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### Plan

#### Plan: The United States federal government should substantially increase statutory restrictions on the war powers authority of the President of the United States by establishing a federal court with jurisdiction over targeted killing orders.

### Drone Prolif Advantage

#### First, the global drone arms race is underway now

Boyle 2013

[MICHAEL J. BOYLE, Ph.D- Michael Boyle is an Assistant Professor of Political Science at La Salle University in Philadelphia. “The costs and consequences of drone warfare,” International Affairs, January 1, 2013, http://web.ebscohost.com/ehost/pdfviewer/pdfviewer?sid=946befe6-cb0f-406e-8eeb-8cf208339510%40sessionmgr10&vid=1&hid=25//wyo-ng]

A global arms race for drone technology is already under way. According to one

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even that will fade as more suppliers offer drones that can match US capabilities

#### Second, the US has a narrow window of opportunity to shape drone proliferation, only US reform based on transparency and restraint will solve

Zenko, 2013

[Micah, Council of Foreign Relations, Reforming U.S. Drone Strike Policies, January 2013, Council Special Report No. 65, Online] /Wyo-MB

In short, a world characterized by the proliferation of armed drones—used with

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the future, the United States should undertake the following specific policy recommendations.

#### Third, Establishing a precedent of transparency and accountability spills over globally– a non-executive framework is key

Brooks 13 (Rosa, Professor of Law – Georgetown University Law Center, Bernard L. Schwartz Senior Fellow – New America Foundation, Former Counselor to the Undersecretary of Defense for Policy – Department of Defense, “The Constitutional and Counterterrorism Implications of Targeted Killing,” Testimony Before the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights, 4-23, <http://www.judiciary.senate.gov/pdf/04-23-13BrooksTestimony.pdf>)

5. Setting Troubling International Precedents Here is an additional reason to worry about the

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them to justify the killing of dissidents, rivals, or unwanted minorities?

#### Fourth, Drone courts are key limit executive behavior and to solve transparency

Wexler 13

(Lesley, Professor of Law, University of Illinois College of Law, “The Role of the Judicial Branch during the Long War: Drone Courts, Damage Suits, and FOIA Requests,” 2013, Social Science Research Network/) /wyo-mm

This chapter suggests the judiciary may play an important role in the debate over the

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. Even the threat of such judicial role may influence executive branch behavior.

#### Fifth, the plan solves international norms for drone use, US norms can shape and limit drone prolif and provide the ability to apply diplomatic pressure

Zenko, 2013

[Micah, Council of Foreign Relations, Reforming U.S. Drone Strike Policies, January 2013, Council Special Report No. 65, Online] /Wyo-MB

History shows that how states adopt and use new military capabili- ties is often

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should be informed by comparable efforts in the realms of cyber and space.

#### Unfettered drone prolif causes deterrence crises that lead to nuclear conflict and Indo-Pak war

Boyle, 13 [“The costs and consequences of drone warfare”, MICHAEL J. BOYLE, International Affairs 89: 1 (2013) 1–29, assistant professor of political science at LaSalle University]

The emergence of this arms race for drones raises at least five long-term

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legal architecture which might avert some of the worst consequences of their use.

#### Escalation uniquely likely now – no impact defense

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

“This is a sad reality of India-Pakistan relations — whenever things are

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lead to escalation,” Kugelman said. “And that's a scary thought.”

#### Indo Pak war causes extinction

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

The greatest threat to regional security (although curiously not at the top of most

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well lead to all-out war between the two that couldquickly escalate.

**And, Drone use erodes norms for war and causes global conflict that causes extinction**

**Falk, 2012**

[Richard, Richard Falk is Chair of the Nuclear Age Peace Foundation and Professor Emeritus at Princeton University, The Menace of Present and Future Drone Warfare, 2-13-12, http://www.wagingpeace.org/articles/db\_article.php?article\_id=328] /Wyo-MB

Perhaps, the most important difference between the torture and drone debates has to do

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**of state-centric logic and the grandiose schemes of the geopolitical mentality.**

### Terrorism Advantage

#### Squo expansion of drone warfare undermines U.S. moral standing, breeds Anti-Americanism, and undermines our credibility

Brooks 13

Rosa Brooks, Prof of Law @ Georgetown University Law Center and Bernard Schwartz Senior Fellow at the New America Foundation, Statement for the Record Submitted the Senate Committee on Armed Services, May 16, 2013.

Former vice-chair of the Joint Chiefs of Staff General James Cartwright recently ¶

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and exceptional circumstances. ¶ Thank you for the opportunity to testify today.

#### Expansive use of targeted killing causes blowback, collateral damage, and operational errors— new guidelines key

Guiora, 2012

[Amos, Professor of Law, S.J. Quinney College of Law, University of Utah, Targeted killing: when proportionality gets all out of proportion, Case Western Reserve Journal of International Law. 45.1-2 (Fall 2012): p235., Academic onefile] /Wyo-MB

Morality in armed conflict is not a mere mantra: it imposes significant demands on

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becomes a mantra that justifies all action, regardless of method or procedure.

#### Exclusive executive decision making in drone strikes makes groupthink and errors inevitable

Chebab, 2012

[Ahmad, Georgetown University Law Center, Retrieving the Role of Accountability in the Targeted Killings Context: A Proposal for Judicial Review, 3-30-12, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2031572] /Wyo-MB

The practical, pragmatic justification for the COAACC derives largely from considering¶ social psychological

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and other associated deficiencies are inevitable features in Executive Branch decision-making.

#### Impact is nuclear war

Wright, 2003

[Rusty, former associate speaker and writer with Probe Ministries, is an international lecturer, award-winning author, and journalist who has spoken on six continents. He holds Bachelor of Science (psychology) and Master of Theology degrees from Duke and Oxford universities, JFK and Groupthink: Lessons in Decision Making, http://www.probe.org/site/c.fdKEIMNsEoG/b.4221087/] /Wyo-MB

A fascinating facet of Kennedy's legacy involves the decision- making procedures he used among

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, and the ministry. One area it has affected is Christian television.

#### Judicial review solves groupthink

Chebab, 2012

[Ahmad, Georgetown University Law Center, Retrieving the Role of Accountability in the Targeted Killings Context: A Proposal for Judicial Review, 3-30-12, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2031572] /Wyo-MB

To check the vices of groupthink and shortcomings of human judgment, the psychology literature

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choices and evaluate available alternatives than when subject to little to no review.

#### And drones first policy undermines cooperation and counterterror credibility

Boyle 13

(Michael, International Affairs, “The costs and consequences of drone warfare,” 2013, <http://www.chathamhouse.org/sites/default/files/public/International%20Affairs/2013/89_1/89_1Boyle.pdf>) /wyo-mm

Much of the existing debate on drones has focused on their legality under international and

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polarized between those who have drones and those who are victims of them.

#### Effective drones key- need to change our strats to avoid blowback

Masood 13

(Hassan, Monmouth College, “Death from the Heavens: The Politics of the United States’ Drone Campaign in Pakistan’s Tribal Areas,” 2013) /wyo-mm

Those who support the use of drones as an important counter-insurgency tactic nonetheless

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.S. drone strikes have killed more terrorists or produced more terrorists.”

#### Global terror threat is high and attacks against the US are immanent

ETN, 9-26-13

[E Turbo News Global Travel News Industry Reporting on information from the State department, US State Department issues worldwide travel warning, http://www.eturbonews.com/38306/us-state-department-issues-worldwide-travel-warning] /Wyo-MB

The US State Department recently released a statement cautioning Americans traveling abroad of potential terror

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in Pakistan may be planning a new series of attacks against Western targets.

#### Terrorists are trying to get nuclear weapons

Jenkins, 12

Brian Michael senior advisor to the president of the RAND Corporation and director of the National Transportation Security Center at the Mineta Transportation Institute, is a recognized authority on terrorism and security. “Tackling al Qaeda Today” <https://www.defenddemocracy.org/stuff/uploads/documents/Peaceable_Kingdom.pdf#page=167>, accessed 7/9/13,WYO/JF

The 2002 report devoted considerable attention to the prospect of terrorists with weapons of mass

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entire counterterrorist effort, or become a national obsession that creates needless terror.

#### Nuclear terrorism causes extinction

Morgan 9

[Hankuk University of Foreign Studies, Yongin Campus – South Korea (Dennis, Futures, November, “World on fire: two scenarios of the destruction of human civilization and possible extinction of the human race,” Science Direct), accessed 9-16-2011,WYO/JF]

In a remarkable website on nuclear war, Carol Moore asks the question “Is

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**, to a life of unimaginable misery and suffering in a nuclear winter.**

#### The probability is significant and the magnitude increases the risk exponentially

Zimmerman 09

(Peter D., Department of War Studies, King’s College London, “Do We Really Need to Worry? Some Reflections on the Threat of Nuclear Terrorism,” Fall 2009, <http://www.coedat.nato.int/publications/datr4/01PeterZimmerman.pdf>) /wyo-mm

Mueller discounts the consequences of an improvised nuclear device in odd ways. He suggests

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a nuclear detonation occur in one of the great cities of the world.

#### AQAP has the intent and capacity to shut down the Bab al-Mandeb

Thomas 11

(Matthew, MA Nonproliferation and Terrorism Studies, “Al Qaeda in the Land of Faith and Wisdom: The Fall of Saleh and March on Al-Aqsa,” Monterey Institute of International Studies, May 8)

AQAP is well aware of the positive implications of Yemen’s strategic location in the Gulf

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already struggling to recover from rampant political revolutions could follow Yemen into chaos.

#### Closing the strait collapses the economy, hegemony and causes Iran expansionism

UPI 10

(“Al-Qaida threatens to close key oil artery,” Feb. 24, 2010. UPI. http://www.upi.com/Top\_News/Special/2010/02/24/Al-Qaida-threatens-to-close-key-oil-artery/UPI-27151267027462/#ixzz1XPTj8CWP. CR)

SANAA, Yemen, Feb. 24 (UPI) -- Amid the growing war

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, where it is making a major effort to secure allies and markets.

#### The impact is global conflict

**Royal, 10**

Jedediah Royal, Director of Cooperative Threat Reduction at the U.S. Department of Defense 2010, Economic Integration, Economic Signaling and the Problem of Economic Crises, in Economics of War and Peace: Economic, Legal and Political Perspectives, ed. Goldsmith and Brauer, 2010. p. 213-215

**Less intuitive is how periods of economic decline** may **increase the likelihood of external conflict**

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not featured prominently in the economic-security debate and deserves more attention.

### Solvency

#### Drone courts provide credibility and independence to counterterror policy

Plaw, 2006

[Avery, associate professor of political science at the University of Massachusetts, Dartmouth, Fighting Terror Ethically and Legally: The Case of Targeting Terrorists, (A working paper prepared for the CPSA Conference, June 2006), http://www.cpsa-acsp.ca/papers-2006/Plaw.pdf] /Wyo-MB

The most telling issues raised by critics of targeting fall into three broad categories:

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particular, by engaging in perfidy or employing unnecessary ¶ or disproportionate force.

#### And, Courts key—only checks on unilateral executive power can provide legitimacy to the US and credibility to our counterterror policies, the selection process solves all disads to judges

Chebab, 2012

[Ahmad, Georgetown University Law Center, Retrieving the Role of Accountability in the Targeted Killings Context: A Proposal for Judicial Review, 3-30-12, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2031572] /Wyo-MB

Rather, balancing the needs of security against the imperatives of liberty is a traditional

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reinstate American moral legitimacy in its use of force against global terrorism.114

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## CP

#### 1. Drone Courts key – Congress should establish Judicial Review, it is the best check on the president, all other mechanisms insufficient

Bazzle 12

(Timothy, George Mason University Civil Rights Law Journal, “Shutting the courthouse doors: invoking the state secrets privilege to thwart judicial review in the age of terror,” 2012, Hein Library Online) /wyo-mm

By design, courts serve as a bulwark against the excesses of the political branches. The challenge courts face when confronted with a claim of state secrets is reconciling their Article III duties with the Executive’s potentially competing Article II duties.212 While the temptation for the Executive to concentrate its power is understandable, a robust state secrets privilege insulates an overreaching Executive from meaningful oversight. To the extent courts are able to fashion judicial devices for determining when and how the states privilege applies, they may represent the most important method of controlling Executive Branch activity.213 Given the inability of Congress to enact legislation to constrain the application of the privilege,214 courts are perhaps also the best equipped to block the Executive Branch from self-interestedly invoking the privilege to protect itself from embarrassment and potential civil and criminal liability.215 Academic arguments claiming that courts should automatically defer to the Executive’s expertise in national security and foreign affairs matters216 ignore the potentially more serious—and structural—conflict of interest problem that occurs when an Executive, accused of wrongdoing, can self-servingly invoke the state secretes privilege to conceal its action from public view.217 Reinforcing judicial review of state secrets claim represents an important check on the potential for Executive Branch abuse of the privilege.

#### Judicial review is essential to judicial independence

Gerber, 2007

[Scott D. Gerber is an associate professor at Ohio Northern University College of Law and a senior research scholar in law and politics at the Social Philosophy and Policy Center, The Political Theory of an Independent Judiciary, 116 YALE L.J. POCKET PART 223 (2007), http://thepocketpart.org/2007/01/09/gerber.html] /Wyo-MB

Judicial review fits into the political theory of an independent judiciary in at least two ways. First, judicial review is a core component of the Constitution’s system of checks and balances, a system in which each branch of the federal government is endowed with, in the words of The Federalist No. 48, “a constitutional control over the others.” The President has, among other checks, a veto over congressional bills and the power to nominate federal judges. Congress has, among other checks, the power to override presidential vetoes and to control the size and jurisdiction of the federal courts, as well as the power to impeach all federal officials. Without the power of judicial review, what check—what “constitutional control”—would the federal judiciary have on the President or Congress? The answer is none. As a consequence, judicial review is an inevitable component of the Constitution’s commitment to checks and balances.¶ Judicial review also fits into the political theory of an independent judiciary in another, equally straightforward, fashion: judicial review is the ultimate expression of judicial independence, because without judicial independence no court could safely void an act of a coordinate political branch. Bluntly stated, the risk to a judge who exercises judicial review when he or she is not independent of the executive and the legislature is either removal from the bench or a reduction in salary. John Adams knew this, and so did the Framers who met in Philadelphia during the summer of 1787 when they wrote Adams’s theory of judicial independence into Article III of the Constitution.

#### Judicial independence is critical to democratic consolidation

Herron and Randazzo, 2003

[Erik, University of Kansas and Kirk, University of Kentucky, The Relationship Between Independence and Judicial Review in Post-Communist Courts, THE JOURNAL OF POLITICS, Vol. 65, No. 2, May 2003, Pp. 422–438, http://people.cas.sc.edu/randazzo/herron\_randazzo\_2003\_jop.pdf] /Wyo-MB

Although independent judiciaries are important actors in democratic consolidation, how expressions of judicial independence evolve in transitional societies¶ remains unclear. Ideally, courts review legislation and government decisions¶ under the rubric of constitutionality. That is, the judiciary is able to declare laws¶ and actions unconstitutional and serve as a check against excesses by other¶ branches of government. A strong judiciary in newly independent countries helps¶ the state break with its authoritarian past and develop a constitutional culture that¶ teaches state actors that the legal system cannot be transgressed for political gain¶ (Brewer-Carias 1989; Larkins 1996). However, the development of an independent judiciary can be constrained by a weak institutional legacy, limited training¶ and support for judges, and the strength of other political actors. If the judiciary¶ does not have the authority to make independent decisions, democratic progress may falter, potentially returning the country to “the darkness and chaos of a totalitarian and dictatorial regime” (Mohan 1982, 110).1

#### Solves global wars,

Epstien et al, 2007

[Susan B. Epstein, Nina M. Serafino, and Francis T. Miko Specialists in Foreign Policy Foreign Affairs, Defense, and Trade Division Congressional research service, Democracy Promotion: Cornerstone of U.S. Foreign Policy?, 12-26-7, http://www.au.af.mil/au/awc/awcgate/crs/rl34296.pdf] /Wyo-MB

A common rationale offered by proponents of democracy promotion, including¶ former Secretary of State Madeleine Albright and current Secretary of State¶ Condoleezza Rice, is that democracies do not go to war with one another. This is¶ sometimes referred to as the democratic peace theory. Experts point to European¶ countries, the United States, Canada, and Mexico as present-day examples.¶ According to President Clinton’s National Security Strategy of Engagement and¶ Enlargement: “Democracies create free markets that offer economic opportunity,¶ make for more reliable trading partners, and are far less likely to wage war on one¶ another.”22¶ Some have refined this democracy peace theory by distinguishing between¶ mature democracies and those in transition, suggesting that mature democracies do¶ not fight wars with each other, but that countries transitioning toward democracy are¶ more prone to being attacked (because of weak governmental institutions) or being¶ aggressive toward others. States that made transitions from an autocracy toward¶ early stages of democracy and were involved in hostilities soon after include France¶ in the mid-1800s under Napoleon III, Prussia/Germany under Bismarck (1870-1890),¶ Chile shortly before the War of the Pacific in 1879, Serbia’s multiparty constitutional¶ monarchy before the Balkan Wars of the late 20th Century, and Pakistan’s military guided pseudo-democracy before its wars with India in 1965 and 1971.23¶ The George W. Bush Administration asserts that democracy promotion is a¶ long-term antidote to terrorism. The Administration’s Strategy for Winning the War¶ on Terror asserts that inequality in political participation and access to wealth¶ resources in a country, lack of freedom of speech, and poor education all breed¶ volatility. By promoting basic human rights, freedoms of speech, religion, assembly,¶ association and press, and by maintaining order within their borders and providing¶ an independent justice system, effective democracies can defeat terrorism in the long¶ run, according to the Bush White House.24¶ Another reason given to encourage democracies (although debated by some¶ experts) is the belief that democracies promote economic prosperity. From this¶ perspective, as the rule of law leads to a more stable society and as equal economic¶ opportunity for all helps to spur economic activity, economic growth, particularly of¶ per capita income, is likely to follow. In addition, a democracy under this scenario¶ may be more likely to be viewed by other countries as a good trading partner and by¶ outside investors as a more stable environment for investment, according to some¶ experts. Moreover, countries that have developed as stable democracies are viewed¶ as being more likely to honor treaties, according to some experts.25

#### And, Drone courts key to solve separation of powers

Bandow, 2012

[Doug, Senior Fellow at the Cato Institute, America as Constitutional Republic: When Can the President Kill?, 2-28-12, http://www.huffingtonpost.com/doug-bandow/america-as-constitutional\_b\_1307524.html] /Wyo-MB

These are reasonable arguments. But allowing the president and his aides to compile "kill lists" in secret with no charges filed, no outside review of evidence, and no oversight of decisions should leave every American more than uncomfortable. Unreviewable and unaccountable power is inconsistent with a constitutional republic.¶ Events like 9/11 may justify expanding government power. However, officials still must be held accountable for their use of that power. Yet in cases like al-Aulaqi there is no accountability so long as the government is careful to assert arguments which offer a constitutional justification for targeted killings -- that the person posed an imminent threat which could be dealt with no other way -- and the courts refuse to exercise oversight.¶ Even if the president can get away with acting unilaterally, he should not do so. The administration could create a formal process with internal checks and balances. Afsheen John Radsan and Richard Murphy, of the William Mitchell School of Law and Texas Tech University School of Law, respectively, argued that "the government must take reasonable steps based on individualized facts to ensure accuracy before depriving any person of life, liberty, or property," but suggested that this requirement "might be satisfied by independent, intra-executive review." In fact, Jeh Johnson contended: "Within the executive branch the views and opinions of the lawyers on the president's national security team are debated and heavily scrutinized."¶ However honest such an internal review, it is not enough. In the case of al-Aulaqi, the administration should have released its decision memo. It need not reveal any sensitive intelligence. But the government's arguments should be available for public review. Chicago Tribune columnist Steve Chapman complained that the president "saw no need to bother" to make the case that al-Aulaqi "posed a clear threat to American lives and that the missile was the only feasible way to avert it." The president should have made the case. Moreover, the nation's founders created a system with numerous checks and balances to constrain government irrespective of who was in office. Argued Robert Levy: "The separation of powers doctrine, if it means anything, stands for the proposition that citizens cannot be killed on command of the executive branch alone, without regard to the Fourth and Fifth Amendments." Institutionalizing stricter safeguards is imperative today, with the new forms of warfare which has come to dominate U.S. policy.

#### Impact is nuclear war

**Forrester 89** - Professor, Hastings College of the Law (Ray, August 1989, ESSAY: Presidential Wars in the Nuclear Age: An Unresolved Problem, 57 Geo. Wash. L. Rev. 1636)

On the basis of this report, the startling fact is that **one** man **[person] alone has the ability to start a nuclear war**. A basic theory--if not the basic theory of our Constitution--is that **concentration of power** in any one person, or one group, **is dangerous to** mankind **[humanity]. The Constitution**, therefore, **contains a strong system of checks and balances, starting** **with the separation of powers** between the President, Congress, and the Supreme Court. The message is that no one of them is safe with unchecked power. Yet, in what is probably the most dangerous governmental power ever possessed, we find the potential for world destruction lodged in the discretion of one person. As a result of public indignation aroused by the Vietnam disaster, in which tens of thousands lost their lives in military actions initiated by a succession of Presidents, Congress in 1973 adopted, despite presidential veto, the War Powers Resolution. Congress finally asserted its checking and balancing duties in relation to the making of presidential wars. Congress declared in section 2(a) that its purpose was to fulfill the intent of the framers of the Constitution of the United States and insure that the collective judgment of both the Congress and the President will apply to the introduction of United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and to the continued use of such forces in hostilities or in such situations. The law also stated in section 3 that [t]he President in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated. . . . Other limitations not essential to this discussion are also provided. The intent of the law is clear. Congress undertook to check the President, at least by prior consultation, in any executive action that might lead to hostilities and war.  [\*1638]  President Nixon, who initially vetoed the resolution, claimed that it was an unconstitutional restriction on his powers as Executive and Commander in Chief of the military. His successors have taken a similar view. Even so, some of them have at times complied with the law by prior consultation with representatives of Congress, but obedience to the law has been uncertain and a subject of continuing controversy between Congress and the President. Ordinarily, the issue of the constitutionality of a law would be decided by the Supreme Court. But, despite a series of cases in which such a decision has been sought, the Supreme Court has refused to settle the controversy. The usual ground for such a refusal is that a "political question" is involved. The rule is well established that the federal judiciary will decide only "justiciable" controversies. "Political questions" are not "justiciable." However, the standards established by the Supreme Court in 1962 in [Baker v. Carr, 369 U.S. 186,](http://www.lexisnexis.com/us/lnacademic/mungo/lexseestat.do?bct=A&risb=21_T9842011382&homeCsi=7338&A=0.48452774259109876&urlEnc=ISO-8859-1&&citeString=369%20U.S.%20186&countryCode=USA) to determine the distinction between "justiciable controversies" and "political questions" are far from clear. One writer observed that the term "political question" [a]pplies to all those matters of which the court, at a given time, will be of the opinion that it is impolitic or inexpedient to take jurisdiction. Sometimes this idea of inexpediency will result from the fear of the vastness of the consequences that a decision on the merits might entail. Finkelstein, Judicial Self-Limitation, 37 HARV. L. REV. 338, 344 (1924)(footnote omitted). It is difficult to defend the Court's refusal to assume the responsibility of decisionmaking on this most critical issue. The Court has been fearless in deciding other issues of "vast consequences" in many historic disputes, some involving executive war power. It is to be hoped that the Justices will finally do their duty here. But **in the meantime the spectre of single-minded power persists, fraught with all of the frailties** of human nature **that each human possesses, including the President**. World history is filled with tragic examples. Even if the Court assumed its responsibility to tell us whether the Constitution gives Congress the necessary power to check the President, the War Powers Resolution itself is unclear. Does the Resolution require the President to consult with Congress before launching a nuclear attack? It has been asserted that "introducing United States Armed Forces into hostilities" refers only to military personnel and does not include the launching of nuclear missiles alone. In support of this interpretation, it has been argued that Congress was concerned about the human losses in Vietnam and in other presidential wars, rather than about the weaponry. Congress, of course, can amend the Resolution to state explicitly that "the introduction of Armed Forces" includes missiles as well as personnel. However, the President could continue to act without prior consultation by renewing the claim first made by President  [\*1639]  Nixon that the Resolution is an unconstitutional invasion of the executive power. Therefore, the real solution, in the absence of a Supreme Court decision, would appear to be a constitutional amendment. All must obey a clear rule in the Constitution. The adoption of an amendment is very difficult. Wisely, Article V requires that an amendment may be proposed only by the vote of two-thirds of both houses of Congress or by the application of the legislatures of two-thirds of the states, and the proposal must be ratified by the legislatures or conventions of three-fourths of the states. Despite the difficulty, the Constitution has been amended twenty-six times. Amendment can be done when a problem is so important that it arouses the attention and concern of a preponderant majority of the American people. But the people must be made aware of the problem. It is hardly necessary to belabor the relative importance of the control of nuclear warfare. A constitutional amendment may be, indeed, the appropriate method. But the most difficult issue remains. What should the amendment provide? How can the problem be solved specifically? The Constitution in section 8 of Article I stipulates that "[t]he Congress shall have power . . . To declare War. . . ." The idea seems to be that only these many representatives of the people, reflecting the public will, should possess the power to commit the lives and the fortunes of the nation to warfare. This approach makes much more sense in a democratic republic than entrusting the decision to one person, even though he may be designated the "Commander in Chief" of the military forces. His power is to command the war after the people, through their representatives, have made the basic choice to submit themselves and their children to war. **There is a recurring relevation of a paranoia of power**throughout human history **that has impelled one leader after another** to draw their people **into wars** which, in hindsight, were foolish, unnecessary, and, in some instances, downright insane. Whatever may be the psychological influences that drive the single decisionmaker to these irrational commitments of the lives and fortunes of others, the fact remains that the **behavior is a predictable** one **in any government that does not provide an effective check and balance against uncontrolled power in the hands of one human**. We, naturally, like to think that our leaders are above such irrational behavior. Eventually, however, human nature, with all its weakness, asserts itself whatever the setting. At least that is the evidence that experience and history give us, even in our own relatively benign society, where the Executive is subject to the rule of law.  [\*1640]  Vietnam and other more recent engagements show that it can happen and has happened here. But the "nuclear football"--the ominous "black bag" --remains in the sole possession of the President. And, most important, his **[the] decision to launch a nuclear missile would be**, in fact if not in law, a **declaration of nuclear war, one which** the nation and, indeed, **humanity** in general, probably **would be unable to survive**.

## DA

#### Courts will stand up to the executive—empirically proven

Plaw, 2006

[Avery, associate professor of political science at the University of Massachusetts, Dartmouth, Fighting Terror Ethically and Legally: The Case of Targeting Terrorists, (A working paper prepared for the CPSA Conference, June 2006), http://www.cpsa-acsp.ca/papers-2006/Plaw.pdf] /Wyo-MB

Some critics and advocates of targeting will no doubt be dissatisfied with this resolution. ¶ Critics will worry that the FCOC would essentially be a rubber stamp (while robbing ¶ them of their best rhetorical point – that targetings are extra-judicial). But there is no ¶ compelling reason to believe that courts, especially high-level federal courts, must always ¶ approve government policies. After all, supreme courts in both Israel and the United ¶ States have both recently issued sharp rebukes of government counter-terrorist policies ¶ (e.g., 03-333/4 on the U.S. legal status of detainees, and 3799/02 on the IDF use of ¶ human shields).

#### Lawyers hired by the court would solve rubber stamping

Adselberg, 2012

[Samuel, J.D. Candidate 2013, Yale Law School, Bouncing the Executive’s Blank Check: Judicial Review and the Targeting of Citizens, Harvard Law & Policy Review [Vol. 6], http://www3.law.harvard.edu/journals/hlpr/files/2013/06/Bouncing-the-Executives-Blank-Check.pdf] /Wyo-MB

To help ensure that the CTRC does not become a rubber stamp, an¶ expert bar of federal and military defense counsel should be formed to represent the interests of the citizen being targeted. These individuals would¶ be approved by the Chief Justice of the Supreme Court, much like the judges¶ on the FISC, and would have relevant experience either as former military¶ lawyers, court martial judges, or attorneys with detainee litigation experience. These lawyers would be appointed to represent the targeted citizens as¶ guardians ad litem, a procedure normally reserved for the representation of¶ minors or incompetents. Although there would be no client consultation or¶ instructions, the lawyers would proceed with the assumption that the¶ targeted citizen prefers life. These attorneys would need to be approved for¶ security clearance and would be given access to the government’s intelligence. The government would be required to turn over to the accused’s defense attorney any exculpatory intelligence regarding the targeted citizen.

## K

#### Engaging the state is critical to solve global challenges: Engagement refocuses energies through citizen participation in national institutions that solve for war as well as environmental and social challenges

Sassen 2009

[ColumbiaUniversity, istheauthorof TheGlobalCity (2ndedn, Princeton, 2001), Territory, Authority, Rights: From Medieval to Global Assemblages (Princeton, 2008) and A Sociology of Globalisation (Norton,2007), among others, 2009, The Potential for a Progressive State?, uwyo//amp]

Using state power for a new global politics These post-1980s trends towards a greater interaction of national andglobal dynamics are not part of some unidirectional historical progres-sion. There have been times in the past when they may have been as strong in certain aspects as they are today (Sassen, 2008a: chapter 3). But the current positioning of national states is distinctive precisely because 270 Saskia Sassen the national state has become the most powerful complex organizational entity in the world, and because it is a resource that citizens, confined largely to the national, can aim at governing and using to develop novel political agendas. It is this mix of the national and the global that is so full of potential. The national state is one particular form of state: at the other end of this variable the state can be conceived of as a technical administrative capability that could escape the historic bounds of narrow nationalisms that have marked the state historically, or colonialism as the only form of internationalism that states have enacted. Stripping the state of the particularity of this historical legacy gives me more analytic freedom in conceptualising these processes and opens up the possibility of the denationalised state.As particular components of national states become the institutional home for the operation of some of the dynamics that are central to glob-alisation they undergo change that is difficult to register or name. In my own work I have found useful the notion of an incipient denation-alising of specific components of national states, i.e. components that function as such institutional homes. The question for research then becomes what is actually ‘national’ in some of the institutional compo-nents of states linked to the implementation and regulation of economic globalisation. The hypothesis here would be that some components of national institutions, even though formally national, are not national in the sense in which we have constructed the meaning of that term overthe last hundred years.This partial, often highly specialised or at least particularised, dena-tionalisation can also take place in domains other than that of economic globalisation, notably the more recent developments in the humanrights regime which allow national courts to sue foreign firms and dictators, or which grant undocumented immigrants certain rights. Denationalisation is, thus, multivalent: it endogenises global agendas of many different types of actors, not only corporate firms and financial markets, but also human rights and environmental objectives. Those confined to the national can use national state institutions as a bridge into global politics. This is one kind of radical politics, and only one kind, that would use the capacities of hopefully increasingly denationalized states. The existence and the strengthening of global civil society organ-isations becomes strategic in this context. In all of this lie the possibilities of moving towards new types of joint global action by denationalized states–coalitions of the willing focused not on war but on environmental and social justice projects.

#### Preventing extinction is the highest ethical priority – we should take action to prevent the Other from dying FIRST, only THEN can we consider questions of value to life

Paul Wapner, associate professor and director of the Global Environmental Policy Program at American University, Winter 2003, Dissent, online: 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.

#### The prioritization of method over all else, trades off with real world change and creates a vicious cycle that prevents concrete solutions to problems

Owen 02, Reader in Political Theory at the University of Southampton (David, “Reorienting International Relations: On Pragmatism, Pluralism and Practical Reasoning”, Millennium: Journal of International Studies, Vol. 31, No. 3, <http://mil.sagepub.com/cgi/reprint/31/3/653>)

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

#### Perm do both—the aff is key to solve arbitrary use of state power—solves their K impacts

Alford, 2011

[Ryan Patrick, Assistant Professor, Ave Maria School of Law, THE RULE OF LAW AT THE CROSSROADS: CONSEQUENCES OF TARGETED KILLING OF CITIZENS, UTAH LAW REVIEW, NO. 4, Online] /Wyo-MB

The Al-Aulaqi lawsuit makes it clear that the same arguments that the Plantagenet and Stuart kings used in attempts to weaken the Magna Carta and subsequent constitutional protections have been revived in a modern form. The complaint correctly asserts that “[t]he right to life is the most fundamental of all¶ rights.”25 However, the response to the Defendants’ motion to dismiss notes that “the upshot of its arguments is that the executive, [who] must obtain judicial approval to monitor a U.S. citizen’s communications or search his briefcase, may execute that citizen without any obligation to justify its actions to a court or to the public.”26 These arguments were of no avail in the District Court, which held that these allegations were indeed unreviewable in any court, because the executive had asserted, purportedly correctly, that addressing a violation of the right of life involves a nonjusticiable political question. Al-Awlaki was thus told that he was to have no day in court before being killed.27¶ Accordingly, seven hundred years after the executive death warrants issued by King Edward I (and four hundred years after a decisive rejection of King James I’s tentative attempts to revive the practice), we appear to be at a similar crossroads of history. However, it remains to be seen whether carrying out an executive order to kill an American citizen will lead to a backlash that reaffirms the importance of the bulwarks against this exercise of arbitrary power over life and death, or whether it leads to an implicit decision to abandon the rule of law and the constraints on executive power that have defined our constitutional tradition for centuries.¶ The early history of the resistance to arbitrary executive authority is important to the worldview and legal theory of the Framers of the Constitution. This Article argues that this history provides the best lens through which we might scrutinize the constitutionality of the targeted killing of American citizens. In doing so, this Article attempts to bring back to the forefront what is at stake in the Al-Aulaqi lawsuit: not merely the potential harm to the targeted individual, but the damage this might inflict on our constitutional tradition. Specifically, this Article will argue that if the courts uphold a decision declaring that the president’s powers are so broad as to preclude any judicial determination of whether the targeted killing program is prohibited by the Due Process Clause, we stand to lose the benefits of a seven-hundred year old tradition of resistance to arbitrary power.¶

#### And, Drones are inevitable

Henning, 2-20-12

[Job, NYT, Embracing the Drone, http://www.nytimes.com/2012/02/21/opinion/embracing-the-drone.html?pagewanted=all&\_r=0] /Wyo-MB

Drones — more formally armed Unmanned Aerial Vehicles, or UAVs — are “in.” Since a Predator strike in Yemen against Al Qaeda in November 2002 — the first known use of a drone attack outside a theater of war — the United States has made extensive use of drones. There were nearly four times as many drone strikes in Pakistan during the first two years of the Obama administration as there were during the entire Bush administration.¶ The United States is now conducting drone strikes in Somalia as well, and their use is expected to dramatically increase in Afghanistan over the next five years as NATO troops withdraw from there.¶ Armed drones are both inevitable, since they allow the fusing of a reconnaissance platform with a weapons system, and, in many respects, highly desirable. They can loiter, observe and strike, with a far more precise application of force. They eliminate risk to pilots and sharply reduce the financial costs of projecting power. Moreover, polls show that a vast majority of Americans support the use of drones.¶

#### And, Strict review of targeted killing operations is key to maintain morality in war

Guiora, 2012

[Amos, Professor of Law, S.J. Quinney College of Law, University of Utah, Targeted killing: when proportionality gets all out of proportion, Case Western Reserve Journal of International Law. 45.1-2 (Fall 2012): p235., Academic onefile] /Wyo-MB

One of the dominant, and admittedly controversial, arguments this essay advances is that states have an obligation to conduct themselves morally, including during armed conflict. Although some may find this notion inherently contradictory, "morality in armed conflict" is a term of art (and not an oxymoron) that lies at the core of the instant discussion. This concept imposes an absolute requirement that soldiers treat the civilian population of areas in which they are engaged in conflict with the utmost dignity and respect. This obligation holds true whether combat takes place "house-to-house" or using remotely piloted aircraft tens of thousands of feet up in the sky. This concept may be simple to articulate, yet it is difficult to implement; the operational reality of armed conflict short of war requires a soldier to make multiple decisions involving various factors, all of which have never-ending spin-off potential. After all, every decision is not only complicated in and of itself, but each operational situation has a number of "forks." The implication is that no decision is linear, and every decision leads to additional dilemmas and spurs further decision making.¶ Operational decision-making is thus predicated on a complicated triangle that must incorporate the rule of law, morality, and effectiveness. I have been asked repeatedly whether that triangle endangers soldiers while giving the "other side" an undue advantage. The concern is understandable; however, the essence of armed conflict is that innocent civilians are in the immediate vicinity of combatants, and there is a duty to protect them even at the risk of harm to soldiers. (12) The burden to distinguish between combatant and civilian is extraordinarily complicated and poses significant operational dilemmas for and burdens on soldiers.¶ For armed conflict conducted in accordance with the rule of law and morality, this burden of distinction can never be viewed as mere mantra. Distinction, (13) then, is integral to the discussion. It is as relevant and important to the soldier standing at a check-point, uncertain whether the person standing opposite him is a combatant or civilian, as it must be in any targeted killing dilemma. The decision whether to operationally engage must reflect a variety of criteria and guidelines. (14) Otherwise, the nation state conducts itself in the spirit of a video game where victims are not real and represent mere numbers, regardless of the degree of threat they pose.¶ At the most fundamental level, operational decision making in the context of counterterrorism involves the decision whether to kill an individual defined as a legitimate target. (15) Although some argue killing is inherently immoral, I argue that killing in the context of narrowly defined self-defense is both legal and moral provided that the decision to "pull the trigger" is made in the context of a highly circumscribed and criteria-based framework. If limits are not imposed in defining a legitimate target, then decisions take on the hue of both illegality and immorality.

#### Their epistemology K is flawed – social constructions are knowable – they pre-exist individuals and constrain action in predictable ways – prefer the specificity of the aff to broad philosophical indictments

Fluck, 10

PhD in International Politics from Aberystwyth, ’10 (Matthew, November, "Truth, Values and the Value of Truth in Critical International Relations Theory" Millennium Journal of International Studies, Vol 39 No 2, SagePub), accessed 10/20/12,WYO/JF

Critical Realists arrive at their understanding of truth by inverting the post-positivist attitude; rather than asking what knowledge is like and structuring their account of the world accordingly, they assume that knowledge is possible and ask what the world must be like for that to be the case.36 This position has its roots in the realist philosophy of science, where it is argued that scientists must assume that the theoretical entities they describe – atoms, gravity, bacteria and so on – are real, that they exist independently of thoughts or discourse.37 Whereas positivists identify causal laws with recurrent phenom­ena, realists believe they are real tendencies and mechanisms. They argue that the only plausible explanation for the remarkable success of science is that theories refer to these real entities and mechanisms which exist independently of human experience.38 Against this background, the Critical Realist philosopher Roy Bhaskar has argued that truth must have a dual aspect. On the one hand, it must refer to epistemic conditions and activities such as ‘reporting judgements’ and ‘assigning values’. On the other hand, it has an inescapably ontic aspect which involves ‘designating the states of affairs expressed and in virtue of which judgements are assigned the value “true’’’. In many respects the epistemic aspect must dominate; we can only identify truth through certain epistemic procedures and from within certain social contexts. Nevertheless, these procedures are oriented towards independent reality. The status of the conclusions they lead us to is not dependent on epistemic factors alone, but also on independently existing states of affairs. For this reason, Bhaskar argues that truth has a ‘genuinely ontological’ use.39 Post-positivists would, of course, reply that whilst such an understanding of truth might be unproblematic in the natural sciences, in the social sciences the knower is part of the object known. This being the case, there cannot be an ontic aspect to the truths identified. Critical Realists accept that in social science there is interaction between sub­ject and object; social structures involve the actions and ideas of social actors.40 They add, however, that it does not follow that the structures in question are the creations of social scientists or that they are simply constituted through the ideas shared within society at a given moment.41 According to Bhaskar, since we are born into a world of structures which precede us, we can ascribe independent existence to social structures on the basis of their pre-existence. We can recognise that they are real on the basis of their causal power – they have a constraining effect on our activity.42 Critical Realists are happy to agree to an ‘epistemological relativism’ according to which knowledge is a social product created from a pre-existing set of beliefs,43 but they maintain that the reality of social structures means that our beliefs about them can be more or less accurate – we must distinguish between the way things appear to us and the way they really are. There are procedures which enable us to rationally choose between accounts of reality and thereby arrive at more accurate understandings; epistemological relativism does not preclude judgemental rationalism.44 It therefore remains possible to pursue the truth about social reality.

#### Predictions of terrorism are true- their critique replicates the logic preceding the attacks on Britain

**Jones ‘6** (The commentariat and discourse failure: language and atrocity in Cool Britannia International Aff airs 82: 6 (2006) 1077–1100 © 2006 The Author(s). Journal Compilation © 2006 Blackwell Publishing Ltd/The Royal Institute of International Aff airs DAVID MARTIN JONES AND M. L. R. SMITH )

Rather than accept the existence of a clear and present Islamist threat to western secularism and democracy after the 9/11 attacks, such critical thinking moved the discursive goal posts. **Critical thinkers and opinionators argued instead that western governments deliberately exaggerated the threat** to curtail legitimate dissent and civil liberties.46 In his bestselling book Dude, Where’s My Country? Michael Moore popularized this view, maintaining: ‘There is no terrorist threat. Why has our government gone to such absurd lengths to convince us our lives are in danger? The answer is nothing short of their feverish desire to rule the world, fi rst by controlling us, and then, in turn, getting us to support their eff orts to dominate the rest of the planet.’47 More measured academic commentary termed the propensity of liberal democratic governments to exaggerate the terrorist threat the ‘politics of fear’. Governments, they maintained, conjured the spectre of Islam and catastrophic terror attacks for illiberal purposes. The politics of fear persuaded the gullible masses to accept an illegitimate extension of state power under the rubric of counterterror policy. These measures eroded personal freedoms and restricted civil liberty. The UK government proposals to introduce identity cards, extend detention of terrorist suspects without trial and curtail expression of views calculated to infl ame racial hatred crystallized the new authoritarianism. The politics of fear also facilitated a contentious foreign policy legitimating the 2003 invasion of Iraq, on the grounds of necessary pre-emptive military action against all potential sources of threat and instability.48 Critics thus maintained that ‘Islamist terror’ constituted an all-purpose political bogeyman. Media commentary reinforced the politics of fear hypothesis. ‘So, a climate of fear it is,’ declared Jackie Ashley in the Guardian in March 2004: ‘Everywhere you turn, there is another gray-faced public fi gure telling you that a major terrorist attack is coming … and there is nothing we can do except trust our leaders.’49 In a similar, but academic, vein, security analyst Bill Durodié declared that ‘Insecurity is the key driving concept of our times. Politicians have packaged themselves as risk managers’ in order to pacify ‘a demand from below for protection’.50 The BBC series The Power of Nightmares, screened in the United Kingdom in early 2005, encapsulated this critical understanding for a wider audience.51 Advertising the series, the BBC News website in April 2005 announced: ‘The Power of Nightmares explores how the idea that we are threatened by a hidden and organized network is an illusion. It is a myth that has spread unquestioned through politics, the security services and the international media.’ Pre-publicity presented the threat as a ‘fantasy’ which ‘politicians then found restored their power and authority in a disillusioned age’, and argued somewhat mysteriously: ‘Those with the darkest fears became the most powerful.’52 If before 7/7 the politics of fear increasingly influenced mainstream media commentary, it also dominated UK and US campuses. The Guardian, sampling informed opinion prior to the screening of The Power of Nightmares, confi rmed the orthodoxy that the security bureaucracy and politicians constructed terrorism in order to pursue the politics of fear and repression.53 Adam Roberts, Professor of International Relations at Oxford University, observed that for governments the terror threat is of ‘absolute cosmic signifi cance’, legitimating an ‘anything goes’ attitude towards its defeat. For the historian Linda Colley, ‘States and their rulers expect to monopolise violence, and that is why they react so violently to terrorism.’ Given that there had been only one attack in Europe since 9/11, in Madrid in March 2003, Bill Durodié contended that the ‘reality [of the Al-Qaeda threat to the west] has been essentially a one-off ’.54 Nor was the evolving consensus confi ned to academic and media comment. Such views found support both among members of parliament and from common lawyers. In January 2005 Charles Kennedy, the leader of the Liberal Democrats, Britain’s third largest political party, asserted in his ‘New Year message’: A clear division is emerging in British politics: the politics of fear versus the politics of hope. Labour is counting on the politics of fear, ratcheting up talk of threat, crime and insecurity, while the Conservatives are re-working their populist scares about asylum and the European ‘menace’. Look at how Labour, with the support of the Conservatives, has undermined trust in the political process by its spin and reliance on external threats.55 Suspicion of a government policy based on the politics of fear similarly infl uenced legal decisions with respect to deportation or extradition orders for suspects wanted in third countries for terror-related off ences.56 More particularly, the law lords questioned the government’s authority to detain without trial non-British terror suspects resident in the UK, like Abu Qatada. In December 2004, the highest appellate court found Qatada’s detention illegal. One of the law lords, Lord Bingham, maintained that the government’s powers of detention ‘discriminate on the ground of nationality or immigration status’,57 while Lord Hoff man found that ‘The real threat to the life of the nation, in the sense of a people living in accordance with its traditional laws and political values, comes not from terrorism but from laws such as these.’58 Those who criticized the government for its political exploitation of the threat, however, failed to recognize that their rejection of the politics of fear was also politically motivated. For the politics of fear itself resulted in highly politicized threat assessments couched in the language of balance, neutrality and concern for an abstract standard of law that transcended short-term political contingencies. Thus, in his judgment on the detention of non-UK citizens, Lord Hoff man argued that ‘fanatical groups’ ‘do not threaten the life of the nation’. He continued: ‘Terrorist crime, serious as it is, does not threaten our institutions of government or our existence as a civil community.’59 Hoff man asserted as constitutional fact what could only be an expression of faith. In an analogous vein, the security analyst Bill Durodié discounted the pretensions of Islamism’s UK franchise. After the conviction of the Algerian Kamel Bourgass in 2005 for murder and conspiracy to commit a public nuisance using poisons and explosives, including ricin, Durodié dismissed Al-Qaeda as a ‘conspiracy of dunces’. Assessing the ‘sheer naivety and incompetence of all these so-called al- Qaeda operatives’ like Bourgass, Richard Reid, the ‘dim-witted shoe bomber who had trouble with matches’, and Sajid Badat, ‘the Gloucester loner who bottled out of emulating Reid’, Durodié asserted: ‘If that is the best of what the supposed massed ranks of al-Qaeda have to off er after three years [i.e. after 9/11] … we should have little to fear. But the media, politicians and the police have sought to portray the situation diff erently.’60 **The London bombs disproved the politics of fear hypothesis and exposed the evaluations of law lords like Hoff man and security analysts like Durodié. The facts, expressed in the toll of civilian lives, demonstrated that the government’s perception had been more acute than that of its critics.** But its detractors portrayed government attempts to counter the threat of terror and heighten the state of public vigilance as an insidious plot to undermine democratic values.**61 As Frank Furedi observed, those who believed in the politics of fear met one conspiratorial claim—that the government was using the threat of Islamic terror to weaken basic freedoms—with a counterconspiracy—that there wasn’t much of a threat to begin** **with**.62 **Hence, the politics of fear determined its own preferred policy response, namely, the practice of complacency. Rather than engaging in a debate about the proportionality of response to a home-grown threat of Islamist terror, those who detected the politics of fear lurking behind every government pronouncement instead presented the security predicament in the very reductionist terms of which they accused those who claimed to be exaggerating the threat**. **In other words, the proponents of the politics of fear played the politics of fear themselves.63** Indeed, the thesis required fear—in this case, fear of a creeping authoritarian dystopia—to sustain it. In this way, a reasonable public policy concern about counterterrorist measures eroding established legal rights rapidly degenerated into a one-dimensional caricature of government policy not far removed from paranoid post-9/11 movies like V for Vendetta (2006). Furthermore, the wider commentariat’s acceptance of the politics of fear had far from trivial consequences. Mainstream politicians, the liberal press, television, academics and the courts gave it wide currency as a more objective response to the post-9/11 environment. Its premise, fear, discounted the threat and denigrated any serious attempt to evaluate the actual character and extent of the problem, asserting, without empirical basis, its more insightful assessment of the situation. Lord Walker, the single dissenting law lord in the 8 to 1 judgment in favour of Qatada in December 2004, expressed the inherent danger contained in this politics of complacency, well before the 7/7 attacks. Walker found that It is certainly not the court’s function to substitute for the British Government’s assessment any other assessment of what might be the most prudent or most expedient policy to combat terrorism. When a state is struggling against a public emergency threatening the life of the nation, it would be rendered defenceless if it were required to accomplish everything at once, to furnish from the outset each of its chosen means of action with each of the safeguards.64 The politics of complacency, by contrast, denied the existence of a ‘public emergency’. To the extent that a threat existed, it was attributed largely to government exploitation and overreaction, which had constructed a Muslim out-group.65 Consequently, for the West, the Islamist threat was an ‘enemy of its own making’.66 The rhetoric in response to both the 7/7 attacks and the subsequent revelation of plots and conspiracies in London refl ects a strategic misunderstanding that confuses limited tactical ability with limited political goals. The semantic laxity that informed discussion of the terrorist threat reinforced this misconception. Terrorism is a tactic practised as part of a strategy in war, but it is not a material phenomenon in itself. **The lax terminology and distorted meanings attached to the phenomenon created the epistemological foundations of discourse failure.** This failure enabled Islamist extremists to exploit the fault-lines in liberal, multicultural societies like Britain, which tolerated or ignored their evolving global campaign to engineer an apocalyptic confrontation with secular modernity. Prior to July 2005, the British authorities recognized only one theatre of the ‘war against terrorism’, which required confronting the Islamist threat externally. Yet since 9/11 Al-Qaeda has rapidly mutated, evolving **via the Internet a largely home-grown jihadist strategy to infi ltrate and attack the cosmopolitan western cityscape. A coherent response therefore demands the pursuit of a far more vigorous strategy at home**. In particular, it requires abandoning the prevailing view that the domestic threat is best prosecuted as a criminal conspiracy. **It demands instead a total strategy to deal with a totalizing threat**. **This means recognizing that there is an existential threat,** unencumbered by the politics of fear, root causes and denial that for too long has impeded its eff ective prosecution. An adequate strategy requires, moreover, a multifaceted response that goes beyond law enforcement. This does not mean imposing arbitrary regimes of detention without trial. What it does require, however, is enhanced means of intelligence-gathering, both technical and human, together with a coherent set of government policies addressing education, welfare, asylum, immigration and culture in order to safeguard a sustainable civil association. The **evidence demonstrates the existence of a physical threat, not merely the political fear of a threat**. The implementation of a coherent set of social policies confronting the threat at home recognizes that securing state borders and maintaining internal stability is the fi rst task of responsible government, responsible media and a responsible public education sector, both secondary and tertiary. For **without the basis of security, necessarily premised upon the inculcation of a shared political culture, the conditions for political pluralism and liberal democracy gradually disappear**. This requires a return to the Hobbesian verities of sovereignty, which, despite the illusion of post-Cold War cosmopolitan multiculturalism and the elitist dream of a post-national constellation, represents the only secure basis for liberal democratic order.

#### Attempting to solve the root cause of terror is impossible, encourages more terrorism and casualties, only way to defeat is to incapacitate terrorism completely

Dershowitz 02

(Alan M., Why Terrorism Works: Understanding the Threat, Responding to the Challenge, Pgs. 24-26//wyo-mm)

The reason terrorism works—and will persist unless there are significant changes in the response to it—is precisely because its perpetrators believe that by murdering innocent civilians they will succeed in attracting the attention of the world to their perceived grievances and their demand that the world “understand them” and “eliminate their root causes.” To submit to this demand is to send the following counterproductive message to those with perceived grievances: if you resort to terrorism, we will try harder to understand your grievances and respond to them than we would have if you employed less violent methods. This is precisely the criterion for success established by the terrorist themselves. Listen to the words of Zehdi Labib Terzi, the Palestine Liberation Organization’s chief observer at the United Nations: “The first several hijackings aroused the consciousness of the world and awakened the media and the world opinion much more—and more effectively—than twenty years of pleading at the United Nations.” If this is true—and the Palestinians surely believe it is—then it should come as no surprise that hijackings and other forms of terrorism increased dramatically after the Palestinians were rewarded for their initial terrorism by increased world attention to its “root causes”—attention that quickly resulted in their leader being welcomed by the U.N. General Assembly, their organization being granted observer status at the United Nations, and their “government” being recognized by dozens of nations.9 We must take precisely the opposite approach to terrorism. We must commit ourselves never to try to understand or eliminate its alleged root causes, but rather to place it beyond the pale of dialogue and negotiation. Our message must be this: even if you have legitimate grievances, if you resort to terrorism as a means toward eliminating them we will simply not listen to you, we will not try to understand you, and we will certainly never change any of our policies toward you. Instead, we will hunt you down and destroy your capacity to engage in terror. Any other approach will encourage the use of terrorism as a means toward achieving ends—whether those ends are legitimate, illegitimate, or anything in between. Nor is there any single substantive root cause of all, or even most, terrorism. If there were—if poverty, for example, were the root cause of all terrorism—then by fixing that problem we could address the root cause of specific terrorist groups without encouraging others. But the reality is that the “root causes” of terrorism are as varied as human nature. Every single “root cause” associated with terrorism has existed for centuries, and the vast majority of groups with equivalent or more compelling causes—and with far greater poverty and disadvantage—have never resorted to terrorism. The search for “root causes” smacks more of after-the-fact political justification than inductive scientific inquiry. The variables that distinguish aggrieved groups willing to target innocent civilians from equally situated groups unwilling to murder children have far less to do with the legitimacy of their causes or the suffering of their people than with religious, cultural, political, and ethical differences.10 They also relate to universalism versus parochialism and especially to the value placed on human life. To focus on such favors as poverty, illiteracy, disenfranchisement, and others all too common around our imperfect world is to fail to explain why so many groups with far greater grievances and disabilities have never resorted to terrorism.11 Instead, the focus must be on the reality that using an act of terrorism as the occasion for addressing the root causes of that act only encourages other groups to resort to terrorism in order to have their root causes advanced on the international agenda. Put another way, the “root cause” of terrorism that must be eliminated is its success.

#### Fighting terrorism with a policy focus is entirely justified – their claims to the contrary are without merit

Horgan and Boyle ‘8 [John Horgan and Michael J. Boyle\*\*” (1 International Center for the Study of Terrorism, Department of Psychology, Pennsylvania State University, University Park, PA, USA; "School of International Relations, University of St Andrews, S! Andrews, UK), Critical Studies on Terrorism, Vol. 1, No. l, April 2008, “A case against ‘Critical Terrorism Studies’”]

One of the tensions within CTS concems the issue of ‘policy relevance’. At the most basic level, there are some sweeping generalizations made by CTS scholars, often with little evidence. For example, Jackson (2007c) describes ‘the core terrorism scholars’ (without explicitly saying who he is referring to) as ‘intimately connected — institutionally, ﬁnancially, politically, and ideologically - with a state hegemonic project’ (p. 245). Without giving any details of who these ‘core’ scholars are, where they are, what they do, and exactly who funds them, his arguments are tantamount to conjecture at best. We do not deny that govemments fund terrorism research and terrorism researchers, and that this can inﬂuence the direction (and even the ﬁndings) of the research. But we are suspicious of over-generalizations of this count on two grounds: (l) accepting govemment funding or infomiation does not necessarily obviate one’s independent scholarly judgment in a particular project; and (2) having policy relevance is **not always a sin**. On the ﬁrst point, we are in agreement with some CTS scholars. Gunning provides a sensitive analysis of this problem, and calls on CTS advocates to come to terms with how they can engage policy-makers without losing their critical distance. He recognizes that CTS can (and should) aim to be policy-relevant, but perhaps to a different audience, including non-govemmental organizations (NGOs), civil society than just governments and security services. ln other words, CTS aims to whisper into the ear of the prince. but it is just a different prince. Gurming (2007a) also argues that research should be assessed on its own merits, for ‘just because a piece of research comes from RAND does not invalidate it; conversely, a “critical” study is not inherently good’ (p. 240). We agree entirely with this. Not all sponsored or contract research is made to ‘toe a party line’, and much of the work coming out of ofﬁcial government agencies or afﬁliated government agencies has little agenda and can be analytically useful. The task of the scholar is to retain one’s sense of critical judgment and integrity, and we believe that there is no prima facie reason to assume that this cannot be done in sponsored research projects. What matters here are the details of the research — what is the purpose of the work, how will it be done, how might the work be used in policy — and for these questions the scholar must be self-critical and insistent on their intellectual autonomy. The scholar must also be mindful of the responsibility they bear for shaping a govemment’s response to the problem of terrorism. Nothing — not the source of the funding, purpose of the research or prior empirical or theoretical commitment — obviates the need of the scholar to consider his or her own conscience carefully when engaging in work with any extemal actor. But simply engaging with governments on discrete projects does not make one an ‘embedded expert’ nor does it imply sanction to their actions. But we also believe that the study of political violence lends itself to policy relevance and that those who seek to produce research that might help policy-makers reduce the rates of terrorist attack are committing no sin, provided that they retain their independent judgment and report their ﬁndings candidly and honestly. In the case of terrorism, we would go further to argue that being policy relevant is in some instances **an entirely justifiable moral choice**. For example, neither of us has any problem producing research with a morally defensible but policy relevant goal (for example, helping the British govemment to prevent suicide bombers from attacking the London Underground) and we do not believe that engaging in such work tarnishes one’s stature as an independent scholar. Implicit in the CTS literature is a deep suspicion about the state and those who engage with it. Such a suspicion may blind some CTS scholars to good work done by those associated with the state. But to assume that being ‘embedded’ in an institution linked to the ‘establishment’ consists of being captured by a state hegemonic project is too simple. We do not believe that scholars studying terrorism must all be policy-relevant. but equally we do not believe that being policy relevant should always be interpreted as writing a blank cheque for govermnents or as necessarily implicating the scholar in the behaviour of that government on issues unrelated to one’s work. Working for the US government, for instance, does not imply that the scholar sanctions or approves of the abuses at Abu Ghraib prison. The assumption that those who do not practice CTS are all ‘embedded’ with the ‘establislunent’ and that this somehow gives the green light for states to engage in illegal activity is in our view unwarranted, to say the very least. The limits of this moral responsibility are overlooked in current CTS work; indeed, if anything there is an attempt to inﬂate the policy relevance that terrorism scholars have. Jackson (20070) alleges that ‘the direction of domestic counter-terrorism policies’ are ‘to a large degree based on orthodox terrorism studies research’ (p. 225). Yet he provides no examples, let alone evidence for this claim. Jackson further alleges ‘terrorism studies actually provides an authoritative judgment about who may legitimately be killed, tortured, rendered or incarcerated by the state in the name of counter-terrorism’ (p. 249). Again, there is a tension here: Jackson conjures an image of terrorism studies which no matter its conceptual and empirical ﬂaws is somehow able to inﬂuence govemments to the point of constructing who is and is not a legitimate target. This implies that not only is there a secret cabal of terrorism researchers quietly pulling the strings of government, but also that those engaged in terrorism research sanction abuse of human rights and statedirected violence. This implies a measure of bad faith on the part of some terrorism researchers, and we believe.

#### Turn – Labeling and condemning the term “terrorism” is vital to stigmatizing terrorist legitimacy and to eliminating violence against civilians as a means to attain political goals

**Ganor, 01** (Boaz, Director of the International Policy Institute for Counter-Terrorism, “Defining Terrorism”, <http://www.ict.org.il/articles/define.htm>)

The prevalent definitions of terrorism entail difficulties, both conceptual and syntactical. It is thus not surprising that alternative concepts with more positive connotations—guerrilla movements, underground movements, national liberation movements, commandos, etc.—are often used to describe and characterize the activities of terrorist organizations. Generally these concepts are used without undue attention to the implications, but at times the use of these definitions is tendentious, grounded in a particular political viewpoint. By resorting to such tendentious definitions of terrorism, terrorist organizations and their supporters seek to gloss over the realities of terrorism, thus establishing their activities on more positive and legitimate foundations. Naturally, terms not opposed to the basic values of liberal democracies, such as “revolutionary violence,” “national liberation,” etc., carry fewer negative connotations than the term, “terrorism.” Terrorism or Revolutionary Violence? Salah Khalef (Abu Iyad) was Yasser Arafat’s deputy and one of the leaders of Fatah and Black September. He was responsible for a number of lethal attacks, including the killing of Israeli athletes at the 1972 Munich Olympics. In order to rationalize such actions, he used the tactic of confounding “terrorism” with “political violence,” stating, “By nature, and even on ideological grounds, I am firmly opposed to political murder and, more generally, to terrorism. Nevertheless, unlike many others, I do not confuse revolutionary violence with terrorism, or operations that constitute political acts with others that do not.”[[4](http://www.ict.org.il/articles/define.htm#4)] Abu Iyad tries to present terrorism and political violence as two different and unconnected phenomena. The implication of this statement is that a political motive makes the activity respectable, and the end justifies the means. I will examine this point below. Terrorism or National Liberation? A rather widespread attempt to make all definitions of terrorism meaningless is to lump together terrorist activities and the struggle to achieve national liberation. Thus, for instance, the recurrently stated Syrian official position is that Syria does not assist terrorist organizations; rather, it supports national liberation movements. President Hafez el-Assad, in a November 1986 speech to the participants in the 21st Convention of Workers Unions in Syria, said the following: We have always opposed terrorism. But terrorism is one thing and a national struggle against occupation is another. We are against terrorism… Nevertheless, we support the struggle against occupation waged by national liberation movements.[[5](http://www.ict.org.il/articles/define.htm%22%20%5Cl%20%225)] The attempt to confound the concepts of “terrorism” and “national liberation” comes to the fore in various official pronouncements from the Arab world. For instance, the fifth Islamic summit meeting in Kuwait, at the beginning of 1987, stated in its resolutions that: The conference reiterates its absolute faith in the need to distinguish the brutal and unlawful terrorist activities perpetrated by individuals, by groups, or by states, from the legitimate struggle of oppressed and subjugated nations against foreign occupation of any kind. This struggle is sanctioned by heavenly law, by human values, and by international conventions.[[6](http://www.ict.org.il/articles/define.htm%22%20%5Cl%20%226)] The foreign and interior ministers of the Arab League reiterated this position at their April 1998 meeting in Cairo. In a document entitled “Arab Strategy in the Struggle against Terrorism,” they emphasized that belligerent activities aimed at “liberation and self determination” are not in the category of terrorism, whereas hostile activities against regimes or families of rulers will not be considered political attacks but rather criminal assaults.[[7](http://www.ict.org.il/articles/define.htm%22%20%5Cl%20%227)] Here again we notice an attempt to justify the “means” (terrorism) in terms of the “end” (national liberation). Regardless of the nature of the operation, when we speak of “liberation from the yoke of a foreign occupation” this will not be terrorism but a legitimate and justified activity. This is the source of the cliché, “One man’s terrorist is another man’s freedom fighter,” which stresses that all depends on the perspective and the worldview of the one doing the defining. The former President of the Soviet Union, Leonid Brezhnev, made the following statement in April 1981, during the visit of the Libyan ruler, Muamar Qadhafi: “Imperialists have no regard either for the will of the people or the laws of history. Liberation struggles cause their indignation. They describe them as ‘terrorism’.”[[8](http://www.ict.org.il/articles/define.htm#8)] Surprisingly, many in the Western world have accepted the mistaken assumption that terrorism and national liberation are two extremes in the scale of legitimate use of violence. The struggle for “national liberation” would appear to be the positive and justified end of this sequence, whereas terrorism is the negative and odious one. It is impossible, according to this approach, for any organization to be both a terrorist group and a movement for national liberation at the same time. In failing to understand the difference between these two concepts, many have, in effect, been caught in a semantic trap laid by the terrorist organizations and their allies. They have attempted to contend with the clichés of national liberation by resorting to odd arguments, instead of stating that when a group or organization chooses terrorism as a means, the aim of their struggle cannot be used to justify their actions (see below). Thus, for instance, Senator Jackson was quoted in Benyamin Netanyahu’s book Terrorism: How the West Can Win as saying, The idea that one person’s ‘terrorist’ is another’s ‘freedom fighter’ cannot be sanctioned. Freedom fighters or revolutionaries don’t blow up buses containing non-combatants; terrorist murderers do. Freedom fighters don’t set out to capture and slaughter schoolchildren; terrorist murderers do . . . It is a disgrace that democracies would allow the treasured word ‘freedom’ to be associated with acts of terrorists.[[9](http://www.ict.org.il/articles/define.htm%22%20%5Cl%20%229)] Professor Benzion Netanyahu also assumed, a priori, that freedom fighters are incapable of perpetrating terrorist acts: For in contrast to the terrorist, no freedom fighter has ever deliberately attacked innocents. He has never deliberately killed small children, or passersby in the street, or foreign visitors, or other civilians who happen to reside in the area of conflict or are merely associated ethnically or religiously with the people of that area… The conclusion we must draw from all this is evident. Far from being a bearer of freedom, the terrorist is the carrier of oppression and enslavement . . .[[10](http://www.ict.org.il/articles/define.htm#10)] This approach strengthens the attempt by terrorist organizations to present terrorism and the struggle for liberation as two contradictory concepts. It thus plays into the terrorists’ hands by supporting their claim that, since they are struggling to remove someone they consider a foreign occupier, they cannot be considered terrorists. The claim that a freedom fighter cannot be involved in terrorism, murder and indiscriminate killing is, of course, groundless. A terrorist organization can also be a movement of national liberation, and the concepts of “terrorist” and “freedom fighter” are not mutually contradictory. Targeting “the innocent”? Not only terrorists and their allies use the definition of terrorism to promote their own goals and needs. Politicians in countries affected by terrorism at times make political use of the definition of terrorism by attempting to emphasize its brutality. One of the prevalent ways of illustrating the cruelty and inhumanity of terrorists is to present them as harming “the innocent.” Thus, in Terrorism: How the West Can Win, Binyamin Netanyahu states that terrorism is “the deliberate and systematic murder, maiming, and menacing of the innocent to inspire fear for political ends.”[[11](http://www.ict.org.il/articles/define.htm#11)] This definition was changed in Netanyahu’s third book, Fighting Terrorism, when the phrase “the innocent” was replaced by the term “civilians”: “Terrorism is the deliberate and systematic assault on civilians to inspire fear for political ends.”[[12](http://www.ict.org.il/articles/define.htm#12)] “Innocent” (as opposed to “civilian”) is a subjective concept, influenced by the definer’s viewpoint, and therefore must not be the basis for a definition of terrorism. The use of the concept “innocent” in defining terrorism makes the definition meaningless and turns it into a tool in the political game. The dilemma entailed by the use of the term “innocent” is amply illustrated in the following statement by Abu Iyad: As much as we repudiate any activity that endangers innocent lives, that is, against civilians in countries that are not directly involved in the Arab-Israeli conflict, we feel no remorse concerning attacks against Israeli military and political elements who wage war against the Palestinian people . . . Israeli acts of vengeance usually result in high casualties among Palestinian civilians—particularly when the Israeli Air Force blindly and savagely bombs refugee camps—and it is only natural that we should respond in appropriate ways to deter the enemy from continuing its slaughter of innocent victims.”[[13](http://www.ict.org.il/articles/define.htm#13)] Abu Iyad here clarifies that innocent victims are civilians in countries that are not directly involved in the Arab-Israeli conflict (implying that civilians in Israel, even children and old people, are not innocent), while he describes Palestinian civilians as innocent victims. Proposing a Definition of Terrorism The question is whether it is at all possible to arrive at an exhaustive and objective definition of terrorism, which could constitute an accepted and agreed-upon foundation for academic research, as well as facilitating operations on an international scale against the perpetrators of terrorist activities. The definition proposed here states that terrorism is the intentional use of, or threat to use violence against civilians or against civilian targets, in order to attain political aims. **Continues…** This distinction between the target of the attack and its aims shows that the discrepancy between “terrorism” and “freedom fighting” is not a subjective difference reflecting the personal viewpoint of the definer. Rather it constitutes an essential difference, involving a clear distinction between the perpetrators’ aims and their mode of operation. As noted, an organization is defined as “terrorist” because of its mode of operation and its target of attack, whereas calling something a “struggle for liberation” has to do with the aim that the organization seeks to attain. Diagram 2 illustrates that non-conventional war (between a state and an organization), may include both terrorism and guerrilla activities on the background of different and unrelated aims. Hiding behind the guise of national liberation does not release terrorists from responsibility for their actions. Not only is it untrue that “one man’s terrorist is another man’s freedom fighter” but it is also untrue that “the end justifies the means.” The end of national liberation may, in some cases, justify recourse to violence, in an attempt to solve the problem that led to the emergence of a particular organization in the first place. Nevertheless, the organization must still act according to the rules of war, directing its activities toward the conquest of military and security targets; in short, it must confine itself to guerrilla activities. When the organization breaks these rules and intentionally targets civilians, it becomes a terrorist organization, according to objective measures, and not according to the subjective perception of the definer. It may be difficult at times to determine whether the victim of an attack was indeed a civilian, or whether the attack was intentional. These cases could be placed under the rubric of a “gray area,” to be decided in line with the evidence and through the exercise of judicial discretion. The proposed definition may therefore be useful in the legal realm as a criterion for defining and categorizing the perpetrators’ activities. In any event, adopting the proposed definition of terrorism will considerably reduce the “gray area” to a few marginal cases. Defining States’ Involvement in Terrorism **Continues…** supporting terrorism – terrorist organizations often rely on the assistance of a sympathetic civilian population. An effective instrument in the limitation of terrorist activity is to undermine the ability of the organization to obtain support, assistance, and aid from this population. A definition of terrorism could be helpful here too by determining new rules of the game in both the local and the international sphere. Any organization contemplating the use of terrorism to attain its political aims will have to risk losing its legitimacy, even with the population that supports its aims. Public relations – a definition that separates terrorism out from other violent actions will enable the initiation of an international campaign designed to undermine the legitimacy of terrorist organizations, curtail support for them, and galvanize a united international front against them. In order to undermine the legitimacy of terrorist activity (usually stemming from the tendency of various countries to identify with some of the aims of terrorist organizations), terrorist activity must be distinguished from guerrilla activity, as two forms of violent struggle reflecting different levels of illegitimacy. The Attitude of Terrorist Organizations Toward the Definition The definition of terrorism does not require that the terrorist organizations themselves accept it as such. Nevertheless, reaching international agreement will be easier the more objective the definition, and the more the definition takes into account the demands and viewpoints of terrorist organizations and their supporters. The proposed definition, as noted, draws a distinction between terrorism and guerrilla warfare at both the conceptual and moral levels. If properly applied, it could challenge organizations that are presently involved in terrorism to abandon it so as to engage exclusively in guerrilla warfare. As noted, most organizations active today in the national and international arena engage in both terrorist activities and guerrilla warfare; after all, international convention makes no distinction between the two. Hence, there are no rules defining what is forbidden and what is allowed in non-conventional war, and equal punishments are imposed on both terrorists and guerrilla fighters. People perpetrating terrorist attacks or engaging in guerrilla warfare know they can expect the same punishment, whether they attack a military installation or take over a kindergarten. The terrorist attack may be more heavily censored because it involves children, but the legitimacy of these actions will be inferred from their political aims. In these circumstances, why not prefer a terrorist attack that will have far more impact, and will be easier to accomplish, with much less risk? The international adoption of the proposed definition, with its distinction between terrorism and guerrilla warfare—and its concomitant separation from political aims—could motivate the perpetrators to reconsider their intentions, choosing military targets over civilian targets—guerrilla warfare over terrorism–both because of moral considerations and because of “cost-benefit” considerations. The moral consideration – many terrorist organizations are troubled by the moral question bearing on their right to harm civilians, and this concern is reflected in their literature and in interviews with terrorists. Thus, for instance, an activist of the Popular Front for the Liberation of Palestine, Walid Salam, argued in December 1996 that “among activists of the Popular Front, more and more are opposed to military activities against civilians, as the one near Ramallah on Wednesday. They do not say so publicly because of internal discipline and to preserve unity.”[[27](http://www.ict.org.il/articles/define.htm#27)] We can also see something of this moral dilemma in Sheik Ahmad Yassin, the leader of Hamas: “According to our religion it is forbidden to kill a woman, a baby, or an old man, but when you kill my sister, and my daughter, and my son, it is my right to defend them.”[[28](http://www.ict.org.il/articles/define.htm#28)] This concern might explain why, after attacks on civilian targets, organizations such as Hamas often make public statements proclaiming that they have attacked military targets. The moral dilemma does exist, and the opponents of terrorism must intensify it. When countries acknowledge the principle of relying on guerrilla warfare to attain legitimate political aims, and unite in their moral condemnation of terrorism, they increase the moral dilemma that is already prevalent in terrorist organizations. The utilitarian consideration – If the perpetrators know that attacking a kindergarten or other civilian target will never be acceptable; that these attacks will turn them into wanted and extraditable terrorists and will undermine the legitimacy of their political goals—and that, when apprehended, they will be punished much more harshly than would guerrilla fighters—they may think twice before choosing terrorism as their modus operandi. Adopting the proposed definition of terrorism, formulating rules of behavior, and setting appropriate punishments in line with the proposed definition will sharpen the “cost-benefit” considerations of terrorist organizations. One way of encouraging this trend among terrorist organizations is, as noted, to agree on different punishments for those convicted of terrorism and those convicted of guerrilla warfare. Thus, for instance, the possibility should be considered of bringing to criminal trial, under specific charges of terrorism, individuals involved in terrorist activities, while allotting prisoner of war status to those accused of involvement in guerrilla activities. The proposed definition of terrorism may indeed help in the struggle against terrorism at many and varied operative levels. An accepted definition, capable of serving as a basis for international counter-terrorist activity, could above all, bring terrorist organizations to reconsider their actions. They must face the question of whether they will persist in terrorist attacks and risk all that such persistence entails—loosing legitimacy, incurring harsh and specific punishments, facing a coordinated international opposition (including military activity), and suffering harm to sources of support and revenue. The international community must encourage the moral and utilitarian dilemmas of terrorist organizations, and establish a clear policy accompanied by adequate means of punishment on the basis of an accepted definition. Summary We face an essential need to reach a definition of terrorism that will enjoy wide international agreement, thus enabling international operations against terrorist organizations. A definition of this type must rely on the same principles already agreed upon regarding conventional wars (between states), and extrapolate from them regarding non-conventional wars (betweean organization and a state). The definition of terrorism will be the basis and the operational tool for expanding the international community’s ability to combat terrorism. It will enable legislation and specific punishments against those perpetrating, involved in, or supporting terrorism, and will allow the formulation of a codex of laws and international conventions against terrorism, terrorist organizations, states sponsoring terrorism, and economic firms trading with them. At the same time, the definition of terrorism will hamper the attempts of terrorist organizations to obtain public legitimacy, and will erode support among those segments of the population willing to assist them (as opposed to guerrilla activities). Finally, the operative use of the definition of terrorism could motivate terrorist organizations, due to moral or utilitarian considerations, to shift from terrorist activities to alternative courses (such as guerrilla warfare) in order to attain their aims, thus reducing the scope of international terrorism. The struggle to define terrorism is sometimes as hard as the struggle against terrorism itself. The present view, claiming it is unnecessary and well-nigh impossible to agree on an objective definition of terrorism, has long established itself as the “politically correct” one. It is the aim of this paper, however, to demonstrate that an objective, internationally accepted definition of terrorism is a feasible goal, and that an effective struggle against terrorism requires such a definition. The sooner the nations of the world come to this realization, the better.

# 1AR

#### Student debate about war powers is critical to overall American Political Development---influences the durable shifts in checks and balances

Dominguez and Thoren 10 Casey BK, Department of Political Science and IR at the University of San Diego and Kim, University of San Diego, Paper prepared for the Annual Meeting of the Western Political Science Association, San Francisco, California, April 1-3, 2010, “The Evolution of Presidential Authority in War Powers”, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=1580395

Students of American institutions should naturally be interested in the relationships between the president and Congress. However, the evolution of war powers falls into a category of inquiry that is important not just to studies of the presidency or to students of history, but also to the field of American Political Development. Among Orren and Skowronek’s recommendations for future work in American Political Development, they argue that “shifts in governing authority,” including and especially shifts in the system of checks and balances, “are important in historical inquiry, because they are a constant object of political conflict and they set the conditions for subsequent politics, especially when shifts are durable” (Orren and Skowronek 2004, 139). How an essential constitutional power, that of deploying military force, changed hands from one institution to another over time, would certainly seem to qualify as a durable shift in governing authority. Cooper and Brady (1981) also recommend that researchers study change over time in Congress’ relations to the other branches of government.

**Default to our specific internal links – empiricism is good and true in the context of terrorism**

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Furthermore, we also realize the **inherent challenge** in attempting to be a disinterested observer of social phenomena (problems with this, as shall be shown, lie at the heart of some of the raison d 'étre for CTS) particularly in a ﬁeld **as contested as terrorism** studies. Terrorism is a **widely disputed social and political phenomenon** and the very act of data collection — which includes, for example, discerning what events count and do not count as terrorism — cannot **be considered entirely value free**. The terrorism scholar can try to be as independently minded as possible and test for the robustness of ﬁndings based on different deﬁnition of the data, but the basic problem — that terrorism studies is **ineluctably political** — remains. In our view, this does not lead to an abandonment of empirical approaches to social and political inquiry. Instead, we believe that **the empirical approach is a powerful and useful way to study terrorism**, and that a key contribution of CTS can be to make empirical scholarship more self-aware and reﬂective in its practice.2 We do not believe that concepts without tight analytic boundaries - for example, the ‘state’ or ‘power’ — cannot be used in research, though they must be used with **some care and self-awareness**. As a matter of policy, neither of us believes that any form of intellectual enterprise should be discarded if it happens to run contrary to our interests or to challenge what we do. We welcome the contribution of CTS only if it helps to improve the analytic rigor of terrorism or open new avenues of research. We believe that — as Mao put it — that in academia it is always a good idea to let ‘a hundred ﬂowers bloom; let a hundred schools of thought contend’. We say this as a prelude to qualifying the criticisms below, levelled at CTS (or at least its current incamation) as a way of stimulating debate, not silencing it.

**The K Can’t solve no root cause – only intelligence can address terrorism**

**Stein ‘7** [Zachary R. Stern, “The Face of Terrorism: Toward a Terrorist Profile” a study self-described here: This study focuses on a more important and substantial question than the definition of terrorism. It seeks to understand the root causes of terrorism or, at the very least, to dispel popular misconceptions about those causes. If optimists like President Bush are to be believed, reducing global poverty and increasing education levels will result in a decrease in global terrorism. This approach is based on the assumption that economic disadvantage and the inaccessibility or the denial of proper schooling creates fertile breeding grounds for terrorism. Equally unsatisfactory as an explanation, is the opposite hypothesis, exemplified by the work of Alan Krueger, that education and financial well-being actually help explain how and why terrorism is engendered. The assumptions of both sides are not borne out by the facts. They belie the complexity of the individuals and the collective histories that produce terrorists. Terrorists are deeply committed individuals, willing to risk imprisonment and death for their cause. This characteristic would indicate that ideology, and not demographic background, is the leading cause of terrorism. Since ideology and one’s commitment to it are by not easily quantifiable (nor has anyone attempted to quantify them, to date), this study will seek to disprove the demographic background argument by reviewing the relevant literature, and to further establish the point by analyzing individual terrorists’ backgrounds from a wide cross-section. It will also seek to provide some tentative answers to the question that captivates counter-terrorism experts, psychologists, and just about everyone who worries about terrorism: why does someone become a terrorist? This paper is organized as follows: first, a literature review of relevant subject material; second, a description of the methods used in this study; third, a description of the various data sources used in this study; fourth, regressional analysis of the data sources; fifth, non-regressional analysis and anecdotal cases from this study; sixth, and finally, conclusions of this study, Spring 2007]

With **no root cause of terrorism readily identifiable**, terrorism **cannot be extinguished at its source**, and **individuals cannot be deterred from pursuing its means in the hope of securing their desired ends**. This leaves **strong intelligence** as the **best tool available** to **counterterrorism**. While continuing with research into terrorist demographics and profiling, the majority of resources must be directed for the most effective counterterrorism strategy, and thus in many ways we must move away from a terrorist profile. Instead, terrorist organizations **must be infiltrated, their leaders rounded up, and their cells broken**.