at least 60 this year (plus an emerging Yemen drone strike campaign). But what does all this really prove?¶ Not much, I think. Most if not all of the difference in drone strike rates can be accounted for by specific policy decisions relating to the quantity of drones available for these missions, the locations in Pakistan where drones have been permitted to operate, and most notably whether drone strikes were conditioned on obtaining Pakistani permission. Here is how I summarize the matter in my forthcoming article on the legal consequences of the convergence of military and intelligence activities:¶ According to an analysis published by the New America Foundation, two more drone strikes in Pakistan’s FATA region followed in 2005, with at least two more in 2006, four more in 2007, and four more in the first half of 2008.[1] The pattern was halting at best. Yet that soon changed. U.S. policy up to that point had been to obtain Pakistan’s consent for strikes,[2] and toward that end to provide the Pakistani government with advance notification of them.[3] But intelligence suggested that on some occasions “the Pakistanis would delay planned strikes in order to warn al Qaeda and the Afghan Taliban, whose fighters would then disperse.”[4] A former official explained that in this environment, it was rare to get permission and not have the target slip away: “If you had to ask for permission, you got one of three answers: either ‘No,’ or ‘We’re thinking about it,’ or ‘Oops, where did the target go?”[5]¶ Declaring that he’d “had enough,” Bush in the summer of 2008 “ordered stepped-up Predator drone strikes on al Qaeda leaders and specific camps,” and specified that Pakistani officials going forward should receive only “‘concurrent notification’…meaning they learned of a strike as it was underway or, just to be sure, a few minutes after.”[6] Pakistani permission no longer was required.[7] ¶ The results were dramatic. The CIA conducted dozens of strikes in Pakistan over the remainder of 2008, vastly exceeding the number of strikes over the prior four years combined.[8] That pace continued in 2009, which eventually saw a total of 53 strikes.[9] And then, in 2010, the rate more than doubled, with 188 attacks (followed by 56 more as of late August 2011).[10] The further acceleration in 2010 appears to stem at least in part from a meeting in October 2009 during which President Obama granted a CIA request both for more drones and for permission to extend drone operations into areas of Pakistan’s FATA that previously had been off limits or at least discouraged.[11] ¶ There is an additional reason to doubt that the number of drone strikes tells us much about a potential detention/targeting tradeoff: most of these strikes involved circumstances in which there was no feasible option for capturing the target. These strikes are concentrated in the FATA region, after all. ¶ Having said all that: it does not follow that there is no detention-targeting tradeoff at work. I’m just saying that drone strikes in the FATA typically should not be understood in that way (though there might be limited exceptions where a capture raid could have been feasible). Where else to look, then, for evidence of a detention/targeting tradeoff?¶ Bear in mind that it is not as if we can simply assume that the same number of targets emerge in the same locations and circumstances each year, enabling an apples-to-apples comparison. But set that aside.¶ First, consider locations that (i) are outside Afghanistan (since we obviously still do conduct detention ops for new captures there) and (ii) entail host-state government control over the relevant territory plus a willingness either to enable us to conduct our own ops on their territory or to simply effectuate captures themselves and then turn the person(s) over to us. This is how most GTMO detainees captured outside Afghanistan ended up at GTMO. Think Bosnia with respect to the Boumediene petitioners, Pakistan’s non-FATA regions, and a variety of African and Asian states where such conditions obtained in years past. In such locations, we seem to be using neither drones nor detention. Rather, we either are relying on host-state intervention or we are limiting ourselves to surveillance. Very hard to know how much of each might be going on, of course. If it is occurring often, moreover, it might reflect a decline in host-state willingness to cooperate with us (in light of increased domestic and diplomatic pressure from being seen to be responsible for funneling someone into our hands, and the backdrop understanding that, in the age of wikileaks, we simply can’t promise credibly that such cooperation will be kept secret). In any event, this tradeoff is not about detention versus targeting, but something much more complex and difficult to measure.

### No SCS conflict—economics and deterrence

Creehan 12 – Senior Editor of the SAIS (school of advanced international studies, johns Hopkins) Review of International Affairs (Sean, “Assessing the Risks of Conflict in the South China Sea,” Winter/Spring, SAIS Review, Vol. 32, No. 1)

Regarding Secretary Clinton’s first requirement, the risk of actual closure of the South China Sea remains remote, as instability in the region would affect the entire global economy, raising the price of various goods and commodities. According to some estimates, for example, as much as 50 percent of global oil tanker shipments pass through the South China Sea— that represents more than three times the tanker traffic through the Suez Canal and over five times the tanker traffic through the Panama Canal.4 It is in no country’s interest to see instability there, least of all China’s, given the central economic importance of Chinese exports originating from the country’s major southern ports and energy imports coming through the South China Sea (annual U.S. trade passing through the Sea amounts to $1.2 trillion).5 Invoking the language of nuclear deterrence theory, disruption in these sea lanes implies mutually assured economic destruction, and that possibility should moderate the behavior of all participants. Furthermore§ Marked 15:38 § , with the United States continuing to operate from a position of naval strength (or at least managing a broader alliance that collectively balances China’s naval presence in the future), the sea lanes will remain open. While small military disputes within such a balance of power are, of course, possible, the economic risks of extended conflict are so great that significant changes to the status quo are unlikely.

## Abolition

### Court action is a key rallying point that catalyzes social change (blue)

Burstein 1991 Paul Burstein, pub. date: 1991, Professor of sociology and political science at the University of Washington, “Legal Mobilization as a Social Movement Tactic: The Struggle for Equal Employment Opportunity”, JSTOR

What types of actions should we examine? For most sociologists, and for many political scientists studying social movements, the distinction between political action "inside the system" and that taking place "outside” is critical. They see groups resorting to a "politics of protest" when they are not allowed to use institutionalized channels to express their political demands or when such channels prove ineffective. Those interested in social movements see themselves as examining political behavior not directed into "proper channels"-that is, demonstrations, strikes and boycotts, as opposed to election campaigns, lobbying, or legal proceedings. This distinction is often useful, but at times it impedes progress in understanding political change. Those using outsider tactics are often trying, first, to gain access to power holders and, then, to influence their decisions. By defining their interests in terms of particular tactics, those studying social movements virtually force themselves to abandon the field of inquiry when the groups they are interested in begin to have influence-when they gain access to proper channels. I suggest that successful movements generally utilize proper channels as well as outsider tactics and that an adequate understanding of move- ments must therefore consider both. In fact, social movement analysts seem to recognize this, even if only implicitly. This implicit recognition takes two forms: in definitions of social movement and in analyses of particular movements. As for definitions, consider one of Tilly's recent attempts to define social movement (1984, p. 305; italics in original): "The term social movement applies most usefully to a sustained interac-tion between a specific set of authorities and various spokespersons for a given challenge to these authorities. The interaction is a coherent, bounded unit in roughly the same sense that a war or political campaign is a unit." Tilly struggles to limit the definition to outsider groups, but nothing in it excludes the legal tactics often employed by the civil rights movement, even though such tactics involved going through proper channels In fact, analysts of American social movements frequently ascribe im- portance to court cases. McAdam, for example, shows that a Supreme Court decision on segregation had a critical effect on the bus boycotts (1983, p. 741), while Harding (1984, pp. 3 93-95) argues that the decisions of a federal judge undermined the hegemony of white-supremacist ideol- ogy in Mississippi (also see Jenkins and Eckert 1986, p. 827). The role of the courts is seldom the subject of theorizing because so much emphasis is placed on demonstrating the importance of outsider tactics. Yet deep historical knowledge of particular movements consistently forces social movement analysts to report how critical court decisions are.

### Courts have an obligation to restrict indefinite detention authority (blue)

Steyn 2003 (Johan Steyn, A Lord of Appeal in Ordinary, November 25, 2003, Twenty-Seventh FA Mann Lecture British Institute of International and Comparative Law and Herbert Smith, Lincoln’s Inn Old Hall, http://www.pegc.us/archive/Articles/Steyn\_London\_20031125.pdf)

The most powerful democracy is detaining hundreds of suspected foot¶ soldiers of the Taliban in a legal black hole at the United States naval base at¶ Guantanamo Bay, where they await trial on capital charges by military¶ tribunals. This episode must be put in context. Democracies must defend¶ themselves. Democracies are entitled to try officers and soldiers of enemy¶ forces for war crimes. But it is a recurring theme in history that in times of¶ war, armed conflict, or perceived national danger, even liberal democracies¶ adopt measures infringing human rights in ways that are wholly¶ disproportionate to the crisis. One tool at hand is detention without charge or¶ trial, that is, executive detention. Ill conceived rushed legislation is passed¶ granting excessive powers to executive governments which compromise the¶ rights and liberties of individuals beyond the exigencies of the situation. Often¶ the loss of liberty is permanent. Executive branches of government, faced with¶ a perceived emergency, often resort to excessive measures. The litany of grave¶ abuses of power by liberal democratic governments is too long to recount, but¶ in order to understand and to hold governments to account we do well to take¶ into account the circles of history. Judicial branches of government, although charged with the duty of¶ standing between the government and individuals, are often too deferential to¶ the executive in time of peace. How then would the same judges act in a time¶ of crisis? The role of the courts in time of crisis is less than glorious. On this¶ side of the Atlantic Liversidge v Anderson (1942)1¶ is revealing. The question¶ before the House of Lords was a matter of the interpretation of Defence¶ Regulation 18B which provided that the Home Secretary may order a person to¶ be detained “if he has reasonable cause to believe” the person to be of hostile¶ origin or associations. A majority of four held that if the Home Secretary¶ thinks he has good cause that is good enough. Lord Atkin chose the objective¶ interpretation: the statute required the Home Secretary to have reasonable¶ grounds for detention. Lord Atkin said: “amid the clash of arms the laws are¶ not silent” and warned against judges who “when face to face with claims¶ involving the liberty of the subject show themselves more executive minded¶ than the executive”. At the time the terms of Lord Atkin’s dissent caused grave¶ offence to his colleagues. But Lord Atkin’s view on the interpretation of¶ provisions such as Regulation 18B has prevailed: the Secretary of State’s¶ power to detain must be exercised on objectively reasonable grounds. To that¶ extent Liversidge v Anderson no longer haunts the law2¶ . I have referred to a¶ case sketched on the memory of every lawyer because, despite its beguiling¶ framework of a mere point of statutory interpretation, it is emblematic of the recurring clash of fundamentally different views about the role of courts in¶ times of crisis. How far contemporary decisions match Lord Atkin’s broader¶ philosophy is far from clear. The theory that courts must always defer to¶ elected representatives on matters of security is seductive. But there is a¶ different view, namely that while courts must take into account the relative¶ constitutional competence of branches of government to decide particular¶ issues they must never, on constitutional grounds, surrender the constitutional¶ duties placed on them.3¶ Even in modern times terrible injustices have¶ been perpetrated in the name of security on thousands who had no effective¶ recourse to law. Too often courts of law have denied the writ of the rule of law¶ with only the most perfunctory examination. In the context of a war on¶ terrorism without any end in prospect this is a sombre scene for human rights.¶ But there is the caution that unchecked abuse of power begets ever greater¶ abuse of power. And judges do have the duty, even in times of crisis, to guard¶ against an unprincipled and exorbitant executive response. Not every one will agree with the picture I have put before you. Let me¶ therefore explain, with reference to Second World War experience, on both¶ sides of the Atlantic, why I feel justified in what I have said. During the¶ Second World War the United States placed more than 120,000 American citizens of Japanese descent in detention camps. There was no evidence to cast¶ doubt on the loyalty of these people to the United States. The military¶ authorities took the view, as a general put it, that “a Jap is a Jap.” In due¶ course it was recognised by the United States that a grave injustice was done.¶ In 1988 congress enacted legislation acknowledging that the “actions were¶ taken without adequate security reasons” and that they were largely motivated¶ by “racial prejudice, wartime hysteria and a failure of political leadership”.4¶ Restitution was made to individuals who were interned. This is to the great¶ credit of the United States. On the other hand, it must be remembered that an¶ earlier opportunity arose in 1944 in Korematsu v United States¶ for the¶ Supreme Court to redress the injustice. Korematsu was a Californian of¶ Japanese ancestry. After the bombing of Pearl Harbour he volunteered for the¶ army but was rejected on health grounds. He obtained a defence industry job.¶ In June 1942 he was arrested for violation of the internment orders. He¶ challenged the constitutionality of the orders. The issue was whether military¶ necessity was established. The court was divided. Delivering the opinion of¶ the majority of the Court, Justice Black stated:¶ “To cast this case into outlines of racial prejudice, without reference to¶ the real military dangers which were presented, merely confuses the¶ issue.”¶ Demonstrating significant deference to the executive, he concluded:¶ “. . . the military authorities considered that the need for action was great,¶ and time was short. We cannot - by availing ourselves of the calm¶ perspective of hindsight - now say that at that time these actions were not¶ justified.”¶ Not many in the United States, in the moderate spectrum of views, would now¶ defend this outcome even viewed from the perspective of 1942. In any event,¶ in 1984 a federal district court overturned Korematsu’s conviction on the¶ ground that the government had “knowingly withheld information from the¶ courts when they were considering the critical question of military necessity.”6¶ In giving judgment Judge Patel observed that the case “stands as a caution that¶ in times of distress the shield of military necessity and natural security must not¶ be used to protect governmental institutions from close scrutiny and¶ accountability”.7

### External institutional checks on pres war powers are effective

Aziz Z. Huq 12, Assistant Professor of Law, University of Chicago Law School, "Binding the Executive (by Law or by Politics)", May 25, www.law.uchicago.edu/files/file/400-ah-binding.pdf

Paulson ’ s genuflection and Obama ’ s reticence, I will contend here, are symptomatic of our political system ’ s operation rather than being aberration al . It is generally the case that even in the heart of crisis, and even on matters where executive competence is supposedly at an acme , legislators employ formal institutional powers not only to delay executive initiatives but also affirmatively to end presidential policies. 20 Numerous examples from recent events illustrate the point. Congressional adversaries of Obama, for instance, cut off his policy of emptying Guantánamo Bay via appropriations riders. 21 Deficit hawks spent 2011 resisting the President’s solutions to federal debt, while the President declined to short - circuit negotiations with unilateral action. 22 Even in military matters, a growing body of empirical research suggests Congress often successfully influences the course of overseas engagements to a greater degree than legal scholars have discerned or acknowledged. 23¶ That work suggests that the failure of absolute congressional control over military matters cannot be taken as evidence of “the inability of law to constrain the executive ” in more subtle ways (p 5). The conventional narrative of executive dominance , in other words, is at best incomplete and demands supplementing .¶ This Review uses The Executive Unbound as a platform to explore how the boundaries of discretionary executive action are established. As the controversial national security policies of the Bush administration recede in time, the issue of executive power becomes ripe for reconsideration. Arguments for or against binding the executive are starting to lose their partisan coloration. There is more room to investigate the dynamics of executive power in a purely positive fashion without the impinging taint of ideological coloration.¶ Notwithstanding this emerging space for analys i s, t here is still surprising inattention to evidence of whether the executive is constrained and to the positive question of how constraint works. The Executive Unbound is a significant advance because it takes seriously this second “ mechanism question. ” Future studies of the executive branch will ignore its i mportant and trenchant analysis at their peril. 24 Following PV ’ s lead, I focus on the descriptive , positive question of how the executive is constrained . I do speak briefly and in concluding to normative matters . B ut f irst and foremost, my arguments should be understood as positive and not normative in nature unless otherwise noted.¶ Articulating and answering the question “ W hat binds the executive ?” , The Executive Unbound draws a sharp line between legal and political constraints on discretion — a distinction between laws and institutions on the one hand, and the incentives created by political competition on the other hand . While legal constraints usually fail, it argues, political constraints can prevail. PV thus postulate what I call a “strong law/ politics dichotomy. ” My central claim in this Review is that this strong law/politics dichotomy cannot withstand scrutiny. While doctrinal scholars exaggerate law ’s autonomy, I contend, the realists PV underestimate the extent to which legal rules and institutions play a pivotal role in the production of executive constraint. Further, the political mechanisms they identify as substitutes for legal checks cannot alone do the work of regulating executive discretion. Diverging from both legalist and realist positions, I suggest that law and politics do not operate as substitutes in the regulation of executive authority. 25 They instead work as interlocking complements. An account of the borders of executive discretion must focus on the interaction of partisan and electoral forces on the one hand and legal rules. It must specify the conditions under which the interaction of political actors’ exertions and legal rules will prove effective in limiting such discretion.

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#### The War on Terrorism is not constructed, nor can it be deterred. Our criticisms of the government won’t deter those who are ready to strike us.

Jean Bethke **Elshtain and** Laura- Rockefeller **Spelman** (Professor of Social and Political Ethics, University of Chicago Divinity School) **2003** “Just War Against Terrorism”

Certain critical events in the past remind us of this mordant fact. Looking back on twentieth-century fascism, we do not wring our hands and blame everyone but the Nazis for their murderous policies. Of course, it is important for historians and political analysts to take account of the political, social, and economic milieu out of which National Socialism emerged. But the difficulty and desperation of post— World War I conditions—runaway inflation, a war-torn economy, and war reparations, all of which Germany faced—do not add up to the inevitability of the evil that was Nazism. To claim such is to set in motion an exculpatory strategy that, whether intentionally or inadvertently, rationalizes political pathology. The overriding truth and most salient fact of National Socialism is simply stated: A group of people took over state power, aimed to expand an Aryan Empire through ruthless force, and, as dictated by their ideology of biological racism, murdered whole categories of people not because of anything they had done but because of who they were. Why, then, in the context of America's war against terrorism, do so many tick off a list of American "failures" or even insist that America brought the horrors of September 11, 2001, on herself? Let me be clear that I exempt from this mode of argument the ludicrous claims that have arisen since that day, such as the slander that Israel carried out the attacks after having first warned Jews who worked in New York's World Trade Center towers to stay home that day, or the preposterous charge that American officials, up to and including the president of the United States, engineered the attacks to bolster their popularity. This sort of in- lammatory madness exists outside the boundary of political debate and festers instead in the fever swamps of conspiracy theory. Conducted within the boundary of reasonable political debate, however, are those arguments that an international "war on poverty and despair," or a change in the direction of U.S. Middle Eastern policy, or a different U.S. policy toward Iraq will stay the hands of murderous terrorists in the future. Certainly these arguments deserve a hearing. Pushing more programs that deal with poverty and despair or rethinking American foreign policy, including our approach to Iraq, may have desirable outcomes. But no such change, either singly or together, will deter Osama bin Laden and those like him. To believe such is to plunge headfirst into the strategy of denial characteristic of the citizens of Oran in Camus's novel. We could do everything demanded of us by those who are critical of America, both inside and outside our boundaries, but Islamist fundamentalism and the threat it poses would not be deterred.

### State shift in law enforcement’s key to prevent existential Southeast European attacks

SET 9-12 (Experts: Prevention is the key to fighting terrorism 12/09/2013 By Linda Karadaku for Southeast European Times in Pristina http://www.setimes.com/cocoon/setimes/xhtml/en\_GB/features/setimes/features/2013/09/12/feature-02)

Officials at the Council of the European Union have said co-operation has been vital to preventing terrorism attacks in southeast Europe and in gaining convictions, although there have been some incidents, such as the 2012 tourist bus bombing in Burges, Bulgaria, and the February suicide bombing at the US embassy in Ankara. Experts said prevention efforts in Albania have been successful but must be improved to keep up with existing challenges. "The fact that no terrorist act has taken place [in Albania] means the continuous preventive measures, and also those undertaken in specific situations, have had results," Xhavit Shala of the Albanian Centre for National Security Studies, an NGO in Tirana, told SETimes. In Kosovo, authorities say a strategic approach is needed to prevent terrorism and acts of violent extremism. "There are extremists in every society. There are in Kosovo as well. A strategic approach is needed to deal with the issue, involving not only the law enforcement agencies, but more stakeholders, all state instruments, civil society, communities. A joint approach is needed, attacking the factors (that lay the ground for it). Addressing those factors does not allow the society to be vulnerable towards extremism and radicalism," Major Fatos Makolli, director of the directorate against terrorism in the Kosovo Police, told SETimes. Makolli said the state apparatus is not sufficient to raise awareness or deal by itself with the consequences of terrorism. Only by stakeholders jointly undermining the factors that contribute to the development of extremism will Kosovo reduce its vulnerability. Belgrade professor Obrad Savic said that the Muslim community in Kosovo is the integral part of European Muslims, "except small, radical Islamistic groups mainly organised in small villages, over local mosques around Pristina, as well as Sarajevo and Skopje." Such groups exist in many parts in Europe and the world, but what is important is the attitude by the populace toward them, Makolli said. "People's awareness of the issue and their education is the key," he said.