## 1

**Interpretation “restriction” is a method of prohibiting authority**

P.A. **Mohammed**, J. Sri Chithira Aero And Adventure ... vs The Director General Of Civil ... on 24 January, 1997¶ Equivalent citations: AIR 1997 Ker 121¶ Sri Chithira Aero And Adventure ... vs The Director General Of Civil ... on 24 January, **1997**. http://www.indiankanoon.org/doc/255504/?type=print

10. **Microlight aircrafts or hang gliders shall not be flown over an assembly of persons or over congested areas or restricted areas including cantonment areas, defence installations etc**. unless prior permission in writing is obtained from appropriate authorities. **These provisions do not create any restrictions. There is no total prohibition of operation of microlight aircraft or hang gliders. The distinction between 'regulation' and 'restriction' must be clearly perceived. The 'regulation' is a process which aids main function within the legal precinct whereas 'restriction' is a process which prevents the function without legal sanction**. Regulation is allowable but restriction is objectionable. What is contained in the impugned clauses is, only **regulations and not restrictions**, complete or partial. They **are issued with authority conferred on the first respondent**, under Rule 133A of the Aircraft Rules consistent with the provisions contained in the Aircraft Act 1934 relating to the operation, use etc. of aircrafts flying in India. Microlight aircrafts, hang gliders and powered hang gliders are all coming within the definition of 'aircraft' contained in Section 2( 1) of the Act. Section 5 of **the Act authorises** the Central Government to make rules regulating among other things use and operation of aircraft and lor securing the safety of aircraft operation. Rule 133A authorises the first respondent to issue directions relating to the operation and use of the aircraft. Thus the analysis of the above provisions would sufficiently indicate that **the** impugned **clauses** contained in Exts. P4 and P5 **are** purely **measures regulating** the use and **operation** of aircrafts.

**Increase means to become greater**

Increase:

in·crease verb \in-ˈkrēs, ˈin-ˌ\

intransitive verb

**1: to become progressively greater (as in size, amount, number, or intensity)**

2: to multiply by the production of young

**That’s Merriam-Webster 12**, http://www.merriam-webster.com/dictionary/increase?show=0&t=1348112715

**Executive authority stems from the constitution or statutory delegation.**

**Gaziano**, **2001**

(Todd, senior fellow in Legal Studies and Director of the Center for Legal Judicial Studies at the Heritage Foundation, 5 Texas Review of Law & Politics 267, Spring, lexis)

Although President Washington's Thanksgiving Proclamation was hortatory, other proclamations or orders that communicate presidential decisions may be legally binding. n31 Ultimately **the authority for all presidential orders or directives must come from either the Constitution or from statutory delegations**. **The source of authority (constitutional versus statutory) carries important implications for the extent to which that authority may be legitimately exercised or circumscribed**. Regardless of the source of substantive power, however, the authority to use written directives in the exercise of that power need not be set forth in express terms in the Constitution or federal statutes. As is explained further below, the authority to issue directives may be express, implied, or inherent in the substantive power granted to the President. The Constitution expressly mentions certain functions that are to be performed by the President. Congress has augmented the President's power by delegating additional authority within these areas of responsibility. The following are among the more important grants of authority under which the President may issue at least some directives in the exercise of his constitutional and statutorily delegated powers: Commander in Chief, Head of State, Chief Law Enforcement Officer, and Head of the Executive Branch.

**Violation – The Aff increases presidents war powers authority – It doesn’t prohibit the president from doing anything**

**Coronogue 12** – **1AC Author** (Graham, JD at duke, “A NEW AUMF: DEFINING COMBATANTS IN THE WAR ON TERROR”, http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1294&context=djcil, zzx)

This **congressional authorization gave the president the authority to use force against those involved in the 9/11 attacks and their allies**, but the war on terror has moved beyond this mandate. **In 2001, al-Qaeda, the Taliban, and Osama bin Laden were clearly the “enemy.**”3 **The AUMF addressed this threat by providing domestic authorization for the use of force against all entities closely tied to 9/11.** However, ten years after the attacks, bin Laden is dead and the Taliban is a shadow of its former self.4 Yet the United States still uses the AUMF to justify the use of force against new terrorist and extremist groups, many of which were not closely involved in 9/11 and may not have even existed in 2001. Given this disconnect, politicians have advocated amending, scrapping, or reaffirming the AUMF to have it reflect the present reality of the conflict. The Obama administration argues that the AUMF should remain the same and has taken pains to expand the authorization to cover new terrorist threats from organizations unrelated to al-Qaeda.5 However, this ten-year-old authorization must be revised. **The United States is facing a new and still evolving enemy; our law on conflict must evolve with it.** We should not expect the President to simply reinterpret or stretch statutory language when considering such fundamentally important issues as national security, deadly force, and indefinite detention. This "stretching" out of the statute will create significant questions of legality and authorization in times when we cannot afford to hesitate or second-guess. **The President and the armed forces need an updated, clear, and explicit authorization to execute this war effectively** and know the limits of their power. In short. Congress must amend or update the AUMF to reflect the current reality of conflict and guide the President's prosecution of this war.

**Vote Neg**

**Limits – Their aff justifies any aff that has the judiciary or Congress clarify in ways that expand war powers - 1000s of ways to do that**

**Ground – Increasing restrictions is key to stable neg link and cp ground – clarifications to authority make all DA links non-unique – bidirectional affs are especially bad because they are reading neg ground on the aff**

**The aff is extra-topical – AUMF applies to things outside the resolution -**

**Justice.gov 2006** (January 27, “THE NSA PROGRAM TO DETECT AND PREVENT TERRORIST ATTACKS

MYTH V. REALITY” <http://www.justice.gov/opa/documents/nsa_myth_v_reality.pdf>)

**Myth: The NSA program is illegal. Reality: The President’s authority** to authorize the terrorist surveillance program is **firmly based both in** his constitutional authority as Commander-in-Chief, and in **the** Authorization for Use of Military Force (**AUMF**) passed by Congress after the September 11 attacks. • As Commander-in-Chief and Chief Executive, the President has legal authority under the Constitution to authorize the NSA terrorist surveillance program. ¾ The Constitution makes protecting our Nation from foreign attack the President’s most solemn duty and provides him with the legal authority to keep America safe. ¾ It has long been recognized that the President has inherent authority to conduct warrantless surveillance to gather foreign intelligence even in peacetime. Every federal appellate court to rule on the question has concluded that the President has this authority and that it is consistent with the Constitution. ¾ Since the Civil War, wiretaps aimed at collecting foreign intelligence have been authorized by Presidents, and the authority to conduct warrantless surveillance for foreign intelligence purposes has been consistently cited and used when necessary. • **Congress confirmed and supplemented the President's constitutional authority to authorize this program when it passed the AUMF**. ¾ **The AUMF authorized the President to use “all necessary and appropriate military force against those** nations, **organizations**, or persons **he determines planned**, authorized, committed, or aided in the terrorist attacks that occurred on **September 11**, 2001.” **¾ In its Hamdi decision, the Supreme Court ruled that the AUMF also authorizes the “fundamental incident[s] of waging war.”** **The history of warfare makes clear that electronic surveillance** of the enemy **is** a **fundamental** incident to the use of military force.

**Extra T is a voter for limits – surveillance was rejected from the topic and is a whole new set of advantage ground and disads – it has to be a voting issue or it becomes a no risk issue for the Aff**

## 2

#### Text: The Executive Branch of the United States should issue an executive order to increase statutory restrictions on the targeted killing and indefinite detention war powers authorities granted to the President of the United States by Public Law 107-40 and modified by the 2012 National Defense Authorization Act by limiting the targets of those authorities to al-Qaeda, the Taliban, or those nations, organizations, or persons who enjoy close and well-established collaboration with al-Qaeda or the Taliban.

#### Executive action is De Facto and De Jure self-binding create accountability from the courts and risk political alienation for going back on promises

Posner and Vermeule 2010 [Eric A. , Professor of Law at the University of Chicago Law School and Editor of The Journal of Legal Studies; Adrian , Harvard Law Professor, The Executive Unbound: After the Madisonian Republic, Oxford Press, p. 138-139//wyo-sc]

Many of our mechanisms are unproblematic from a legal perspective, as they involve presidential actions that are clearly lawful. But a few raise legal questions; in particular, those that involve self-binding.59 Can a president bind himself to respect particular first-order policies? With qualifications, the answer is "yes, at least to the same extent that a legislature can." Formally, a duly promulgated executive rule or order binds even the executive unless and until it is validly abrogated, thereby establishing a new legal status quo.60 The legal authority to establish a new status quo allows a president to create inertia or political constraints that will affect his own future choices. In a practical sense, presidents, like legislatures, have great de facto power to adopt policies that shape the legal landscape for the future. A president might commit himself to a long-term project of defense procurement or infrastructure or foreign policy, narrowing his own future choices and generating new political coalitions that will act to defend the new rules or policies. More schematically, we may speak of formal and informal means of selfbinding: 1. The president might use formal means to bind himself. This is possible in the sense that an executive order, if otherwise valid, legally binds the president while it is in effect and may be enforced by the courts. It is not possible in the sense that the president can always repeal the executive order if he can bear the political and reputational costs of doing so. 2. The president might use informal means to bind himself. This is not only possible but frequent and important. Issuing an executive rule providing for the appointment of special prosecutors, as Nixon did, is not a formal self-binding.61 However, there may be political costs to repealing the order. This effect does not depend on the courts' willingness to enforce the order, even against Nixon himself. Court enforcement makes the order legally binding while it is in place, but only political and reputational enforcement can protect it from repeal. Just as a dessert addict might announce to his friends that he is going on a no-dessert diet in order to raise the reputational costs of backsliding and thus commit himself, so too the repeal of an executive order may be seen as a breach of faith even if no other institution ever enforces it. In what follows, we will invoke both formal and informal mechanisms. For our purposes, the distinction between the authority to engage in de jure self-binding (legally limited and well-defined) and the power to engage in de facto self-binding (broad and amorphous) is secondary. So long as policies are deliberately chosen with a view to generating credibility, and do so by constraining the president’s own future choices in ways that impose greater costs on ill-motivated presidents than on well-motivated ones, it does not matter whether the constraint is formal or informal.

## 3

**The logic of the affirmative asks how war should be waged rather than if war should be waged at all—their methods only spark temporary interest in the military-industrial complex—it leads to free reign of the mentality of constant war**

**Lichterman 3**

[Andrew, Program Director of the Western States Legal Foundation, Missiles of Empire: America’s 21st Century Global Legions, WSLF Information Bulletin, Fall 2003, http://www.wslfweb.org/nukes.htm]

**Criticizing the Hubcaps while the Juggernaut Rolls On** **The U.S. military-industrial complex today is** so **immense** as to defy comprehension. **Even those** few **paying attention tend to focus on one small piece at a time. One month it may be** proposals for **nuclear weapons** with certain new capabilities. **Then the attention may shift to missile defense– but** there too, **only a small part of the program attracts public debate, with** immense **programs like the airborne laser proceeding almost invisibly. Proposals for** the intensive **militarization of space** like the Space Plane **come to light for a day or two, attracting a brief flurry of interest**; the continuing, broad development of military space technologies, from GPS-aided guidance to radiation hardened microchips to space power generation, draw even less scrutiny. There is so broad a consensus among political elites supporting the constant refinement of conventional armaments that new generations of strike aircraft, Navy ships, and armored vehicles attract little notice outside industry and professional circles, with only spectacular cost overruns or technical failures likely to draw the occasional headline. **A few Congresspeople will** **challenge one or another particularly extreme new** **weapon** (e.g. the “Robust Nuclear Earth Penetrator”), **but usually on** narrow **pragmatic** **grounds: we can accomplish the same “mission”** **with less risky or cheaper weapons. But the question of “why,” seldom is asked, only “how,”** or “how much does it cost?” Most of **the programs** **that constitute the military machine glide silently onward undisturbed,** like the body of a missile submarine invisible below the deceptively small surfaces that rise above the sea. The United States emerged after both World War II and the Cold War as the most powerful state on earth-- the one with the most choices. The first time, all of this was still new. We could perhaps understand our ever deeper engagement with the machinery of death as a series of tragic events, of the inevitable outcome of fallible humans grappling with the titanic forces they had only recently unleashed, in the context of a global confrontation layered in secrecy, ideology, and fear. But this time around, since the end of the Cold War, **we must see the United States as truly choosing, with every new weapon and every new war, to lead the world into** a renewed spiral towards **catastrophe**. The past is written, but our understanding of it changes from moment to moment. The United States began the nuclear age as the most powerful nation on earth, and proclaimed the character of the “American Century” with the bombings of Hiroshima and Nagasaki, a cryptic message written in the blood of innocents. Its meaning has come clear over fifty years of technocratic militarism, punctuated by the deaths of millions in neo-colonial warfare and underscored always by the willingness to end the world rather than share power with anyone. **The path ahead still can be changed, but we must begin with an understanding of where we are, and how we got here.** In the United States, there is a very long way to go before we have a debate about the uses of military force that addresses honestly the weapons we have and seek to develop, much less about the complex social forces which impel the United States to maintain its extraordinary levels of forces and armaments. Most Americans don’t know what their government is doing in their name, or why. Their government, regardless of the party in power, lies about both its means and its ends on a routine basis. And there is nothing the government lies about more than nuclear weapons, proclaiming to the world for the last decade that the United States was disassembling its nuclear facilities and leading the way to disarmament, while rebuilding its nuclear weapons plants and planning for another half century and more of nuclear dominance.74 It is clear by now that **fighting violence with yet more violence**, claiming to stop the spread of nuclear weapons by threatening the use of nuclear weapons, **is a dead end.** **The very notion of “enforcement,”** that some countries have the right to judge and punish others for seeking “weapons of mass destruction,” **has become an excuse for war making, a cover and justification for the power and profit agenda of secretive and undemocratic elites. The only solution that will increase the security of ordinary people anywhere is for all of us**, in our respective societies, **to do everything** we can **to get** **the most violent elements in our cultures– whether in or out of uniform– under control.** In the United States, **this will require far more than changing a few faces in Washington. We will need a genuine peace movement, ready to make connections to** movements for **ecological balance,** and **for social and economic justice**, and by doing so **to address the causes of war. Before we can expect others to join us, it must be clear that we are leaving the path of violence.**

**Awareness of militarism key – our internalized acceptance of war guarantees endless violence that ensures planetary destruction and structural violence**

**Lawrence 9**

[Grant, “Military Industrial "War" Consciousness Responsible for Economic and Social Collapse,” OEN—OpEdNews, March 27]

As a presidential candidate, [Barack Obama](http://obama.senate.gov/) called [Afghanistan](http://en.wikipedia.org/wiki/War_in_Afghanistan_%282001%E2%80%93present%29) ''the war we must win.'' He was absolutely right. Now it is time to win it... Senators [John McCain](http://www.imdb.com/name/nm0564587/) and Joseph Lieberman [calling](http://www.miamiherald.com/opinion/inbox/story/960269.html) for an expanded war in Afghanistan "How true it is that **war can destroy everything of value.**" Pope Benedict XVI [decrying](http://www.google.com/hostednews/afp/article/ALeqM5iuue8kE-e0lYZVFpt4RlbX4M_IEw) the suffering of Africa Where troops have been quartered, brambles and thorns spring up. In the track of great armies there must follow lean years. Lao Tzu on [War](http://www.sacred-texts.com/tao/salt/salt09.htm) **As Americans we are raised on the utility of war to conquer every problem. We have a drug problem so we wage war on it. We have a cancer problem so we wage war on it. We have a crime problem so we wage war on it. Poverty cannot be dealt with but it has to be warred against. Terror is another problem that must be warred against.** **In the** [**United States**](http://maps.google.com/maps?ll=38.8833333333,-77.0166666667&spn=10.0,10.0&q=38.8833333333,-77.0166666667%20%28United%20States%29&t=h)**, solutions can only be found in terms of wars. In a society that functions to support a massive military industrial war machine** and empire, **it is important that the terms promoted support the conditioning of its citizens. We are conditioned to see war as the solution to** major **social ills and** major **political disagreements.** That way **when we see so much of our resources devoted to war then we don't question the utility of it. The term "war" excites** mind and body **and creates a fear mentality** that looks at life in terms of attack. In war, there has to be an attack and a must win attitude to carry us to victory. **But is this war mentality working for us?** In an age when **nearly half of our tax money goes to support the war machine** and a good deal of the rest is going to support the elite that control the war machine, we can see that our present war mentality is not working. Our values have been so perverted by our war mentality that we see sex as sinful but killing as entertainment. **Our society is dripping violence. The violence is fed by poverty, social injustice,** the break down of family **and** community that also arises from **economic injustice**, and by the managed media. **The cycle of violence that exists in our society exists because it is useful to those that control society. It is easier to sell the war machine when your population is conditioned to violence. Our military industrial consciousness may not be working for** nearly **all of the life of the planet but it does work for the very few that are the master manipulators of our values** and our consciousness. Rupert Murdoch, the media monopoly man that runs the "Fair and Balanced" [Fox Network](http://www.fox.com/), Sky Television, and [News Corp](http://www.newscorp.com/) just to name a few, [had](http://en.wikipedia.org/wiki/Rupert_Murdoch) all of his 175 newspapers editorialize in favor of the [Iraq war](http://en.wikipedia.org/wiki/Iraq_War). Murdoch snickers when [he says](http://www.newscorpse.com/ncWP/?p=341) "we tried" to manipulate public opinion." The Iraq war was a good war to Murdoch [because,](http://www.americanprogress.org/issues/2004/07/b122948.html) "The death toll, certainly of Americans there, by the terms of any previous war are quite minute." But, to the media manipulators, the phony politicos, the military industrial elite, a million dead Iraqis are not to be considered. **War is big business and it is supported by a war consciousness that allows it to prosper. That is why** more war in Afghanistan, the war on Palestinians, and the **other wars around the planet** in which the [military industrial complex](http://en.wikipedia.org/wiki/Military-industrial_complex) builds massive wealth and power **will continue. The military industrial war mentality is not only killing, maiming, and destroying but it is also contributing to the present social and economic collapse.** As mentioned previously, **the massive wealth transfer that occurs when the American people give half of their money to support death and destruction is money that could have gone to support a just society. It is no accident that after years of war and preparing for war, our society is crumbling. Science and technological resources along with economic and natural resources have been squandered in the never-ending pursuit of enemies. All of that energy could have been utilized for the good of humanity,** ¶ **instead of maintaining the power positions of the** very few **super wealthy.** So the suffering that we give is ultimately the suffering we get. **Humans want to believe that they can escape the consciousness that they live in. But that consciousness determines what we experience and how we live. As long as we choose to live in "War" in our minds then we will continue to get "War" in our lives. When humanity chooses to wage peace on the world then there will be a flowering of life.** But until then we will be forced to live the life our present war consciousness is creating.

**The alternative is to reject the 1AC in favor of a pacifistic solution to problems.**

**The only way to solve is by adopting a pacifistic mindset—the shift away from militarism is key**

**Demenchonok 9**

[Worked as a senior researcher at the Institute of Philosophy of the Russian Academy of Sciences, Moscow, and is currently a Professor of Foreign Languages and Philosophy at Fort Valley State University in Georgia, listed in 2000 Outstanding Scholars of the 21st Century and is a recipient of the Twenty-First Century Award for Achievement in Philosophy from the International Biographical Centre --Edward, Philosophy After Hiroshima: From Power Politics to the Ethics of Nonviolence and Co-Responsibility, February, American Journal of Economics and Sociology, Volume 68, Issue 1, Pages 9-49]

**Where, then, does the future lie? Unilateralism, hegemonic political anarchy, mass immiseration, ecocide, and global violence**—a Hobbesian bellum omnium contra omnes? **Or international cooperation, social justice, and genuine collective—political and human—security?** Down which path lies cowering, fragile hope?¶ **Humanistic thinkers** approach these problems from the perspective of their concern about the situation of individuals and the long-range interests of humanity. They **examine** in depth the **root causes of** these **problems, warning about the consequences of escalation and, at the same time, indicating the prospect of their possible solutions through nonviolent means and a growing global consciousness. Today's world is in desperate need of realistic alternatives to violent conflict. Nonviolent action—properly planned and executed—is a powerful and effective force for political and social change. The ideas of peace and nonviolence, as expressed by** Immanuel **Kant,** Leo **Tolstoy,** Mahatma **Gandhi,** **M**artin **L**uther **K**ing**, and many contemporary philosophers**—supported by peace and civil rights movements—**counter the ~~paralyzing~~** **fear with hope and offer a realistic alternative: a rational approach to the** solutions to the **problems**, encouraging people to be the masters of their own destiny.¶ **Fortunately, the memory of the tragedies of war and the growing realization of this new existential situation of humanity has awakened the global conscience and generated protest movements demanding necessary changes. During the four decades of the Cold War,** which polarized the world, **power politics was challenged by the** common perspective of humanity, of the supreme value of human life, and **the ethics of peace.** Thus, in Europe, which suffered from both world wars and totalitarianism, spiritual-**intellectual efforts to find solutions to these problems generated ideas of** "new thinking," aiming for **peace, freedom, and democracy. Today, philosophers, intellectuals, progressive political leaders, and peace-movement activists continue to promote a peaceful alternative.** In the asymmetry of power, despite being frustrated by war-prone politics, **peaceful projects emerge** each time, like a phoenix arising from the ashes, **as the only viable alternative for the survival of humanity. The new thinking** in philosophy **affirms the supreme value of** human and nonhuman **life, freedom, justice, and the future of human civilization. It asserts that the** transcendental task of the **survival of humankind and the rest of the biotic community must have an unquestionable primacy in comparison to particular interests** of nations, social classes, and so forth. In applying these principles to the nuclear age, **it considers a just and lasting peace as a categorical imperative for the survival of humankind, and thus proposes a world free from nuclear weapons** and from **war and organized violence.**44 In tune with the Charter of the United Nations, **it calls for** the **democratization** of international relations and for **dialogue and cooperation in order to secure peace, human rights, and solutions to global problems.** It further calls for the transition toward a cosmopolitan order.¶ **The escalating global problems are symptoms of** what might be termed **a** contemporary **civilizational disease**, developed over the course of centuries, in which techno-economic progress is achieved at the cost of depersonalization and dehumanization. Therefore, **the possibility of an effective "treatment" today depends on** whether or not **humankind** will be able to regain its humanity, thus establishing new relations of the individual with himself or herself, with others, and with nature. **Hence the need for a new philosophy of humanity and an ethics of nonviolence and planetary co-responsibility to help us make sense not only of our past historical events, but also of the extent, quality, and urgency of our present choices.**

## 4

#### Obama has successfully fended off sanctions, FOR NOW, any lags create an aggressive push that will be veto proof

Rubin 2-7

(Jennifer, Washington Post. “Menendez’s blasts Obama’s Iran policy” 2-7-14 http://www.washingtonpost.com/blogs/right-turn/wp/2014/02/07/menendezs-blasts-obamas-iran-policy///wyoccd)

The administration has a big problem on Iran. It has for now successfully fended off sanctions, but in doing so it helped forge consensus about the flaws in its approach and set the scene for a major showdown with Congress when, as everyone but Secretary of State John Kerry expects, Iran refuses to agree to even minimal steps to dismantle its nuclear weapons program. In other words, it has set itself up for failure with no back-up plan.Thursday, Sen. Robert Menendez (D-N.J.), denied by his majority leader a vote on a sanctions bill that would pass with more than 70 votes, explained in detail the administration’s gross mishandling of negotiations. It is worth reading in full, but some portions deserve emphasis. After describing in detail the requirements the administration, the United Nations and former administration official Dennis Ross have confirmed are needed to prevent a nuclear-capable Iran, the New Jersey Democrat summed up the flaws in the interim deal:¶ Iran is insisting on keeping core elements of its programs – enrichment, the Arak heavy-water reactor, the underground Fordow facility, and the Parchin military complex. And, while they may be subject to safeguards — so they can satisfy the international community in the short-run – if they are allowed to retain their core infrastructure, they could quickly revive their program sometime in the future. At the same time, Iran is seeking to reverse the harsh international sanctions regimes against them. Bottom line: They dismantle nothing. We gut the sanctions.¶ Directly contradicting Kerry’s assurances, Menendez states:¶ Since the interim deal was signed there was an immediate effort by many nations – including many European nations — to revive trade and resume business with Iran. There have been recent headlines that the Russians may be seeking a barter deal that could increase Iran’s oil exports by 50 percent. That Iran and Russia are negotiating an oil-for-goods deal worth $1.5 billion a month — $18 billion a year – which would significantly boost Iran’s oil exports by 500,000 barrels a day in exchange for Russian goods . . . Iran’s economy is recovering. . . . Sanctions relief — combined with the “open for business sign” that Iran is posting — is paying returns.¶ And as for the potential for sanctions at the end of the six months, Menendez states definitively that this would be too late. It is quite an extraordinary assertion — in essence, that barring a miraculous negotiated solution, we’re now in the mode of “containment,” precisely what the president swore up and down he’d never allow:¶ My legislation – cosponsored by 59 Senators – would simply require that Iran act in good faith, adhering to the implementing agreement, not engage in new acts of terror against American citizens or U.S, property — and not conduct new ballistic missile tests with a range beyond 500 kilometers.¶ The legislation is not the problem. Congress is not the problem. Iran is the problem. We need to worry about Iran, not the Congress. We need to focus on Iran’s long history of deception surrounding its nuclear program and how this should inform our approach to reaching a comprehensive deal. . . .New sanctions are not a spigot that can be turned off-and-on as has been suggested.¶ Even if Congress were to take-up and pass new sanctions at the moment of Iran’s first breach of the Joint Plan of Action, there is a lag time of at least 6 months to bring those sanctions on line — and at least a year for the real impact to be felt.¶ This would bring us beyond the very short-time Iran would need to build a nuclear bomb, especially since the interim agreement does not require them neither to dismantle anything, and freezes their capability as it stands today.¶ So let everyone understand — if there is no deal we won’t have time to impose new sanctions before Iran could produce a nuclear weapon. . . .¶ The simple and deeply troubling fact is — Iran is literally weeks to months away from breakout, and the parameters of the final agreement — laid out in the Joint Plan of Action — do not appear to set Iran’s development-capacity back by more than a few weeks. [Emphasis added.]¶ He concludes, “The concerns I have raised here are legitimate. They are not — as the President’s press secretary has said – ‘war-mongering.’ . . . Iran says it won’t negotiate with a gun to its head. Well, I would suggest it is Iran that has put a nuclear gun to the world’s head. So, at the end of the day, name-calling is not an argument, nor is it sound policy. It is a false choice to say a vote for sanctions is equivalent to war-mongering. . . . The ball is in the Administration’s court, not in Congress’.”¶ So then, in the estimation of the Senate’s Democratic foreign affairs chairman the interim deal is fatally flawed, a final deal must achieve things Iran has no intention of giving us and it will be too late to pass sanctions in six months. He has in essence accused the president of setting us on a road to containment since the president and Senate Majority Leader Harry Reid will not permit a sanctions vote that is the last hope to bring Iran to heel.¶ I wonder what the point of the speech really was. Does he think Reid will bend? Does he have more Democrats on board to force a vote? Does he think sanctions proponents will say, ‘What a nice speech. He’ll be on the ball when the talks fail“? (But Menendez’s entire point was when the talks fail, it will be too late.)¶ In six-months, when the talks fail and/or another six-months are declared necessary for a deal, Congress then can try to restart sanctions, I suppose. But Menendez says that won’t be effective. The alternative is accepting a nuclear-capable Iran or an Israeli military strike. The latter is becoming the most likely scenario if Menendez’s assessment of the timeline is correct. Obama will therefore have brought about the one thing he was desperate to avoid — a Middle East war.

#### Fighting to defend his war power will sap Obama’s capital- trades off with agenda

**Kriner, 10** --- assistant professor of political science at Boston University

(Douglas L. Kriner, “After the Rubicon: Congress, Presidents, and the Politics of Waging War”, University of Chicago Press, Dec 1, 2010, page 68-69)

**While congressional support leaves the president’s reserve of political capital intact, congressional criticism saps energy from other initiatives on the home front by forcing the president to expend energy and effort defending his international agenda. Political capital spent shoring up support for a president’s foreign policies is capital that is unavailable for his future policy initiatives**. Moreover, any weakening in the president’s political clout may have immediate ramifications for his reelection prospects, as well as indirect consequences for congressional races.59 Indeed, Democratic efforts to tie congressional Republican incumbents to President George W. Bush and his war policies paid immediate political dividends in the 2006 midterms, particularly in states, districts, and counties that had suffered the highest casualty rates in the Iraq War. 60 **In addition to boding ill for the president’s perceived political capital and reputation, such partisan losses in Congress only further imperil his programmatic agenda, both international and domestic.** Scholars have long noted that President Lyndon **Johnson’s dream of a Great Society also perished in the rice paddies of Vietnam. Lacking** the requisite funds in a war-depleted treasury and **the political capital needed to sustain his legislative vision, Johnson gradually let his domestic goals slip away** as he hunkered down in an effort first to win and then to end the Vietnam War. In the same way, **many of** President **Bush’s highest second-term domestic proprieties, such as Social Security and immigration reform, failed perhaps in large part because the administration had to expend so much energy and effort waging a rear-guard action against congressional critics of the war in Iraq.**61 **When making their cost-benefit calculations, presidents surely consider these wider political costs of congressional opposition to their military policies.** If congressional opposition in the military arena stands to derail other elements of his agenda, all else being equal, the president will be more likely to judge the benefits of military action insufficient to its costs than if Congress stood behind him in the international arena.

#### Loss of political capital causes Democrats flop and support sanctions

Kraushaar 1-22

(Josh Kraushaar, staff writer at the National Journal. “The Iran Deal Puts Pro-Israel Democrats in a Bind” 1-22-14 http://www.nationaljournal.com/magazine/the-iran-deal-puts-pro-israel-democrats-in-a-bind-20131122//wyoccd)

All of this puts Democrats, who routinely win overwhelming support from Jewish Americans on Election Day, in an awkward position. Do they stand with the president on politically sensitive foreign policy issues, or stake their own course? That difficult dynamic is currently playing out in Congress, where the Obama administration is resisting a Senate push to maintain tough sanctions against Iran. This week, Obama met with leading senators on the Banking and Foreign Relations committees to dissuade them from their efforts while diplomacy is underway. "There's a fundamental disagreement between the vast majority of Congress and the president when it comes to increasing Iran sanctions right now," said one Democratic operative involved in the advocacy efforts. "Pro-Israel groups, like AIPAC, try to do things in a bipartisan way; they don't like open confrontation. But in this instance, it's hard." That awkwardness has been evident in the lukewarm reaction from many of Obama's Senate Democratic allies to the administration's outreach to Iran. Senate Foreign Relations Committee Chairman Robert Menendez of New Jersey said last week he was concerned that the administration seems "to want the deal almost more than the Iranians." Normally outspoken Sen. Chuck Schumer of New York, a reliable ally of Israel, has been conspicuously quiet about his views on the negotiations. In a CNN interview this month, Democratic Rep. Debbie Wasserman Schultz of Florida, whose job as chairwoman of the Democratic National Committee is to defend the president, notably declined to endorse the administration's approach, focusing instead on Obama's past support of sanctions. This, despite the full-court press from Secretary of State John Kerry, a former congressional colleague. On Tuesday, after meeting with Obama, Menendez and Schumer signed a bipartisan letter to Kerry warning the administration about accepting a deal that would allow Iran to continue its nuclear program. The letter was also signed by Sens. John McCain, R-Ariz., Lindsey Graham, R-S.C., Susan Collins, R-Maine, and Robert Casey, D-Pa. Democrats, of course, realize that the president plays an outsized role in the policy direction of his party. Just as George W. Bush moved the Republican Party in a more hawkish direction during his war-riven presidency, Obama is nudging Democrats away from their traditionally instinctive support for the Jewish state. "I can't remember the last time the differences [between the U.S. and Israel] were this stark," said one former Democratic White House official with ties to the Jewish community. "There's now a little more freedom [for progressive Democrats] to say what they want to say, without fear of getting their tuchus kicked by the organized Jewish community." A Gallup survey conducted this year showed 55 percent of Democrats sympathizing with the Israelis over the Palestinians, compared with 78 percent of Republicans and 63 percent of independents who do so. A landmark Pew poll of American Jews, released in October, showed that 35 percent of Jewish Democrats said they had little or no attachment to Israel, more than double the 15 percent of Jewish Republicans who answered similarly. At the 2012 Democratic National Convention, many delegates booed a platform proposal supporting the move of the U.S. Embassy in Israel from Tel Aviv to Jerusalem. In 2011, Democrats lost Anthony Weiner's heavily Jewish, solidly Democratic Brooklyn House seat because enough Jewish voters wanted to rebuke the president's perceived hostility toward Israel. Pro-Israel advocacy groups rely on the mantra that support for Israel carries overwhelming bipartisan support, a maxim that has held true for decades in Congress. But most also reluctantly acknowledge the growing influence of a faction within the Democratic Party that is more critical of the two countries' close relationship. Within the Jewish community, that faction is represented by J Street, which positions itself as the home for "pro-Israel, pro-peace Americans" and supports the Iran negotiations. "Organizations that claim to represent the American Jewish community are undermining [Obama's] approach by pushing for new and harsher penalties against Iran," the group wrote in an action alert to its members. Some supporters of Israel view J Street with concern. "There's a small cadre of people that comes from the progressive side of the party that are in the business of blaming Israel first. There's a chorus of these guys," said a former Clinton administration foreign policy official. "But that doesn't make them the dominant folks in the policy space of the party, or the Hill." Pro-Israel activists worry that one of the ironies of Obama's situation is that as his poll numbers sink, his interest in striking a deal with Iran will grow because he'll be looking for any bit of positive news that can draw attention away from the health care law's problems. Thus far, Obama's diminished political fortunes aren't deterring Democrats from protecting the administration's prerogatives. Congressional sources expect the Senate Banking Committee, chaired by South Dakota Democrat Tim Johnson, to hold off on any sanctions legislation until there's a resolution to the Iranian negotiations. But if Obama's standing continues to drop, and if Israel doesn't like the deal, don't be surprised to see Democrats become less hesitant about going their own way.

#### Tanks Geneva and causes Israel strikes

**Leubsdorf, 1/22/14 –** former Washington Bureau chief of The Dallas Morning News (Carl, Dallas Morning News, “Hard-liners’ mischief-making threatens Iran nuke talks” <http://www.dallasnews.com/opinion/columnists/carl-p-leubsdorf/20140122-carl-leubsdorf-hard-liners-mischief-making-threatens-iran-nuke-talks.ece>)

The measure’s most dangerous provision, according to various published reports, reads as follows:¶ “If the government of Israel is compelled to take military action in legitimate self-defense against Iran’s nuclear weapon program, the United States should stand with Israel and provide in accordance with the law of the United States and the constitutional responsibility of Congress to authorize the use of military force, diplomatic and economic support to the Government of Israel in the defense of its territory, people and existence.”¶ While not requiring U.S. action, critics note the language suggests the mere existence of an Iranian “nuclear weapon program” would be sufficient to compel Israel to attack “in legitimate self-defense.” And it says the U.S. “should” provide such an Israeli attack with “military, diplomatic and economic support” according to U.S. laws and congressional constitutional responsibility.¶ In effect, that could enable the hard-liners who control the Israeli government to kill the talks or try to drag the United States into a war against Iran if they decide that Iranian compliance with the current agreement is insufficient to protect Israel.¶ The measure would also enable Congress to kill any agreement the West reaches with Iran by overriding Obama’s decision to waive existing sanctions.

#### Global war

-Strikes fail: intel gap and buried

-Iran second strike = nuclear

-Economy: stops oil

-Hegemony: Balancers

-Miscalc/Escalation: Forces on nuclear alter

**Reuveny, 10** – professor in the School of Public and Environmental Affairs at Indiana University (Rafael, “Unilateral strike could trigger World War III, global depression” Gazette Xtra, 8/7, - See more at: <http://gazettextra.com/news/2010/aug/07/con-unilateral-strike-could-trigger-world-war-iii-/#sthash.ec4zqu8o.dpuf>)

A unilateral Israeli strike on Iran’s nuclear facilities would likely have dire consequences, including a regional war, global economic collapse and a major power clash.¶ For an Israeli campaign to succeed, it must be quick and decisive. This requires an attack that would be so overwhelming that Iran would not dare to respond in full force.¶ Such an outcome is extremely unlikely since the locations of some of Iran’s nuclear facilities are not fully known and known facilities are buried deep underground.¶ All of these widely spread facilities are shielded by elaborate air defense systems constructed not only by the Iranians but also the Chinese and, likely, the Russians as well.¶ By now, Iran has also built redundant command and control systems and nuclear facilities, devloped early warning systems, acquired ballistic and cruise missiles and upgraded and enlarged its armed forces.¶ Because Iran is well-prepared, a single, conventional Israeli strike—or even numerous strikes—could not destroy all of its capabilities, giving Iran time to respond.¶ Unlike Iraq, whose nuclear program Israel destroyed in 1981, Iran has a second-strike capability comprised of a coalition of Iranian, Syrian, Lebanese, Hezbollah, Hamas, and, perhaps, Turkish forces. Internal pressure might compel Jordan, Egypt and the Palestinian Authority to join the assault, turning a bad situation into a regional war.¶ During the 1973 Arab-Israeli War, at the apex of its power, Israel was saved from defeat by President Nixon’s shipment of weapons and planes. Today, Israel’s numerical inferiority is greater, and it faces more determined and better-equipped opponents. After years of futilely fighting Palestinian irregular armies, Israel has lost some of its perceived superiority—bolstering its enemies’ resolve.¶ Despite Israel’s touted defense systems, Iranian coalition missiles, armed forces, and terrorist attacks would likely wreak havoc on its enemy, leading to a prolonged tit-for-tat.¶ In the absence of massive U.S. assistance, Israel’s military resources may quickly dwindle, forcing it to use its alleged nuclear weapons, as it had reportedly almost done in 1973.¶ An Israeli nuclear attack would likely destroy most of Iran’s capabilities, but a crippled Iran and its coalition could still attack neighboring oil facilities, unleash global terrorism, plant mines in the Persian Gulf and impair maritime trade in the Mediterranean, Red Sea and Indian Ocean.¶ Middle Eastern oil shipments would likely slow to a trickle as production declines due to the war and insurance companies decide to drop their risky Middle Eastern clients. Iran and Venezuela would likely stop selling oil to the United States and Europe.¶ From there, things could deteriorate as they did in the 1930s. The world economy would head into a tailspin; international acrimony would rise; and Iraqi and Afghani citizens might fully turn on the United States, immediately requiring the deployment of more American troops.¶ Russia, China, Venezuela, and maybe Brazil and Turkey—all of which essentially support Iran—could be tempted to form an alliance and openly challenge the U.S. hegemony.¶ Russia and China might rearm their injured Iranian protege overnight, just as Nixon rearmed Israel, and threaten to intervene, just as the U.S.S.R. threatened to join Egypt and Syria in 1973. President Obama’s response would likely put U.S. forces on nuclear alert, replaying Nixon’s nightmarish scenario.¶ Iran may well feel duty-bound to respond to a unilateral attack by its Israeli archenemy, but it knows that it could not take on the United States head-to-head. In contrast, if the United States leads the attack, Iran’s response would likely be muted.¶ If Iran chooses to absorb an American-led strike, its allies would likely protest and send weapons but would probably not risk using force.¶ While no one has a crystal ball, leaders should be risk-averse when choosing war as a foreign policy tool. If attacking Iran is deemed necessary, Israel must wait for an American green light. A unilateral Israeli strike could ultimately spark World War III.

## S

**Obama will resist the plan**

**Lobel, Pittsburgh law professor, 2008**

(Jules, “Conflicts Between the Commander in Chief and Congress: Concurrent Power over the Conduct of War”, Ohio State Law Journal, vol 69, lexis)

The critical difficulty with a contextual approach is its inherent ambiguity and lack of clarity, which tends to sharply shift the balance of power in favor of a strong President acting in disregard of congressional will. For example, the application of the Feldman and Issacharoff test asking whether the **congressional restriction** makes realistic sense in the modern world would yield no coherent separation of powers answer if applied to the current Administration’s confrontation with Congress. It **would** undoubtedly **embolden the President to ignore Congress’s strictures**. **The President’s** **advisors would argue that the** McCain Amendment’s ban on cruel and inhumane treatment, or FISA’s **requirement of a warrant, does not make realistic sense in the context of the contemporary realities of the war on terror** in which we face a shadowy, ruthless nonstate enemy that has no respect for laws or civilized conduct, a conclusion hotly disputed by those opposed to the President’s policies. Focusing the debate over whether Congress has the power to control the treatment of detainees on the President’s claim that the modern realities of warfare require a particular approach will merge the separation of powers inquiry of who has the power with the political determination of what the policy ought to be. Such an approach is likely to encourage the President to **ignore and violate legislative wartime enactments** whenever he or she believes that a statute does not make realistic sense—that is, when it conflicts with a policy the President embraces. 53 The contextual approach has a “zone of twilight” quality that Justice Jackson suggested in Youngstown. 54 Often constitutional norms matter less than political realities—**wartime reality often favors a strong President who will overwhelm** both **Congress** and the courts. While it is certainly correct— as Jackson noted—that neither the Court nor the Constitution will preserve separation of powers where Congress is too politically weak to assert its authority, a fluid contextual approach is an invitation to **Presidents** to push beyond the constitutional boundaries of their powers and **ignore legislative enactments that seek to restrict their wartime authority**. Moreover, another substantial problem with a contextual approach in the war powers context is that **the judiciary is unlikely to resolve the dispute**. 55 The persistent refusal of the judiciary to adjudicate the constitutionality of the War Powers Resolution strongly suggests that courts will often refuse to intervene to resolve disputes between the President and Congress over the constitutionality of a statute that a President claims impermissibly interferes with her conduct of an ongoing war. 56 **This result leaves the political branches to engage in an intractable dispute over the statute’s constitutionality that saps the nation’s energy, diverts focus from the political issues in dispute, and endangers the rule of law**. Additionally, in wartime it is often important for issues relating to the exercise of war powers to be resolved quickly. Prompt action is not usually the forte of the judiciary. If, however, a constitutional consensus exists or could be consolidated that Congress has the authority to check the President’s conduct of warfare, that consensus might help embolden future Congresses to assert their power. Such a consensus might also help prevent the **crisis, chaos, and stalemate** **that may result when the two branches assert competing constitutional positions and**, as a practical matter, judicial review is unavailable to resolve the dispute. Moreover, the adoption of a contextual, realist approach **will** **undermine rather than aid the cooperation and compromise** **between the political branches that is so** **essential to success in wartime**. In theory, an unclear, ambiguous division of power between the branches that leaves each branch uncertain of its legal authority could further compromise and cooperation. However, **modern social science research** **suggests** that the opposite occurs. 57 Each side in the dispute is likely to grasp onto aspects or factors within the ambiguous or complex reality to support its own self-serving position. This **self-serving bias** **hardens each side’s position and allows the** **dispute to drag on**, as has happened with the ongoing, unresolved dispute over the constitutionality of the War Powers Resolution. Pg. 407-409

**Means Obama just arbitrarily defines words to shirk enforcement**

**Pollack, 13** -- MSU Guggenheim Fellow and professor of history emeritus [Norman, "Drones, Israel, and the Eclipse of Democracy," Counterpunch, 2-5-13, www.counterpunch.org/2013/02/05/drones-israel-and-the-eclipse-of-democracy/, accessed 9-1-13]

Bisharat first addresses the transmogrification of international law by Israel’s military lawyers. We might call this damage control, were it not more serious. When the Palestinians first sought to join the I.C.C., and then, to receive the UN’s conferral of nonmember status on them, Israel raised fierce opposition. Why? He writes: “Israel’s frantic opposition to the elevation of Palestine’s status at the United Nations was motivated precisely by the fear that it would soon lead to I.C.C. jurisdiction over Palestinian claims of war crimes. Israeli leaders are unnerved for good reason. The I.C.C. could prosecute major international crimes committed on Palestinian soil anytime after the court’s founding on July 1, 2002.” **In response to the threat, we see the deliberate reshaping of the law:** Since 2000, “the Israel Defense Forces, guided by its **military lawyers, have attempted to remake the laws of war by consciously violating them and then creating new legal concepts to provide juridical cover** for their misdeeds.” (Italics, mine) In other words, habituate the law to the existence of atrocities; **in the US‘s case, targeted assassination, repeated often enough, seems permissible**, indeed clever and wise, **as pressure is steadily applied to the laws of war.** Even then, “collateral damage” is seen as unintentional, regrettable, but hardly prosecutable, and in the current atmosphere of complicity and desensitization, never a war crime. (**Obama is hardly a novice at this game of stretching the law to suit the convenience of**, shall we say, the **national interest**? **In order to ensure the distortion in counting civilian casualties, which would bring the number down, as Brennan with a straight face claimed, was “zero,” the Big Lie** if ever there was one, placing him in distinguished European company, **Obama redefined the meaning of “combatant” status to be any male of military age throughout the area** (which we) declared a combat zone, which noticeably led to a higher incidence of sadism, because it allowed for “second strikes” on funerals—the assumption that anyone attending must be a terrorist—and first responders, those who went to the aid of the wounded and dying, themselves also certainly terrorists because of their rescue attempts.) These guys play hardball, perhaps no more than in using—by report—the proverbial baseball cards to designate who would be next on the kill list. But funerals and first responders—verified by accredited witnesses–seems overly much, and not a murmur from an adoring public.

## WoT

**Constrained executive makes it impossible to respond to the rapid and existential nature of the threat posed by terrorism-strong, flexible executive key to check nuclear, chemical, and biological attacks**

**Royal 2011**

[John Paul, Fellow of the Institute for World Politics, 2011, War Powers and the Age of Terrorism, <http://www.thepresidency.org/storage/Fellows2011/Royal-_Final_Paper.pdf>, uwyo//amp]

The international system itself and national security challenges to the United States in particular, underwent rapid and significant change in the first decade of the twenty-first century. War can no longer be thought about strictly in the terms of the system and tradition created by the Treaty of Westphalia over three and a half centuries ago**. Non-state actors now possess a level of destructiveness formerly enjoyed only by nation states. Global terrorism, coupled with the threat of weapons of mass destruction** developed organically or obtained from rogue regimes, **presents new challenges to U.S. national security and place innovative demands on the Constitution’s system of making war. I**n the past, as summarized in the 9/11 Commission Report, threats emerged due to hostile actions taken by enemy states and their ability to muster large enough forces to wage war: “Threats emerged slowly, often visibly, as weapons were forged, armies conscripted, and units trained and moved into place. **Because large states were more powerful, they also had more to lose. They could be deterred"** (National Commission 2004, 362). This mindset assumed that peace was the default state for American national security. Today however, **we know that threats can emerge quickly. Terrorist organizations** half-way around the world **are able to wield weapons of unparalleled destructive power. These attacks are more difficult to detect and deter due to their unconventional and asymmetrical nature. In light of these new asymmetric threats** and the resultant changes to the international system, **peace can no longer be considered the default state of American national security. Many have argued that the Constitution permits the president to use unilateral action only in response to an imminent direct attac**k on the United States. In the emerging security environment described above, **pre-emptive action taken by the executive branch may be needed more often than when nation-states were the principal threat** to American national interests. Here again, the 9/11 Commission Report is instructive as it considers the possibility of pre-emptive force utilized over large geographic areas due to the diffuse nature of terrorist networks: In this sense, 9/11 has taught us that terrorism against American interests “over there” should be regarded just as we regard terrorism against America “over here.” In this sense, the American homeland is the planet (National Commission 2004, 362). Furthermore, the report explicitly describes the global nature of the threat and the global mission that must take place to address it. Its first strategic policy recommendation against terrorism states that **the: U.S. government must identify and prioritize actual or potential terrorist sanctuaries.** For each, it should have a realistic strategy to keep possible terrorists insecure and on the run, using all elements of national power (National Commission 2004, 367). Thus, **fighting continues against terrorists in Afghanistan, Yemen, Iraq, Pakistan, the Philippines, and beyond,** as we approach the tenth anniversary of the September 11, 2001 attacks. **Proliferation of weapons of mass destruction (WMD), especially nuclear weapons, into the hands of these terrorists is the most dangerous threat to the United States**. We know from the 9/11 Commission Report that A**l Qaeda has attempted to make and obtain nuclear weapons for at least the past fifteen years. Al Qaeda considers the acquisition of weapons of mass destruction to be a religious obligation** **while “more than two dozen other terrorist groups are pursing CBRN [chemical, biological, radiological, and nuclear] materials**” (National Commission 2004, 397). Considering these statements**, rogue regimes** that are openly hostile to the United States and have or seek to develop nuclear weapons capability such as North Korea and Iran, **or extremely unstable nuclear countries such as Pakistan, pose a special threat to American national security interests**. These nations were not necessarily a direct threat to the United States in the past. Now, however, **due to proliferation of nuclear weapons and missile technology, they can inflict damage at considerably higher levels** and magnitudes than in the past. In addition, **these regimes may pursue proliferation of nuclear weapons and missile technology to other nations and to allied terrorist organizations. The United States must pursue condign punishment and appropriate, rapid action against hostile terrorist organizations, rogue nation states, and nuclear weapons proliferation threats in order to protect American interest**s both at home and abroad. Combating these threats are the “top national security priority for the United States…with the full support of Congress, both major political parties, the media, and the American people” (National Commission 2004, 361). **Operations may take the form of pre-emptive and sustained action against those who have expressed hostility or declared war on the United States. Only the executive branch can effectively execute this mission,** authorized by the 2001 AUMF. If the national consensus or the nature of the threat changes, Congress possesses the intrinsic power to rescind and limit these powers.

**No scenario for nuclear terror---consensus of experts**

Matt **Fay ‘13**, PhD student in the history department at Temple University, has a Bachelor’s degree in Political Science from St. Xavier University and a Master’s in International Relations and Conflict Resolution with a minor in Transnational Security Studies from American Military University, 7/18/13, “The Ever-Shrinking Odds of Nuclear Terrorism”, webcache.googleusercontent.com/search?q=cache:HoItCUNhbgUJ:hegemonicobsessions.com/%3Fp%3D902+&cd=1&hl=en&ct=clnk&gl=us&client=firefox-a

**For over a decade now, one of the most oft-repeated threats** raised by policymakers—the one that in many ways justified the invasion of Iraq—**has been that of nuclear terrorism. Officials** in both the Bush and Obama administrations, including the presidents themselves, **have raised the specter of the atomic terrorist.** But **beyond mere rhetoric, how likely is a nuclear terrorist attack** really?¶ While pessimistic estimates about America’s ability to avoid a nuclear terrorist attack became something of a cottage industry following the September 11th attacks, a number of **scholars** in recent years **have pushed back** against this trend. Frank **Gavin has put post-9/11 fears of nuclear terrorism into historical context** (pdf) **and argued against the prevailing alarmism**. Anne **Stenersen** of the Norwegian Defence Research Establishment **has challenged the idea that al Qaeda was ever bound and determined to acquire a nuclear weapon.** John **Mueller ridiculed the notion of nuclear terrorism** in his book Atomic Obsessions **and highlighted the numerous steps a terrorist group would need to take**—all of which would have to be successful—**in order to procure, deliver, and detonate an atomic weapon. And** in his excellent, and exceedingly even-handed, treatment of the subject, On Nuclear Terrorism, Michael **Levi outlined the difficulties terrorists would face building their own nuclear weapon and discussed how a “system of systems” could be developed to interdict potential materials smuggled into the U**nited **S**tates—**citing a “Murphy’s law of nuclear terrorism” that could possibly dissuade terrorists from even trying in the first place**.¶ But what about the possibility that a rogue state could transfer a nuclear weapon to a terrorist group? That was ostensibly why the United States deposed Saddam Hussein’s regime: fear he would turnover one of his hypothetical nuclear weapons for al Qaeda to use.¶ Enter into this discussion Keir Lieber and Daryl Press and their article in the most recent edition of International Security, “Why States Won’t Give Nuclear Weapons to Terrorists.” Lieber and Press have been writing on nuclear issues for just shy of a decade—doing innovative, if controversial work on American nuclear strategy. However, I believe this is their first venture into the debate over nuclear terrorism. And while **others, such as Mueller, have argued that states are unlikely to transfer nuclear weapons to terrorists**, this article is the first to tackle the subject with an empirical analysis.¶ The title of their article nicely sums up their argument: **states will not turn over nuclear weapons terrorists**. To back up this claim, **Lieber and Press attack the idea that states will transfer nuclear weapons to terrorists because terrorists operate of absent a “return address**.” Based on an examination of attribution following conventional terrorist attacks, the authors conclude:¶ [**N]either a terror group nor a state sponsor would remain anonymous after a nuclear attack**. We draw this conclusion on the basis of four main findings. First, data on a decade of terrorist incidents reveal a strong positive relationship between the number of fatalities caused in a terror attack and the likelihood of attribution. Roughly three-quarters of the attacks that kill 100 people or more are traced back to the perpetrators. Second, attribution rates are far higher for attacks on the U.S. homeland or the territory of a major U.S. ally—97 percent (thirty-six of thirty-seven) for incidents that killed ten or more people. Third, tracing culpability from a guilty terrorist group back to its state sponsor is not likely to be difficult: few countries sponsor terrorism; few terrorist groups have state sponsors; each sponsor terrorist group has few sponsors (typically one); and only one country that sponsors terrorism, has nuclear weapons or enough fissile material to manufacture a weapon. In sum, **attribution of nuclear terror incidents would be easier than is typically suggested, and passing weapons to terrorists would not offer countries escape from** the constraints of **deterrence**.¶ From this analysis, Lieber and Press draw two major implications for U.S. foreign policy: claims that it is impossible to attribute nuclear terrorism to particular groups or potential states sponsors undermines deterrence; and fear of states transferring nuclear weapons to terrorist groups, by itself, does not justify extreme measures to prevent nuclear proliferation.¶ This is a key point. While there are other reasons nuclear proliferation is undesirable, **fears of nuclear terrorism have been used to justify a wide-range of policies**—up to, and including, military action. **Put in its proper perspective however—given the difficulty in constructing and transporting a nuclear device and the improbability of state transfer—nuclear terrorism hardly warrants** the type of exertions many **alarmist assessments** indicate it should.

**No impact to terrorism – too hard to pull off post 9/11, not enough personnel to carry out an attack, too much pressure because of security restrictions**

**Schneier 10**

(Bruce, a security technologist and author of "Beyond Fear: Thinking Sensibly About Security in an Uncertain World.", “Opinion: Where Are All the Terrorist Attacks?”, March 2010, <http://www.aolnews.com/opinion/article/opinion-why-arent-there-more-times-square-style-terrorist-attacks/19463843>)

Hard to Pull Off **Terrorism sounds easy**, but the actual attack is the easiest part. **Putting together the people, the plot and the materials is hard. It's hard to sneak terrorists into the U.S. It's hard to grow your own inside the U.S. It's hard to operate; the general population, even the Muslim population, is against you.** Movies and television make terrorist plots look easier than they are. It's hard to hold conspiracies together. It's easy to make a mistake. **Even 9/11, which was planned before the climate of fear that event engendered, just barely succeeded. Today, it's much harder to pull something like that off without slipping up and getting arrested.** Few Terrorists **But even more important than the difficulty of executing a terrorist attack, there aren't a lot of terrorists out there. Al-Qaida isn't a well-organized global organization** with movie-plot-villain capabilities; it's a loose collection of people using the same name. **Despite the post-9/11 rhetoric, there isn't a terrorist cell in every major city. If you think about the major terrorist plots we've foiled in the U.S. -- the JFK bombers, the Fort Dix plotters -- they were mostly** [**amateur terrorist wannabes**](http://www.schneier.com/essay-174.html) **with no connection to any sort of al-Qaida central command, and mostly no ability to effectively carry out the attacks they planned. The successful terrorist attacks** -- the Fort Hood shooter, the guy who flew his plane into the Austin IRS office, the anthrax mailer -- **were largely nut cases operating alone**. Even the unsuccessful shoe bomber, and the equally unsuccessful Christmas Day underwear bomber, had minimal organized help -- and that help originated outside the U.S. **Terrorism doesn't occur without terrorists, and they are far rarer than popular opinion would have it.**

**The worst case scenario happened – no extinction**

**Dove 12** [Alan Dove, PhD in Microbiology, science journalist and former Adjunct Professor at New York University, “Who’s Afraid of the Big, Bad Bioterrorist?” Jan 24 2012, http://alandove.com/content/2012/01/whos-afraid-of-the-big-bad-bioterrorist/]

The second problem is much more serious. Eliminating the toxins, we’re left with a list of infectious bacteria and viruses. With a single exception, these organisms are probably near-useless as weapons, and history proves it.¶ There have been at least three well-documented military-style deployments of infectious agents from the list, plus one deployment of an agent that’s not on the list. I’m focusing entirely on the modern era, by the way. There are historical reports of armies catapulting plague-ridden corpses over city walls and conquistadors trying to inoculate blankets with Variola (smallpox), but it’s not clear those “attacks” were effective. Those diseases tended to spread like, well, plagues, so there’s no telling whether the targets really caught the diseases from the bodies and blankets, or simply picked them up through casual contact with their enemies.¶Of the four modern biowarfare incidents, two have been fatal. The first was the 1979 Sverdlovsk anthrax incident, which killed an estimated 100 people. In that case, a Soviet-built biological weapons lab accidentally released a large plume of weaponized Bacillus anthracis (anthrax) over a major city. Soviet authorities tried to blame the resulting fatalities on “bad meat,” but in the 1990s Western investigators were finally able to piece together the real story. The second fatal incident also involved anthrax from a government-run lab: the 2001 “Amerithrax” attacks. That time, a rogue employee (or perhaps employees) of the government’s main bioweapons lab sent weaponized, powdered anthrax through the US postal service. Five people died.¶ That gives us a grand total of around 105 deaths, entirely from agents that were grown and weaponized in officially-sanctioned and funded bioweapons research labs. Remember that.¶Terrorist groups have also deployed biological weapons twice, and these cases are very instructive. The first was the 1984 Rajneeshee bioterror attack, in which members of acult in Oregon inoculated restaurant salad bars with Salmonella bacteria (an agent that’s not on the “select” list). 751 people got sick, but nobody died. Public health authorities handled it as a conventional foodborne Salmonella outbreak, identified the sources and contained them. Nobody even would have known it was a deliberate attack if a member of the cult hadn’t come forward afterward with a confession. Lesson: our existing public health infrastructure was entirely adequate to respond to a major bioterrorist attack.¶ The second genuine bioterrorist attack took place in 1993. Members of the Aum Shinrikyo cult successfully isolated and grew a large stock of anthrax bacteria, then sprayed it as an aerosol from the roof of a building in downtown Tokyo. The cult was well-financed,and had many highly educated members, so **this** release over the world’s largest city really **represented a worst-case scenario**.¶ **Nobody got sick** or died. From the cult’s perspective, it was a complete and utter failure. Again, the only reason we even found out about it was a post-hoc confession. Aum members later demonstrated their lab skills by producing Sarin nerve gas, with far deadlier results. Lesson: one of the top “select agents” is extremely hard to grow and deploy even for relatively skilled non-state groups. It’s a really crappy bioterrorist weapon.¶ Taken together, these events point to an uncomfortable but inevitable conclusion: our biodefense industry is a far greater threat to us than any actual bioterrorists.

## Firebreak

#### Decreasing AUMF authorizations snowballs- causes judicial rollback of the AUMF

Barnes, 12 -- J.D. Candidate, Boston University School of Law

[Beau, “Reauthorizing the ‘War on Terror’: The Legal and Policy Implications of the AUMF’s Coming Obsolescence,” Military Law Review, Vol 211, 2012, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2150874, accessed 8-21-13, mss]

**The scope of** the **AUMF is** also **important for** any **future judicial opinion** that might rely in part on Justice Jackson’s Steel Seizure concurrence.23 Support from Congress places the President’s actions in Jackson’s first zone, where executive power is at its zenith, because it “includes all that [the president]~~he~~ possesses in [their]~~his~~ own right plus all that Congress can delegate.”24 Express or **implied congressional disapproval, discernible by identifying the outer limits of** the **AUMF’s authorization, would place the President’s “power . . . at its lowest ebb**.”25 In this third zone, executive claims “must be scrutinized with caution, for what is at stake is the equilibrium established by our constitutional system.”26 Indeed, Jackson specifically rejected an overly powerful executive, observing that the Framers did not intend to fashion the President into an American monarch.27 Jackson’s concurrence has become the **most significant guidepost** in debates over the constitutionality of executive action in the realm of national security and foreign relations.28 Indeed, some have argued that it was given “the status of law”29 by then-Associate Justice William Rehnquist in Dames & Moore v. Regan.30 Speaking for the Court, Rehnquist applied Jackson’s tripartite framework to an executive order settling pending U.S. claims against Iran, noting that “[t]he parties and the lower courts . . . have all agreed that much relevant analysis is contained in [Youngstown].”31 More recently, Chief Justice John Roberts declared that “Justice Jackson’s familiar tripartite scheme provides the accepted framework for evaluating executive action in [the area of foreign relations law].”32 Should a future court adjudicate the nature or extent of the President’s authority to engage in military actions against terrorists, an applicable statute would confer upon such executive action “the strongest of presumptions and the widest latitude of judicial interpretation.”33 The AUMF therefore exercises a profound legal influence on the future of the United States’ struggle against terrorism, and its precise scope, authorization, and continuing vitality matter a great deal.

#### China-Taiwan war unlikely – economic ties and improving relations

Weede, Former Professor of Sociology at the University of Bonn, 2010

(Erich, retired in 2004, current member of the Mont Pelerin Society, “The Capitalist Peace and the Rise of China: Establishing Global Harmony by Economic Interdependence”, International Interactions 36:2, 206-213, 5/18/10, accessed 6/20/11) JDB

From an international trade perspective, all of East Asia has recently become a Chinese sphere of influence. China is the most important destination of Japanese, South Korean, and Taiwanese exports—ahead of the United States. Although Taiwanese politicians around the turn of the millennium rejected the idea of reunification on the Mainland’s terms, and although some of them were attracted to the idea of declaring the legal independence of Taiwan, economic and social ties across the Taiwan Strait grew vigorously at the same time. Taiwanese companies employ millions of people on the mainland. About a million people from Taiwan live on the Chinese mainland. Mainland China has been the preferred destination of Taiwan’s foreign investment. Since the lateral escalation of a military conflict between the People’s Republic of China and Taiwan constitutes the most plausible scenario whereby the U.S. and China might get into a war, economic interdependence between China and Taiwan contributes to the preservation of peace. Recently, political relations between the People’s Republic of China and the Republic of China on Taiwan have improved fast. Given the record of Sino-Japanese wars in the past and the power of these neighboring states, the extent of Sino-Japanese economic cooperation provides another reason for optimism. The capitalist peace stands a chance to apply between China and its neighbors and competitors.

#### SCS conflict won’t escalate

Chaibi, 13

[Abraham, “The outlook for continuing stability in the South China Sea” Politics in Spires, March 4, 2013, <http://politicsinspires.org/the-outlook-for-continuing-stability-in-the-south-china-sea/> //uwyo-baj]

East Asia’s rapid economic and military development has captured global attention, but pundits are quick to point to the South China Sea, North Korea, and Taiwan as potential obstacles to the region’s continued growth. Analysis of news coverage demonstrates that regional economies and tensions have been growing in tandem. The South China Sea has historically been of particular interest because of the number of conflicting claims on the islands and sea-lanes it encompasses. China, Malaysia, Brunei, the Philippines, Vietnam, and Taiwan, among others, have often engaged in bilateral disagreements with resulting spikes in diplomatic tension and even military confrontation. Of note, these conflicts have never escalated to a full-scale regional war. Direct extrapolation suggests that previous restraint in military interactions implies the nations involved do not consider the potential benefits sufficient to justify an upset to the balance of power. However, contemporary changes in economic and security conditions complicate the issue. While current tensions appear unlikely to lead to a full-scale military conflict, the diversion of national resources needed to maintain the status quo is substantial. Institutional changes to increase transparency; clarify US treaties with ASEAN nations; and increase states’ internal enforcement of international agreements, although initially costly, would allow the neighbouring states to redirect these resources to long-term growth. Historically, China has been involved in a majority of the military conflicts in the South China Sea. A 1947 Chinese map delineates China’s controversial claim to approximately 80% of the sea. China aggressively used its navy to conclude a dispute with Vietnam in the Battle of the Paracel Islands in 1974 and then in 1988 during the Johnson South Reef Skirmish for the Spratly Islands. Conflict was narrowly averted in 1995 when the Philippines chose not to shell fort-like Chinese military structures on Mischief Reef (China maintained they were only intended as shelter for fisherman); however, the Philippines continues to assert that this is an example of “creeping occupation”. This form of venting tensions, while far short of total war, is extremely costly over the long run; the combination of of resources, energy, and lives expended to establish a claim to the islands creates a significant and avoidable opportunity cost. These skirmishes are not merely an imprint of the 20th century but continue today as witnessed by the Chinese establishment of the Sansha garrison-city in 2012 and the Sino-Philippines stand-off in the Scarborough Shoal. What then is the evidence suggesting a continued reluctance to engage in full-scale military confrontation? Although in the past conflict has often arisen between economically interdependent nations (viz. the previous peak of global trade in 1914), the China-ASEAN relationship is one of fundamental interdependence of production, visible in the prevalence of international supply chaining in manufacturing processes, rather than solely trade and labour movement[i]. The burgeoning economic interdependence and growth of neighbouring states contributes a major incentive to prevent a conflagration. $5.3 trillion of trade, of which approximately 20% is US, transits the South China Sea annually and any interruption would not only severely restrict regional trade revenues, but would also very likely guarantee US military intervention[ii]. The Association of South East Asian Nations (ASEAN) is becoming increasingly interconnected and 2015 will mark a key turning point with the opening of internal ASEAN borders for free movement of labor. The ASEAN bloc has also concluded a number of reconciliation agreements with China. Regarding security, both the 2002 Code of Conduct and the 2011 Guidelines to the Code of Conduct are intended to help coordinate diplomacy and maintain peace in South China Sea disputes. Economically China has been ASEAN’s largest trading partner since 2009, and at its opening in 2010 the ASEAN-China free trade area (ACFTA) became the largest in the world by population. These arrangements come at a time when growing estimates of the value of the natural resources contained in the South China Sea are generating pressures associated with ensuring energy security. Economic interdependence between China and ASEAN, however, is not the sole factor at play. In areas with considerable interstate tension sub-state actors have often contributed to the deterioration of international relations, most prominently with the assassination of Archduke Franz Ferdinand tipping Europe into World War I. Recent developments in state-level Chinese political and military discourse reflect a strong interest in cooperation. Chinese President Hu Jintao’s 2011 discussions with Filipino President Corazon Aquino firmly expressed the hope that “the countries concerned may put aside disputes and actively explore forms of common development in the relevant sea areas”[iii]. Additionally in 2011 the Chinese State Council Information Office released a white paper with a similar emphasis on joint development. Yet China is also reported to have developed internal fractures in its South China Sea policy, with a number of different ministries controlling paramilitary units that are not under express government oversight[iv]. For example, the Bureau of Fisheries Administration (BFA) now directs a relatively well-equipped law enforcement fleet that is tasked with patrolling Chinese-owned fishing areas. Such interest groups repeatedly instigate minor disputes with their ASEAN counterparts and the US navy that exacerbate state-level discussions and risk eventually drawing unintended consequences (characteristically, in 2004 two BFA vessels obstructed a US Navy surveillance ship in the Yellow Sea). The region has also seen a rise in high-tech militarization, with rapid development in areas ranging from aircraft carriers and submarines to cyber-espionage; this is likely to further increase due to the 2011 US “pivot to Asia” and military surge. The pivot is considered to be a sign that the US intends to continue playing a leadership role in East Asia, a strategy at odds with China’s vision[v]. An associated complication is the imprecise definition of US commitments to its ally nations in the event of disputes in contested territories, especially vis-à-vis the Philippines and Vietnam, and the possibility that alliances will be used to escalate a small battle into a regional affair. The US is making efforts to address these complications; for the first time since RIMPACS’s creation in 1971, China has been invited to participate in a US-led naval exercise. Positive near-term repercussions of growing US involvement have also been postulated; analysts suggest that one of the root causes behind Chinese interest in cooperation is the fear that aggression in the South China Sea will drive other parties to strengthen their ties with the US[vi]. The relative wealth of economic and diplomatic compromises on all sides presents a compelling argument that under current conditions, disputes in the South China Sea will continue to be restrained to small-scale skirmishes that do not threaten overall stability. This is not to say that the increase in regional tension is insignificant, but rather that the involved parties all have a strong interest in maintaining mutual growth and have demonstrated their willingness to make strategic sacrifices to maintain the status quo. Furthermore as China is the common link in the majority of the disputes, it is probable that it will be at the heart of any conflict — and China has frequently shown restraint in this regard (though not so, for example, in Tibet). In terms of China’s priorities, policy analysts tend to agree that if China were to begin a large-scale military campaign, Taiwan would most likely be the focus of its aggression[vii].

#### No war – deterrence checks escalation

Ganguly, 8

[Sumit Ganguly is a professor of political science and holds the Rabindranath Tagore Chair at Indiana University, Bloomington. “Nuclear Stability in South Asia,” International Security, Vol. 33, No. 2 (Fall 2008), pp. 45–70]

As the outcomes of the 1999 and 2001–02 crises show, nuclear deterrence is robust in South Asia. Both crises were contained at levels considerably short of full-scale war. That said, as Paul Kapur has argued, Pakistan’s acquisition of a nuclear weapons capability may well have emboldened its leadership, secure in the belief that India had no good options to respond. India, in turn, has been grappling with an effort to forge a new military doctrine and strategy to enable it to respond to Pakistani needling while containing the possibilities of conflict escalation, especially to the nuclear level.78 Whether Indian military planners can fashion such a calibrated strategy to cope with Pakistani probes remains an open question. This article’s analysis of the 1999 and 2001–02 crises does suggest, however, that nuclear deterrence in South Asia is far from parlous, contrary to what the critics have suggested. Three specific forms of evidence can be adduced to argue the case for the strength of nuclear deterrence. First, there is a serious problem of conflation in the arguments of both Hoyt and Kapur. Undeniably, Pakistan’s willingness to provoke India has increased commensurate with its steady acquisition of a nuclear arsenal. This period from the late 1980s to the late 1990s, however, also coincided with two parallel developments that equipped Pakistan with the motives, opportunities, and means to meddle in India’s internal affairs—particularly in Jammu and Kashmir. The most important change that occurred was the end of the conflict with the Soviet Union, which freed up military resources for use in a new jihad in Kashmir. This jihad, in turn, was made possible by the emergence of an indigenous uprising within the state as a result of Indian political malfeasance.79 Once the jihadis were organized, trained, armed, and unleashed, it is far from clear whether Pakistan could control the behavior and actions of every resulting jihadist organization.80 Consequently, although the number of attacks on India did multiply during the 1990s, it is difficult to establish a firm causal connection between the growth of Pakistani boldness and its gradual acquisition of a full-fledged nuclear weapons capability. Second, India did respond with considerable force once its military planners realized the full scope and extent of the intrusions across the Line of Control. Despite the vigor of this response, India did exhibit restraint. For example, Indian pilots were under strict instructions not to cross the Line of Control in pursuit of their bombing objectives.81 They adhered to these guidelines even though they left them more vulnerable to Pakistani ground ªre.82 The Indian military exercised such restraint to avoid provoking Pakistani fears of a wider attack into Pakistan-controlled Kashmir and then into Pakistan itself. Indian restraint was also evident at another level. During the last war in Kashmir in 1965, within a week of its onset, the Indian Army horizontally escalated with an attack into Pakistani Punjab. In fact, in the Punjab, Indian forces successfully breached the international border and reached the outskirts of the regional capital, Lahore. The Indian military resorted to this strategy under conditions that were not especially propitious for the country. Prime Minister Jawaharlal Nehru, India’s first prime minister, had died in late 1964. His successor, Lal Bahadur Shastri, was a relatively unknown politician of uncertain stature and standing, and the Indian military was still recovering from the trauma of the 1962 border war with the People’s Republic of China.83 Finally, because of its role in the Cold War, the Pakistani military was armed with more sophisticated, U.S.-supplied weaponry, including the F-86 Sabre and the F-104 Starfighter aircraft. India, on the other hand, had few supersonic aircraft in its inventory, barring a small number of Soviet-supplied MiG-21s and the indigenously built HF-24.84 Furthermore, the Indian military remained concerned that China might open a second front along the Himalayan border. Such concerns were not entirely chimerical, because a Sino-Pakistani entente was under way. Despite these limitations, the Indian political leadership responded to Pakistani aggression with vigor and granted the Indian military the necessary authority to expand the scope of the war. In marked contrast to the politico-military context of 1965, in 1999 India had a self-confident (if belligerent) political leadership and a substantially more powerful military apparatus. Moreover, the country had overcome most of its Nehruvian inhibitions about the use of force to resolve disputes.85 Furthermore, unlike in 1965, India had at least two reserve strike corps in the Punjab in a state of military readiness and poised to attack across the border if given the political nod.86 Despite these significant differences and advantages, the Indian political leadership chose to scrupulously limit the scope of the conflict to the Kargil region. As K. Subrahmanyam, a prominent Indian defense analyst and political commentator, wrote in 1993:. The awareness on both sides of a nuclear capability that can enable either country to assemble nuclear weapons at short notice induces mutual caution. This caution is already evident on the part of India. In 1965, when Pakistan carried out its “Operation Gibraltar” and sent in infiltrators, India sent its army across the cease-fire line to destroy the assembly points of the infiltrators. That escalated into a full-scale war. In 1990, when Pakistan once again carried out a massive infiltration of terrorists trained in Pakistan, India tried to deal with the problem on Indian territory and did not send its army into Pakistan-occupied Kashmir.87

#### No impact- if norms really are followed, states would have to break them to generate an armed conflict to defend themselves from

Anderson 10 [Kenneth Anderson, law professor at Washington College of Law @ American University, research fellow of the Hoover Institution at Stanford University, Non-Resident Visiting Fellow at the Brookings Institution, “More Predator Drone Debate, in the Wall Street Journal, and What the Obama Administration Should Do as a Public Legal Position,” January 9, 2010, <http://www.volokh.com/2010/01/09/more-predator-drone-debate-in-the-wall-street-journal-and-what-the-obama-administration-should-do-as-a-public-legal-position/>, wyo-sc]

(There is a problem here, one that I won’t address fully, but is important and not really much noticed. Although a new “armed conflict” can get going outside of existing ones, the bias in this way of conceiving of it is that (absent the self-defense rationale, and assuming the territorial contraints and sustained fighting thresholds as I have described them) a “new” theater of armed conflict can be initiated by the non-state actors, where the NSA chooses to fight, but not by the state forces. But notice that this isn’t really an issue for the legal frame for which non-state actor versus state conflicts were originally conceived, internal conflicts and civil wars in a territory; the territory is the national territory and so the problem of “global” war does not really arise. It arises only if one accepts that a state can only fight in an armed conflict and armed conflict is territorial and theater-defined as a matter of law, but for that reason a state cannot initiate that use of force in a military sense without violating some human rights norms in revving up, so to speak, the fighting to a level at which an armed conflict exists. This is a separate issue, however, and I won’t say more about it here. It isn’t a problem, anyway, under self-defense, which was partly why it was not an issue in the past. Framed the way the US has been framing its war on terror, however, it introduces yet another legal asymmetry in “asymmetrical warfare.”)¶

#### The US has been using broad interpretations of self-defense since the 80s—nothing happened, and post- 9/11 everyone is accepting of self defense to deter terrorism

Schmitt 8 [Michael N. Schmitt, Chairman of the International Law Department at the United States Naval War College, Former Judge specializing in operational and international law, “RESPONDING TO TRANSNATIONAL TERRORISM UNDER THE JUS AD¶ BELLUM: A NORMATIVE FRAMEWORK,” 56 Naval L. Rev. 2008, <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1610011>, wyo-sc]

Operation Enduring Freedom was not the first instance of the United States claiming self-defense as a right in forcefully countering terrorism, although in previous decades it typically addressed transnational terrorism through the prism of law enforcement." The international reaction to such assertion of self-defense has evolved steadily, an evolution that reflects a clear shift in the normative expectations regarding exercise of the right.¶ Recall Operation El Dorado Canyon in 1986, mentioned at the outset of this article. Following the attack, President Reagan announced that the United States had acted defensively: "Self-defense is not only our right, it is our duty. It is the purpose behind the mission undertaken tonight -- a mission fully consistent with Article 51 of the U.N. Charter., 28 As noted, the international community generally balked at this justification.¶ The United States again claimed the right to react to terrorism in self- defense when it uncovered an assassination plot against former President George Bush in 1993. In reporting to the Security Council that U.S. forces had replied by launching cruise missiles against Iraqi intelligence facilities, Madeline Albright, U.S. Ambassador to the United Nations, stated "I am not asking the Council for any action... but in our judgment every member here today would regard an assassination attempt against its former head of state as an attack against itself and would react."29 International reaction was certainly more muted than it had been in response to El Dorado Canyon, a fact no doubt influenced by Iraq's status as an international pariah in the aftermath of events that had precipitated the First Gulf War, as well as that nation's non-compliance with the terms of the cease-fire.¶ In 1998, the United States again claimed a right to use defensive force following the bombings of U.S. embassies in Nairobi and Dar-es-Salaam. Albright, now Secretary of State, announced that "[I]f we had not taken this action, we would not have been exercising our right of self-defense . . . . 0 A number of States, including Iran, Iraq, Libya, Pakistan, and Russia, condemned the response, which consisted of cruise missile strikes against terrorist camps in¶ 31¶ Afghanistan and a pharmaceutical plant in Sudan allegedly tied to terrorism. However, a stream of criticism distinguishing between the two targets foreshadowed a shift in international normative expectations regarding forceful State responses to transnational terrorism. The League of Arab States, for example, criticised the strike into Sudan while offering no comment on that against targets in Afghanistan.32 At the United Nations, Sudan, the Group of African States, the Arab League, and the Group of Islamic States asked the Security Council to investigate the Sudan attack, but remained silent over the companion operations against Afghanistan-based targets.33 Perhaps most tellingly, in nearly every case, censure focused not on the fact that a forceful response to a terrorist attack had been mounted, but rather on a belief that the Sudan attack was based on faulty intelligence. In other words, there was implied acceptance of a State's right to react forcefully to terrorism pursuant to the law of self-defense, so long as the action is based on reliable information.¶ The acceptability of resorting to military force in response to transnational terrorism crystallized in the aftermath of 9/11. Prior to that event, many in the international legal community would still have urged that the international law of self-defense referred only to "armed attacks" by States or armed groups acting on behalf of a State. Violent acts by non-State actors remained the province of law enforcement.¶ However, within a day of the attacks, and at a time when no one was suggesting a State was behind them, the Security Council adopted Resolution¶ 1368, in which it recognized the inherent right of individual or collective self- defense.34 This action suggested that the Council now understood the law of self-defense as extending to terrorism, at least of the kind mounted on September 11. Lest the resolution be styled merely an emotive reaction to the events of the previous day, on September 28 the Council again affirmed the right of self-defense in Resolution 1373.35 Other international organizations took exactly the same approach. For instance, both NATO and the Organization of American States activated the collective defense provisions of their respective treaties.36 So too did Australia vis-A-vis the ANZUS Pact.37 Bilateral support for the prospective U.S. exercise of its self-defense rights was equally widespread, as 27 nations granted overflight and landing rights to U.S. military aircraft and 46 issued declarations of support. Quite simply, it was universally accepted that a military response in self-defense would be appropriate and lawful.¶ On October 7, U.S. and Coalition forces launched that response. U.S. Ambassador to the United Nations John Negroponte contemporaneously notified the Security Council, as required by Article 51, that the United States was exercising its right to self-defense.¶ In accordance with Article 51 of the Charter of the United Nations, I wish, on behalf of my Government, to report that the United States of America, together with other States, has initiated actions in the exercise of its inherent right of individual and collective self-defense following the armed attacks that were carried out against the United States on 11 September 2001.¶ ... Since 11 September, my Government has obtained clear and compelling information that the Al-Qaeda organization, which is¶ supported by the Taliban regime in Afghanistan, had a central role in the attacks. There is still much we do not know. Our inquiry is in its early stages. We may find that our self-defense requires further actions with respect to other organizations and other States.¶ The attacks on 11 September 2001 and the ongoing threat to the United States and its nationals posed by the AI-Qaeda organization have been made possible by the decision of the Taliban regime to allow the parts of Afghanistan that it controls to be used by this organization as a base of operation. Despite every effort by the United States and the international community, the Taliban regime has refused to change its policy. From the territory of Afghanistan, the Al-Qaeda organization continues to train and support agents of terror who attack innocent people throughout the world and target United States nationals and¶ interests in the United States and abroad.¶ In response to these attacks, and in accordance with the inherent right of individual and collective self-defense, United States armed forces have initiated actions designed to prevent and deter further attacks on the United States. These actions include measures against Al-Qaeda terrorist training camps and military installations of the Taliban regime in Afghanistan.... 38¶ Despite the fact that the attacks fell on not only al Qaeda, but also the defacto government of Afghanistan, the Taliban, criticism was nowhere to be heard. On the contrary, support for the operations was effusive. The United Kingdom participated from the beginning, and Australia, Canada, the Czech Republic, Germany, Italy, Japan, the Netherlands, New Zealand, Turkey, and the United Kingdom offered ground troops. 39 Georgia, Oman, Pakistan, the Philippines, Qatar, Saudi Arabia, Tajikistan, Turkey, and Uzbekistan opened¶ 40 airspace and provided facilities to support operations.

# 2NC

### Violation 2NC

#### Extend that their author concedes that the plan increases presidential authority, that’s Coronogue 12.

#### The groups expands authority to groups who aren’t currently authorized

Coronogue 12 – 1AC Author (Graham, JD at duke, “A NEW AUMF: DEFINING COMBATANTS IN THE WAR ON TERROR”, http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1294&context=djcil, zzx)

America's chief security threats used to come from the Taliban and al-Qaeda. The Taliban harbored the perpetrators of the 9/11 attacks, al-Qaeda, and fell squarely under the AUMF's nexus requirement. Now, al-Qaeda has many allies and cobelligerents; these groups employ similar tactics, share comparable ideologies, and present significant threats to American lives. But does the AUMF authorize force against these groups? Are groups such as al-Shabaab,90 AQAP,91 and the Pakistani Taliban92 sufficiently tied to 9/11 or al-Qaeda? These groups are violent, dangerous, and opposed to the United States. In many ways, they are just as dangerous as al-Qaeda. However, many of these groups did not even exist on September 11, 2001, and the ones that did were not directly involved in the attacks. Thus, they could not possibly have a strong relationship to the attacks themselves, nor did they harbor those who did. Since the AUMF's text only authorizes force against those actors the President deems were involved in the 9/11 attacks, these groups are necessarily outside of Congress's authorization.

#### Would be a fancy way of saying the status quo

Bellinger III, 2011 ~John B. Adjunct Senior Fellow for International and National Security Law, Council on Foreign Relations, "Revisiting a Stale Counterterrorism Law", http://www.cfr.org/counterterrorism/revisiting-stale-counterterrorism-law/p25742-http://www.cfr.org/counterterrorism/revisiting-stale-counterterrorism-law/p25742,

A revised AUMF can certainly reference the 9/11 attacks. But my view is that it's not intended to be an open-ended legal authority to carry out military operations against terrorists or others all around the world, as some critics suggest. It is important to bring the statutory authority in line with the reality of our military operations. Administration lawyers at the Defense Department and the Justice Department have to strain very hard when reviewing the legal authority for our military or intelligence agencies to go after certain individuals or groups to find that affiliation with the original 9/11 planners.¶ The point is not to have a huge unrestricted authority that opens up new wars, but simply to make plain that our military and intelligence services have clear statutory authority to do what it is they are already doing today. It would be possible to rely on constitutional authority; I have absolutely no question about that. But it is useful and important for Congress to be authorizing what government agencies are doing. If they are not already over the line today, as far as eking out every last bit of authority from the ten-year-old AUMF, then it is likely to happen very soon.

**Only precise interp of the topic –**

**a) Broad definitions of restrictions destroy the terms’ meaning – It must be a distinct term for debate to occur**

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Eric Heinze, “The Logic of Liberal Rights A study in the formal analysis of legal discourse” http://mey.homelinux.org/companions/Eric%20Heinze/The%20Logic%20of%20Liberal%20Rights\_%20A%20Study%20in%20%20%28839%29/The%20Logic%20of%20Liberal%20Rights\_%20A%20Study%20in%20%20-%20Eric%20Heinze.pdf

Variety of ‘restrictions’ **The term ‘restriction’, defined so broadly, embraces any number of** familiar **concepts: ‘deprivation’, ‘denial’, ‘encroachment’, ‘incursion’, ‘infringement’, ‘interference’, ‘limitation’, ‘regulation’. Those terms commonly comport differences in meaning or nuance, and are not all interchangeable in standard legal usage**. For example, a ‘deprivation’ may be distinguished from a ‘limitation’ or ‘regulation’ in order to denote a full denial of a right (e.g. where private property is wholly appropriated by the state 16 Agents without compensation) as opposed to a partial constraint (e.g. where discrete restrictions are imposed on the use of property which nonetheless remains profitably usable). Similarly, distinctions between acts and omissions can leave the blanket term ‘restriction’ sounding inapposite when applied to an omission: if a state is accused of not doing enough to give effect to a right, we would not colloquially refer to such inaction as a ‘restriction’. Moreover, in a case of extreme abuse, such as extrajudicial killing or torture, it might sound banal to speak merely of a ‘restriction’ on the corresponding right. However, the term ‘restriction’ will be used to include all of those circumstances, in so far as they all comport a purpose or effect of extinguishing or diminishing the right-seeker’s enjoyment of an asserted right. (The only significant distinction which will be drawn will be between that concept of ‘restriction’ and the concept of ‘breach’ or ‘violation’. The terms ‘breach’ or ‘violation’ will be used to denote a judicial determination about the legality of the restriction.6) **Such an axiom may seem unwelcome, in so far as it obliterates subtleties which one would have thought to be useful in law**. It must be stressed that we are seeking to eliminate that variety of terms not for all purposes, but only for the very narrow purposes of a formal model, for which any distinctions among them are irrelevant.

**b) It’s a legal definition from the Corpus Juris Secundum – Legal dictionaries are the gold standard for debates about separation of powers**

**Rubin 10** – JD @ Duke

David, “WAR OF THE WORDS: HOW COURTS CAN USE DICTIONARIES IN ACCORDANCE WITH TEXTUALIST PRINCIPLES,” http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1474&context=dlj

The manner in which the Court uses dictionaries has changed ¶ over time as well. Although in the past the Court would “employ[] ¶ dictionaries to refresh the Justices’ memory about the meaning of ¶ words, or to provide potential meanings from which the Court would ¶ select based on statutory purpose, legislative intent, common sense, ¶ or some other contextual argument,” more recent cases have placed dictionaries—rather than **policy, context, or structure**—at the center ¶ of the case.¶ 14¶ Though previous scholars have suggested that ¶ dictionaries are less accepted in questions of constitutional ¶ interpretation,¶ 15¶ several significant new cases suggest that dictionaries now play a **crucial role** in the interpretation of the Constitution as ¶ well.¶ 16¶ With **core constitutional questions**, such as the meaning of the ¶ Second Amendment,¶ 17¶ being decided on the basis of dictionary definitions, it can no longer be said that the “use of the dictionary to define constitutional terms . . . is an exception to the rule.”¶ 18

# 1NR

#### The aff uses an ethical approach that creates crisis-based politics that means that we will be infinitely entrenched in the system

**Cuomo 96**

(Chris, prof of women’s studies @ UGA, War is Not Just an Event: Reflections on the Significance of Everyday Violence, Hypatia 11:4, Women and Violence, Autumn, pp. 30-45)

**Philosophical attention to war has typically appeared in the form of justifications for** entering into **war, and** over **appropriate activities within war. The spatial metaphors used to refer to war as a separate, bounded sphere indicate assumptions that war is a realm of human activity vastly removed from normal life**, or a sort of happening that is appropriately **conceived apart from everyday events in peaceful times.** Not surprisingly, most **discussions of** the political and ethical dimensions of **war discuss war solely as an event**-an occurrence, or collection of occurrences, **having clear beginnings and endings** that are typically **marked by formal, institutional declarations**. As happenings, wars and military activities can be seen as motivated by identifiable, if complex, intentions, and directly enacted by individual and collective decision-makers and agents of states. But many of the **questions about war** that are of interest to feminists-**including how** large-scale, **state-sponsored violence affects women and** members of **other oppressed groups; how military violence shapes gendered, raced, and nationalistic political realities** and moral imaginations; what such violence consists of and why it persists; **how it is related to other oppressive and violent institutions and** hegemonies-cannot be adequately pursued by focusing on events. These **issues are not** merely **a matter of** good or bad intentions and **identifiable decisions**. In "Gender and 'Postmodern' War," Robin Schott introduces some of the ways in which **war is currently best seen not as an event but as a** presence (Schott 1995). Schott argues that postmodern understandings of persons, states, and politics, as well as the high-tech nature of much contemporary warfare and the preponderance of civil and nationalist wars, render an event- based conception of war inadequate, especially insofar as gender is taken into account. In this essay, I will expand upon her argument by showing that accounts of war that only focus on events are impoverished in a number of ways, and therefore feminist consideration of the political, ethical, and onto- logical dimensions of war and the possibilities for resistance demand a much more complicated approach. I take Schott's characterization of war as presence as a point of departure, though I am not committed to the idea that the constancy of militarism, the fact of its omnipresence in human experience, and the paucity of an event-based account of war are exclusive to contemporary postmodern or postcolonial circumstances.1 **Theory that does not investigate** or even notice **the omnipresence of militarism** cannot represent or **address the** depth and specificity of the **every- day effects of militarism on women, on people living in occupied territories, on members of military institutions, and on the environment.** These effects are relevant to feminists in a number of ways because military practices and institutions help construct gendered and national identity, and because they justify the destruction of natural nonhuman entities and communities during peacetime. **Lack of attention to these aspects of** the business of making or preventing **military violence** in an extremely technologized world **results in** **theory that** cannot **accommodate** the connections among **the constant presence of militarism**, declared wars, and other closely related social phenomena, such as nationalistic glorifications of motherhood, media violence, and current ideological gravitations to military solutions for social problems. Ethical approaches that do not attend to the ways in which warfare and military practices are woven into the very fabric of life in twenty-first century technological states lead to crisis-based politics and analyses. For any feminism that aims to resist oppression and create alternative social and political options, **crisis-based** ethics and **politics are problematic because they distract** attention **from the need for sustained resistance to the enmeshed,** omnipresent systems **of domination and oppression that** so often **function as givens in** most **people's lives. Neglecting the omnipresence of militarism allows the false belief** that **the absence of declared armed conflicts is peace**, the polar opposite of war. It is particularly easy for those whose lives are shaped by the safety of privilege, and who do not regularly encounter the realities of militarism, to maintain this false belief. The belief that militarism is an ethical, political concern only regarding armed conflict, creates forms of resistance to militarism that are merely exercises in crisis control. **Antiwar resistance is** then **mobilized when** **the "real" violence finally occurs**, or when the stability of privilege is directly threatened, and at that point it is difficult not to respond in ways that make resisters drop all other political priorities. Crisis-driven attention to declarations of war migh**t** actually **keep resisters** complacent **about** and complicitous in **the general presence of global militarism. Seeing war as** necessarily **embedded in constant military presence draws attention to the fact that** horrific, **state-sponsored violence is happening nearly all over, all of the time, and** that it **is perpetrated by military institutions** and other militaristic agents of the state. **Moving away from crisis-driven politics** and ontologies concerning war and military violence also enables consideration of relationships among seemingly disparate phenomena, and therefore **can shape more nuanced theoretical** and practical **forms of resistance.** For example, investigating the ways in which war is part of a presence allows consideration of the relationships among the events of war and the following: how militarism is a foundational trope in the social and political imagination; how the pervasive presence and symbolism of soldiers/warriors/patriots shape meanings of gender; the ways in which threats of state-sponsored violence are a sometimes invisible/sometimes bold agent of racism, nationalism, and corporate interests; the fact that vast numbers of communities, cities, and nations are currently in the midst of excruciatingly violent circumstances. It also provides a lens for considering the relationships among the various kinds of violence that get labeled "war." Given current American obsessions with nationalism, guns, and militias, and growing hunger for the death penalty, prisons, and a more powerful police state, one cannot underestimate the need for philosophical and political attention to connections among phenomena like the "war on drugs," the "war on crime," and other state-funded militaristic campaigns. I propose that the constancy of militarism and its effects on social reality be reintroduced as a crucial locus of contemporary feminist attentions, and that feminists emphasize how wars are eruptions and manifestations of omnipresent militarism that is a product and tool of multiply oppressive, corporate, technocratic states.2 Feminists should be particularly interested in making **this shift** because it **better allows consideration of the effects of war and militarism on** **women, subjugated peoples, and environments.** While giving attention to the constancy of militarism in contemporary life we need not neglect the importance of addressing the specific qualities of direct, large-scale, declared military conflicts. **But the dramatic nature of declared, large-scale conflicts should not**  **obfuscate the ways in which military violence pervades most societies** in increasingly technologically sophisticated ways and the significance of military institutions and everyday practices in shaping reality. Philosophical **discussions that focus** only **on the ethics of** declaring and fighting **wars miss** these connections, and also miss the ways in which even declared military conflicts are often experienced as omnipresent horrors. **These approaches** also **leave** **unquestioned tendencies to** suspend or **distort moral judgment in the face of** **what appears to be the** inevitability **of war** and militarism. **Just-war theory is a prominent example** of a philosophical approach **that** **rests on the assumption that wars are isolated from everyday life** and ethics. Such theory, as developed by St. Augustine, Thomas Aquinas, and Hugo Grotius, and as articulated in contemporary dialogues by many philosophers, including Michael Walzer (1977), Thomas Nagel (1974), and Sheldon Cohen (1989), take the primary question concerning the ethics of warfare to be about when to enter into military conflicts against other states. **They** therefore **take** **as a given the notion that war is an isolated, definable event** with clear boundaries. **These** boundaries are significant because they distinguish the circumstances in which standard moral rules and constraints, such as rules against murder and unprovoked violence, no longer apply. Just-war theory assumes that war is a separate sphere of human activity having its own ethical constraints and criteria and in doing so it begs the question of whether or not war is a special kind of event, or part of a pervasive presence in nearly all contemporary life. Because the application of **just-war principles** is a matter of proper decision- making on the part of agents of the state, before wars occur, and before military strikes are made, they **assume that military initiatives are distinct events**. In fact, declarations of war are generally over-determined escalations of preexisting conditions. **Just-war criteria cannot** help **evaluate military** and related **institutions**, including their **peacetime practices** and how these relate to wartime activities, so they cannot address the ways in which armed conflicts between and among states emerge from omnipresent, often violent, state militarism. The remarkable resemblances in some sectors between states of peace and states of war remain completely untouched by theories that are only able to discuss the ethics of starting and ending direct military conflicts between and among states. **Applications of just-war criteria actually help create the** illusion **that the** **"problem of war" is being addressed when the only considerations are** the ethics of declaring wars and of military violence within the boundaries of declarations of war and peace. **Though just-war considerations might theoretically help decision-makers avoid** specific **gross eruptions of military violence**, **the aspects of war which require the underlying presence of militarism and the** direct effects of the **omnipresence of militarism remain** untouched. There may be important **decisions** to be made **about** when and how to fight **war**, but these **must be considered in terms of the** many other **aspects of** contemporary war and **militarism** that are **significant to nonmilitary personnel, including women and nonhumans.**

### Militarism Good

#### Nonviolence can solve for conflicts that are already in progress this solves the entirety of their affirmative- Answers their Shaw evidence

Sharp 96

[Sharp, Gene: senior scholar-in-residence of the Albert Einstein Institution, Cambridge, Massachusetts, an associate in the Center for International Affairs, Harvard University and professor emeritus of political science, University of Massachusetts Dartmouth. He has written numerous studies on the nature and potential of nonviolent struggle. "Beyond Just War and Pacifism: Nonviolent Struggle towards Justice, Freedom and Peace."*Ecumenical Review*. 48.2 (1996): 233-250. Web. 25 Nov. 2013. <http://onlinelibrary.wiley.com/doi/10.1111/j.1758-6623.1996.tb03471.x/pdf>. //Wyo-BF edited for gendered language]

In 1972 Church and Society organized a consultation on “Violence and Nonviolence in Social Change” in Cardiff, Wales; and its report was commended to the churches by the central committee in August 1973 for study, comment and action. The report dealt extensively with how Christians could effectively oppose the forces of an oppressive society, and contained significant passages on the relevance of nonviolent action. These included the following: The world and the churches have been both inspired and challenged in recent years by examples of new and sophisticated nonviolent movements for justice and freedom. Some of these - for example the Gandhian movement - have been non-Christian. Others - such as that of Martin Luther King - have been Christian. Together their witness has brought the churches of the world to examine anew the style of their involvement in the struggle for world justice and peace. Later, it continued: We are convinced that far too little attention has been given by the church and by resistance movements to the methods and techniques of nonviolence in the struggle for a just society. There are vast possibilities for preventing violence and bloodshed and for mitigating violent conflicts already in progress, by the systematic use of forms of struggle which aim at the conversion and not the destruction of the opponent and which use means which do not foreclose the possibility of a positive relationship with ~~him~~. Nonviolent action represents relatively unexplored territory: initiatives being taken by various groups and individuals to help the exploration happen deserve the strongest possible support from the WCC and the churches. The report then pointed to some complexities in the application of nonviolent forms of struggle: We reject, however, some facile assumptions about nonviolence which have been current in the recent debate. Nonviolent action is highly political. It may be extremely controversial. It is not free of the compromise and ambiguity which accompany any attempt to embody a love-based ethic in a world of power and counter-power, and it is not necessarily bloodless. Moreover, most struggles for freedom - and most government actions - have been, as a matter of fact, mixtures of violent and nonviolent action ... In all of these Christians will have hard choices to make. The more these choices are informed by a responsible spirit and knowledge of constructive nonviolent options, the more creative they will be. The report also sought to dispel some oversimplifications concerning both violent and nonviolent means: “Violence should not be equated with radicalism and revolution, nor nonviolence with gradualism and reform, nor vice versa.’‘ It concluded with a series of questions which exponents of the differing convictions about the use of violent and nonviolent means should ask themselves. l9

#### **The affirmative ambition for negative peace trades off with positive peace—means the perm will always fail**

Pankhurst 3

(Donna-, May 1, Development in Practice, “The 'sex war' and other wars: towards a feminist approach to peace building”, Vol. 13 # 2&3, Infomaworld; Jacob)

Turning to the meanings of the term ‘peace’, Galtung’s (1985) conception of negative peace has come into widespread use, and is probably the most common meaning given to the word, i.e. the end or absence of widespread violent conflict associated with war. A ‘peaceful’ society in this sense may therefore include a society in which social violence (against women, for instance) and/or structural violence (in situations of extreme inequality, for example) are prevalent. ß Marked 16:31 ß

Moreover, this limited ‘peace goal’, of an absence of specific forms of violence associated with war, can and often does lead to a strategy in which all other goals become secondary. The absence of analysis of the deeper (social) causes of violence also paves the way for peace agreements that leave major causes of violent conflict completely unresolved. Negative peace may therefore be achieved by accepting a worse state of affairs than that which motivated the outburst of violence in the first place, for the sake of (perhaps short-term) ending organised violence. Galtung’s alternative vision, that of positive peace, requires not only that all types of violence be minimal or non-existent, but also that the major potential causes of future conflict be removed. In other words, major conflicts of interest, as well as their violent manifestation, need to be resolved. Positive peace encompasses an ideal of how society should be, but the details of such a vision often remain implicit, and are rarely discussed. Some ideal characteristics of a society experiencing positive peace would include: an active and egalitarian civil society; inclusive democratic political structures and processes; and open and accountable government. Working towards these objectives opens up the field of peace building far more widely, to include the promotion and encouragement of new forms of citizenship and political participation to develop active democracies. It also opens up the fundamental question of how an economy is to be managed, with what kind of state intervention, and in whose interests. But more often than not discussion of these important issues tends to be closed off, for the sake of ‘ending the violence’, leaving major causes of violence and war unresolved—including not only economic inequalities, but also major social divisions and the social celebration of violent masculinities.