## 1AC --- NDT

### 1AC – Terrorism

#### CONTENTION 1: TERRORISM

**European allies will insist on a policy that limits operations to a law enforcement approach---failure to codify policy risks overreach**

Daskal 13 - Fellow and Adjunct Professor, Georgetown Center on National Security and the Law, University of Penn L. Rev., THE GEOGRAPHY OF THE BATTLEFIELD: A FRAMEWORK FOR DETENTION AND TARGETING OUTSIDE THE "HOT" CONFLICT ZONE, April, 2013, 161 U. Pa. L. Rev. 1165, Lexis

The debate has largely devolved into an either-or dichotomy, even while security and practical considerations demand more nuanced practices. Thus, the **U**nited **S**tates, supported by a vocal group of scholars, including Professors Jack Goldsmith, Curtis Bradley, and Robert Chesney, has long asserted that it is at war with al Qaeda and associated groups. Therefore, it can legitimately detain without charge - and kill - al Qaeda members and their associates **wherever they are** found, subject of course to additional law-of-war, constitutional, and sovereignty constraints. n9 Conversely, European [\*1170] allies, supported by an equally vocal group of scholars and human rights advocates, assert that the **U**nited **S**tates is engaged in a conflict with al Qaeda only in specified regions, and that the United States' authority to employ law-of-war detention and lethal force extends only to **those particular zones**. n10 In all other places, al Qaeda and its associates should be subject to [\*1171] law enforcement measures, as governed by international human rights law and the domestic laws of the relevant states. n11 Recent statements by **U**nited **S**tates officials suggest an attempt to mediate between these two extremes, at least for purposes of targeted killing, and **as a matter of policy, not law**. While continuing to assert a global conflict with al Qaeda, official statements have limited the defense of out-of-conflict zone targeting operations to high-level leaders and others who pose a "significant" threat. n12 In the words of President Obama's then-Assistant for Homeland Security and Counterterrorism, John O. Brennan, the United States does not seek to "eliminate every single member of al-Qaida in the world," but instead conducts targeted strikes to mitigate "actual[,] ongoing threats." n13 That said, the **U**nited **S**tates continues to suggest that it can, as a matter of law, "take action" against anyone who is "part of" al Qaeda or associated forces - a very broad category of persons - **without any explicit geographic limits.** n14 The stakes are high. If the United States were permitted to launch a drone strike against an alleged al Qaeda operative in Yemen, why not in London - so long as the United States had the United Kingdom's consent and was confident that collateral damage to nearby civilians would be minimal (thereby addressing sovereignty and proportionality concerns)? There are many reasons why such a scenario is unlikely, but the **U**nited [\*1172] **S**tates has yet to assert **any limiting principle** that would, as a matter of law, prohibit such actions. And in fact, the United States did rely on the laws of war to detain a U.S. citizen picked up in a Chicago airport for almost four years. n15 Even if one accepts the idea that the United States now exercises its asserted authority with appropriate restraint, what is to prevent **Russia**, for example, from asserting that it is engaged in an armed conflict with Chechens and that it can target or detain, without charge, an alleged member of a Chechen rebel group wherever he or she is found, including possibly in the United States? Conversely, it cannot be the case - as the extreme version of the territorially restricted view of the conflict suggests - that an enemy with whom a state is at war can merely cross a territorial boundary in order to plan or plot, free from the threat of being captured or killed. In the London example, law enforcement can and should respond effectively to the threat. n16 But there also will be instances in which the enemy escapes to an effective safe haven because the host state is unable or unwilling to respond to the threat (think Yemen and Somalia in the current conflict), capture operations are infeasible because of conditions on the ground (think parts of Yemen and Somalia again), or criminal prosecution is not possible, at least in the short run. This Article proposes a way forward - offering a new legal framework for thinking about the geography of the conflict in a way that better mediates the multifaceted liberty, security, and foreign policy interests at stake. It argues that the jus ad bellum questions about the geographic borders of the conflict that have dominated much of the literature are the wrong questions to focus on. Rather, it focuses on jus in bello questions about the conduct of hostilities. This Article assumes that the conflict extends to **wherever the enemy threat is found**, but argues for **more stringent rules of conduct outside zones of active hostilities**. Specifically, it proposes a series of substantive and procedural rules designed to limit the use of lethal targeting [\*1173] and detention outside zones of active hostilities - subjecting their use to an **individualized threat finding**, a least-harmful-means test, and **meaningful procedural safeguards**. n17 The Article does not claim that existing law, which is uncertain and contested, dictates this approach. (Nor does it preclude this approach.) Rather, the Article explicitly recognizes that the set of current rules, developed mostly in response to state-on-state conflicts in a world without drones, fails to address adequately the complicated security and liberty issues presented by conflicts between a state and mobile non-state actors in a world where technological advances allow the state to track and attack the enemy wherever he is found. New rules are needed. Drawing on evolving state practice, underlying principles of the law of war, and prudential policy considerations, the Article proposes a set of such rules for conflicts between states and transnational non-state actors - rules designed both to promote the state's security and legitimacy and to protect against the erosion of individual liberty and the rule of law. The Article proceeds in four parts. Part I describes how the legal framework under which the United States is currently operating has generated legitimate concerns about the creep of war. This Part outlines how the U.S. approach over the past several years has led to a polarized debate between opposing visions of a territorially broad and territorially restricted conflict, and how both sides of the debate have failed to [\*1174] acknowledge the legitimate substantive concerns of the other. Part II explains why a territorially broad conflict can and should distinguish between zones of active hostilities and elsewhere, thus laying out the broad framework under which the Article's proposal rests. Part III details the proposed zone approach. It distinguishes zones of active hostilities from both peacetime and lawless zones, and outlines the enhanced substantive and procedural standards that ought to apply in the latter two zones. Specifically, Part III argues that outside zones of active hostilities, law-of-war detention and use of force should be employed **only in exceptional situations,** subject to an individualized threat finding, least-harmful-means test, and meaningful procedural safeguards. n18 This Part also describes how such an approach maps onto the conflict with al Qaeda, and is, at least in several key ways, **consistent with the approach** **already taken** by the **U**nited **S**tates as a matter of policy. Finally, Part IV explains how such an approach ought to apply not just to the current conflict with al Qaeda but to other conflicts with transnational non-state actors in the future, as well as self-defense actions that take place outside the scope of armed conflict. It concludes by making several recommendations as to how this approach should be incorporated into U.S. and, ultimately, international law. The Article is United States-focused, and is so for a reason. To be sure, other states, most notably Israel, have engaged in armed conflicts with non-state actors that are dispersed across several states or territories. n19 But the **U**nited **S**tates is the first state to self-consciously declare itself at war with a non-state terrorist organization that **potentially spans the globe**. Its **actions and asserted authorities** in response to this threat **establish a reference point** for state practice that will **likely be mimicked by others** and inform the development of **c**ustomary **i**nternational **l**aw.

**Alignment with allies brings detention policy into compliance with laws--- makes criminal prosecutions effective outside zones of conflict**

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There is clear evidence that other countries **recognize** and respond to **the difference in legitimacy** **between civilian and military courts** and that they are, indeed, more **willing to cooperate with U.S.** **counterterrorism efforts** when terrorism suspects are tried in the **c**riminal **j**ustice **s**ystem. Increased international cooperation is therefore another advantage of criminal prosecution.¶ Many key U.S. allies have been unwilling to cooperate in cases involving **l**aw-**o**f-**w**ar detention or prosecution but have cooperated in criminal [\*166] prosecutions. In fact, many U.S. extradition treaties, including those with allies such as India and Germany, forbid extradition when the defendant will not be tried in a criminal court. n252 This issue has played out in practice several times. An al-Shabaab operative was extradited from the Netherlands only after assurances from the United States that he would be prosecuted in criminal court. n253 Two similar cases arose in 2007. n254 In perhaps the most striking example, five terrorism suspects - including Abu Hamza al-Masr, who is accused of providing material support to al-Qaeda by trying to set up a training camp in Oregon and of organizing support for the Taliban in Afghanistan - were extradited to the United States by the **U**nited **K**ingdom in October 2012. n255 The extradition was made on the express condition that they would be tried in civilian federal criminal courts rather than in the military commissions. n256 And, indeed, both the **E**uropean **C**ourt of **H**uman **R**ights and the British courts allowed the extradition to proceed after assessing the protections offered by the U.S. **federal criminal justice system** and finding they fully met all relevant standards. n257 An insistence on using military commissions may thus **hinder extradition** and other kinds of international prosecutorial cooperation, such as the sharing of testimony and evidence.¶ Finally, the **c**riminal **j**ustice **s**ystem is simply a more agile and versatile prosecution forum. Federal jurisdiction offers an extensive variety of antiterrorism statutes that can be marshaled to prosecute terrorist activity committed outside the United States, and subsequently to detain those who are convicted. n258 This greater variety of offenses - military commissions can only [\*167] punish an increasingly narrow set of traditional offenses against the laws of war n259 - offers prosecutors important flexibility. For instance, it might be very difficult to prove al-Qaeda membership in an MCA prosecution or a law-of-war habeas proceeding; but if the defendant has received training at a terrorist camp or participated in a specific terrorist act, federal prosecutors may convict under various statutes tailored to more specific criminal behavior. n260 In addition, military commissions can no longer hear prosecutions for material support committed before 2006. n261 Due in part to the established track record of the federal courts, the federal criminal justice system also allows for more flexible interactions between prosecutors and defendants. Proffer and plea agreements are **powerful incentives for defendants to cooperate**, and often lead to **valuable intelligence-gathering**, producing more intelligence over the course of prosecution. n262

**That solves safe havens and extradition to the US court system**

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Finally, the **c**riminal **j**ustice **s**ystem may help us **obtain important cooperation from other countries**. That **cooperation may be necessary** if we want to detain suspected terrorists¶ or otherwise accomplish our national¶security objectives. Our federal courts are well-respected internationally.¶ They are well-established, formal legal mechanisms that allow the transfer of terrorism suspects to the United States¶ for trial in federal court, and for¶ the provision of information to assist¶ in law enforcement investigations –¶ i.e., extradition and mutual legal assistance treaties (MLATs). **Our allies around the world are comfortable with these mechanisms**, as well as with more informal procedures that are often used to provide assistance to the United States in law enforcement matters, whether relating to terrorism or¶ other types of cases. Such cooperation can be critical to the success of a prosecution, and in some cases can be **the only way in which we will gain** **custody of a suspected terrorist** who has broken our laws.¶ 184¶ In contrast, many of our **key** **allies around the world** are **not willing to cooperate** with or support our efforts to hold suspected terrorists in **law of war detention** or to **prosecute them in military commissions**. While we hope that over time they will grow more supportive of these legal¶ mechanisms, at present many countries would not extradite individuals to the United States for military commission proceedings or law of war¶ detention. Indeed, some of our extradition treaties explicitly forbid extradition to the United States where the person will be tried in a forum other than a criminal court. For example, our treaties with Germany¶ (Article 13)¶ 185¶ and with Sweden (Article V(3))¶ 186¶ expressly forbid extradition¶ when the defendant will be tried in¶ an “extraordinary” court, and the¶ understanding of the Indian government pursuant to its treaty with the¶ United States is that extradition is available only for proceedings under the¶ ordinary criminal laws of the requesting state.¶ 187¶ More generally, the¶ doctrine of dual criminality – under which extradition is available only for¶ offenses made criminal in both countries – and the relatively common¶ exclusion of extradition for military offenses not also punishable in civilian¶ court may also limit extradition outside the criminal justice system.¶ 188¶ Apart¶ from extradition, even where we already have the terrorist in custody, many countries will not provide testimony, other information, or assistance in support of law of war detention or a military prosecution, either as a matter¶ of national public policy or under other provisions of some of our MLATs.¶ 189¶ These concerns are not hypothetical. During the last Administration,¶ the United States was obliged to give¶ assurances against the use of military¶ commissions in order to obtain extradition of several terrorism suspects to¶ the United States.¶ 190¶ There are a number of terror suspects currently in foreign custody who **likely would not be extradited** to the United States by¶ foreign nations if they faced military tribunals.¶ 191¶ In some of these cases, it might be necessary for the foreign nation **to release these suspects** if they cannot be extradited because they do¶ not face charges pending in the¶ foreign nation.

#### Allied cooperation’s key to effective counter-terrorism

Micah Zenko 13, Douglas Dillon fellow with the Center for Preventive Action at the Council on Foreign Relations, Newsday, January 30, "Zenko: Why we can't just drone Algeria", http://www.newsday.com/opinion/oped/zenko-why-we-can-t-just-drone-algeria-1.4536641

CNN should not have been surprised. Neither the Bush nor Obama administrations received blanket permission to transit Algerian airspace with surveillance planes or drones; instead, they received authorization only on a case-by-case basis and with advance notice.¶ According to Washington Post journalist Craig Whitlock, the U.S. military relies on a fleet of civilian-looking unarmed aircraft to spy on suspected Islamist groups in North Africa, because they are less conspicuous - and therefore less politically sensitive for host nations - than drones. Moreover, even if the United States received flyover rights for armed drones, it has been unable to secure a base in southern Europe or northern Africa from which it would be permitted to conduct drone strikes; and presently, U.S. armed drones cannot be launched and recovered from naval platforms.¶ According to Hollywood movies or television dramas, with its immense intelligence collection and military strike capabilities, the United States can locate, track, and kill anyone in the world.¶ This misperception is continually reinvigorated by the White House's, the CIA's, and the Pentagon's close cooperation with movie and television studios. For example, several years before the CIA even started conducting non-battlefield drone strikes, it was recommending the tactic as a plotline in the short-lived (2001-2003) drama "The Agency." As the show's writer and producer later revealed: "The Hellfire missile thing, they suggested that. I didn't come up with this stuff. I think they were doing a public opinion poll by virtue of giving me some good ideas."¶ Similarly, as of November there were at least 10 movies about the Navy SEALs in production or in theaters, which included so much support from the Pentagon that one film even starred active-duty SEALs.¶ The Obama administration's lack of a military response in Algeria reflects how sovereign states routinely constrain U.S. intelligence and military activities. As the U.S. Air Force Judge Advocate General's Air Force Operations and the Law guidebook states: "The unauthorized or improper entry of foreign aircraft into a state's national airspace is a violation of that state's sovereignty. . . . Except for overflight of international straits and archipelagic sea lanes, all nations have complete discretion in regulating or prohibiting flights within their national airspace."¶ Though not sexy and little reported, deploying CIA drones or special operations forces requires constant behind-the-scenes diplomacy: with very rare exceptions - like the Bin Laden raid - the U.S. military follows the rules of the world's other 194 sovereign, independent states.¶ These rules come in many forms. For example, basing rights agreements can limit the number of civilian, military and contractor personnel at an airbase or post; what access they have to the electromagnetic spectrum; what types of aircraft they can fly; how many sorties they can conduct per day; when those sorties can occur and how long they can last; whether the aircraft can drop bombs on another country and what sort of bombs; and whether they can use lethal force in self-defense. When the United States led the enforcement of the northern no-fly zone over Iraq from the Incirlik Air Base in southern Turkey from 1991 to 2003, a Turkish military official at the rank of lieutenant colonel or higher was always on board U.S. Air Force AWACS planes, monitoring the airspace to assure that the United States did not violate its highly restrictive basing agreement.¶ As Algeria is doing presently, the denial or approval of overflight rights is a powerful tool that states can impose on the United States. These include where U.S. air assets can enter and exit another state, what flight path they may take, how high they must fly, what type of planes can be included in the force package, and what sort of missions they can execute. In addition, these constraints include what is called shutter control, or the limits to when and how a transiting aircraft can collect information. For example, U.S. drones that currently fly out of the civilian airfield in Arba Minch, Ethiopia, to Somalia, are restricted in their collection activities over Ethiopia's Ogaden region, where the government has conducted an intermittent counterinsurgency against the Ogaden National Liberation Front.

#### That solves safe-havens and prevents an attack in the US

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Should the U.S. continue to strike at al-Qaida's leadership with drone attacks? A recent poll shows that while most Americans approve of drone strikes, in 17 out of 20 countries, more than half of those surveyed disapprove of them.¶ My study of leadership decapitation in 90 counter-insurgencies since the 1970s shows that when militant leaders are captured or killed militant attacks decrease, terrorist campaigns end sooner, and their outcomes tend to favor the government or third-party country, not the militants.¶ Those opposed to drone strikes often cite the June 2009 one that targeted Pakistani Taliban leader Baitullah Mehsud at a funeral in the Tribal Areas. That strike reportedly killed 60 civilians attending the funeral, but not Mehsud. He was killed later by another drone strike in August 2009. His successor, Hakimullah Mehsud, developed a relationship with the foiled Times Square bomber Faisal Shahzad, who cited drone strikes as a key motivation for his May 2010 attempted attack.¶ Compared to manned aircraft, drones have some advantages as counter-insurgency tools, such as lower costs, longer endurance and the lack of a pilot to place in harm's way and risk of capture. These characteristics can enable a more deliberative targeting process that serves to minimize unintentional casualties. But the weapons employed by drones are usually identical to those used via manned aircraft and can still kill civilians—creating enmity that breeds more terrorists.¶ Yet many insurgents and terrorists have been taken off the battlefield by U.S. drones and special-operations forces. Besides Mehsud, the list includes Anwar al-Awlaki of al-Qaida in the Arabian Peninsula; al-Qaida deputy leader Abu Yahya al-Li-bi; and, of course, al-Qaida leader Osama bin Laden. Given that list, it is possible that the drone program has prevented numerous attacks by their potential followers, like Shazad.¶ What does the removal of al-Qaida leadership mean for U.S. national security? Though many in al-Qaida's senior leadership cadre remain, the historical record suggests that "decapitation" will likely weaken the organization and could cripple its ability to conduct major attacks on the U.S. homeland.¶ Killing terrorist leaders is not necessarily a knockout blow, but can make it harder for terrorists to attack the U.S. Members of al-Qaida's central leadership, once safely amassed in northwestern Pakistan while America shifted its focus to Iraq, have been killed, captured, forced underground or scattered to various locations with little ability to communicate or move securely.¶ Recently declassified correspondence seized in the bin Laden raid shows that the relentless pressure from the drone campaign on al-Qaida in Pakistan led bin Laden to advise al-Qaida operatives to leave Pakistan's Tribal Areas as no longer safe. Bin Laden's letters show that U.S. counterterrorism actions, which had forced him into self-imposed exile, had made running the organization not only more risky, but also more difficult.¶ As al-Qaida members trickle out of Pakistan and seek sanctuary elsewhere, the U.S. military is ramping up its counterterrorism operations in Somalia and Yemen, while continuing its drone campaign in Pakistan. Despite its controversial nature, the U.S. counter-terrorism strategy has demonstrated a degree of effectiveness.¶ The Obama administration is committed to reducing the size of the U.S. military's footprint overseas by relying on drones, special operations forces, and other intelligence capabilities. These methods have made it more difficult for al-Qaida remnants to reconstitute a new safe haven, as Osama bin Laden did in Afghanistan in 1996, after his ouster from Sudan.

#### Risk of nuclear terrorism is real and high now

William Tobey 14, is a senior fellow at Harvard University's Belfer Center for Science and International Affairs. Major General Pavel Zolotarev is a retired member of the Russian Armed Forces and deputy director of the Institute for U.S. and Canadian Studies of the Russian Academy of Sciences., 1/13/2014, "The Nuclear Terrorism Threat", belfercenter.ksg.harvard.edu/files/nuclearterrorismthreatthailand2014.pdf

A joint U.S.-Russian View q  First ever U.S.-Russian joint threat assessment q  Concludes the danger is real, urgent action is needed to reduce it q  Endorsed by broad range of retired military, intelligence experts Could terrorists cause a “security Fukushima”? q  Fukushima caused by inadequate preparation and an extraordinary natural disaster q  Reaffirmed that a nuclear accident can cause extraordinary terror, disruption, and cost q Al Qaeda, Chechens, and other terrorist groups have considered sabotaging nuclear reactors. Nuclear safety and security are closely linked – you can’t be safe without being secure. Cs-137 “dirty bomb” q  Potentially dangerous sources used in hospitals, industry, in almost every country q Al Qaeda, Chechens have repeatedly considered dirty bomb attacks With nuclear material, terrorists may be able to make crude nuclear bombs q With HEU, gun-type bomb – as obliterated Hiroshima – very plausibly within capabilities of sophisticated terrorist group q  Implosion bomb (required for plutonium) more difficult, still conceivable (especially if they got help) –  Doesn’t need to be as complex as Nagasaki bomb Source: NATO Doesn’t take a Manhattan Project -- >90% of the effort was focused on producing nuclear material. And making a crude terrorist bomb is far easier than making a safe, reliable weapon With nuclear material, terrorists may be able to make crude nuclear bombs (II) q Government studies – in the United States and elsewhere – have repeatedly concluded that a sophisticated terrorist group could plausibly make a nuclear bomb. “A small group of people, none of whom have ever had access to the classified literature, could possibly design and build a crude nuclear explosive device... Only modest machine-shop facilities that could be contracted for without arousing suspicion would be required.” -- U.S. Office of Technology Assessment, 1977 q U.S. security rules for some types of material based on preventing adversaries from setting off a nuclear blast while they are still in the building Al Qaeda has actively sought to get nuclear bombs q  Repeated attempts to purchase nuclear material or nuclear weapons q  Repeated attempts to recruit nuclear expertise q  Focused program that reported directly to Zawahiri q  Reached the point of carrying out crude (but sensible) explosive tests for the nuclear program in the Afghan desert Al Qaeda has actively sought to get nuclear bombs (II) q  2001: Bin Laden and Zawahiri meet with 2 senior Pakistani nuclear scientists to discuss nuclear weapons -  Now-sanctioned UTN network was helping with chemical, biological, nuclear efforts – also offered nuclear weapons technology to Libya q  2003: -  bin Laden gets fatwa from radical Saudi cleric authorizing use of nuclear weapons against civilians -  Saudi al Qaeda cell negotiating to buy 3 nuclear devices – if “Pakistani expert” confirms they are real q  2008: Zawahiri reiterates, elaborates arguments of nuclear fatwa North Caucasus terrorists have pursued nuclear and radiological terrorism q Multiple cases: –  2 cases of teams carrying out reconnaissance at nuclear weapon storage sites – 2 more on nuclear weapon transport trains –  Repeated threats to attack nuclear reactors – terrorists who seized Moscow theater in 2002 considered seizing reactor at the Kurchatov Institute –  Repeated threats to use radiological “dirty bombs” – buried Cs-137 source in Moscow park –  Captured documents indicate plan to seize a Russian nuclear submarine (possibly with nuclear weapons on board) Aum Shinrikyo sought nuclear weapons before its nerve gas attacks q Aum’s efforts –  Cult leader Shoko Asahara was obsessed with nuclear weapons –  Repeated shopping trips to former Soviet Union – acquired wide range of conventional weapons, recruited thousands of followers, sought to buy nuclear weapons and materials –  Purchased farm in Australia, stole enrichment documents – idea to mine, enrich its own uranium –  Turned to chemical and biological weapons when nuclear proved too slow –  No intelligence agency was aware of their nuclear, biological, or chemical work until after nerve gas attacks Has the threat disappeared? q  Bin Laden dead, core al Qaeda profoundly disrupted, key North Caucasus terrorist leaders killed q Nuclear security is substantially improved at many sites – many sites have no weapons-usable material left q  But: —  al Qaeda has proved resilient – could resurge —  “Emirate Kavkaz” terrorists in North Caucasus strengthening –  Other groups have pursued nuclear weapons as well – with 2-3 groups having gone the nuclear path in last 15 years, cannot expect they will be the last –  Intent is enduring; capability may increase as technology spreads; strong nuclear security needed to remove opportunity –  The problem of nuclear terrorism and the need for nuclear security will be with us for decades – no room for complacency The scale of the catastrophe q  Tens of thousands killed; tens of thousands more burned, injured, irradiated –  Radioactive fallout would require large-scale evacuation q  Terrorists may claim they had more bombs hidden in cities, threaten to detonate them unless their demands were met –  Potential for widespread panic, flight from major cities, resulting economic and social chaos q Huge pressure on leaders of attacked state to take any action necessary to prevent further attacks – and to retaliate –  Effects on international affairs likely far larger than 9/11 Notions of sovereignty and civil liberties may be radically altered – every state’s behavior affects every other Nuclear terrorism anywhere would be a global catastrophe q Not just a risk to the United States q  Economic, political, military consequences would reverberate worldwide –  Likely shut-down of much of world trade, for a period “Were such an attack to occur, it would not only cause widespread death and destruction, but would stagger the world economy and thrust tens of millions of people into dire poverty…. [A]ny nuclear terrorist attack would have a second death toll throughout the developing world.” – Kofi Annan, “A Global Strategy for Fighting Terrorism,” March 10, 2005 q  Political consequences would doom prospects for large-scale nuclear growth, putting nuclear industry at risk Insecure nuclear material anywhere is a threat to everyone, everywhere.

#### Nuclear terrorism is feasible---high risk of theft and attacks escalate

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Hundreds of scientific papers and reports have been published on nuclear terrorism. International conferences have been held on this threat with participation of Russian organizations, including IMEMO and the Institute of U.S. and Canadian Studies. Recommendations on how to combat the threat have been issued by the International Luxembourg Forum on Preventing Nuclear Catastrophe, Pugwash Conferences on Science and World Affairs, Russian-American Elbe Group, and other organizations. The UN General Assembly adopted the International Convention for the Suppression of Acts of Nuclear Terrorism in 2005 and cooperation among intelligence services of leading states in this sphere is developing.¶ At the same time, these efforts fall short for a number of reasons, partly because various acts of nuclear terrorism are possible. Dispersal of radioactive material by detonation of conventional explosives (“dirty bombs”) is a method that is most accessible for terrorists. With the wide spread of radioactive sources, raw materials for such attacks have become much more accessible than weapons-useable nuclear material or nuclear weapons. The use of “dirty bombs” will not cause many immediate casualties, but it will result into long-term radioactive contamination, contributing to the spread of panic and socio-economic destabilization.¶ Severe **consequences can be caused by sabotaging nuclear power plants, research reactors, and radioactive materials storage facilities. Large cities are especially vulnerable to such attacks. A large city may host dozens of research reactors with a nuclear power plant or a couple of spent nuclear fuel storage facilities and dozens of large radioactive materials storage facilities located nearby.** The past few years have seen significant efforts made to enhance organizational and physical aspects of security at facilities, especially at nuclear power plants. Efforts have also been made to improve security culture. But these efforts do not preclude the possibility that well-trained terrorists may be able to penetrate nuclear facilities.¶ Some estimates show that sabotage of a research reactor in a metropolis may expose hundreds of thousands to high doses of radiation. A formidable part of the city would become uninhabitable for a long time.¶ Of all the scenarios, it is building an improvised nuclear device by terrorists that poses the maximum risk. **There are no engineering problems that cannot be solved if terrorists decide to build a simple “gun-type” nuclear device.** Information on the design of such devices, as well as implosion-type devices, is available in the public domain. It is the acquisition of weapons-grade uranium that presents the sole serious obstacle. Despite numerous preventive measures taken, we cannot rule out the possibility that such materials can be bought on the black market. Theft of weapons-grade uranium is also possible. Research reactor fuel is considered to be particularly vulnerable to theft, as it is scattered at sites in dozens of countries. There are about 100 research reactors in the world that run on weapons-grade uranium fuel, according to the International Atomic Energy Agency (IAEA).¶ A terrorist “gun-type” uranium bomb can have a yield of least 10-15 kt, which is comparable to the yield of the bomb dropped on Hiroshima. The explosion of such a bomb in a modern metropolis can kill and wound hundreds of thousands and cause serious economic damage. There will also be long-term sociopsychological and political consequences.¶ The vast majority of states have introduced unprecedented security and surveillance measures at transportation and other large-scale public facilities after the terrorist attacks in the United States, Great Britain, Italy, and other countries. These measures have proved burdensome for the countries’ populations, but the public has accepted them as necessary. A nuclear terrorist attack will make the public accept further measures meant to enhance control even if these measures significantly restrict the democratic liberties they are accustomed to. Authoritarian states could be expected to adopt even more restrictive measures.¶ If a nuclear terrorist act occurs, nations will delegate tens of thousands of their secret services’ best personnel to investigate and attribute the attack. Radical Islamist groups are among those capable of such an act. We can imagine what would happen if they do so, given the anti-Muslim sentiments and resentment that conventional terrorist attacks by Islamists have generated in developed democratic countries. Mass deportation of the non-indigenous population and severe sanctions would follow such an attack in what will cause **violent protests in the Muslim world**. Series of armed clashing terrorist attacks may follow. The prediction that Samuel Huntington has made in his book “The Clash of Civilizations and the Remaking of World Order” may come true. Huntington’s book clearly demonstrates that it is not Islamic extremists that are the cause of the Western world’s problems. Rather there is a deep, intractable conflict that is rooted in the fault lines that run between Islam and Christianity. This is especially dangerous for Russia because these fault lines run across its territory. To sum it up, the political leadership of Russia has every reason to revise its list of factors that could undermine strategic stability.  BMD does not deserve to be even last on that list because its effectiveness in repelling massive missile strikes will be extremely low. BMD systems can prove useful only if deployed to defend against launches of individual ballistic missiles or groups of such missiles. Prioritization of other destabilizing factors—that could affect global and regional stability—merits a separate study or studies. But even without them I can conclude that nuclear terrorism should be placed on top of the list. The threat of nuclear terrorism is real, and a successful nuclear terrorist attack would lead to a radical transformation of the global order.  All of the threats on the revised list must become a subject of thorough studies by experts. States need to work hard to forge a common understanding of these threats and develop a strategy to combat them.

#### Causes massive death

Martin E. Hellman 8, emeritus prof of engineering @ Stanford, “Risk Analysis of Nuclear Deterrence” SPRING 2008 THE BENT OF TAU BETA PI, <http://www.nuclearrisk.org/paper.pdf>

The threat of nuclear terrorism looms much larger in the public’s mind than the threat of a full-scale nuclear war, yet this article focuses primarily on the latter. An explanation is therefore in order before proceeding. A terrorist attack involving a nuclear weapon would be a catastrophe of immense proportions: “A 10-kiloton bomb detonated at Grand Central Station on a typical work day would likely kill some half a million people, and inflict over a trillion dollars in direct economic damage. America and its way of life would be changed forever.” [Bunn 2003, pages viii-ix]. The likelihood of such an attack is also significant. Former Secretary of Defense William Perry has estimated the chance of a nuclear terrorist incident within the next decade to be roughly 50 percent [Bunn 2007, page 15]. David Albright, a former weapons inspector in Iraq, estimates those odds at less than one percent, but notes, “We would never accept a situation where the chance of a major nuclear accident like Chernobyl would be anywhere near 1% .... A nuclear terrorism attack is a low-probability event, but we can’t live in a world where it’s anything but extremely low-probability.” [Hegland 2005]. In a survey of 85 national security experts, Senator Richard Lugar found a median estimate of 20 percent for the “probability of an attack involving a nuclear explosion occurring somewhere in the world in the next 10 years,” with 79 percent of the respondents believing “it more likely to be carried out by terrorists” than by a government [Lugar 2005, pp. 14-15]. I support increased efforts to reduce the threat of nuclear terrorism, but that is not inconsistent with the approach of this article. Because terrorism is one of the potential trigger mechanisms for a full-scale nuclear war, the risk analyses proposed herein will include estimating the risk of nuclear terrorism as one component of the overall risk. If that risk, the overall risk, or both are found to be unacceptable, then the proposed remedies would be directed to reduce which- ever risk(s) warrant attention. Similar remarks apply to a number of other threats (e.g., nuclear war between the U.S. and China over Taiwan). his article would be incomplete if it only dealt with the threat of nuclear terrorism and neglected the threat of full- scale nuclear war. If both risks are unacceptable, an effort to reduce only the terrorist component would leave humanity in great peril. In fact, society’s almost total neglect of the threat of full-scale nuclear war makes studying that risk all the more important. The cosT of World War iii The danger associated with nuclear deterrence depends on both the cost of a failure and the failure rate.3 This section explores the cost of a failure of nuclear deterrence, and the next section is concerned with the failure rate. While other definitions are possible, this article defines a failure of deterrence to mean a full-scale exchange of all nuclear weapons available to the U.S. and Russia, an event that will be termed World War III. Approximately 20 million people died as a result of the first World War. World War II’s fatalities were double or triple that number—chaos prevented a more precise deter- mination. In both cases humanity recovered, and the world today bears few scars that attest to the horror of those two wars. Many people therefore implicitly believe that a third World War would be horrible but survivable, an extrapola- tion of the effects of the first two global wars. In that view, World War III, while horrible, is something that humanity may just have to face and from which it will then have to recover. In contrast, some of those most qualified to assess the situation hold a very different view. In a 1961 speech to a joint session of the Philippine Con- gress, General Douglas MacArthur, stated, “Global war has become a Frankenstein to destroy both sides. … If you lose, you are annihilated. If you win, you stand only to lose. No longer does it possess even the chance of the winner of a duel. It contains now only the germs of double suicide.” Former Secretary of Defense Robert McNamara ex- pressed a similar view: “If deterrence fails and conflict develops, the present U.S. and NATO strategy carries with it a high risk that Western civilization will be destroyed” [McNamara 1986, page 6]. More recently, George Shultz, William Perry, Henry Kissinger, and Sam Nunn4 echoed those concerns when they quoted President Reagan’s belief that nuclear weapons were “totally irrational, totally inhu- mane, good for nothing but killing, possibly destructive of life on earth and civilization.” [Shultz 2007] Official studies, while couched in less emotional terms, still convey the horrendous toll that World War III would exact: “The resulting deaths would be far beyond any precedent. Executive branch calculations show a range of U.S. deaths from 35 to 77 percent (i.e., 79-160 million dead) … a change in targeting could kill somewhere between 20 million and 30 million additional people on each side .... These calculations reflect only deaths during the first 30 days. Additional millions would be injured, and many would eventually die from lack of adequate medical care … millions of people might starve or freeze during the follow- ing winter, but it is not possible to estimate how many. … further millions … might eventually die of latent radiation effects.” [OTA 1979, page 8] This OTA report also noted the possibility of serious ecological damage [OTA 1979, page 9], a concern that as- sumed a new potentiality when the TTAPS report [TTAPS 1983] proposed that the ash and dust from so many nearly simultaneous nuclear explosions and their resultant fire- storms could usher in a nuclear winter that might erase homo sapiens from the face of the earth, much as many scientists now believe the K-T Extinction that wiped out the dinosaurs resulted from an impact winter caused by ash and dust from a large asteroid or comet striking Earth. The TTAPS report produced a heated debate, and there is still no scientific consensus on whether a nuclear winter would follow a full-scale nuclear war. Recent work [Robock 2007, Toon 2007] suggests that even a limited nuclear exchange or one between newer nuclear-weapon states, such as India and Pakistan, could have devastating long-lasting climatic consequences due to the large volumes of smoke that would be generated by fires in modern megacities. While it is uncertain how destructive World War III would be, prudence dictates that we apply the same engi- neering conservatism that saved the Golden Gate Bridge from collapsing on its 50th anniversary and assume that preventing World War III is a necessity—not an option.

#### Critical terror studies are wrong --- our authors have an accurate method

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The journal, in other words, is not intended, as one might assume, to evaluate critically those state or non-state actors that might have recourse to terrorism as a strategy. Instead, the journal's ambition is to deconstruct what it views as the ambiguity of the word “terror,” its manipulation by ostensibly liberal democratic state actors, and the complicity of “orthodox” terrorism studies in this authoritarian enterprise. Exposing the deficiencies in any field of study is, of course, a legitimate scholarly exercise, but what the symposium introducing the new volume announces questions both the research agenda and academic integrity of journals like *Studies in Conflict and Terrorism* and those who contribute to them. Do these claims, one might wonder, have any substance?¶ Significantly, the original proposal circulated by the publisher Routledge and one of the editors, Richard Jackson, suggested some uncertainty concerning the preferred title of the journal. *Critical Studies on Terrorism* appeared last on a list where the first choice was *Review of Terror Studies*. Evidently, the concision of a review fails to capture the critical perspective the journal promotes. Criticism, then, is central to the new journal's philosophy and the adjective connotes a distinct ideological and, as shall be seen, far from pluralist and inclusive purpose. So, one might ask, what exactly does a critical approach to terrorism involve?¶ What it Means to be Critical¶ The editors and contributors explore what it means to be “critical” in detail, repetition, and opacity, along with an excessive fondness for italics, in the editorial symposium that introduces the first issue, and in a number of subsequent articles. The editors inform us that the study of terrorism is “a growth industry,” observing with a mixture of envy and disapproval that “literally thousands of new books and articles on terrorism are published every year” (pp. l-2). In adding to this literature the editors premise the need for yet another journal on their resistance to what currently constitutes scholarship in the field of terrorism study and its allegedly uncritical acceptance of the Western democratic state's security perspective.¶ Indeed, to be critical requires a radical reversal of what the journal assumes to be the typical perception of terrorism and the methodology of terrorism research. To focus on the strategies practiced by non-state actors that feature under the conventional denotation “terror” is, for the critical theorist, misplaced. As the symposium explains, “acts of clandestine non-state terrorism are committed by a tiny number of individuals and result in between a few hundred and a few thousand casualties *per year over the entire world*” (original italics) (p. 1). The United States's and its allies' preoccupation with terrorism is, therefore, out of proportion to its effects.1 At the same time, the more pervasive and repressive terror practiced by the state has been “silenced from public and … academic discourse” (p. 1).¶ The complicity of terrorism studies with the increasingly authoritarian demands of Western, liberal state and media practice, together with the moral and political blindness of established terrorism analysts to this relationship forms the journal's overriding assumption and one that its core contributors repeat ad nauseam. Thus, Michael Stohl, in his contribution “Old Myths, New Fantasies and the Enduring Realities of Terrorism” (pp. 5-16), not only discovers ten “myths” informing the understanding of terrorism, but also finds that these myths reflect a “state centric security focus,” where analysts rarely consider “the violence perpetrated by the state” (p. 5). He complains that the press have become too close to government over the matter. Somewhat contradictorily Stohl subsequently asserts that media reporting is “central to terrorism and counter-terrorism as political action,” that media reportage provides the oxygen of terrorism, and that politicians consider journalists to be “the terrorist's best friend” (p. 7).¶ Stohl further compounds this incoherence, claiming that “the media are far more likely to focus on the destructive actions, rather than on … grievances or the social conditions that breed [terrorism]—to present episodic rather than thematic stories” (p. 7). He argues that terror attacks between 1968 and 1980 were scarcely reported in the United States, and that reporters do not delve deeply into the sources of conflict (p. 8). All of this is quite contentious, with no direct evidence produced to support such statements. The “media” is after all a very broad term, and to assume that it is monolithic is to replace criticism with conspiracy theory. Moreover, even if it were true that the media always serves as a government propaganda agency, then by Stohl's own logic, terrorism as a method of political communication is clearly futile as no rational actor would engage in a campaign doomed to be endlessly misreported.¶ Nevertheless, the notion that an inherent pro-state bias vitiates terrorism studies pervades the critical position. Anthony Burke, in “The End of Terrorism Studies” (pp. 37-49), asserts that established analysts like Bruce Hoffman “specifically exclude states as possible perpetrators” of terror. Consequently, the emergence of “critical terrorism studies” “may signal the end of a particular kind of traditionally state-focused and directed 'problem-solving' terrorism studies—at least in terms of its ability to assume that its categories and commitments are immune from challenge and correspond to a stable picture of reality” (p. 42).¶ Elsewhere, Adrian Guelke, in “Great Whites, Paedophiles and Terrorists: The Need for Critical Thinking in a New Era of Terror” (pp. 17-25), considers British government-induced media “scare-mongering” to have legitimated an “authoritarian approach” to the purported new era of terror (pp. 22-23). Meanwhile, Joseba Zulaika and William A. Douglass, in “The Terrorist Subject: Terrorist Studies and the Absent Subjectivity” (pp. 27-36), find the War on Terror constitutes “*the* single,” all embracing paradigm of analysis where the critical voice is “not allowed to ask: what is the reality itself?” (original italics) (pp. 28-29). The construction of this condition, they further reveal, if somewhat abstrusely, reflects an abstract “desire” that demands terror as “an ever-present threat” (p. 31). In order to sustain this fabrication: “Terrorism experts and commentators” function as “realist policemen”; and not very smart ones at that, who while “gazing at the evidence” are “unable to read the paradoxical logic of the desire that fuels it, whereby *lack* turns to*excess*” (original italics) (p. 32). Finally, Ken Booth, in “The Human Faces of Terror: Reflections in a Cracked Looking Glass” (pp. 65-79), reiterates Richard Jackson's contention that state terrorism “is a much more serious problem than non-state terrorism” (p. 76).¶ Yet, one searches in vain in these articles for evidence to support the ubiquitous assertion of state bias: assuming this bias in conventional terrorism analysis as a fact seemingly does not require a corresponding concern with evidence of this fact, merely its continual reiteration by conceptual fiat. A critical perspective dispenses not only with terrorism studies but also with the norms of accepted scholarship. Asserting what needs to be demonstrated commits, of course, the elementary logical fallacy *petitio principii*. But critical theory apparently emancipates (to use its favorite verb) its practitioners from the confines of logic, reason, and the usual standards of academic inquiry.¶ Alleging a constitutive weakness in established scholarship without the necessity of providing proof to support it, therefore, appears to define the critical posture. The unproved “state centricity” of terrorism studies serves as a platform for further unsubstantiated accusations about the state of the discipline. Jackson and his fellow editors, along with later claims by Zulaika and Douglass, and Booth, again assert that “orthodox” analysts rarely bother “to interview or engage with those involved in 'terrorist' activity” (p. 2) or spend any time “on the ground in the areas most affected by conflict” (p. 74). Given that Booth and Jackson spend most of their time on the ground in Aberystwyth, Ceredigion, not a notably terror rich environment if we discount the operations of *Meibion Glyndwr* who would as a matter of principle avoid *pob sais* like Jackson and Booth, this seems a bit like the pot calling the kettle black. It also overlooks the fact that *Studies in Conflict and Terrorism* first advertised the problem of “talking to terrorists” in 2001 and has gone to great lengths to rectify this lacuna, if it is one, regularly publishing articles by analysts with first-hand experience of groups like the Taliban, Al Qaeda and *Jemaah Islamiyah*.¶ A consequence of avoiding primary research, it is further alleged, leads conventional analysts uncritically to apply psychological and problem-solving approaches to their object of study. This propensity, Booth maintains, occasions another unrecognized weakness in traditional terrorism research, namely, an inability to engage with “the particular dynamics of the political world” (p. 70). Analogously, Stohl claims that “the US and English [sic] media” exhibit a tendency to psychologize terrorist acts, which reduces “structural and political problems” into issues of individual pathology (p. 7). Preoccupied with this problem-solving, psychopathologizing methodology, terrorism analysts have lost the capacity to reflect on both their practice and their research ethics.¶ By contrast, the critical approach is not only self-reflective, but also and, for good measure, self-reflexive. In fact, the editors and a number of the journal's contributors use these terms interchangeably, treating a reflection and a reflex as synonyms (p. 2). A cursory encounter with the *Shorter Oxford Dictionary* would reveal that they are not. Despite this linguistically challenged misidentification, “reflexivity” is made to do a lot of work in the critical idiom. Reflexivity, the editors inform us, requires a capacity “to challenge dominant knowledge and understandings, is sensitive to the politics of labelling … is transparent about its own values and political standpoints, adheres to a set of responsible research ethics, and is committed to a broadly defined notion of emancipation” (p. 2). This covers a range of not very obviously related but critically approved virtues. Let us examine what reflexivity involves as Stohl, Guelke, Zulaika and Douglass, Burke, and Booth explore, somewhat repetitively, its implications.¶ Reflexive or Defective? ¶ Firstly, to challenge dominant knowledge and understanding and retain sensitivity to labels leads inevitably to a fixation with language, discourse, the ambiguity of the noun, terror, and its political use and abuse. Terrorism, Booth enlightens the reader unremarkably, is “a politically loaded term” (p. 72). Meanwhile, Zulaika and Douglass consider terror “the dominant tropic [sic] space in contemporary political and journalistic discourse” (p. 30). Faced with the “serious challenge” (Booth p. 72) and pejorative connotation that the noun conveys, critical terrorologists turn to deconstruction and bring the full force of postmodern obscurantism to bear on its use. Thus the editors proclaim that terrorism is “one of the most powerful signifiers in contemporary discourse.” There is, moreover, a “yawning gap between the 'terrorism' signifier and the actual acts signified” (p. 1). “[V]irtually all of this activity,” the editors pronounce *ex cathedra*, “refers to the *response* to acts of political violence not the violence itself” (original italics) (p. 1). Here again they offer no evidence for this curious assertion and assume, it would seem, all conventional terrorism studies address issues of homeland security.¶ In keeping with this critical orthodoxy that he has done much to define, Anthony Burke also asserts the “instability (and thoroughly politicized nature) of the unifying master-terms of our field: 'terror' and 'terrorism'” (p. 38). To address this he contends that a critical stance requires us to “keep this radical instability and inherent politicization of the concept of terrorism at the forefront of its analysis.” Indeed, “without a conscious reflexivity about the most basic definition of the object, our discourse will not be critical at all” (p. 38). More particularly, drawing on a jargon-infused amalgam of Michel Foucault's identification of a relationship between power and knowledge, the neo-Marxist Frankfurt School's critique of democratic false consciousness, mixed with the existentialism of the Third Reich's favorite philosopher, Martin Heidegger, Burke “*questions the question*.” This intellectual *potpourri* apparently enables the critical theorist to “question the ontological status of a 'problem' before any attempt to map out, study or resolve it” (p. 38).¶ Interestingly, Burke, Booth, and the symposistahood deny that there might be objective data about violence or that a properly focused strategic study of terrorism would not include any prescriptive goodness or rightness of action. While a strategic theorist or a skeptical social scientist might claim to consider only the complex relational situation that involves as well as the actions, the attitude of human beings to them, the critical theorist's radical questioning of language denies this possibility.¶ The critical approach to language and its deconstruction of an otherwise useful, if imperfect, political vocabulary has been the source of much confusion and inconsequentiality in the practice of the social sciences. It dates from the relativist pall that French radical post structural philosophers like Gilles Deleuze and Felix Guattari, Foucault, and Jacques Derrida, cast over the social and historical sciences in order to demonstrate that social and political knowledge depended on and underpinned power relations that permeated the landscape of the social and reinforced the liberal democratic state. This radical assault on the possibility of either neutral fact or value ultimately functions unfalsifiably, and as a substitute for philosophy, social science, and a real theory of language.¶ The problem with the critical approach is that, as the Australian philosopher John Anderson demonstrated, to achieve a genuine study one must either investigate the facts that are talked about or the fact that they are talked about in a certain way. More precisely, as J.L. Mackie explains, “if we concentrate on the uses of language we fall between these two stools, and we are in danger of taking our discoveries about manners of speaking as answers to questions about what is there.”2 Indeed, in so far as an account of the use of language spills over into ontology it is liable to be a confused mixture of what should be two distinct investigations: the study of the facts about which the language is used, and the study of the linguistic phenomena themselves.¶ It is precisely, however, this confused mixture of fact and discourse that critical thinking seeks to impose on the study of terrorism and infuses the practice of critical theory more generally. From this confused seed no coherent method grows.¶ What is To Be Done?¶ This ontological confusion notwithstanding, Ken Booth sees critical theory not only exposing the dubious links between power and knowledge in established terrorism studies, but also offering an ideological agenda that transforms the face of global politics. “[*C*]*ritical knowledge*,” Booth declares, “*involves understandings of the social world that attempt to stand outside prevailing structures, processes, ideologies and orthodoxies while recognizing that all conceptualizations within the ambit of sociality derive from particular social/historical conditions*” (original italics) (p. 78). Helpfully, Booth, assuming the manner of an Old Testament prophet, provides his critical disciples with “*big-picture* navigation aids” (original italics) (p. 66) to achieve this higher knowledge. Booth promulgates fifteen commandments (as Clemenceau remarked of Woodrow Wilson's nineteen points, in a somewhat different context, “God Almighty only gave us ten”). When not stating the staggeringly obvious, the Ken Commandments are hopelessly contradictory. Critical theorists thus should “avoid exceptionalizing the study of terrorism,”3 “recognize that states can be agents of terrorism,” and “keep the long term in sight.” Unexceptional advice to be sure and long recognized by more traditional students of terrorism. The critical student, if not fully conversant with critical doublethink, however, might find the fact that she or he lives within “Powerful theories” that are “constitutive of political, social, and economic life” (6th Commandment, p. 71), sits uneasily with Booth's concluding injunction to “stand outside” prevailing ideologies (p. 78).¶ In his preferred imperative idiom, Booth further contends that terrorism is best studied in the context of an “academic international relations” whose role “is not only to interpret the world but to change it” (pp. 67-68). Significantly, academic—or more precisely, critical—international relations, holds no place for a realist appreciation of the status quo but approves instead a Marxist ideology of praxis. It is within this transformative praxis that critical theory situates terrorism and terrorists.¶ The political goals of those non-state entities that choose to practice the tactics of terrorism invariably seek a similar transformative praxis and this leads “critical global theorizing” into a curiously confused empathy with the motives of those engaged in such acts, as well as a disturbing relativism. Thus, Booth again decrees that the gap between “those who hate terrorism and those who carry it out, those who seek to delegitimize the acts of terrorists and those who incite them, and those who abjure terror and those who glorify it—is not as great as is implied or asserted by orthodox terrorism experts, the discourse of governments, or the popular press” (p. 66). The gap “between us/them is a slippery slope, not an unbridgeable political and ethical chasm” (p. 66). So, while “terrorist actions are always—without exception—wrong, they nevertheless might be contingently excusable” (p. 66). From this ultimately relativist perspective gang raping a defenseless woman, an act of terror on any critical or uncritical scale of evaluation, is, it would seem, wrong but potentially excusable.¶ On the basis of this worrying relativism a further Ken Commandment requires the abolition of the discourse of evil on the somewhat questionable grounds that evil releases agents from responsibility (pp. 74-75). This not only reveals a profound ignorance of theology, it also underestimates what Eric Voeglin identified as a central feature of the appeal of modern political religions from the Third Reich to Al Qaeda. As Voeglin observed in 1938, the Nazis represented an “attractive force.” To understand that force requires not the abolition of evil [so necessary to the relativist] but comprehending its attractiveness. Significantly, as Barry Cooper argues, “its attractiveness, [like that of al Qaeda] cannot fully be understood apart from its evilness.”4¶ The line of relativist inquiry that critical theorists like Booth evince toward terrorism leads in fact not to moral clarity but an inspissated moral confusion. This is paradoxical given that the editors make much in the journal's introductory symposium of their “responsible research ethics.” The paradox is resolved when one realizes that critical moralizing demands the “ethics of responsibility to the terrorist other.” For Ken Booth it involves, it appears, empathizing “with the ethic of responsibility” faced by those who, “in extremis” “have some explosives” (p. 76). Anthony Burke contends that a critically self-conscious normativism requires the analyst, not only to “critique” the “strategic languages” of the West, but also to “take in” the “side of the Other” or more particularly “engage” “with the highly developed forms of thinking” that provides groups like Al Qaeda “with legitimizing foundations and a world view of some profundity” (p. 44). This additionally demands a capacity not only to empathize with the “other,” but also to recognize that both Osama bin Laden in his *Messages to the West* and Sayyid Qutb in his Muslim Brotherhood manifesto *Milestones* not only offer “well observed” criticisms of Western decadence, but also “converges with elements of critical theory” (p. 45). This is not surprising given that both Islamist and critical theorists share an analogous contempt for Western democracy, the market, and the international order these structures inhabit and have done much to shape.¶ Histrionically Speaking¶ Critical theory, then, embraces relativism not only toward language but also toward social action. Relativism and the bizarre ethicism it engenders in its attempt to empathize with the terrorist other are, moreover, histrionic. As Leo Strauss classically inquired of this relativist tendency in the social sciences, “is such an understanding dependent upon our own commitment or independent of it?” Strauss explains, if it is independent, I am committed as an actor and I am uncommitted in another compartment of myself in my capacity as a social scientist. “In that latter capacity I am completely empty and therefore completely open to the perception and appreciation of all commitments or value systems.” I go through the process of empathetic understanding in order to reach clarity about my commitment for only a part of me is engaged in my empathetic understanding. This means, however, that “such understanding is not serious or genuine but histrionic.”5 It is also profoundly dependent on Western liberalism. For it is only in an open society that questions the values it promotes that the issue of empathy with the non-Western other could arise. The critical theorist's explicit loathing of the openness that affords her histrionic posturing obscures this constituting fact.¶ On the basis of this histrionic empathy with the “other,” critical theory concludes that democratic states “do not always abjure acts of terror whether to advance their foreign policy objectives … or to buttress order at home” (p. 73). Consequently, Ken Booth asserts: “If terror can be part of the menu of choice for the relatively strong, it is hardly surprising it becomes a weapon of the relatively weak” (p. 73). Zulaika and Douglass similarly assert that terrorism is “always” a weapon of the weak (p. 33).¶ At the core of this critical, ethicist, relativism therefore lies a syllogism that holds all violence is terror: Western states use violence, therefore, Western states are terrorist. Further, the greater terrorist uses the greater violence: Western governments exercise the greater violence. Therefore, it is the liberal democracies rather than Al Qaeda that are the greater terrorists.¶ In its desire to empathize with the transformative ends, if not the means of terrorism generally and Islamist terror in particular, critical theory reveals itself as a form of Marxist unmasking. Thus, for Booth “*terror has multiple forms*” (original italics) and the real terror is economic, the product it would seem of “global capitalism” (p. 75). Only the *engagee* intellectual academic finding in deconstructive criticism the philosophical weapons that reveal the illiberal neo-conservative purpose informing the conventional study of terrorism and the democratic state's prosecution of counterterrorism can identify the real terror lurking behind the “manipulation of the politics of fear” (p. 75).¶ Moreover, the resolution of this condition of escalating violence requires not any strategic solution that creates security as the basis for development whether in London or Kabul. Instead, Booth, Burke, and the editors contend that the only solution to “the world-historical crisis that is facing human society globally” (p. 76) is universal human “emancipation.” This, according to Burke, is “the normative end” that critical theory pursues. Following Jurgen Habermas, the godfather of critical theory, terrorism is really a form of distorted communication. The solution to this problem of failed communication resides not only in the improvement of living conditions, and “the political taming of unbounded capitalism,” but also in “the telos of mutual understanding.” Only through this telos with its “strong normative bias towards non violence” (p. 43) can a universal condition of peace and justice transform the globe. In other words, the only ethical solution to terrorism is conversation: sitting around an un-coerced table presided over by Kofi Annan, along with Ken Booth, Osama bin Laden, President Obama, and some European Union pacifist sandalista, a transcendental communicative reason will emerge to promulgate norms of transformative justice. As Burke enunciates, the panacea of un-coerced communication would establish “a secularism that might create an enduring architecture of basic shared values” (p. 46).¶ In the end, un-coerced norm projection is not concerned with the world as it is, but how it ought to be. This not only compounds the logical errors that permeate critical theory, it advances an ultimately utopian agenda under the guise of *soi-disant* cosmopolitanism where one somewhat vaguely recognizes the “human interconnection and mutual vulnerability to nature, the cosmos and each other” (p. 47) and no doubt bursts into spontaneous chanting of Kumbaya.¶ In analogous visionary terms, Booth defines real security as emancipation in a way that denies any definitional rigor to either term. The struggle against terrorism is, then, a struggle for emancipation from the oppression of political violence everywhere. Consequently, in this Manichean struggle for global emancipation against the real terror of Western democracy, Booth further maintains that universities have a crucial role to play. This also is something of a concern for those who do not share the critical vision, as university international relations departments are not now, it would seem, in business to pursue dispassionate analysis but instead are to serve as cheerleaders for this critically inspired vision.¶ Overall, the journal's fallacious commitment to emancipation undermines any ostensible claim to pluralism and diversity. Over determined by this transformative approach to world politics, it necessarily denies the possibility of a realist or prudential appreciation of politics and the promotion not of universal solutions but pragmatic ones that accept the best that may be achieved in the circumstances. Ultimately, to present the world how it ought to be rather than as it is conceals a deep intolerance notable in the contempt with which many of the contributors to the journal appear to hold Western politicians and the Western media.6¶ It is the exploitation of this oughtistic style of thinking that leads the critic into a Humpty Dumpty world where words mean exactly what the critical theorist “chooses them to mean—neither more nor less.” However, in order to justify their disciplinary niche they have to insist on the failure of established modes of terrorism study. Having identified a source of government grants and academic perquisites, critical studies in fact does not deal with the notion of terrorism as such, but instead the manner in which the Western liberal democratic state has supposedly manipulated the use of violence by non-state actors in order to “other” minority communities and create a politics of fear.¶ Critical Studies and Strategic Theory—A Missed Opportunity¶ Of course, the doubtful contribution of critical theory by no means implies that all is well with what one might call conventional terrorism studies. The subject area has in the past produced superficial assessments that have done little to contribute to an informed understanding of conflict. This is a point readily conceded by John Horgan and Michael Boyle who put “A Case Against 'Critical Terrorism Studies'” (pp. 51-74). Although they do not seek to challenge the agenda, assumptions, and contradictions inherent in the critical approach, their contribution to the new journal distinguishes itself by actually having a well-organized and well-supported argument. The authors' willingness to acknowledge deficiencies in some terrorism research shows that critical self-reflection is already present in existing terrorism studies. It is ironic, in fact, that the most clearly reflective, original, and *critical* contribution in the first edition should come from established terrorism researchers who critique the critical position.¶ Interestingly, the specter haunting both conventional and critical terrorism studies is that both assume that terrorism is an existential phenomenon, and thus has causes and solutions. Burke makes this explicit: “The inauguration of this journal,” he declares, “indeed suggests broad agreement that there is a phenomenon called terrorism” (p. 39). Yet this is not the only way of looking at terrorism. For a strategic theorist the notion of terrorism does not exist as an independent phenomenon. It is an abstract noun. More precisely, it is merely a tactic—the creation of fear for political ends—that can be employed by any social actor, be it state or non-state, in any context, without any necessary moral value being involved.¶ Ironically, then, strategic theory offers a far more “critical perspective on terrorism” than do the perspectives advanced in this journal. Guelke, for example, propounds a curiously orthodox standpoint when he asserts: “to describe an act as one of terrorism, without the qualification of quotation marks to indicate the author's distance from such a judgement, is to condemn it as absolutely illegitimate” (p. 19). If you are a strategic theorist this is an invalid claim. Terrorism is simply a method to achieve an end. Any moral judgment on the act is entirely separate. To fuse the two is a category mistake. In strategic theory, which Guelke ignores, terrorism does not, ipso facto, denote “absolutely illegitimate violence.”¶ Intriguingly, Stohl, Booth, and Burke also imply that a strategic understanding forms part of their critical viewpoint. Booth, for instance, argues in one of his commandments that terrorism should be seen as a conscious human choice. Few strategic theorists would disagree. Similarly, Burke feels that there does “appear to be a consensus” that terrorism is a “form of instrumental political violence” (p. 38). The problem for the contributors to this volume is that they cannot emancipate themselves from the very orthodox assumption that the word terrorism is pejorative. That may be the popular understanding of the term, but inherently terrorism conveys no necessary connotation of moral condemnation. “Is terrorism a form of warfare, insurgency, struggle, resistance, coercion, atrocity, or great political crime,” Burke asks rhetorically. But once more he misses the point. All violence is instrumental. Grading it according to whether it is insurgency, resistance, or atrocity is irrelevant. Any strategic actor may practice forms of warfare. For this reason Burke's further claim that existing definitions of terrorism have “specifically excluded states as possible perpetrators and privilege them as targets,” is wholly inaccurate (p. 38). Strategic theory has never excluded state-directed terrorism as an object of study, and neither for that matter, as Horgan and Boyle point out, have more conventional studies of terrorism.¶ Yet, Burke offers—as a critical revelation—that “the strategic intent behind the US bombing of North Vietnam and Cambodia, Israel's bombing of Lebanon, or the sanctions against Iraq is also terrorist.” He continues: “My point is not to remind us that states practise terror, but to show how mainstream *strategic doctrines* are terrorist in these terms and undermine any prospect of achieving the normative consensus if such terrorism is to be reduced and eventually eliminated” (original italics) (p. 41). This is not merely confused, it displays remarkable nescience on the part of one engaged in teaching the next generation of graduates from the Australian Defence Force Academy. Strategic theory conventionally recognizes that actions on the part of state or non-state actors that aim to create fear (such as the allied aerial bombing of Germany in World War II or the nuclear deterrent posture of Mutually Assured Destruction) can be terroristic in nature.7 The problem for critical analysts like Burke is that they impute their own moral valuations to the term terror. Strategic theorists do not. Moreover, the statement that this undermines any prospect that terrorism can be eliminated is illogical: you can never eliminate an abstract noun.¶ Consequently, those interested in a truly “critical” approach to the subject should perhaps turn to strategic theory for some relief from the strictures that have traditionally governed the study of terrorism, not to self-proclaimed critical theorists who only replicate the flawed understandings of those whom they criticize. Horgan and Boyle conclude their thoughtful article by claiming that critical terrorism studies has more in common with traditional terrorism research than critical theorists would possibly like to admit. These reviewers agree: they are two sides of the same coin.¶ Conclusion¶ In the looking glass world of critical terror studies the conventional analysis of terrorism is ontologically challenged, lacks self-reflexivity, and is policy oriented. By contrast, critical theory's ethicist, yet relativist, and deconstructive gaze reveals that we are all terrorists now and must empathize with those sub-state actors who have recourse to violence for whatever motive. Despite their intolerable othering by media and governments, terrorists are really no different from us. In fact, there is terror as the weapon of the weak and the far worse economic and coercive terror of the liberal state. Terrorists therefore deserve empathy and they must be discursively engaged.¶ At the core of this understanding sits a radical pacifism and an idealism that requires not the status quo but communication and “human emancipation.” Until this radical post-national utopia arrives both force and the discourse of evil must be abandoned and instead therapy and un-coerced conversation must be practiced. In the popular ABC drama *Boston Legal* Judge Brown perennially referred to the vague, irrelevant, jargon-ridden statements of lawyers as “jibber jabber.” The Aberystwyth-based school of critical internationalist utopianism that increasingly dominates the study of international relations in Britain and Australia has refined a higher order incoherence that may be termed Aber jabber. The pages of the journal of *Critical Studies on Terrorism* are its natural home.

### 1AC – Plan

#### The United States Federal Government should restrict the President's war powers authority by statutorily limiting targeted killing and detention without charge to a counterterrorism policy guided by an individualized threat requirement and procedural safeguards, and by codification of executive branch review policy for those practices.

### 1AC – Solvency

#### CONTENTION 2: SOLVENCY

#### The aff shifts the war-on-terror to a law-enforcement approach---this is the perfect middle-ground

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The United States cannot conduct an effective counterterrorism campaign against al Qa'ida or other terrorist groups without understanding how such groups end. While **it is clear that U.S. policymakers will need** to turn to **a range of policy instruments to conduct such campaigns — including careful police and intelligence work, military force**, political negotiations, and economic sanctions — what is less clear is how they should prioritize U.S. efforts.¶ A recent RAND research effort sheds light on this issue by investigating how terrorist groups have ended in the past. By analyzing a comprehensive roster of terrorist groups that existed worldwide between 1968 and 2006, the authors found that most groups ended because of operations carried out by local police or intelligence agencies or because they negotiated a settlement with their governments. Military force was rarely the primary reason a terrorist group ended, and few groups within this time frame achieved victory.¶ These findings suggest that the U.S. approach to countering al Qa'ida has focused far too much on the use of military force. Instead, policing and **intelligence should be the backbone of U.S. efforts.**¶ First Systematic Examination of the End of Terrorist Groups¶ This was the first systematic look at how terrorist groups end. The authors compiled and analyzed a data set of all terrorist groups between 1968 and 2006, drawn from a terrorism-incident database that RAND and the Memorial Institute for the Prevention of Terrorism jointly oversee. The authors used that data to identify the primary reason for the end of groups and to statistically analyze how economic conditions, regime type, size, ideology, and group goals affected their survival. They then conducted comparative case studies of specific terrorist groups to understand how they ended.¶ Of the 648 groups that were active at some point between 1968 and 2006, a total of 268 ended during that period. Another 136 groups splintered, and 244 remained active. As depicted in the figure, the authors found that most ended for one of two reasons: They were penetrated and eliminated by local police and intelligence agencies (40 percent), or they reached a peaceful political accommodation with their government (43 percent). Most terrorist groups that ended because of politics sought narrow policy goals. The narrower the goals, the more likely the group was to achieve them through political accommodation — and thus the more likely the government and terrorists were to reach a negotiated settlement.¶ How 268 Terrorist Groups Worldwide Ended, 1968–2006¶ How 268 Terrorist Groups Worldwide Ended, 1968-2006¶ In 10 percent of cases, terrorist groups ended because they achieved victory. Military force led to the end of terrorist groups in 7 percent of cases. The authors found that militaries tended to be most effective when used against terrorist groups engaged in insurgencies in which the groups were large, well armed, and well organized. But against most terrorist groups, military force was usually too blunt an instrument.¶ The analysis also found that¶ religiously motivated terrorist groups took longer to eliminate than other groups but rarely achieved their objectives; no religiously motivated group achieved victory during the period studied.¶ size significantly determined a group's fate. Groups exceeding 10,000 members were victorious more than 25 percent of the time, while victory was rare for groups below 1,000 members.¶ terrorist groups from upper-income countries are much more likely to be left-wing or nationalist and much less likely to be motivated by religion.¶ Police-Oriented Counterterrorism Rather Than a “War on Terrorism”¶ What does this mean for counterterrorism efforts against al Qa'ida? After September 11, 2001, U.S. strategy against al Qa'ida concentrated on the use of military force. Although the United States has employed nonmilitary instruments — cutting off terrorist financing or providing foreign assistance, for example — U.S. policymakers continue to refer to the strategy as a “war on terrorism.”¶ But military force has not undermined al Qa'ida. As of 2008, al Qa'ida has remained a strong and competent organization. **Its goal is** intact: to establish a pan-Islamic caliphate in the Middle East by uniting Muslims to fight infidels and overthrow West-friendly regimes. It continues to employ terrorism and has been **involved in more terrorist attacks** around the world in the years since September 11, 2001, than in prior years, though engaging in no successful attacks of a comparable magnitude to the attacks on New York and Washington.¶ Al Qa'ida's resilience should trigger a fundamental rethinking of U.S. strategy. Its goal of a pan-Islamic caliphate leaves **little room for a negotiated political settlement** with governments in the Middle East. A more effective U.S. approach would involve a two-front strategy:¶ Make policing and intelligence the backbone of U.S. efforts. Al Qa'ida consists of a network of individuals who need to be tracked and arrested. This requires careful involvement of the Central Intelligence Agency and Federal Bureau of Investigation, as well as their cooperation with foreign police and intelligence agencies.¶ Minimize the use of U.S. military force. In most operations against al Qa'ida, local military forces frequently have more legitimacy to operate and a better understanding of the operating environment than U.S. forces have. This means a light U.S. military footprint or none at all.¶ Key to this strategy is **replacing the war-on-terrorism orientation** with the kind of counterterrorism approach that is employed by most governments facing significant terrorist threats today. Calling the efforts a war on terrorism raises public expectations — both in the United States and elsewhere — that there is a battlefield solution. It also tends to legitimize the terrorists' view that they are conducting a jihad (holy war) against the United States and elevates them to the status of holy warriors. Terrorists should be perceived as criminals, not holy warriors.

**Failure to codify existing policy into law risks spreading executive targeted killings and indefinite detention---plan’s key**

Daskal 13 - Fellow and Adjunct Professor, Georgetown Center on National Security and the Law

University of Penn L. Rev., THE GEOGRAPHY OF THE BATTLEFIELD: A FRAMEWORK FOR DETENTION AND TARGETING OUTSIDE THE "HOT" CONFLICT ZONE, April, 161 U. Pa. L. Rev. 1165, Lexis

Fifth, and critically, while the **U**nited **S**tates might be confident that it will exercise its authorities responsibly, it **cannot assure that other states will** follow suit. What is to prevent Russia, for example, from asserting that [\*1233] it is engaged in an armed conflict with Chechen rebels, and can, consistent with the law of war, **kill** **or** **detain** any person **anywhere** in the world which it deems to be a "functional member" of that rebel group? Or **Turkey** from doing so with respect to alleged "functional members" of **Kurdish rebel groups?** If such a theory ultimately resulted in the targeted killing or detaining without charge of an American citizen, the United States would have few principled grounds for objecting.¶ Capitalizing on **the** strategic **benefits of restraint**, the **U**nited **S**tates should **codify into law** what is **already**, in many key respects, **national policy**. As a first step, the President should sign an Executive order requiring that out-of-battlefield target and capture operations be based on individualized threat assessments and subject to a least-harmful-means test, clearly articulating the standards and procedures that would apply. As a next step, Congress should mandate the creation of a review system, as described in detail in this Article. In doing so, **the U**nited **S**tates will **set an important example**, one that **can become a building block upon which to develop an international consensus** as to **the rules that apply to detention** and **targeted killings** **outside the conflict zone**.

#### Plan’s statute prevents circumvention

David J. Barron 8, Professor of Law at Harvard Law School and Martin S. Lederman, Visiting Professor of Law at the Georgetown University Law Center, “The Commander in Chief at the Lowest Ebb -- A Constitutional History”, Harvard Law Review, February, 121 Harv. L. Rev. 941, Lexis

In addition to offering important guidance concerning the congressional role, our historical review also illuminates the practices of the President in creating the constitutional law of war powers at the "lowest ebb." Given the apparent advantages to the Executive of possessing preclusive powers in this area, it is tempting to think that Commanders in Chief would always have claimed a unilateral and unregulable authority to determine the conduct of military operations. And yet, as we show, for most of our history, the presidential **practice was otherwise**. Several of our most esteemed Presidents - Washington, Lincoln, and both Roosevelts, among others - never invoked the sort of preclusive claims of authority that some modern Presidents appear to embrace without pause. In fact, no Chief Executive did so in any clear way until the onset of the Korean War, even when they confronted problematic restrictions, some of which could not be fully interpreted away and some of which even purported to regulate troop deployments and the actions of troops already deployed. Even since claims of preclusive power emerged in full, the practice within the executive branch has waxed and waned. No consensus among modern Presidents has crystallized. Indeed, rather than denying the authority of Congress to act in this area, some **modern Presidents**, like their predecessors, have **acknowledged** the **constitutionality of legislative regulation**. They have therefore concentrated their efforts on making effective use of other presidential authorities and institutional [\*949] advantages to shape military matters to their preferred design. n11 In sum, there has been much less executive assertion of an inviolate power over the conduct of military campaigns than one might think. And, perhaps most importantly, until recently there has been almost no actual defiance of statutory limitations predicated on such a constitutional theory. This repeated, though not unbroken, deferential executive branch stance is not, we think, best understood as evidence of the timidity of prior Commanders in Chief. Nor do we think it is the accidental result of political conditions that just happened to make it expedient for all of these Executives to refrain from lodging such a constitutional objection. This consistent pattern of executive behavior is more accurately viewed as reflecting deeply rooted norms and understandings of how the Constitution structures conflict between the branches over war. In particular, this well-developed executive branch practice appears to be premised on the assumption that the constitutional plan requires the nation's chief commander **to guard his supervisory powers** over the military chain of command **jealously**, to be willing to act in times of exigency if Congress is not available for consultation, and to use the very powerful weapon of the veto to forestall unacceptable limits proposed in the midst of military conflict - but that otherwise, the Constitution compels the Commander in Chief to comply with legislative restrictions. In this way, the founding legal charter itself exhorts the President to justify controversial military judgments to a sympathetic but sometimes skeptical or demanding legislature and nation, not only for the sake of liberty, but also for effective and prudent conduct of military operations. Justice Jackson's famous instruction that "with all its defects, delays and inconveniences, men have discovered no technique for long preserving free government except that the Executive be under the law, and that the law be made by parliamentary deliberations" n12 continues to have a strong pull on the constitutional imagination. n13 What emerges from our analysis is how much pull it seemed to [\*950] have on the executive branch itself for most of our history of war powers development.

#### Simulated national security law debates preserve agency and enhance decision-making---avoids cooption

Laura K. Donohue 13, Associate Professor of Law, Georgetown Law, 4/11, “National Security Law Pedagogy and the Role of Simulations”, http://jnslp.com/wp-content/uploads/2013/04/National-Security-Law-Pedagogy-and-the-Role-of-Simulations.pdf

The concept of simulations as an aspect of higher education, or in the law school environment, is not new.164 Moot court, after all, is a form of simulation and one of the oldest teaching devices in the law. What is new, however, is the idea of designing a civilian national security course that takes advantage of the doctrinal and experiential components of law school education and integrates the experience through a multi-day simulation. In 2009, I taught the first module based on this design at Stanford Law, which I developed the following year into a full course at Georgetown Law. It has since gone through multiple iterations. The initial concept followed on the federal full-scale Top Official (“TopOff”) exercises, used to train government officials to respond to domestic crises.165 It adapted a Tabletop Exercise, designed with the help of exercise officials at DHS and FEMA, to the law school environment. The Tabletop used one storyline to push on specific legal questions, as students, assigned roles in the discussion, sat around a table and for six hours engaged with the material. The problem with the Tabletop Exercise was that it was too static, and the rigidity of the format left little room, or time, for student agency. Unlike the government’s TopOff exercises, which gave officials the opportunity to fully engage with the many different concerns that arise in the course of a national security crisis as well as the chance to deal with externalities, the Tabletop focused on specific legal issues, even as it controlled for external chaos. The opportunity to provide a more full experience for the students came with the creation of first a one-day, and then a multi-day simulation. The course design and simulation continues to evolve. It offers a model for achieving the pedagogical goals outlined above, in the process developing a rigorous training ground for the next generation of national security lawyers.166 A. Course Design The central idea in structuring the NSL Sim 2.0 course was to bridge the gap between theory and practice by conveying doctrinal material and creating an alternative reality in which students would be forced to act upon legal concerns.167 The exercise itself is a form of problem-based learning, wherein students are given both agency and responsibility for the results. Towards this end, the structure must be at once bounded (directed and focused on certain areas of the law and legal education) and flexible (responsive to student input and decisionmaking). Perhaps the most significant weakness in the use of any constructed universe is the problem of authenticity. Efforts to replicate reality will inevitably fall short. There is simply too much uncertainty, randomness, and complexity in the real world. One way to address this shortcoming, however, is through design and agency. The scenarios with which students grapple and the structural design of the simulation must reflect the national security realm, even as students themselves must make choices that carry consequences. Indeed, to some extent, student decisions themselves must drive the evolution of events within the simulation.168 Additionally, while authenticity matters, it is worth noting that at some level the fact that the incident does not take place in a real-world setting can be a great advantage. That is, the simulation creates an environment where students can make mistakes and learn from these mistakes – without what might otherwise be devastating consequences. It also allows instructors to develop multiple points of feedback to enrich student learning in a way that would be much more difficult to do in a regular practice setting. NSL Sim 2.0 takes as its starting point the national security pedagogical goals discussed above. It works backwards to then engineer a classroom, cyber, and physical/simulation experience to delve into each of these areas. As a substantive matter, the course focuses on the constitutional, statutory, and regulatory authorities in national security law, placing particular focus on the interstices between black letter law and areas where the field is either unsettled or in flux. A key aspect of the course design is that it retains both the doctrinal and experiential components of legal education. Divorcing simulations from the doctrinal environment risks falling short on the first and third national security pedagogical goals: (1) analytical skills and substantive knowledge, and (3) critical thought. A certain amount of both can be learned in the course of a simulation; however, the national security crisis environment is not well-suited to the more thoughtful and careful analytical discussion. What I am thus proposing is a course design in which doctrine is paired with the type of experiential learning more common in a clinical realm. The former precedes the latter, giving students the opportunity to develop depth and breadth prior to the exercise. In order to capture problems related to adaptation and evolution, addressing goal [1(d)], the simulation itself takes place over a multi-day period. Because of the intensity involved in national security matters (and conflicting demands on student time), the model makes use of a multi-user virtual environment. The use of such technology is critical to creating more powerful, immersive simulations.169 It also allows for continual interaction between the players. Multi-user virtual environments have the further advantage of helping to transform the traditional teaching culture, predominantly concerned with manipulating textual and symbolic knowledge, into a culture where students learn and can then be assessed on the basis of their participation in changing practices.170 I thus worked with the Information Technology group at Georgetown Law to build the cyber portal used for NSL Sim 2.0. The twin goals of adaptation and evolution require that students be given a significant amount of agency and responsibility for decisions taken in the course of the simulation. To further this aim, I constituted a Control Team, with six professors, four attorneys from practice, a media expert, six to eight former simulation students, and a number of technology experts. Four of the professors specialize in different areas of national security law and assume roles in the course of the exercise, with the aim of pushing students towards a deeper doctrinal understanding of shifting national security law authorities. One professor plays the role of President of the United States. The sixth professor focuses on questions of professional responsibility. The attorneys from practice help to build the simulation and then, along with all the professors, assume active roles during the simulation itself. Returning students assist in the execution of the play, further developing their understanding of national security law. Throughout the simulation, the Control Team is constantly reacting to student choices. When unexpected decisions are made, professors may choose to pursue the evolution of the story to accomplish the pedagogical aims, or they may choose to cut off play in that area (there are various devices for doing so, such as denying requests, sending materials to labs to be analyzed, drawing the players back into the main storylines, and leaking information to the media). A total immersion simulation involves a number of scenarios, as well as systemic noise, to give students experience in dealing with the second pedagogical goal: factual chaos and information overload. The driving aim here is to teach students how to manage information more effectively. Five to six storylines are thus developed, each with its own arc and evolution. To this are added multiple alterations of the situation, relating to background noise. Thus, unlike hypotheticals, doctrinal problems, single-experience exercises, or even Tabletop exercises, the goal is not to eliminate external conditions, but to embrace them as part of the challenge facing national security lawyers. The simulation itself is problem-based, giving players agency in driving the evolution of the experience – thus addressing goal [2(c)]. This requires a realtime response from the professor(s) overseeing the simulation, pairing bounded storylines with flexibility to emphasize different areas of the law and the students’ practical skills. Indeed, each storyline is based on a problem facing the government, to which players must then respond, generating in turn a set of new issues that must be addressed. The written and oral components of the simulation conform to the fourth pedagogical goal – the types of situations in which national security lawyers will find themselves. Particular emphasis is placed on nontraditional modes of communication, such as legal documents in advance of the crisis itself, meetings in the midst of breaking national security concerns, multiple informal interactions, media exchanges, telephone calls, Congressional testimony, and formal briefings to senior level officials in the course of the simulation as well as during the last class session. These oral components are paired with the preparation of formal legal instruments, such as applications to the Foreign Intelligence Surveillance Court, legal memos, applications for search warrants under Title III, and administrative subpoenas for NSLs. In addition, students are required to prepare a paper outlining their legal authorities prior to the simulation – and to deliver a 90 second oral briefing after the session. To replicate the high-stakes political environment at issue in goals (1) and (5), students are divided into political and legal roles and assigned to different (and competing) institutions: the White House, DoD, DHS, HHS, DOJ, DOS, Congress, state offices, nongovernmental organizations, and the media. This requires students to acknowledge and work within the broader Washington context, even as they are cognizant of the policy implications of their decisions. They must get used to working with policymakers and to representing one of many different considerations that decisionmakers take into account in the national security domain. Scenarios are selected with high consequence events in mind, to ensure that students recognize both the domestic and international dimensions of national security law. Further alterations to the simulation provide for the broader political context – for instance, whether it is an election year, which parties control different branches, and state and local issues in related but distinct areas. The media is given a particularly prominent role. One member of the Control Team runs an AP wire service, while two student players represent print and broadcast media, respectively. The Virtual News Network (“VNN”), which performs in the second capacity, runs continuously during the exercise, in the course of which players may at times be required to appear before the camera. This media component helps to emphasize the broader political context within which national security law is practiced. Both anticipated and unanticipated decisions give rise to ethical questions and matters related to the fifth goal: professional responsibility. The way in which such issues arise stems from simulation design as well as spontaneous interjections from both the Control Team and the participants in the simulation itself. As aforementioned, professors on the Control Team, and practicing attorneys who have previously gone through a simulation, focus on raising decision points that encourage students to consider ethical and professional considerations. Throughout the simulation good judgment and leadership play a key role, determining the players’ effectiveness, with the exercise itself hitting the aim of the integration of the various pedagogical goals. Finally, there are multiple layers of feedback that players receive prior to, during, and following the simulation to help them to gauge their effectiveness. The Socratic method in the course of doctrinal studies provides immediate assessment of the students’ grasp of the law. Written assignments focused on the contours of individual players’ authorities give professors an opportunity to assess students’ level of understanding prior to the simulation. And the simulation itself provides real-time feedback from both peers and professors. The Control Team provides data points for player reflection – for instance, the Control Team member playing President may make decisions based on player input, giving students an immediate impression of their level of persuasiveness, while another Control Team member may reject a FISC application as insufficient. The simulation goes beyond this, however, focusing on teaching students how to develop (6) opportunities for learning in the future. Student meetings with mentors in the field, which take place before the simulation, allow students to work out the institutional and political relationships and the manner in which law operates in practice, even as they learn how to develop mentoring relationships. (Prior to these meetings we have a class discussion about mentoring, professionalism, and feedback). Students, assigned to simulation teams about one quarter of the way through the course, receive peer feedback in the lead-up to the simulation and during the exercise itself. Following the simulation the Control Team and observers provide comments. Judges, who are senior members of the bar in the field of national security law, observe player interactions and provide additional debriefing. The simulation, moreover, is recorded through both the cyber portal and through VNN, allowing students to go back to assess their performance. Individual meetings with the professors teaching the course similarly follow the event. Finally, students end the course with a paper reflecting on their performance and the issues that arose in the course of the simulation, develop frameworks for analyzing uncertainty, tension with colleagues, mistakes, and successes in the future. B. Substantive Areas: Interstices and Threats As a substantive matter, NSL Sim 2.0 is designed to take account of areas of the law central to national security. It focuses on specific authorities that may be brought to bear in the course of a crisis. The decision of which areas to explore is made well in advance of the course. It is particularly helpful here to think about national security authorities on a continuum, as a way to impress upon students that there are shifting standards depending upon the type of threat faced. One course, for instance, might center on the interstices between crime, drugs, terrorism and war. Another might address the intersection of pandemic disease and biological weapons. A third could examine cybercrime and cyberterrorism. This is the most important determination, because the substance of the doctrinal portion of the course and the simulation follows from this decision. For a course focused on the interstices between pandemic disease and biological weapons, for instance, preliminary inquiry would lay out which authorities apply, where the courts have weighed in on the question, and what matters are unsettled. Relevant areas might include public health law, biological weapons provisions, federal quarantine and isolation authorities, habeas corpus and due process, military enforcement and posse comitatus, eminent domain and appropriation of land/property, takings, contact tracing, thermal imaging and surveillance, electronic tagging, vaccination, and intelligence-gathering. The critical areas can then be divided according to the dominant constitutional authority, statutory authorities, regulations, key cases, general rules, and constitutional questions. This, then, becomes a guide for the doctrinal part of the course, as well as the grounds on which the specific scenarios developed for the simulation are based. The authorities, simultaneously, are included in an electronic resource library and embedded in the cyber portal (the Digital Archives) to act as a closed universe of the legal authorities needed by the students in the course of the simulation. Professional responsibility in the national security realm and the institutional relationships of those tasked with responding to biological weapons and pandemic disease also come within the doctrinal part of the course. The simulation itself is based on five to six storylines reflecting the interstices between different areas of the law. The storylines are used to present a coherent, non-linear scenario that can adapt to student responses. Each scenario is mapped out in a three to seven page document, which is then checked with scientists, government officials, and area experts for consistency with how the scenario would likely unfold in real life. For the biological weapons and pandemic disease emphasis, for example, one narrative might relate to the presentation of a patient suspected of carrying yersinia pestis at a hospital in the United States. The document would map out a daily progression of the disease consistent with epidemiological patterns and the central actors in the story: perhaps a U.S. citizen, potential connections to an international terrorist organization, intelligence on the individual’s actions overseas, etc. The scenario would be designed specifically to stress the intersection of public health and counterterrorism/biological weapons threats, and the associated (shifting) authorities, thus requiring the disease initially to look like an innocent presentation (for example, by someone who has traveled from overseas), but then for the storyline to move into the second realm (awareness that this was in fact a concerted attack). A second storyline might relate to a different disease outbreak in another part of the country, with the aim of introducing the Stafford Act/Insurrection Act line and raising federalism concerns. The role of the military here and Title 10/Title 32 questions would similarly arise – with the storyline designed to raise these questions. A third storyline might simply be well developed noise in the system: reports of suspicious activity potentially linked to radioactive material, with the actors linked to nuclear material. A fourth storyline would focus perhaps on container security concerns overseas, progressing through newspaper reports, about containers showing up in local police precincts. State politics would constitute the fifth storyline, raising question of the political pressures on the state officials in the exercise. Here, ethnic concerns, student issues, economic conditions, and community policing concerns might become the focus. The sixth storyline could be further noise in the system – loosely based on current events at the time. In addition to the storylines, a certain amount of noise is injected into the system through press releases, weather updates, private communications, and the like. The five to six storylines, prepared by the Control Team in consultation with experts, become the basis for the preparation of scenario “injects:” i.e., newspaper articles, VNN broadcasts, reports from NGOs, private communications between officials, classified information, government leaks, etc., which, when put together, constitute a linear progression. These are all written and/or filmed prior to the exercise. The progression is then mapped in an hourly chart for the unfolding events over a multi-day period. All six scenarios are placed on the same chart, in six columns, giving the Control Team a birds-eye view of the progression. C. How It Works As for the nuts and bolts of the simulation itself, it traditionally begins outside of class, in the evening, on the grounds that national security crises often occur at inconvenient times and may well involve limited sleep and competing demands.171 Typically, a phone call from a Control Team member posing in a role integral to one of the main storylines, initiates play. Students at this point have been assigned dedicated simulation email addresses and provided access to the cyber portal. The portal itself gives each team the opportunity to converse in a “classified” domain with other team members, as well as access to a public AP wire and broadcast channel, carrying the latest news and on which press releases or (for the media roles) news stories can be posted. The complete universe of legal authorities required for the simulation is located on the cyber portal in the Digital Archives, as are forms required for some of the legal instruments (saving students the time of developing these from scratch in the course of play). Additional “classified” material – both general and SCI – has been provided to the relevant student teams. The Control Team has access to the complete site. For the next two (or three) days, outside of student initiatives (which, at their prompting, may include face-to-face meetings between the players), the entire simulation takes place through the cyber portal. The Control Team, immediately active, begins responding to player decisions as they become public (and occasionally, through monitoring the “classified” communications, before they are released). This time period provides a ramp-up to the third (or fourth) day of play, allowing for the adjustment of any substantive, student, or technology concerns, while setting the stage for the breaking crisis. The third (or fourth) day of play takes place entirely at Georgetown Law. A special room is constructed for meetings between the President and principals, in the form of either the National Security Council or the Homeland Security Council, with breakout rooms assigned to each of the agencies involved in the NSC process. Congress is provided with its own physical space, in which meetings, committee hearings and legislative drafting can take place. State government officials are allotted their own area, separate from the federal domain, with the Media placed between the three major interests. The Control Team is sequestered in a different area, to which students are not admitted. At each of the major areas, the cyber portal is publicly displayed on large flat panel screens, allowing for the streaming of video updates from the media, AP wire injects, articles from the students assigned to represent leading newspapers, and press releases. Students use their own laptop computers for team decisions and communication. As the storylines unfold, the Control Team takes on a variety of roles, such as that of the President, Vice President, President’s chief of staff, governor of a state, public health officials, and foreign dignitaries. Some of the roles are adopted on the fly, depending upon player responses and queries as the storylines progress. Judges, given full access to each player domain, determine how effectively the students accomplish the national security goals. The judges are themselves well-experienced in the practice of national security law, as well as in legal education. They thus can offer a unique perspective on the scenarios confronted by the students, the manner in which the simulation unfolded, and how the students performed in their various capacities. At the end of the day, the exercise terminates and an immediate hotwash is held, in which players are first debriefed on what occurred during the simulation. Because of the players’ divergent experiences and the different roles assigned to them, the students at this point are often unaware of the complete picture. The judges and formal observers then offer reflections on the simulation and determine which teams performed most effectively. Over the next few classes, more details about the simulation emerge, as students discuss it in more depth and consider limitations created by their knowledge or institutional position, questions that arose in regard to their grasp of the law, the types of decision-making processes that occurred, and the effectiveness of their – and other students’ – performances. Reflection papers, paired with oral briefings, focus on the substantive issues raised by the simulation and introduce the opportunity for students to reflect on how to create opportunities for learning in the future. The course then formally ends.172 Learning, however, continues beyond the temporal confines of the semester. Students who perform well and who would like to continue to participate in the simulations are invited back as members of the control team, giving them a chance to deepen their understanding of national security law. Following graduation, a few students who go in to the field are then invited to continue their affiliation as National Security Law fellows, becoming increasingly involved in the evolution of the exercise itself. This system of vertical integration helps to build a mentoring environment for the students while they are enrolled in law school and to create opportunities for learning and mentorship post-graduation. It helps to keep the exercise current and reflective of emerging national security concerns. And it builds a strong community of individuals with common interests. CONCLUSION The legal academy has, of late, been swept up in concern about the economic conditions that affect the placement of law school graduates. The image being conveyed, however, does not resonate in every legal field. It is particularly inapposite to the burgeoning opportunities presented to students in national security. That the conversation about legal education is taking place now should come as little surprise. Quite apart from economic concern is the traditional introspection that follows American military engagement. It makes sense: law overlaps substantially with political power, being at once both the expression of government authority and the effort to limit the same. The one-size fits all approach currently dominating the conversation in legal education, however, appears ill-suited to address the concerns raised in the current conversation. Instead of looking at law across the board, greater insight can be gleaned by looking at the specific demands of the different fields themselves. This does not mean that the goals identified will be exclusive to, for instance, national security law, but it does suggest there will be greater nuance in the discussion of the adequacy of the current pedagogical approach. With this approach in mind, I have here suggested six pedagogical goals for national security. For following graduation, students must be able to perform in each of the areas identified – (1) understanding the law as applied, (2) dealing with factual chaos and uncertainty, (3) obtaining critical distance, (4) developing nontraditional written and oral communication skills, (5) exhibiting leadership, integrity, and good judgment in a high-stakes, highly-charged environment, and (6) creating continued opportunities for self-learning. They also must learn how to integrate these different skills into one experience, to ensure that they will be most effective when they enter the field. The problem with the current structures in legal education is that they fall short, in important ways, from helping students to meet these goals. Doctrinal courses may incorporate a range of experiential learning components, such as hypotheticals, doctrinal problems, single exercises, extended or continuing exercises, and tabletop exercises. These are important classroom devices. The amount of time required for each varies, as does the object of the exercise itself. But where they fall short is in providing a more holistic approach to national security law which will allow for the maximum conveyance of required skills. Total immersion simulations, which have not yet been addressed in the secondary literature for civilian education in national security law, may provide an important way forward. Such simulations also cure shortcomings in other areas of experiential education, such as clinics and moot court. It is in an effort to address these concerns that I developed the simulation model above. NSL Sim 2.0 certainly is not the only solution, but it does provide a starting point for moving forward. The approach draws on the strengths of doctrinal courses and embeds a total immersion simulation within a course. It makes use of technology and physical space to engage students in a multi-day exercise, in which they are given agency and responsibility for their decision making, resulting in a steep learning curve. While further adaptation of this model is undoubtedly necessary, it suggests one potential direction for the years to come.

#### Prefer specificity—simulation about war powers is uniquely empowering

Laura K. Donohue 13, Associate Professor of Law, Georgetown Law, 4/11, National Security Law Pedagogy and the Role of Simulations, http://jnslp.com/wp-content/uploads/2013/04/National-Security-Law-Pedagogy-and-the-Role-of-Simulations.pdf

2. Factual Chaos and Uncertainty¶ One of the most important skills for students going into national security law is the ability to deal with factual chaos. The presentation of factual chaos significantly differs from the traditional model of legal education, in which students are provided a set of facts which they must analyze. Lawyers working in national security law must figure out what information they need, integrate enormous amounts of data from numerous sources, determine which information is reliable and relevant, and proceed with analysis and recommendations. Their recommendations, moreover, must be based on contingent conditions: facts may be classified and unavailable to the legal analyst, or facts may change as new information emerges. This is as true for government lawyers as it is for those outside of governmental structures. They must be aware of what is known, what is unsure, what is unknown, and the possibility of changing circumstances, and they must advise their clients, from the beginning, how the legal analysis might shift if the factual basis alters. a. Chaos. Concern about information overload in the national security environment is not new: in the 1970s scholars discussed and debated how to handle the sequential phases of intelligence gathering and analysis in a manner that yielded an optimal result.132 But the digital revolution has exponentially transformed the quantitative terms of reference, the technical means of collection and analysis, and the volume of information available. The number of sources of information – not least in the online world – is staggering. Added to this is the rapid expansion in national security law itself: myriad new Executive Orders, Presidential Directives, institutions, programs, statutes, regulations, lawsuits, and judicial decisions mean that national security law itself is rapidly changing. Lawyers inside and outside of government must keep abreast of constantly evolving authorities. The international arena too is in flux, as global entities, such as the United Nations, the European Court of Human Rights, the G-7/G-8, and other countries, introduce new instruments whose reach includes U.S. interests. Rapid geopolitical changes relating to critical national security concerns, such as worldwide financial flows, the Middle East, the Arab Spring, South American drug cartels, North Korea, the former Soviet Union, China, and other issues require lawyers to keep up on what is happening globally as a way of understanding domestic concerns. Further expanding the information overload is the changing nature of what constitutes national security itself.133 In sum, the sheer amount of information the national security lawyer needs to assimilate is significant. The basic skills required in the 1970s thus may be similar – such as the ability (a) to know where to look for relevant and reliable information; (b) to obtain the necessary information in the most efficient manner possible; (c) to quickly discern reliable from unreliable information; (d) to know what data is critical; and (e) to ascertain what is as yet unknown or contingent on other conditions. But the volume of information, the diversity of information sources, and the heavy reliance on technology requires lawyers to develop new skills. They must be able to obtain the right information and to ignore chaos to focus on the critical issues. These features point in opposite directions – i.e., a broadening of knowledge and a narrowing of focus. A law school system built on the gradual and incremental advance of law, bolstered or defeated by judicial decisions and solidified through the adhesive nature of stare decisis appears particularly inapposite for this rapidly-changing environment. An important question that will thus confront students upon leaving the legal academy is how to keep abreast of rapidly changing national security and geopolitical concerns in an information-rich world in a manner that allows for capture of relevant information, while retaining the ability to focus on the immediate task at hand. Staying ahead of the curve requires developing a sense of timing – when to respond to important legal and factual shifts – and identifying the best means of doing so. Again, this applies to government and non-government employees. How should students prioritize certain information and then act upon it? This, too, is an aspect of information overload. b. Uncertainty. National security law proves an information-rich, factuallydriven environment. The ability to deal with such chaos may be hampered by gaps in the information available and the difficulty of engaging in complex fact-finding – a skill often **under-taught** in law school. Investigation of relevant information may need to reach far afield in order to generate careful legal analysis. Uncertainty here plays a key role. In determining, for instance, the contours of quarantine authority, lawyers may need to understand how the pandemic in question works, where there have been outbreaks, how it will spread, what treatments are available, which social distancing measures may prove most effective, what steps are being taken locally, at a state-level, and internationally, and the like. Lawyers in non-profit organizations, legal academics, in-house attorneys, and others, in turn, working in the field, must learn how to find out the relevant information before commenting on new programs and initiatives, agreeing to contractual terms, or advising clients on the best course of action. For both government and non-government lawyers, the secrecy inherent in the field is of great consequence. The key here is learning to ask intelligent questions to generate the best legal analysis possible. It may be the case that national security lawyers are not aware of the facts they are missing – facts that would be central to legal analysis. This phenomenon front-loads the type of advice and discussions in which national security lawyers must engage. It means that analysis must be given in a transparent manner, contingent on a set of facts currently known, with indication given up front as to how that analysis might change, should the factual basis shift. This is particularly true of government attorneys, who may be advising policymakers who may or may not have a background in the law and who may have access to more information than the attorney. Signaling the key facts on which the legal decision rests with the caveat that the legal analysis of the situation might change if the facts change, provides for more robust consideration of critically important issues. c. Creative Problem Solving. Part of dealing with factual uncertainty in a rapidly changing environment is learning how to construct new ways to address emerging issues. Admittedly, much has been made in the academy about the importance of problem-based learning as a method in developing students’ critical thinking skills.134 Problem-solving, however, is not merely a method of teaching. It is itself a goal for the type of activities in which lawyers will be engaged. The means-ends distinction is an important one to make here. Problemsolving in a classroom environment may be merely a conduit for learning a specific area of the law or a limited set of skills. But problem-solving as an end suggests the accumulation of a **broader set of tools,** such as familiarity with multidisciplinary approaches, creativity and originality, sequencing, collaboration, identification of contributors’ expertise, and how to leverage each skill set. This goal presents itself in the context of fact-finding, but it draws equally on strong understanding of legal authorities and practices, the Washington context, and policy considerations. Similarly, like the factors highlighted in the first pedagogical goal, adding to the tensions inherent in factual analysis is the abbreviated timeline in which national security attorneys must operate. Time may not be a commodity in surplus. This means that national security legal education must not only develop students’ complex fact-finding skills and their ability to provide contingent analysis, but it must teach them how to **swiftly and efficiently engage** in these activities. 3. Critical Distance As was recognized more than a century ago, analytical skills by themselves are insufficient training for individuals moving into the legal profession.135 Critical thinking provides the necessary distance from the law that is required in order to move the legal system forward. Critical thought, influenced by the Ancient Greek tradition, finds itself bound up in the Socratic method of dialogue that continues to define the legal academy. But it goes beyond such constructs as well. Scholars and educators disagree, of course, on what exactly critical thinking entails.136 For purposes of our present discussion, I understand it as the metaconversation in the law. Whereas legal analysis and substantive knowledge focus on the law as it is and how to work within the existing structures, critical thought provides distance and allows students to engage in purposeful discussion of theoretical constructs that deepen our understanding of both the actual and potential constructs of law. It is inherently reflective. For the purpose of practicing national security law, critical thought is paramount. This is true partly because of the unique conditions that tend to accompany the introduction of national security provisions: these are often introduced in the midst of an emergency. Their creation of new powers frequently has significant implications for distribution of authority at a federal level, a diminished role for state and local government in the federalism realm, and a direct impact on individual rights.137 Constitutional implications demand careful scrutiny. Yet at the time of an attack, enormous pressure is on officials and legislators to act and to be seen to act to respond.138 With the impact on rights, in particular, foremost in legislators’ minds, the first recourse often is to make any new powers temporary. However, they rarely turn out to be so, instead becoming embedded in the legislative framework and providing a baseline on which further measures are built.139 In order to withdraw them, legislators must demonstrate either that the provisions are not effective or that no violence will ensue upon their withdrawal (either way, a demanding proof). Alternatively, legislators would have to acknowledge that some level of violence may be tolerated – a step no politician is willing to take. Any new powers, introduced in the heat of the moment, may become a permanent part of the statutory and regulatory regime. They may not operate the way in which they were intended. They may impact certain groups in a disparate manner. They may have unintended and detrimental consequences. Therefore, it is necessary for national security lawyers to be able to view such provisions, and related policy decisions, from a distance and to be able to think through them outside of the contemporary context. There are many other reasons such critical analysis matters that reflect in other areas of the law. The ability to recognize problems, articulate underlying assumptions and values, understand how language is being used, assess whether argument is logical, test conclusions, and determine and analyze pertinent information depends on critical thinking skills. Indeed, one could draw argue that it is the goal of higher education to build the capacity to engage in critical thought. **Deeply humanistic theories underlie this approach**. The ability to develop discerning judgment – the very meaning of the Greek term, 􏰀􏰁􏰂􏰃􏰄􏰅􏰆 – provides the basis for advancing the human condition through reason and intellectual engagement. Critical thought as used in practicing national security law may seem somewhat antithetical to the general legal enterprise in certain particulars. For government lawyers and consultants, there may be times in which not providing legal advice, when asked for it, may be as important as providing it. That is, it may be important not to put certain options on the table, with legal justifications behind them. Questions whether to advise or not to advise are bound up in considerations of policy, professional responsibility, and ethics. They may also relate to questions as to who one’s client is in the world of national security law.140 It may be unclear whether and at what point one’s client is a supervisor, the legal (or political) head of an agency, a cross-agency organization, the White House, the Constitution, or the American public. Depending upon this determination, the national security lawyer may or may not want to provide legal advice to one of the potential clients. Alternatively, such a lawyer may want to call attention to certain analyses to other clients. Determining when and how to act in these circumstances requires critical distance. 4. Nontraditional Written and Oral Communication Skills Law schools have long focused on written and oral communication skills that are central to the practice of law. Brief writing, scholarly analysis, criminal complaints, contractual agreements, trial advocacy, and appellate arguments constitute standard fare. What is perhaps unique about the way communication skills are used in the national security world is the importance of non-traditional modes of legal communication such as concise (and precise) oral briefings, email exchanges, private and passing conversations, agenda setting, meeting changed circumstances, and communications built on swiftly evolving and uncertain information. For many of these types of communications speed may be of the essence – and unlike the significant amounts of time that accompany preparation of lengthy legal documents (and the painstaking preparation for oral argument that marks moot court preparations.) Much of the activity that goes on within the Executive Branch occurs within a hierarchical system, wherein those closest to the issues have exceedingly short amounts of time to deliver the key points to those with the authority to exercise government power. Unexpected events, shifting conditions on the ground, and deadlines require immediate input, without the opportunity for lengthy consideration of the different facets of the issue presented. This is a different type of activity from the preparation of an appellate brief, for instance, involving a fuller exposition of the issues involved. It is closer to a blend of Supreme Court oral argument and witness crossexamination – although national security lawyers often may not have the luxury of the months, indeed, years, that cases take to evolve to address the myriad legal questions involved. Facts on which the legal analysis rests, moreover, as discussed above, may not be known. This has substantive implications for written and oral communications. Tension between the level of legal analysis possible and the national security process itself may lead to a different norm than in other areas of the law. Chief Judge Baker explains, If lawyers insist on knowing all the facts all the time, before they are willing to render advice, or, if they insist on preparing a written legal opinion in response to every question, then national security process would become dysfunctional. The delay alone would cause the policymaker to avoid, and perhaps evade, legal review.141 Simultaneously, lawyers cannot function without some opportunity to look carefully at the questions presented and to consult authoritative sources. “The art of lawyering in such context,” Baker explains, “lies in spotting the issue, accurately identifying the timeline for decision, and applying a meaningful degree of formal or informal review in response.”142 The lawyer providing advice must resist the pressure of the moment and yet still be responsive to the demand for swift action. The resulting written and oral communications thus may be shaped in different ways. Unwilling to bind clients’ hands, particularly in light of rapidly-changing facts and conditions, the potential for nuance to be lost is considerable. The political and historical overlay of national security law here matters. In some circumstances, even where written advice is not formally required, it may be in the national security lawyer’s best interests to commit informal advice to paper in the form of an email, notation, or short memo. The process may serve to provide an external check on the pressures that have been internalized, by allowing the lawyer to separate from the material and read it. It may give the lawyer the opportunity to have someone subject it to scrutiny. Baker suggests that “on issues of importance, even where the law is clear, as well as situations where novel positions are taken, lawyers should record their informal advice in a formal manner so that they may be held accountable for what they say, and what they don’t say.”143 Written and oral communication may occur at highly irregular moments – yet it is at these moments (in the elevator, during an email exchange, at a meeting, in the course of a telephone call), that critical legal and constitutional decisions are made. This model departs from the formalized nature of legal writing and research. Yet it is important that students are prepared for these types of written and oral communication as an ends in and of themselves. 5. Leadership, Integrity and Good Judgment National security law often takes place in a high stakes environment. There is tremendous pressure on attorneys operating in the field – not least because of the coercive nature of the authorities in question. The classified environment also plays a key role: many of the decisions made will never be known publicly, nor will they be examined outside of a small group of individuals – much less in a court of law. In this context, leadership, integrity, and good judgment stand paramount. The types of powers at issue in national security law are among the most coercive authorities available to the government. Decisions may result in the death of one or many human beings, the abridgment of rights, and the bypassing of protections otherwise incorporated into the law. The amount of pressure under which this situation places attorneys is of a higher magnitude than many other areas of the law. Added to this pressure is the highly political nature of national security law and the necessity of understanding the broader Washington context, within which individual decision-making, power relations, and institutional authorities compete. Policy concerns similarly dominate the landscape. It is not enough for national security attorneys to claim that they simply deal in legal advice. Their analyses carry consequences for those exercising power, for those who are the targets of such power, and for the public at large. The function of leadership in this context may be more about process than substantive authority. It may be a willingness to act on critical thought and to accept the impact of legal analysis. It is closely bound to integrity and professional responsibility and the ability to retain good judgment in extraordinary circumstances. Equally critical in the national security realm is the classified nature of so much of what is done in national security law. All data, for instance, relating to the design, manufacture, or utilization of atomic weapons, the production of special nuclear material, or the use of nuclear material in the production of energy is classified from birth.144 NSI, the bread and butter of the practice of national security law, is similarly classified. U.S. law defines NSI as “information which pertains to the national defense and foreign relations (National Security) of the United States and is classified in accordance with an Executive Order.” Nine primary Executive Orders and two subsidiary orders have been issued in this realm.145 The sheer amount of information incorporated within the classification scheme is here relevant. While original classification authorities have steadily decreased since 1980, and the number of original classification decisions is beginning to fall, the numbers are still high: in fiscal year 2010, for instance, there were nearly 2,300 original classification authorities and almost 225,000 original classification decisions.146 The classification realm, moreover, in which national security lawyers are most active, is expanding. Derivative classification decisions – classification resulting from the incorporation, paraphrasing, restating, or generation of classified information in some new form – is increasing. In FY 2010, there were more than seventy-six million such decisions made.147 This number is triple what it was in FY 2008. Legal decisions and advice tend to be based on information already classified relating to programs, initiatives, facts, intelligence, and previously classified legal opinions. The key issue here is that with so much of the essential information, decisionmaking, and executive branch jurisprudence necessarily secret, lawyers are limited in their opportunity for outside appraisal and review. Even within the executive branch, stove-piping occurs. The use of secure compartmentalized information (SCI) further compounds this problem as only a limited number of individuals – much less lawyers – may be read into a program. This diminishes the opportunity to identify and correct errors or to engage in debate and discussion over the law. Once a legal opinion is drafted, the opportunity to expose it to other lawyers may be restricted. The effect may be felt for decades, as successive Administrations reference prior legal decisions within certain agencies. The Office of Legal Counsel, for instance, has an entire body of jurisprudence that has never been made public, which continues to inform the legal analysis provided to the President. Only a handful of people at OLC may be aware of the previous decisions. They are prevented by classification authorities from revealing these decisions. This results in a sort of generational secret jurisprudence. Questions related to professional responsibility thus place the national security lawyer in a difficult position: not only may opportunities to check factual data or to consult with other attorneys be limited, but the impact of legal advice rendered may be felt for years to come. The problem extends beyond the executive branch. There are limited opportunities, for instance, for external judicial review. Two elements are at work here: first, very few cases involving national security concerns make it into court. Much of what is happening is simply not known. Even when it is known, it may be impossible to demonstrate standing – a persistent problem with regard to challenging, for instance, surveillance programs. Second, courts have historically proved particularly reluctant to intervene in national security matters. Judicially-created devices such as political question doctrine and state secrets underscore the reluctance of the judiciary to second-guess the executive in this realm. The exercise of these doctrines is increasing in the post-9/11 environment. Consider state secrets. While much was made of some five to seven state secrets cases that came to court during the Bush administration, in more than 100 cases the executive branch formally invoked state secrets, which the courts accepted.148 Many times judges did not even bother to look at the evidence in question before blocking it and/or dismissing the suit. In numerous additional cases, the courts treated the claims as though state secrets had been asserted – even where the doctrine had not been formally invoked.149 In light of these pressures – the profound consequences of many national security decisions, the existence of stovepiping even within the executive branch, and limited opportunity for external review – the practice of national security law requires a particularly rigorous and committed adherence to ethical standards and professional responsibility. This is a unique world in which there are enormous pressures, with potentially few external consequences for not acting in accordance with high standards. **It thus becomes particularly important, from a pedagogical perspective, to think through the types of situations that national security attorneys may face, and to address the types of questions** related to professional responsibility **that will confront them** in the course of their careers. Good judgment and leadership similarly stand paramount. These skills, like many of those discussed, may also be relevant to other areas of the law; however, the way in which they become manifest in national security law may be different in important ways. Good judgment, for instance, may mean any number of things, depending upon the attorney’s position within the political hierarchy. Policymaking positions will be considerably different from the provision of legal advice to policymakers. Leadership, too, may mean something different in this field intimately tied to political circumstance. It may mean breaking ranks with the political hierarchy, visibly adopting unpopular public or private positions, or resigning when faced by unethical situations. It may mean creating new bureaucratic structures to more effectively respond to threats. It may mean holding off clients until the attorneys within one’s group have the opportunity to look at issues while still being sensitive to the political needs of the institution. Recourse in such situations may be political, either through public statements and use of the media, or by going to different branches of government for a solution. 6. Creating Opportunities for Learning In addition to the above skills, national security lawyers must be able to engage in continuous self-learning in order to improve their performance. They must be able to identify new and emerging legal and political authorities and processes, systems for handling factual chaos and uncertainty, mechanisms to ensure critical distance, evaluating written and oral performance, and analyzing leadership skills. Law schools do not traditionally focus on how to teach students to continue their learning beyond the walls of academia. Yet **it is vital for their future success to give students the ability to** create conditions of learning.

#### Al Qaeda’s actions, statements, and internal documents prove they want nuclear weapons and mass casualty attacks

Larry J. Arbuckle 8, Naval Postgraduate School, "The Deterrence of Nuclear Terrorism through an Attribution Capability", Thesis for master of science in defense analysis, approved by Professor Robert O'Connell, and Gordon McCormick, Chairman, Department of Defense Analysis, Naval Postgraduate School, June

However, there is evidence that a small number of terrorist organizations in recent history, and at least one presently, have nuclear ambitions. These groups include Al Qaeda, Aum Shinrikyo, and Chechen separatists (Bunn, Wier, and Friedman; 2005). Of these, Al Qaeda appears to have made the most serious attempts to obtain or otherwise develop a nuclear weapon. Demonstrating these intentions, in 2001 Osama Bin Laden, Ayman al Zawahiri, and two other al Qaeda operatives met with two Pakistani scientists to discuss weapons of mass destruction development (Kokoshin, 2006). Additionally, Al Qaeda has made significant efforts to justify the use of mass violence to its supporters. Sulaiman Abu Ghaith, an al Qaeda spokesman has stated that al Qaeda, “has the right to kill 4 million Americans – 2 million of them children,” in retaliation for deaths that al Qaeda links to the U.S. and its support of Israel (as cited in Bunn, Wier, and Friedman; 2005). Indeed Bin Laden received a fatwa in May 2003 from an extreme Saudi cleric authorizing the use of weapons of mass destruction against U.S. civilians (Bunn, Wier, and Friedman; 2005). Further evidence of intent is the following figure taken from al Qaeda documents seized in Afghanistan. **It depicts a workable design for a nuclear weapon.** Additionally, the text accompanying the design sketch includes some **fairly advanced weapons design parameters** (Boettcher & Arnesen, 2002). Clearly **maximizing the loss of life is key among al Qaeda’s goals**. Thus their use of conventional means of attack presently appears to be a **result of their current capabilities** and not a function of their pure preference (Western Europe, 2005).

#### Their critique is based on a poorly-researched caricature of terrorism studies --- they over-focus on minute biases while ignoring our overwhelming, objective, and self-reflexive evidence

Schmid 9 - Chair in International Relations; the Director of the Centre for the Study of Terrorism and Political Violence at St. Andrews University(Alex, Perspectives on Terrorism, v.3, issue 4, Book Review of “Critical Terrorism Studies. A new research agenda. by Richard Jackson”, <http://www.terrorismanalysts.com/pt/index.php?option=com_rokzine&view=article&id=96>

\*We do not endorse ableist language

The editors accuse, in their introduction  “the orthodox field” of orthodox terrorism studies of functioning “ideologically in the service of existing power structures”, with their academic research. Furthermore, they claim that orthodox scholars are frequently being used “to legitimise coercive intervention in the global South….” (p.6). The present volume is edited by three authors associated with the Centre for the Study of Radicalisation and Contemporary Political Violence (CSRV) in the Department of International Politics in Aberystwyth (Wales, UK). They also happen to be editors of a new Routledge journal “Critical Studies on Terrorism’ . The “critical” refers principally but not exclusively to the “Frankfurt-via-Welsh School Critical Theory Perspective”. The twelve contributors are not all equally “critical” in aHabermasian sense. The programmatic introduction of the editors is followed by two solid chapters from Magnus Ranstorp (former Director of CSTPV, St. Andrews, and currently Director of the Centre for Asymmetric Threat Studies at the Swedish National Defence College) and Andrew Silke (formerly with the UK Home Office and now Field Leader for Criminology at the University of East London). They both rightfully criticize some of the past sins and present shortcomings of the field of Terrorism Studies. One of them approvingly quotes Marc Sageman who observed that “disagreements among experts are the driving force of the scientific enterprise”. Such disagreements, however, exist among “orthodox” scholars like Sageman and  Hoffman or Pape and Abrams. In that sense, the claim by some critical theorists that the field of traditional Terrorism Studies is ossified without them, is simply is not true. One of the problems with many of the adherents of the “critical” school is that the focus is almost exclusively on the strawman they set up to shoot – “orthodox” terrorism discourse rather than on the practitioners of terrorism. Richard Jackson claims that “…most of what is accepted as well-founded ‘knowledge’ in terrorism studies is, in fact, highly debatable and unstable” (p.74), dismissing thereby almost four decades of scholarship as “based on a series of ‘virulent myths’, ‘half-truths’ and contested claims…biased towards Western state priorities” (p.80). For him “terrorism is…a social fact rather than a brute fact” and “…does not exist outside of the definitions and practices which seek to enclose it, including those of the terrorism studies field” (pp.75-76). He objects to prevailing “problem-solving theories of terrorism” in favour of an approach that questions “ the status quo and the dominant acts within it” (p.77). Another contributor, J.A. Sluka, argues, without offering any proof,  that “terrorism is fundamentally a product of social inequality and state politics” (p. 139). Behind many of the critical theorists who blame mainstream terrorism research for taking ‘the world as it finds it’ there is an agenda for changing the status quo and overthrowing existing power structures. There is, in itself, nothing wrong with wanting a new and better world order. However, it is not going to be achieved by using an alternative discourse on terrorism and counter-terrorism. Toros and Gunning, contributors of another chapter, state that “the sine qua non of Critical Theory is emancipation” (p. 99) and M. McDonald als puts “emancipation as central to the study of terrorism” (p.121). However, there is not a single word on the non-emancipated position of women under Islam in general or among the Taliban and their friends from al-Qaeda in particular. One of the strength (some argue weakness) of Western thinking is its ability for self-criticism – something largely absent in the Muslim world. In that sense, this volume falls within a Western tradition. However, self-criticism should not come at the cost of not criticising   adversaries by using the same yardstick. In this sense, this volume is strangely silent about the worldview of those terrorists who have no self-doubts and attack the Red Cross,  the United Nations, NGOs and their fellow Muslims with equal lack of scruples. A number of authors in the volume appear to equate terrorism uncritically with political violence in general while in fact it is more usefully thought of as one of some twenty sub-categories of  political violence - one characterized by deliberate attacks on civilians and non-combatants in order to intimidate, coerce or otherwise manipulate  various audiences and parties to a conflict. Part of the volume advocates reinventing the wheel. J. Gunning, for instance, recommends to employ Social Movement Theory for the study of terrorism. However, that theory has been employed already explicitly or implicitly by a number of more orthodox scholars, e.g. Donatella della Porta. Many “critical” statements in the volume are unsupported by convincing evidence, e.g. when C. Sylvester and S. Parashar state “The September 11 attacks and the ongoing war on terror reinforce gender hierarchy and power in international relations” (p.190). Jackson claims that the key question  for critical terrorism theory is “who is terrorism research for and how does terrorism knowledge support particular interests?” (p.224) It does not seem to occur to him that he could have studied this question by looking at the practitioners of terrorism and study al-Qaeda’s ideological writings and its training  and  recruiting manuals. If CTS is a call for “making a commitment to emancipatory praxis central to the research enterprise” (R. Jackson et al, p. 228), CTS academics should be the first on the barricades against jihadists who treat women not as equals and who would, if they get their way, eradicate freedom of thought and religion for all mankind. It is sad that some leading proponents of Critical Terrorism Studies appear to be in fact uncritical and blind on one eye.

#### Their evidence will say “there are a lot of steps” but our authors considered all of them --- the risk is real

Peter Beinart 8, associate professor of journalism and political science at CUNY, The Good Fight; Why Liberals – and only Liberals – Can Win the War on Terror and Make America Great Again, 106-7

For all these reasons, jihadists seem less intent on acquiring a finished nuclear weapon than on acquiring weapons- grade uranium and building the bomb themselves. In the early 1990s, Al Qaeda bought a 3- foot- long cylinder from a Sudanese military officer who said it contained South African highly enriched uranium. It turned out to be a hoax. Jihadists have reportedly made other failed attempts as well. Eventually, however, they could succeed. Moscow may adequately protect its nuclear weapons, but the National Academy of Sciences has warned that “large inventories of SNM [fissile material] are stored at many sites that apparently lack inventory controls.” And the Russians reportedly experience one or two attempted thefts of that material a year—that they know of. ¶ If Al Qaeda obtained 50 kilograms of weapons-g rade uranium, the hardest part would be over. The simplest nuke to build is the kind the United States dropped on Hiroshima, a “gun- type,” in which a mass of highly enriched uranium is fired down a large gun barrel into a second uranium mass. Instructions for how to make one are widely available. Just how widely available became clear to an elderly nuclear physicist named Theodore Taylor in 2002, when he looked up “atomic bomb” in the World Book Encyclopedia in his upstate New York nursing home, and found much of the information you’d need. ¶ Even with directions, building a nuclear bomb would still be a monumental task. According to a New York Times Magazine article by Bill Keller, in 1986 five Los Alamos nuke builders wrote a paper called “Can Terrorists Build Nuclear Weapons?” They concluded that it would require people who understood “the physical, chemical and metallurgical proper-¶ 107¶ ties of the various materials to be used, as well as characteristics affecting their fabrication; neutronic properties; radiation effects, both nuclear and biological; technology concerning high explosives and/or chemical pro- pellants; some hydrodynamics; electrical circuitry.” That sounds daunting. **Yet, at the end of the paper, the scientists answered their question: “Yes, they can.”** ¶Finally, once terrorists built a nuclear weapon, they’d still have to smuggle it into the United States. The best way might be to put it in a shipping container, on one of the many supertankers that bring oil into American ports every day. The containers are huge, more than big enough to fit a gun-t ype nuke, which could be as small as 6 feet in length and 6 inches in diameter. Highly enriched uranium emits much less radiation than plutonium, and inside a supertanker’s thick double-steel hull it would be hard for sensors to detect. What’s more, a single ship can carry several thousand containers, most of which are never searched. On September 11, 2002, ABC News smuggled a 15- pound cylinder of depleted uranium in a cargo container past U.S. customs. On September 11, 2003, they performed the same exercise—and got the uranium past customs again.

#### Policy relevant debate about war powers is critical to hold the government accountable --- must engage specific proposals to solve

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

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

#### Their critique is crude caricature of the distinct legal framework implemented by the plan----the alt fails to convince anybody and has no way to deal with terrorism

Nick Basciano 13, 11/3/13, intern at Brookings. Notre Dame Grad, Book Review: Dirty Wars: The World is a Battlefield by Jeremy Scahill, www.lawfareblog.com/2013/11/dirty-wars-the-world-is-a-battlefield/

Scahill’s project is to depict the “dark side” of what he considers to be America’s unrestrained pursuit of security through the “institutionalization of assassination as a central component of U.S. national security policy.” His main case study for this portrait is the 2011 targeting of U.S. citizen and alleged Al Qaeda in the Arabian Peninsula leader Anwar Al-Awlaki. Scahill weaves together the story of Awlaki’s life and death with the activities of CIA-backed warlords in Mogadishu, operations across the JSOC-infested mountains of Yemen, and the rise of a supposedly-unshackled U.S. military-intelligence complex. Scahill sees these apparently-disparate issues as coming together, and his book describes a vision of CIA and JSOC as the standard-bearers of a new and bloody counterterrorism agenda defined by assassination. Using commando raids, missile strikes, and the ultimate killing of Awlaki himself, Scahill paints what he sees as the new reality of U.S. counterterrorism policy: the entire world is a battlefield, one in which the U.S. government feels at liberty to assassinate its own citizens, without oversight, and without trial.¶ ¶ Let’s start with the redeeming feature: Dirty Wars contains a great deal of on-the-ground reporting from places many journalists don’t go, and Scahill had access to voices Americans don’t often hear from about the consequences of drone strikes and other military and covert operations. The book draws on interviews with sources from warlords to foot-soldiers to civilians in countries like Yemen and Somalia in portraying a Machiavellian U.S. government ready to make a deal with almost anyone willing to help strike at its enemies. Scahill blasts this end-justifies-the-means approach and the inherent duplicity of covert liaison with nasty people, which he sees as dangerously shortsighted. Many readers will be more sympathetic to the Real Politik of U.S. action than he is, and Scahill certainly is not the first person to worry that aggressive counterterorism operations may lead to radicalization. But his reporting does show how blowback from U.S. involvement in the Horn of Africa, especially a potential alliance with warlords and occupying forces from Ethiopia, may well pose significant problems to its long-term goals in the region by increasing violence and further destabilizing local governance. Similar problems exist in Yemen, where the former regime of former president Ali Abdullah Saleh played both sides of the terrorism coin—fighting terrorists energetically enough to keep control of the country but not so energetically as to defeat them and thus dry up military funding from the U.S. As American intelligence continued to grasp at any ally that would allow it to strike terrorists, Scahill claims these policies, born of fear, have a reverse effect; it is the toxic relationships and “global assassination program” that would become the “recruitment device for the very forces the United States claimed to be destroying.” This is certainly overstated, but it’s not entirely wrong, and it’s an important caution.¶ ¶ ¶ Perhaps the strongest part of the book are the first-hand reports Scahill has amassed of desperate and enraged family members of those killed in botched raids and strikes. In a particularly disturbing account of a failed raid, Scahill relays one survivor’s desire: “I wanted to wear a suicide jacket and blow myself up among the Americans.” The death of Awlaki’s own teenage son in an ill-directed drone strike adds an exclamation point to the argument that strikes have killed civilians in a dangerously-unaccountable manner. Such harsh realities underscore the tangible human toll strikes impart on their targets. Wholly-utilitarian or overly-legalistic defenders of attacks may criticize these depictions as nothing more than the tragedies of war or mere depictions of perfectly-lawful collateral damage. But Scahill’s personal interactions with survivors remind us that a targeting program that relies on shortsighted agreements with foreign governments, poor intelligence, and aggressive tactics can produce serious negative consequences that are detrimental to security—even if it produces short-term tactical benefits.¶ ¶ The trouble is that Dirty Wars aims to be far more than a mere reminder of the costs of the counterterrorism. It aims to indict the entire project with those costs, but Scahill does not count either the costs or the benefits accurately or honestly. Instead, he selectively highlights certain glaring failures from over a decade of war while failing to discuss any of its successes. There are hundreds of cases over the past several years of highly-focused and discriminate operations; they are missing almost entirely from Scahill’s account. And when they do show up, it tends to be by accident. Scahill inadvertently points to successful operations such as the capture of terrorism suspect Ahmed Abdulkadir Warsame, but he never dwells on the favorable outcomes of the operations in which they were captured. Comprehensive studies place civilian fatality rates for all alleged drone strikes in Yemen from as low as 5 percent and to as high as 19 percent, rates which have continued to decline over time. Even the high end of these estimates indicate that strikes are dramatically more discriminate than one would believe from Scahill’s account, in which the one group of people the United States never seems to kill are terrorists. To be sure, this fact in no way diminishes the human suffering created by failed operations, nor does it excuse the deaths of innocents or errors that have certainly taken place in certain strikes. But by exclusively describing the program’s most public failures while wholly ignoring its successes, the argument stacks the deck, severely limiting Scahill’s ability to persuade those who do not already agree with him. If you only look at the strikes in which civilians get killed, and without taking account of the person being targeted, of course high-value targeting will seem immoral or illegal.¶ ¶ For that matter, if one simply asserts the illegality of all terrorist targeting, as Scahill does, you can make any targeting program look pretty lawless. Scahill makes a deliberate choice to label all U.S. drone, missile, and Special Operations Forces (SOF) strikes as “assassinations”—casting a pall of illegality over all such strikes. But he never makes a real legal argument about when or why targeting is or isn’t lawful. Assassination is banned by executive order, and Scahill admits that “no president’s executive orders actually defined what constituted an assassination.” We might add, too, that authoritative statements by US government officials have said what is not covered by the assassination ban: it does not include killings that are otherwise lawful as, for example, Reagan-era State Department Legal Adviser Abraham Sofaer stated in a famous speech and Obama administration officials have repeated several times.¶ ¶ Seemingly unaware of this, Scahill fails to offer any definition of his own or to engage either the U.S. government’s view of the subject or that available in academic literature. He simply asserts that the executive branch has promulgated “a blanket rebranding of assassinations as ‘High Value Targeting’.” He does not consider possibilities like an argument of self-defense, the existence of a non-international armed conflict with Al Qaeda, the proper scope of the 2001 AUMF, or the simple fact that it is an executive order, not a law, and the executive can interpret or revoke it. Scahill also doesn’t appear to differentiate between a variety of methods, locations, and parameters that make big legal differences under any targeting program. The cruise missile attack that recklessly takes the lives of civilians is no different in his lexicon from a boot-on-the-ground capture raid or a highly-selective and discriminate drone strike. While word substitution provides Scahill a rhetorical soapbox on which to stand, it’s ultimately a pretty cheap trick. And it’s no substitute for specifying a clear legal framework as to when and why lethal tactics amount to illegal assassinations.¶ ¶ Scahill has a third method for making all drones strikes illegal—one that involves a significant rebranding of his own: He sometimes just suggests senior terrorists don’t pose any threat. He largely builds the argument for the illegality of targeted killing in the most unlikely figure of Anwar Awlaki. As the only known American specifically targeted for death by drone, Awlaki presents a unique model to probe Scahill’s central question: “Could the American government assassinate it [sic] own citizens without due process?” To answer this, Dirty Wars sets off to show Alwaki, widely considered one of Al Qaeda’s most dangerous terrorists, in an alternative, more favorable light. While admitting that a deluge “US media outlets, terror ‘experts’ and prominent government officials were identifying Awlaki as a leader of AQAP,” Scahill dismisses these as “dubious” allegations. So in his view, an official government statement describing how Awlaki “involved himself in every aspect of the supply chain of terrorism…training operatives, and planning attacks,” provides “no evidence” for the allegations against Awlaki. And while Scahill is happy to rely on the New York Times and other news outlets for quotes and facts when it is convenient to do so, he treats those same sources with suspicion when they suggest that Awlaki was actually a bad guy. In a particularly striking example of this tendency, Scahill cites “intelligence sources” from an NPR article as to how many times the U.S. tried to kill Awlaki, but he neglects to mention that the same sources go on in the same article to indicate that Awlaki ran a terrorist “cell” in Yemen.¶ ¶ Elsewhere, Scahill simply skips over facts that don’t promote his narrative of Awlaki. One such example comes in Awlaki’s relationship with Umar Farouk Abdulmutallab, the “Christmas Day Bomber” who attempted to detonate almost three ounces of PETN aboard Northwest flight 253 on its descent to Detroit. A publically-available and widely-cited sentencing memorandum for Abdulmutallab describes how Awlaki housed Abdulmutallab in Yemen and took him to AQAP’s primary bomb-maker, Ibrahim Al Asiri. There, they “discussed a plan for martyrdom mission” and Awlaki himself gave the bombing plot “final approval and instructed Defendant Abdulmutallab on it.” Awlaki’s “last instructions,” the memorandum continues, “were to wait until the airplane was over the United States and then to take the plane down.” Without dealing with this evidence from the Abdulmutallab trial, Scahill admits that Awlaki was only “in touch” with Abdulmutallab, insisting that “no conclusive evidence [was] presented, at least not publicly, that Awlaki had played an operational role in any attacks.” Why such a relevant piece of evidence isn’t included in Scahill’s retelling of the Abdulmuttallab plot is unclear, but it isn’t the only instance of turning a blind eye to evidence linking Awlaki directly to terrorism. In early 2010 Awlaki corresponded with Rajib and Tehzeeb Karim, two brothers who had plotted to plant a bomb on U.S.-bound flight. In encrypted emails confiscated from Rajib’s hard drive by British authorities, Awlaki asks Rajib to “please specify your role in the airline industry, how much access do you have to airports, what information do you have on the limitations and cracks in present airport security systems.” These questions largely contradict Scahill’s contention that Awlaki was not involved in operational planning. In another email, Awlaki names the ultimate target for smuggling a bomb on a plane: “Our highest priority is the US. Anything there, even if on a smaller scale . . . would be our choice. So the question is: with the people you have, is it possible to get a package or a person with a package on board a flight heading to the US?” These emails quite convincingly provide evidence that Awlaki was intimately involved in AQAP’s operational mission to attack America. Scahill fails entirely to mention either the Karim brother’s plot or Awlaki’s emails.¶ ¶ By stacking the deck through omission of evidence and unsubstantiated disbelief of official statements, Scahill claims that Awlaki was not a operational member of AQAP and therefore not an immediate threat. With this false ambiguity in hand, Scahill argues that the U.S. unlawfully killed Awlaki without due process. That the U.S. has a right to defend itself against immediate and ongoing threats, that Awlaki’s active engagement in hostilities against the United States might affect his right to due process, that Yemen was unwilling or unable to arrest him, or that any unilateral capture operation poses tremendous difficulties Scahill fails to address at all.¶ ¶ Dirty Wars delivers a significant argument against destructive counterterrorism operations by recounting the terrible human loss involved in at least some strikes and raids. Beyond the obvious human cost, it suggests that overly-aggressive and lethal tactics can, in some cases, play a role in increasing radicalization and thereby hampering the effectiveness of these tactics. Yet, Scahill’s depiction of American efforts to “kill its way to victory” is a crude caricature, one that fails to address countless aspects of a complex and broad set of policies and tactics on which any serious treatment would dwell at length. His wholesale disapproval of all closed-door agreements, intelligence operations, and the use of lethal force yields few viable options for dealing with the cold realities of global terrorism. The tactics of law enforcement bring hope that there is, in fact, a way forward, a way that offers protection without necessitating lethal force. But Dirty Wars utterly fails to offer the necessary clarity, balance, or sobriety in which to weigh the risks and benefits of integrating military and intelligence approaches into counterterrorism. America needs people like Scahill to remind it of the moral and human costs involved when it wages war, but it also needs those people to count those costs carefully—something Dirty Wars fails to do.

#### Even under conditions of uncertainty, you should vote to save the most lives through action

Tyler Cowen 4, Economics, George Mason, “The Epistemic Problem Does Not Refute Consequentialism”, http://www.gmu.edu/jbc/Tyler/Epistemic2.pdf

If we know for sure which remedy works, obviously we should apply that remedy. But imagine now that we are uncertain as to which remedy works. The uncertainty is so extreme that each remedy may cure somewhere between three hundred thousand and six hundred thousand children. Nonetheless we have a slight idea that one remedy is better than the other. That is, one remedy is slightly more likely to cure more children, with no other apparent offsetting negative effects or considerations. Despite the greater uncertainty, we still have the intuition that we should try to save as many children as possible. We should apply the remedy that is more likely to cure more children. We do not say: “We are now so uncertain about what will happen. We should pursue some goal other than trying to cure as many children as possible.” Nor would we cite greater uncertainty about longer-run events as an argument against curing the children. We have a definite good in the present (more cured children), balanced against a radical remixing of the future on both sides of the equation. The definite upfront good still stands firm. Alternatively, let us assume that our broader future suddenly became less predictable (perhaps genetic engineering is invented, which creates new and difficult-to-forecast possibilities). That still would not diminish the force of our reason for saving more children. The variance of forecast becomes larger on both sides of the equation – whether we save the children or not – and the value of the upfront lives remains. A higher variance of forecast might increase the required size of the upfront benefit (to overcome the Principle of Roughness), but it would not refute the relevance of consequences more generally. We could increase the uncertainty more, but consequentialism still will not appear counterintuitive. The remedies, rather than curing somewhere in the range of three to six hundred thousand children, might cure in the broader range of zero to all one million of the children. By all classical statistical standards, this new cure scenario involves more uncertainty than the previous case, such as by having a higher variance of possible outcomes. Yet this higher uncertainty lends little support for the view that curing the children becomes less important. We still have an imperative to apply the remedy that appears best, and is expected the cure the greater number of children. This example **may appear excessively simple**, but it points our attention to the non- generality of the epistemic critique. The critique appears strongest only when we have absolutely no idea about the future; this is a special rather than a general case. Simply boosting the degree of background generic uncertainty should not stop us from pursuing large upfront benefits of obvious importance.

# 2AC

## Anthro K

### Law Good

#### Law provides an avenue to re-introduce species war into the law of war

Kochi 9 - Sussex Law School, University of Sussex, Brighton, UK (Tarik, “Species War: Law, Violence and Animals,” SAGE Journals

The cosmopolitan or international humanitarian law approach to war does, however, open-up a possible mode of introducing species war back into the modern legal definition of war. Kant’s move of extending the concept of war from state’s rights to include universal human rights could again be extended to include non-human animal rights. For example, one could envision the possibility of the crime of genocide under international law being extended to cover the genocide of non-human animals and fol-lowing this, the United Nation’s intervention by force to protect the lives of non-human animals who would otherwise not be protected by domestic courts under the crime of murder.36

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

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

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

### Humans First

#### Prioritize human existence --- we’re the only species that can protect the entire biosphere from inevitable asteroid strikes --- their impacts are long term while the lives killed in short term matter

Matheny 9 (Jason Gaverick, research associate with the Future of Humanity Institute at Oxford University, where his work focuses on technology forecasting and risk assessment - particularly of global catastrophic risks and existential risks, Sommer Scholar and PhD candidate in Applied Economics at Johns Hopkins University, March 14, “Ought we worry about human extinction? [1]”, http://jgmatheny.org/extinctionethics.htm)

At the same time, we’re probably the only animal on Earth that routinely demonstrates compassion for other species. Such compassion is nearly universal in developed countries but we usually know too little, too late, for deeply ingrained habits, such as diets, to change. If improvements in other public morals were possible without any significant biological change in human nature, then the same should be true for our treatment of nonhuman animals, though it will take some time. Even without any change in public morals, it seems unlikely we will continue to use animals for very long – at least, nowhere near 50 billion per year. Our most brutal use of animals results not from sadism but from old appetites now satisfied with inefficient technologies that have not fundamentally changed in 10,000 years. Ours is the first century where newer technologies -- plant or in vitro meats, or meat from brainless animals -- could satisfy human appetites for meat more efficiently and safely (Edelman et al, 2005). As these technologies mature and become cheaper, they will likely replace conventional meat. If the use of sentient animals survives much beyond this century, we should be very surprised. This thought is a cure for misanthropy. As long as most humans in the future don't use sentient animals, the vast number of good lives we can create would outweigh any sins humanity has committed or is likely to commit. Even if it takes a century for animal farming to be replaced by vegetarianism (or in vitro meats or brainless farm animals), the century of factory farming would represent around 10^12 miserable life-years. That is one-billionth of the 10^21 animal life-years humanity could save by protecting Earth from asteroids for a billion years. The century of industrialized animal use would thus be the equivalent of a terrible pain that lasts one second in an otherwise happy 100-year life. **To accept human extinction now would be like** committing suicide to end an unpleasant itch**.** If human life is extinguished, all known animal life will be extinguished when the Sun enters its Red Giant phase, if not earlier. Despite its current mistreatment of other animals, humanity is the animal kingdom’s best long-term hope for survival.

### Alt Fails/Bad

#### Alt fails --- it’s utopian to expect every human to suddenly embrace animal equality --- prefer pragmatic steps like the plan

Light 2 [Light, Andrew, Assistant Professor of Environmental Philosophy and Director, Environmental Conservation Education Program, 2002 (Environmental Ethics: What Really Matters What Really Works David Schmidtz and Elizabeth Willott, p. 556-57)]

In recent years a critique of this predominant trend in environmental ethics has emerged from within the pragmatist tradition in American philosophy.' The force of this critique is driven by the intuition that environmental philosophy cannot afford to be qui­escent about the public reception of ethical argu­ments over the value of nature. The original moti­vations of environmental philosophers for turning their philosophical insights to the environment sup­port such a position., Environmental philosophy evolved out of a concern about the state of the grow­ing environmental crisis, and a conviction that a philosophical contribution could be made to the res­olution of this crisis. But if environmental philoso­phers spend all of their time debating non­-human centered forms of value theory they will ar­guably never get very far in making such a contri­bution. For example, to continue to ignore human motivations for the act of valuing nature causes many in the field to overlook the fact that most people find it very difficult to extend moral consideration to plants and animals on the grounds that these entities possess some form of intrinsic, inherent, or other­wise conceived nonanthropocentric value. It is even more difficult for people to recognize that non­humans could have rights. Claims about the value of nature as such do not appear to resonate with the or­dinary moral intuitions of most people who, after all, spend most of their livesthinking of value, moral obligations, and rights in exclusively human terms. Indeed, while most environmental philosophers be­gin their work with the assumption that most people think of value in human-centered terms (a problem that has been decried since the very early days of the field), few have considered the problem of how a non-human-centered approach to valuing nature can ever appeal to such human intuitions. The particular version of the pragmatist critique of environmental ethics that I have endorsed recognizes that we need to rethink the utility of anthropocentric arguments in environmental moral and political theory, not nec­essarily because the traditional nonanthropocentric arguments in the field are false, but because they hamper attempts to contribute to the public discus­sion of environmental problems, in terms familiar to the public.

#### Rejecting anthropocentrism causes worse environmental destruction

Watson 7 (Richard, Philosopher, " A Critique of Anti-Anthropocentric Ethics," http://ocw.capilanou.ca/philosophy/phil-208-environmental-ethics/non-anthropocentric.htm, EMM)

If we accept biospherical egalitarianism, then humans should be treated in no special way; humans are not to be set part from nature. But by arguing that natural states occur only when an ecosystem is left untouched by humans, Naess and others are implicitly separating humans from nature. What human do turns out to be unnatural. Hence, there is an internal inconsistency. Further, all human actions must be seen as natural -- including environmentally destructive ones. Only then do we have humans as being intimately part of nature. Watson then asks: Should we not, though, halt our environmentally destructive behaviour? Yes, he answers, but only because it is in our best interests to do so. Clearly, then, we have reduced the outlook back to anthropocentrism. Human beings ought to curb their evolutionary tendencies, rather than let them flow as Naess and others argue, because we have such a great potential for being destructive. The fact that only human behaviour is subject to moral evaluation does set us apart. If we really are merely members of the biotic community, then surely egalitarianism implies that we ought not to be treated differently. But most non-anthropocentric ethical systems prescribe constraints only on human conduct.

### Perm

#### The permutation’s weak anthropocentrism solves the K---their absolutism is internally contradictory

Wendy Lynne Lee 8, Department of Philosophy – Bloomsburg University of Pennsylvania, “Environmental Pragmatism Revisited: Human-Centeredness, Language, and the Future of Aesthetic Experience,” Environmental Philosophy 5:1

In 1984 pragmatist Bryan Norton published a landmark essay in environmental theory entitled "Environmental Ethics and Weak Anthropocentrism." In it he argues that the long-standing debate between anthropocentrists (those for whom all assignments of value accrue to human-centered instrumental interests) and nonanthropocentrists (those for whom nonhuman animals and ecosystems have a value intrinsic to and independent of human use, including some of Kirkman's speculative environmentalists) "is far less important than is usually assumed" (Norton 2003, 163). Norton argues that the debate itself is mired in confusion over the concept "anthropocentrism," and that clarifying its meaning will show, first, that nonanthropocentrism is at least implausible if not incoherent**,** and second, that anthropocentrism properly understood need not yield the human chauvinism attributed to it. For the nonanthropocentrist there are at least some living (and possibly nonliving) things whose value inheres in them in such fashion that we must regard this value (and hence the entity) as independent of any use we might otherwise make of them. It is, then, immoral to treat merely instrumental^ anything that can be shown to have such a value. However morally attractive a notion, **intrinsic value's conceptual difficulties are many**, not the least of which, as Norton suggests, is whether it can be shown that there exists any such entity or quality in the universe (Norton 2003, 164-5). As anthropocentrists are quick to point out, the concept of intrinsic value is inherently vague: To what does it apply? Only individuals? Species? Ecosystems? According to what criteria? How do we know? It is hard to imagine satisfactory answersto these questions, especially since **we may be likely to apply the concept to Giant Pandas but deny it to the Avian Bird Flu.** What counts, moreover, as an individual, a species, or an ecosystem is itself less a truth about nature than an artifact of human-made nomenclature. Lastly, even if we could determine a method for recognizing intrinsic value, it is not clear it matters much. After all, the power to enslave and exploit is still on our side. Tuming then to anthropocentrism, what a proper understanding of the concept requires, argues Norton, is a distinction between what he calls "felt preferences," namely, "any desire or need of a human individual that can at least temporarily be sated by some specifiable experience of that individual," and "considered preferences," that is, "any desire or need that a human individual would express after careful deliberation, including judgment that the desire or need is consistent with a rationally adopted world view" (Norton 2003, 164). A felt preference, then, might be to satiate thirst, while a considered preference might direct itself to a particular lager or porter. That is, **felt preferences are** represented by **survival interests** and basic desires while considered preferences are constructed from these interests and informed by tbe contexts within which they are satisfied. Given this distinction, Norton goes on to identify two forms of anthropocentrism: A value theory is strongly anthropocentric if all value countenanced by it is explained by reference to satisfaction of felt preferences of human individuals. A value theory is weakly anthropocentric if all value countenanced by it is explained by reference to satisfaction of some felt preference of a human individual or by reference to its bearing upon the ideals which exist as elements in a world view essential to determinations of considered preferences. (Norton 2003, 165) It is important to note that while strong anthropocentrism differs a good deal fi'om weak with respect to the role played by felt preferences in detenTiining and justifying human action, it does share in common with the nonanthropocentrist a concept of human-centeredness defined in terms of human entitlement. What the strong anthropocentrist endorses, the nonanthropocentrist excoriates. If, for example, "humans have a strongly consumptive human value system, then their 'interests,'" notes Norton, "dictate that nature will be used in an exploitive manner" (Norton 2003, 165). Strong anthropocentrists endorse this view, arguing that environmental conservation need take into account only those species and systems whose usefulness to human welfare, present or future, can be calculated in terms of costs and benefits to human beings. Nonanthropocentrists insist, however, that it is precisely this fundamentally chauvinistic aftitude that is producing the environmental crises we now face. The nonanthropocentrist is right to claim that environmental deterioration owes a good deal to unrestrained human excess; few deny the connection between global warming and the production of greenhouse gases, or the link between the loss of habitat and the escalation of species extinction. Nonetheless, deterioration need not follow from human-centeredness**,** argues the strong anthropocentrist, since preserving resources also falls within the ambit of human interest. Weak anthropocentrism aims to carve a middle routebetween strong anthropocentrism's potential for excess and nonanthropocentrism's conceptual inchoateness insofar as it recognizes (1) that not all felt preferences are necessarily rational or consonant with a rational world view; (2) that considered preferences are not always consistent with felt preferences; and, lastly, (3) that the sense that something has value does not necessarily imply that such value is unassigned. If I, for example, have a felt preference for having nonhuman animals available to my affection that 1 think can only be fulfilled by going to the zoo every day, but also a considered preference that going to the zoo everyday will likely thwart my pursuit of other worthy goals, then I am faced with a conflict between a less than wholly rational felt preference and a rationally considered one. Moreover, although I may believe that my going every day is justified as a response to each animal's intrinsic value, my feeling that the zoo animals have such a value is not evidence that they do. Weak anthropocentrism, argues Norton, offers neither autonomie sanction to the excesses of the strong anthropocentrist nor concession to a notion of value that has no conceptual moorings. By distinguishing between felt and considered preferences, it invites us to reflect case by case upon whether our felt preferences ought always to be satisfied, or at least at the expense of other human and/or nonhuman beings. In classic Deweyan tradition, weak anthropocentrism seeks no ultimate truth about our responsibilities to the environment, but rather "provides a basis for criticism of value systems which are purely exploitative of nature" (Norton 2003, 165). The provision of such a basis, argues Norton, follows from the possibility of articulating a worldview—a coherent set of evolving, contextually sensitive, considered preferences—that recognizes the interdependence of human beings and nature, and thus **provides a foundation for** the **critique** of practices inconsonant with this worldview. The concept "interdependence" does not, however, necessarily imply any additional inferences such as the claim that the Earth itself is an organism that can be harmed. Instead, weak anthropocentrism invites us to consider whether our preferences are something we merely have or something over which we exercise some control. Moreover, it provides a basis, argues Norton, for the review of value formation itself in that, by distinguishing between felt and considered preferences, we can query whether what may appear to be a felt preference is actually a considered one whose duration or tradition makes it seem natural (2003, 165), but whose practice may no longer be justified. Perhaps most importantly, however, for a practicable environmental ethic, is the role played in Norton's argument by the deeply Deweyan concept of experience: Because weak anthropocentrism places value not only on felt preferences, but also on the process of value formation embodied in the criticism and replacement of felt preferences with more rational ones, it makes possible appeals to the value of experience of natural objects and undisturbed places in human value fonnation. To the extent that environmentalists can show that values are formed and infomied by contact with nature, nature takes on value as a teacher of human values. Nature need no longer be seen as a satisfier of fixed and often consumptive values—it also becomes an important source of inspiration in value formation. (2003, 165) The experience of nature can**, on Norton's view,** encourage **deeper** self-reflection about whether the satisfaction of particular felt preferences is rational given a world view composed of felt and considered preferences within which the environment is accorded value.

### AT: Ontology

#### Claims this is specieist obfuscate larger issues of injustice

Guha 89 (Ramachandra, Ecologist – Centre for Ecological Sciences, “Radical American Environmentalism and Wilderness Preservation: A Third World Critique,” Environmental Ethics, Spring, <http://www.eci.ox.ac.uk/~dliverma/articles/Guha%20on%20radical%20environmentalism.pdf>)

Insofar as it has begun to act as a check on man’s arrogance and ecological hubris, the transition from an anthropocentric (human-centered) to a biocentric (humans as only one element in the ecosystem) view in both religious and scientific traditions is only to be welcomed.4 What is unacceptable are the radical conclusions drawn by deep ecology, in particular, that intervention in nature should be guided primarily by the need to preserve biotic integrity rather than by the needs of humans. The latter for deep ecologists is anthropocentric, the former biocentric. This dichotomy is, however, of very little use in understanding the dynamics of environmental degradation. The two **fundamental ecological problems** facing the globe are (i) overconsumption by the industrialized world and by urban elites in the Third World and (ii) **growing** **militarization**, both **in a short-term sense (i.e., ongoing** regional **wars**) and in a long-term sense (i.e., the arms race and the prospect of **nuclear** annihilation). Neither of these problems has any tangible connection to the anthropocentric-biocentric distinction. Indeed, the agents of these processes would barely comprehend this philosophical dichotomy. The proximate causes of the ecologically wasteful characteristics of industrial society and of militarization are far more mundane: at an aggregate level, the dialectic of economic and political structures, and at a micro-level, the life-style choices of individuals. These causes **cannot be reduced**, whatever the level of analysis, **to a deeper anthropocentric attitude** toward nature; on the contrary, by constituting a **grave threat to human survival**, the ecological degradation they cause does not even serve the best interests of human beings! If my identification of the major dangers to the integrity of the natural world is correct, **invoking** the bogy of anthropocentricism is **at best** irrelevant and **at worst** a dangerous obfuscation.

## Risk K

### Technocracy Good

#### Engagement with technocracy is more effective than their dissensus

Jiménez-Aleixandre 2, professor of education – University of Santiago de Compostela, and Pereiro-Muñoz High School Castelao, Vigo (Spain) (Maria-Pilar and Cristina, “Knowledge producers or knowledge consumers? Argumentation and decision making about environmental management,” International Journal of Science Education Vol. 24, No. 11, p. 1171–1190)

If science education and environmental education have as a goal to develop **critical thinking and** to promote **decision making**, it seems that the acknowledgement of a variety of experts and expertise is of relevance to both. **Otherwise citizens could be unable to challenge a common view** that places economical issues and technical features over other types of values or concerns. As McGinn and Roth (1999) argue, citizens should be prepared to participate in scientific practice, to be involved in situations where science is, if not created, at least used. The assessment of environmental management is, in our opinion, one of these, and citizens do not need to possess all the technical knowledge to be able to examine the positive and negative impacts and to weigh them up. The identification of instances of scientific practice in classroom discourse is difficult especially if this practice is viewed as a complex process, not as fixed ‘steps’. Several instances were identified when it could be said that students acted as a knowledge-producing community in spite of the fact that the students, particularly at the beginning of the sequence, expressed doubts about their capacities to assess a project written by experts and endorsed by a government office. Perhaps these doubts relate to the nature of the project, a ‘real life’ object that made its way into the classroom, into the ‘school life’. As Brown et al. (1989) point out, there is usually a difference between practitioners’ tasks and stereotyped school tasks and, it could be added, students are not used to being confronted with the complexity of ‘life-size’ problems. However, as the sequence proceeded, **the students assumed the role of experts**, exposing inconsistencies in the project, offering alternatives and discussing it with one of its authors. The issue of expertise is worthy of attention and it needs to be explored in different contexts where the relationships among technical expertise, values hierarchies and possible biases caused by the subject matter could be unravelled. One of the objectives of environmental education is to **empower people with the capacity of decision making**; for this purpose the acknowledging of multiple expertise is crucial.

### AT: Social Change Through Debate

#### The fiction of creating social change through debate causes exclusionary politics and makes coalition building less likely

Michael J. Ritter 13, JD from UT Law School and BA from Trinity University, “Overcoming the Fiction of ‘Social Change Through Debate’: What’s to Learn from 2PAC’s Changes”, National Journal of Speech & Debate, September, <http://site.theforensicsfiles.com/NJSD.2-1.Final.pdf>

The fiction of social change through debate abuses the win—loss structure of debate and permits debaters to otherize, demonize, dehumanize, and exclude opponents. The win-loss structure of debate rounds requires a judge to vote for one side or the other, as judges generally cannot give a double win. This precludes the possibility of compromise on any major position in the debate when the resolution of the position would determine the ultimate issue of "which team did the better debating." Thus, the fiction of social change through debate encourages debaters to construct narratives of good versus evil in which the other team is representative of some evil that threatens to bring about our destruction if it is endorsed (e.g. capitalism). The team relying on the fiction of social change through debate then paints themselves as agents of the good, and gives the judge a George W. Bush-like "option": "You're either with us or you're against us." The fiction of social change through debate—like Bush's rhetorical fear tactics and creation of a false, polarizing, and exclusionary dichotomy to justify all parts of the War on Terror—enables the otherization, demonization, dehumanization, and exclusion of the opposing team. When the unfairness of this tactic is brought to light—particularly in egregious situations when a team is arguing that the other team should lose because of their skin color—all can see that the debate centers on personal attacks against opposing debaters. This causes tensions between debaters that frequently result in debaters losing interest or quitting. By alienating and excluding members of the competitive interscholastic debate community for the purpose of winning a debate, it also makes the reaching of any compromise outside of the debate—the only place where compromise is possible—much less likely. By bringing the social issue into a debate round, debaters impede out-of- round progress on the resolution of social issues within and outside the debate community by prompting backlash.

### 1AC Risk Analysis Good

#### The 1AC’s Risk Analysis isn’t what they criticize --- evidence-based *possibilistic thinking* is vital to prevent catastrophes without consuming us with fear

Lee Clarke 6, Ph.D., Associate Professor of Sociology at Rutgers University, Worst Cases: Terror and Catastrophe in the Popular Imagination, 2006, p. ix-xi

People are worried, now, about terror and catastrophe in ways that a short time ago would have seemed merely fantastic. Not to say that horror and fear suffuse the culture, but they are in the ascendant. And for good reason. There are possibilities for accident and attack, disease and disaster that would make September 11 seem like a mosquito bite. I think we have all become more alert to some of those possibilities, and it is wise to face them down. The idea of worst cases isn’t foreign to us. We have not, however, been given enough useful insight or guidance, either from academics or political leaders, regarding how to do that. In this book I look the worst full in the face. What I see is frightening but enlightening. I believe that knowing a thing permits more comfort with that thing. Sometimes the comfort comes from greater control. Sometimes it comes from knowing the enemy, or the scary thing, which proffers a way forward, toward greater safety. There is horror in disaster. But there is much more, for we can use calamity to glean wisdom, to find hope. Tragedy is with us now as never before. But that does not mean we need be consumed with fear and loathing. We can learn a lot about how society works, and fails to work, by looking at the worst. We can learn about the imagination, about politics, and about the wielding of power. We can learn about people’s capacities for despair and callousness, and for optimism and altruism. As we learn, our possibilities for improvement increase. Worst Cases is about the human condition in the modern world. Some say that September 11 changed everything. That’s not true. But it did imprint upon our imaginations scenes of horror that until then had been the province of novels and movies. We now imagine ourselves in those images, and our wide-awake nightmares are worse than they used to be. We must name, analyze, and talk about the beast. That’s our best hope, as a society, to come to terms with the evil, the human failings, the aspects of nature, and just plain chance that put us in harm’s way. Of course, talking about the worst can be a way to scare people into accepting programs that have other ends, and that they might not otherwise accept. The image of a nuclear mushroom cloud, for example, can be used to justify war because the possibility is so frightening that we would do almost anything to prevent it. The dark side of worst case thinking is apparent even at the level of personal relationships. Unleavened by evidence or careful thought it can lead to astonishingly poor policy and dumb decisions. No organizational culture can prevent or guard against it. The only response that will effectively mute such abuses is one that is organized and possessed of courage and vision. So warnings that the worst is at hand should be inspected closely, particularly if they call for actions that would serve ends the speaker cannot or does not freely acknowledge. I acknowledge my ends in this book. For better or worse, I always have. Worst Cases is a book full of stories about disasters. But it is not a disaster book. It is a book about the imagination. We look back and say that 9/11 was the worst terrorist attack ever in the United States, that the Spanish Flu of 1918, the Black Death, or AIDS was the worst epidemic ever, or that the 1906 San Francisco earthquake was the Great Earthquake. Nothing inherent to the events requires that we adorn them with superlatives. People’s imaginations make that happen. Similarly, we construct possible futures of terror and calamity: what happens if the nation’s power grid goes down for six months? what if smallpox sweeps the world? what if nuclear power has a particularly bad day? what if a monster tsunami slams southern California? These too are feats of imagination. There are those who say we shouldn’t worry about things that are unlikely to happen. That’s what your pilot means in saying, after a turbulent cross-country flight, “You’ve just completed the safest part of your trip.” We hear the same thing when officials tell us that the probability of a nuclear power plant melting down is vanishingly small. Or that the likelihood of an asteroid striking the earth is one in a million, billion, or trillion. There is similar advice from academics who complain that people are unreasonable because their fears don’t jibe with statistics. Chance, they reckon, is in our favor. But chance is often against us. My view is that disasters and failures are normal, that, as a colleague of mine puts it, things that have never happened before happen all the time. A fair number of those things end up being events we call worst cases. When they happen we’re given opportunities to learn things about society and human nature that are usually obscured. Worst case thinking hasn’t been given its due, either in academic writings or in social policy. We’re not paying enough attention to the ways we organize society that make us vulnerable to worst cases. We’re not demanding enough responsibility and transparency from leaders and policy makers. I am not an alarmist, but I am alarmed. That’s why I wrote Worst Cases. It is also why my tone and language are not technical. I am a sociologist, but I wrote Worst Cases so that nonsociologists can read it.

### Terror-Specific Analysis Good

#### This form of evidence-based possiblistic thinking is uniquely key in the context of terrorism

Lee Clarke 6, Ph.D., Associate Professor of Sociology at Rutgers University, Worst Cases: Terror and Catastrophe in the Popular Imagination, 2006, p. 21-22

The idea of the worst case draws our attention to the past and pushes it into the future. For thinking about worst cases involves both thinking about negative futures and evaluating past events as superlatively bad. “What’s the worst than can happen?” we ask children. Most people can look back and say, “That was the worst day of my life.” Such thinking and evaluating is fundamentally about the expansion and contraction of imagination. Labeling something “the worst” involves both prospective and retrospective orientations to disaster. Let me say a few more words about that. Sometimes we imagine futures that are particularly awful or construct scenarios that are overwhelmingly bad or sad, then attach the worst case moniker to them. Since the 9/11 terrorist attacks many people and organizations have created projections of that sort. Government leaders have made solemn announcements regarding when another attack might be coming—especially after it was discovered that officials actually had pretty good indications that something big was coming before September 11. Everyone has been urged to go on “high alert.” Reporters and others have set off to assess preparedness levels at nuclear plants, water treatment facilities, and key points on the electric power grid. Some of the 9/11 terrorists were reported to have asked questions of airport personnel in the small south Florida town of Belle Glade. Belle Glade is a farming community and crop dusters are a common sight there. Those reports were probably false, but at the time they prompted worst case projections about the use of crop dusters to distribute chemical or biological weapons. Similar speculation followed reports of a March 2001 visit by Mohammed Atta, a key player in the September 11 attacks, to a small town in Tennessee. Tanks at a nearby plant hold 250 tons of sulfur dioxide, and the plant’s worst case scenario said that perhaps sixty thousand people could be killed or hurt if it were sabotaged. Recall the EPA-required scenarios I mentioned earlier. Journalists looked through some of those scenarios after 9/11 and discovered that many of America’s most populated areas are next to facilities with large amounts of toxic chemicals. For example, in Kearny, New Jersey—which is very close to Manhattan—there’s a facility that has 180,000 pounds of sulfur dioxide which, if released in a toxic cloud, could kill or injure twelve million people. Similar scenarios exist for Los Angeles, Detroit, and Philadelphia. Officials of the companies responsible for these dangerous chemicals say they’re taking precautions that make such a catastrophe “unlikely”—there’s that short risk ruler again. That’s not very reassuring, though, because terrorists aim precisely to create unlikely horrors, which is to say they aim to make worst cases. To construct prospective worst cases, like the ones I just mentioned, we must somehow imagine the unimaginable. That isn’t easy to do. Before they built the Tacoma Narrows Bridge, engineers calculated that it would perform well under its own weight and the weight of the traffic it was to carry. That sort of projection often gets us into trouble, because once people convince themselves that they have imagined the worst then they stop imagining more possibilities. The engineers didn’t consider the possibility that wind could set up a wave in the deck of the suspension bridge that would, if sustained, shake the thing apart, but that’s exactly what happened on November 7, 1940, only four months after it opened to traffic. Their thinking was trapped in experience, depending on past successes and failures for models of what could go wrong. I’ll explore later how worst case thinking expands and contracts the imagination. For now, I just want to make the point that prospective worst case thinking is doomed to failure, in an absolute sense, because the mere act of imagining a worst case renders it something less of one. An emergency planner captured the idea well when he said, “People who are terrorists and sociopaths don’t have the normal thinking we have, so they would imagine things that would never occur to most of us. I would never say, ‘Oh, yeah, we’re as prepared as we can be.’ ”13 Forward-looking worst case creation isn’t just about terrorists. Millennialists, millenarians, and other religiously inspired apocalyptics do it when they look forward to the end of the world. Organizations do it too, when they make plans and scenarios for chemical facilities, such as those noted above or the contingency plans the U.S. Army has developed in case of a major mishap at its facilities for destroying our chemical weapons stockpile. To look at prospective worst cases is to look at how people think about and judge the future and their place in it.

### Threats Real

#### Threats real and our authors aren’t inflated them– threat inflation would get our authors fired

Earl C. Ravenal 9, distinguished senior fellow in foreign policy studies @ Cato, is professor emeritus of the Georgetown University School of Foreign Service. He is an expert on NATO, defense strategy, and the defense budget. He is the author of *Designing Defense for a New World Order.*What's Empire Got to Do with It? The Derivation of America's Foreign Policy.” *Critical Review: An Interdisciplinary Journal of Politics and Society* 21.1 (2009) 21-75

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

### Fitzsimmons

#### It is their burden to rejoin our predictions---they’re wrong about that and voting for them makes it worse

Fitzsimmons, 7 – Ph.D. in international security policy from the University of Maryland, Adjunct Professor of Public Policy, analyst in the Strategy, Forces, and Resources Division at the Institute for Defense Analyses (Michael, “The Problem of Uncertainty in Strategic Planning”, Survival, Winter 06/07

In defence of prediction Uncertainty is not a new phenomenon for strategists. Clausewitz knew that ‘many intelligence reports in war are contradictory; even more are false, and most are uncertain’. In coping with uncertainty, he believed that ‘what one can reasonably ask of an officer is that he should possess a standard of judgment, which he can gain only from knowledge of men and affairs and from common sense. He should be guided by the laws of probability.’34 Granted, one can certainly allow for epistemological debates about the best ways of gaining ‘a standard of judgment’ from ‘knowledge of men and affairs and from common sense’. Scientific inquiry into the ‘laws of probability’ for any given strate- gic question may not always be possible or appropriate. Certainly, analysis cannot and should not be presumed to trump the intuition of decision-makers. Nevertheless, Clausewitz’s implication seems to be that the **burden of proof** in any debates about planning should belong to the decision-maker who rejects formal analysis, standards of evidence and probabilistic reasoning. Ultimately, though, the value of prediction in strategic planning does not rest primarily in getting the correct answer, or even in the more feasible objective of bounding the range of correct answers. Rather, prediction requires decision-makers to expose, not only to others but to themselves, the beliefs they hold regarding **why** a given event is likely or unlikely and why it would be important or unimportant. Richard Neustadt and Ernest May highlight this useful property of probabilistic reasoning in their renowned study of the use of history in decision-making, Thinking in Time. In discussing the importance of probing presumptions, they contend: The need is for tests prompting questions, for sharp, straightforward mechanisms the decision makers and their aides might readily recall and use to dig into their own and each others’ presumptions. And they need tests that get at basics somewhat by indirection, not by frontal inquiry: not ‘what is your inferred causation, General?’ Above all, not, ‘what are your values, Mr. Secretary?’ ... If someone says ‘a fair chance’ ... ask, ‘if you were a betting man or woman, what odds would you put on that?’ If others are present, ask the same of each, and of yourself, too. Then probe the differences: why? This is tantamount to seeking and then arguing assumptions underlying different numbers placed on a subjective probability assessment. We know of no better way to force clarification of meanings while exposing hidden differences ... Once differing odds have been quoted, the question ‘why?’ can follow any number of tracks. Argument may pit common sense against common sense or analogy against analogy. What is important is that the expert’s basis for linking ‘if’ with ‘then’ gets exposed to the hearing of other experts before the lay official has to say yes or no.’35 There are at least three critical and related benefits of prediction in strate- gic planning. The first reflects Neustadt and May’s point – prediction enforces a certain level of discipline in making explicit the assumptions, key variables and implied causal relationships that constitute decision-makers’ beliefs and that **might otherwise remain implicit**. Imagine, for example, if Shinseki and Wolfowitz had been made to assign probabilities to their opposing expectations regarding post-war Iraq. Not only would they have had to work harder to justify their views, they might have seen more clearly the substantial chance that they were wrong and had to make greater efforts in their planning to prepare for that contingency. Secondly, the very process of making the relevant factors of a decision explicit provides a firm, or at least transparent, basis for making choices. Alternative courses of action can be compared and assessed in like terms. Third, the transparency and discipline of the process of arriving at the initial strategy should heighten the decision-maker’s sensitivity toward changes in the environment that would suggest the need for adjustments to that strategy. In this way, prediction enhances rather than under-mines **strategic flexibility**. This defence of prediction does not imply that great stakes should be gambled on narrow, singular predictions of the future. On the contrary, the central problem of uncertainty in plan- ning remains that any given prediction may simply be wrong. Preparations for those eventualities must be made. Indeed, in many cases, relatively unlikely outcomes could be enormously consequential, and therefore merit extensive preparation and investment. In order to navigate this complexity, strategists must return to the dis- tinction between uncertainty and risk. While the complexity of the international security environment may make it somewhat resistant to the type of probabilistic thinking associated with risk, **a risk-oriented approach seems to be the only viable model** **for national-security strategic planning**. The alternative approach, which categorically denies prediction, precludes strategy. As Betts argues, Any assumption that some knowledge, whether intuitive or explicitly formalized, provides guidance about what should be done is a presumption that there is reason to believe the choice will produce a satisfactory outcome – that is, it is a prediction, however rough it may be. If there is no hope of discerning and manipulating causes to produce intended effects, analysts as well as politicians and generals should all quit and go fishing.36 Unless they are willing to quit and go fishing, then, strategists must sharpen their tools of risk assessment. Risk assessment comes in many varieties, but identification of two key parameters is common to all of them: the consequences of a harmful event or condition; and the likelihood of that harmful event or condition occurring. With no perspective on likelihood, a strategist can have no firm perspective on risk. With no firm perspective on risk, strategists cannot purposefully discriminate among alternative choices. Without purposeful choice, there is no strategy. One of the most widely read books in recent years on the complicated relation- ship between strategy and uncertainty is Peter Schwartz’s work on scenario-based planning, The Art of the Long View. Schwartz warns against the hazards faced by leaders who have deterministic habits of mind, or who deny the difficult implications of uncertainty for strategic planning. To overcome such tenden- cies, he advocates the use of alternative future scenarios for the purposes of examining alternative strategies. His view of scenarios is that their goal is not to predict the future, but to sensitise leaders to the highly contingent nature of their decision-making.37 This philosophy has taken root in the strategic-planning processes in the Pentagon and other parts of the US government, and properly so. Examination of alternative futures and the potential effects of surprise on current plans is essential. Appreciation of uncertainty also has a number of organisational impli- cations, many of which the national-security establishment is trying to take to heart, such as encouraging multidisciplinary study and training, enhancing information sharing, rewarding innovation, and placing a premium on speed and versatility. The arguments advanced here seek to take nothing away from these imperatives of planning and operating in an uncertain environment. But appreciation of uncertainty carries hazards of its own. Questioning assumptions is critical, but assumptions must be made in the end. Clausewitz’s ‘standard of judgment’ for discriminating among alternatives must be applied. Creative, unbounded speculation must resolve to choice or else there will be no strategy. Recent history suggests that **unchecked scepticism** regarding the validity of prediction can marginalise analysis, trade significant cost for ambig- uous benefit, empower parochial interests in decision-making, and undermine flexibility. Accordingly, having fully recognised the need to broaden their strategic-planning aperture, national-security policymakers would do well now to reinvigorate their efforts in the messy but indispensable business of predicting the future.

### Low-Probability Nuke War Predictions Good

#### Even if our scenarios are low probability it sharpens political science analysis and allows us to test theories

Mahnken and Junio 13 – Thomas, PhD, Jerome E. Levy Chair of Economic Geography and National Security at the U.S. Naval War College and a Visiting Scholar at the Philip Merrill Center for Strategic Studies at The Johns Hopkins University’s Paul H. Nitze School of Advanced International Studies, and Timothy, Predoctoral Fellow, Center for International Security and Cooperation, Stanford University, PhD in Political Science expected 2013, “Conceiving of Future War: The Promise of Scenario Analysis for International Relations,” International Studies Review Volume 15, Issue 3, pages 374–395

This article introduces political scientists to scenarios—future counterfactuals—and demonstrates their value in tandem with other methodologies and across a wide range of research questions. The authors describe best practices regarding the scenario method and argue that scenarios contribute to theory building and development, identifying new hypotheses, analyzing data-poor research topics, articulating “world views,” setting new research agendas, avoiding cognitive biases, and **teaching**. The article also establishes the low rate at which scenarios are used in the international relations subfield and situates scenarios in the broader context of political science methods. The conclusion offers two detailed examples of the effective use of scenarios.¶ In his classic work on scenario analysis, The Art of the Long View, Peter Schwartz commented that “social scientists often have a hard time [building scenarios]; they have been trained to stay away from ‘what if?’ questions and concentrate on ‘what was?’” (Schwartz 1996:31). While Schwartz's comments were impressionistic based on his years of conducting and teaching scenario analysis, his claim withstands empirical scrutiny. Scenarios—counterfactual narratives about the future—are woefully underutilized among political scientists. The method is almost never taught on graduate student syllabi, and a survey of leading international relations (IR) journals indicates that scenarios were used in only 302 of 18,764 sampled articles. The low rate at which political scientists use scenarios—less than 2% of the time—is surprising; the method is popular in fields as disparate as business, demographics, ecology, pharmacology, public health, economics, and epidemiology (Venable, Li, Ginter, and Duncan 1993; Leufkens, Haaijer-Ruskamp, Bakker, and Dukes 1994; Baker, Hulse, Gregory, White, Van Sickle, Berger, Dole, and Schumaker 2004; Sanderson, Scherbov, O'Neill, and Lutz 2004). Scenarios also are a **common tool employed by the policymakers** whom political scientists study.¶ This article seeks to elevate the status of scenarios in political science by demonstrating their usefulness for **theory building and pedagogy**. Rather than constitute mere speculation regarding an unpredictable future, **as critics might suggest**, scenarios assist scholars with developing testable hypotheses, gathering data, and identifying a theory's upper and lower bounds. Additionally, **scenarios are an effective way to teach students to apply theory to policy**. In the pages below, a “best practices” guide is offered to advise scholars, practitioners, and students, and an argument is developed in favor of the use of scenarios. The article concludes with two examples of how political scientists have invoked the scenario method to improve the specifications of their theories, propose falsifiable hypotheses, and design new empirical research programs.¶ Scenarios in the Discipline¶ What do counterfactual narratives about the future look like? Scenarios may range in length from a few sentences to many pages. One of the most common uses of the scenario method, which will be referenced throughout this article, is to study the conditions under which **high-consequence, low-probability** events may occur. Perhaps the best example of this is **nuclear warfare**, a circumstance that has never resulted, but has captivated generations of political scientists. For an introductory illustration, let us consider a very simple scenario regarding how a first use of a nuclear weapon might occur:¶ During the year 2023, the US military is ordered to launch air and sea patrols of the Taiwan Strait to aid in a crisis. These highly visible patrols disrupt trade off China's coast, and result in skyrocketing insurance rates for shipping companies. Several days into the contingency, which involves over ten thousand US military personnel, an intelligence estimate concludes that a Chinese conventional strike against US air patrols and naval assets is imminent. The United States conducts a preemptive strike against anti-air and anti-sea systems on the Chinese mainland. The US strike is far more successful than Chinese military leaders thought possible; a new source of intelligence to the United States—unknown to Chinese leadership—allowed the US military to severely degrade Chinese targeting and situational awareness capabilities. Many of the weapons that China relied on to dissuade escalatory US military action are now reduced to single-digit-percentage readiness. Estimates for repairs and replenishments are stated in terms of weeks, and China's confidence in readily available, but “dumber,” weapons is low due to the dispersion and mobility of US forces. Word of the successful US strike spreads among the Chinese and Taiwanese publics. The Chinese Government concludes that for the sake of preserving its domestic strength, and to signal resolve to the US and Taiwanese Governments while minimizing further economic disruption, it should escalate dramatically with the use of an extremely small-yield nuclear device against a stationary US military asset in the Pacific region.¶ This short story reflects a future event that, while unlikely to occur and far too vague to be used for military planning, contains many dimensions of political science theory. These include the following: what leaders perceive as “limited,” “proportional,” or “escalatory” uses of force; the importance of private information about capabilities and commitment; audience costs in international politics; the relationship between military expediency and political objectives during war; and the role of compressed timelines for decision making, among others. The purpose of this article is to explain to scholars how **such stories**, and more rigorously developed narratives that specify variables of interest and draw on extant data, may **improve the study of IR**. An important starting point is to explain how future counterfactuals fit into the methodological canon of the discipline.

### AT: Alt

#### Alt fails – risk-based policymaking inevitable

Danzig 11 Richard Danzig, Center for a New American Security Board Chairman, Secretary of the Navy under President Bill Clinton, October 2011, Driving in the Dark Ten Propositions About Prediction and National Security, <http://www.cnas.org/files/documents/publications/CNAS_Prediction_Danzig.pdf>

The Propensity to Make Predictions – and to Act on the Basis of Predictions – Is Inherently Human “No one can predict the future” is a common saying, but people quite correctly believe and act otherwise in everyday life. In fact, daily life is built on a foundation of prediction. One expects (predicts) that housing, food and water will be safe and, over the longer term, that saved money will retain value. These predictions are typically validated by everyday experience. As a consequence, people develop expectations about prediction and a taste, even a hunger, for it. If security in everyday life derives from predictive power, it is natural to try to build national security in the same way. This taste for prediction has deep roots.16 Humans are less physically capable than other species but more adept at reasoning.17 Reasoning is adaptive; it enhances the odds of survival for the species and of survival, power, health and wealth for individuals. Reasoning depends on predictive power. If what was benign yesterday becomes unpredictably dangerous today, it is hard to develop protective strategies, just as if two plus two equals four today and five tomorrow, it is hard to do math. Rational thought depends on prediction and, at the same time, gives birth to prediction. Humans are rational beings and, therefore, make predictions. The taste for prediction has roots, moreover, in something deeper than rationality. Emotionally, people are uncomfortable with uncertainty and pursue the illusion of control over events beyond their control. Systematic interviews of those who have colostomies, for example, show that people are less depressed if they are informed that their impaired condition will be permanent than if they are told that it is uncertain whether they will be able to return to normal functioning.19 Citing this and other work, Daniel Gilbert concludes that “[h]uman beings find uncertainty more painful than the things they’re uncertain about.”20 An “illusion of control,” to employ a term now recognized in the literature of psychology, mitigates the pain of uncertainty.21 People value random lottery tickets or poker cards distributed to themselves more than they do tickets or cards randomly assigned to others.22 A discomfort with uncertainty and desire for control contribute to an unjustifiable over-reliance on prediction. 2. Requirements for Prediction Will Consistently Exceed the Ability to Predict The literature on predictive failure is rich and compelling.23 In the most systematic assessment, conducted over 15 years ending in 2003, Philip Tetlock asked 284 established experts24 more than 27,000 questions about future political and economic outcomes (expected electoral results, likelihoods of coups, accession to treaties, proliferation, GDP growth, etc.) and scored their results.25 Collateral exercises scored predictive achievement in the wake of the breakup of the Soviet Union, the transition to democracy in South Africa and other events. There are too many aspects of Tetlock’s richly textured discussion to permit a simple summary, but his own rendering of a central finding will suffice for this discussion: “When we pit experts against minimalist performance benchmarks – dilettantes, dart-throwing chimps, and assorted extrapolation algorithms – we find few signs that expertise translates into greater ability to make either ‘well calibrated’ or ‘discriminating’ forecasts.”26 As described below,27 there are strong reasons for a high likelihood of failure of foresight when DOD attempts to anticipate the requirements for systems over future decades. Recent experience makes this point vividly. Over the past 20 years,28 long-term predictions about the strategic environment and associated security challenges have been wrong, like most multi-year predictions on complex subjects.29 It is simple to list a halfdozen failures:30 American defense planners in 1990 did not anticipate the breakup of the Soviet Union, the rapid rise of China, Japan’s abrupt transition from decades of exceptional economic growth to decades of no growth,31 an attack like that on September 11, 2001 or the United States invasions of (and subsequent decade-long presences in) Afghanistan and Iraq.32 So, in this light, why does the defense community repeatedly over-invest in prediction? A common conceptual error intensifies the hunger for prediction. History celebrates those who made good predictions. Because Winston Churchill’s fame rests on, among other things, his foresight about German militarism and the accuracy of his demands for preparation for World War II, it appears evident that confident prediction is the road to success. Yet it is an error to focus on numerators (instances of success) without asking about denominators (instances of failure). 33 Accordingly, there is a tendency to ignore Churchill’s failures in many other predictions (his disastrous expectations from military operations in Gallipoli, his underestimation of Gandhi, etc.). There is also a tendency to ignore the great number of other predictors who are not celebrated by history because they failed in analogous circumstances. Moreover, prediction is subject to refinement and is often a competitive enterprise. As a result, predictive power is like wealth – gaining some of it rarely satisfies the needs of those who receive it. Predictive power intensifies the demand for more predictive power. Tell a national security advisor that another country is likely to develop a nuclear weapon, and – after all his or her questions have been answered about the basis of the prediction – he or she will want to know when, in what numbers, with what reliability, at what cost, with what ability to deploy them, to mount them on missiles, with what intent as to their use, etc. It is no wonder that U.S. intelligence agencies are consistently regarded as failing. Whatever their mixtures of strengths and weaknesses, they are always being pushed to go beyond the point of success. Put another way, the surest prediction about a credible prediction is that it will induce a request for another prediction. This tendency is intensified when, as is commonly the case, prediction is competitive. If you can predict the price of a product but I can predict it faster or more precisely, I gain an economic advantage. If I can better predict the success of troop movements over difficult terrain, then I gain a military advantage. As a result, in competitive situations, my fears of your predictive power will drive me to demand more prediction regardless of my predictive power. Moreover, your recognition of my predictive power will lead you to take steps to impair my predictive ability.34 Carl von Clausewitz saw this very clearly: “The very nature of interaction is bound to make [warfare] unpredictable.”35 These inherent psychological and practical realities will consistently lead to over-prediction. People are doomed repeatedly to drive beyond their headlights.

# 1AR

### Anthro

#### Extinction outweighs ontology

Wapner 3 (Paul, associate professor and director of the Global Environmental Policy Program at American University. “Leftist Criticism of "Nature" Environmental Protection in a Postmodern Age,” Dissent Winter, http://www.dissentmagazine.org/menutest/archives/2003/wi03/wapner.htm)

All attempts to listen to nature are social constructions-except one. Even the most radical postmodernist must acknowledge the distinction between physical existence and non-existence. As I have said, postmodernists accept that there is a physical substratum to the phenomenal world even if they argue about the different meanings we ascribe to it. This acknowledgment of physical existence is crucial. We can't ascribe meaning to that which doesn't appear. What doesn't exist can manifest no character. Put differently, yes, the postmodernist should rightly worry about interpreting nature's expressions. And all of us should be wary of those who claim to speak on nature's behalf (including environmentalists who do that). But we need not doubt the simple idea that **a prerequisite of expression is existence**. This in turn suggests that preserving the nonhuman world-in all its diverse embodiments-must be seen by eco-critics as a fundamental good. Eco-critics must be supporters, in some fashion, of environmental preservation. Postmodernists reject the idea of a universal good. They rightly acknowledge the difficulty of identifying a common value given the multiple contexts of our value-producing activity. In fact, if there is one thing they vehemently scorn, it is the idea that there can be a value that stands above the individual contexts of human experience. Such a value would present itself as a metanarrative and, as Jean-François Lyotard has explained, postmodernism is characterized fundamentally by its "incredulity toward meta-narratives." Nonetheless, I can't see how postmodern critics can do otherwise than accept the value of preserving the nonhuman world. The nonhuman is the extreme "other"; it stands in contradistinction to humans as a species. In understanding the constructed quality of human experience and the dangers of reification, postmodernism inherently advances an ethic of respecting the "other." At the very least, respect must involve **ensuring that the "other"** actually **continues to exist**. In our day and age, this requires us to take responsibility for protecting the actuality of the nonhuman. Instead, however, we are running roughshod over the earth's diversity of plants, animals, and ecosystems. Postmodern critics should find this particularly disturbing. If they don't, they deny their own intellectual insights and compromise their fundamental moral commitment.

#### Humans are at least a bit more important – only we can control and reverse instincts

Linker, 5 (Damon, “Animal Rights: Contemporary Issues (Compilation),” pg. 23-25)

That such arguments have found an audience at this particular cultural moment is not so hard to explain. Our popular and elite media are saturated with scientific and quasi-scientific reports claiming to prove the basic thesis of the animal-rights movement. Having once believed ourselves to be made in the image of God, we now learnfrom the human genome project, the speculations of evolutionary psychologists, and numerous other sources-that humankind, too, is determined by genetic predispositions and the drive to reproduce. We are cleverer than other animals, to be sure, but the difference is one of degree, not of kind. As Verlyn Klinkenborg wrote on the editorial page of the New York Times, "Again and again, after starting from an ancient premise of radical differences between humans and other creatures, scientists have discovered profound similarities." But have they? Genetics and evolutionary biology may be, indeed, extremely effective at identifying the traits we share with other species. But chemistry, for its part, can tell us about the ways in which we resemble chunks of charcoal, and physics can point to fundamental similarities between a man and all the matter in the universe. The problem with these observations is not that they are untrue. It is that they shed no light whatsoever on, or rather they are designed to obfuscate, what makes humanity unique as a species-the point on which an answer to the likes of Peter Singer and Steven Wise must hinge. For his part, Singer commits the same error that John Stuart Mill found in the system of Jeremy Bentham: he makes no distinction among kinds of pleasure and pain. That animals feel emotions can hardly be doubted; but **human beings experience life**, even at its most "animalistic" level, **in a way that fundamentally differs from other creatures**. Thus, Singer can account for the pain that humans and animals alike experience when they are hungry and the pleasure they feel when they eat, but he cannot explain, for example, a person's choice to starve himself for a cause. He understands that human beings, like animals, derive pleasure from sex and sometimes endure pangs of longing when they are deprived of it, but he cannot explain how or why, unlike animals, some choose to embrace celibacy for the sake of its noble purity. He is certainly attuned to the tendency we share with animals to fear and avoid pain and bodily harm, but he is incapable of understanding a man's willingness to face certain death on the battlefield when called upon to do so by his country. Still less can he explain why stories of such sacrifice sometimes move us to tears. In much the same way, the evidence adduced by Steven Wise to suggest that primates are capable of forming rudimentary plans and expectations fails to demonstrate they are equal to human beings in any significant sense. Men and women use their "autonomy" in a world defined not by the simple imperatives of survival but by ideas of virtue and vice, beauty and ugliness, right and wrong. Modern scientific methods, including those of evolutionary psychology, have so far proved incapable of detecting and measuring this world, but that does not make any less real the experience that takes place within it. Western civilization has tended to regard animals as resembling things more than human beings precisely because, like jnanimate objects, and unlike the authors of the real Magna Carta, animals have no perception of morality. Until the day when a single animal stands up and, led by a love of justice and a sense of self-worth, insists that the world recognize and respect its dignity, all the philosophical gyrations of the activists will remain so much sophistry. Putting Human Interests First **None of this**, of course, **exempts human beings from behaving decently toward animals, but it does provide** a foundation, when necessary, **for giving pride** of place **to the interests of human beings**. This has particular relevance for biomedical research. Among the most vociferous critics of the USDA's capitulation to the animal-rights movement were the nation's leading centers of medical science. The National Association for BiOlnedical Research estimated that the new regulations would cost universities alone as much as $280 million a year. Nor is the issue simply one of dollars. As Estelle Fishbein, counsel for Johns Hopkins University, recently argued in the SHOULD ANIMALS HAVE THE SAME STATUS AS PEOPLE? Journal of the American Medical Association, Genetic research promises to bring new therapies to alleviate human suffering from the acquired immunodeficiency syndrome, Parkinson's disease and other neurological diseases, and virtually all other human and animal diseases. However, the promise of this new era of medical research is highly dependent on the ready availability of mice, rats, and birds. 2S Far from being a mere administrative hassle, she concluded, the new regulations would "divert scarce grant funds from actual research use, distract researchers from their scientific work, and overload them with documentation requirements. II Serious as this threat is, a still more troubling one is the effect that the arguments of animal-rights proponents may have, in the long term, on our regard for human life itself. Peter Singer's apPOintment at Princeton caused a stir not because of his writings about animals but because of his endorsement of euthanasia, unrestricted abortion, and, in some instances, infanticide. But all of his views, as he himself maintains, are of a piece. The idea that "human infants and retarded adults II are superior to animaLs can only be based, he writes, on "a bare-faced-and morally indefensible-prejudice for members of our own species. II In much the same way, Steven Wise urges us to reject absolute demarcations between species and instead focus on the capacities of individual humans and individual apes. If we do that, we will find that many adult chimpanzees and bonobos are far more "human" than newborn and mentally disabled human beings, and thus just as worthy of being recognized as IIpersons." Though Wise's inference is the opposite of Singer's-he does not wish to deprive underdeveloped humans of rights so much as to extend those rights to primates-he is playing the same game of baitand- switch: in this case projecting the noblest human attributes onto animals while quietly limiting his sample of human beings to newborns and the mentally disabled. When raising animals to our level proves to be impossible, as it inevitably must, equal consideration can only be won by attempting to lower us to theirs.

#### Death ontologically destroys the subject

Paterson, 3 – Department of Philosophy, Providence College, Rhode Island (Craig, “A Life Not Worth Living?”, Studies in Christian Ethics, <http://sce.sagepub.com>)

Contrary to those accounts, I would argue that it is death per se that is really the objective evil for us, not because it deprives us of a prospective future of overall good judged better than the alter- native of non-being. It cannot be about harm to a former person who has ceased to exist, for no person actually suffers from the sub-sequent non-participation. Rather, death in itself is an evil to us because it ontologically destroys the current existent subject — it is the ultimate in metaphysical lightening strikes.80 The evil of death is truly an ontological evil borne by the person who already exists, independently of calculations about better or worse possible lives. Such an evil need not be consciously experienced in order to be an evil for the kind of being a human person is. Death is an evil because of the change in kind it brings about, a change that is destructive of the type of entity that we essentially are. Anything, whether caused naturally or caused by human intervention (intentional or unintentional) that drastically interferes in the process of maintaining the person in existence is an objective evil for the person. What is crucially at stake here, and is dialectically supportive of the self-evidency of the basic good of human life, is that death is a radical interference with the current life process of the kind of being that we are. In consequence, death itself can be credibly thought of as a ‘primitive evil’ for all persons, regardless of the extent to which they are currently or prospectively capable of participating in a full array of the goods of life.81 In conclusion, concerning willed human actions, it is justifiable to state that any intentional rejection of human life itself cannot therefore be warranted since it is an expression of an ultimate disvalue for the subject, namely, the destruction of the present person; a radical ontological good that we cannot begin to weigh objectively against the travails of life in a rational manner. To deal with the sources of disvalue (pain, suffering, etc.) we should not seek to irrationally destroy the person, the very source and condition of all human possibility.82

#### If movements now and drone strikes now then what is the link…

#### America will be 100% vegan by 2050

LITTLE 3/13/14 (Lindsey; Ecorazzi, “America Could be Vegan by 2050,” <http://www.ecorazzi.com/2014/03/13/america-could-be-vegan-by-2050/>)

The founder and director of Catskill Animal Sanctuary, Kathy Stevens, thinks America could be vegan by 2050. Here’s the evidence: 1. Meat consumption is on the decline, while interest in vegan food is on the rise. Americans consumed 12.2 percent less meat in 2012 than in 2007. More and more Americans are becoming “flexitarian,” adopting a vegetarian diet more than half of the time. In 2012, a poll found that 16 percent of Americans described themselves as flexitarian. That number is predicted to rise as the Meatless Monday movement has grown to 50 percent national awareness. In addition, Google Trends reported a 3-fold increase in vegan internet searches from 2005 to 2014. This data highlights the fact that vegans aren’t just in cities like L.A., New York and Portland anymore. Plant-based diets are spreading to small towns across the country, as knowledge and resources become more readily available. 2. Supermarkets are adding new vegan products. Your local supermarket looks a lot different today than it did just a few years ago. Organic produce, gluten-free products and meat substitutes are just some of the recent healthy additions to supermarket shelves. In 2010 and 2011, 110 meat substitute products were added to stores. 3. Restaurants are becoming more responsive to vegans. High-end vegan food was named the number one food trend by Forbes in 2013. Even more telling may be the changes that are taking place among the country’s fast-food chains. Burger King, Wendy’s, Subway and Dunkin’ Donuts are among those who have pledged to stop selling products that are derived from the meat industry’s most cruel practices. Other chains recognize that Americans’ palates are changing. Moe’s Southwest Grill offers organic tofu as an option in its tacos and burritos. Recently, Chipotle added “Sofritas” to their menus in 17 states. 4. The rich and powerful are throwing their money behind vegan start-ups. Billionaires are lining up to invest in vegan companies. Microsoft founder Bill Gates has invested in Beyond Meat and Hampton Creek Foods. HCF also raised $23 million from from Asia’s richest man, Li Ka-sing, and Yahoo co-founder Jerry Yang. If wealthy people know one thing, it’s how to make more money. They wouldn’t back

The alternative dooms millions of animals to extinction

Michael Pollan 2, Professor of Journalism at UC-Berkeley, “An Animal’s Place,” The New York Times Magazine, 11-10-02, http://michaelpollan.com/articles-archive/an-animals-place/

For any animal, happiness seems to consist in the opportunity to express its creaturely character -- its essential pigness or wolfness or chickenness. Aristotle speaks of each creature's ''characteristic form of life.'' For domesticated species, the good life, if we can call it that, cannot be achieved apart from humans -- apart from our farms and, therefore, our meat eating. This, it seems to me, is where animal rightists betray a profound ignorance about the workings of nature. To think of domestication as a form of enslavement or even exploitation is to misconstrue the whole relationship, to project a human idea of power onto what is, in fact, an instance of mutualism between species. Domestication is an evolutionary, rather than a political, development. It is certainly not a regime humans imposed on animals some 10,000 years ago. Rather, domestication happened when a small handful of especially opportunistic species discovered through Darwinian trial and error that they were more likely to survive and prosper in an alliance with humans than on their own. Humans provided the animals with food and protection, in exchange for which the animals provided the humans their milk and eggs and -- yes -- their flesh. Both parties were transformed by the relationship: animals grew tame and lost their ability to fend for themselves (evolution tends to edit out unneeded traits), and the humans gave up their hunter-gatherer ways for the settled life of agriculturists. (Humans changed biologically, too, evolving such new traits as a tolerance for lactose as adults.) From the animals' point of view, the bargain with humanity has been a great success, at least until our own time. Cows, pigs, dogs, cats and chickens have thrived, while their wild ancestors have languished. (There are 10,000 wolves in North America, 50,000,000 dogs.) Nor does their loss of autonomy seem to trouble these creatures. It is wrong, the rightists say, to treat animals as ''means'' rather than ''ends,'' yet the happiness of a working animal like the dog consists precisely in serving as a ''means.'' Liberation is the last thing such a creature wants. To say of one of Joel Salatin's caged chickens that ''the life of freedom is to be preferred'' betrays an ignorance about chicken preferences -- which on this farm are heavily focused on not getting their heads bitten off by weasels. But haven't these chickens simply traded one predator for another -- weasels for humans? True enough, and for the chickens this is probably not a bad deal. For brief as it is, the life expectancy of a farm animal would be considerably briefer in the world beyond the pasture fence or chicken coop. A sheep farmer told me that a bear will eat a lactating ewe alive, starting with her udders. ''As a rule,'' he explained, ''animals don't get 'good deaths' surrounded by their loved ones.'' The very existence of predation -- animals eating animals -- is the cause of much anguished hand-wringing in animal rights circles. ''It must be admitted,'' Singer writes, ''that the existence of carnivorous animals does pose one problem for the ethics of Animal Liberation, and that is whether we should do anything about it.'' Some animal rightists train their dogs and cats to become vegetarians. (Note: cats will require nutritional supplements to stay healthy.) Matthew Scully calls predation ''the intrinsic evil in nature's design . . . among the hardest of all things to fathom.'' Really? A deep Puritan streak pervades animal rights activists, an abiding discomfort not only with our animality, but with the animals' animality too.

### Debating Risk Good

#### Debating risk analysis is key to averting lash out

Langford 3 (Ian, Centre for Social and Economic Research on the Global Environment School of Environmental Sciences University of East Anglia and University College London, AN EXISTENTIAL APPROACH TO RISK PERCEPTION)

The above case studies show that other perspectives on risk perception can be gained by examining underlying existential anxieties, and existential analysis can provide a link between widely differing risk issues and across very different methodologies. Existential analysis is, of course, only one of a number of theoretical and practical approaches that can be taken towards risks, but it is potentially capable of transcending the difference between cultures and histories. Whilst the challenges and risks posed by living today in a techno-logically advanced society are very different from those faced a thousand years ago in the same geographical locations, the existential anxieties remain the same, as they are a common property of being human, although coping strategies may change somewhat. ‘Millenium anxiety’ in 1999 was not so different from that displayed in 999 AD. Further, existential analysis can reflect on the societal challenges posed by ‘modern’ risks

as well as the individual adaptations required in order to survive in the 21st century. Giddens (1991) links existential anxiety to loss of trust, and Beck (1999) comments on how the World Risk Society brings people together as well as separating them though the operation of the global political economy. There are winners and losers, but all are beginning to play on the same field. Although cross-cultural comparisons are not the focus of this paper, it is worth mentioning that from research conducted in the UK, and also in Greece (Kontogianni et al., 2001), it is possible to see the commonalities between at least these two cultures, as well as the differences. With regard to risks, respondents in the UK generally took a more individualistic ‘personal specialness’ approach, for example, in the research on perceptions of climate change, whilst in Greece respondents still held more belief in the divine order of things. Greek respondents often expressed a belief in θεοπρωνια (theo-pronia), which has no direct English translation, but can be interpreted as meaning that ‘if you do the right thing, God will give you luck’. So, for example, if you fish according to ‘natural laws’, God will make sure the fish don’t run out.……....in general, Greeks favoured the ‘ultimate rescuer’ defense. In terms of the World Risk Society, and individual coping mechanisms, it appears that death anxiety is particularly prevalent when people consider their fears of the unknown and unknowable. The unknown is represented by uncertainties over the future, given the current rate of technological change, and conflicting messages received from the scientists, government and the media about a wide range of risk issues. The unknowable is represented by fear of the complexity of scientific knowledge, and its inaccessibility to lay people, as well as the complex and interwoven nature of many environmental and health risks. With many ‘20th century diseases’, such as allergic and immunocompetence conditions, traditional epidemiological methods of finding a single cause for a single disease fail because the 26 causes are multiple and synergistic, and the conditions ill-defined and variable between individuals. Existential isolation anxiety is characterized by feelings of hopelessness and helplessness in the face of the global political economy, and the striving for ‘community’ or ‘togetherness’ is often founded on making joint protests or opting out of conventional lifestyles and discourses. This can sometimes lead to ‘idealistic tribalism’, which replaces ‘geographical tribalism’ via the sharing and reinforcement of common ideas amongst similar thinking people via the ease of modern day travel and information/communication technologies such as email and the internet. Alienation is often a matter of scale, with individuals feeling powerless in the face of world markets and international agreements. However, modern forms of communication and lifestyles and the social structures they support may themselves be alienating in containing little face-to-face human contact or ‘quality time’. Freedom and responsibility are again often framed in terms of not being subjugated by the global political economy or the discourses it promotes – the modern equivalent of Hiedegger’s impersonal ‘They-Self’. Individuals and groups can choose to opt out, give up, try their best, or carry on regardless – but it is always in opposition to or in collusion with political and economic forces seen as being at a scale beyond the individual’s power to change, and individual action is hence usually framed in terms of personal lifestyle choice to reduce risks, protect the environment or promote social equity. Meaninglessness anxiety seems to be a common response in the World Risk Society. Identity and self-esteem are either maintained by small-scale successes, or reliance on being informed and using common sense, but pessimism, crusad-ism, nihilism and vegetativeness are all common responses to technological and environmental risks. Unfortunately, the great increase in information in techno-logical societies has created more confusion and, in the opinion of many people, devalued all information – leading to more reliance on ‘folklore’, lay epidemiology and ‘common sense’ to evaluate uncertain and ill-defined risks. Rebellion against political and institutional structures has often been reduced to stigmatization of particular organizations (such as the privatized water companies, see Langford et al., 1999a; Georgiou et al., 1998) or products (such as GM foods). This atomization of protest increases the sense of meaningless-ness, where one can only hope to achieve something small – and hence potentially meaningless – or else give up hope of things ever being different and merely find a comfortable way to survive the inevitable. In conclusion, this paper has attempted, via theoretical argument, case studies and discussion, to present a different analysis of risk perception by individuals within social and political systems. Existential issues and anxieties, that are common to being human across space and time, have been explored whilst at the same time examining the relationship between humans and risk in contemporary post-industrial society. One conclusion that can be drawn from this analysis is that the range of individual and social responses to risk are symptomatic of far more global anxieties about the functioning and future of the world in general. Risk issues and conflicts are therefore not merely a product of a risk society, but an integral part of its operation. Only by providing people with a genuine chance to understand, have hope and believe in the possibility of instigating change, can risk managers provide risk communication strategies that actually communicate about risk. This is because of the complex and profound role that risk perception plays in structuring identities, defining discourses and bringing order and sense to the world. Otherwise, fear of the unknown, alienation, helplessness and reactions to these states of mind will always win the day.