# 1AC – Dartmouth Round 5

## 1AC – Georgetown AM

### 1AC – Advantage 1

**CONTENTION 1: EUROPE**

**US-EU relations are collapsing---limited self-defense rules revitalizes them**

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.¶ But as Europeans begin to articulate their policy on the use of drones, a bigger question looms. Can Europe and the United States come together to agree on when drone strikes are permissible? Until now, that would have seemed impossible. Since the September 11 attacks, the United States has based its counterterrorism operations on the claim that it is engaged in a worldwide armed conflict with al Qaeda and associated forces — an idea that President Obama inherited from President George W. Bush and has been kept as the basis for an expanded drone strike campaign. European countries have generally rejected this claim.¶ However, the changes to American policy that President Obama announced in May could open the way to at least the possibility of a dialogue. Obama suggested that he anticipated a time in the not-too-distant future when the armed conflict against al Qaeda might come to an end. More substantially, he made clear that his administration was in the process of switching its policy so that, outside zones of hostilities, it would only use drone strikes against individuals who posed a continuing and imminent threat to the U.S. That is a more restrictive standard than the claim that any member of al Qaeda or an associated force could lawfully be killed with a drone strike at any time.

**Limiting self-defense TKs aligns US justifications with the EU**

Anthony Dworkin 13, European Council on Foreign Relations senior policy fellow, Policy Brief, July, “Drones and Targeted Killing: Defining a European Position”, http://ecfr.eu/page/-/ECFR84\_DRONES\_BRIEF.pdf

Outside an armed conflict, the default European assumption would be that the threat of terrorism should be confronted within a law enforcement framework. This framework would not absolutely prohibit the deliberate killing of individuals, but it would set an extremely high threshold for its use – for example, it might be permitted where strictly necessary to prevent an imminent threat to human life or a particularly serious crime involving a grave threat to life.37 Where the threat was sufficiently serious, the state’s response might legitimately include the use of military force, but every use of lethal force would have to be justified as a necessary and proportionate response to an imminent threat. In any action that involved the deliberate taking of human life, there would have to be a rigorous and impartial post-strike assessment, with the government disclosing the justification for its action. Finally, EU states might perhaps agree that in the face of an armed attack or an imminent armed attack, states can use force on the territory of another state without its consent, if that state is unable or unwilling to act effectively to restrain the attack.¶ This consensus provides a basis on which the EU can step up engagement with the US on drones and targeted killing. At the heart of the EU position is the belief that the use of lethal force outside zones of active hostilities is an exceptional measure that can only be justified on the basis of a serious and imminent threat to human life. At a time when drone technology is proliferating rapidly, EU leaders should be more forthright in making this argument publicly – especially since Obama has adopted it, at least rhetorically, as an element of his policy. While Europeans may be reluctant to accuse Obama of having violated international law, they can assert their own vision and encourage Obama to follow through on his rhetoric by elevating the idea of a strict imminent threat-based approach to the use of deadly force outside the battlefield. European leaders and officials should welcome Obama’s latest moves to restrain drone strikes and his intimation that the armed conflict against al-Qaeda may be nearing its end. In this way they would reinforce the standards implicit in his speech and make clear that America’s closest allies will be watching to see how far he matches his words with action.

**CT cooperation wrecks EU legitimacy if it’s not within a limited framework---legal grey areas like self-defense are key**

Annegret Bendiek 11, Stiftung Wissenschaft und Politik German Institute for International and Security Affairs, At the Limits of the Rule of Law: EU-US Counter- Terrorism Cooperation, http://www.swp-berlin.org/fileadmin/contents/products/research\_papers/2011\_RP05\_bdk\_ks.pdf

4. The relationship between security and the rule of law will remain precarious as long as the EU cooperates with a partner that fights a non-state actor by military means. In the medium term, the constant manoeuvring at the limits of the rule of law is bound to impact the credibility of European Justice and Home Affairs policy. For this reason, it is important to clarify the status of the principles of the rule of law in transatlantic counter-terrorism cooperation. Three options for determining the relationship between international and transnational cooperation, on the one hand, and the rule of law, on the other, are conceivable. The first one consists in focussing strictly on security and strengthening the executive actors in Europe. The second option emphasises adherence to the principles of the rule of law, accompanied by a full parliamentarisation of this policy area. However, considering the fact that close cooperation with the United States is a cornerstone of both German and European policy, a third option – sensitive management of the emerging legal grey areas – seems most likely to be chosen. A first step in this direction would be for the member state to openly name the grey areas and publicly thematise the impact these have on transatlantic counter-terrorism cooperation. ¶ New Legal and Political Framework¶ The political and institutional framework for transatlantic cooperation has, contrary to expectations, changed for the worse since the beginning of 2009.1 Although President Obama’s White House is marked by a new style of policy-making, this has had no substantial impact on practical policy. The United States still sees itself at war against al-Qaeda and its terrorist affiliates. The EU and its member states, on the other hand, combat international terrorism above all with policing measures. In addition, on the legislative level, the transatlantic partners have moved even further from one another. In Europe, the Lisbon Treaty strengthened the European Parliament and, consequently, brought questions of data protection and civil rights to the fore. In the United States, in comparison, the Republican Party won the majority of seats during elections for the House of Representatives in November 2010, meaning that security will again be given priority over civil rights.

**Absent the plan, individual CT violations spill over to end EU relations**

Thorsten Wetzling 11, non-resident fellow at the Center for Transatlantic Relations at the Paul H. Nitze School of Advanced International Studies (SAIS), PhD in Political Science, “What role for what rule of law in EU-US counterterrorism cooperation?”, <http://transatlantic.sais-jhu.edu/publications/articles/Chapter1_EUISS_ChaillotPaper127_WETZLING.pdf>

Having said this, it is instructive to recall David Cole’s observation that ‘the rule of law may be tenacious when it is supported, but violations of it that go unaccounted corrode its very foundation’.17 Thus, while a more balanced depiction of ‘compatible’ and ‘incompatible’ counterterrorism practices may be required to substantiate broader claims, it is also true that a few severely misguided counterterrorism practices sufﬁce to discredit the ever-present promise of ‘full respect for our obligations under applicable international and domestic constitutional law’.18 In the light of the potentially contagious effect of individual rule-of-law deviations on the entire collaborative effort, the actual percentage of incompatible practices among the grand total of transatlantic counterterrorism activities appears secondary.

**Security cooperation with Europe solves nuclear war and multiple transnational threats**

Dr. Yannis. A. Stivachtis 10, Professor of Poli Sci & Ph.D. in Politics & International Relations from Lancaster University, THE IMPERATIVE FOR TRANSATLANTIC COOPERATION,” The Research Institute for European and American Studies, http://www.rieas.gr/research-areas/global-issues/transatlantic-studies/78.html

There is no doubt that US-European relations are in a **period of transition**, and that the stresses and strains of globalization are increasing both the number and the seriousness of the challenges that confront transatlantic relations. The events of 9/11 and the Iraq War have added significantly to these stresses and strains. At the same time, international terrorism, the nuclearization of **North Korea** and especially **Iran**, the proliferation of weapons of mass destruction (WMD), the transformation of **Russia** into a stable and cooperative member of the international community, the growing power of **China**, the political and economic transformation and integration of the **Caucasian** and **Central Asian** states, the integration and stabilization of the **Balkan** countries, the promotion of peace and stability in the **Mid**dle **East**, poverty, climate change, AIDS and other emergent problems and situations require further cooperation among countries at the regional, global and institutional levels. Therefore, cooperation between the U.S. and Europe is more **imperative** than ever to deal effectively with these problems. It is fair to say that the challenges of crafting a new relationship between the U.S. and the EU as well as between the U.S. and NATO are more regional than global, but the implications of success or failure will be global. The transatlantic relationship is still in crisis, despite efforts to improve it since the Iraq War. This is not to say that differences between the two sides of the Atlantic did not exist before the war. Actually, post-1945 relations between Europe and the U.S. were fraught with disagreements and never free of crisis since the Suez crisis of 1956. Moreover, despite trans-Atlantic proclamations of solidarity in the aftermath of 9/11, the U.S. and Europe parted ways on issues from global warming and biotechnology to peacekeeping and national missile defense. Questions such as, the future role of NATO and its relationship to the common European Security and Defense policy (ESDP), or what constitutes terrorism and what the rights of captured suspected terrorists are, have been added to the list of US-European disagreements. There are two reasons for concern regarding the transatlantic rift. First, if European leaders conclude that Europe must become **counterweight** to the U.S., rather than a partner, it will be difficult to engage in the kind of open search for a common ground than an elective partnership requires. Second, there is a risk that public opinion in both the U.S. and Europe will make it difficult even for leaders who want to forge a new relationship to make the necessary accommodations. If both sides would actively work to heal the breach, a new opportunity could be created. A vibrant transatlantic partnership remains a real possibility, but only if both sides make the necessary political commitment. There are strong reasons to believe that the security challenges facing the U.S. and Europe are more shared than divergent. The most dramatic case is terrorism. Closely related is the common interest in halting the spread of weapons of mass destruction and the nuclearization of Iran and North Korea. This commonality of threats is clearly perceived by publics on both sides of the Atlantic. Actually, Americans and Europeans see eye to eye on more issues than one would expect from reading newspapers and magazines. But while elites on both sides of the Atlantic bemoan a largely illusory gap over the use of military force, biotechnology, and global warming, surveys of American and European public opinion highlight sharp differences over global leadership, defense spending, and the Middle East that threaten the future of the last century’s most successful alliance. There are other important, shared interests as well. The transformation of Russia into a stable cooperative member of the international community is a priority both for the U.S. and Europe. They also have an interest in promoting a stable regime in Ukraine. It is necessary for the U.S. and EU to form a united front to meet these challenges because first, there is a risk that dangerous materials related to **WMD** will fall into the wrong hands; and second, the **spread of conflict** along those countries’ periphery could destabilize neighboring countries and provide **safe havens for terrorists** and other international criminal organizations. Likewise, in the Caucasus and Central Asia both sides share a stake in promoting political and economic transformation and integrating these states into larger communities such as the OSCE. This would also minimize the risk of instability spreading and prevent those countries of becoming havens for international terrorists and criminals. Similarly, there is a common interest in integrating the Balkans politically and economically. Dealing with Iran, Iraq, Lebanon, and the Israeli-Palestinian conflict as well as other **political issues in the Mid**dle **East** are also of a great concern for both sides although the U.S. plays a dominant role in the region. Finally, US-European cooperation will be more effective in dealing with the **rising power of China** through engagement but also containment. The post Iraq War realities have shown that it is no longer simply a question of adapting transatlantic institutions to new realities. The changing structure of relations between the U.S. and Europe implies that a new basis for the relationship must be found if transatlantic cooperation and partnership is to continue. The future course of relations will be **determined above all by U.S. policy towards Europe** and the Atlantic Alliance. Wise policy can help forge a new, more enduring strategic partnership, through which the two sides of the Atlantic cooperate in meeting the many major challenges and opportunities of the evolving world together. But a policy that **takes Europe for granted** and routinely **ignores or** even **belittles Europe**an concerns, may force Europe to conclude that the costs of continued alliance outweigh its benefits.

**Independently, failure to align transatlantic self-defense TK policy destroys European SSR**

Thorsten Wetzling 11, non-resident fellow at the Center for Transatlantic Relations at the Paul H. Nitze School of Advanced International Studies (SAIS), PhD in Political Science, “What role for what rule of law in EU-US counterterrorism cooperation?”, <http://transatlantic.sais-jhu.edu/publications/articles/Chapter1_EUISS_ChaillotPaper127_WETZLING.pdf>

Naturally, this poses a dilemma for the EU and its Member States. On the one hand, the EU benefits tremendously from its extensive counter-terrorism cooperation with the US and wishes to secure the smooth continuation of this cooperation. On the other hand, it has committed itself to a robust defence of the rule of law and knows that its power stems largely from the credibility of this defence. The latter is not a mere legal obligation, it also ensures vital support from domestic and international partners and helps to erode the ideological foundation of terrorist networks.¶ The dilemma is, of course, not entirely new but honest discussions about the conflicting interests and how to best address them in concrete political practice are rare." The seventy of rule-of-law violations that some transatlantic counterterrorism practices entail are seldom the subject of formal discussions, let alone official policy documents. ¶ As the EU and the US move into another decade of intense counterterrorism cooperation, they are well advised to pay greater attention to the potentially grave negative ramifications that some of their misguided policies might have. For example, the current JSOC/C1A night raids and drone strike campaign outside of declared zones of conflict defies hard- earned provisions of international law and may thus cause a universal regression of this important international tool of conflict resolution. A thin-skinned or lukewarm defence of the rule of law by European national parliaments and courts can also have grave negative ramifications for the credibility of European Security Sector assistance in other parts of the world. Rather than apologising for the more assertive oversight role of the European parliament, the European partners should value the fact that this important layer of rule of law defence has not become entirely dysfunctional.

**Effective EU SSR key to Afghan stability**

Nicholas J. Armstrong 11, "Afghan Security Force Assistance or Security Sector Reform? Despite Recent Improvements in the Afghan Security Forces, More Emphasis on Ministerial Development and Police Reform is Needed", INSCT on Security, Institute for National Security and Counterterrorism Syracuse University, December 21, insct.org/commentary-analysis/2011/12/21/afghan-security-force-assistance-or-security-sector-reform-despite-recent-improvements-in-the-afghan-security-forces-more-emphasis-on-ministerial-development-and-police-reform-is-needed/

Security force assistance is the next logical step in the triage of armed statebuilding in Afghanistan. But the **‘train and equip’ model** of security assistance **runs against the grain** of long term SSR goals. SSR involves the cultural and structural transformation – and construction where absent – of a state’s core security actors into effective, professional, and accountable agents under civilian control. Training security forces (e.g., SFA) is a core element of SSR, but doing it without an equal emphasis on developing civilian capacity and control and oversight mechanisms in the ministries of defense and interior and in the judicial system may be dangerous. It may, in fact, militarize the security sector to the point of entrenching an imbalance in civil-military relations that would make the challenges of fighting corruption and preventing human rights abuses, or worse, coup attempts all the more difficult.¶ NTM-A has made [significant progress](http://ntm-a.com/wordpress2/wp-content/uploads/2011/10/111016-ANSF-Fact-Sheet.pdf) in building the size and capabilities of the ANSF since its inception in 2009, increasing the Afghan National Army and Police by roughly 75,000 and 40,000, respectively. Likewise, NTM-A is on track to meet its November 2012 ANSF end strength target of 352,000 as well. For now it remains unclear, however, how NATO’s efforts to date, focused mainly on the uniformed services, will influence broader institutional reform across the Afghan security sector.¶ First, the Afghan National Police are currently trained and employed – mostly by U.S. military personnel – to fill a COIN role in local communities, serving essentially as paramilitary forces focused on citizen protection and holding territory cleared by NATO and Afghan Army units. But as Robert Perito of the U.S. Institute of Peace indicates in a [recent interview](http://www.usip.org/publications/value-police-assistance), to be sustainable the Afghan police still needs significant training to provide regular civilian police functions, such as crime prevention, emergency management, and traffic regulation, critical functions for demonstrating the legitimacy of the Afghan state. Additionally, more must be done to bring the Afghan Local Police (ALP) – a community based initiative started in 2010 to increase security by paying armed locals to protect themselves – into the fold under the supervision of the Afghan government and NTM-A. While the ALP has proven valuable in COIN efforts against the Taliban, a recent [Human Right Watch](http://www.hrw.org/sites/default/files/reports/afghanistan0911webwcover.pdf)report recommends improved mechanisms to vet, train and monitor the ALP following reports of abusive and criminal behavior.¶ Second, civilian expertise within the Afghan Ministries of Defense and Interior is sorely lacking. The reality that both ministries are predominantly led and staffed by current and former Afghan Army generals is a major long-term obstacle. Although this reflects a general shortfall of qualified civilian experts to fill key defense and interior positions, it flies in the face of tangible civilian oversight. The new [Ministry of Defense Advisors (MoDA)](http://www.defense.gov/home/features/2011/0211_moda/) program is making some headway, with one recent civilian advisor indicating that his Afghan counterparts are now discussing “how to educate and recruit future Afghan civil servants to join the Ministry of Defense” as a means of improving civilian control of the ANSF. It is difficult to tell, however, whether such talk will translate into a greater civilian role in driving Afghan defense and internal security policy.¶ Achieving anything close to the ideal vision of security sector reform in Afghanistan before 2014, much less in the next decade, is unrealistic. ‘Good enough’ is now the operative threshold to be met. But efforts made today will shape the future development of the ANSF and have consequences for both Afghan security and politics well beyond the 2014 transition. As expert Mark Sedra notes in a recent [book chapter](http://www.ashgate.com/isbn/9781409410287) on Afghanistan, “experience has shown that short-termist approaches to SSR, rather than nurturing democratically accountable and rights respecting security institutions, can breed security force impunity, **corruption** and politicization” (p. 235). Accordingly, regardless of how fast or slow the overarching mission in Afghanistan shifts away from COIN and toward security force assistance in the coming months and years, NATO should look to reprioritize its training and advising emphasis on the Afghan police and developing Afghan civilian capacity at the ministerial level to correct for existing imbalances and to set the Afghan security sector and its civil-military relations on a more sustainable path.

**Afghan instability causes nuclear war**

James Jay Carafano 10 is a senior research fellow for national security at The Heritage Foundation and directs its Allison Center for Foreign Policy Studies, “Con: Obama must win fast in Afghanistan or risk new wars across the globe,” Jan 2 http://gazettextra.com/news/2010/jan/02/con-obama-must-win-fast-afghanistan-or-risk-new-wa/

We can expect similar results if Obama’s Afghan strategy fails and he opts to cut and run. Most forget that throwing South Vietnam to the wolves made the world a far more dangerous place. The Soviets saw it as an unmistakable sign that America was in decline. They abetted military incursions in Africa, the Middle East, southern Asia and Latin America. They went on a conventional- and **nuclear-arms spending spree**. They stockpiled enough smallpox and anthrax to **kill the world several times over**. State-sponsorship of terrorism came into fashion. Osama bin Laden called America a “paper tiger.” If we live down to that moniker in Afghanistan, odds are the world will get a lot less safe. Al-Qaida would be back in the game. Regional terrorists would go after both Pakistan and India—potentially **triggering a nuclear war** between the two countries. Sensing a Washington in retreat, Iran and North Korea could shift their nuclear programs into overdrive, hoping to save their failing economies by selling their nuclear weapons and technologies to all comers. Their nervous neighbors would want nuclear arms of their own. The resulting nuclear arms race could be **far more dangerous than the Cold War’s** two-bloc standoff. With multiple, independent, nuclear powers cautiously eyeing one another, the world would look a lot more like Europe in 1914, when precarious shifting alliances **snowballed into a very big, tragic war**. The list goes on. There is no question that countries such as Russia, China and Venezuela would rethink their strategic calculus as well. That could produce all kinds of serious regional challenges for the United States. Our allies might rethink things as well. Australia has already hiked its defense spending because it can’t be sure the United States will remain a responsible security partner. NATO might well fall apart. Europe could be left with only a puny EU military force incapable of defending the interests of its nations.

**No impact D---Afghan conflict escalation likely in 2014**

Gupta 1/7 -- Anubhav, Asia Society, Senior Program officer for the Asia Society Policy Institute, 2014, asiasociety.org/blog/asia/2014-south-asias-make-or-break-year

2013 was a difficult year for South Asia. The year, which began portentously with the beheading of an Indian soldier, saw over 150 ceasefire violations between India and Pakistan. Violence along their border brought high-level diplomatic dialogue to a halt. There was trouble brewing inside Kashmir as well. The militancy, which had cooled considerably over the past decade, began to smolder once again. For the first time in ten years, terrorism-related deaths in the state were higher than the previous year. And Afghanistan continued to struggle with instability and weak governance, so much so that at the end of 2013 a U.S. intelligence assessment predicted an especially bleak future for the country.¶ This year could define the fate of the region for years to come. The leaders of India, Pakistan, Afghanistan, and the United States have an opportunity to secure a more stable future or risk the outbreak of greater conflict. As is often the case in South Asia, success is far from certain. Before the United States draws down its military presence in Afghanistan, it must redouble its diplomatic engagement with South Asia and pursue a regional strategy to enhance stability.¶ The Tough Road Ahead for India, Pakistan, and Afghanistan¶ With presidential elections and the end of NATO’s combat mission coming up, 2014 is perhaps most critical for Afghanistan. Unfortunately, there remains uncertainty on both fronts. After months of negotiating, the U.S. and Afghanistan finally brokered a bilateral security agreement in November, providing a legal framework for a small number of U.S. troops to remain in the country post-2014 to train, advise, and support Afghan forces as well as carry out some counterterrorism operations.¶ Shortly after the agreement was finalized, President Hamid Karzai stymied U.S. plans by deciding to delay signing the agreement until after the 2014 elections or until the U.S. agrees to certain preconditions it finds unacceptable. Though U.S. troops have largely handed off security responsibilities to the Afghan National Security Forces, there is a general consensus that a small contingent of U.S. troops is necessary to ensure stability. Military planning for the troop draw down and a limited presence post-2014 requires time. If this issue is not resolved soon, the U.S. could withdraw all troops in 2014, which could be calamitous for stability in the country.

**EU SSR key to African stability**

Eva Gross 13, PhD from the London School of Economics Senior Research Fellow, Free University of Brussels, Belgium, "ASSESSING THE EU’S APPROACH TO SECURITY SECTOR ¶ REFORM (SSR)," http://knjiznica.sabor.hr/pdf/E\_publikacije/Assessing\_the\_EUs\_approach\_to\_security\_sector\_reform.pdf

Security Sector Reform (SSR) – that is, strengthening and reforming those institutions that are key to ¶ maintaining security and the rule of law under conditions of local ownership and democratic ¶ accountability - represents a holistic approach to the reform of state security institutions. Such an ¶ approach inherently resonates with the EU’s emphasis on a comprehensive approach towards ¶ situations of conflict and instability. The fight against piracy and the building up and reforming of ¶ security and governance institutions in the Horn of Africa have put the spotlight on the EU’s approach towards SSR – as do ongoing processes of transition in the MENA region and the need for support to ¶ security and governance structures. ¶ The EU has engaged in SSR both through the EU Common Foreign and Security Policy (CFSP) and the ¶ Common Security and Defense Policy (CSDP) and Commission instruments for the past decade. It has ¶ collected a significant number of lessons learned when it comes to the planning, conduct and ¶ coordination of its various policies. While there is significant expertise in SSR, however, the EU has to ¶ date not developed an explicit SSR strategy. The EU’s approach towards SSR has developed through ¶ practice, in particular through its CSDP missions, but without a concomitant codification of procedures ¶ and policies. This applies both to the development and subsequent reform of institutional structures ¶ and coordination mechanisms in Brussels as well as operational experience in the field. ¶ The launch of the European External Action Service (EEAS) since the ratification of the Lisbon Treaty and ¶ the increasing engagement with a comprehensive approach to crisis management represents an ¶ opportunity to shape a new operational culture towards increasing coherence in the framework of an ¶ ongoing review of individual structures and operational practice. Through the EEAS the EU has the increasing potential, not least through its improved representation in the field, to shape a new ¶ approach towards addressing situations of instability, weak governance and institutional capacity, and ¶ the absence of the rule of law. The EU CSDP holds an important place in the overall EU SSR toolkit both ¶ through direct member state intervention as well as civilian and military expertise for reforming a ¶ country’s security apparatus. ¶ Current areas of transition and instability, together with ‘unfinished business’ in more established areas ¶ of EU engagement, place a renewed focus on SSR as a core activity beyond the EU’s borders. The recent ¶ launch of a number of CSDP missions in the Horn of Africa in particular represents not only a new ¶ geographical engagement and renewed engagement with CSDP instruments that combine ¶ simultaneous pursuits of stability and long-term institution building. They also put to the test tenets of ¶ EU engagement, in particular the coherence between instruments. Finally, they also pose old and new ¶ questions as to the EU and its member states’ ability to put a comprehensive approach in practice.

**Prevents conflict**

Richard Downie Cooke 11, fellow and deputy director of the Africa Program at the Center for Strategic and International Studies (CSIS), Jennifer G. Cooke, director of the CSIS Africa Program, 4/11, A More Strategic U.S. Approach to Police Reform in Africa, CSIS, http://csis.org/files/publication/110414\_Downie\_PolicyReformAfrica\_Web.pdf

The discussion series used as its point of departure four realities:¶ ■ First, many of Africa's current and emerging security challenges are more appropriately addressed in the first instance by competent and professional police forces than by military forces. Because their interface with the public is far wider than that of the military, effective police forces can play a critical role in public safety, civilian protection, and conflict prevention;¶ ■ Second, accountable policing institutions, linked to functional judicial systems and responsive to the needs of the citizenry, are critical elements not only of effective security responses and conflict prevention but also of development, democratic consolidation, and institution building in Africa;¶ ■ Third, policing and police reform, as a component of broader Security Sector Reform, have been neglected and under-resourced both by African national governments and by the broader international community. In U.S. engagement, the advent of the U.S. Africa Command, without commensurate attention to policing, may reinforce the tendency of the U.S. government and its counterparts in Africa to emphasize military rather than policing solutions to the continent's security problems;¶ Fourth, despite a growing body of analysis and expertise on how best to approach police reform in developing and post-conflict states, U.S. efforts have remained disjointed, underfunded, lacking in strategic focus, and often dismissed as either too politically sensitive and complicated or as "important but too difficult."

**Conflicts draw in great powers**

Glick 7 (Caroline, deputy managing editor of The Jerusalem Post, Senior Fellow for Middle East Affairs of the Center for Security Policy, “Condi's African holiday”, December 11, http://www.rightsidenews.com/20071211309/editorial/us-opinion-and-editorial/our-world-condis-african-holiday.html)

The Horn of Africa is a dangerous and strategically vital place. Small wars, which rage continuously, can easily escalate into big wars. Local conflicts have regional and global aspects. All of the conflicts in this tinderbox, which controls shipping lanes from the Indian Ocean into the Red Sea, can potentially give rise to regional, and indeed global conflagrations between competing regional actors and global powers.

### 1AC – Advantage 2

**CONTENTION 2: SELF DEFENSE**

**US justifications for targeted killing will spill over to erode legal restraints on all violence and legitimize preventive war**

Craig Martin 11, Associate Professor of Law at Washburn University School of Law, “Going Medieval: Targeted Killing, Self-Defence, and the Jus Ad Bellum Regime,” Ch 8 in TARGETED KILLINGS: LAW & MORALITY IN AN ASYMMETRICAL WORLD, p. 223, available at http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=1956141

IV. The potential impact of the targeted killing policy on international law

The United States has been engaging in this practice of using drone-mounted missile systems to kill targeted individuals since at least 2002.98 An increasing number of countries have employed different methods of targeted killing that constitute a use of force under jus ad bellum.99 The evidence suggests that the United States intends to continue and indeed expand the program, and there is a growing body of scholarly literature that either defends the policy’s legality, or advocates adjustment in international law to permit such action. There is, therefore, a real prospect that the practice could become more widespread, and that customary international law could begin to shift to reflect the principles implicit in the U.S. justification and in accordance with the rationales developed to support it.¶ Some of the implications of such an adjustment in the jus ad bellum regime are obvious from the foregoing analysis. As discussed, there would be a rejection of the narrow principle of self-defense in favor of something much closer to the Grotian concept of defensive war, encompassing punitive measures in response to past attacks and preventative uses of force to halt the development of future threats. The current conditions for a legitimate use of force in self-defense, namely the occurrence or imminence of an armed attack, necessity, and proportionality, would be significantly diluted or abandoned. Not only the doctrine of self-defense, but other aspects of the collective security system would be relaxed as well. Harkening back to Grotian notions of law enforcement constituting a just cause for war, the adjusted jus ad bellum regime would potentially permit the unilateral use of force against and within states for the purpose of attacking NSAs as such, in effect to enforce international law in jurisdictions that were incapable of doing so themselves.100 This would not only further undermine the concept of self-defense, but would undermine the exclusive jurisdiction that the U.N. Security Council currently has to authorize the use of force for purposes of “law enforcement” under Chapter VII of the Charter. Thus, both of the exceptions to the Article 2(4) prohibition on the use of force would be expanded.¶ In addition, however, the targeted killing policy threatens to create other holes in the jus ad bellum regime. This less obvious injury would arise from changes that would be similarly required of the IHL regime, and the resulting modifications to the fundamental relationship between the two regimes. These changes could lead to a complete severance of the remaining connection between the two regimes. Indeed, Ken Anderson, a scholar who has testified more than once on this subject before the U.S. Congress,101 has advocated just such a position, suggesting that the United States should assert that its use of force against other states in the process of targeted killings, while justified by the right to self-defense, does not rise to such a level that it would trigger the existence of an international armed conflict or the operation of IHL principles.102 If customary international law evolved along such lines, reverting to gradations in the types of use of force the change would destroy the unity of the system comprised of the jus ad bellum and IHL regimes, and there would be legal “black holes” in which states could use force without being subject to the limitations and conditions imposed by the IHL regime.¶ The structure of Harold Koh’s two-pronged justification similarly implies a severance of this relationship between jus ad bellum and IHL, albeit in a different and even more troubling way. His policy justification consists of two apparently independent and alternative arguments—that the United States is in an armed conflict with Al Qaeda and associated groups; and that the actions are justified as an exercise of self-defense. The suggestion seems to be that the United States is entitled on either basis to use armed force not just against the individuals targeted, but also against states in which the terrorist members are located. In other words, the first prong of the argument is that the use of force against another sovereign state, for the purposes of targeting Al Qaeda members, is justified by the existence of an armed conflict with Al Qaeda. If this is indeed what is intended by the policy justification, it represents an extraordinary move, not just because it purports to create a new category of armed conflict (that is, a “transnational” armed conflict without geographic limitation),103 but because it also suggests that there need be no jus ad bellum justification at all for a use of force against another state. Rather, the implication of Koh’s rationale is that the existence of an armed conflict under IHL can by itself provide grounds for exemption from the prohibition against the threat or use of force under the jus ad bellum regime.¶ This interpretation of the justifications cannot be pressed too far on the basis of the language of Mr. Koh’s speech alone, which he hastened to explain at the time was not a legal opinion.104 The two justifications could be explained as being supplementary rather than independent and alternative in nature. But the conduct of the United States in the prosecution of the policy would appear to confirm that it is based on these two independent justifications.105 The strikes against groups and states unrelated to the 9/11 attacks could be explained in part by the novel idea that force can be used against NSAs as such, wherever they may be situated. But even assuming some sort of strict liability for states in which guilty NSAs are found, that explanation still does not entirely account for the failure to tie the use of force against the different groups to specific armed attacks launched by each such group. This suggests that the United States is also relying quite independently on the argument that it is engaged in an armed conflict with all of these groups, and that the existence of such an armed conflict provides an independent justification for the use of force against the states in which the groups may be operating.¶ While the initial use of force in jus ad bellum terms is currently understood to bring into existence an international armed conflict and trigger the operation of IHL, the changes suggested by the policy would turn this on its head, by permitting the alleged existence of a “transnational” armed conflict to justify the initial use of force against third states. Whereas the two regimes currently operate as two components of an overall legal system relating to war, with one regime governing the use of force and the other the conduct of hostilities in the resulting armed conflict, the move attempted by the U.S. policy would terminate these independent but inter-related roles within a single system, and expand the role and scope of IHL to essentially replace aspects of the jus ad bellum regime. This would not only radically erode the jus ad bellum regime’s control over the state use of force, but it could potentially undermine the core idea that war, or in more modern terms the use of force and armed conflict, constitutes a legal state that triggers the operation of special laws that govern the various aspects of the phenomenon. There is a risk of return to a pre-Grotian perspective in which “war” was simply a term used to describe certain kinds of organized violence, rather than constituting a legal institution characterized by a coherent system of laws designed to govern and constrain all aspects of its operation.¶ There is a tendency in the U.S. approach to the so-called “global war on terror” to cherry-pick principles of the laws of war and to apply them in ways and in circumstances that are inconsistent with the very criteria within that legal system that determine when and how it is to operate. This reflects a certain disdain for the idea that the laws of war constitute an internally coherent system of law.106 In short, the advocated changes to the jus ad bellum regime and to the relationship between it and the IHL regime, and thus to the laws of war system as a whole,107 would constitute marked departures from the trajectory the system has been on during its development over the past century, and would be a repudiation of deliberate decisions that were made in creating the U.N. system after the Second World War.108¶ The premise of my argument is not that any return to past principles is inherently regressive. A rejection of recent innovations in favor of certain past practices might be attractive to some in the face of new transnational threats. The argument here is not even to deny the idea that the international law system may have to adapt to respond to the transnational terrorist threat. The point, rather, is that the kinds of changes to the international law system that are implicit in the targeted killing policy, and which are advocated by its supporters, would serve to radically reduce the limitations and constraints on the use of force by states against states. The modern principles that are being abandoned were created for the purpose of limiting the use of force and thus reducing the incidence of armed conflict among nations. The rejection of those ideas and a return to older concepts relating to the law of war would restore aspects of a system in which war was a legitimate tool of statecraft, and international armed conflict was thus far more frequent and widespread.109¶ 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.

**Limiting self-defense avoids preventative war---US norms are modeled**

Beau Barnes 12, J.D. Candidate, Boston University School of Law, “Reauthorizing the ‘War on Terror’: The Legal and Policy Implications of the AUMF’s Coming Obsolescence,” Military Law Review, Vol 211, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2150874

The slippery slope problem, however, is not just limited to the United States’s military actions and the issue of domestic control. The creation of international norms is an iterative process, one to which the United States makes significant contributions. Because of this outsized influence, the United States should not claim international legal rights that it is not prepared to see proliferate around the globe. Scholars have observed that the Obama Administration’s “expansive and open-ended interpretation of the right to self-defence threatens to destroy the prohibition on the use of armed force . . . .”147 Indeed, “[i]f other states were to claim the broad-based authority that the United States does, to kill people anywhere, anytime, the result would be chaos.”148¶ Encouraging the proliferation of an expansive law of international self-defense would not only be harmful to U.S. national security and global stability, but it would also directly contravene the Obama Administration’s national security policy, sapping U.S. credibility. The Administration’s National Security Strategy emphasizes U.S. “moral leadership,” basing its approach to U.S. security in large part on “pursu[ing] a rules-based international system that can advance our own interests by serving mutual interests.”149 Defense Department General Counsel Jeh Johnson has argued that “[a]gainst an unconventional enemy that observes no borders and does not play by the rules, we must guard against aggressive interpretations of our authorities that will discredit our efforts, provoke controversy and invite challenge.”150 Cognizant of the risk of establishing unwise international legal norms, Johnson argued that the United States “must not make [legal authority] up to suit the moment.”151 The Obama Administration’s global counterterrorism strategy is to “adher[e] to a stricter interpretation of the rule of law as an essential part of the wider strategy” of “turning the page on the past [and rooting] counterterrorism efforts within a more durable, legal foundation.”152¶ Widely accepted legal arguments also facilitate cooperation from U.S. allies, especially from the United States’ European allies, who have been wary of expansive U.S. legal interpretations.153 Moreover, U.S. strategy vis-à-vis China focuses on binding that nation to international norms as it gains power in East Asia.154 The United States is an international “standard-bearer” that “sets norms that are mimicked by others,”155 and the Obama Administration acknowledges that its drone strikes act in a quasi-precedential fashion.156 Risking the obsolescence of the AUMF would force the United States into an “aggressive interpretation” of international legal authority,157 not just discrediting its own rationale, but facilitating that rationale’s destabilizing adoption by nations around the world.158

**A norm of preventive war pushes all regional conflicts over the brink**

James B. Steinberg 2, senior fellow and vice president and director of Foreign Policy Studies at the Brookings Institution, Michael O’Hanlon, Director of Research for the 21st Century Defense Initiative at Brookings, Ph.D. from Princeton in public and international affairs, and Susan Rice, senior fellow in Foreign Policy at Brookings, “The New National Security Strategy and Preemption,” http://www.brookings.edu/research/papers/2002/12/terrorism-ohanlon

A final concern relates to the impact of the precedent set by the United States legitimating action that others might emulate, at the same time reducing its leverage to convince such countries not to use force. This concern is theoretical at one level, since it relates to stated doctrine as opposed to actual U.S. actions. But it is very real at another level. Today's international system is characterized by a relative infrequency of interstate war. Developing doctrines that lower the threshold for preemptive action could put that accomplishment at risk, and exacerbate regional crises already on the brink of open conflict.¶ Of course, no country will embark suddenly on a war of aggression simply because the United States provides it with a quasi-legal justification to do so. But countries already on the brink of war, and leaning strongly towards war, might use the doctrine to justify an action they already wished to take, and the effect of the U.S. posture may make it harder for the international community in general, and the U.S. in particular, to counsel delay and diplomacy.¶ Potential examples abound, ranging from Ethiopia and Eritrea, to China and Taiwan, to the Middle East. But perhaps the clearest case is the India-Pakistan crisis. Last spring, India was poised to attack Pakistan, given Pakistan's suspected complicity in assisting Islamic extremist terrorists who went from Pakistan into the disputed territory of Kashmir. A combination of U.S. pressure on both countries, with some last-minute caution by the leaders of Pakistan and India, narrowly averted a war that had the potential to escalate to the nuclear level once it began. Although India might have intended to limit its action to eliminating terrorist bases in Pakistan-held Kashmir and perhaps some bases inside Pakistan, nuclear-armed Pakistan might well have believed that India's intentions were to overthrow the regime in Islamabad or to eliminate its nuclear weapons capability. That situation would have further exacerbated the risks of escalation. Unfortunately, the terrorist infiltrations from Pakistan to Kashmir that did much to spark the earlier crisis appear to be resuming. Kashmir's status remains contentious, meaning that the risk of conflict remains.¶ Should the crisis resume, a U.S. policy of preemption may provide hawks in India the added ammunition they need to justify a strike against Pakistan in the eyes of their fellow Indian decision-makers. Recently, India Finance Minister (and former Foreign Minister) Jaswant Singh welcomed the administration's new emphasis on the legitimacy of preemption.

**Indo-Pak causes extinction**

Greg Chaffin 11, Research Assistant at Foreign Policy in Focus, July 8, 2011, “Reorienting U.S. Security Strategy in South Asia,” online: http://www.fpif.org/articles/reorienting\_us\_security\_strategy\_in\_south\_asia

The greatest threat to regional security (although curiously not at the top of most lists of U.S. regional concerns) is the possibility that increased India-Pakistan tension will erupt into all-out warthat could quickly escalate into a nuclear exchange. Indeed, in just the past two decades, the two neighbors have come perilously close to war on several occasions. India and Pakistan remain the most likely belligerents in the world to engage in nuclear war. Due to an Indian preponderance of conventional forces, Pakistan would have a strong incentive to use its nuclear arsenal very early on before a routing of its military installations and weaker conventional forces. In the event of conflict, Pakistan’s only chance of survival would be the early use of its nuclear arsenal to inflict unacceptable damage to Indian military and (much more likely) civilian targets. By raising the stakes to unacceptable levels, Pakistan would hope that India would step away from the brink. However, it is equally likely that India would respond in kind, with escalation ensuing. Neither state possesses tactical nuclear weapons, but both possess scores of city-sized bombs like those used on Hiroshima and Nagasaki. Furthermore, as more damage was inflicted (or as the result of a decapitating strike), command and control elements would be disabled, leaving individual commanders to respondin an environment increasingly clouded by the fog of war and decreasing the likelihood that either government (what would be left of them) would be able to guarantee that their forces would follow a negotiated settlement or phased reduction in hostilities. As a result any suchconflict would likely continue to escalateuntil one side incurred an unacceptable or wholly debilitating level of injury or exhausted its nuclear arsenal. A nuclear conflict in the subcontinentwould havedisastrous effects on the world as a whole. In a January 2010 paper published in Scientific American, climatology professors Alan Robock and Owen Brian Toon forecast the global repercussionsof a regional nuclear war. Their results are strikingly similar to those of studies conducted in 1980 that conclude that a nuclear war between the United States and the Soviet Union wouldresult in acatastrophic and prolonged nuclear winter,which could very well place the survival of the human race in jeopardy. In their study, Robock and Toon use computer models to simulate the effect of a nuclear exchange between India and Pakistan in which each were to use roughly half their existing arsenals (50 apiece). Since Indian and Pakistani nuclear devices are strategic rather than tactical, the likely targets would be major population centers. Owing to the population densities of urban centers in both nations, the number of direct casualties could climb as high as 20 million. The fallout of such an exchange would not merely be limited to the immediate area. First, the detonation of a large number of nuclear devices would propel as much as seven million metric tons of ash, soot, smoke, and debris as high as the lower stratosphere. Owing to their small size (less than a tenth of a micron) and a lack of precipitation at this altitude, ash particles would remain aloft for as long as a decade, during which time the world would remain perpetually overcast. Furthermore, these particles would soak up heat from the sun, generating intense heat in the upper atmosphere that would severely damage the earth’s ozone layer. The inability of sunlight to penetrate through the smoke and dust would lead toglobal cooling by as much as 2.3 degrees Fahrenheit. This shift in global temperature would lead to more drought, worldwide food shortages, and widespread political upheaval. Although the likelihood of this doomsday scenario remains relatively low, the consequences are dire enough to warrant greater U.S. and international attention. Furthermore, due to the ongoing conflict over Kashmir and the deep animus held between India and Pakistan, it might not take much to set them off. Indeed, following the successful U.S. raid on bin Laden’s compound, several members of India’s security apparatus along with conservative politicians have argued that India should emulate the SEAL Team Six raid and launch their own cross-border incursions to nab or kill anti-Indian terrorists, either preemptively or after the fact. Such provocative action could very well lead to all-out war between the two that couldquickly escalate.

**Escalation’s uniquely likely now---no defense**

Jason Overdorf 13, covers India for GlobalPost. Overdorf has spent most of the past 15 years living and working in Asia. He worked as an editor with Dow Jones Newswires in New York, Singapore and Hong Kong before moving to New Delhi and becoming a freelance writer in 2002. He was a frequent contributor to the Far Eastern Economic Review until 2004, covering Indian politics, society and business. Since 2004, he has been a special correspondent at Newsweek International, where he writes on a wide range of topics. He has covered Sonia Gandhi's surprising electoral victory, the ongoing problem of Hindu fundamentalism, the simmering conflict with Maoist rebels, and societal changes resulting from India's meteoric economic growth. He's written for the Atlantic Monthly and the Asian Wall Street Journal. His travel articles, personal essays and political commentary have appeared in Smithsonian Magazine, Departures, Travelers' Tales and other publications. He has degrees in English literature and creative writing from Columbia University, Washington University and Boston University. “Analysis: Are India and Pakistan headed for war? Under heavy shelling, Kashmir is again set to stymie the Indo-Pak peace process. And the risks are mounting”, 8/15, Citing Experts at the Woodrow Wilson Center, <http://www.globalpost.com/dispatch/news/war/conflict-zones/130814/analysis-are-india-and-pakistan-headed-war>

“This is a sad reality of India-Pakistan relations — whenever things are looking up, a saboteur tries to send all progress up in smoke.” The region has been on the boil since the five Indian soldiers were killed in an ambush in the Poonch sector of India-administered Kashmir last week. India said Pakistani soldiers were to blame, and Pakistan disavowed the attack. More from GlobalPost: 7 graphs that prove America is overrated The incident prompted a series of cross-border skirmishes that each country has accused the other of starting. It has all-but scuttled hopes that Sharif and his Indian counterpart, Manmohan Singh, will be able to resume peace negotiations anytime soon. The so-called composite dialogue dates back to January 2004. It was called off following the November 2008 Mumbai terrorist attack, which India believes were perpetrated with the aid of Pakistan's Inter-Services Intelligence agency. Until this week, the formal talks had been set to resume this month. Now even an informal meeting between Singh and Sharif on the sidelines of the September UN General Assembly is at risk. The situation is scary, experts say. Kashmir — a divided territory that both India and Pakistan claim as their own — was the cause of two of the three wars the two countries have fought since they attained independence from Britain in 1947. Now both New Delhi and Islamabad control numerous nukes; Pakistan has the world’s fastest growing arsenal. As the tit-for-tat bombardment continues, the shelling already marks the heaviest exchange since the ceasefire began in 2003, raising fears that the repeated violations will result in a complete breakdown of the truce. Signaling their concern about further escalation, both Washington and the UN have appealed for calm. But which side is responsible for starting the fire? What is the endgame? And how far will the flames spread before cooler heads prevail? Indian analysts remain convinced that Pakistan uses such shelling to provide cover for jihadi militants crossing the border to attack installations in India-administered Kashmir. By India's tally, there have already been 42 such ceasefire violations in 2013, compared with 28 in 2012, according to India Today. Meanwhile, this year 40 members of India's security forces in the area have been killed, compared with 17 the year before. For Indians looking to explain who broke the truce this time, that's a smoking gun. “If you just take the common sensical point of view, India has no interest [in breaking the ceasefire], because we are not sending in infiltrators under cover of fire,” said former Indian foreign secretary Kanwal Sibal. “We have no reason to fire unilaterally because what do we then hope to achieve? We don't score any points either bilaterally or internationally.” Pakistan-watchers, however, argue that its army no longer provides such support for jihadi groups, and hint that the ambush story may have been a ploy by India, or a local Indian commander, to trigger hostilities. Admitting that Pakistani generals “may have” helped jihadis cross into India in the past, for instance, Pakistan-born Shuja Nawaz, director of the South Asia Center at the Atlantic Council, said that policy was ended under former president General Pervez Musharraf, and it would be “surprising if it is being activated again.” Nawaz also questioned why India first called the alleged ambush an attack by “persons dressed in Pakistani uniforms” – only later referring to it as an army assault — and why top military officials allowed tempers to flare for two days before activating a hotline intended to defuse these situations. “What is surprising is that the Director General Military Operations did not activate the hotline till two days [after the alleged ambush]. Why?” said Nawaz. Experts agree it’s not likely that Sharif's civilian government officially sanctioned the alleged ambush of Indian soldiers. But it may well have had the active or tacit support of the military-intelligence combine, or “deep state,” that holds the real power in Pakistan. Moreover, though the ceasefire is expected to hold, the ambush and subsequent saber rattling in Pakistan certainly establishes that its new prime minister — for all his talk of peace — must overcome enormous obstacles in his own country before he can think of negotiating with India. “Overarching all this is the fact that during the election campaign, [Sharif] spoke about his desire to improve relations with India, and there was an exchange of special envoys pretty quickly,” said India's Sibal. “There was hope that he might be able to begin turning a new page. But under his watch all the wrong things are happening... Jihadi organizations [and] what they call the ‘deep state’ in Pakistan [i.e. the army and intelligence apparatus] seem to be at work.” While Sharif has continued to preach peace since his June election, his army and spy agency don't seem to be listening. That's because both have vested interests in stoking fears of an Indian attack — lest they face a sustained drive to curtail their powers, or, worse, a deep cut to the defense budget. On August 3, terrorists whom India claims have links to Pakistan's Inter-Services Intelligence agency (ISI) attacked the Indian consulate in Jalalabad, Afghanistan. Meanwhile, Islamabad allowed alleged terrorist Hafiz Saeed to lead Eid prayers before a massive throng at the Gaddafi stadium in Lahore on August 9. India and the US accuse him of leading of Lashkar-e-Taiba, and Indians accuse of masterminding the 2008 attacks on Mumbai; Washington DC has a $10 million bounty on his head. The Eid prayers were not a one-off. Saeed also led several thousand supporters in a Lahore parade on August 14, to mark Pakistan’s independence day. And amidst the shelling this week, Pakistan's finance minister announced that a plan to grant India “most favored nation” status – once viewed an easily attained step that would be good for both countries – is now off the table. “Neither side wants war nor does either profit from a conflict escalating beyond [Kashmir’s Line of Control]. Local commanders, especially newly posted ones to the region, flex their muscles. But this is a dangerous game,” said the Atlantic Council's Nawaz. Worse still, the game is set to grow more perilous with the approach of 2014 – when the rules will change, according to the Woodrow Wilson Center's Kugelman. The US withdrawal from Afghanistan will leave India and Pakistan contending for influence there, while the exit of US troops will again make India and Kashmir the number one target for Pakistan-based terrorist groups like Lashkar-e-Taiba. Meanwhile, in the face of continued provocations since the 2008 attacks on Mumbai, India's capacity for restraint may have reached its limits, Kugelman worries. And the election slated for May 2014 will put added pressure on Singh's government to take a hard line. “As India's election grows closer, any consequent LoC hostilities could conceivably lead to escalation,” Kugelman said. “And that's a scary thought.”

**Legitimizing preventive war causes a Chinese attack on US missile defense**

Stephen Walt 4, Robert and Renee Belfer Professor of International Affairs at Harvard, PhD in Political Science from UC Berkeley, October 1, “The Strategic Environment,” Panel Discussion at “Preemptive Use of Force: A Reassessment,” Conference held by the Fletcher Forum on International Affairs, <http://www.brookings.edu/views/papers/daalder/daalder_fletcher.pdf>

Finally, as Ivo has already noted, there is this precedent problem. By declaring that preventive war is an effective policy option for us, we make it easier for others to see it as an effective policy option for them. Why can’t India attack Pakistan before it develops more nuclear weapons? Why can’t Turkey attack Iraqi Kurdistan to prevent the emergence of an independent state there? Why was it wrong for Serbia to take preventive action against the Kosovars, given that there was a guerilla army attacking Serbs in Kosovo, and given that the Serbs could see a long term threat to their national security if the Kosovar-Albanians got more and more politically organized and tried to secede? Why couldn’t a stronger China decide that America’s national missile defense program was a direct threat to their nuclear deterrent capability, and therefore decide to order a preventive commando strike against American radar sites in Alaska? Now this sounds wildly far-fetched, of course, but imagine the situation being reversed. Imagine if another country threatened our second strike capability, wouldn’t we have looked for some way to prevent that from happening? Of course we would. So again, we’re creating a precedent here.

**That goes nuclear**

John W. Lewis 12, William Haas Professor of Chinese Politics, emeritus, at Stanford University, PhD from UCLA, and Xue Litai, research scholar at the Project on Peace and Cooperation in the Asian-Pacific Region at Stanford University’s Center for International Security and Cooperation, “Making China’s nuclear war plan,” Bulletin of the Atomic Scientists September/October 2012 vol. 68 no. 5 45-65, http://bos.sagepub.com/content/68/5/45.full

If the CMC authorizes a missile base to launch preemptive conventional attacks on an enemy, however, the enemy and its allies could not immediately distinguish whether the missiles fired were conventional or nuclear. From their perspective, the enemy forces could justifiably launch on warning and retaliate against all the command-and-control systems and missile assets of the Chinese missile launch base and even the overall command-and-control system of the central Second Artillery headquarters. In the worst case, a self-defensive first strike by Chinese conventional missiles could end in the retaliatory destruction of many Chinese nuclear missiles and their related command-and-control systems. That disastrous outcome would force the much smaller surviving and highly vulnerable Chinese nuclear missile units to fire their remaining missiles against the enemy’s homeland. In this quite foreseeable action-reaction cycle, escalation to nuclear war could become accelerated and unavoidable. This means that the double policies could unexpectedly cause, rather than deter, a nuclear exchange.

**Russian preventive model escalates---causes US retaliation**

Stephen J. Blank 11, Strategic Studies Institute expert on the post-Soviet world and the Soviet bloc, former Associate Professor of Soviet Studies at the Center for Aerospace Doctrine, Research and Education at Maxwell Air Force Base, Ph.D. in history from the University of Chicago, “RUSSIA AND NUCLEAR WEAPONS,” Ch 7 in Russian Nuclear Weapons: Past, Present, and future,” <http://www.strategicstudiesinstitute.army.mil/pdffiles/PUB1087.pdf>

Thus, nuclear weapons are warfighting weapons. Moscow’s threats from October 2009 not only follow previous doctrine, they expand on it by openly admitting that limited nuclear war is its option or ace in the hole. If Russia should decide to invade or seize one or more Baltic State, then that would mean it is prepared to wage nuclear war against NATO and the United States to hold onto that acquisition although it would prefer not to, or thinks it could get away without having to do so. The idea behind such a “limited nuclear war” is that Russia would seize control of the intra-war escalation process by detonating a first-strike even in a preventive or preemptive mode, and this would supposedly force NATO to negotiate a political solution that allows Russia to hold onto at least some of its gains. Apart from the immensity of Moscow’s gamble that NATO will not have the stomach to retaliate against Russian nuclear strikes, which will be carried out to inflict a “preset” amount of damage that Moscow believes will signal its “limited” intent. In essence, Moscow is essentially engaging in a game of nuclear chicken or blackmail. In fact, the real risk here is that the West will not acquiesce but rather that it will retaliate or even escalate, further adding to the inherent unpredictability of any conceivable nuclear war scenario.

**Extinction**

Ira Helfand 9, M.D., and John O. Pastore, M.D., are past presidents of Physicians for Social Responsibility. March 31, “U.S.-Russia nuclear war still a threat”, http://www.projo.com/opinion/contributors/content/CT\_pastoreline\_03-31-09\_EODSCAO\_v15.bbdf23.html

President Obama and Russian President Dimitri Medvedev are scheduled to Wednesday in London during the G-20 summit. They must not let the current economic crisis keep them from focusing on one of the greatest threats confronting humanity: the danger of nuclear war. Since the end of the Cold War, many have acted as though the danger of nuclear war has ended. It has not. There remain in the world more than 20,000 nuclear weapons. Alarmingly, more than 2,000 of these weapons in the U.S. and Russian arsenals remain on ready-alert status, commonly known as hair-trigger alert. They can be fired within five minutes and reach targets in the other country 30 minutes later. Just one of these weapons can destroy a city. A war involving a substantial number would cause devastation on a scale unprecedented in human history. A study conducted by Physicians for Social Responsibility in 2002 showed that if only 500 of the Russian weapons on high alert exploded over our cities, 100 million Americans would die in the first 30 minutes. An attack of this magnitude also would destroy the entire economic, communications and transportation infrastructure on which we all depend. Those who survived the initial attack would inhabit a nightmare landscape with huge swaths of the country blanketed with radioactive fallout and epidemic diseases rampant. They would have no food, no fuel, no electricity, no medicine, and certainly no organized health care. In the following months it is likely the vast majority of the U.S. population would die. Recent studies by the eminent climatologists Toon and Robock have shown that such a war would have a huge and immediate impact on climate world wide. If all of the warheads in the U.S. and Russian strategic arsenals were drawn into the conflict, the firestorms they caused would loft 180 million tons of soot and debris into the upper atmosphere — blotting out the sun. Temperatures across the globe would fall an average of 18 degrees Fahrenheit to levels not seen on earth since the depth of the last ice age, 18,000 years ago. Agriculture would stop, eco-systems would collapse, and many species, including perhaps our own, would become extinct. It is common to discuss nuclear war as a low-probabillity event. But is this true? We know of five occcasions during the last 30 years when either the U.S. or Russia believed it was under attack and prepared a counter-attack. The most recent of these near misses occurred after the end of the Cold War on Jan. 25, 1995, when the Russians mistook a U.S. weather rocket launched from Norway for a possible attack. Jan. 25, 1995, was an ordinary day with no major crisis involving the U.S. and Russia. But, unknown to almost every inhabitant on the planet, a misunderstanding led to the potential for a nuclear war. The ready alert status of nuclear weapons that existed in 1995 remains in place today.

**Independently, the plan’s vital to avoid dangerous modeling in the Middle East---legal rules key**

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, "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.

**Global nuclear war**

James Russell 9, Senior Lecturer Department of National Security Affairs, Spring, “Strategic Stability Reconsidered: Prospects for Escalation and Nuclear War in the Middle East” Security Studies Center Proliferation Papers, http://www.analyst-network.com/articles/141/StrategicStabilityReconsideredProspectsforEscalationandNuclearWarintheMiddleEast.pdf

Strategic stability in the region is thus undermined by various factors: (1) asymmetric interests in the bargaining framework that can introduce unpredictable behavior from actors; (2) the presence of non-state actors that introduce unpredictability into relationships between the antagonists; (3) incompatible assumptions about the structure of the deterrent relationship that makes the bargaining framework strategically unstable; (4) perceptions by Israel and the United States that its window of opportunity for military action is closing, which could prompt a preventive attack; (5) the prospect that Iran’s response to pre-emptive attacks could involve unconventional weapons, which could prompt escalation by Israel and/or the United States; (6) the lack of a communications framework to build trust and cooperation among framework participants. These systemic weaknesses in the coercive bargaining framework all suggest that escalation by any the parties could happen either on purpose or as a result of miscalculation or the pressures of wartime circumstance. Given these factors, it is disturbingly easy to imagine scenarios under which a conflict could quickly escalate in which the regional antagonists would consider the use of chemical, biological, or nuclear weapons. It would be a mistake to believe the nuclear taboo can somehow magically keep nuclear weapons from being used in the context of an unstable strategic framework. Systemic asymmetries between actors in fact suggest a certain increase in the probability of war – a war in which escalation could happen quickly and from a variety of participants. Once such a war starts, events would likely develop a momentum all their own and decision-making would consequently be shaped in unpredictable ways. The international community must take this possibility seriously, and muster every tool at its disposal to prevent such an outcome, which would be an unprecedented disaster for the peoples of the region, with substantial risk for the entire world.

**Your war defense is old**

Michael Singh 11, Washington Institute director, 9/22, “What has really changed in the Middle East?”, http://shadow.foreignpolicy.com/posts/2011/09/22/what\_has\_really\_changed\_in\_the\_middle\_east

Third, and most troubling, the Middle East is likely to be a more dangerous and volatile region in the future. For the past several decades, a relatively stable regional order has prevailed, centered around Arab-Israeli peace treaties and close ties between the United States and the major Arab states and Turkey. The region was not conflict-free by any means, and Iran, Iraq, and various transnational groups sought to challenge the status quo, albeit largely unsuccessfully. Now, however, the United States appears less able or willing to exercise influence in the region, and the leaders and regimes who guarded over the regional order are gone or under pressure. Sensing either the need or opportunity to act autonomously, states like Turkey, Saudi Arabia, and Iran are increasingly bold, and all are well-armed and aspire to regional leadership. Egypt, once stabilized, may join this group. While interstate conflict is not inevitable by any means, the risk of it has increased and the potential brakes on it have deteriorated. Looming over all of this is Iran's quest for a nuclear weapon, which would shift any contest for regional primacy into overdrive.

### 1AC – Solvency

**CONTENTION 3: SOLVENCY**

**Limiting self-defense targeting using more restrictive guidelines solves inevitable damage to jus ad bellum and expansiveness**

Craig Martin 11, Associate Professor of Law at Washburn University School of Law, “GOING MEDIEVAL: TARGETED KILLING, SELF-DEFENSE AND THE JUS AD BELLUM REGIME”, SSRN

Without going through the analysis for each of these scenarios in detail, we can nonetheless conclude that while it may be possible to justify the use of force against these states on the basis of self-defense, the crucial point is that the justificatory analysis is case-dependent. When the United States engages in strikes that constitute the use of force against each of these states, the claim of the right of self-defense must make specific reference to the armed attacks that justify it, how the group that is the object of the use of force is responsible for the attacks, and how the state in which the group is being targeted can itself be held legally responsible for the operations of that group so as to justify the use of force against the state. The problem with the current U.S. claim of self-defense is that it does none of this, but rather asserts a general right to use force against Al Qaeda, the Taliban, and any other groups associated with them; and against any country in which the members of such groups are located, not based on the state’s actual involvement in the group’s attacks, but merely on it being insufficiently willing or able to suppress the group’s operations.96¶ It almost goes without saying that the principles of necessity and proportionality cannot be satisfied under such sweeping and general claims of self-defense. It is not possible to demonstrate that the use of force was strictly necessary when there has been no identification of the armed attacks in question, or explanation of how the specific groups being targeted pose the threat of imminent armed attacks, that can only be stopped through the use of force. Similarly, there can be no proportionality analysis without the identification of the harm that would be caused by specific attacks, against which one can compare the harm being inflicted by the defensive use of force.97 Thus, in order to satisfy the necessity and proportionality principles that are at the core of the doctrine, the United States must provide the information required for such analysis.¶ In sum, the U.S. government’s reliance upon self-defense as a justification for the targeted killing policy in countries such as Yemen, Somalia, and Pakistan, at least in the very general terms with which it has been asserted, is not consistent with the principles of self-defense under the jus ad bellum regime. This finding would suggest that, unless and until the administration offers more particularized support for this justification, the ongoing use of missile strikes for the purposes of killing suspected “terrorists,” “militants” and “insurgents” in countries like Somalia, Yemen, and Pakistan, is a violation of the prohibition on the use of armed force.¶

Such a conclusion is troubling enough. But even more important in the long run is the potential harm this continued practice could cause to the jus ad bellum regime, and to the relationship between the jus ad bellum and IHL regimes, to which we turn next.

**Only Congress can align the political branches and send lawful signal --- oversight is necessary**

Kenneth Anderson 10, Professor of Law, Washington College of Law, American University, and Research Fellow, The Hoover Institution, Stanford University and Member of its Task Force on National Security and the Law, 3/18, Rise of the Drones: Unmanned Systems and the Future of War, digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1002&context=pub\_disc\_cong

• Third, the proper legal rationale for the use of force in drone operations in special, sometimes covert, operations outside of traditional zones of armed conflict is the customary international law doctrine of self-defense, rather than the narrower law of armed conflict. ¶ • Fourth, Congress has vital roles to play here, mostly in asserting the legality of the use of drones. These include: (i) Plain assertion of the legality of the programs as currently used by the Obama administration, as a signal to courts in the US as well as the international community and other interested actors, that the two political branches are united on an issue of vital national security and foreign policy. (ii) Congressional oversight mechanisms should also be strengthened in ensuring Congress’s meaningful knowledge and ability to make its views known. (iii) Congress also should consider legislation to clarify once and for all that that covert use of force is lawful under US law and international law of self-defense, and undertake legislation to make clear the legal protection of individual officers. (iv) Congress should also strongly encourage the administration to put a public position on the record. In my view, that public justification ought to be something (self-defense, in my view) that will ensure the availability of targeted killing for future administrations outside the context of conflict with Al Qaeda – and protect against its legal erosion by acquiescing or agreeing to interpretations of international law that would accept, even by implication, that targeted killing by the civilian CIA using drones is per se an unlawful act of extrajudicial execution.

**Congress is necessary for legal clarity to prevent ad-hoc self-defense**

Mark David Maxwell 12, Colonel, Judge Advocate with the U.S. Army, Winter, “TARGETED KILLING, THE LAW, AND TERRORISTS”, Joint Force Quarterly, http://www.ndu.edu/press/targeted-killing.html

In the wake of the attacks by al Qaeda on September 11, 2001, an analogous phenomenon of feeling safe has occurred in a recent U.S. national security policy: America’s explicit use of targeted killings to eliminate terrorists, under the legal doctrines of selfdefense and the law of war. Legal scholars define targeted killing as the use of lethal force by a state4 or its agents with the intent, premeditation, and deliberation to kill individually selected persons who are not in the physical custody of those targeting them.5 In layman’s terms, targeted killing is used by the United States to eliminate individuals it views as a threat.6 Targeted killings, for better or for worse, have become “a defining doctrine of American strategic policy.”7 Although many U.S. Presidents have reserved the right to use targeted killings in unique circumstances, making this option a formal part of American foreign policy incurs risks that, unless adroitly controlled and defined in concert with Congress, could drive our practices in the use of force in a direction that is not wise for the long-term health of the rule of law. This article traces the history of targeted killing from a U.S. perspective. It next explains how terrorism has traditionally been handled as a domestic law enforcement action within the United States and why this departure in policy to handle terrorists like al Qaeda under the law of war—that is, declaring war against a terrorist organization—is novel. While this policy is not an ill-conceived course of action given the global nature of al Qaeda, there are practical limitations on how this war against terrorism can be conducted under the orders of the President. Within the authority to target individuals who are terrorists, there are two facets of Presidential power that the United States must grapple with: first, how narrow and tailored the President’s authority should be when ordering a targeted killing under the rubric of self-defense; and second, whether the President must adhere to concepts within the law of war, specifically the targeting of individuals who do not don a uniform. The gatekeeper of these Presidential powers and the prevention of their overreach is Congress. The Constitution demands nothing less, but thus far, Congress’s silence is deafening.¶ History of Targeted Killing During the Cold War, the United States used covert operations to target certain political leaders with deadly force.8 These covert operations, such as assassination plots against Fidel Castro of Cuba and Ngo Dinh Diem of South Vietnam, came to light in the waning days of the Richard Nixon administration in 1974. In response to the public outrage at this tactic, the Senate created a select committee in 1975, chaired by Senator Frank Church of Idaho, to “Study Government Operations with Respect to Intelligence Activities.”9 This committee, which took the name of its chairman, harshly condemned such targeting, which is referred to in the report as assassination: “We condemn assassination and reject it as an instrument of American policy.”10 In response to the Church Committee’s findings, President Gerald R. Ford issued an Executive order in 1976 prohibiting assassinations: “No employee of the United States Government shall engage in, or conspire to engage in political assassination.”11 The order, which is still in force today as Executive Order 12333, “was issued primarily to preempt pending congressional legislation banning political assassination.”12 President Ford did not want legislation that would impinge upon his unilateral ability as Commander in Chief to decide on the measures that were necessary for national security. 13 In the end, no legislation on assassinations was passed; national security remained under the President’s purview. Congress did mandate, however, that the President submit findings to select Members of Congress before a covert operation commences or in a timely fashion afterward.14 This requirement remains to this day. Targeted killings have again come to center stage with the Barack Obama administration’s extraordinary step of acknowledging the targeting of the radical Muslim cleric Anwar al-Awlaki, a U.S. citizen who lived in Yemen and was a member of an Islamic terrorist organization, al Qaeda in the Arabian Peninsula.15 Al-Awlaki played a significant role in an attack conducted by Umar Farouk Abdulmutallab, the Nigerian Muslim who attempted to blow up a Northwest Airlines flight bound for Detroit on Christmas Day 2009.16 According to U.S. officials, al-Awlaki was no longer merely encouraging terrorist activities against the United States; he was “acting for or on behalf of al-Qaeda in the Arabian Peninsula . . . and providing financial, material or technological support for . . . acts of terrorism.”17 Al-Awlaki’s involvement in these activities, according to the United States, made him a belligerent and therefore a legitimate target. The context of the fierce debates in the 1970s is different from the al-Awlaki debate. The targeted killing of an individual for a political purpose, as investigated by the Church Committee, was the use of lethal force during peacetime, not during an armed conflict. During armed conflict, the use of targeted killing is quite expansive.18 But in peacetime, the use of any lethal force is highly governed and limited by both domestic law and international legal norms. The presumption is that, in peacetime, all use of force by the state, especially lethal force, must be necessary. The Law Enforcement Paradigm Before 9/11, the United States treated terrorists under the law enforcement paradigm—that is, as suspected criminals.19 This meant that a terrorist was protected from lethal force so long as his or her conduct did not require the state to respond to a threat or the indication of one. The law enforcement paradigm assumes that the preference is not to use lethal force but rather to arrest the terrorist and then to investigate and try him before a court of law.20 The presumption during peacetime is that the use of lethal force by a state is not justified unless necessary. Necessity assumes that “only the amount of force required to meet the threat and restore the status quo ante may be employed against [the] source of the threat, thereby limiting the force that may be lawfully applied by the state actor.”21 The taking of life in peacetime is only justified “when lesser means for reducing the threat were ineffective.”22 Under both domestic and international law, the civilian population has the right to be free from arbitrary deprivation of life. Geoff Corn makes this point by highlighting that a law enforcement officer could not use deadly force “against suspected criminals based solely on a determination an individual was a member of a criminal group.”23 Under the law enforcement paradigm, “a country cannot target any individual in its own territory unless there is no other way to avert a great danger.”24 It is the individual’s conduct at the time of the threat that gives the state the right to respond with lethal force. The state’s responding force must be reasonable given the situation known at the time. This reasonableness standard is a “commonsense evaluation of what an objectively reasonable officer might have done in the same circumstances.”25 The U.S. Supreme Court has opined that this reasonableness is subjective: “[t]he calculus of reasonableness must embody allowances for the fact that police officers often are forced to make split-second judgments . . . about the amount of force that is necessary in a particular situation.”26 The law enforcement paradigm attempts to “minimize the use of lethal force to the extent feasible in the circumstances.”27 This approach is the starting point for many commentators when discussing targeted killing: “It may be legal for law enforcement personnel to shoot to kill based on the imminence of the threat, but the goal of the operation, from its inception, should not be to kill.”28 The presumption is that intentional killing by the state is unlawful unless it is necessary for self-defense or defense of others.29 Like the soldier who acts under the authority of self-defense, if one acts reasonably based on the nature of the threat, the action is justified and legal. What the law enforcement paradigm never contemplates is a terrorist who works outside the state and cannot be arrested. These terrorists hide in areas of the world where law enforcement is weak or nonexistent. The terrorists behind 9/11 were lethal and lived in ungovernable areas; these factors compelled the United States to rethink its law enforcement paradigm. The Law of War Paradigm The damage wrought by the 9/11 terrorists gave President George W. Bush the political capital to ask Congress for authorization to go to war with these architects of terror, namely al Qaeda. Seven days later, Congress gave the President the Authorization for the Use of Military Force (AUMF) against those “nations, organizations, or persons [the President] determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations, or persons.”30 For the first time in modern U.S. history, the country was engaged in an armed conflict with members of an organization, al Qaeda, versus a state. The legal justification to use force, which includes targeted killings, against al Qaeda, the Taliban, and associated forces is twofold: self-defense and the law of war.31 In armed conflict, the rules governing when an individual can be killed are starkly different than in peacetime. The law enforcement paradigm does not apply in armed conflict. Rather, designated terrorists may be targeted and killed because of their status as enemy belligerents. That status is determined solely by the President under the AUMF. Unlike the law enforcement paradigm, the law of war requires neither a certain conduct nor an analysis of the reasonable amount of force to engage belligerents. In armed conflict, it is wholly permissible to inflict “death on enemy personnel irrespective of the actual risk they present.”32 Killing enemy belligerents is legal unless specifically prohibited—for example, enemy personnel out of combat like the wounded, the sick, or the shipwrecked.33 Armed conflict also negates the law enforcement presumption that lethal force against an individual is justified only when necessary. If an individual is an enemy, then “soldiers are not constrained by the law of war from applying the full range of lawful weapons.”34 Now the soldier is told by the state that an enemy is hostile and he may engage that individual without any consideration of the threat currently posed. The enemy is declared hostile; the enemy is now targetable. Anticipatory Self-defense¶ This paradigm shift is novel for the United States. The President’s authority to order targeted killings is clear under domestic law; it stems from the AUMF. Legal ambiguity of the U.S. authority to order targeted killings emerges, however, when it is required to interpret international legal norms like self-defense and the law of war. The United States has been a historic champion of these international norms, but now they are hampering its desires to target and kill terrorists.¶ Skeptics of targeted killing admit that “[t]he decision to target specific individuals with lethal force after September 11 was neither unprecedented nor surprising.”35 Mary Ellen O’Connell has conceded, for example, that targeted killing against enemy combatants in Afghanistan is not an issue because “[t]he United States is currently engaged in an armed conflict” there.36 But when the United States targets individuals outside a zone of conflict, as it did with alAwlaki in Yemen,37 it runs into turbulence because a state of war does not exist between the United States and Yemen.38 A formidable fault line that is emerging between the Obama administration’s position and many academics, international organizations,39 and even some foreign governments40 is where these targeted killings can be conducted.41¶ According to the U.S. critics, if armed conflict between the states is not present at a location, then the law of war is never triggered, and the state reverts to a peacetime paradigm. In other words, the targeted individual cannot be killed merely because of his or her status as an enemy, since there is no armed conflict. Instead, the United States, as in peacetime, must look to the threat the individual possesses at the time of the targeting. There is a profound shift of the burden upon the state: the presumption now is that the targeted killing must be necessary. When, for example, the United States targeted and killed six al Qaeda members in Yemen in 2002, the international reaction was extremely negative: the strike constituted “a clear case of extrajudicial killing.”42¶ The Obama administration, like its predecessor, disagrees. Its legal justification for targeted killings outside a current zone of armed conflict is anticipatory self-defense. The administration cites the inherent and unilateral right every nation has to engage in anticipatory self-defense. This right is codified in the United Nations charter43 and is also part of the U.S. interpretation of customary international law stemming from the Caroline case in 1837. A British warship entered U.S. territory and destroyed an American steamboat, the Caroline. In response, U.S. Secretary of State Daniel Webster articulated the lasting acid test for anticipatory self-defense: “[N]ecessity of self defense [must be] instant, overwhelming, leaving no choice of means and no moment for deliberation . . . [and] the necessity of self defense, must be limited by that necessity and kept clearly within it.”44¶ A state can act under the guise of anticipatory self-defense. This truism, however, leaves domestic policymakers to struggle with two critical quandaries: first, the factual predicate required by the state to invoke anticipatory self-defense, on the one hand; and second, the protections the state’s soldiers possess when they act under this authority, on the other. As to the first issue, there is simply no guidance from Congress to the President; the threshold for triggering anticipatory self-defense is ad hoc. As to the second issue, under the law of war, a soldier who kills an enemy has immunity for these precapture or warlike acts.45 This “combatant immunity” attaches only when the law of war has been triggered. Does combatant immunity attach when the stated legal authority is self-defense? There is no clear answer.¶ The administration is blurring the contours of the right of the state to act in Yemen under self-defense and the law of war protections afforded its soldiers when so acting. Therefore, what protections do U.S. Airmen enjoy when operating the drone that killed an individual in Yemen, Somalia, or Libya? If they are indicted by a Spanish court for murder, what is the defense? Under the law of war, it is combatant immunity. But if the law of war is not triggered because the killing occurred outside the zone of armed conflict, the policy could expose Airmen to prosecution for murder. In order to alleviate both of these quandaries, Congress must step in with legislative guidance. Congress has the constitutional obligation to fund and oversee military operations.46 The goal of congressional action must not be to thwart the President from protecting the United States from the dangers of a very hostile world. As the debates of the Church Committee demonstrated, however, the President’s unfettered authority in the realm of national security is a cause for concern. Clarification is required because the AUMF gave the President a blank check to use targeted killing under domestic law, but it never set parameters on the President’s authority when international legal norms intersect and potentially conflict with measures stemming from domestic law.

**Oversight is an effective restriction to ensure compliance---political costs**

Douglas Kriner 9, Assistant Professor of Political Science, “Can Enhanced Oversight Repair the Broken Branch,” 89 B.U. L. Rev. 765, http://www.bu.edu/law/central/jd/organizations/journals/bulr/volume89n2/documents/KRINER.pdf

The foregoing analyses suggest that congressional oversight has the potential to serve as an important congressional check on powers delegated to the President. Even though oversight alone cannot formally compel the President or any other executive actor to change course, it can encourage a change in executive behavior at least in part through its ability to influence public opinion and raise the political costs of ignoring legislative wishes for the President. The case of military policymaking examined above may be exceptional; congressional oversight may not have the same capacity to shape public opinion and generate political pressure in other policy venues with lower levels of public salience. However, the empirical evidence showing that the voice of Congress can compete with that of the President and influence public opinion in a policy realm dominated by the executive also suggests that Congress may be even more influential through its oversight actions in the public sphere in other policy realms traditionally dominated by the legislature.

**Congress prevents circumvention and ensures sufficient clarity**

Mark David Maxwell 12, Colonel, Judge Advocate with the U.S. Army, Winter, TARGETED KILLING, THE LAW, AND TERRORISTS, Joint Force Quarterly, http://www.ndu.edu/press/targeted-killing.html

The weakness of this theory is that it is not codified in U.S. law; it is merely the extrapolation of international theorists and organizations. The only entity under the Constitution that can frame and settle Presidential power regarding the enforcement of international norms is Congress. As the check on executive power, Congress must amend the AUMF to give the executive a statutory roadmap that articulates when force is appropriate and under what circumstances the President can use targeted killing. This would be the needed endorsement from Congress, the other political branch of government, to clarify the U.S. position on its use of force regarding targeted killing. For example, it would spell out the limits of American lethality once an individual takes the status of being a member of an organized group. Additionally, statutory clarification will give other states a roadmap for the contours of what constitutes anticipatory self-defense and the proper conduct of the military under the law of war. Congress should also require that the President brief it on the decision matrix of articulated guidelines before a targeted killing mission is ordered. As Kenneth Anderson notes, “[t]he point about briefings to Congress is partly to allow it to exercise its democratic role as the people’s representative.”74 The desire to feel safe is understandable. The consumers who buy SUVs are not buying them to be less safe. Likewise, the champions of targeted killings want the feeling of safety achieved by the elimination of those who would do the United States harm. But allowing the President to order targeted killing without congressional limits means the President can manipulate force in the name of national security without tethering it to the law advanced by international norms. The potential consequence of such unilateral executive action is that it gives other states, such as North Korea and Iran, the customary precedent to do the same. Targeted killing might be required in certain circumstances, but if the guidelines are debated and understood, the decision can be executed with the full faith of the people’s representative, Congress. When the decision is made without Congress, the result might make the United States feel safer, but the process eschews what gives a state its greatest safety: the rule of law.

### 1AC – Plan

The United States Congress should statutorily limit the war powers authority of the President of the United States for self-defense targeted killings that:

- are not guided by specific reference to the armed attacks that justify it, how the group that is the object of the use of force is responsible for the attacks, and how the state in which the group is being targeted can itself be held legally responsible for the operations of that group so as to justify the use of force against the state; and

- are not reported to Congressional intelligence committees.

# 2AC

## T

### 2AC T – WPA

#### We meet: Plan restricts implicit Presidential authorization

Jack Goldsmith 13, Harvard Law School, 9/1/, “A Quick Primer on AUMFs”, www.lawfareblog.com/2013/09/a-quick-primer-on-aumfs/

Via Ilya Somin at Volokh, I see that the administration has proffered its proposed Authorization for the Use of Military Force (AUMF) for Syria. Now it is Congress’s turn to decide what proposal(s) it wants to debate and possibly approve. And it appears that the scope of the authorization will be an issue in Congress. For example, Senators Graham and McCain have announced that they will not support a narrow AUMF supporting only isolated strikes, and some members of Congress surely will not support one that is that broad.¶ An article that I wrote with Curt Bradley, which examined AUMFs throughout American history, provides a framework for understanding AUMFs. (And the Lawfare Wiki collects many historical AUMFs and declarations of war, here.) AUMFs can (as Bradley and I argued on pp. 2072 ff.) be broken down into five analytical components:¶ (1) the authorized military resources;¶ (2) the authorized methods of force;¶ (3) the authorized targets;¶ (4) the purpose of the use of force; and¶ (5) the timing and procedural restrictions on the use of force¶ Most AUMFs in U.S. History – for example, AUMFs for the Quasi-War with France in the 1790s, for repelling Indian tribes, for occupying Florida, for using force against slave traders and pirates, and many others – narrowly empower the President to use particular armed forces (such as the Navy) in a specified way for limited ends. At the other extreme, AUMFs embedded within declarations of war (here is the one against Germany in World War II) typically authorize the President to employ the entire U.S. armed forces without restriction except for the named enemy. The Gulf of Tonkin Resolution for Vietnam was also famously broad, as was the 2002 AUMF for Iraq, although the latter did require the President to make certain diplomatic and related determinations, and to report to Congress. Narrower AUMFs in the post-World War II era include the one in 1955 for Taiwan (narrow purpose and timing limitations) and the 1991 Iraq AUMF (narrow purpose and many procedural restrictions). Narrower yet were AUMFs for Lebanon in 1983 and Somalia in 1993, both of which had a very narrow and restrictive purpose, and which contained time limits on the use of force. And of course there is the relatively broad AUMF that everyone knows, from September 18, 2001.¶ Bradley and I summarized historical AUMFs as follows:¶ This survey of authorizations to use force shows that Congress has authorized the President to use force in many different situations, with varying resources, an array of goals, and a number of different restrictions. All of the authorizations restrict targets, either expressly (as in the Quasi-War statutes’ restrictions relating to the seizure of certain naval vessels), implicitly (based on the identified enemy and stated purposes of the authorization), or both. Such restrictions may be constitutionally compelled. Congress’s power to authorize the President to use force, whatever its scope, arguably could not be exercised without specifying (at least implicitly) an enemy or a purpose.¶ The primary differences between limited and broad authorizations are as follows: In limited authorizations, Congress restricts the resources and methods of force that the President can employ, sometimes expressly restricts targets, identifies relatively narrow purposes for the use of force, and sometimes imposes time limits or procedural restrictions. In broad authorizations, Congress imposes few if any limits on resources or methods, does not restrict targets other than to identify an enemy, invokes relatively broad purposes, and generally imposes few if any timing or procedural restrictions.

#### C/I: War powers authority is the President executing warfighting missions---that includes self-defense

Fred F. Magnet 87, Fmr. Legal Counsel @ C.I.A, Records of the Central Intelligence Agency, 1894 – 2002, Articles from "Studies in Intelligence", 1955 – 1992, Summer 1987: 10-114-7: Presidential War Powers (A Constitutional Basis for Foreign Intelligence Operations), “Presidential War Powers.” In Extracts from studies in Intelligence: A Commemoration of the Bicentennial of the U.S. Constitution. Washington. D.C Central Intelligence Agency, 1987, http://research.archives.gov/description/7283242

**The President has constitutional authority to order defensive military action in response to aggression without congressional approval**. This theory of **self-defense** has justified many military actions, from the Barbary Coast to the Mexican-American War to the Tonkin Gul£. 29 The Supreme Court has agreed. In The Prize Cases, it found that President Lincoln had the right to blockade southern states without a congressional declaration of war: "If a war be made by invasion of a foreign nation, the President is not only authorized but bound to resist force by force. He does not initiate the war, but is bound to accept the challenge without waiting for any special legislative authority. " 30 In a case arising out of the Vietnam war, the defendant claimed that draft law was unconstitutionally applied to him because Congress had not declared war. The court rejected that claim, stating that on the basis of the Commander in Chief power, "Unquestionably the President can start the gun at home or abroad to meet force with force. " 3 1 **When the President acts in defense of the nation, he acts under war powers authority**.¶ 3. Protection of Life and Property¶ The President also has the power to order military intervention in foreign countries to protect American citizens and property without prior congressional approval.32 This theory has been cited to justify about 200 instances of use of force abroad in the last 200 years.33 The theory was given legal sanction in a case arising from the bombardrment of a Nicaraguan court by order of the President in 1854, in retaliation for an attack on an American consul. The court stated that it is the President to whom ".. . citizens abroad must look for protection of person and property. . . . The great object and duty of Government is the protection of the lives, liberty, and property of the people composing it, whether abroad or at home.'3~Other cases have been in accord.35 The President may use force or any other means to protect American citizens in foreign countries under his war powers authority. This extends even to a retaliatory military strike against a country supporting terrorist acts against Americans, which occurred in April1986 when US Navy and Air Force aircraft bombed the modern Barbary Coast nation of Libya. ¶ 4. Collective Security¶ The President may also authorize military operations without prior congressional approval pursuant to collective security agreements such as NA TO or OAS treaties. Unilaterial presidential action under these agreements may be justified as necessary for the protection of national security even though hostilities occur overseas and involve allies.36¶ 5. National Defense Power¶ 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.3H 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.¶ 6. Role of the Military¶ The fundamental function of the armed forces is to fight or to be ready to fight wars. 40 The Supreme Court has recognized the existence of limited, partial, and undeclared wars:41 Thus, there is a judicially recognized and legitimate activity of the armed services in times of no armed conflict that stems directly from **the war powers authority of the President**. That activity is the preparation for the successful waging of war, which may come in any form or level of conflict. **Any actions of the Executive Branch that** are part of the fundamental functions of the armed services in **ready**ing **for any type of hostility are based on** constitutional war powers authority of the President.

#### “Authority” refers to existing actions by the President

Vance 83, U.S. appeals judge for the Eleventh Circuit, U.S. v. Frade, 709 F.2d 1387, Lexis

Arguing for an expansive reading of this provision, the government strenuously contends that 31 C.F.R. § 515.415, prohibiting transactions incident to travel to, from, and within Cuba when in connection with the transportation of certain Cuban nationals from Cuba to the United States, falls within the category of authorities being exercised on July 1, 1977, because, on that date, Executive authority [\*\*32] under the TWEA was being exercised regarding Cuba through the Cuban Assets Control Regulations. The government argues that either Regulation 515.415 is a mere explanatory modification of the Cuban Assets Control Regulations, or, alternatively, the existence of some regulations regarding Cuba under the TWEA as of July 1, 1977, is a sufficient ground to invoke the grandfather clause as statutory authority for the promulgation of future regulations regarding Cuba. **While the ambiguous term**s "**authorities**" and "exercised" **may** appear to be **elastic** enough to encompass the interpretation for which the government argues, we agree with the recent first circuit opinion in Wald [\*1398] v. Regan, 708 F.2d 794, (1st Cir.1983), that **a narrow**, **restrictive interpretation is compelled** by the legislative history and purpose of the grandfather clause and by its function within the broader statutory scheme. First, the legislative history reveals that it was the intent of Congress **to** grandfather **only the ongoing uses of Executive authority**. "Throughout the committee hearings and the [\*\*33] House and Senate reports, **nearly every time a legislator referred to** the 'savings clause ' and to the exercise of the TWEA **'authorities**, ' he [SETH ADDED: **they**] **spoke of specific**, **existing** **'uses'** **of those authorities**." Wald v. Regan, 708 F.2d 794 at 798 [manuscript at 11] (emphasis in original). See Report of the Committee on International Relations on H.R. 7788: Trading With the Enemy Act Reform Legislation, H.R.Rep. No. 459, 95th Cong., 1st Sess. 2 (1977) (TWEA Reform) ("the current uses of these authorities . . . may continue"); id.at 10 ("'grandfathering' existing uses of these powers"); Emergency Controls on International Economic Transactions: Hearings before the Subcommittee on International Economic Policy and Trade of the House Committee on International Relations, 95th Cong., 1st Sess. 147 (1977) (Emergency Controls) (statement of R. Roger Majak, Staff Director of Subcommittee on International Economic Policy & Trade) ("There is a clear need to grandfather or deal in some special way with existing uses of section 5(b) authorities"); id. at 168 (statement of Rep. Cavanaugh) ("where the powers of 5(b) are currently operative"); id. at 189 (statement of [\*\*34] Rep. Bingham) ("it was the purpose . . . to grandfather in existing uses of 5(b)"). **Language which would have given broader scope** to the grandfather clause **by permitting** "**any** other **authority conferred upon the President** by . . . section [5(b) to be] exercised to deal with the same set of circumstances," Amendments to the Trading With the Enemy Act: Subcommittee Working Draft of June 8, 1977, 95th Cong., 1st Sess. § 101(b), **was deliberately striken from the bill**. Representative Bingham, a principal sponsor of the 1977 amendment, explained "I think it boils down to a question of whether we are grandfathering a particular situation, and all the powers that may be necessary to deal with the situation, or whether we are grandfathering the particular authorities themselves and their usage . . . I don't know why it should be necessary to give [the President] authority to expand what has already been done." Emergency Controls, supra at 167.

#### 2) Imprecise overlimiting --- they only allow zone 1 cases

Colby P. Horowitz 13 “CREATING A MORE MEANINGFUL DETENTION STATUTE: LESSONS LEARNED FROM HEDGES V. OBAMA,” FORDHAM L.R. Vol. 81, <http://fordhamlawreview.org/assets/pdfs/Vol_81/Horowitz_April.pdf>

2. The Relational Theory of Presidential War Powers ¶ Justices Jackson and Frankfurter both wrote concurring opinions in Youngstown expressing the idea that presidential powers can change over time based on action or inaction by Congress. Justice Jackson stated, in his famous concurrence, that “[p]residential powers are not fixed but fluctuate, depending upon their disjunction or conjunction with those of Congress.”120 Justice Jackson established a three-category framework for evaluating presidential power in relation to Congress. In the first category, or Zone 1, the President’s authority is the greatest because he is acting “pursuant to an express or implied authorization of Congress . . . .”121 If the President’s action falls within Zone 1, he “personif[ies] the federal sovereignty” and has the full power of the federal government.122 In the second category, called Zone 2 or the “zone of twilight,” the President “acts in absence of either a congressional grant or denial of authority . . . .”123 Here, the President’s power is less, but “congressional inertia, indifference or quiescence may sometimes, at least as a practical matter, enable, if not invite, measures on independent presidential responsibility.”124 In the third category, the President’s “power is at its lowest ebb” because he is pursuing “measures incompatible with the expressed or implied will of Congress . . . .”125 In Zone 3, the President “can rely only upon his own constitutional powers minus any constitutional powers of Congress over the matter.”126

## K

### 2AC Neolib

#### No impact---legal checks work

William E. Scheuerman 6, Professor of Political Science at Indiana University, Constellations, Vol. 13, No. 1. p. 116

Schmitt offers three reasons in support of this view. First, he implicitly relies on the stock argument that “authentic” politics necessarily elides legal regulation: when conflicts involve “existentially” distinct collectivities faced with “the real possibility of killing,” the attempt to tame such conflicts by juridical means is destined to fail, or at least badly distort the fundamental (political) questions at hand. Insofar as the partisan fighter represents one of the last vestiges of authentic (i.e., *Schmittian*) politics in an increasingly depoliticized world, he has to dub any attempt to regulate the phenomenon at hand as misguided and maybe even dangerous. Yet this argument relies on Schmitt’s controversial model of politics, as outlined eloquently but unconvincingly in his famous *Concept of the Political*. To be sure, there *are* intense conflicts in which it is naïve to expect an easy resolution by legal or juridical means. But the argument suffers from a troubling circularity: Schmitt occasionally wants to define “political” conflicts as those irresolvable by legal or juridical devices *in order then* to argue against legal or juridical solutions to them. The claim also suffers from a certain vagueness and lack of conceptual precision. At times, it seems to be directed against trying to resolve conflicts in *the courts or juridical system narrowly understood*; at other times it is directed against *any legal* regulation of intense conflict. The former argument is surely stronger than the latter. After all, legal devices have undoubtedly played a positive role in taming or at least minimizing the potential dangers of harsh political antagonisms. In the Cold War, for example, international law contributed to the peaceful resolution of conflicts which otherwise might have exploded into horrific violence, even if attempts to bring such conflicts before an international court or tribunal probably would have failed.22

[italics in original]

### AT: LOAC K – Doesn’t Cause Violence

#### LOAC does not legitimize violence—alternative is militarized violence

Charles Kels 12, attorney for the Department of Homeland Security and a major in the Air Force Reserve, 12/6, “The Perilous Position of the Laws of War”, harvardnsj.org/2012/12/the-perilous-position-of-the-laws-of-war/

The real nub of the current critique of U.S. policy, therefore, is that the Bush administration’s war on terror and the Obama administration’s war on al Qaeda and affiliates constitute a distinction without a difference. The latter may be less rhetorically inflammatory, but it is equally amorphous in application, enabling the United States to pursue non-state actors under an armed conflict paradigm. This criticism may have merit, but it is really about the use of force altogether, not the parameters that define how force is applied. It is, in other words, an ad bellum argument cloaked in the language of in bello.¶ LOAC is apolitical. **Adherence to it does not legitimize** an unlawful resort to **force**, **just as its violation**—unless systematic—**does not automatically render one’s cause unjust**. The answer for those who object to U.S. targeted killing and indefinite detention is not to apply a peace paradigm that would invalidate LOAC and undercut the belligerent immunity of soldiers, but to direct their arguments to the political leadership regarding the decision to use force in the first place. Attacking LOAC for its perceived leniency and demanding the “pristine purity” of HRL in military operations is actually quite dangerous and counterproductive from a humanitarian perspective, because there remains the distinct possibility that **the alternative to LOAC is not HRL but “lawlessness**.” While there are certainly examples of armies that have acquitted themselves quite well in law enforcement roles—and while most nations do not subscribe to the strict U.S. delineation between military and police forces—**the vast bulk of history indicates that in the context of armed hostilities, LOAC is by far the best case scenario, not the worst**.¶ Transnational terrorist networks pose unique security problems, among them the need to apply preexisting legal rubrics to an enemy who is dedicated to undermining and abusing them. Vital to meeting this challenge—of “building a durable framework for the struggle against al Qaeda that [draws] upon our deeply held values and traditions”—is to refrain from treating the deeply-ingrained tenets of honorable warfare as a mere mechanism for projecting force. The laws of war are much more than “lawyerly license” to kill and detain, subject to varying levels of application depending upon political outlook. They remain a bulwark against indiscriminate carnage, steeped in history and tried in battle.

### AT: LOAC/Just War K – Burke’s Wrong

#### There’s no alternative to LOAC---just wishes away conflict

Jean Bethke Elshtain 5, was the Laura Spelman Rockefeller Professor of Social and Political Ethics in the Divinity School, Political Science, and the Committee on International Relations at the University of Chicago, “RESPONSE TO “AGAINST THE NEW INTERNATIONALISM” Against the New Utopianism”, Ethics & International Affairs 19, no. 2 (2005).

In Burke’s analysis and criticism of my own positions—portions of which are clear and fair in exposition—he offers a very brief and, I fear, misleading account of the just or justified war tradition. One of the many problems with my argument, Burke claims, is “overreliance on just war theory as a guide both to jus ad bellum conditions for decisions about force and jus in bello protection of civilians” (p. 80). He further claims, without argument or substantiation, that “just war principles of proportionality and unintentional harm fail to address adequately such dangers,” referring to the dangers I cite of “either deepening the injustice already present or creating new instances of injustice” (p. 80). As Burke surely knows, proportionality and discrimination are key in bello criteria. If just war limitations fail, it must be with reference to some unstated standard of Burke’s own. What is this standard? Has he a compelling, plausible alternative to how states might strive to avoid “creating new instances of injustice”? If so, this should be spelled out as a real alternative to current in bello norms.¶ Burke not only fails to spell out such an alternative, but cannot do so. That is, he absolves himself of the duty to identify ethical limits to the use of force by imagining a world in which such conflicts have simply melted away. (I will have more to say on this below.) In addition, Burke ignores altogether jus ad bellum criteria that are intended to serve as an ethical and conceptual framework for practical reasoning regarding the use of force among statespersons. But statespersons also disappear in Burke’s normative schema because states are to be dismantled. Indeed, it is difficult to see any real political actors altogether in his constructive case because the United Nations, transformed into a mega-collective security apparatus, takes up all the “political”—if one could call it that— space. Politics, as all students of it know, involves contestation over various goods— a contestation that is never-ending as one cannot perfectly “reconcile competing human wills,” as St. Augustine put it. By eliminating the political space occupied by states and transcending it in a kind of Hegelian dialectical move that is rather breathtaking, Burke transfers politics to some mega- or meta-level.

#### Quality of life is skyrocketing worldwide by all measures

Ridley 10, visiting professor at Cold Spring Harbor Laboratory, former science editor of *The Economist*, and award-winning science writer,

(Matt, *The Rational Optimist*, pg. 13-15)

If my fictional family is not to your taste, perhaps you prefer statistics. Since 1800, the population of the world has multiplied six times, yet **average life expectancy has more than doubled and real income has risen more than nine times**. Taking a shorter perspective, in 2005, compared with 1955, the average human being on Planet Earth earned nearly three times as much money (corrected for inflation), ate one-third more calories of food, buried one-third as many of her children and could expect to live one-third longer. She was less likely to die as a result of war, murder, childbirth, accidents, tornadoes, flooding, famine, whooping cough, tuberculosis, malaria, diphtheria, typhus, typhoid, measles, smallpox, scurvy or polio. She was less likely, at any given age, to get cancer, heart disease or stroke. She was more likely to be literate and to have finished school. She was more likely to own a telephone, a flush toilet, a refrigerator and a bicycle. All this during a half-century when the world population has more than doubled, so that far from being rationed by population pressure, the goods and services available to the people of the world have expanded. It is, by any standard, an astonishing human achievement. Averages conceal a lot. **But even if you break down the world into bits**, **it is hard to find any region that was worse off in 2005 than it was in 1955**. Over that half-century, real income per head ended a little lower in only six countries (Afghanistan, Haiti, Congo, Liberia, Sierra Leone and Somalia), life expectancy in three (Russia, Swaziland and Zimbabwe), and infant survival in none. In the rest they have rocketed upward. Africa’s rate of improvement has been distressingly slow and patchy compared with the rest of the world, and many southern African countries saw life expectancy plunge in the 1990s as the AIDS epidemic took hold (before recovering in recent years). There were also moments in the half-century when you could have caught countries in episodes of dreadful deterioration of living standards or life chances – China in the 1960s, Cambodia in the 1970s, Ethiopia in the 1980s, Rwanda in the 1990s, Congo in the 2000s, North Korea throughout. Argentina had a disappointingly stagnant twentieth century. But overall, after fifty years, **the outcome for the world is** remarkably, astonishingly, **dramatically positive**. The average South Korean lives twenty-six more years and earns fifteen times as much income each year as he did in 1955 (and earns fifteen times as much as his North Korean counter part). The average Mexican lives longer now than the average Briton did in 1955. The average Botswanan earns more than the average Finn did in 1955. **Infant mortality is lower today in Nepal than it was in Italy in 1951**. The proportion of Vietnamese living on less than $2 a day has dropped from 90 per cent to 30 per cent in twenty years. The rich have got richer, but the poor have done even better. **The poor in the developing world grew their consumption twice as fast as the world as a whole between 1980 and 2000**. The Chinese are ten times as rich, one-third as fecund and twenty-eight years longer-lived than they were fifty years ago. Even Nigerians are twice as rich, 25 per cent less fecund and nine years longer-lived than they were in 1955. **Despite a doubling of the world population**, even **the raw number of people living in absolute poverty** (defined as less than a 1985 dollar a day) **has fallen since the 1950s**. The percentage living in such absolute poverty has dropped by more than half – to less than 18 per cent. That number is, of course, still all too horribly high, but the trend is hardly a cause for despair: at the current rate of decline, it would hit zero around 2035 – though it probably won’t. The United Nations estimates that poverty was reduced more in the last fifty years than in the previous 500.

#### No impact to the environment and no solvency

Holly Doremus 2k Professor of Law at UC Davis, "The Rhetoric and Reality of Nature Protection: Toward a New Discourse," Winter 2000 Washington & Lee Law Review 57 Wash & Lee L. Rev. 11, lexis

Reluctant to concede such losses, tellers of the ecological horror story highlight how close a catastrophe might be, and how little we know about what actions might trigger one. But the apocalyptic vision is **less credible today than it seemed in the 1970s.** Although it is clear that the earth is experiencing a mass wave of extinctions, n213 the **complete elimination of life on earth seems unlikely.** n214 **Life is remarkably robust**. **Nor is human extinction probable** any time soon. Homo sapiens is **adaptable to nearly any environment**. Even if the world of the future includes far fewer species, it likely will hold people. n215 One response to this credibility problem tones the story down a bit, arguing not that humans will go extinct but that ecological disruption will bring economies, and consequently civilizations, to their knees. n216 But this too may be **overstating the case**. Most ecosystem functions are **performed by multiple species**. This **functional redundancy** means that **a high proportion of species can be lost without precipitating a collapse**. n217 Another response drops the horrific ending and returns to a more measured discourse of the many material benefits nature provides humanity. Even these more plausible tales, though, suffer from an important limitation. They call for nature protection only at a high level of generality. For example, human-induced increases in atmospheric carbon dioxide levels may cause rapid changes in global temperatures in the near future, with drastic consequences for sea levels, weather patterns, and ecosystem services. n218 Similarly, the loss of large numbers of species undoubtedly reduces the genetic library from which we might in the future draw useful resources. n219 But it is difficult to translate these insights into convincing arguments against any one of the small local decisions that contribute to the problems of global warming or biodiversity loss. n220 It is easy to argue that **the** material **impact of any individual decision to increase** carbon **emissions slightly or to destroy a small amount of habitat will be small.** It is difficult to identify the specific straw that will break the camel's back. Furthermore, **no unilateral action at the local or even national level can solve these global problems**. Local decisionmakers may feel paralyzed by the scope of the problems, or may conclude that any sacrifices they might make will go unrewarded if others do not restrain their actions. In sum, at the local level at which most decisions affecting nature are made, the material discourse provides little reason to save nature. Short of the ultimate catastrophe, the material benefits of destructive decisions frequently will exceed their identifiable material costs. n221

## CP

### 2AC CP

#### Self-defense along with guidelines is the best balanced approach---avoids expansive self-defense worries

Amos N. Guiora 12, Professor of Law at the University of Utah, "Targeted Killing Is Lawful If Conducted in Accordance with the Rule of Law", April 1, www.abajournal.com/magazine/article/targeted\_killing\_is\_lawful\_if\_conducted\_in\_accordance\_with\_the\_rule\_of\_law

That said, to apply traditional models to new threats is similarly problematic; the challenge is implementing proactive operational measures subject to rigorous checks and balances with narrow definitions of critical terms. As is much discussed in scholarly literature on war and international law—and as Hakimi correctly notes—the term imminence is elusive, problematic and subject to wide interpretation. Imminence, in the targeted killing paradigm, suggests that unless the nation-state decisively engages a particular individual deemed to pose a direct threat, then innocent civilians will be harmed.¶ For example, to successfully conduct a suicide bombing requires a doer (the bomber), a sender (responsible for the operation in all parameters), a logistician (responsible for all operational logistics), and a financier (responsible for financing the attack, whether directly or indirectly). All four actors are essential—individually and collectively.¶ The proactive self-defense model at the core of targeted killing requires determining when each actor is a legitimate target predicated on an imminence analysis. Too broad a definition violates international law and morality in armed conflict standards; too narrow a definition unnecessarily endangers innocent civilians to whom the nation-state owes a duty to protect. Based on international law principles of military necessity and proportionality, along with the requirement to minimize collateral damage and to pursue alternatives, the four actors are legitimate targets at distinct times.¶ The doer is a legitimate target when about to commit a suicide bombing; the sender is a legitimate target 24/7 regardless of specific actions at the moment, provided collateral damage is minimized; the logistician is a legitimate target when involved in planning an attack, with the understanding that continued involvement poses a greater threat to national security than the doer of a specific attack; the financier, while largely an unresolved dilemma, is a legitimate target more akin to the sender than to the logistician—and immeasurably more so than the doer. After all, financiers are to terrorism what intelligence information is to counterterrorism. There is no terrorism without financiers, and there is no counterterrorism without intelligence information.¶ Where, then, does this leave us with respect to the questions Professor Hakimi posed? While recommending new paradigms is a risky proposition, the core question is whether the nation-state has the requisite tools to effectively engage in aggressive self-defense against an amorphous target. Professor Hakimi and I agree that an overbroad definition of legitimate target is a dangerous road to travel. Similarly, we agree that standardless targeted killing models not predicated on well-defined criteria pose an extraordinary danger to the rule of law and morality standards. Nevertheless, while debate is important—particularly given the dangers inherent in excessive state power—it is important to cut to the chase.¶ To that end, the working model proposed above for defining both the legitimate-target categories and when those targets may be legitimately engaged suggests a way forward. While inevitably subject to criticism and concern, it reflects a balancing approach required by international law in a conflict that I have previously referred to as “mission impossible.” After all, identifying a legitimate target in the traditional war paradigm posed minimal challenges to operational decision-makers; defining a legitimate target in the state/nonstate paradigm poses extraordinary challenges. Targeted killing is the most aggressive form of self-defense; in the present paradigm its morality, legality and effectiveness demand narrow definitions of the term legitimate target strictly applied. That is the model I have proposed. How criteria-based decision-making is applied determines whether the nation-state conducts itself in accordance with international law.

#### CP alienates allies

Schwarz 7 senior counsel, and Huq, associate counsel at the Brennan Center for Justice at NYU School of Law, (Frederick A.O., Jr., partner at Cravath, Swaine & Moore, chief counsel to the Church Committee, and Aziz Z, former clerk for the U.S. Supreme Court, Unchecked and Unbalanced: Presidential Power in a Time of Terror, p. 201)

The Administration insists that its plunge into torture, its lawless spying, and its lock-up of innocents have made the country safer. Beyond mere posturing, they provide little evidence to back up their claims. Executive unilateralism not only undermines the delicate balance of our Constitution, but also lessens our human liberties and hurts vital counterterrorism campaigns. How? Our reputation has always mattered. In 1607, Massachusetts governor John Winthrop warned his fellow colonists that because they were a "City on a Hill," "the eyes of all people are upon us."4 Thomas Jefferson began the Declaration of Independence by invoking the need for a "decent respect to the opinions of mankind:' In today's battle against stateless terrorists, who are undeterred by law, morality, or the mightiest military power on earth, our reputation matters greatly.¶ Despite its military edge, the United States cannot force needed aid and cooperation from allies. Indeed, our status as lone superpower means that only by persuading other nations and their citizens—that our values and interests align with theirs, and so merit support, can America maintain its influence in the world. Military might, even extended to the globe's corners, is not a sufficient condition for achieving America's safety or its democratic ideals at home. To be "dictatress of the world," warned John Quincy Adams in 1821, America "would be no longer the ruler of her own spirit." A national security policy loosed from the bounds of law, and conducted at the executive's discretion, will unfailingly lapse into hypocrisy and mendacity that alienate our allies and corrode the vitality of the world's oldest democracy.5

#### Congress necessary to prevent Court evisceration of War Powers

Benjamin Wittes 8, Senior Fellow in Governance Studies at the Brookings Institution, co-founder and editor-in-chief of the Lawfare blog, member of the Hoover Institution’s Task Force on National Security Law, Law and the Long War: The Future of Justice in the Age of Terror, google books

What the Supreme Court has done is carve itself a seat at the table. It has intimated, without ever deciding, that a constitutional basis for its actions exists—in addition to the statutory bases on which it decided the cases—meaning that its authority over overseas detentions may be an inherent feature of judicial power, not a policy question on which the legislature and executive can work their will. Whether the votes exist on the court to go this extra step we will find out soon enough. But the specter of a vastly different judicial posture in this area now haunts the executive branch—one in which the justices assert an inherent authority to review executive detention and interrogation practices, divine rights to apply with that jurisdiction based on due process and vaguely worded international humanitarian law principles not clearly implemented in U.S. law, and allow their own power to follow the military’s anywhere in the world. Such a posture would constitute an earthquake in the relationships among all three branches of government, and the doctrinal seeds for it have all been planted. Whether they ultimately take root depends on factors extrinsic to the war on terror—particularly the future composition of a Supreme Court now closely divided on these questions. It will also pivot on the manner in which the political branches posture the legal foundations of the war in the future. Building a strong legislative architecture now may be the only way to avert a major expansion of judicial power over foreign policy and warfare.

### Executive Links to Ptix

#### Links to politics through bypassing debate

Billy Hallowell 13, writer for The Blaze, B.A. in journalism and broadcasting from the College of Mount Saint Vincent in Riverdale, New York and an M.S. in social research from Hunter College in Manhattan, “HERE’S HOW OBAMA IS USING EXECUTIVE POWER TO BYPASS LEGISLATIVE PROCESS” Feb. 11, 2013, <http://www.theblaze.com/stories/2013/02/11/heres-how-obamas-using-executive-power-to-bylass-legislative-process-plus-a-brief-history-of-executive-orders/>

“In an era of polarized parties and a fragmented Congress, the opportunities to legislate are few and far between,” Howell said. “So presidents have powerful incentive to go it alone. And they do.”¶ And the political opposition howls.¶ Sen. Marco Rubio, R-Fla., a possible contender for the Republican presidential nomination in 2016, said that on the gun-control front in particular, Obama is “abusing his power by imposing his policies via executive fiat instead of allowing them to be debated in Congress.”¶ The Republican reaction is to be expected, said John Woolley, co-director of the American Presidency Project at the University of California in Santa Barbara.¶ “For years there has been a growing concern about unchecked executive power,” Woolley said. “It tends to have a partisan content, with contemporary complaints coming from the incumbent president’s opponents.”

## DA

### 2AC – Haphazard Restrictions Inevitable

#### Restrictions inevitable---only a question of whether they are deliberate or haphazard

Benjamin Wittes 9, senior fellow and research director in public law at the Brookings Institution, is the author of Law and the Long War: The Future of Justice in the Age of Terror and is also a member of the Hoover Institution's Task Force on National Security and Law, “Legislating the War on Terror: An Agenda for Reform”, November 3, Book, p. 17

A new administration now confronts the same hard problems that plagued its ideologically opposite predecessor, and its very efforts to turn the page on the past make acute the problems of institutionalization. For while the new administration can promise to close the detention facility at Guantanamo Bay and can talk about its desire to prosecute suspects criminally, for example, it cannot so easily forswear noncriminal detention. While it can eschew the term "global war on terror," it cannot forswear those uses of force—Predator strikes, for example—that law enforcement powers would never countenance. Nor is it hastening to give back the surveillance powers that Congress finally gave the Bush administration. In other words, its very efforts to avoid the Bush administrations vocabulary have only emphasized the conflicts hybrid nature—indeed- emphasized that the United States is building something new here, not merely applying something old.¶ That point should not provoke controversy. The evidence that the United States is fumbling toward the creation of hybrid institutions to handle terrorism cases is everywhere around us. U.S. law, for example, now contemplates extensive- probing judicial review of detentions under the laws of war—a naked marriage of criminal justice and wartime traditions. It also contemplates warrantless wiretapping with judicial oversight of surveillance targeting procedures—thereby mingling the traditional judicial role in reviewing domestic surveillance with the vacuum cleaner-type acquisition of intelligence typical of overseas intelligence gathering. Slowly but surely, through an unpredictable combination of litigation, legislation, and evolutionary developments within executive branch policy, the nation is creating novel institutional arrangements to authorize and regulate the war on terror. The real question is not whether institutionalization will take place but whether it will take place deliberately or haphazardly, whether the United States will create through legislation the institutions with which it wishes to govern itself or whether it will allow an endless sequence of common law adjudications to shape them.¶ The authors of the chapters in this book disagree about a great many things. They span a considerable swath of the U.S. political spectrum, and they would no doubt object to some of one another's policy prescriptions. Indeed, some of the proposals are arguably inconsistent with one another, and it will be the very rare reader who reads this entire volume and wishes to see all of its ideas implemented in legislation. What binds these authors together is not the programmatic aspects of their policy prescriptions but the belief in the value of legislative action to help shape the contours of the continuing U.S. confrontation with terrorism. That is, the authors all believe that Congress has a significant role to play in the process of institutionalization—and they have all attempted to describe that role with reference to one of the policy areas over which Americans have sparred these past several years and will likely continue sparring over the next several years.

### 2AC War Powers DA

#### SSR provides an effective solution to terrorism

Mark Sedra 11, November, senior fellow at the Centre for International Governance Innovation in Ontario, Canada. He is also a faculty member of the department of political science at the University of Waterloo and the Balsillie School of International Affairs. He is an expert on security sector reform and has published widely on South Sudan, Afghanistan, the Balkans, and the Middle East, <http://www.usip.org/files/resources/SR_296.pdf>

Move beyond the Rhetoric of the War on Terror¶ A great deal of the security assistance provided to Arab states has been couched in the rhetoric of the war on terror. The United States and its allies supported Mubarak, Ben Ali, and other regional strongmen because they were a bulwark against radical Islamist groups. While containing Islamist terrorism remains a high priority for the United States and its allies, these messages do not resonate with Arab populations and will be associated with past bankrupt regimes. Stable Arab states with security sectors that are effective, democratically accountable, and respecting of rights will provide the best antidote to terrorism. Some infrastructure support may be required to repair damage or modernize facilities, but the main need is software rather than hardware. Most MENA states are seeking to change their existing but broken security systems rather than building new ones from scratch. Thus, among the areas most in need of assistance are training, institutional reform, depoliticization, vetting, and forming systems to promote accountability and transparency. There will always be requests for new weapons systems and the latest kit, but donors must bear in mind the overarching priority of changing the way these security sectors do business.

### 2AC Terror DA

#### Legal ambiguity in the squo inevitably wrecks the program---plan key to TKs

Kenneth Anderson 9, Prof. of Law @ American University & Research Fellow @ Hoover, Professor of Law, Washington College of Law, American University, and Research Fellow, The Hoover Institution, Stanford University and Member of its Task Force on National Security and the Law, 5/11, Targeted Killing in U.S. Counterterrorism Strategy and Law,

http://www.brookings.edu/~/media/research/files/papers/2009/5/11%20counterterrorism%20anderson/0511\_counterterrorism\_anderson.pdf

With respect to international law, therefore, the U.S. justification for the legality of a particular targeted killing should focus on self-defense as the basis, irrespective of whether or not there is also an armed conflict under IHL underway that might provide a further basis. Conceding over time that targeted killing can be distinguished from extrajudicial execution only if it is part of an armed conflict under IHL will subject the United States to requirements that, in fact, it has not traditionally accepted as a matter of international law but will find difficult to reverse in circumstances in which the definition of an armed conflict under IHL has not been met. The U.S. will receive plenty of pushback just on the question of what constitutes its legitimate self-defense under international law in this area. It buys itself only additional constraints if it also allows the international law of self-defense to run together with the law governing the conduct of hostilities.

### Politics Impact D

#### Sanctions don’t cause war

John Rosen 1-2, area director American Jewish Committee, 2014, “Senate bill shifts burden to Iran’s leaders,” New Jersey Jewish News, http://www.njjewishnews.com/article/20235/senate-bill-shifts-burden-to-irans-leaders#.UswiL\_RDs4A

Sanctions work. They prompted Iran to return to negotiations with the United States, Russia, Germany, France, China, and Britain — the P5+1 — that led to the potentially promising deal announced in Geneva on Nov. 23. But with details of the agreement not yet final, it is surely prudent to prepare additional measures to strengthen existing sanctions, in case Tehran is not really committed to negotiating a permanent accord to end its nuclear-weapons program. That’s the essence of the Nuclear Weapon Free Iran Act of 2013 introduced by New Jersey Sen. Robert Menendez along with Senators Mark Kirk (R-Ill.), Lindsey Graham (R-SC), and Charles Schumer (D-NY). The bill does not call for an immediate imposition of new sanctions; rather, preparing for the possibility that current talks with Iran may not succeed, it provides for powerful measures that can be applied to impede the regime’s progress toward nuclear weapons capability. It already has nearly 50 cosponsors, including New Jersey’s Sen. Cory Booker, and could reach a veto-proof majority of 67 soon after Congress returns next week. For this initiative Menendez, as chair of the Senate Foreign Relations Committee, should be applauded. Instead, he has been singled out for attack by those who are convinced that Iran has substantially changed its approach to discussing its nuclear program with the United States and other world powers. He has been accused of undermining the talks with Iran, and even risking war. But senators who have already passed sanctions legislation against Iran’s nuclear ambition in recent years have good reasons to remain suspicious about the Iranian leadership’s true intentions. The Nuclear Weapon Free Iran Act is exactly what is needed now to keep up the pressure on Iran. Why? Numerous questions have arisen about the details of the Geneva agreement since it was announced, and at least one P5+1 country, France, has publicly expressed serious doubts about the Iranian commitment to reach a final deal. That skepticism is shared by many Americans. A national survey conducted by the Pew Research Center and USA Today in December found that only 32 percent approve of the Geneva deal, while 43 percent disapprove (24 percent have no opinion). Meanwhile, the clock on the six-month interim accord has not even begun ticking. Further technical talks are needed to clarify details and obligations. Iran is warning that the proposed Senate action — even discussion of it — could derail the process, which raises the question of who really is committed to completing the interim accord and implementing it in good faith. If Iran is serious about a deal, then this legislation will have zero impact, so why is Iran threatening to bolt? We have confronted this morass many times before in recent years, as the international community has sought to gain Iran’s cooperation and together resolve the nuclear crisis peacefully. Tehran repeatedly offers to negotiate in good faith, but continues to pursue unabated its nuclear ambitions, a large-scale program with an inherent military component. International Atomic Energy Agency director general Yukiya Amano has warned several times that Iran is not coming clean on its nuclear program and that its military dimension cannot be discounted. Indeed, only last week, barely a month after the apparent diplomatic achievement in Geneva was announced to great celebration, Iran’s nuclear chief, Ali Akbar Salehi, declared that another 1,000 centrifuges were ready for activation. For years Iran has practiced deceit and defiance toward the UN, the IAEA, and nations around the world, including, centrally, the P5+1. The supply of centrifuges, well-hidden in Fordow, Natanz, and other nuclear facilities, has grown exponentially over the past decade, and the number of new centrifuges that enrich uranium faster than older models is increasing. The challenge of getting Iran to end, once and for all, its quest for nuclear-weapons capability may appear daunting. But it must be done, since a nuclear-armed Iran is the most dangerous threat to the Middle East region and to global security today. The bipartisan Senate bill will help keep all parties to the talks focused on the end game. The bill holds in reserve new sanctions that could be activated if Iran does not fulfill its obligations under the interim deal, including setting the terms for a permanent agreement, or if Iran again walks away from the entire process. That should give additional incentive to progress toward a final deal that ensures that Iran’s actions are concrete and verifiable. The burden should remain where it rightly belongs, on Iran’s leadership. The Senate should approve the Nuclear Weapon Free Iran Act as one more meaningful action underscoring the seriousness of America’s determination and the consequences of an Iranian failure to act in good faith.

### 2AC Iran DA

#### UQ overwhelms and PC’s not key – the fight’s already won, and AIPAC’s lost all influence

Jim Lobe 1/23, Washington D.C. correspondent and chief of the Washington bureau of Inter Press Service (IPS), 2014, Top Israel Lobby Group Loses Battle on Iran, But War Not Over, http://original.antiwar.com/lobe/2014/01/22/top-israel-lobby-group-loses-battle-on-iran-but-war-not-over/

Eight years ago, Stephen Rosen, then a top official at the American Israel Public Affairs Committee (AIPAC) and well-known around Washington for his aggressiveness, hawkish views, and political smarts, was asked by Jeffrey Goldberg of the New Yorker magazine whether some recent negative publicity had harmed the lobby group’s legendary clout in Washington.¶ “A half smile appeared on his face, and he pushed a napkin across the table,” wrote Goldberg about the interview. “’You see this napkin?’ [the official] said. In twenty-four hours, we could have the signatures of seventy senators on this napkin.”¶ Eight years later, the same official, Stephen Rosen, who was forced to resign from AIPAC after his indictment – later dismissed — for allegedly spying for Israel, told a Ron Kampeas of the Jewish Telegraphic Agency (JTA) that AIPAC needed to retreat from its confrontation with President Barack Obama after getting only 59 senators – all but 16 of them Republicans – to co-sponsor a new sanctions bill aimed at derailing nuclear negotiations between Iran and the so-called P5+1 (U.S., Britain, France, Russia, China plus Germany).¶ “They don’t want to be seen as backing down… I don’t believe this is sustainable, the confrontational posture,” he said.¶ If AIPAC had succeeded in getting 70 signatures on the bill, which the administration argued would have violated a Nov. 24 interim agreement between Iran and the P5+1 that essentially freezes Tehran’s nuclear program in exchange for easing some existing sanctions for a renewable six-month period, that would have been three more than needed to overcome a promised Obama veto.¶ But, after quickly gathering the 59 co-sponsors over the Christmas recess, AIPAC and the bill’s major sponsors, Republican Sen. Mark Kirk and Democratic Sen. Robert Menendez, appeared to hit a solid wall of resistance led by 10 Democratic Committee chairs and backed by an uncharacteristically determined White House with an uncharacteristically stern message.¶ “If certain members of Congress want the United States to take military action, they should be up front with the American public and say so,” said Bernadette Meehan, a spokeswoman for the National Security Council. “Otherwise, it’s not clear why any member of Congress would support a bill that possibly closes the door on diplomacy and makes it more likely that the United States will have to choose between military options or allowing Iran’s nuclear program to proceed.”¶ Combined with a grassroots lobbying campaign carried out by nearly 70 grassroots religious, antiwar, and civic-action groups that flooded the offices of nervous Democratic senators with thousands of emails, petitions, and phone calls, as well as endorsements of the administration’s position by major national and regional newspapers and virtually all but the neoconservative faction of the US foreign policy elite, the White House won a clear victory over AIPAC and thus raised anew the question of just how powerful the group really is.¶ AIPAC’s inability to muster more support among Democrats, in particular, came on top of two other setbacks to its fearsome reputation over the past year.¶ Although they never took a public position on his nomination a year ago, the group’s leaders were known to have quietly lobbied against former Republican Sen. Chuck Hagel for Defense Secretary due his generally critical attitude toward Israel’s influence on US policy in the Middle East.¶ Several groups and individuals closely aligned with AIPAC, notably the American Jewish Committee and the Anti-Defamation League’s (ADL) – both of which have joined AIPAC in lobbying for the new Iran sanctions bill – questioned or opposed Hagel. Ultimately, however, he won confirmation by a 58-41 margin in which the great majority of Democrats voted for him.¶ Eight months later, AIPAC and other right-wing Jewish groups lobbied Congress in favor of a resolution to authorize the use of force against Syria – this time, however, at Obama’s request, although clearly also with the approval of Israeli Prime Minister Binyamin Netanyahu.¶ But the popular groundswell against Washington’s military intervention in yet another Middle Eastern conflict – as well as the reflexive aversion by far-right Republicans to virtually any Obama initiative – doomed the effort.¶ Neither Hagel nor Syria, however, has approached the importance AIPAC has accorded to Iran and its nuclear program which have dominated the group’s foreign-policy agenda for more than a decade. During that time, it has become used to marshaling overwhelming majorities of lawmakers from both parties behind sanctions and other legislation designed to increase tensions – and preclude any rapprochement — between Tehran and Washington.¶ Last July, for example, the House of Representatives voted by a 400-20 margin in favor of sanctions legislation designed to halt all Iranian oil exports from Iran. The measure was approved just four days before Iranian President Hassan Rouhani’s inauguration.¶ Throughout the fall, AIPAC worked hard – but ultimately unsuccessfully – to get the same bill through the Senate.¶ Now, two months later and unable to muster even a filibuster-proof 60 votes in the Senate, AIPAC appears to have shelved the Kirk-Menendez bill, which, among other provisions, would have imposed sanctions if Tehran violated the Nov. 24 agreement or failed to reach a comprehensive accord with the P5+1 on its nuclear program within a year.¶ “Clearly, the ground has shifted, dealing a huge defeat to AIPAC and other groups who have been aggressively lobbying for [the new sanctions bill],” wrote Lara Friedman, a lobbyist for Americans for Peace Now in her widely-read weekly Legislative Roundup, while other commentators, including Rosen, warned that overwhelming Republican support for the bill put AIPAC’s carefully cultivated bipartisan image at risk with Democratic lawmakers and key Democratic donors.¶ “They definitely lost this round and that has cost them a huge amount of political capital with the administration and with a lot of Democrats,” said one veteran Capitol Hill observer who also noted AIPAC faced “an almost perfect storm” of an administration willing to fight for a policy that also enjoyed strong support from the foreign-policy elite and an engaged activist community that could exert grassroots pressure on their elected representatives. “Senate offices were getting a couple of calls in favor [of the bill] and hundreds against. That certainly has to make a difference.”

#### Veto override now – 75 votes

Tom Cohen 1/13, Political Analyst for CNN, 2014, Clock ticking on Iran talks, possible further U.S. sanctions, http://www.cnn.com/2014/01/13/politics/us-iran-nuclear-sanctions/

A bipartisan proposal that would impose new U.S. sanctions -- but put off implementing them to allow time for negotiations to continue -- has the support of 59 Senators so far, a senior Senate aide told CNN last week.¶ According to the aide, the informal count for the measure introduced by Democratic Sen. Robert Menendez of New Jersey and Republican Sen. Mark Kirk of Illinois surpasses 75 votes -- more than enough for the Democratic-led Senate to override the promised presidential veto.

#### Obama waivers prevent the impact

Jonathan S. Tobin 1/21, Commentary Magazine, "Will Obama Bypass Congress on Iran?", 2014, www.commentarymagazine.com/2014/01/21/will-obama-bypass-congress-on-iran-sanctions/

Top White House aides have been “talking about ways to do that [lift sanctions] without Congress and we have no idea yet what that means,” said one senior congressional aide who works on sanctions. “They’re looking for a way to lift them by fiat, overrule U.S. law, drive over the sanctions, and declare that they are lifted.”¶ Although only Congress has the power to revoke the sanctions it has enacted, this is not a far-fetched scenario. It is entirely possible that the president may wish to end sanctions on his own. That could come as the result of a nuclear deal that failed to satisfy those who rightly worry about the possibility of an agreement that left Iran with its nuclear infrastructure intact. Or it might be part of a further effort to appease Tehran by scaling back sanctions in order to entice it to sign a deal. And the president believes he can achieve these ends by executive action that would come dangerously close to unconstitutional behavior, but for which Congress might have no remedy.¶ The key to any unilateral action by the president on sanctions is effective enforcement. It has long been understood by insiders that the U.S. government has only selectively enforced the existing sanctions on Iran. In 2010, the New York Times reported that more than 10,000 exemptions had already been granted by the Treasury Department to companies wishing to transact business with Iran. Since then there have been worries that the administration has been slow to open new cases by which suspicious economic activity with Iran could be proscribed.¶ As the Washington Institute for Near East Policy noted in a paper published in November 2013, the president can legitimize a policy of non-enforcement by the granting of waivers that could effectively gut any and all sanctions enacted by Congress. The only effective check on such a decision would be the political firestorm that would inevitably follow a relaxation of the sanctions that would be accurately viewed as a craven offering to the ayatollahs and also an affront to both Congress and America’s Middle East allies such as Israel and Saudi Arabia that rightly fear a nuclear Iran.¶ The administration has already made clear on other contentious issues, such as the application of immigration law, that it will only enforce laws with which it agrees. This is clearly unconstitutional, but as we have already seen with the president’s unilateral actions on immigration, Congress cannot prevent him from doing what he likes in these matters. The same might be true on Iran sanctions, especially if he is prepared to double down on inflammatory arguments falsely labeling sanctions proponents as warmongers.¶ Having begun the process of loosening sanctions on Iran with the interim deal signed in November and seemingly intent on promoting a new détente with Tehran, it requires no great leap of imagination to envision the next step in this process. Unless the president produces a deal that truly ends the Iranian nuclear threat—something that would require the dismantling of Iran’s facilities and ensuring it could not possibly continue enriching uranium or building plutonium plants—a confrontation with Congress is likely. In that event, it appears probable that the president will choose to run roughshod over the will of Congress and the rule of law.

#### Drone restrictions now pound

Greg Miller 1-15-14 – Intelligence Staff writer for the Washington Post, “Lawmakers seek to stymie plan to shift control of drone campaign from CIA to Pentagon”, Washington Post,

http://www.washingtonpost.com/world/national-security/lawmakers-seek-to-stymie-plan-to-shift-control-of-drone-campaign-from-cia-to-pentagon/2014/01/15/c0096b18-7e0e-11e3-9556-4a4bf7bcbd84\_story.html

Congress has moved to block President Obama’s plan to shift control of the U.S. drone campaign from the CIA to the Defense Department, inserting a secret provision in the massive government spending bill introduced this week that would preserve the spy agency’s role in lethal counterterrorism operations, U.S. officials said.¶ The measure, included in a classified annex to the $1.1 trillion federal budget plan, would restrict the use of any funding to transfer unmanned aircraft or the authority to carry out drone strikes from the CIA to the Pentagon, officials said.¶ The provision represents an unusually direct intervention by lawmakers into the way covert operations are run, impeding an administration plan aimed at returning the CIA’s focus to traditional intelligence gathering and possibly bringing more transparency to drone strikes.

**Plan boosts Obama’s capital**

Douglas **Kriner 10**, Assistant Profess of Political Science at Boston University, After the Rubicon: Congress, Presidents, and the Politics of Waging War, p. 59-60

Presidents and politicos alike have long recognized Congress's ability to reduce the political costs that the White House risks incurring by pursuing a major military initiative. While declarations of war are all but extinct in the contemporary period, Congress has repeatedly moved to authorize presidential military deployments and consequently to tie its own institutional prestige to the conduct and ultimate success of a military campaign. Such authorizing legislation, even if it fails to pass both chambers, creates a sense of **shared legislative-executive responsibility** for a military action's success and provides the president with **considerable political support** for his chosen policy course.34 Indeed, the desire for this political cover—and not for the constitutional sanction a congressional authorization affords—has historically motivated presidents to seek Congress's blessing for military endeavors. For example, both the elder and younger Bush requested legislative approval for their wars against Iraq, while assiduously maintaining that they possessed sufficient independent authority as commander in chief to order the invasions unilaterally.35 This fundamental tension is readily apparent in the elder Bush's signing statement to HJ Res 77, which authorized military action against Saddam Hussein in January of 1991. While the president expressed his gratitude for the statement of congressional support, he insisted that the resolution was not needed to authorize military action in Iraq. "As I made clear to congressional leaders at the outset, my request for congressional support did not, and my signing this resolution does not, constitute any change in the long-standing positions of the executive branch on either the President's constitutional authority to use the Armed Forces to defend vital U.S. interests or the constitutionality of the War Powers Resolution."36

### Preventative War Turns Iran

#### Preserving norms against preventive war is key to dissuade Israel from striking Iran

Katherine Slager 13, JD Candidate at the University of North Carolina School of Law, Articles Editor for the North Carolina Journal of International Law and Commercial Regulation, “Legality, Legitimacy and Anticipatory Self-Defense: Considering an Israeli Preemptive Strike on Iran's Nuclear Program,” 38 N.C.J. Int'l L. & Com. Reg. 267, lexis

Under both traditional and alternative analyses, Israel would not be presently justified to preemptively strike Iran's nuclear program. Under the customary international law analysis, Israel would not be justified because the threat is not yet imminent: Iran has not demonstrated a clear intent to attack Israel and does not yet have the capability to carry out a nuclear attack. Under Sadoff's proposed framework, Israel would not be justified for many of the same reasons: there is not a sufficient likelihood that an attack would occur.¶ There is room, however, for Israel to justify a preemptive strike under the "preventive" self-defense approach, in which a preemptive strike may occur though the threat is more temporally removed. n402 This demonstrates the danger inherent in adopting such an approach, which discounts the importance of anticipatory force being used only as a "last resort." An approach that strays too far from existing modern law norms runs the risk of endorsing actions that would be widely viewed as illegitimate.

n403¶ [\*324] An additional consideration is that under a legitimacy argument, the danger that a nuclear Iran poses to global peace and security may be enough to justify a preemptive strike in order to ensure global security. Many nations have indeed spoken out against Iran's development of nuclear weapons. By several accounts, a nuclear-capable Iran would be a serious threat to the entire Middle East region and the world. n404 For example, Algerian ministers claim that once Iran achieves nuclear capability, they will share the technology with "its fellow Muslim nations." n405 However, this danger should not be addressed by the unilateral assessment of a paternalistic nation, such as the United States. If the threat Iran poses to global security warrants a preemptive strike, then multilateral action by the U.N. Security Council should be taken. n406¶ In conclusion, though it is tempting to simply "rewrite the rules" to adapt the traditional international laws to address modern day threats, doing so would disrupt the international legal order. Deficiencies in the modern legal framework should be addressed incrementally, with a priority given to incorporating legitimacy and creating clear, practicable standards to evaluate use of force in anticipatory self-defense. Such a framework would clarify the [\*325] present illegitimacy and illegality of an Israeli strike on Iran's nuclear program. Wide recognition of the illegitimacy of a strike would lead to international condemnation, thus foiling the trigger that would lead the world into World War III.

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### AT: Enviro

#### No impact to biodiversity

Sagoff 97  Mark, Senior Research Scholar – Institute for Philosophy and Public policy in School of Public Affairs – U. Maryland, William and Mary Law Review, “INSTITUTE OF BILL OF RIGHTS LAW SYMPOSIUM DEFINING TAKINGS: PRIVATE PROPERTY AND THE FUTURE OF GOVERNMENT REGULATION: MUDDLE OR MUDDLE THROUGH? TAKINGS JURISPRUDENCE MEETS THE ENDANGERED SPECIES ACT”, 38 Wm and Mary L. Rev. 825, March, L/N

Note – Colin Tudge - Research Fellow at the Centre for Philosophy at the London School of Economics. Frmr Zoological Society of London: Scientific Fellow and tons of other positions. PhD. Read zoology at Cambridge.

Simon Levin = Moffet Professor of Biology, Princeton. 2007 American Institute of Biological Sciences Distinguished Scientist Award 2008 Istituto Veneto di Scienze Lettere ed Arti 2009 Honorary Doctorate of Science, Michigan State University 2010 Eminent Ecologist Award, Ecological Society of America 2010 Margalef Prize in Ecology, etc… PhD

Although one may agree with ecologists such as Ehrlich and Raven that the earth stands on **the brink of** an episode of **massive extinction, it may not follow** from this grim fact **that human** being**s will suffer** as a result. On the contrary, skeptics such as science writer Colin Tudge have challenged biologists to explain **why we need more than a tenth of the 10 to 100 million species that grace the earth**. Noting that "cultivated systems often out-produce wild systems by 100-fold or more," Tudge declared that "the argument that humans need the variety of other species is, when you think about it, a theological one." n343 Tudge observed that "the elimination of all but a tiny minority **of our fellow creatures does not affect the material well-being of humans** one iota."n344 This skeptic challenged ecologists to list more than 10,000 species (other than unthreatened microbes) that are essential to ecosystem productivity or functioning. n345 "**The human species could survive just as well** if 99.9% of our fellow creatures went extinct, provided only that we retained the appropriate 0.1% that we need." n346   [\*906]   The monumental Global Biodiversity Assessment ("the Assessment") identified two positions with respect to redundancy of species. "At one extreme is the idea that each species is unique and important, such that its removal or loss will have demonstrable consequences to the functioning of the community or ecosystem." n347 The authors of the Assessment, a panel of eminent ecologists, endorsed this position, saying it is "unlikely that there is much, if any, ecological redundancy in communities over time scales of decades to centuries, the time period over which environmental policy should operate." n348 These eminent ecologists rejected the opposing view, "the notion that species overlap in function to a sufficient degree that removal or loss of a species will be compensated by others, with negligible overall consequences to the community or ecosystem." n349  Other biologists believe, however, that species are so fabulously redundant in the ecological functions they perform that the life-support systems and processes of the planet and ecological processes in general will function perfectly well with fewer of them, certainly fewer than the millions and millions we can expect to remain **even if** **every threatened organism becomes extinct**. n350 Even the kind of sparse and miserable world depicted in the movie Blade Runner could provide a "sustainable" context for the human economy as long as people forgot their aesthetic and moral commitment to the glory and beauty of the natural world. n351 The Assessment makes this point. "Although any ecosystem contains hundreds to thousands of species interacting among themselves and their physical environment, the emerging consensus is that the system is driven by a small number of . . . biotic variables on whose interactions the balance of species are, in a sense, carried along." n352   [\*907]   To make up your mind on the question of the functional redundancy of species, consider an endangered species of bird, plant, or insect and ask how the ecosystem would fare in its absence. The fact that the creature is endangered suggests an answer: it is already in limbo as far as ecosystem processes are concerned. What crucial ecological services does the black-capped vireo, for example, serve? Are any of the species threatened with extinction necessary to the provision of any ecosystem service on which humans depend? If so, which ones are they?  Ecosystems and the species that compose them have changed, dramatically, continually, and totally in virtually every part of the United States. There is little ecological similarity, for example, between New England today and the land where the Pilgrims died. n353 In view of the constant reconfiguration of the biota, **one may wonder why Americans have not suffered more as a result of ecological catastrophes**. The cast of species in nearly every environment changes constantly-local extinction is commonplace in nature-but the crops still grow. Somehow, it seems, property values keep going up on Martha's Vineyard in spite of the tragic disappearance of the heath hen.  One might argue that the sheer number and variety of creatures available to any ecosystem buffers that system against stress. Accordingly, we should be concerned if the "library" of creatures ready, willing, and able to colonize ecosystems gets too small. (Advances in genetic engineering may well permit us to write a large number of additions to that "library.") In the United States as in many other parts of the world, however, the number of species has been increasing dramatically, not decreasing, as a result of human activity. This is because the hordes of exotic species coming into ecosystems in the United States far exceed the number of species that are becoming extinct. Indeed, introductions may outnumber extinctions by more than ten to one, so that the United States is becoming more and more species-rich all the time largely as a result of human action. n354 [\*908] Peter Vitousek and colleagues estimate that over 1000 non-native plants grow in California alone; in Hawaii there are 861; in Florida, 1210. n355 In Florida more than 1000 non-native insects, 23 species of mammals, and about 11 exotic birds have established themselves. n356 Anyone who waters a lawn or hoes a garden knows how many weeds desire to grow there, how many birds and bugs visit the yard, and how many fungi, creepy-crawlies, and other odd life forms show forth when it rains. All belong to nature, from wherever they might hail, but not many homeowners would claim that there are too few of them. Now, not all exotic species provide ecosystem services; indeed, some may be disruptive or have no instrumental value. n357 This also may be true, of course, of native species as well, especially because all exotics are native somewhere. Certain exotic species, however, such as Kentucky blue grass, establish an area's sense of identity and place; others, such as the green crabs showing up around Martha's Vineyard, are nuisances. n358 Consider an analogy [\*909] with human migration. Everyone knows that after a generation or two, immigrants to this country are hard to distinguish from everyone else. The vast majority of Americans did not evolve here, as it were, from hominids; most of us "came over" at one time or another. This is true of many of our fellow species as well, and they may fit in here just as well as we do. It is possible to distinguish exotic species from native ones for a period of time, just as we can distinguish immigrants from native-born Americans, but as the centuries roll by, species, like people, fit into the landscape or the society, changing and often enriching it. Shall we have a rule that a species had to come over on the Mayflower, as so many did, to count as "truly" American? Plainly not. When, then, is the cutoff date? Insofar as we are concerned with the absolute numbers of "rivets" holding ecosystems together, extinction seems not to pose a general problem because a far greater number of kinds of mammals, insects, fish, plants, and other creatures thrive on land and in water in America today than in prelapsarian times. n359 The Ecological Society of America has urged managers to maintain biological diversity as a critical component in strengthening ecosystems against disturbance. n360 Yet as Simon Levin observed, "much of the detail about species composition will be irrelevant in terms of influences on ecosystem properties." n361 [\*910] He added: "For net primary productivity, as is likely to be the case for any system property, **biodiversity matters only up to a point**; above a certain level, increasing biodiversity is likely to make **little difference**." n362 What about the use of plants and animals in agriculture? There is no scarcity foreseeable. "Of an estimated 80,000 types of plants [we] know to be edible," a U.S. Department of the Interior document says, "only about 150 are extensively cultivated." n363 About twenty species, not one of which is endangered, provide ninety percent of the food the world takes from plants. n364 Any new food has to take "shelf space" or "market share" from one that is now produced. Corporations also find it difficult to create demand for a new product; for example, people are not inclined to eat paw-paws, even though they are delicious. It is hard enough to get people to eat their broccoli and lima beans. It is harder still to develop consumer demand for new foods. This may be the reason the Kraft Corporation does not prospect in remote places for rare and unusual plants and animals to add to the world's diet. Of the roughly 235,000 flowering plants and 325,000 nonflowering plants (including mosses, lichens, and seaweeds) available, farmers ignore virtually all of them in favor of a very few that are profitable. n365 To be sure, any of the more than 600,000 species of plants could have an application in agriculture, but would they be preferable to the species that are now dominant? Has anyone found any consumer demand for any of these half-million or more plants to replace rice or wheat in the human diet? There are reasons that farmers cultivate rice, wheat, and corn rather than, say, Furbish's lousewort. There are many kinds of louseworts, so named because these weeds were thought to cause lice in sheep. How many does agriculture really require? [\*911] The species on which agriculture relies are domesticated, not naturally occurring; they are developed by artificial not natural selection; they might not be able to survive in the wild. n366 This argument is not intended to deny the religious, aesthetic, cultural, and moral reasons that command us to respect and protect the natural world. These spiritual and ethical values should evoke action, of course, but we should also recognize that they are spiritual and ethical values. We should recognize that ecosystems and all that dwell therein compel our moral respect, our aesthetic appreciation, and our spiritual veneration; we should clearly seek to achieve the goals of the ESA. There is no reason to assume, however, that these goals have anything to do with human well-being or welfare as economists understand that term. These are ethical goals, in other words, not economic ones. Protecting the marsh may be the right thing to do for moral, cultural, and spiritual reasons. We should do it-but someone will have to pay the costs. In the narrow sense of promoting human welfare, protecting nature often represents a net "cost," not a net "benefit." It is largely for moral, not economic, reasons-ethical, not prudential, reasons- that we care about all our fellow creatures. They are valuable as objects of love not as objects of use. What is good for   [\*912]  the marsh may be good in itself even if it is not, in the economic sense, good for mankind. The most valuable things are quite useless.

### Enviro Getting Better

#### All environmental factors getting better

Lomberg 10—Ph.D in pol science (4/21, Bjorn Earth Day: Smile, don't shudder; Ignore doomsday environmentalists. Things aren't so bad. And if rich countries would worry about the right things, all the better, USA Today, LexisNexis)

Given all the talk of impending catastrophe, this may come as a surprise, but as we approach the 40th anniversary of the first Earth Day, people who care about the environment actually have a lot to celebrate. Of course, that's not how the organizers of Earth Day 2010 see it. In their view (to quote a recent online call to arms), "The world is in greater peril than ever." But consider this: In virtually every developed country, the air is more breathable and the water is more drinkable than it was in 1970. In most of the First World, deforestation has turned to reforestation. Moreover, the percentage of malnutrition has been reduced, and ever-more people have access to clean water and sanitation. Apocalyptic predictions from concerned environmental activists are nothing new. Until about 10 years ago, I took it for granted that these predictions were sound. Like many of us, I believed that the world was in a terrible state that was only getting worse with each passing day. My thinking changed only when, as a university lecturer, I set out with my students to disprove what I regarded at the time as the far-fetched notion that global environmental conditions were actually improving. To our surprise, the data showed us that many key environmental measures were indeed getting better. ,

### FW

#### Consequentialism key---alt is complicit with evil

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

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

### AT: Sovereignty

#### No one will accept major changes to the structure of sovereignty

Rosa Brooks 12, Professor of Law at Georgetown University Law Center and a Bernard L. Schwartz Senior Fellow at the New America Foundation, “Strange Bedfellows: The Convergence of Sovereignty-Limiting Doctrines in Counterterrorist and Human Rights Discourse,” Law and Ethics Summer/Fall

None of these projects would be straightforward; each might be seen as facing barriers so high as to be virtually insurmountable. If the various institutional and legal “fixes” we might envision are unrealistic in the near term, is there any responsible way forward? The overall thrust of this essay has been to call for intellectual honesty about the logical implications of emerging sovereignty-limiting doctrines. But, perhaps, this is one of those areas where discretion—even disingenuousness—is the better part of valor, or at least the better part of preserving stability. Stephen Krasner makes a variant of this argument in some of his recent work. Krasner famously dubbed sovereignty “organized hypocrisy,” noting that while the notion of “sovereignty” has long been associated with clear legal criteria and rules, states have, for just as long, routinely ignored those rules when it suited them to do so.18 To Krasner, this organized hypocrisy is nonetheless functional—or at least **more functional than any available alternative.** In a 2010 essay on “The Durability of Organized Hypocrisy,” Krasner argues that this remains true today.19 He grants that emerging normative or legal doctrines will continue to challenge and delegitimize traditional notions of sovereignty, and significant “shocks”— such as “the possibility of mega-terrorist attacks”—might lead to radical change: “Governments in advanced countries would begin to reconfigure their bureaucratic structures to… [reflect] new rules and principles about responsibilities for territories or functions beyond national borders.” But, argues Krasner, “Such fundamental challenges to the existing sovereignty regime are not to be welcomed. Any new set of principles…would be contested. External actors, even if their claims were legitimated…would not find it easy to exercise the authority they had asserted…there are no formulaic solutions.” Krasner concludes, **“Sovereignty has worked very imperfectly but it has still worked better than any other structure that decision-makers have been able to envision**.”20 In other words: in the end, perhaps, when it comes to teasing out the implications of emerging sovereigntylimiting doctrines, organized hypocrisy is the best we can do.

### LOAC Good

#### Oppositional views of the law and it’s use for war are inevitable – ONLY the perm solves

Luban 13 (David, University Professor in Law and Philosophy, Georgetown University Law Center, “Military Necessity and the Cultures of Military Law,” Leiden Journal of International Law, Volume 26, Issue 02, pp 315-349)

These arguments about military necessity are not meant as a ‘refutation’ of the LOAC version of the laws of war or anything resembling it. That would be silly. **Military necessities are real**, and law will not make them go away. The same is true of the other elements of the LOAC vision. States may no longer be the sole sources of international law, but we live in a world of states, which **remain the pre-eminent international lawmakers**. The laws of war must take the civilian point of view seriously, but it is still a long step from there to human rights. On all these points, humanitarian lawyers who pretend otherwise are fooling themselves both legally and practically. Legally, because the sources of law will not bear so much humanitarian weight, and practically because the only hope for the humanitarian project lies in militaries and military lawyers who believe in it and want to make it happen. Like it or not, the two legal cultures must live with each other, and that requires reasonableness, in the sense defined by John Rawls: a reciprocal desire for principles that could be accepted even by adherents of the other comprehensive view.

To illustrate with an example: Article 57 of AP I requires militaries to take all ‘feasible’ precautions to verify that their targets are legitimately military and to minimize civilian damage. Notoriously, there is no agreement on what ‘feasible’ means. Does it include anything technologically possible, regardless of cost or risk to the attacker? Alternatively, does it exclude anything that might increase military risk, no matter how slightly? Clearly, militaries could not reasonably accept the former, and humanitarians could not reasonably accept the latter – so, on my proposal, neither of these interpretations can be right, and lawyers should not advance them.

This conciliatory approach is not self-evident. In purely scientific pursuits, epistemologists offer powerful arguments that it is more rational both for individual researchers and for the scientific community at large if competing research programmes **forcefully press their own agendas**, even in cases when one programme is less likely than its rivals to be fruitful.101 Lawyers are, for obvious reasons, instinctively drawn to a similarly adversarial, competitive model of truth seeking. Why not let the LOAC and IHL versions of the law of war continue to compete for supremacy? Is that not the most likely way in which truth will out?

The obvious difference is that lawyers arguing about the interpretation of law are not pursuing hidden truths. They are not physicists hunting the Higgs boson or mathematicians vying for the honour of being first to solve a famous problem.102 They are trying to give concrete meaning to past lawmakers’ constructions**, in order to impose** discipline on violence **when collectivities go to war.** The obvious danger in an adversarial competition over who owns the law of war is one David Kennedy highlights: when legal interpretation turns into a political game, the players’ trust in each other's candour inevitably erodes, so that ‘as we use the discourse more, we believe it less – at least when spoken by others’.103 The result (Kennedy adds) is a law of armed combat that undermines itself and casts its own legitimacy into disrepute, even in the eyes of its practitioners. I wholeheartedly agree with this diagnosis, but not with Kennedy's cure, which is to downplay legality in favour of pure choice – to ‘be wary of treating the legal issues as the focal points for our ethics and politics’.104 In place of legalism, Kennedy calls for ‘recapturing the human experience of responsibility for the violence of war’ – accepting that ‘those who kill do “decide in the exception”, . . . [and] as men and women, our military, political, and legal experts are, in fact, free – free from the comfortable ethical and political analytics of expertise, but not from responsibility for the havoc they unleash’.105 His argument appears to be that debates over the laws of war are irredeemably strategic. Officers and political leaders – and, for that matter, humanitarians – find it all too convenient to fob responsibility onto lawyers and the law when in fact the law is ‘an elaborate discourse of evasion’.106

But suppose there were no LOAC or ICL. **Do we really believe that more responsible decisions would result, that fewer lives would be lost**, or that an alternative and better vocabulary than ‘the analytics of expertise’ would arise for deliberation? I see no reason to think so. Without some vocabulary for deliberation, the pure experience of responsibility floats in a vacuum and goes nowhere. Like it or not, and **no matter where we end up,** we must start with the vocabulary we have.

**That is the legal vocabulary of the law of war**, heavily inflected with the just-war theory of past centuries. **Where else could we start?** In Quine's words, ‘We are like sailors who on the open sea must reconstruct their ship but are never able to start afresh from the bottom.’107

**The two cultures are stuck with each** other aboard the same wounded ship. The argument of this article has been that their differing comprehensive views arise from competing premises about the primacy of military necessity and human dignity. Both are reasonable premises, and mutual recognition that they are reasonable – more precisely, willingness to discard one's own interpretations if a similarly willing adherent to the alternative view could not possibly accept them – seems like a plausible canon of interpretation. It is also the most plausible strategy for achieving whatever convergence is humanly possible.