## NDT 1AC

### Advantage 1---Drone Norms

#### Global drone acquisition is inevitable --- demonstrating US compliance with strict legal limits is key to delegitimize abusive practices

Philip Alston 11, John Norton Pomeroy Professor of Law at the NYU School of Law, former UN Special Rapporteur on extrajudicial, summary or arbitrary executions, “The CIA and Targeted Killings Beyond Borders,” 2011, 2 Harv. Nat'l Sec. J. 283, lexis

Because the United States inevitably contributes disproportionately to the shaping of global regime rules, and because it is making more extensive overt use of targeted killings than other states, its approach will heavily influence emerging global norms. This is of particular relevance in relation to the use of drones. There are strong reasons to believe that a permissive policy on drone-fired targeted killings will come back to haunt the United States in a wide range of potential situations in the not too distant future.¶ In 2011, a senior official noted that while for the past two decades the United States and its allies had enjoyed "relatively exclusive access to sophisticated precision-strike technologies," that monopoly will soon come to an end. n605 In fact, in the case of drones, some 40 countries already possess the basic technology. Many of them, including Israel, Russia, Turkey, China, India, Iran, the United Kingdom, and France either have or are seeking drones that also have the capability to shoot laser-guided missiles. Overall, the United States accounts for less than one-third of worldwide investment in UAVs. n606 On "Defense Industry Day," August 22, 2010, the Iranian President unveiled a new drone with a range of 1,000 kilometers (620 miles) and capable of carrying four cruise missiles. n607 He referred to the drones as a "messenger of honor and human generosity and a saviour of mankind," but warned ominously that it can also be "a messenger of death for enemies of mankind." n608¶ To date, the United States has opted to maintain a relatively flexible and open-ended legal regime in relation to drones, in large part to [\*442] avoid setting precedents and restricting its own freedom of action. n609 But this policy seems to assume that other states will not acquire lethal drone technology, will not use it, or will not be able to rely upon the justifications invoked by the United States. These assumptions seem questionable. American commentators favoring a permissive approach to targeted killings abroad are generally very careful to add that such killings would under no circumstances be permitted within the United States. n610¶ Thus when the United States argues that targeted killings are legitimate when used in response to a transnational campaign of terror directed at it, it needs to bear in mind that other states can also claim to be so afflicted, even if the breadth of the respective terrorist threats is not comparable. Take Russia, for example, in relation to terrorists from the Caucasus. It has characterized its military operations in Chechnya since 1999 as a counter-terrorism operation and has deployed "seek and destroy" groups of army commandoes to "hunt down groups of insurgents." n611 It has been argued that the targeted killings that have resulted are justified because they are necessary to Russia's fight against terrorism. n612 Although [\*443] there are credible reports of targeted killings conducted outside of Chechnya, Russia has refused to acknowledge responsibility for, or otherwise justify, such killings. It has also refused to cooperate with any investigation or prosecution. n613¶ In 2006, the Russian Parliament passed a law permitting the Federal Security Service (FSB) to kill alleged terrorists overseas, if authorized to do so by the President. n614 The law defines terrorism and terrorist activity extremely broadly, including "practices of influencing the decisions of government, local self-government or international organizations by terrorizing the population or through other forms of illegal violent action," and also any "ideology of violence." n615¶ Under the law, there appears to be no restriction on the use of military force "to suppress international terrorist activity outside the Russian Federation." n616 The law requires the President to seek the endorsement of the Federation Council to use regular armed forces outside Russia, but the President may deploy FSB security forces at his own discretion. According to press accounts, at the time of the law's passage, "Russian legislators stressed that the law was designed to target terrorists hiding in failed States and that in other situations the security services would work with foreign intelligence services to pursue their goals." n617 There is no publicly available information about any procedural safeguards to ensure Russian targeted killings are lawful, the criteria for those who may be targeted, or accountability mechanisms for review of targeting operations. In adopting the legislation, Russian parliamentarians claimed that, "they were emulating Israeli and US actions in adopting a law [\*444] allowing the use of military and special forces outside the country's borders against external threats." n618¶ China is another case in point. It has consistently characterized unrest among its Uighur population as being driven by terrorist separatists. But Uighur activists living outside China are not so classified by other states. That means that China could invoke American policies on targeted killing to carry out a lethal attack against a Uighur activist living in Europe or the United States. The Chinese Foreign Ministry welcomed the killing of Osama bin Laden as "a milestone and a positive development for the international anti-terrorism efforts," adding ominously in reference to the Uighur situation that, "China has also been a victim of terrorism." n619 When a journalist asked how American practice in Pakistan compared to possible Chinese external action against a Uighur to a senior United States counter-terrorism official, the latter distinguished the situations from one another on the unconvincing grounds of Pakistan's special relationship with the United States. n620¶ A more realistic note was struck by Anne-Marie Slaughter after bin Laden's killing when she observed that "having a list of leaders that you are going to take out is very troubling morally, legally and in terms of precedent. If other countries decide to apply that principle to us, we're in trouble." n621 The conclusion to be drawn is that the United States might, in the not too distant future, need to rely on international legal norms to delegitimize the behavior of other states using lethal drone strikes. For that reason alone, it would seem prudent today to be contributing to the construction of a regime that strictly limits the circumstances in which one state can seek to kill an individual in another state without the latter's consent and without complying with the applicable rules of international [\*445] law. To the extent that the United States genuinely believes it is currently acting within the scope of those rules it needs to provide the evidence.

#### Credible external oversight is key---leads to international modeling and gives the US the leverage to prevent overuse

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Further, the U.S. counterterrorism chief John Brennan has noted that the administration is "establishing precedents that other nations may follow." But, for now, other countries have no reason to believe that the United States carries out its own targeted killing operations responsibly. Without a credible oversight program, those negative perceptions of U.S. behavior will fill the vacuum, and an anything-goes standard might be the result. U.S. denunciations of other countries' programs could come to ring hollow. ¶ If the United States did adopt an oversight system, those denunciations would carry more weight. So, too, would U.S. pressure on other states to adopt similar systems: just as suspicions grow when countries refuse nuclear inspection, foreign governments that turned down invitations to apply a proven system of oversight to their own drone campaigns would reveal their disregard for humanitarian concerns.

#### Now is key and norm-setting is real

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While drone advocates such as Max Boot argue that other countries are unlikely to follow any precedents about drone use established by America, power has an undeniable effect in establishing which norms are respected or enforced. America used its power in the international system after World War 2 to embed norms about human rights and liberal political organization, not only in allies, but in former adversaries and the international system as a whole. Likewise, the literature on rule-oriented constructivism presents a powerful case that norms have set precedents on the appropriate war-fighting and deterrence policies when using weapons of mass destruction and the practices of colonialism and human intervention. Therefore, drones advocates must consider the possible **unintended consequences of lending legitimacy to the** unrestricted use of drones. However, with the Obama administration only now beginning to formulate rules about using drones and seemingly uninterested in restraining its current practices, the US may miss an opportunity to entrench international norms about drone operations.

#### Unrestrained drone use causes nuclear miscalc

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A second consequence of the spread of drones is that many of the traditional concepts which have underwritten stability in the international system will be radically reshaped by drone technology. For example, much of the stability among the Great Powers in the international system is driven by deterrence, specifically nuclear deterrence.135 Deterrence operates with informal rules of the game and tacit bargains that govern what states, particularly those holding nuclear weapons, may and may not do to one another.136 While it is widely understood that nuclear-capable states will conduct aerial surveillance and spy on one another, overt military confrontations between nuclear powers are rare because they are assumed to be costly and prone to escalation. One open question is whether these states will exercise the same level of restraint with drone surveillance, which is unmanned, low cost, and possibly deniable. States may be more willing to engage in drone overflights which test the resolve of their rivals, or engage in ‘salami tactics’ to see what kind of drone-led incursion, if any, will motivate a response.137 This may have been Hezbollah’s logic in sending a drone into Israeli airspace in October 2012, possibly to relay information on Israel’s nuclear capabilities.138 After the incursion, both Hezbollah and Iran boasted that the drone incident demonstrated their military capabilities.139 One could imagine two rival states—for example, India and Pakistan—deploying drones to test each other’s capability and resolve, with untold consequences if such a probe were misinterpreted by the other as an attack. As drones get physically smaller and more precise, and as they develop a greater flying range, the temptation to use them to spy on a rival’s nuclear programme or military installations might prove too strong to resist. If this were to happen, drones might gradually erode the deterrent relationships that exist between nuclear powers, thus magnifying the risks of a spiral of conflict between them.

### Advantage 2---Preventative War

#### The Bush Doctrine failed to legitimize preventive war but planted the seeds for a future shift in norms---eroding the *imminence requirement* for use of force causes rapid global prolif and war

Dr. Theresa Rheinhold 12, PhD in Political Science from Tübingen University, postdoctoral research fellow at the Social Science Research Center Berlin, Dec 23 2012, Sovereignty and the Responsibility to Protect: The Power of Norms and the Norms of the Powerful, Ch 5: The Duty to Prevent, p. 148, google books

In sum, the present case study has thrown into sharp relief the limits of hegemonic law-making. Whereas the cases discussed in Chapters 3 and 4 testified to the significant influence of powerful states on the international legal architecture, this chapter has demonstrated the autonomy of the law from attempts at political usurpation. The overall lesson is that if the cognitive dissonance between the hegemon’s claims and existing legal norms is too blatant, hegemonic law-making is doomed to fail. In Chapter 2 I explained that, even though in hegemonic societies domination against “pariah” or “outlaw” elements may persist, this is only possible if society at large condones such discrimination. The case study on the duty to prevent has shown that the international community is clearly not willing to take the discriminatory approach against outlaw states to its logical extreme and sanction unilateral military intervention by a self-styled global Leviathan. The Bush administration’s preventive war rhetoric was aimed at expanding the sovereign prerogatives of some (the United States) while at the same time making sovereignty more conditional for others. Choosing the “wrong side of history” (Luke 1994: 55) can be fatal for regime survival, as Saddam Hussein painfully experienced in 2003. Yet the factual assumption of the role of a global Leviathan by the United States as well as the concomitant relegation of other states to the status of second-class sovereigns has not received intersubjective recognition, and hence the duty to prevent has not ripened into a customary norm. The United States was neither able to legitimize the duty to prevent by creating analogy to past state practice, nor could it prove its concordance with existing universal (extra-legal) values, nor could it convince a sufficiently large number of states that the proposed duty to prevent constituted a necessary change to existing norms. Although designed to contain the proliferation of nuclear weapons to rogue regimes and non-state actors, the duty to prevent could ultimately have the perverse effect of accelerating the spread of WMD, thus ultimately making the world less, not more secure. In an international system governed by a clear-cut prohibition on the use of force which only allows for narrowly circumscribed exceptions the security dilemma does exist, but it is manageable. In a world, however, in which no such restrictive rules exist, a world in which each state basically arrogates to itself the Schmittian right to decide upon the exception – in such a world, the security dilemma is unmanageable. This may well lead many states to conclude that the best defense against a preventive attack is the acquisition of WMD as a means of deterrence. The example of North Korea shows that once a nuclear program has become mature, there is not much the world can do about it.¶ One of the goals of the drafters of the UN Charter was to lay down a restrictive concept of just war. It is true that the UN charter was drafted at a time when the gravity of the threat emanating from nuclear weapons could not be anticipated – therefore the NSS’s argument that this new generation of threats requires new rules should not be dismissed lightly. However, the fundamental problem with the rule proposed by the United States is that it revives an expansive notion of just war. The NSS does not clearly specify the triggers for preventive action and fails to comment on what role, if any, the Security Council would have in any decision on the use of force against rogue states. If the Caroline criterion of imminence is no longer valid, where does one draw the line? For instance, would the mere possession of WMD justify preventive war? This would mean that Iran could legitimately target Israel, Pakistan could attack India, and many states could use force against France, Great Britain, Russia, China, and the United States. Should the criterion of WMD-possession thus be complemented by the criterion of hostile intent? While this may sound appealing at first, it does in fact not make the use of force any less permissive, because the judgment of hostile intent is ultimately a subjective one. If the UN Security Council loses its monopoly on the definition of threats to international peace and security, this would take us back to the realist scenario of an unmitigated security dilemma.¶ On the basis of the indicators provided by the norm life-cycle, the duty to prevent must currently be located in stage one (norm emergence). After 9/11 the Bush administration engaged in strategic social construction by framing the issue of nuclear-armed rogue states as a grave threat to international security – a claim which received intersubjective legitimation in various Charter VII resolutions passed by the UN Security Council. However, thus far Washington has failed to convince a sufficient majority of states that appropriate remedies for the threat posed by these pariah states include the unilateral preventive use of force. As we recall from Chapter 2, a behavioral regularity in itself is insufficient to give rise to a new customary rule but must be complemented by a corresponding opinio juris. In the case of the duty to prevent, we have merely two instances of the exercise of naked, illegitimate state power (Osirak 1981 and Iraq 2003) and no intersubjective consensus about the legality of preventive war. In sum, neither the material nor the psychological criterion of custom formation is met – hence, no right, let alone duty to prevent exists under current international law. Washington’s decision to ultimately refrain from invoking the preventive war doctrine when justifying the war against Iraq in its letter to the UN Security Council suggests that the intervening party itself had second thoughts about the legality of preventive self-defense, which further undermines the position of those who argue in favor of a legal right to preventive war.¶ Yet the debate over the legitimacy of preventive war has not only reaffirmed the primary rules of international law on the use of force but has moreover bolstered the traditional approach to custom formation which draws a clear distinction between what the law is and what the law ought to be. The NSS – and its proponents in academia – sought to legitimize the duty to prevent by representing it as a widely recognized legal right, i.e., by conflating the controversial notion of prevention with the accepted concept of preemption. They argue that the concept of imminence is obsolete because they believe it to be obsolete, i.e., they advance statements of de lege ferenda cloaked as lex lata, which is a defining feature of the modern approach to custom formation. As we have seen in this chapter, however, this line of reasoning has been rejected by most states and legal scholars around the world. Another feature of the modern approach is its disregard for the principles of sovereign equality and state consent. The present case study, however, has underlined states’ continuing attachment to these principles. The Non-Proliferation Treaty does not divide states into responsible versus irresponsible ones, but is premised on the assumption that all signatories have an equal right to a peaceful nuclear program, irrespective of the nature of their regimes. It treats Tehran no differently than Tokyo. American rogue state rhetoric, by contrast, aims at constructing a system of stratified sovereignty. This type of liberalism is not the laissez-faire liberalism of the UN Charter but a liberalism whose defining feature is the intolerance of the illiberal. It allocates sovereign privileges on the basis of respect for certain international rules of the game and adherence to good governance standards at home. However, due to wide-spread international opposition to the proposed duty to prevent, the “law desired” by the Bush administration has not become the “law established” for all, as Weil feared (1983: 441). Instead, the law established for all remains the law on self-defense enshrined in the UN Charter, complemented by the Webster formula which articulates customary international law on self-defense.¶ Nonetheless, proclaiming the “death” of the Bush doctrine (Daalder 2004) may be premature. Although it is true that international normative structures are rather inert, and that Article 2(4) is probably the most deeply entrenched international norm, an external shock of sufficient gravity (such as WMD terrorism) may lead to a wholesale revision of the Charter’s framework on the use of force and legitimize the notion of a duty to prevent. If the world were to witness a replay of the catastrophic terrorist attacks of 9/11 – this time involving WMD – this would drastically influence global threat perceptions, and would likely precipitate a loosening of the restraints on the use of force. Although the United States has not achieved a revision of the international norms governing self-defense, the steps usually preceding normative change have been taken, i.e., the United States has succeeded in shaping the international agenda by making the alleged nuclear weapons aspirations of some states issues that deserve deliberation (and ultimately sanctions), while ensuring that the actually existing nuclear arsenal of other states remain “non-issues”. Put differently, Washington managed to create a “threat” virtually out of the blue (in the case of Iraq), and convinced the Security Council that two other rogue regimes (North Korea and Iran) constitute threats to international peace and security and must be sanctioned, all the while preventing the Council from sanctioning the nuclear weapons capabilities of US allies such as Israel or India. The nuclear threat conjured up by Washington has not (yet) been proven (in the case of Iran), or turned out to be fictitious (in the case of Iraq). It is therefore remarkable to what extent the international community has come to share US threat perceptions based on the strategic social construction of irresponsible sovereigns allegedly aiming to threaten the peace of the world. The international community’s future response to Iran’s nuclear aspirations will shed further light on the development of the duty to prevent in international law. If, as newspaper reports indicate, Israel is seriously considering a preventive attack on Iran’s nuclear facilities (Bergman 2012), then much depends on the reactions of the international community. Outright international endorsement or at least tacit acquiescence would contribute to the formation of opinion juris on the legality of the duty to prevent, whereas a condemnation of the strikes would reinforce the existing intersubjective consensus on restrictive rules on anticipatory self-defense, thrown into sharp relief by the Iraq war.

#### Current US TK policies are driving a global shift in strategic doctrine toward *preventive self-defense*---results in nuclear war

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Preventive self-defense entails waging a war or an attack by choice, in order to prevent a suspected enemy from changing the status quo in an unfavorable direction. Prevention is acting in anticipation of a suspected latent threat that might fully emerge someday. One might rightfully point out that preventive strikes are nothing new—the Iraq War is simply a more recent example in a long history of the preventive use of force. The strategic theorist Colin Gray (2007:27), for example, argues that “far from being a rare and awful crime against an historical norm, preventive war is, and has always been, so common, that its occurrence seems remarkable only to those who do not know their history.” Prevention may be common throughout history, but this does not change the fact that it became increasingly difficult to justify after World War II, as the international community developed a core set of normative principles to guide state behavior, including war as a last resort. The threshold for war was set high, imposing a stringent standard for states acting in self-defense. Gray concedes that there has been a “slow and erratic, but nevertheless genuine, growth of a global norm that regards the resort to war as an extraordinary and even desperate measure” and that the Iraq war set a “dangerous precedent” (44). Although our cases do not provide a definitive answer for whether a preventive self-defense norm is diffusing, they do provide some initial evidence that states are re-orienting their military and strategic doctrines toward offense. In addition, these states have all either acquired or developed unmanned aerial vehicles for the purposes of reconnaissance, surveillance, and/or precision targeting.¶ Thus, the results of our plausibility probe provide some evidence that the global norm regarding the use of force as a last resort is waning, and that a preventive self-defense norm is emerging and cascading following the example set by the United States. At the same time, there is variation among our cases in the extent to which they apply the strategy of self-defense. China, for example, has limited their adaption of this strategy to targeted killings, while Russia has declared their strategy to include the possibility of a preventive nuclear war. Yet, the preventive self-defense strategy is not just for powerful actors. Lesser powers may choose to adopt it as well, though perhaps only implementing the strategy against actors with equal or lesser power. Research in this vein would compliment our analyses herein.¶ With the proliferation of technology in a globalized world, it seems only a matter of time before countries that do not have drone technology are in the minority. While preventive self-defense strategies and drones are not inherently linked, current rhetoric and practice do tie them together. Though it is likely far into the future, it is all the more important to consider the final stage of norm evolution—internalization—for this particular norm. While scholars tend to think of norms as “good,” this one is not so clear-cut. If the preventive self-defense norm is taken for granted, integrated into practice without further consideration, it inherently changes the functioning of international relations. And unmanned aerial vehicles, by reducing the costs of war, make claims of preventive self-defense more palatable to the public. Yet a global norm of preventive self-defense is likely to be destabilizing, leading to more war in the international system, not less. It clearly violates notions of just war principles—jus ad bellum. The United States has set a dangerous precedent, and by continuing its preventive strike policy it continues to provide other states with the justification to do the same.

#### Specifically, executive discretion over the legitimacy of targets will eviscerate legal restrictions on self-defense

Rosa Brooks 13, Professor of Law at the Georgetown University Law Center, Bernard L. Schwartz Senior Fellow at the New America Foundation, “The Constitutional and Counterterrorism Implications of Targeted Killing,” http://www.judiciary.senate.gov/pdf/04-23-13BrooksTestimony.pdf

5. Setting Troubling International Precedents ¶ Here is an additional reason to worry about the U.S. overreliance on drone strikes: Other states will follow America's example, and the results are not likely to be pretty. Consider once again the Letelier murder, which was an international scandal in 1976: If the Letelier assassination took place today, the Chilean authorities would presumably insist on their national right to engage in “targeted killings” of individuals deemed to pose imminent threats to Chilean national security -- and they would justify such killings using precisely the same legal theories the US currently uses to justify targeted killings in Yemen or Somalia. We should assume that governments around the world—including those with less than stellar human rights records, such as Russia and China—are taking notice. ¶ Right now, the United States has a decided technological advantage when it comes to armed drones, but that will not last long. We should use this window to advance a robust legal and normative framework that will help protect against abuses by those states whose leaders can rarely be trusted. Unfortunately, we are doing the exact opposite: Instead of articulating norms about transparency and accountability, the United States is effectively handing China, Russia, and every other repressive state a playbook for how to foment instability and –literally -- get away with murder. ¶ Take the issue of sovereignty. Sovereignty has long been a core concept of the Westphalian international legal order.42 In the international arena, all sovereign states are formally considered equal and possessed of the right to control their own internal affairs free of interference from other states. That's what we call the principle of non-intervention -- and it means, among other things, that it is generally prohibited for one state to use force inside the borders of another sovereign state. There are some well-established exceptions, but they are few in number. A state can lawfully use force inside another sovereign state with that state's invitation or consent, or when force is authorized by the U.N. Security Council, pursuant to the U.N. Charter,43 or in self-defense "in the event of an armed attack." ¶ The 2011 Justice Department White Paper asserts that targeted killings carried out by the United States don't violate another state's sovereignty as long as that state either consents or is "unwilling or unable to suppress the threat posed by the individual being targeted." That sounds superficially plausible, but since the United States views itself as the sole arbiter of whether a state is "unwilling or unable" to suppress that threat, the logic is in fact circular. ¶ It goes like this: The United States -- using its own malleable definition of "imminent" -- decides that Person X, residing in sovereign State Y, poses a threat to the United States and requires killing. Once the United States decides that Person X can be targeted, the principle of sovereignty presents no barriers, because either 1) State Y will consent to the U.S. use of force inside its borders, in which case the use of force presents no sovereignty problems or 2) State Y will not consent to the U.S. use of force inside its borders, in which case, by definition, the United States will deem State Y to be "unwilling or unable to suppress the threat" posed by Person X and the use of force again presents no problem. ¶ This is a legal theory that more or less eviscerates traditional notions of sovereignty, and has the potential to significantly destabilize the already shaky collective security regime created by the U.N. Charter.44 If the US is the sole arbiter of whether and when it can use force inside the borders of another state, any other state strong enough to get away with it is likely to claim similar prerogatives. And, of course, if the US executive branch is the sole arbiter of what constitutes an imminent threat and who constitutes a targetable enemy combatant in an ill- defined war, why shouldn’t other states make identical arguments—and use them to justify the killing of dissidents, rivals, or unwanted minorities?

#### This shift will not be limited to TKs---the use of preventive self-defense will spill over to interstate conflicts

Craig Martin 11, Associate Professor of Law at Washburn University School of Law, 11/7/11, “Going Medieval: Targeted Killing, Self-Defence, and the Jus Ad Bellum Regime,” http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=1956141

The entire debate on targeted killing is so narrowly focused on the particular problems posed by transnational terrorist threats, and how to manipulate the legal limitations that tend to frustrate some of the desired policy choices, that there is insufficient reflection on the broader context, and the consequences that proposed changes to the legal constraints would have on the wider legal system of which they are a part. It may serve the immediate requirements of the American government, in order to legitimize the killing of AQAP members in Yemen, to expand the concept of self-defense, and to suggest that states can use force on the basis of a putative “transnational” armed conflict with NSAs. The problem is that the jus ad bellum regime applies to all state use of force, and it is not being adjusted in some tailored way to deal with terrorism alone. If the doctrine of self-defense is expanded to include preventative and punitive elements, it will be so expanded for all jus ad bellum purposes. The expanded doctrine of self-defense will not only justify the use of force to kill individual terrorists alleged to be plotting future attacks, but to strike the military facilities of states suspected of preparing for future aggression. If the threshold for use of force against states “harboring” NSAs is significantly reduced, the gap between state responsibility and the criteria for use of force will be reduced for all purposes. If the relationship between jus ad bellum and IHL is severed or altered, so as to create justifications for the use of force that are entirely independent of the jus ad bellum regime, then states will be entitled to use force against other states under the pretext of self-proclaimed armed conflict with NSAs generally.¶ We may think about each of these innovations as being related specifically to operations against terrorist groups that have been responsible for heinous attacks, and applied to states that have proven uniquely unwilling or unable to take the actions necessary to deal with the terrorists operating within their territory. But no clear criteria or qualifications are in fact tied to the modifications that are being advanced by the targeted killing policy. Relaxing the current legal constraints on the use of force and introducing new but poorly defined standards, will open up opportunities for states to use force against other states for reasons that have nothing to do with anti-terrorist objectives. Along the lines that Jeremy Waldron argues in chapter 4 in this volume,110 more careful thought ought to be given to the general norms that we are at risk of developing in the interest of justifying the very specific targeted killing policy. Ultimately, war between nations is a far greater threat, and is a potential source of so much more human suffering than the danger posed by transnational terrorism. This is not to trivialize the risks that terrorism represents, particularly in an age when Al Qaeda and others have sought nuclear weapons. But we must be careful not to undermine the system designed to constrain the use of force and reduce the incidence of international armed conflict, in order to address a threat that is much less serious in the grand scheme of things.

#### Preventative war doctrine makes *global nuclear conflict* inevitable

Ariel Colonomos 13, Director of Research at the French National Centre for Scientific Research, Ph.D. in political science from the Institut d'Etudes Politiques de Paris, “The Gamble of War: Is it Possible to Justify Preventive War?” p 72-75, google books

John Yoo holds that the American interventions in Afghanistan or Iraq fulfilled the criteria of necessity and proportionality. To support this argument (which was contested on the invasion of Iraq), he contends that technological change has a direct impact on the calculation of proportionality and the definition of what constitutes an emergency. The proliferation of WMDs, the networking potential of the United States’ enemies, involving also transnational movements, required the adoption of an anticipatory mode of use of force. This is a disturbing line of reasoning. On the one hand—and this is the case with many of the propositions advanced by these intellectuals—it sweeps away the contemporary model of international law, which is based on a cautious (though, it should also be said, ambiguous and hence fragile) interpretation of self-defense. On the other hand, the transition from the empirical to the normative is very abrupt here, with the argument that law depends on the “reality” specific to a particular moment of history. Insofar as WMDs are actually within the reach of a large number of the United States’ enemies today (the USSR and China are no longer the only threats), the world would, in this view, be constantly on tenterhooks at the possibility of a series of preventive wars. These would be triggered by provocations or hasty, contradictory declarations on the part of movements whose strategy is, at times, to draw Westerners—and particularly the American global policeman—into endless wars. This greatly increases instability. During the Cold War, the triggering of a nuclear clash depended on interactions between a limited number of states. Today, nuclear weapons—previously regarded by some as a factor of stability, particularly because of the supposed rationality of those who possessed them—have become grounds for war. More generally there is the whole question of WMDs. The players involved are more numerous, and there is great distrust, both on account of the lack of rationality attributed by the United States to its new enemies and of their greater number and dispersal.

#### And it causes a *global proliferation casacade* and breakdown of command and control

Jonathan Kirshner 3, Associate Professor of Government and director of the Program on International Political Economy at Cornell, PhD in Politics from Princeton, January 2003, “PREVENT DEFENSE: WHY THE BUSH DOCTRINE WILL HURT U.S. INTERESTS,” <http://mercury.ethz.ch/serviceengine/Files/ISN/17143/ichaptersection_singledocument/f431ada5-2db5-4843-82fd-73e78a3c21a5/en/OP27_Ch1.pdf>

Paradoxically, although one of the great concerns motivating the new security strategy is the possibility that weapons of mass destruction will fall into the wrong hands, the Bush doctrine actually creates strong incentives for more states to seek nuclear weapons. Any country that has reason to believe it is high on the U.S. “hit list” will certainly scramble to get its hands on whatever weapons it can. While certainly dangerous, this is to some extent little more than the acceleration of an existing problem, and arguably one that may have emerged in the absence of a change in U.S. policy. What’s new, however, and somewhat more subtle, is the likelihood that many governments, even those not currently at odds with the United States, will need to consider the possibility that they might run afoul of U.S. interests in the future. Some of these states might easily conclude that a small nuclear stockpile would be the only way to deter a preventive U.S. strike. And each state’s decision to go nuclear will set off new debates on the same issue within its neighbors. This will have a cascading effect, since there are a large number of states in the system that could plausibly go nuclear in relatively short order, but have made the political calculation that they are better off without such weapons. The Bush doctrine thus is likely to set in motion what future historians will dub the “scramble for nukes” by states previously disinclined to acquire such weapons, and the result will be a proliferation nightmare, made even worse by the fact that some of those new nuclear powers will have alarmingly lax command and control institutions. The effect of U.S. policy in the end will be to greatly increase the possibility that such weapons will fall into the wrong hands, and to make it more likely that militarized disputes in the future will involve states that have some nuclear capability.

#### Prolif capacity is inevitable---motivation is key

Suzanne Varrall 12, Associate Director at the Asia Pacific Centre for Military Law, “The next nuclear wave: renaissance or proliferation risk?” Global Change, Peace & Security Vol 24, No 1, Feb 2012, https://www.academia.edu/1141970/The\_next\_nuclear\_wave\_renaissance\_of\_proliferation\_risk

In recent years, there have been repeated calls for a revival in civilian nuclear power. A nuclear energy ‘renaissance’ is being seen as an increasingly likely prospect given global concerns over energy security and supply and the spectre of global warming. These drivers have pushed a variety of countries to consider nuclear energy as an alternative to coal, oil and gas. Yet serious impediments to a renaissance in nuclear energy use remain in the form of signiﬁcant legit imate concerns over safety – most recently highlighted by the March 2011 nuclear disaster in Japan – as well as over environmental sustainability, economic viability and global security. For these reasons, the growing interest in nuclear energy is unlikely to reach the heights of a ‘nuclear renaissance’. Yet even a modest increase in civil nuclear capacity raises serious implications for nuclear weapons proliferation, particularly in light of the precedent set by Iran, Iraq, Libya and North Korea using civil nuclear activities as a cover for the development of nuclear weapons programs.¶ While the right to peaceful uses of nuclear energy is enshrined in the international non-proliferation regime, civil nuclear capabilities increase the ability of a country to develop a nuclear weapons program by lowering barriers of technology and expertise. Yet capability alone will not determine whether a country will make the leap from peaceful uses of nuclear energy to nuclear weapons; rather, a range of international and domestic factors will also contribute to the ﬁnal calculation. Thus complex present and future motivations are key factors in determining and mitigating proliferation risks. The North Asian and Southeast Asian nuclear contexts demonstrate the diversity of interconnected factors that may impact upon proliferation for new entrants and longstanding nuclear energy nations alike. It is unsurprising, then, that measures to reduce proliferation risks stemming from the spread of nuclear energy programs are neither straightforward nor fail-safe.

#### Prolif causes extinction

Matthew Kroenig 12, Assistant Professor of Government, Georgetown University and Stanton Nuclear Security Fellow, Council on Foreign Relations, “The History of Proliferation Optimism: Does It Have A Future?” Prepared for the Nonproliferation Policy Education Center, May 26, 2012, <http://www.npolicy.org/article.php?aid=1182&tid=30>

Nuclear War. The greatest threat posed by the spread of nuclear weapons is nuclear war. The more states in possession of nuclear weapons, the greater the probability that somewhere, someday, there is a catastrophic nuclear war. A nuclear exchange between the two superpowers during the Cold War could have arguably resulted in human extinction and a nuclear exchange between states with smaller nuclear arsenals, such as India and Pakistan, could still result in millions of deaths and casualties, billions of dollars of economic devastation, environmental degradation, and a parade of other horrors.¶ To date, nuclear weapons have only been used in warfare once. In 1945, the United States used one nuclear weapon each on Hiroshima and Nagasaki, bringing World War II to a close. Many analysts point to sixty-five-plus-year tradition of nuclear non-use as evidence that nuclear weapons are unusable, but it would be naïve to think that nuclear weapons will never be used again. After all, analysts in the 1990s argued that worldwide economic downturns like the great depression were a thing of the past, only to be surprised by the dot-com bubble bursting in the later 1990s and the Great Recession of the late Naughts.[53] This author, for one, would be surprised if nuclear weapons are not used in my lifetime.¶ Before reaching a state of MAD, new nuclear states go through a transition period in which they lack a secure-second strike capability. In this context, one or both states might believe that it has an incentive to use nuclear weapons first. For example, if Iran acquires nuclear weapons neither Iran, nor its nuclear-armed rival, Israel, will have a secure, second-strike capability. Even though it is believed to have a large arsenal, given its small size and lack of strategic depth, Israel might not be confident that it could absorb a nuclear strike and respond with a devastating counterstrike. Similarly, Iran might eventually be able to build a large and survivable nuclear arsenal, but, when it first crosses the nuclear threshold, Tehran will have a small and vulnerable nuclear force.¶ In these pre-MAD situations, there are at least three ways that nuclear war could occur. First, the state with the nuclear advantage might believe it has a splendid first strike capability. In a crisis, Israel might, therefore, decide to launch a preemptive nuclear strike to disarm Iran’s nuclear capabilities and eliminate the threat of nuclear war against Israel. Indeed, this incentive might be further increased by Israel’s aggressive strategic culture that emphasizes preemptive action. Second, the state with a small and vulnerable nuclear arsenal, in this case Iran, might feel use ‘em or loose ‘em pressures. That is, if Tehran believes that Israel might launch a preemptive strike, Iran might decide to strike first rather than risk having its entire nuclear arsenal destroyed. Third, as Thomas Schelling has argued, nuclear war could result due to the reciprocal fear of surprise attack.[54] If there are advantages to striking first, one state might start a nuclear war in the belief that war is inevitable and that it would be better to go first than to go second. In a future Israeli-Iranian crisis, for example, Israel and Iran might both prefer to avoid a nuclear war, but decide to strike first rather than suffer a devastating first attack from an opponent. ¶ Even in a world of MAD, there is a risk of nuclear war. Rational deterrence theory assumes nuclear-armed states are governed by rational leaders that would not intentionally launch a suicidal nuclear war. This assumption appears to have applied to past and current nuclear powers, but there is no guarantee that it will continue to hold in the future. For example, Iran’s theocratic government, despite its inflammatory rhetoric, has followed a fairly pragmatic foreign policy since 1979, but it contains leaders who genuinely hold millenarian religious worldviews who could one day ascend to power and have their finger on the nuclear trigger. We cannot rule out the possibility that, as nuclear weapons continue to spread, one leader will choose to launch a nuclear war, knowing full well that it could result in self-destruction.¶ One does not need to resort to irrationality, however, to imagine a nuclear war under MAD. Nuclear weapons may deter leaders from intentionally launching full-scale wars, but they do not mean the end of international politics. As was discussed above, nuclear-armed states still have conflicts of interest and leaders still seek to coerce nuclear-armed adversaries. This leads to the credibility problem that is at the heart of modern deterrence theory: how can you threaten to launch a suicidal nuclear war? Deterrence theorists have devised at least two answers to this question. First, as stated above, leaders can choose to launch a limited nuclear war.[55] This strategy might be especially attractive to states in a position of conventional military inferiority that might have an incentive to escalate a crisis quickly. During the Cold War, the United States was willing to use nuclear weapons first to stop a Soviet invasion of Western Europe given NATO’s conventional inferiority in continental Europe. As Russia’s conventional military power has deteriorated since the end of the Cold War, Moscow has come to rely more heavily on nuclear use in its strategic doctrine. Indeed, Russian strategy calls for the use of nuclear weapons early in a conflict (something that most Western strategists would consider to be escalatory) as a way to de-escalate a crisis. Similarly, Pakistan’s military plans for nuclear use in the event of an invasion from conventionally stronger India. And finally, Chinese generals openly talk about the possibility of nuclear use against a U.S. superpower in a possible East Asia contingency.¶ Second, as was also discussed above leaders can make a “threat that leaves something to chance.”[56] They can initiate a nuclear crisis. By playing these risky games of nuclear brinkmanship, states can increases the risk of nuclear war in an attempt to force a less resolved adversary to back down. Historical crises have not resulted in nuclear war, but many of them, including the 1962 Cuban Missile Crisis, have come close. And scholars have documented historical incidents when accidents could have led to war.[57] When we think about future nuclear crisis dyads, such as India and Pakistan and Iran and Israel, there are fewer sources of stability that existed during the Cold War, meaning that there is a very real risk that a future Middle East crisis could result in a devastating nuclear exchange.

#### Finally, robust norms restricting the use of force empirically prevent conflict escalation among great powers

John Vasquez 9, Thomas B. Mackie Scholar of International Relations and Professor of Political Science at the University of Illinois at Urbana-Champaign, PhD in Poli Sci from Syracuse University, “Peace,” Chapter 8 in The War Puzzle Revisited, p 298-299, google books

Wallensteen’s examination of the characteristics of particularist periods provides significant additional evidence that the steps-to-war analysis is on the right track. Realist practices are associated with war, and peaceful systems are associated with an emphasis on other practices. Peaceful systems are exemplified by the use of practices like buffer states, compensation, and concerts of power that bring major states together to form a network of institutions that provide governance for the system. The creation of rules of the game that can handle certain kinds of issues – territorial and ideological questions – and/or keep them off the agenda seems to be a crucial variable in producing peace.¶ Additional evidence on the import of rules and norms is provided in a series of studies by Kegley and Raymond (1982, 1984, 1986, 1990) that are operationally more precise than Wallensteen’s (1984) analysis. Kegley and Raymond provide evidence that when states accept norms, the incidence of war and military confrontation is reduced. They find that peace is associated with periods in which alliance norms are considered binding and the unilateral abrogation of commitments and treaties illegitimate. The rules imposed by the global political culture in these periods result in fewer militarized disputes and wars between major states. In addition, the wars that occur are kept at lower levels of severity, magnitude, and duration (i.e. they are limited wars).¶ Kegley and Raymond attempt to measure the extent to which global cultural norms restrain major states by looking at whether international law and commentary on it sees treaties and alliances as binding. They note that there have been two traditions in international law – pacta sunt servanda, which maintains that agreements are binding, and clausa rebus sic stantibus, which says that treaties are signed “as matters stand” and that any change in circumstances since the treaty was signed permits a party to withdraw unilaterally. One of the advantages the Kegley-Raymond studies have over Wallensteen (1984) is that they are able to develop reliable measures of the extent to which in any given half-decade that tradition in international law emphasizes the rebus or pacta sunt servanda tradition. This indicator is important not only because it focuses in on the question of unilateral actions, but because it can serve as an indicator of how well the peace system is working. The pacta sunt servanda tradition implies a more constraining political system and robust institutional context which should provide an alternative to war.¶ Kegley and Raymond (1982: 586) find that in half-decades (from 1820 to 1914) when treaties are considered non-binding (rebus), wars between major states occur in every half-decade (100 percent), but when treaties are considered binding (pacta sunt servanda), wars between major states occur in only 50 percent of the half-decades. The Cramer’s V for this relationship is .66. When the sample is expanded to include all states in the central system, Cramer’s V is 0.44, indicating that global norms have more impact on preventing war between major states. Nevertheless, among central system states between 1820 and 1939, war occurred in 93 percent of the half-decades where the rebus tradition dominated and in only 60 percent of the half-decades where the pacta sunt sevanda tradition dominated.¶ In a subsequent analysis of militarized disputes from 1820 to 1914, Kegley and Raymond (1984: 207-11) find that there is a negative relationship between binding norms and the frequency and scope of disputes short of war. In periods when the global culture accepts the pacta sunt servanda tradition as the norm, the number of military disputes goes down and the number of major states involved in a dispute decreases. Although the relationship is of moderate strength, it is not eliminated by other variables, namely alliance flexibility. As Kegley and Raymond (1984: 213) point out, this means “that in periods when the opportunistic renunciation of commitments” is condoned, militarized disputes are more likely to occur and to spread. The finding that norms can reduce the frequency and scope of disputes is significant evidence that rules can permit actors to successfully control and manage disputes so that they are not contagious and they do not escalate to war. These findings are consistent with Wallensteen’s (1984) and suggest that one of the ways rules help prevent war is by reducing, limiting, and managing disputes short of war.

### Advantage 3---Allies

#### Disputes over the legality of US targeted killing practices will derail intelligence sharing with European allies---outweighs disputes over surveillance

Anthony Dworkin 13, senior policy fellow at the European Council on Foreign Relations, "Actually, drones worry Europe more than spying", July 18, ecfr.eu/content/entry/commentary\_actually\_drones\_worry\_europe\_more\_than\_spying

Relations between the United States and Europe hit a low point following revelations that Washington was spying on European Union buildings and harvesting foreign email messages.¶ Behind the scenes, though, it is not data protection and surveillance that produces the most complications for the transatlantic intelligence relationship, but rather America's use of armed drones to kill terrorist suspects away from the battlefield. Incidents such as the recent killing of at least 17 people in Pakistan are therefore only likely to heighten European unease.¶ In public, European governments have displayed a curiously passive approach to American drone strikes, even as their number has escalated under Barack Obama’s presidency. Many Europeans believe that the majority of these strikes are unlawful, but their governments have maintained an uneasy silence on the issue. This is partly because of the uncomfortable fact that information provided by European intelligence services may have been used to identify some targets. It is also because of a reluctance to accuse a close ally of having violated international law. And it is partly because European countries have not worked out exactly what they think about the use of drones and how far they agree within the European Union on the question. Now, however, Europe’s muted stance on drone strikes looks likely to change.¶ Why? For one thing, many European countries are now trying to acquire armed drones themselves, and this gives them an incentive to spell out clearer rules for their use. More importantly, perhaps, Europeans have noticed that drones are proliferating rapidly, and that countries like China, Russia and Saudi Arabia are soon likely to possess them. There is a clear European interest in trying to establish some restrictive standards on drone use before it is too late. For all these reasons, many European countries are now conducting internal reviews of their policy on drones, and discussions are also likely to start at a pan-European level.

#### Resilience arguments don’t apply---legal disputes and court rulings will force allies to stop sharing---wrecks overall cooperation

Tom Parker 12, Adjunct Professor in the International Affairs program at Bard College, former policy director for Terrorism, Counterterrorism and Human Rights at Amnesty International USA, former officer in MI5, Sept 17 2012, “U.S. Tactics Threaten NATO,” <http://nationalinterest.org/commentary/us-tactics-threaten-nato-7461>

The European Court of Human Rights established its jurisdiction over stabilization operations in Iraq, and by implication its writ extends to Afghanistan as well. The British government has lost a series of cases before the court relating to its operations in southern Iraq. This means that concepts such as the right to life, protection from arbitrary punishment, remedy and due process apply in areas under the effective control of European forces. Furthermore, the possibility that intelligence provided by any of America’s European allies could be used to target a terrorism suspect in Somalia or the Philippines for a lethal drone strike now raises serious criminal liability issues for the Europeans.¶ The United States conducts such operations under the legal theory that it is in an international armed conflict with Al Qaeda and its affiliates that can be pursued anywhere on the globe where armed force may be required. But not one other member of NATO shares this legal analysis, which flies in the face of established international legal norms. The United States may have taken issue with the traditional idea that wars are fought between states and not between states and criminal gangs, but its allies have not.¶ The heads of Britain’s foreign and domestic intelligence services have been surprisingly open about the “inhibitions” that this growing divergence has caused the transatlantic special relationship, telling Parliament that it has become an obstacle to intelligence sharing. European attitudes are not going to change—the European Court of Human Rights is now deeply embedded in European life, and individual European governments cannot escape its oversight no matter how well disposed they are to assist the United States.¶ The United States has bet heavily on the efficacy of a new array of counterterrorism powers as the answer to Al Qaeda. In doing so it has evolved a concept of operations that has much more in common with the approach to terrorist threats taken by Israel and Russia than by its European partners. There has been little consideration of the wider strategic cost of these tactics, even as the Obama administration doubles down and extends their use. Meanwhile, some of America’s oldest and closest allies are beginning to place more and more constraints on working with U.S. forces.¶ NATO cannot conduct military operations under two competing legal regimes for long. Something has to give—and it may just be the Atlantic alliance.

#### Info sharing and cooperation are key to global biodefense

Daniel Hamilton 9, lead author, Richard von Weizsäcker Professor and Director of the Center for Transatlantic Relations at the Paul H. Nitze School of Advanced International Studies @ Johns Hopkins, Executive Director of the American Consortium on EU Studies, PhD in American Foreign Policy from SAIS; Charles Barry, national security consultant and Senior Research Fellow at the National Defense University’s Center for Technology and National Security Policy, Doctorate in Public Administration from the University of Baltimore; Hans Binnendijk, VP for Research at the National Defense University and Founding Director of NDU's Center for Technology and National Security Policy; Stephen Flanagan, Senior VP and Henry A. Kissinger Chair at CSIS, PhD in IR from the Fletcher School at Tufts; Julianne Smith, director of the CSIS Europe Program and the Initiative for a Renewed Transatlantic Partnership; and James Townsend, VP of the Atlantic Council of the US and Director of the Council’s Program on International Security, Adjunct Prof of Int’l Studies at American University, February 2009, “Alliance Reborn: An Atlantic Compact for the 21st Century,” http://transatlantic.sais-jhu.edu/publications/books/nato\_report\_final.pdf

Successful global approaches to biosecurity must begin with the transatlantic community. Europe and North America together represent the largest repository of resources, skills, talents, leadership and international engagement to make health an integral part of societal resilience. The U.S. and various European countries have advanced domestic biodefense efforts, but relatively little has been done to strengthen international biodefense. Efforts to adopt nuclear nonproliferation regimes to the biological realm have been fraught with difficulties and are of questionable merit. Areas for cooperation include improved global biosurveillance capabilities; better early warning and detection systems; robust information-sharing, investigational and preparedness mechanisms; harmonized standards; and medical countermeasures and stockpiles.23 ¶ This is not primarily an area for NATO – health and interior ministries, as well as international organizations such as WHO, are particularly challenged. Bilateral cooperation, and more effective U.S.-EU and global collaboration, including between scientists, is also key. But NATO has a role to play, particularly in terms of developing more effective response and mitigation capabilities and procedures, and refocusing Euro-Atlantic Disaster Response Coordination Center (EARDCC) training and exercises to place greater emphasis on intentional attacks instead of primarily natural disasters.

#### Transatlantic cooperation and info sharing is key to cyber security

Dr. Jamie Shea 12, Lecturer at the Brussels School of International Studies, University of Kent, Visiting Prof in Diplomacy and International Strategy at LSE IDEAS, D.Phil. in Modern History from Oxford University, NATO Deputy Asst Secretary General for Emerging Security Challenges, Apr 19 2012, “Keeping NATO Relevant,” http://carnegieendowment.org/2012/04/19/keeping-nato-relevant/acl9#

All future conflicts will have a cyber dimension, whether in stealing secrets and probing vulnerabilities to prepare for a military operation or in disabling crucial information and command and control networks of the adversary during the operation itself. Consequently, NATO’s future military effectiveness will be closely linked to its cyber-defense capabilities; in this respect, there is also much that NATO can do to help allies improve their cyber forensics, intrusion detection, firewalls, and procedures for handling an advanced persistent attack, such as that which affected Estonia in 2007.¶ The Alliance can also help to shape the future cyber environment by promoting information sharing and confidence-building measures among its partners and, in a longer-term perspective, other key actors, such as Brazil, China, and India. This is a field where the military is clearly ahead in many key technical areas. NATO already has one of the most capable computer incident response centers around and one of the best systems for exchanging and assessing intelligence on cyber threats. NATO must first establish its credibility in this area by bringing all of its civilian and military networks under centralized protection by the end of 2012, but it would not make sense to leave NATO’s role in cyber defense there. It can be a center of excellence for exercises, best practice, stress testing, and common standards for both allies and partners.

#### Nuclear war

Jason Fritz 9, Researcher for the International Commission on Nuclear Nonproliferation and Disarmament, former Army officer and consultant, masters in IR from Bond University, July 2009, “Hacking Nuclear Command and Control,” http://www.icnnd.org/latest/research/Jason\_Fritz\_Hacking\_NC2.pdf

This paper will analyse the threat of cyber terrorism in regard to nuclear weapons. Specifically, this research will use open source knowledge to identify the structure of nuclear command and control centres, how those structures might be compromised through computer network operations, and how doing so would fit within established cyber terrorists’ capabilities, strategies, and tactics. If access to command and control centres is obtained, terrorists could fake or actually cause one nuclear-armed state to attack another, thus provoking a nuclear response from another nuclear power. This may be an easier alternative for terrorist groups than building or acquiring a nuclear weapon or dirty bomb themselves. This would also act as a force equaliser, and provide terrorists with the asymmetric benefits of high speed, removal of geographical distance, and a relatively low cost. Continuing difficulties in developing computer tracking technologies which could trace the identity of intruders, and difficulties in establishing an internationally agreed upon legal framework to guide responses to computer network operations, point towards an inherent weakness in using computer networks to manage nuclear weaponry. This is particularly relevant to reducing the hair trigger posture of existing nuclear arsenals. All computers which are connected to the internet are susceptible to infiltration and remote control. Computers which operate on a closed network may also be compromised by various hacker methods, such as privilege escalation, roaming notebooks, wireless access points, embedded exploits in software and hardware, and maintenance entry points. For example, e-mail spoofing targeted at individuals who have access to a closed network, could lead to the installation of a virus on an open network. This virus could then be carelessly transported on removable data storage between the open and closed network. Information found on the internet may also reveal how to access these closed networks directly. Efforts by militaries to place increasing reliance on computer networks, including experimental technology such as autonomous systems, and their desire to have multiple launch options, such as nuclear triad capability, enables multiple entry points for terrorists. For example, if a terrestrial command centre is impenetrable, perhaps isolating one nuclear armed submarine would prove an easier task. There is evidence to suggest multiple attempts have been made by hackers to compromise the extremely low radio frequency once used by the US Navy to send nuclear launch approval to submerged submarines. Additionally, the alleged Soviet system known as Perimetr was designed to automatically launch nuclear weapons if it was unable to establish communications with Soviet leadership. This was intended as a retaliatory response in the event that nuclear weapons had decapitated Soviet leadership; however it did not account for the possibility of cyber terrorists blocking communications through computer network operations in an attempt to engage the system. Should a warhead be launched, damage could be further enhanced through additional computer network operations. By using proxies, multi-layered attacks could be engineered. Terrorists could remotely commandeer computers in China and use them to launch a US nuclear attack against Russia. Thus Russia would believe it was under attack from the US and the US would believe China was responsible. Further, emergency response communications could be disrupted, transportation could be shut down, and disinformation, such as misdirection, could be planted, thereby hindering the disaster relief effort and maximizing destruction. Disruptions in communication and the use of disinformation could also be used to provoke uninformed responses. For example, a nuclear strike between India and Pakistan could be coordinated with Distributed Denial of Service attacks against key networks, so they would have further difficulty in identifying what happened and be forced to respond quickly. Terrorists could also knock out communications between these states so they cannot discuss the situation. Alternatively, amidst the confusion of a traditional large-scale terrorist attack, claims of responsibility and declarations of war could be falsified in an attempt to instigate a hasty military response. These false claims could be posted directly on Presidential, military, and government websites. E-mails could also be sent to the media and foreign governments using the IP addresses and e-mail accounts of government officials. A sophisticated and all encompassing combination of traditional terrorism and cyber terrorism could be enough to launch nuclear weapons on its own, without the need for compromising command and control centres directly.

### Plan

#### The United States federal government should limit the President's war powers authority to assert, on behalf of the United States, immunity from judicial review by establishing a cause of action allowing civil suits brought against the United States by those unlawfully injured by targeted killing operations, their heirs, or next friends in security cleared legal proceedings.

### Solvency

#### The plan establishes legal norms and ensures compliance with the laws of war

Jonathan Hafetz 13, Associate Prof of Law at Seton Hall University Law School, former Senior Staff Attorney at the ACLU, served on legal teams in multiple Supreme Court cases regarding national security, “Reviewing Drones,” 3/8/2013, http://www.huffingtonpost.com/jonathan-hafetz/reviewing-drones\_b\_2815671.html

The better course is to ensure meaningful review after the fact. To this end, Congress should authorize federal damages suits by the immediate family members of individuals killed in drone strikes.¶ Such ex post review would serve two main functions: providing judicial scrutiny of the underlying legal basis for targeted killings and affording victims a remedy. It would also give judges more leeway to evaluate the facts without fear that an error on their part might leave a dangerous terrorist at large.¶ For review to be meaningful, judges must not be restricted to deciding whether there is enough evidence in a particular case, as they would likely be under a FISA model. They must also be able to examine the government's legal arguments and, to paraphrase the great Supreme Court chief justice John Marshall, "to say what the law is" on targeted killings.¶ Judicial review through a civil action can achieve that goal. It can thus help resolve the difficult questions raised by the Justice Department white paper, including the permissible scope of the armed conflict with al Qaeda and the legality of the government's broad definition of an "imminent" threat.¶ Judges must also be able to afford a remedy to victims. Mistakes happen and, as a recent report by Columbia Law School and the Center for Civilians in Conflict suggests, they happen more than the U.S. government wants to acknowledge.¶ Errors are not merely devastating for family members and their communities. They also increase radicalization in the affected region and beyond. Drone strikes -- if unchecked -- could ultimately create more terrorists than they eliminate.¶ Courts should thus be able to review lethal strikes to determine whether they are consistent with the Constitution and with the 2001 Authorization for Use of Military Force, which requires that such uses of force be consistent with the international laws of war. If a drone strike satisfies these requirements, the suit should be dismissed.

#### Cause of action deters abuse and avoids legal barriers---drawbacks of judicial review don’t apply

Stephen I. Vladeck 14, Prof of Law and Associate Dean for Scholarship, American University Washington College of Law, “Targeted Killing and Judicial Review ,”

Once one accepts that neutral magistrates are competent to resolve certain issues in suits challenging targeted killings, the focus should shift to how such oversight can best be designed to maximize both the government’s interests in secrecy and expediency and the individual rights of the putative targets. I offered my critiques of Judge Gonzales’s proposal above. Although I have expressed my own views on this subject before,69 the following briefly lays out some of the key elements I consider necessary to any such regime. ¶ As noted above,70 such review is best provided after the fact, rather than ex ante, in a similar manner as the wrongful death actions recognized by virtually every jurisdiction.71 After-the-fact review avoids the serious logistical, prudential, and potentially constitutional concerns that ex ante review would raise because it does not stop the government from acting at its own discretion, and it allows for more comprehensive consideration of the issues “removed from the pressures of the moment and with the benefit of the dispassionate distance on which judicial review must rely.”72¶ Such review should be predicated on an express cause of action created by Congress. In designing such a remedy, Congress can borrow from the model created by FISA, which has provided since its inception that “[a]n aggrieved person, other than [one who is properly subject to surveillance under FISA], who has been subjected to an electronic surveillance . . . shall have a cause of action against any person who committed such violation.”73 An express cause of action would clarify Congress’s intent that such suits should be allowed to go forward, and it would also support arguments against otherwise available common law privileges and immunities. ¶ Further to that end, because review would be after the fact, such an action should be for damages, and, unlike FISA, should therefore contain an express waiver of the United States’ sovereign immunity to ensure that money damages will actually be available in such cases74—not so much to make the victim’s heirs whole, but to provide a meaningful deterrent for future government officers. Thus, although many will disagree with this particular aspect of my proposal, I suspect that such a cause of action could serve its purpose even if it only provided for nominal damages, insofar as such nominal damages still establish forward-looking principles of liability.75¶ Although no special jurisdictional provisions should be necessary (e.g., FISA does not require civil suits under FISA to be brought before the FISC),76 Congress could confer exclusive jurisdiction over such suits upon the U.S. District Court for the District of Columbia.77 This jurisdictional exclusivity would ensure that such cases were brought before federal judges with substantial and sustained experience handling high-profile (and often highly sensitive) national security cases. ¶ Borrowing from the model of the Federal Tort Claims Act (“FTCA”),78 as amended by the Federal Employees Liability Reform and Tort Compensation Act of 1988 (“Westfall Act”), 79 Congress can immunize potential officer-defendants by substituting the United States as the defendant on any claims arising under this cause of action in which the officer-defendant was acting within the scope of his employment.80 As is the case under the Westfall Act, such a move would also necessarily moot application of official immunity doctrines because it would confer absolute immunity upon the officer-defendants,81 and the United States may not invoke official immunity as a party. As under the Westfall Act, substitution would reinforce the idea that the goal is not to punish individual officers, but to establish the liability of the federal government writ large. ¶ As under the FTCA, Congress could bar jury trials in such cases, requiring instead that all factual and legal determinations be made by the presiding judge.82 Again, such a move would help to ensure that these suits could be heard expeditiously and with due regard for the government’s secrecy concerns. ¶ On that note, with regard to secrecy, Congress could look to both FISA83 and the provisions of the 1996 immigration laws establishing the Alien Terrorist Removal Court (“ATRC”)84 as models for how to allow for judicial proceedings that are both adversarial and largely secret. In this respect, both FISA and the ATRC contemplate litigation between the government and security-cleared counsel without regard to the state secrets privilege, which Congress could otherwise abrogate.85

#### Ex post review creates a credible signal of compliance that restrains future executives

Kwame Holman 13, congressional correspondent for PBS NewsHour; citing Rosa Brooks, Prof of Law at Georgetown University Law Center, former Counselor to the Under Secretary of Defense for Policy, former senior advisor at the US Dept of State, “Congress Begins to Weigh In On Drone Strikes Policy,” http://www.pbs.org/newshour/rundown/2013/04/congress-begins-to-weigh-in-on-drone-strikes-policy.html

While some experts have argued for court oversight of drone strikes before they're carried out, Brooks sides with those who say that would be unwieldy and unworkable.¶ Brooks says however an administration that knows its strikes could face court review after the fact -- with possible damages assessed -- would be more responsible and careful about who it strikes and why.¶ "If Congress were to create a statutory cause of action for damages for those who had been killed in abusive or mistaken drone strikes, you would have a court that would review such strikes after the fact. [That would] create a pretty good mechanism that would frankly keep the executive branch as honest as we hope it is already and as we hope it will continue to be into administrations to come," Brooks said.¶ "It would be one of the approaches that would go a very long way toward reassuring both U.S. citizens and the world more generally that our policies are in compliance with rule of law norms."

#### Court review would narrow self-defense targeting to truly imminent threats

Lindsay Kwoka 11, JD from UPenn Law School, “TRIAL BY SNIPER: THE LEGALITY OF TARGETED KILLING IN THE WAR ON TERROR,” University of Pennsylvania Journal of Constitutional Law Vol 14:1, p 301-325, https://www.law.upenn.edu/journals/conlaw/articles/volume14/issue1/Kwoka14U.Pa.J.Const.L.301(2011).pdf

But this is not the end of the inquiry. Even if a targeted individual is not located on a field of battle, he may still be a threat, and tar-geted killing may potentially be necessary and appropriate in some circumstances. Applying the reasoning of Hamdi here, a court would likely find that the use of targeted killing is only “necessary and ap-propriate” if it is the only way to prevent someone like Al-Awlaki from engaging in terrorist activity or otherwise harming the United States. The Hamdi Court was concerned with assuring that the executive used the least intrusive means in achieving its objective of preventing the enemy combatant from returning to battle.72The Court made clear that the means used to achieve this objective should be no more intrusive than necessary.73 It is consistent with the Court’s concern to allow targeted killing only when it is the only means available to pre-vent harm to the United States. If the executive can demonstrate that an individual outside of a war zone will harm the United States unless he is killed, targeted kill-ing may be authorized. This is consistent with Hamdi, in which the main concern was preventing future harm to the United States while using the least intrusive means available. This is also consistent with U.S. criminal law, in which the executive branch is permitted to kill an individual if there is no peaceful means left to apprehend him.74¶ Such an approach is also consistent with the approach of the Su-preme Court. Even the most stalwart protectors of constitutional rights of alleged terrorists recognize that immediate action by the ex-ecutive is at times necessary to prevent attacks.75An approach that al-lows the executive to use deadly force when it is the only available means of preventing harm effectively balances the need to protect cit-izen’s constitutional rights while affording sufficient deference to theexecutive.

#### Just complying with legal requirements is not enough---court review is key to verify compliance for external observers

Avery Plaw 8, Associate Prof of Political Science at the University of Massachusetts at Dartmouth, PhD in Political Science from McGill University, “The Legality of Targeted Killing as an Instrument of War: The Case of Qaed Salim Sinan al-Harethi,” Prepared for the 5th Global Conference on War, Virtual War and Human Security, Budapest 2008

However, the analysis suggests two further points. The first point is that there is an urgent need for more extensive oversight of targeting operations. Since terrorists do not wear uniforms, it is difficult for those outside the targeting government(s) to know when the targets are legitimate combatants under either of the last two legal paradigms. This concern is illustrated by the al-Harethi case in a number of ways. First, the legitimacy of the operation is at best suggested by the evidence publicly available. Moreover, it seems likely that the available evidence is incomplete – that is, that the state or states cooperating in the targeting have further material that is not available to the public. In addition, information essential to making a just determination includes not only targets’ past actions, but also current activities and, where they can be discerned, future plans, and the quality of evidence the state has on these latter subjects. Such information is typically not publicly available. It may be added that the available material on the al-Harethi targeting is extensive in comparison with other, more recent cases such as the US operations in Somalia in 2007. For these reasons it will often be difficult for those outside the targeting governments to come to a clear determination of the combat status of targets. There is therefore an urgent need for more extensive oversight of targeting operations. ¶ At the same time, targeting states can make a strong case against making all available evidence on future targets publicly available. To disseminate such information in advance could obviously tip off the target and scuttle the operation. Even after the fact, however, the governments may legitimately point out that making sensitive intelligence publicly available may threaten to expose sources and to hamper the continued accumulation of intelligence. In either case, the government may argue that it would be failing in its primary duty to protect its citizens. One possible means of reconciling the need for greater oversight and the need to protect key information would be the creation of independent and authoritative judicial bodies to review the combat status of potential targets in camera. (Plaw 2007: 23-5)¶ Second, there is an urgent need to clarify the criteria for the determination of legitimate targets, and more broadly which of the legal paradigms (or what combination thereof) properly applies to such cases. If the decisive argument in defense of the al-Harethi targeting is, as suggested above, an appeal to the self-defense framework, that would suggest some important limits to who could legitimately be targeted. For example, the condition of necessity would require evidence that further attacks were planned. The state would also have to be prepared to show that there was no alternative means to neutralize the threat posed by the terrorist target. Moreover, the state would have to be able to show that it had reason to believe that it could neutralize the terrorist without posing a disproportionate threat to civilians. These criteria look like they may have been met in the al-Harethi case, although it cannot be known be certainty, at least based on the information available. Again, this unavoidable uncertainty points to the urgent need for a credible and independent body, preferably a judicial body, to review such evidence. This is all the clearer in light of two issues that remain unresolved to date: whether a criterion of immediacy or imminence should be applied to such cases, and how exactly the pertinent criteria should be interpreted. Finally, the urgency of judicial oversight is clearer still because some recent targeting operations do not appear to have met even the criteria of necessity and proportionality. For example, an American targeting attack on 13 January 2006 in Damadola, Pakistan, killed 18 unintended victims. However, Ayman Zawahiri, the intended target of the attack, appears not to have even been present.

#### Only external oversight can convince other countries that we’re following the rules

Avery Plaw 8, Associate Prof of Political Science at the University of Massachusetts at Dartmouth, PhD in Political Science from McGill University, “The Legality of Targeted Killing as an Instrument of War: The Case of Qaed Salim Sinan al-Harethi,” Prepared for the 5th Global Conference on War, Virtual War and Human Security, Budapest 2008

However, the analysis suggests two further points. The first point is that there is an urgent need for more extensive oversight of targeting operations. Since terrorists do not wear uniforms, it is difficulty for those outside the targeting government(s) to know when the targets are legitimate combatants under either of the last two legal paradigms. This concern is illustrated by the al-Harethi case in a number of ways. First, the legitimacy of the operation is at best suggested by the evidence publicly available. Moreover, it seems likely that the available evidence is incomplete – that is, that the state or states cooperating in the targeting have further material that is not available to the public. In addition, information essential to making a just determination includes not only targets’ past actions, but also current activities and, where they can be discerned, future plans, and the quality of evidence the state has on these latter subjects. Such information is typically not publicly available. It may be added that the available material on the al-Harethi targeting is extensive in comparison with other, more recent cases such as the US operations in Somalia in 2007. For these reasons it will often be difficult for those outside the targeting governments to come to a clear determination of the combat status of targets. There is therefore an urgent need for more extensive oversight of targeting operations. ¶ At the same time, targeting states can make a strong case against making all available evidence on future targets publicly available. To disseminate such information in advance could obviously tip off the target and scuttle the operation. Even after the fact, however, the governments may legitimately point out that making sensitive intelligence publicly available may threaten to expose sources and to hamper the continued accumulation of intelligence. In either case, the government may argue that it would be failing in its primary duty to protect its citizens. One possible means of reconciling the need for greater oversight and the need to protect key information would be the creation of independent and authoritative judicial bodies to review the combat status of potential targets in camera. (Plaw 2007: 23-5)¶ Second, there is an urgent need to clarify the criteria for the determination of legitimate targets, and more broadly which of the legal paradigms (or what combination thereof) properly applies to such cases. If the decisive argument in defense of the al-Harethi targeting is, as suggested above, an appeal to the self-defense framework, that would suggest some important limits to who could legitimately be targeted. For example, the condition of necessity would require evidence that further attacks were planned. The state would also have to be prepared to show that there was no alternative means to neutralize the threat posed by the terrorist target. Moreover, the state would have to be able to show that it had reason to believe that it could neutralize the terrorist without posing a disproportionate threat to civilians. These criteria look like they may have been met in the al-Harethi case, although it cannot be known be certainty, at least based on the information available. Again, this unavoidable uncertainty points to the urgent need for a credible and independent body, preferably a judicial body, to review such evidence. This is all the clearer in light of two issues that remain unresolved to date: whether a criterion of immediacy or imminence should be applied to such cases, and how exactly the pertinent criteria should be interpreted. Finally, the urgency of judicial oversight is clearer still because some recent targeting operations do not appear to have met even the criteria of necessity and proportionality. For example, an American targeting attack on 13 January 2006 in Damadola, Pakistan, killed 18 unintended victims. However, Ayman Zawahiri, the intended target of the attack, appears not to have even been present.

#### Cause of action solves intel sharing

Gabor Rona 13, Lecturer in Law at Columbia Law School, International Legal Director of Human Rights First, “The pro-rule of law argument against a 'drone court,'” 2/27/13, http://thehill.com/blogs/congress-blog/judicial/285041-the-pro-rule-of-law-argument-against-a-drone-court

But a “drone court” would be worse than ineffective: it would harm national security. Throughout the “war on terror,” policies that offend international law, including the broad scope of the government's claimed authority to kill, have inhibited allies from sharing essential intelligence with the United S

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tates and damaged the country’s reputation as a beacon on human rights. A secret court would only reinforce the perception that the United States concocts its own secret rules while insisting that other countries follow the international public ones.¶ Pre-targeting judicial intervention is also probably unconstitutional because the U.S. constitution empowers courts to hear "cases and controversies," but not to render "advisory opinions." Adjudication of an act to take place in the future would seem to violate this restriction.¶ So if a drone court isn’t the answer, what is?¶ Congress should require the executive to disclose the targeting standards it’s adopted so as to expose its rationale to scrutiny. The leaking of a single document — a “white paper” laying out the administration’s legal case for killing U.S. citizens — has triggered unprecedented criticism and pushback from Congress and the media. Scrutiny begets scrutiny and can lead to meaningful reform. That’s surely one of the reasons the White House has refused to release most information about the targeted killing program.¶ Congress should also ensure that victims of unlawful targeting — or their survivors — have the right to claim compensation, creating a deterrent to government abuse. That right already exists in theory but time and again courts have prohibited such cases from moving forward, buying without question the government’s claim that allowing them would threaten national security. Congress should limit the executive’s ability to hide unlawful killings behind this claim.

## 2AC

### 2AC Topicality

#### We meet---we prohibit TKs without judicial review

#### Ex post is a restriction

ECHR 91,European Court of Human Rights, Decision in Ezelin v. France, 26 April 1991, http://www.bailii.org/eu/cases/ECHR/1991/29.html

The main question in issue concerns Article 11 (art. 11), which provides:¶ "1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.¶ 2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. ..."¶ Notwithstanding its autonomous role and particular sphere of application, Article 11 (art. 11) must, in the present case, also be considered in the light of Article 10 (art. 10) (see the Young, James and Webster judgment of 13 August 1981, Series A no. 44, p. 23, § 57). The protection of personal opinions, secured by Article 10 (art. 10), is one of the objectives of freedom of peaceful assembly as enshrined in Article 11 (art. 11).¶ A. Whether there was an interference with the exercise of the freedom of peaceful assembly¶ In the Government’s submission, Mr Ezelin had not suffered any interference with the exercise of his freedom of peaceful assembly and freedom of expression: he had been able to take part in the procession of 12 February 1983 unhindered and to express his convictions publicly, in his professional capacity and as he wished; he was reprimanded only after the event and on account of personal conduct deemed to be inconsistent with the obligations of his profession.¶ The Court does not accept this submission. The term "restrictions" in paragraph 2 of Article 11 (art. 11-2) - and of Article 10 (art. 10-2) - cannot be interpreted as not including measures - such as punitive measures - taken not before or during but after a meeting (cf. in particular, as regards Article 10 (art. 10), the Handyside judgment of 7 December 1976, Series A no. 24, p. 21, § 43, and the Müller and Others judgment of 24 May 1988, Series A no. 133, p. 19, § 28).

#### Counter-interp---restrictions means limit---we meet

CAA 8,COURT OF APPEALS OF ARIZONA, DIVISION ONE, DEPARTMENT A, STATE OF ARIZONA, Appellee, v. JEREMY RAY WAGNER, Appellant., 2008 Ariz. App. Unpub. LEXIS 613

P10 The term "restriction" is not defined by the Legislature for the purposes of the DUI statutes. See generally A.R.S. § 28-1301 (2004) (providing the "[d]efinitions" section of the DUI statutes). In the absence of a statutory definition of a term, we look to ordinary dictionary definitions and do not construe the word as being a term of art. Lee v. State, 215 Ariz. 540, 544, ¶ 15, 161 P.3d 583, 587 (App. 2007) ("When a statutory term is not explicitly defined, we assume, unless otherwise stated, that the Legislature intended to accord the word its natural and obvious meaning, which may be discerned from its dictionary definition.").¶ P11 The dictionary definition of "restriction" is "[a] limitation or qualification." Black's Law Dictionary 1341 (8th ed. 1999). In fact, "limited" and "restricted" are considered synonyms. See Webster's II New Collegiate Dictionary 946 (2001). Under these commonly accepted definitions, Wagner's driving privileges were "restrict[ed]" when they were "limited" by the ignition interlock requirement. Wagner was not only [\*7] statutorily required to install an ignition interlock device on all of the vehicles he operated, A.R.S. § 28-1461(A)(1)(b), but he was also prohibited from driving any vehicle that was not equipped with such a device, regardless whether he owned the vehicle or was under the influence of intoxicants, A.R.S. § 28-1464(H). These limitations constituted a restriction on Wagner's privilege to drive, for he was unable to drive in circumstances which were otherwise available to the general driving population. Thus, the rules of statutory construction dictate that the term "restriction" includes the ignition interlock device limitation.

#### We meet---we restrict the war power to assert sovereign immunity AND cause of action is a restriction

Edward Keynes 10, Professor of Political Science at The Pennsylvania State University and has been visiting professor at the universities of Cologne, Kiel, and Marburg. A University of Wisconsin Ph.D., he has been a Fulbright and an Alexander von Humboldt fellow, “Undeclared War: Twilight Zone of Constitutional Power”, Google Books, p. 119-120

Despite numerous cases challenging the President’s authority to initiate and conduct the Vietnam War, the Federal courts exhibited extreme caution in entering this twilight zone of constitutional power. The federal judiciary’s reluctance to decide war-powers controversies reveals a respect for the constitutional separation of powers, an appreciation of the respective constitutional functions of Congress and the President in external affairs, and a sense of judicial self-restraint. Although most Federal courts exercised self-restraint, several courts scaled such procedural barriers as jurisdiction, standing to sue, sovereign immunity, and the political question to address the scope of congressional and presidential power to initiate war and military hostilities without a declaration of war. The latter decisions reveal an appreciation of the constitutional equilibrium upon which the separation of powers and the rule of law rest. Despite judicial caution, several Federal courts entered the political thicket in order to restore the constitutional balance between Congress and the President. Toward the end of the war in Indochina, judicial concern for the rule of law recommended intervention rather than self-restraint.

#### Counter-interp---authority means legality

Ellen Taylor 96, 21 Del. J. Corp. L. 870 (1996), Hein Online

The term authority is commonly thought of in the context of the law of agency, and the Restatement (Second) of Agency defines both power and authority.'89 Power refers to an agent's ability or capacity to produce a change in a legal relation (whether or not the principal approves of the change), and authority refers to the power given (permission granted) to the agent by the principal to affect the legal relations of the principal; the distinction is between what the agent can do and what the agent may do.

#### We meet---cause of action clarifies permissible scope---that’s 1AC Vladeck

#### Counter-interp---war powers authority is OVERALL power over war-making---we meet

Manget 91 Fred F, Assistant General Counsel with the CIA, "Presidential War Powers", 1991, media.nara.gov/dc-metro/rg-263/6922330/Box-10-114-7/263-a1-27-box-10-114-7.pdf

The President's war powers authority is actually a national defense power that exists at all times, whether or not there is a war declared by Congress, an armed conflict, or any other hostilities or fighting. In a recent case the Supreme Court upheld the revocation of the passport of a former CIA employee (Agee) and rejected his contention that certain statements of Executive Branch policy were entitled to diminished weight because they concerned the powers of the Executive in wartime. The Court stated: "History eloquently attests that grave problems of national security and foreign policy are by no means limited to times of formally declared war. " 3 ; Another court has said that the war power is not confined to actual engagements on fields of battle only but embraces every aspect of national defense and comprehends everything required to wage war successfully. 3 H A third court stated: "It is-and must be-true that the Executive should be accorded wide and normally unassailable discretion with respect to the conduct of the national defense and the prosecution of national objectives through military means . "39 ¶ Thus, the Executive Branch's constitutional war powers authority does not spring into existence when Congress declares war, nor is it dependent on there being hostilities. It empowers the President to prepare for war as well as wage it, in the broadest sense. It operates at all times.

### Norms

#### Failure to adopt rules for US drones sets an abusive international precedent----magnifies every impact by causing global instability and collapse of interstate relations

Kristen Roberts 13, news editor for National Journal, master's in security studies from Georgetown University, master's degree in journalism from Columbia University, March 21st, 2013, "When the Whole World Has Drones," National Journal, www.nationaljournal.com/magazine/when-the-whole-world-has-drones-20130321

To implement this covert program, the administration has adopted a tool that lowers the threshold for lethal force by reducing the cost and risk of combat. This still-expanding counterterrorism use of drones to kill people, including its own citizens, outside of traditionally defined battlefields and established protocols for warfare, has given friends and foes a green light to employ these aircraft in extraterritorial operations that could not only affect relations between the nation-states involved but also destabilize entire regions and potentially upset geopolitical order.¶ Hyperbole? Consider this: Iran, with the approval of Damascus, carries out a lethal strike on anti-Syrian forces inside Syria; Russia picks off militants tampering with oil and gas lines in Ukraine or Georgia; Turkey arms a U.S.-provided Predator to kill Kurdish militants in northern Iraq who it believes are planning attacks along the border. Label the targets as terrorists, and in each case, Tehran, Moscow, and Ankara may point toward Washington and say, we learned it by watching you. In Pakistan, Yemen, and Afghanistan.¶ This is the unintended consequence of American drone warfare. For all of the attention paid to the drone program in recent weeks—about Americans on the target list (there are none at this writing) and the executive branch’s legal authority to kill by drone outside war zones (thin, by officials’ own private admission)—what goes undiscussed is Washington’s deliberate failure to establish clear and demonstrable rules for itself **that would at minimum** create a globally relevant standard **for delineating between legitimate and rogue uses of one of the most awesome military robotics capabilities of this generation.**

#### Western rule of law promotion is good and Mattei is wrong– no colonialist violence impact

Christopher May 10, The Rule of Law: its rhetoric and meaning in global politics, Professor of Political Economy, Lancaster University, UK email: c.may@lancaster.ac.uk University of Sussex, March 15, Department of International Relations Research in Progress seminar

This has not been passive nor reactive development but rather is linked to the professional project of lawyers to promote their expertise and skills (and to reify the law, to ensure it needs interpretation). Working in a long Western political tradition that has in one way or another promoted law as a technical ordering device to promote the good political life, lawyers have emphasised the specialist and technical character of their undertaking, and sought to maintain and increase social status by closely guarding entry to the profession. The professional project of lawyering has involved both the careful fostering of a closed group (the lawyers) alongside the promotion of their tool (law) as a solution to problems of order. Thus, one element for understanding the rise of the Rule of Law norm is to attribute at least part of the cause to the number of lawyers entering politics alongside a more general professionalization of the global polity which has moved legal forms of organisation to the forefront. The political selfmaintenance of the legal profession alongside a trend towards professionalization in modern society have reinforced each other to prompt the increasing normative deployment of the rule of law. However, the value of professions to politics is by no means uncontested; Perkin notes that the idea of a scarcity in expertise and professional service (driving the increase of value of the profession’s work) was firmly rejected by the new right in the UK and elsewhere in the 1980s (Perkin 1990: chapter 10). This gives one indication of why much of the work on Rule of Law has been driven by critical and oppositional groups of one sort or another. While the neo-liberal/new right agenda saw law (to simplify a little) as merely a thin procedural mechanism to deliver the order required for capitalist expansion, for those seeking to maintain professional norms the thicker Rule of Law was preferred as a conception of legal development that supports the values of social justice and fairness that continue to lie at the heart of the self-conception of various professions; self-conceptions maintained by the professionals' representative bodies acting in a guild like manner. If we accept that professionalization has played some role in the establishment of the rule of law as an overarching norm of politics, this cannot merely have happened spontaneously across the world. And indeed, we know that there have been, and continue to be, extensive programmes that seek to (re)establish the rule of law in developing countries, in post-conflict societies and elsewhere. Only in the post-colonial period did the form of legal re-engineering move from forced and imposed legal structures to a mode of co-development and assistance in the development of local legal regimes. Certainly, some might still regard this as a form of imperialism (see for instance Mattei and Nader 2008), but there has been some semblance of political negotiation and flexibility, that was mostly absent in the imperial period. Leaving aside the contentious history of law and development interventions in Latin America (see Gardner, 1980; Trubeck, 2006) it is perhaps little surprise that when legal education once again moved up the international political agenda, development and law assistance was relocated to a range of international organisations (including post-conflict UN Transitional Administrations), and became a key (mostly, but not exclusively regional) activity of the European Union.

#### Legal norms don’t cause wars and the alt can’t effect liberalism

David Luban **10**, law prof at Georgetown, Beyond Traditional Concepts of Lawfare: Carl Schmitt and the Critique of Lawfare, 43 Case W. Res. J. Int'l L. 457

Among these associations is the positive, constructive side of politics, the very foundation of Aristotle's conception of politics, which Schmitt completely ignores. Politics, we often say, is the art of the possible. It is the medium for organizing all human cooperation. Peaceable civilization, civil institutions, and elemental tasks such as collecting the garbage and delivering food to hungry mouths all depend on politics. Of course, peering into the sausage factory of even such mundane municipal institutions as the town mayor's office will reveal plenty of nasty politicking, jockeying for position and patronage, and downright corruption. Schmitt sneers at these as "banal forms of politics, . . . all sorts of tactics and practices, competitions and intrigues" and dismisses them contemptuously as "parasite- and caricature-like formations." n55 The fact is that Schmitt has nothing whatever to say about the constructive side of politics, and his entire theory focuses on enemies, not friends. In my small community, political meetings debate issues as trivial as whether to close a street and divert the traffic to another street. It is hard to see mortal combat as even a remote possibility in such disputes, and so, in Schmitt's view, they would not count as politics, but merely administration. Yet issues like these are the stuff of peaceable human politics.

Schmitt, I have said, uses the word "political" polemically--in his sense, politically. I have suggested that his very choice of the word "political" to describe mortal enmity is tendentious, attaching to mortal enmity Aristotelian and republican associations quite foreign to it. But the more basic point is that Schmitt's critique of humanitarianism as political and polemical is itself political and polemical. In a word, the critique of lawfare is itself lawfare. It is self-undermining because to the extent that it succeeds in showing that lawfare is illegitimate, it de-legitimizes itself.

What about the merits of Schmitt's critique of humanitarianism? His argument is straightforward: either humanitarianism is toothless and [\*471] apolitical, in which case ruthless political actors will destroy the humanitarians; or else humanitarianism is a fighting faith, in which case it has succumbed to the political but made matters worse, because wars on behalf of humanity are the most inhuman wars of all. Liberal humanitarianism is either too weak or too savage.

The argument has obvious merit. When Schmitt wrote in 1932 that wars against "outlaws of humanity" would be the most horrible of all, it is hard not to salute him as a prophet of Hiroshima. The same is true when Schmitt writes about the League of Nations' resolution to use "economic sanctions and severance of the food supply," n56 which he calls "imperialism based on pure economic power." n57 Schmitt is no warmonger--he calls the killing of human beings for any reason other than warding off an existential threat "sinister and crazy" n58 --nor is he indifferent to human suffering.

But international humanitarian law and criminal law are not the same thing as wars to end all war or humanitarian military interventions, so Schmitt's important moral warning against ultimate military self-righteousness does not really apply. n59 Nor does "bracketing" war by humanitarian constraints on war-fighting presuppose a vanished order of European public law. The fact is that in nine years of conventional war, the United States has significantly bracketed war-fighting, even against enemies who do not recognize duties of reciprocity. n60 This may frustrate current lawfare critics who complain that American soldiers in Afghanistan are being forced to put down their guns. Bracketing warfare is a decision--Schmitt might call it an existential decision--that rests in part on values that transcend the friend-enemy distinction. Liberal values are not alien extrusions into politics or evasions of politics; they are part of politics, and, as Stephen Holmes argued against Schmitt, liberalism has proven remarkably strong, not weak. n61 We could choose to abandon liberal humanitarianism, and that would be a political decision. It would simply be a bad one.

### Preventive War

#### A larger quantity of nuclear states makes deterrence unmanageable

Dr. Nick Ritchie 14, Lecturer in International Security at the University of York, PhD from the University of Bradford, Feb 2014, “Nuclear risk: the British case,” Article 36 Briefing Paper

http://www.article36.org/wp-content/uploads/2013/06/Nuclear-risk-paper.pdf

The global nuclear order is also evolving. A successful nuclear deterrent threat is a process of convincing an adversary not to engage in a hostile course of action. This requires some understanding of their motivation, world-view, resolve, and cost-beneﬁt calculus.19 As nuclear weapons proliferate, the practice of nuclear deterrence will become more complex and more difﬁcult. Asymmetries in types of nuclear-armed actor (major powers, regional powers, ‘rogue’ states, non-state actors), their capabilities, (advanced and survivable nuclear forces or a small, basic ‘use it or lose it’ nuclear armoury) identities (regional hegemon, defender of a faith, ally, ‘civilised’), and intentions (defeat, brinkmanship, coercion, regime change, survival) will increase. The ability to ‘know’ a nuclear-armed opponent in sufﬁcient depth to have conﬁdence in the efﬁcacy of a nuclear deterrent threat looks set to become more difﬁcult and uncertain.20

#### This is the only card specific about targeted killing

Jack Goldsmith 12, a Harvard Law professor and a member of the Hoover Task Force on National Security and Law, He served in the Bush administration as assistant attorney general in charge of the Office of Legal Counsel, “Fire When Ready,” 3-19, <http://www.foreignpolicy.com/articles/2012/03/19/fire_when_ready?page=full>, March 19, 2012]

When the Obama administration made the decision to kill Awlaki, it did not rely on the president's constitutional authority as commander in chief. Rather, it relied on authority that Congress gave it, and on guidance from the courts. In September 2001, Congress authorized the president "to use all necessary and appropriate force against those nations, organizations, or persons he determines" were responsible for 9/11. Whatever else the term "force" may mean, it clearly includes authorization from Congress to kill enemy soldiers who fall within the statute. Unlike some prior authorizations of force in American history, the 2001 authorization contains no geographical limitation. Moreover, the Supreme Court, in the detention context, has ruled that the "force" authorized by Congress in the 2001 law could be applied against a U.S. citizen. Lower courts have interpreted the same law to include within its scope co-belligerent enemy forces "associated" with al Qaeda who are "engaged in hostilities against the United States." International law is also relevant to targeting decisions. Targeted killings are lawful under the international laws of war only if they comply with basic requirements like distinguishing enemy soldiers from civilians and avoiding excessive collateral damage. And they are consistent with the U.N. Charter's ban on using force "against the territorial integrity or political independence of any state" only if the targeted nation consents or the United States properly acts in self-defense. There are reports that Yemen consented to the strike on Awlaki. But even if it did not, the strike would still have been consistent with the Charter to the extent that Yemen was "unwilling or unable" to suppress the threat he posed. This standard is not settled in international law, but it is sufficiently grounded in law and practice that no American president charged with keeping the country safe could refuse to exercise international self-defense rights when presented with a concrete security threat in this situation. The "unwilling or unable" standard was almost certainly the one the United States relied on in the Osama bin Laden raid inside Pakistan. These legal principles are backed by a system of internal and external checks and balances that, in this context, are without equal in American wartime history. Until a few decades ago, targeting decisions were not subject to meaningful legal scrutiny. Presidents or commanders typically ordered a strike based on effectiveness and, sometimes, moral or political considerations. President Harry Truman, for example, received a great deal of advice about whether and how to drop the atomic bomb on Hiroshima and Nagasaki, but it didn't come from lawyers advising him on the laws of war. Today, all major military targets are vetted by a bevy of executive branch lawyers who can and do rule out operations and targets on legal grounds, and by commanders who are more sensitive than ever to legal considerations and collateral damage. Decisions to kill high-level terrorists outside of Afghanistan (like Awlaki) are considered and approved by lawyers and policymakers at the highest levels of the government. The lawyers and policymakers are guided in part by Supreme Court and lower court decisions that, in the context of reviewing military detentions, have interpreted the meaning, scope, and limits of the congressional authorization to use force. The executive branch also has tools at its disposal -- an elaborate intelligence bureaucracy, precision weapons, and computer targeting algorithms -- to minimize collateral damage in war like never before (indeed, these tools sometimes force an operation or target to be avoided or aborted). We do not know the full details of targeting decisions, but we do know -- from administration speeches and press coverage of internal deliberations -- that Obama administration policymakers and lawyers seriously grapple with the legal limits of their authorities, construe them narrowly to meet the case at hand, and are constrained in who they target. Congress too is involved. The executive branch only targets enemy forces that fall within the parameters set by Congress in 2001. All major targeting operations conducted as "covert actions" must, under laws in place before 9/11, be conducted in conformity with presidential "findings" and reported to congressional intelligence committees. These committees lack a formal veto, but they have many ways to push back against covert actions they dislike. House Minority Leader Nancy Pelosi is said to have scaled back a covert operation in 2004 to influence the outcome of elections in Iraq by complaining to the White House, while the House Intelligence Committee reportedly persuaded the Obama administration not to arm the Libyan rebels in 2011. Operations by the U.S. military are also reported to and scrutinized by congressional armed services committees through less formal means. More broadly, Congress as a whole is well aware of the president's targeted killing program, and many congressional committees have held public hearings on targeted killing in the last few years. And yet, in contrast to its actions to tighten the president's traditional military authorities in other contexts (like interrogation, military detention, and military commissions), Congress has not tightened the president's power to target. Instead, Congress chose to reaffirm the 2001 authorization on which the president has rested his targeting practices in December 2011, and to bless the judicial construction of the statute that extended the president's authorities to co-belligerents like Awlaki, all without a word about limitations on targeted killing. Congress did this against the backdrop of many public reports that the 2001 statute was relied on to kill Awlaki. The targeted killing of Awlaki was also subject to a limited but important form of judicial scrutiny. In 2010, the ACLU and the Center for Constitutional Rights brought a novel lawsuit that sought to enjoin the president from killing Awlaki. Judge John Bates of the U.S. District Court for the District of Columbia dismissed the case, in part because of "the impropriety of judicial review." Bates explained that the Constitution places "responsibility for the military decisions at issue in this case 'in the hands of those who are best positioned and most politically accountable for making them'" -- Congress and the president. This ruling, based on extensive precedent, is almost certainly right. Commanders in chief have always had discretion over targeting decisions in wars authorized by Congress. No court has ever suggested that judicial approval for these decisions was appropriate or necessary. This is so even though the U.S. military killed U.S. citizens in the Civil War and most likely in World War II as well, when some fought in the Italian and German armies. The Supreme Court itself has ruled -- in the context of military commissions and military detention -- that U.S. citizenship does not by itself preclude the commander in chief from exercising traditional forms of military force. This is the background against which to assess Attorney General Holder's claim that the Constitution "guarantees due process, not judicial process." Holder was referring to the Fifth Amendment's prohibition on taking life without due process, a further legal limitation on the targeted killing of U.S. citizens. Critics belittled Holder for distinguishing due process from judicial process, but Holder is right. The Supreme Court has ruled in many contexts that due process does not always demand judicial scrutiny. It has also ruled that the type and extent of process due depends on the nature and circumstances of the deprivation, including a balance between the interests of the individual and the government. A U.S. citizen's interest is obviously at its height when he is targeted with lethal force. The government's interest is at its height when it seeks to incapacitate a threatening enemy in a congressionally sanctioned war. Holder only defended the wartime authority to kill a U.S. citizen who presents "an imminent threat of violent attack against the United States" and for whom "capture is not feasible," and only when operations are "conducted in a manner consistent with applicable law of war principles." In these circumstances, he claimed, high-level executive deliberation, guided by judicial precedent and subject to congressional oversight, is all the process that is due. Is Holder right? It is hard to say for sure because the due process clause has never before been thought relevant to wartime presidential targeting decisions. The system described above goes far beyond any process given to any target in any war in American history. Awlaki was not given a formal notice and opportunity to defend himself in court, but war does not permit such formal practices. One predicate for the killing was that Awlaki was in hiding -- beyond legal process or the reasonable possibility of capture -- and plotting and directing attacks on the United States. The U.S. government made clear that if Awlaki "were to surrender or otherwise present himself to the proper authorities in a peaceful and appropriate manner, legal principles with which the United States has traditionally and uniformly complied would prohibit using lethal force or other violence against him in such circumstances." And as Judge Bates noted, while Awlaki's placement on a targeting list was publicly disclosed in January 2010, Awlaki publicly disclaimed any intention of challenging his status or turning himself in. It is hard to see how the executive branch could have taken its constitutional responsibilities more seriously while honoring its obligation to keep the nation safe. In light of Judge Bates's ruling and the analysis on which it rests, and until Congress thinks the president's approach to targeting requires change, the current system -- executive deliberation guided by judicial precedent and subject to congressional oversight -- almost certainly satisfies any constitutional requirement. In any event, it belies the claim that the president is not subject to checks and balances. This conclusion will not assuage critics like Andrew Rosenthal who insist that "the president must receive judicial input before ordering the death of an American citizen." What Rosenthal and other krytocrats have not explained is how the Constitution permits, much less demands, such ex ante judicial input. These critics have not grappled with Judge Bates's analysis. Nor have they explained how a presidential request for judicial approval to target and kill a terrorist suspect is consistent with the constitutional limitation of judicial power to cases and controversies between parties in court. It is also unclear whether judges possess the competence to assess and quickly act upon military targets, or whether they would welcome the responsibility for targeting decisions. Perhaps Congress could devise a lawful and effective scheme of judicial or administrative review of the president's targeting decisions. But it has shown no inclination to do so, and it appears to support the current arrangement.

### 2AC Security K

#### Discourse isn’t the primary shaper of reality --- material change from the plan outweighs --- internal link turns reps

Thierry Balzacq 5, Professor of Political Science and IR @ Namar University, “The Three Faces of Securitization: Political Agency, Audience and Context” European Journal of International Relations, London: Jun 2005, Volume 11, Issue 2

However, despite important insights, this position remains highly disputable. The reason behind this qualification is not hard to understand. With great trepidation my contention is that one of the main distinctions we need to take into account while examining securitization is that between 'institutional' and 'brute' threats. In its attempts to follow a more radical approach to security problems wherein threats are institutional, that is, mere products of communicative relations between agents, the CS has neglected the importance of 'external or brute threats', that is, threats that do not depend on language mediation to be what they are - hazards for human life. In methodological terms, however, any framework over-emphasizing either institutional or brute threat risks losing sight of important aspects of a multifaceted phenomenon. Indeed, securitization, as suggested earlier, is successful when the securitizing agent and the audience reach a common structured perception of an ominous development. In this scheme, there is no security problem except through the language game. Therefore, how problems are 'out there' is exclusively contingent upon how we linguistically depict them. This is not always true. For one, language does not construct reality; at best, it shapes our perception of it. Moreover, it is not theoretically useful nor is it empirically credible to hold that what we say about a problem would determine its essence. For instance, what I say about a typhoon would not change its essence. The consequence of this position, which would require a deeper articulation, is that some security problems are the attribute of the development itself. In short, threats are not only institutional; some of them can actually wreck entire political communities regardless of the use of language. Analyzing security problems then becomes a matter of understanding how external contexts, including external objective developments, affect securitization. Thus, far from being a departure from constructivist approaches to security, external developments are central to it.

#### Ethical policymaking requires calculation of our impacts—refusing consequentialism allows atrocity in the name of ethical purity

Nikolas Gvosdev 5 (Nikolas, Exec Editor of The National Interest, The Value(s) of Realism, SAIS Review 25.1, Muse)

As the name implies, realists focus on promoting policies that are achievable and sustainable. In turn, the morality of a foreign policy action is judged by its results, not by the intentions of its framers. A foreign policymaker must weigh the consequences of any course of action and assess the resources at hand to carry out the proposed task. As Lippmann warned, Without the controlling principle that the nation must maintain its objectives and its power in equilibrium, its purposes within its means and its means equal to its purposes, its commitments related to its resources and its resources adequate to its commitments, it is impossible to think at all about foreign affairs.8 Commenting on this maxim, Owen Harries, founding editor of The National Interest, noted, "This is a truth of which Americans—more apt to focus on ends rather than means when it comes to dealing with the rest of the world—need always to be reminded."9 In fact, Morgenthau noted that "there can be no political morality without prudence."10 This virtue of prudence—which Morgenthau identified as the cornerstone of realism—should not be confused with expediency. Rather, it takes as its starting point that it is more moral to fulfill one's commitments than to make "empty" promises, and to seek solutions that minimize harm and produce sustainable results. Morgenthau concluded: [End Page 18] Political realism does not require, nor does it condone, indifference to political ideals and moral principles, but it requires indeed a sharp distinction between the desirable and the possible, between what is desirable everywhere and at all times and what is possible under the concrete circumstances of time and place.11 This is why, prior to the outbreak of fighting in the former Yugoslavia, U.S. and European realists urged that Bosnia be decentralized and partitioned into ethnically based cantons as a way to head off a destructive civil war. Realists felt this would be the best course of action, especially after the country's first free and fair elections had brought nationalist candidates to power at the expense of those calling for inter-ethnic cooperation. They had concluded—correctly, as it turned out—that the United States and Western Europe would be unwilling to invest the blood and treasure that would be required to craft a unitary Bosnian state and give it the wherewithal to function. Indeed, at a diplomatic conference in Lisbon in March 1992, the various factions in Bosnia had, reluctantly, endorsed the broad outlines of such a settlement. For the purveyors of moralpolitik, this was unacceptable. After all, for this plan to work, populations on the "wrong side" of the line would have to be transferred and resettled. Such a plan struck directly at the heart of the concept of multi-ethnicity—that different ethnic and religious groups could find a common political identity and work in common institutions. When the United States signaled it would not accept such a settlement, the fragile consensus collapsed. The United States, of course, cannot be held responsible for the war; this lies squarely on the shoulders of Bosnia's political leaders. Yet Washington fell victim to what Jonathan Clarke called "faux Wilsonianism," the belief that "high-flown words matter more than rational calculation" in formulating effective policy, which led U.S. policymakers to dispense with the equation of "balancing commitments and resources."12 Indeed, as he notes, the Clinton administration had criticized peace plans calling for decentralized partition in Bosnia "with lofty rhetoric without proposing a practical alternative." The subsequent war led to the deaths of tens of thousands and left more than a million people homeless. After three years of war, the Dayton Accords—hailed as a triumph of American diplomacy—created a complicated arrangement by which the federal union of two ethnic units, the Muslim-Croat Federation, was itself federated to a Bosnian Serb republic. Today, Bosnia requires thousands of foreign troops to patrol its internal borders and billions of dollars in foreign aid to keep its government and economy functioning. Was the aim of U.S. policymakers, academics and journalists—creating a multi-ethnic democracy in Bosnia—not worth pursuing? No, not at all, and this is not what the argument suggests. But aspirations were not matched with capabilities. As a result of holding out for the "most moral" outcome and encouraging the Muslim-led government in Sarajevo to pursue maximalist aims rather than finding a workable compromise that could have avoided bloodshed and produced more stable conditions, the peoples of Bosnia suffered greatly. In the end, the final settlement was very close [End Page 19] to the one that realists had initially proposed—and the one that had also been roundly condemned on moral grounds.

#### No prior questions---epistemology and ontology are irrelevant

Owen 2– David Owen, Reader of Political Theory at the Univ. of Southampton, Millennium Vol 31 No 3 2002 p. 655-7

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.

#### The complexity thesis is wrong---makes policymaking impossible

Dr. Sebastian L. V. Gorka et al 12, Director of the Homeland Defense Fellows Program at the College of International Security Affairs, National Defense University, teaches Irregular Warfare and US National Security at NDU and Georgetown, et al., Spring 2012, “The Complexity Trap,” Parameters, <http://www.carlisle.army.mil/USAWC/parameters/Articles/2012spring/Gallagher_Geltzer_Gorka.pdf>

We live in a world of unprecedented complexity, or so we are told. President Obama’s words above echo an increasingly common narrative in the American foreign policy and national security establishments: the forces of globalization, rising nonstate actors, irregular conflict, and proliferating destructive technologies have made crafting sound national security strategy more elusive than ever before. 2 If “strategy is the art of creating power” by specifying the relationship among ends, ways, and means, 3 then the existence of unprecedented complexity would seem to make this art not only uniquely difficult today but also downright dangerous, inasmuch as choosing any particular course of action would preclude infinitely adaptive responses in the future. As Secretary of Defense Robert Gates memorably described, the pre-9/11 challenges to American national security were “amateur night compared to the world today.” 4 And as former State Department Director of Policy Planning Anne-Marie Slaughter recently stated, there is a “universal awareness that we are living through a time of rapid and universal change,” one in which the assumptions of the twentieth century make little sense. 5 The “Mr. Y” article that occasioned her comments argued that, in contrast to the “closed system” of the twentieth century that could be controlled by mankind, we now live in an “open system” defined by its supremely complex and protean nature. 6 Unparalleled complexity, it seems, is the hallmark of our strategic age.¶ These invocations of complexity permeate today’s American national security documents and inform Washington’s post-Cold War and -9/11 strategic culture. The latest Quadrennial Defense Review begins its analysis with a description of the “complex and uncertain security landscape in which the pace of change continues to accelerate. Not since the fall of the Soviet Union or the end of World War II has the international terrain been affected by such farreaching and consequential shifts.” 7 In a similar vein, the National Intelligence Council’s Global Trends 2025 argues that the international system is trending towards greater degrees of complexity as power is diffused and actors multiply. 8 The Director of National Intelligence’s Vision 2015 terms our time the “Era of Uncertainty,” one “in which the pace, scope, and complexity of change are increasing.” 9 Disturbingly, the younger generation of foreign policy and national security professionals seems to accept and embrace these statements declaiming a fundamental change in our world and our capacity to cope with it. The orientation for the multi-thousand-member group of Young Professionals in Foreign Policy calls “conquering complexity” the fundamental challenge for the millennial generation. Complexity, it appears, is all the rage. ¶ We challenge these declarations and assumptions—not simply because they are empirically unfounded but, far more importantly, because they negate the very art of strategy and make the realization of the American national interest impossible. We begin by showing the rather unsavory consequences of the current trend toward worshipping at complexity’s altar and thus becoming a member of the “Cult of Complexity.” Next, we question whether the world was ever quite as simple as today’s avowers of complexity suggest, thus revealing the notion of today’s unprecedented complexity to be descriptively false. We then underscore that this idea is dangerous, given the consequences of an addiction to complexity. Finally, we offer an escape from the complexity trap, with an emphasis on the need for prioritization in today’s admittedly distinctive international security environment. Throughout, we hope to underscore that today’s obsession with complexity results in a dangerous denial of the need to strategize.

#### Perm do both---including the aff breaks the link between security and unrestrained sovereign power

Joao Reis Nunes 7, Marie Curie Fellow and PhD Candidate in International Politics at the University of Wales, Aberystwyth, September 2007, “Politics, Security, Critical Theory: A Contribution to Current Debates on Security,” http://archive.sgir.eu/uploads/Nunes-joaonunes-politicssecuritycriticaltheory.pdf

This section wishes to draw from Huysmans’ work on security as a signifier, particularly from his conception of the signifier as eminently historical. It argues that we must radicalize this historicity and come to see the meaning of security as the result of a contingent crystallization, and not an ineluctable condition. In other words, there is no fixed ‘politics of the signifier’ of security (1998:232); as Rothschild (1995) and Wæver (2004) have shown, the meaning of security – and the set of understandings and practices that this wide order of meaning entails – have changed through time. ¶ This section argues that the critique of the current meaning of security must be complemented with the definition of alternative meanings. In other words, the aim is to go beyond current understandings of security as the suspension of politics, not by arguing for the substitution of security with other supposedly autonomous signifier (i.e. politics), but rather by working within the signifier and attempting to release its transformative potential. ¶ The theoretical reflection undertaken in the previous section can be seen as the first step of this departure from reified assumptions about the ‘politics of the signifier’ of security. By showing that Schmitt’s transcendental conception of sovereign power is problematic and can be criticized at both the philosophical (Benjamin) and the social-economic-legal level (Neumann), it opened the way for the definition of alternative normative principles of politics. In other words, it demonstrated the possibility of conceiving different modalities for dealing with the problem of the exception, thereby allowing for a denaturalization of the connection between security and an extreme conception of politics based on the ‘fear of the enemy’ and on unrestrained sovereign power. It is interesting to note that Huysmans’ himself engaged with the work of Neumann and argued that it is possible to conceive exceptionalism in different ways, according to ‘the energetic principles of politics upon which support for exceptionalism is based’ (2004:338). This section argues that it is possible to follow from this insight whilst retaining the signifier of security.

#### Aff solves impact to K---defangs the exec and solves threat overreaction

Colm O’Cinneide 8, Senior Lecturer in Law at University College London, “Strapped to the Mast: The Siren Song of Dreadful Necessity, the United Kingdom Human Rights Act and the Terrorist Threat,” Ch 15 in Fresh Perspectives on the ‘War on Terror,’ ed. Miriam Gani and Penelope Mathew, <http://epress.anu.edu.au/war_terror/mobile_devices/ch15s07.html>

This ‘symbiotic’ relationship between counter-terrorism measures and political violence, and the apparently inevitable negative impact of the use of emergency powers upon ‘target’ communities, would indicate that it makes sense to be very cautious in the use of such powers. However, the impact on individuals and ‘target’ communities can be too easily disregarded when set against the apparent demands of the greater good. Justice Jackson’s famous quote in Terminiello v Chicago [111] that the United States Bill of Rights should not be turned into a ‘suicide pact’ has considerable resonance in times of crisis, and often is used as a catch-all response to the ‘bleatings’ of civil libertarians.[112] The structural factors discussed above that appear to drive the response of successive UK governments to terrorist acts seem to invariably result in a depressing repetition of mistakes.¶ However, certain legal processes appear to have some capacity to slow down the excesses of the counter-terrorism cycle. What is becoming apparent in the UK context since 9/11 is that there are factors at play this time round that were not in play in the early years of the Northern Irish crisis. A series of parliamentary, judicial and transnational mechanisms are now in place that appear to have some moderate ‘dampening’ effect on the application of emergency powers.¶ This phrase ‘dampening’ is borrowed from Campbell and Connolly, who have recently suggested that law can play a ‘dampening’ role on the progression of the counter-terrorism cycle before it reaches its end. Legal processes can provide an avenue of political opportunity and mobilisation in their own right, whereby the ‘relatively autonomous’ framework of a legal system can be used to moderate the impact of the cycle of repression and backlash. They also suggest that this ‘dampening’ effect can ‘re-frame’ conflicts in a manner that shifts perceptions about the need for the use of violence or extreme state repression.[113] State responses that have been subject to this dampening effect may have more legitimacy and generate less repression: the need for mobilisation in response may therefore also be diluted.

#### Threats real---threat inflation would get our authors fired

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The underlying notion of “the security bureaucracies . . . looking for new enemies” is a threadbare concept that has somehow taken hold across the political spectrum, from the radical left (viz. Michael Klare [1981], who refers to a “threat bank”), to the liberal center (viz. Robert H. Johnson [1997], who dismisses most alleged “threats” as “improbable dangers”), to libertarians (viz. Ted Galen Carpenter [1992], Vice President for Foreign and Defense Policy of the Cato Institute, who wrote a book entitled A Search for Enemies). What is missing from most analysts’ claims of “threat inflation,” however, is a convincing theory of why, say, the American government significantly(not merely in excusable rhetoric) might magnify and even invent threats (and, more seriously, act on such inflated threat estimates). In a few places, Eland (2004, 185) suggests that such behavior might stem from military or national security bureaucrats’ attempts to enhance their personal status and organizational budgets, or even from the influence and dominance of “the military-industrial complex”; viz.: “Maintaining the empire and retaliating for the blowback from that empire keeps what President Eisenhower called the military-industrial complex fat and happy.” Or, in the same section:¶ In the nation’s capital, vested interests, such as the law enforcement bureaucracies . . . routinely take advantage of “crises”to satisfy parochial desires. Similarly, many corporations use crises to get pet projects— a.k.a. pork—funded by the government. And national security crises, because of people’s fears, are especially ripe opportunities to grab largesse. (Ibid., 182)¶ Thus, “bureaucratic-politics” theory, which once made several reputa- tions (such as those of Richard Neustadt, Morton Halperin, and Graham Allison) in defense-intellectual circles, and spawned an entire sub-industry within the field of international relations,5 is put into the service of dismissing putative security threats as imaginary. So, too, can a surprisingly cognate theory, “public choice,”6 which can be considered the right-wing analog of the “bureaucratic-politics” model, and is a preferred interpretation of governmental decision- making among libertarian observers. As Eland (2004, 203) summarizes:¶ Public-choice theory argues [that] the government itself can develop sepa- rate interests from its citizens. The government reflects the interests of powerful pressure groups and the interests of the bureaucracies and the bureaucrats in them. Although this problem occurs in both foreign and domestic policy, it may be more severe in foreign policy because citizens pay less attention to policies that affect them less directly.¶ There is, in this statement of public-choice theory, a certain ambiguity, and a certain degree of contradiction: Bureaucrats are supposedly, at the same time, subservient to societal interest groups and autonomous from society in general.¶ This journal has pioneered the argument that state autonomy is a likely consequence of the public’s ignorance of most areas of state activity (e.g., Somin 1998; DeCanio 2000a, 2000b, 2006, 2007; Ravenal 2000a). But state autonomy does not necessarily mean that bureaucrats substitute their own interests for those of what could be called the “national society” that they ostensibly serve. I have argued (Ravenal 2000a) that, precisely because of the public-ignorance and elite-expertise factors, and especially because the opportunities—at least for bureaucrats (a few notable post-government lobbyist cases nonwithstanding)—for lucrative self-dealing are stringently fewer in the defense and diplomatic areas of government than they are in some of the contract-dispensing and more under-the-radar-screen agencies of government, the “public-choice” imputation of self-dealing, rather than working toward the national interest (which, however may not be synonymous with the interests, perceived or expressed, of citizens!) is less likely to hold. In short, state autonomy is likely to mean, in the derivation of foreign policy, that “state elites” are using rational judgment, in insulation from self-promoting interest groups—about what strategies, forces, and weapons are required for national defense.¶ Ironically, “public choice”—not even a species of economics, but rather a kind of political interpretation—is not even about “public” choice, since, like the bureaucratic-politics model, it repudiates the very notion that bureaucrats make truly “public” choices; rather, they are held, axiomatically, to exhibit “rent-seeking” behavior, wherein they abuse their public positions in order to amass private gains, or at least to build personal empires within their ostensibly official niches. Such sub- rational models actually explain very little of what they purport to observe. Of course, there is some truth in them, regarding the “behavior” of some people, at some times, in some circumstances, under some conditions of incentive and motivation. But the factors that they posit operate mostly as constraints on the otherwise rational optimization of objectives that, if for no other reason than the playing out of official roles, transcends merely personal or parochial imperatives.¶ My treatment of “role” differs from that of the bureaucratic-politics theorists, whose model of the derivation of foreign policy depends heavily, and acknowledgedly, on a narrow and specific identification of the role- playing of organizationally situated individuals in a partly conflictual “pulling and hauling” process that “results in” some policy outcome. Even here, bureaucratic-politics theorists Graham Allison and Philip Zelikow (1999, 311) allow that “some players are not able to articulate [sic] the governmental politics game because their conception of their job does not legitimate such activity.” This is a crucial admission, and one that points— empirically—to the need for a broader and generic treatment of role.¶ Roles (all theorists state) give rise to “expectations” of performance. My point is that virtually every governmental role, and especially national-security roles, and particularly the roles of the uniformed mili- tary, embody expectations of devotion to the “national interest”; rational- ity in the derivation of policy at every functional level; and objectivity in the treatment of parameters, especially external parameters such as “threats” and the power and capabilities of other nations.¶ Sub-rational models (such as “public choice”) fail to take into account even a partial dedication to the “national” interest (or even the possibility that the national interest may be honestly misconceived in more paro- chial terms). In contrast, an official’s role connects the individual to the (state-level) process, and moderates the (perhaps otherwise) self-seeking impulses of the individual. Role-derived behavior tends to be formalized and codified; relatively transparent and at least peer-reviewed, so as to be consistent with expectations; surviving the particular individual and trans- mitted to successors and ancillaries; measured against a standard and thus corrigible; defined in terms of the performed function and therefore derived from the state function; and uncorrrupt, because personal cheating and even egregious aggrandizement are conspicuously discouraged.¶ My own direct observation suggests that defense decision-makers attempt to “frame” the structure of the problems that they try to solve on the basis of the most accurate intelligence. They make it their business to know where the threats come from. Thus, threats are not “socially constructed” (even though, of course, some values are).¶ A major reason for the rationality, and the objectivity, of the process is that much security planning is done, not in vaguely undefined circum- stances that offer scope for idiosyncratic, subjective behavior, but rather in structured and reviewed organizational frameworks. Non-rationalities (which are bad for understanding and prediction) tend to get filtered out. People are fired for presenting skewed analysis and for making bad predictions. This is because something important is riding on the causal analysis and the contingent prediction. For these reasons, “public choice” does not have the “feel” of reality to many critics who have participated in the structure of defense decision-making. In that structure, obvious, and even not-so-obvious,“rent-seeking” would not only be shameful; it would present a severe risk of career termination. And, as mentioned, the defense bureaucracy is hardly a productive place for truly talented rent-seekers to operatecompared to opportunities for personal profit in the commercial world. A bureaucrat’s very self-placement in these reaches of government testi- fies either to a sincere commitment to the national interest or to a lack of sufficient imagination to exploit opportunities for personal profit.

#### Only security rhetoric can create norms

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How can epistemic communities carry out their role as norm entrepreneurs? Uncertainty about how the world works and what consequences political decisions might have make policymakers turn to experts to seek advice. This provision of knowledge constitutes the power of epistemic communities (Haas 1997). They point out the alternatives decision-makers have and they can, on the basis of their causal or normative understanding, discount and sometimes even exclude certain alternatives. “If rationality is bounded, epistemic communities may be responsible for circumscribing the boundaries and delimiting the options” (Haas 1997, 16). What can be the role of epistemic communities in the process of the construction of national interests in regard to preventive arms control? Naturally, there is quite a high degree of uncertainty in the process of developing new weapon technology regarding the usefulness of this new technology. The central question for political decision-makers is: would this technology enhance our security? It seems natural that governmental decision-makers turn to actors of the state apparatus first to get advice on the military utility of potential weapons. These are the defence bureaucracy and the military, which cooperate with the defence industry in the field of research and development (R&D). Plenty has been written on the “military-industrial complex” and the tendency of the industry, the military and the defence officials to advocate certain weapons because they either hope for profitable contracts later on (in case of the defence-industry), or because the weapons are considered prestige projects (in case of the military).14¶ Epistemic communities outside of the state apparatus sometimes have a more critical view of certain technologies, and they can provide knowledge of the expected military utility of certain weapons and their role in national security. The central question from the theoretical point of view outlined above, however, is how do such epistemic communities manage to get heard and to make their knowledge consensual? I hypothesize that their chances to do so increase if they can portray the development of a particular weapon technology as detrimental to the security of the state. This is important because new norms do not emerge in a vacuum. In order to be seen as legitimate and hence be accepted, the new norm must be coherent with this existing normative framework (Florini 1996, 376–7). “Efforts to promote a new norm take place within the standards of ‘appropriateness’ defined by prior norms” (Finnemore and Sikkink 1998, 897).15 By using their information to present the development of certain weapons as counterproductive for national security, epistemic communities do exactly this; they make the link between a new norm – do not develop these weapons – and appropriate behaviour. The development of new weapons in order to improve the security of one’s country can be seen as the appropriate behaviour of any head of state. If convincing evidence can be presented that certain technologies compromise national security, the development of these weapons can be presented as in conflict with appropriate behaviour. Epistemic communities of scientist that have the technical expertise and authority to assess technologies for potential weapons are particularly suited to provide technical information in order to show consequences of differing policy choices.16

#### The environment is resilient but nuclear war turns it

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It is not true either that the various ecological crises we are facing will bring about “the end of the world.” Consider the projections of the Stern Review, the recently released report commissioned by the British Government. If nothing is done, we risk “major disruption to economic and social activity, later in this century and the next, on a scale similar to those associated with the great wars and economic depression of the first half of the 20th century.”¶ This is serious. Some sixty million people died in World War Two. The Stern Review estimates as many as 200 million people could be permanently displaced by rising sea level and drought. But this is not “the end of the world.” Even if the effects are far worse, resulting in billions of deaths—a highly unlikely scenario—there would still be lots of us left. If three-quarters of the present population perished, that would still leave us with 1.6 billion people—the population of the planet in 1900. ¶ I say this not to minimize the potentially horrific impact of relentless environmental destruction, but to caution against exaggeration. We are not talking about **thermonuclear war**—which could have extinguished us as a species. (It still might.) And we shouldn’t lose sight of the fact that millions of people on the planet right now, caught up in savage civil wars or terrorized by U.S. bombers (which dropped some 100,000 lbs. of explosives on a Baghdad neighborhood during one ten-day period in January 2008—the amount the fascists used to level the Basque town of Guernica during the Spanish Civil War), are faced with conditions more terrible than anyone here is likely to face in his or her lifetime due to environmental degradation.

#### Legal restrictions are effective policy tools and the aff’s technical approach is the best heuristic for mediating ethical concerns and legal manipulability---the alt’s moralism fails

Ioannis Kalpouzos 7, Professor of Law at The City Law School, "David Kennedy, Of War and Law", J Conflict Security Law, (2007) 12 (3): 485-492, jcsl.oxfordjournals.org/content/12/3/485.full

It is important, however, not to sweepingly and debilitatingly generalise discontent about the current situation. The structural disconnects of the legal system do not mean that law and legal language cannot be part of the solution. Actions and motives are abstracted in logical categories that seem to reflect a normative consensus or a structural status quo. Admittedly, the intercession of the law-creating process by the structural and conceptual wall of sovereignty differentiates it from the equivalent process in national legal orders. The often-described weaknesses of the international system, the absence of a sovereign to impose formal validity and the often-disheartening problems of enforcement are very real difficulties that plague international law and, especially, the laws of war. The stakes there may seem higher and the scrutinising process weaker. Such problems are sometimes intimidating for legal analysis, but should not be off-putting and they should not lead to disregard of the importance of law as a tool in the international system. To the extent that war is the continuation of politics with the admixture of other means, and that politics is the interaction between different actors in society, legal regulation of such an interaction, in peace or war, is possible and, indeed, necessary. The task might be discouragingly complex but the better the use of legal tools, the more accurate the observation of practice, and the more legitimate the processes of legal abstraction are, the more the rules will be valid and effective.¶ Ultimately, Kennedy's diagnosis warrants a prescription. The question that arises is, to which extent focusing on ‘lawfare’ holds interpretative value in order to address the issues at hand. Although the conflicts within legal concepts and among legal institutions cannot, of course, be resolved once and for all and although there will always be room for manipulation and instrumentalisation of the rules, any approach should seek to clarify the interrelations between concepts and actors. Kennedy does provide interesting insights on this interrelation, but he does so at a rather macroscopic level. The diagnosis of structural and conceptual confusion warrants a technical legal approach for dealing with the specific issues that arise from it. Formal legal thoroughness will never substitute personal moral choices, but it can be an important tool in the effort to minimise the uncertainty in the use of the rules and the weakness of the institutional structure. The law or even a formal expert consensus will never substitute the necessary choices by soldiers on the ground or by politicians deciding to wage war, but legal language provides a formal platform for claims to be supported and actions to be justified. This will not substitute the important moral choices, but it can ground them in a legal structure that reflects substantive core values and provides useful tools to assess them.¶ Furthermore, there is a fear that by focusing on ‘lawfare’ one can come very close to accept it. Accordingly, the relativisation of the formal validity of legal claims can clear the way for supporting utterly subjective decisions, allowing more powerful actors to manipulate the loopholes. The structural and substantive loopholes of the legal system are real enough, and Kennedy is right to point that out, but by accepting the practice of ‘lawfare’, a degree of unwarranted justification can be attached to the exploitation of these loopholes. This, arguably, will not work in favour of the cohesiveness of the legal system, especially in an area as legally contentious as the laws of war. Kennedy's disenchantment with the expert consensus and its practical use is perhaps understandable, and his exhortation to ‘experience politics as our vocation and responsibility as our fate’ (p. 172) is altogether laudable, but we need more than that. We need to know exactly how to assess decisions and actions on the ground, and professionalism in ‘lawfare’ and moral exhortations are not substitutes for legal analysis. Both the strengths and weaknesses of this book reinforce the need for a clearer understanding of the relevant legal rules, their interaction and the nature of the existing legal regime.

## 1AR

### Kritik

####  ( ) Most recent studies confirm even a small nuclear war would cause catastrophic climate change and nuclear winter

Steven Starr, Senior Scientist at Physicians for Social Responsibility, April 2008, “Catastrophic Climatic Consequences of Nuclear Conflict,” INESAP (International Network of Engineers & Scientists Against Proliferation) Bulletin #28, online: http://inesap.org/node/11

U.S. researchers have confirmed the scientific validity of the concept of “nuclear winter” and have demonstrated that any conflict which targets even a tiny fraction of the global nuclear arsenal against large urban centers will cause catastrophic disruptions of the global climate.

New studies show that a “regional” nuclear conflict, which targeted large population centers in the sub-tropics with 100 Hiroshima-size weapons – about 0.3% of the global nuclear arsenal –, could produce as many fatalities as World War II1 and would significantly disrupt the global climate for at least a decade.2 Following this “small” exchange, the world would rapidly experience cold conditions not felt since pre-industrial times.

U.S.-Russian arms accords have reduced by two-thirds the total number of nuclear weapons in the world’s nuclear arsenals since nuclear winter was first described in the 1980s. The new research confirms that the smoke produced by a war fought with the current global nuclear arsenal would still produce a nuclear winter.3 Under such conditions, daily minimum temperatures in the world’s large agricultural areas would fall below freezing for more than a year and cause the collapse of modern agriculture and the starvation of billions of people.

#### The causality of their impact is backwards

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Between the brutal civil war in Syria, the government shutdown and all of the deadly dysfunction it represents, the NSA spying revelations, and massive inequality, it’d be easy to for you to enter 2014 thinking the last year has been an awful one. But you’d be wrong. We have every reason to believe that 2013 was, in fact, the best year on the planet for humankind. Contrary to what you might have heard, virtually all of the most important forces that determine what make people’s lives good — the things that determine how long they live, and whether they live happily and freely — are trending in an extremely happy direction. While it’s possible that this progress could be reversed by something like runaway climate change, the effects will have to be dramatic to overcome the extraordinary and growing progress we’ve made in making the world a better place. Here’s the five big reasons why. 1. Fewer people are dying young, and more are living longer. The greatest story in recent human history is the simplest: we’re winning the fight against death. “There is not a single country in the world where infant or child mortality today is not lower than it was in 1950,” writes Angus Deaton, a Princeton economist who works on global health issues. The most up-to-date numbers on global health, the 2013 World Health Organization (WHO) statistical compendium, confirm Deaton’s estimation. Between 1990 and 2010, the percentage of children who died before their fifth birthday dropped by almost half. Measles deaths declined by 71 percent, and both tuberculosis and maternal deaths by half again. HIV, that modern plague, is also being held back, with deaths from AIDS-related illnesses down by 24 percent since 2005. In short, fewer people are dying untimely deaths. And that’s not only true in rich countries: life expectancy has gone up between 1990 and 2011 in every WHO income bracket. The gains are even more dramatic if you take the long view: global life expectancy was 47 in the early 1950s, but had risen to 70 — a 50 percent jump — by 2011. For even more perspective, the average Briton in 1850 — when the British Empire had reached its apex — was 40. The average person today should expect to live almost twice as long as the average citizen of the world’s wealthiest and most powerful country in 1850. In real terms, this means millions of fewer dead adults and children a year, millions fewer people who spend their lives suffering the pains and unfreedoms imposed by illness, and millions more people spending their twilight years with loved ones. And the trends are all positive — “progress has accelerated in recent years in many countries with the highest rates of mortality,” as the WHO rather bloodlessly put it. What’s going on? Obviously, it’s fairly complicated, but the most important drivers have been technological and political innovation. The Enlightenment-era advances in the scientific method got people doing high-quality research, which brought us modern medicine and the information technologies that allow us to spread medical breakthroughs around the world at increasingly faster rates. Scientific discoveries also fueled the Industrial Revolution and the birth of modern capitalism, giving us more resources to devote to large-scale application of live-saving technologies. And the global spread of liberal democracy made governments accountable to citizens, forcing them to attend to their health needs or pay the electoral price. We’ll see the enormously beneficial impact of these two forces, technology and democracy, repeatedly throughout this list, which should tell you something about the foundations of human progress. But when talking about improvements in health, we shouldn’t neglect foreign aid. Nations donating huge amounts of money out of an altruistic interest in the welfare of foreigners is historically unprecedented, and while not all aid has been helpful, health aid has been a huge boon. Even Deaton, who wrote one of 2013′s harshest assessments of foreign aid, believes “the case for assistance to fight disease such as HIV/AIDS or smallpox is strong.” That’s because these programs have demonstrably saved lives — the President’s Emergency Plan for AIDS Relief (PEPFAR), a 2003 program pushed by President Bush, paid for anti-retroviral treatment for over 5.1 million people in the poor countries hardest-hit by the AIDS epidemic. So we’re outracing the Four Horseman, extending our lives faster than pestilence, war, famine, and death can take them. That alone should be enough to say the world is getting better. 2. Fewer people suffer from extreme poverty, and the world is getting happier. There are fewer people in abject penury than at any other point in human history, and middle class people enjoy their highest standard of living ever. We haven’t come close to solving poverty: a number of African countries in particular have chronic problems generating growth, a nut foreign aid hasn’t yet cracked. So this isn’t a call for complacency about poverty any more than acknowledging victories over disease is an argument against tackling malaria. But make no mistake: as a whole, the world is much richer in 2013 than it was before. 721 million fewer people lived in extreme poverty ($1.25 a day) in 2010 than in 1981, according to a new World Bank study from October. That’s astounding — a decline from 40 to about 14 percent of the world’s population suffering from abject want. And poverty rates are declining in every national income bracket: even in low income countries, the percentage of people living in extreme poverty ($1.25 a day in 2005 dollars) a day gone down from 63 in 1981 to 44 in 2010. We can be fairly confident that these trends are continuing. For one thing, they survived the Great Recession in 2008. For another, the decline in poverty has been fueled by global economic growth, which looks to be continuing: global GDP grew by 2.3 percent in 2012, a number that’ll rise to 2.9 percent in 2013 according to IMF projections. The bulk of the recent decline in poverty comes form India and China — about 80 percent from China \*alone\*. Chinese economic and social reform, a delayed reaction to the mass slaughter and starvation of Mao’s Cultural Revolution, has been the engine of poverty’s global decline. If you subtract China, there are actually more poor people today than there were in 1981 (population growth trumping the percentage declines in poverty). But we shouldn’t discount China. If what we care about is fewer people suffering the misery of poverty, then it shouldn’t matter what nation the less-poor people call home. Chinese growth should be celebrated, not shunted aside. The poor haven’t been the only people benefitting from global growth. Middle class people have access to an ever-greater stock of life-improving goods. Televisions and refrigerators, once luxury goods, are now comparatively cheap and commonplace. That’s why large-percentage improvements in a nation’s GDP appear to correlate strongly with higher levels of happiness among the nation’s citizens; people like having things that make their lives easier and more worry-free. Global economic growth in the past five decades has dramatically reduced poverty and made people around the world happier. Once again, we’re better off. 3. War is becoming rarer and less deadly. APTOPIX Mideast Libya CREDIT: AP Photo/ Manu Brabo Another massive conflict could overturn the global progress against disease and poverty. But it appears war, too, may be losing its fangs. Steven Pinker’s 2011 book The Better Angels Of Our Nature is the gold standard in this debate. Pinker brought a treasure trove of data to bear on the question of whether the world has gotten more peaceful, and found that, in the long arc of human history, both war and other forms of violence (the death penalty, for instance) are on a centuries-long downward slope. Pinker summarizes his argument here if you don’t own the book. Most eye-popping are the numbers for the past 50 years; Pinker finds that “the worldwide rate of death from interstate and civil war combined has juddered downward…from almost 300 per 100,000 world population during World War II, to almost 30 during the Korean War, to the low teens during the era of the Vietnam War, to single digits in the 1970s and 1980s, to less than 1 in the twenty-ﬁrst century.” Here’s what that looks like graphed: Pinker CREDIT: Steven Pinker/The Wall Street Journal So it looks like the smallest percentage of humans alive since World War II, and in all likelihood in human history, are living through the horrors of war. Did 2013 give us any reason to believe that Pinker and the other scholars who agree with him have been proven wrong? Probably not. The academic debate over the decline of war really exploded in 2013, but the “declinist” thesis has fared pretty well. Challenges to Pinker’s conclusion that battle deaths have gone down over time have not withstood scrutiny. The most compelling critique, a new paper by Bear F. Braumoeller, argues that if you control for the larger number of countries in the last 50 years, war happens at roughly the same rates as it has historically. There are lots of things you might say about Braumoeller’s argument, and I’ve asked Pinker for his two cents (update: Pinker’s response here). But most importantly, if battle deaths per 100,000 people really has declined, then his argument doesn’t mean very much. If (percentage-wise) fewer people are dying from war, then what we call “war” now is a lot less deadly than “war” used to be. Braumoeller suggests population growth and improvements in battle medicine explain the decline, but that’s not convincing: tell me with a straight face that the only differences in deadliness between World War II, Vietnam, and the wars you see today is that there are more people and better doctors. There’s a more rigorous way of putting that: today, we see many more civil wars than we do wars between nations. The former tend to be less deadly than the latter. That’s why the other major challenge to Pinker’s thesis in 2013, the deepening of the Syrian civil war, isn’t likely to upset the overall trend. Syria’s war is an unimaginable tragedy, one responsible for the rare, depressing increase in battle deaths from 2011 to 2012. However, the overall 2011-2012 trend “fits well with the observed long-term decline in battle deaths,” according to researchers at the authoritative Uppsala Conflict Data Program, because the uptick is not enough to suggest an overall change in trend. We should expect something similar when the 2013 numbers are published. Why are smaller and smaller percentages of people being exposed to the horrors of war? There are lots of reasons one could point to, but two of the biggest ones are the spread of democracy and humans getting, for lack of a better word, better. That democracies never, or almost never, go to war with each other is not seriously in dispute: the statistical evidence is ridiculously strong. While some argue that the “democratic peace,” as it’s called, is caused by things other than democracy itself, there’s good experimental evidence that democratic leaders and citizens just don’t want to fight each other. Since 1950, democracy has spread around the world like wildfire. There were only a handful of democracies after World War II, but that grew to roughly 40 percent of all by the end of the Cold War. Today, a comfortable majority — about 60 percent — of all states are democracies. This freer world is also a safer one. Second — and this is Pinker’s preferred explanation — people have developed strategies for dealing with war’s causes and consequences. “Human ingenuity and experience have gradually been brought to bear,” Pinker writes, “just as they have chipped away at hunger and disease.” A series of human inventions, things like U.N. peacekeeping operations, which nowadays are very successful at reducing violence, have given us a set of social tools increasingly well suited to reducing the harm caused by armed conflict. War’s decline isn’t accidental, in other words. It’s by design. 4. Rates of murder and other violent crimes are in free-fall. Britain Unrest CREDIT: Akira Suemori/AP Photos Pinker’s trend against violence isn’t limited just to war. It seems likes crimes, both of the sort states commit against their citizens and citizens commit against each other, are also on the decline. Take a few examples. Slavery, once commonly sanctioned by governments, is illegal everywhere on earth. The use of torture as legal punishment has gone down dramatically. The European murder rate fell 35-fold from the Middle Ages to the beginning of the 20th century (check out this amazing 2003 paper from Michael Eisner, who dredged up medieval records to estimate European homicide rates in the swords-and-chivalry era, if you don’t believe me). The decline has been especially marked in recent years. Though homicide crime rates climbed back up from their historic lows between the 1970s and 1990s, reversing progress made since the late 19th century, they have collapsed worldwide in the 21st century. 557,000 people were murdered in 2001 — almost three times as many as were killed in war that year. In 2008, that number was 289,000, and the homicide rate has been declining in 75 percent of nations since then. Statistics from around the developed world, where numbers are particularly reliable, show that it’s not just homicide that’s on the wane: it’s almost all violent crime. US government numbers show that violent crime in the United States declined from a peak of about 750 crimes per 100,000 Americans to under 450 by 2009. G7 as a whole countries show huge declines in homicide, robbery, and vehicle theft. So even in countries that aren’t at poor or at war, most people’s lives are getting safer and more secure. Why? We know it’s not incarceration. While the United States and Britain have dramatically increased their prison populations, others, like Canada, the Netherlands, and Estonia, reduced their incarceration rates and saw similar declines in violent crime. Same thing state-to-state in the United States; New York imprisoned fewer people and saw the fastest crime decline in the country. The Economist’s deep dive into the explanations for crime’s collapse provides a few answers. Globally, police have gotten better at working with communities and targeting areas with the most crime. They’ve also gotten new toys, like DNA testing, that make it easier to catch criminals. The crack epidemic in the United States and its heroin twin in Europe have both slowed down dramatically. Rapid gentrification has made inner-city crime harder. And the increasing cheapness of “luxury” goods like iPods and DVD players has reduced incentives for crime on both the supply and demand sides: stealing a DVD player isn’t as profitable, and it’s easier for a would-be thief to buy one in the first place. But there’s one explanation The Economist dismissed that strikes me as hugely important: the abolition of lead gasoline. Kevin Drum at Mother Jones wrote what’s universally acknowledged to be the definitive argument for the lead/crime link, and it’s incredibly compelling. We know for a fact that lead exposure damages people’s brains and can potentially be fatal; that’s why an international campaign to ban leaded gasoline started around 1970. Today, leaded gasoline is almost unheard of — it’s banned in 175 countries, and there’s been a decline in lead blood levels by about 90 percent. Drum marshals a wealth of evidence that the parts of the brain damaged by lead are the same ones that check people’s aggressive impulses. Moreover, the timing matches up: crime shot up in the mid-to-late-20th century as cars spread around the world, and started to decline in the 70s as the anti-lead campaign was succeeding. Here’s close the relationship is, using data from the United States: Lead\_Crime\_325 Now, non-homicide violent crime appears to have ticked up in 2012, based on U.S. government surveys of victims of crime, but it’s very possible that’s just a blip: the official Department of Justice report says up-front that “the apparent increase in the rate of violent crimes reported to police from 2011 to 2012 was not statistically significant.” So we have no reason to believe crime is making a come back, and every reason to believe the historical decline in criminal violence is here to stay. 5. There’s less racism, sexism, and other forms of discrimination in the world. Nelson Mandela CREDIT: Theana Calitz/AP Images Racism, sexism, anti-Semitism, homophobia, and other forms of discrimination remain, without a doubt, extraordinarily powerful forces. The statistical and experimental evidence is overwhelming — this irrefutable proof of widespread discrimination against African-Americans, for instance, should put the “racism is dead” fantasy to bed. Yet the need to combat discrimination denial shouldn’t blind us to the good news. Over the centuries, humanity has made extraordinary progress in taming its hate for and ill-treatment of other humans on the basis of difference alone. Indeed, it is very likely that we live in the least discriminatory era in the history of modern civilization. It’s not a huge prize given how bad the past had been, but there are still gains worth celebrating. Go back 150 years in time and the point should be obvious. Take four prominent groups in 1860: African-Americans were in chains, European Jews were routinely massacred in the ghettos and shtetls they were confined to, women around the world were denied the opportunity to work outside the home and made almost entirely subordinate to their husbands, and LGBT people were invisible. The improvements in each of these group’s statuses today, both in the United States and internationally, are incontestable. On closer look, we have reason to believe the happy trends are likely to continue. Take racial discrimination. In 2000, Harvard sociologist Lawrence Bobo penned a comprehensive assessment of the data on racial attitudes in the United States. He found a “national consensus” on the ideals of racial equality and integration. “A nation once comfortable as a deliberately segregationist and racially discriminatory society has not only abandoned that view,” Bobo writes, “but now overtly positively endorses the goals of racial integration and equal treatment. There is no sign whatsoever of retreat from this ideal, despite events that many thought would call it into question. The magnitude, steadiness, and breadth of this change should be lost on no one.” The norm against overt racism has gone global. In her book on the international anti-apartheid movement in the 1980s, Syracuse’s Audie Klotz says flatly that “the illegitimacy of white minority rule led to South Africa’s persistent diplomatic, cultural, and economic isolation.” The belief that racial discrimination could not be tolerated had become so widespread, Klotz argues, that it united the globe — including governments that had strategic interests in supporting South Africa’s whites — in opposition to apartheid. In 2011, 91 percent of respondents in a sample of 21 diverse countries said that equal treatment of people of different races or ethnicities was important to them. Racism obviously survived both American and South African apartheid, albeit in more subtle, insidious forms. “The death of Jim Crow racism has left us in an uncomfortable place,” Bobo writes, “a state of laissez-faire racism” where racial discrimination and disparities still exist, but support for the kind of aggressive government policies needed to address them is racially polarized. But there’s reason to hope that’ll change as well: two massive studies of the political views of younger Americans by my TP Ideas colleagues, John Halpin and Ruy Teixeira, found that millenials were significantly more racially tolerant and supportive of government action to address racial disparities than the generations that preceded them. Though I’m not aware of any similar research of on a global scale, it’s hard not to imagine they’d find similar results, suggesting that we should have hope that the power of racial prejudice may be waning. The story about gender discrimination is very similar: after the feminist movement’s enormous victories in the 20th century, structural sexism still shapes the world in profound ways, but the cause of gender equality is making progress. In 2011, 86 percent of people in a diverse 21 country sample said that equal treatment on the basis of gender was an important value. The U.N.’s Human Development Report’s Gender Inequality Index — a comprehensive study of reproductive health, social empowerment, and labor market equity — saw a 20 percent decline in observable gender inequalities from 1995 to 2011. IMF data show consistent global declines in wage disparities between genders, labor force participation, and educational attainment around the world. While enormous inequality remains, 2013 is looking to be the worst year for sexism in history. Finally, we’ve made astonishing progress on sexual orientation and gender identity discrimination — largely in the past 15 years. At the beginning of 2003, zero Americans lived in marriage equality states; by the end of 2013, 38 percent of Americans will. Article 13 of the European Community Treaty bans discrimination on the grounds of sexual orientation, and, in 2011, the UN Human Rights Council passed a resolution committing the council to documenting and exposing discrimination on orientation or identity grounds around the world. The public opinion trends are positive worldwide: all of the major shifts from 2007 to 2013 in Pew’s “acceptance of homosexuality” poll were towards greater tolerance, and young people everywhere are more open to equality for LGBT individuals than their older peers. best\_year\_graphics-04 Once again, these victories are partial and by no means inevitable. Racism, sexism, homophobia, and other forms of discrimination aren’t just “going away” on their own. They’re losing their hold on us because people are working to change other people’s minds and because governments are passing laws aimed at promoting equality. Positive trends don’t mean the problems are close to solved, and certainly aren’t excuses for sitting on our hands. That’s true of everything on this list. The fact that fewer people are dying from war and disease doesn’t lessen the moral imperative to do something about those that are; the fact that people are getting richer and safer in their homes isn’t an excuse for doing more to address poverty and crime. But too often, the worst parts about the world are treated as inevitable, the prospect of radical victory over pain and suffering dismissed as utopian fantasy. The overwhelming force of the evidence shows that to be false. As best we can tell, the reason humanity is getting better is because humans have decided to make the world a better place. We consciously chose to develop lifesaving medicine and build freer political systems; we’ve passed laws against workplace discrimination and poisoning children’s minds with lead. So far, these choices have more than paid off. It’s up to us to make sure they continue to.

#### Their claims of a pervasive MIC are false

Eugene Gholz 2k, PhD @ MIT, Professor of Political Science @ UT-Austin, “The Curtiss-Wright Corporation and Cold War–Era Defense Procurement,” Journal of Cold War Studies, 2.1, EBSCOHost

Scholars and journalists have long asserted that the U.S. government does not permit big defense firms to go bankrupt. Conventional wisdom has it that the powerful military-industrial complex (MIC) takes care of its own through the politics of defense procurement. It is true that very few of the major companies that contracted with the U.S. military have ever gone out of business, even in times of major cuts in the defense budget. Nevertheless, those who seek to prove the importance of the MIC focus only on the companies that have continued to receive military contracts. On this basis they conclude that all firms receive follow-on help from the government, and they ignore the cases of major defense suppliers that cease to be prime contractors for the U.S. military. The most important of these cases is the Curtiss-Wright Corporation. Curtiss-Wright was once the second-largest manufacturer in the United States, but it is now just a small subcontractor with turnover of only 206 million dollars for the twelve months before September 1997. 1 Originally an integrated producer of airframes, engines, and propellers, Curtiss-Wright now manufactures actuators for the wings of Boeing commercial transports and various fighter aircraft. At one time, Curtiss-Wright was a corporate name known to nearly every American for its role as a leading producer in World War II; now, even historians ignore it. Nonetheless, the history of the fall of Curtiss-Wright teaches valuable lessons about Cold War defense procurement politics. In essence, if the MIC functioned as a permanent, government-underwritten club, Curtiss-Wright should have been able to use its size and influence to arrange for follow-on contracts, high revenues, and comfortable profits. The firm collapsed in the 1950s, at a time of high defense procurement budgets, when the MIC was well situated to prevent the demise of a company such as Curtiss-Wright. Given the companyÕs size and ability to produce a variety of goods, Curtiss-Wright should be an ÒeasyÓ test case for MIC theory. In that sense, the firm’s history is a hoop test for the military-industrial complex schoolÑa test that the theory turns out to flunk. 2 Three divisions of Curtiss-WrightÑairframes, engines, and propellersÑeach collapsed independently. Hence, the single firm offers three somewhat overlapping case studies to evaluate business-government relations in the defense sector. This article discusses the history of Curtiss-Wright in the context of four competing theories of defense procurement: the MIC, a technology-based framework, a bureaucratic-strategic framework, and a market-based framework. The cases offer a strongÑalmost critical Ñ test of the MIC theory, a strong test of the technology-based and market-based theories, and a plausibility probe of the bureaucratic-strategic framework. The bureaucratic-strategic framework best predicts the downfall of Curtiss-Wright. Senior members of Curtiss-Wright management themselves believed in the power and stability of the MIC, which led them to ignore the companyÕs worsening relationships with its customers in the military services. Because the service bureaucracies had institutional memories and because the high level of strategic threat during the Cold War made the services influential in procurement decisions, Curtiss-Wright’s lack of responsiveness to customers Õ demands ended the company’s role as a prime contractor and nearly proved fatal to the firm.

#### No impact to the environment

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Barry Brook¶ We argue that at the global-scale, ecological “tipping points” and threshold-like “planetary boundaries” are improbable. Instead, shifts in the Earth’s biosphere follow a gradual, smooth pattern. This means that it might be impossible to define scientifically specific, critical levels of biodiversity loss or land-use change. This has important consequences for both science and policy.¶ Humans are causing changes in ecosystems across Earth to such a degree that there is now broad agreement that we live in an epoch of our own making: the Anthropocene. But the question of just how these changes will play out — and especially whether we might be approaching a planetary tipping point with abrupt, global-scale consequences — has remained unsettled.¶ A tipping point occurs when an ecosystem attribute, such as species abundance or carbon sequestration, responds abruptly and possibly irreversibly to a human pressure, such as land-use or climate change. Many local- and regional-level ecosystems, such as lakes,forests and grasslands, behave this way. Recently however, there have been several efforts to define ecological tipping points at the global scale.¶ At a local scale, there are definitely warning signs that an ecosystem is about to “tip”. For the terrestrial biosphere, tipping points might be expected if ecosystems across Earth respond in similar ways to human pressures and these pressures are uniform, or if there are strong connections between continents that allow for rapid diffusion of impacts across the planet.¶ These criteria are, however, unlikely to be met in the real world.¶ First, ecosystems on different continents are not strongly connected. Organisms are limited in their movement by oceans and mountain ranges, as well as by climatic factors, and while ecosystem change in one region can affect the global circulation of, for example, greenhouse gases, this signal is likely to be weak in comparison with inputs from fossil fuel combustion and deforestation.¶ Second, the responses of ecosystems to human pressures like climate change or land-use change depend on local circumstances and will therefore differ between locations. From a planetary perspective, this diversity in ecosystem responses creates an essentially gradual pattern of change, without any identifiable tipping points.¶ This puts into question attempts to define critical levels of land-use change or biodiversity loss scientifically.¶ Why does this matter? Well, one concern we have is that an undue focus on planetary tipping points may distract from the vast ecological transformations that have already occurred.¶ After all, as much as four-fifths of the biosphere is today characterised by ecosystems that locally, over the span of centuries and millennia, have undergone human-driven regime shifts of one or more kinds.¶ Recognising this reality and seeking appropriate conservation efforts at local and regional levels might be a more fruitful way forward for ecology and global change science.¶ Corey Bradshaw¶ (see also notes published here on ConservationBytes.com)¶ Let’s not get too distracted by the title of the this article – Does the terrestrial biosphere have planetary tipping points? – or the potential for a false controversy. It’s important to be clear that the planet is indeed ill, and it’s largely due to us. Species are going extinct faster than they would have otherwise. The planet’s climate system is being severely disrupted; so is the carbon cycle. Ecosystem services are on the decline.¶ But – and it’s a big “but” – we have to be wary of claiming the end of the world as we know it, or people will shut down and continue blindly with their growth and consumption obsession. We as scientists also have to be extremely careful not to pull concepts and numbers out of thin air without empirical support.¶ Specifically, I’m referring to the latest “craze” in environmental science writing – the idea of “planetary tipping points” and the related “planetary boundaries”.¶ It’s really the stuff of Hollywood disaster blockbusters – the world suddenly shifts into a new “state” where some major aspect of how the world functions does an immediate about-face.¶ Don’t get me wrong: there are plenty of localised examples of such tipping points, often characterised by something we call “hysteresis”. Brook defines hysterisis as:¶ a situation where the current state of an ecosystem is dependent not only on its environment but also on its history, with the return path to the original state being very different from the original development that led to the altered state. Also, at some range of the driver, there can exist two or more alternative states¶ and “tipping point” as:¶ the critical point at which strong nonlinearities appear in the relationship between ecosystem attributes and drivers; once a tipping point threshold is crossed, the change to a new state is typically rapid and might be irreversible or exhibit hysteresis.¶ Some of these examples include state shifts that have happened (or mostly likely will) to the cryosphere, ocean thermohaline circulation, atmospheric circulation, and marine ecosystems, and there are many other fine-scale examples of ecological systems shifting to new (apparently) stable states.¶ However, claiming that we are approaching a major planetary boundary for our ecosystems (including human society), where we witness such transitions simultaneously across the globe, is simply not upheld by evidence.¶ Regional tipping points are unlikely to translate into planet-wide state shifts. The main reason is that our ecosystems aren’t that connected at global scales.¶ The paper provides a framework against which one can test the existence or probability of a planetary tipping point for any particular ecosystem function or state. To date, the application of the idea has floundered because of a lack of specified criteria that would allow the terrestrial biosphere to “tip”. From a more sociological viewpoint, the claim of imminent shift to some worse state also risks alienating people from addressing the real problems (foxes), or as Brook and colleagues summarise:¶ framing global change in the dichotomous terms implied by the notion of a global tipping point could lead to complacency on the “safe” side of the point and fatalism about catastrophic or irrevocable effects on the other.¶ In other words, let’s be empirical about these sorts of politically charged statements instead of crying “Wolf!” while the hordes of foxes steal most of the flock.