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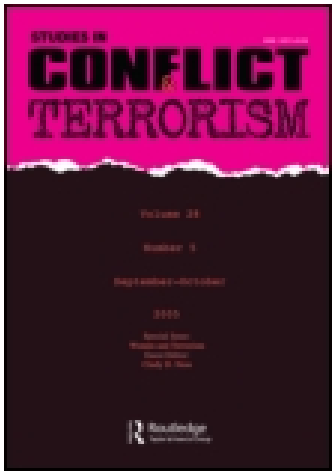

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Counterterrorism as War: Identifying the Dangers, Risks, and Opportunity Costs of U.S. Strategy Toward Al Qaeda and Its Affiliates

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Counterterrorism as War: Identifying the Dangers, Risks, and Opportunity Costs of U.S. Strategy Toward Al Qaeda and Its Affiliates

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The U.S. war on Al Qaeda is well into its second decade—why has this particular conflict been so difficult to end? This article argues it is not due to the strategic acumen of Al Qaeda, but because of the problems intrinsic to relying on war as the framework for U.S. counterterrorism policy. The normal means of ending wars are complicated with a terrorist enemy and at odds with strategies that have historically had success at the end stages of counterterror campaigns. Continuing along the current path risks an ongoing war the United States will likely neither win nor fully end.

Despite the Obama administration's moves to wind down U.S. combat operations in Afghanistan and Iraq, the United States remains very much at war—the conflict with Al Qaeda and its affiliates continues in areas like Yemen, Somalia, and Pakistan, but possesses other fronts in areas around the globe as well. There is little reason even to presume it will remain limited to its current scope in the future, as the recent expansion of the effort into Iraq and Syria to combat former affiliate Islamic State of Iraq and Syria (ISIS) demonstrates. Although this war is well into its second decade since the initial 2001 Authorization for the Use of Military Force (AUMF), the American vision for how this war ends remains as unclear as it was over thirteen years ago. Administration officials and the president have used sporadic speeches to provide some insight into current U.S. thinking, but the visions they portray remain vague and uninspiring. As a result, there has been an enhanced debate in the previous year regarding whether current strategy best realizes U.S. national security interests. While this question is an important one going forward, it is also worth asking why it is the case that there continues to be such a lack of clarity on how this war will end. Put simply, why is it that the United States is having such a hard time ending this conflict? Is it an execution problem? Is there something about this particular enemy that requires an open-ended, ongoing approach? Does U.S. strategy somehow unwittingly contribute to the inability to successfully conclude this conflict?

From the very outset of the campaign, a state of war was identified as the only logical response to the terrorist attacks the United States sustained in September 2001. The

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attacks were a "second Pearl Harbor" that President Bush quickly and explicitly labeled an "act of war."[1] A foreign enemy had successfully attacked U.S. cities in spectacular fashion and the United States responded in what appeared as virtually the only appropriate manner possible—in kind.[2] At the beginning of the campaign it was apparent that the scope of the threat to the United States necessitated the type of comprehensive, coercive, and wide-ranging response that has justified wars in the past. While the strategic decision to go to war may have been the most appropriate and effective response conceivable in the immediate aftermath of the events of 2001—as well as the only conceivable option politically speaking—the last decade-plus of addressing the threat posed by Al Qaeda has reminded us that even if the decision to go to war was inevitable and non-negotiable, the U.S. decision to indefinitely *remain* at war with Al Qaeda is a choice. The threat from Al Qaeda is ongoing and lethal to be sure, but at its core, it remains one of many ongoing threats to which the United States must respond along with the continuing conflict in Syria and Iraq, North Korea's nuclear weapons, cyberwarfare, and Iran's pursuit of a nuclear weapon.[3] U.S. foreign policy has chosen a strategy of war as its primary response to the threat from Al Qaeda, but other options exist—after all, the United States engaged in counterterrorism operations for many years prior to 2001 and these actions were primarily led by law enforcement or intelligence agencies without precipitating an indefinite state of war. What are the implications of continuing to frame the U.S. response to Al Qaeda as a war? In particular, what are the opportunity costs created by a strategy based on a state of war? What options does maintaining this strategy make more difficult or take off the table entirely?

War is a concept that is continually invoked in the campaign against Al Qaeda, yet it remains difficult to precisely identify from an academic and political perspective. U.S. policymakers have previously utilized the idea of "war" to rhetorically signify that the issue at hand requires a comprehensive response, as was the case in the war on poverty. As well, they have used the idea to rhetorically signify that the issue constitutes a threat that must be eradicated in its entirety (e.g., the "war on cancer"). The case of war with Al Qaeda is different than each of these because for U.S. planning and strategic purposes it is just as much a war as the Iraq war in 2003 or the conflict in Vietnam. This is the case for two reasons—first and foremost, the United States legally remains in a state of war. As the recent debate regarding the legal basis for ongoing military strikes on ISIS demonstrates, the AUMF from 2001 is still in force with defenders of the current strikes arguing that its scope automatically extends to Al Qaeda's former affiliate. Second, while reasonable persons will disagree on a precise definition of war, at a minimum it involves the use of military force against a designated enemy—this is how the United States has articulated the concept in the context of the war on Al Qaeda. Most importantly, this emphasis on military force is reflected in U.S. national security documents and administration speeches, which emphasize that in this conflict the United States believes it is at war and must use military force until the enemy is defeated.

Given security concerns and the political unacceptability of "boots on the ground" the use of force has been carried out primarily through a policy of targeted killing via strikes from unmanned aerial vehicles.[4] Others have written on the strategic benefits and drawbacks of this particular policy and the technology used, but this article focuses on a separate concern—for both tactical and strategic reasons these actions have the unfortunate effect of making it increasingly difficult to de-escalate and end the conflict.[5] So long as the United States remains at war, it will continue to use military force against Al Qaeda if only because that is what it means to be "at war" with an enemy. However, given that the adversary is a territory-less group of individuals and the policy preferences of the U.S. government require campaigns lacking a territorial footprint, this means that so long as

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the United States remains at war it will target individuals. This article argues that targeted killing is not as much a particular policy choice on the part of the United States as it is an *inevitable* consequence of the United States remaining in a state of war with Al Qaeda. Until the United States changes this by ending the state of war with Al Qaeda, targeting individuals affiliated with the enemy will continue. The unfortunate effect of this is that it will further narrow the options available to end the campaign of violence conducted by Al Qaeda and actually successfully conclude the war itself.

This article will proceed in four parts. In the first section, the U.S. framework of war will be laid out, along with the current vision of victory and de-escalation. The president's 23 May 2013 speech at National Defense University (NDU) offered the most detailed vision of the end of the war to date, but previous speeches like Jeh Johnson's address at Oxford University and John Brennan's defense of drone strikes also provide insight into how this administration imagines a successful end to this war. In practice, identifying the strategy as one of war is not merely cheap talk designed to build support for their actions but an operational and strategic frame for considering and discarding alternatives.[6] In the second section, this article will show how maintaining this framework necessitates targeting individuals in Al Qaeda (and their affiliates) as well as encourages efforts to eliminate their organizational capacity through the use of force. If war is, as Clausewitz argues, using force to compel the enemy to do our will, then that force has to be directed somewhere.[7] In this case, the "where" becomes a "who" as individuals are the singular resource Al Qaeda possesses. The third section assesses the consequences of continuing along this path. So long as the United States remains at war, and therefore conducts targeted killing, alternative options and policies that in other contexts have had success in ending terrorist campaigns become increasingly difficult to implement. The end result is a narrowing of strategic options available to the United States, placing it in a position where tactical victories may be achieved, but unable to finally eliminate the threat from Al Qaeda and its affiliates. The final section will identify three potential alternative strategies and show how a framework of war—in particular, a war conducted through targeted killing—makes specific policies and initiatives extraordinarily difficult to successfully implement. Equally important, it makes combining policies from different approaches that much more difficult, potentially tying the United States to a strategy focused on military force indefinitely.

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Framing Counterterrorism as War

The U.S. response to the threat from Al Qaeda has been one of war, not merely rhetorically but in practice as well. The past three U.S. national security strategies have been centered on the "War on Terrorism" and the "war on Al Qaeda and its affiliates," respectively.[8] The 2001 AUMF enabling the use of force against "nations, organizations and persons" involved in the 2001 attacks continues to remain law and acts as an ongoing legal justification for actions usually reserved for wartime.[9] On the ground, U.S. military assets are engaged in conflict with opposition forces around the world and conduct lethal raids in foreign countries against individuals allied with the enemy. While President Obama may have taken efforts to distance his administration from the rhetoric of a "Global War on Terror" to the more specific war on "Al Qaeda and its affiliates," this "different kind of war" as Bush called it, is different in type, but not in kind. In practice, regardless of what one calls it, the United States continues to be very much engaged in an actual military conflict with Al Qaeda.[10]

The AUMF is particularly important on this point. Congress passed it as a means to enable the President to engage those "nations, organizations, and persons" responsible for the 2001 attacks both as a means of retaliation and to allow preventive action.[11] In

particular, the AUMF justifies those actions that appear "exceptional" because so long as it remains in effect the United States remains in a state of war. While the Bush and Obama administrations differ in how broadly they have interpreted the scope of permissible action in pursuit of these actors, because of the continuing existence of the legislation both have experienced near unilateral latitude in terms of allowable conduct.[12] In short, the executive has retained broad latitude, particularly in terms of defining what constitutes "necessary" military action.

The result of this latitude has been an indefinite continuation of the status quo with the initial move into a state of war unchanged since 2001. While the opportunity always remains for open debate and discussion about what U.S. actions toward Al Qaeda should be—what it means to be "at war" is just as much an open political question as an academic one—that debate still has not happened. The initial conception of the campaign with Al Qaeda as a "war" to be won continues to guide U.S. action. Although the United States could conceivably shift toward a stance that sees the "war on Al Qaeda" in metaphorical terms—for example, as a type of "war on poverty"—there has been little movement in this direction. War, as understood in the U.S. strategy toward Al Qaeda, remains military focused, necessitates the use of force, and calls for the defeat of the enemy in physical terms.

Along with the legal latitude, so long as the AUMF continues to remain in force, the administration has not faced any significant political pressure to end the war or publicly justify its continuation. On 23 May 2013, President Obama (for virtually his first time) articulated a vision for what the war will look like for the rest of his administration. The speech served mostly as a defense of previous actions and while it did lay out future policies to take effect as the war lessens in intensity, it did little to specifically justify remaining in a state of war beyond vague statements about continuing threats and the increasing proliferation of Al Qaeda affiliates.[13] Although President Obama stated he was willing and able to sign legislation revoking the AUMF and ending the war, he also conceded that this was highly unlikely during this Congress and fell short of offering to move forward by unilateral executive action. The specific vision of victory he offered involved neither a unilateral cessation of hostilities on the part of the United States nor some sort of negotiated settlement, but relied instead on successfully eliminating Al Qaeda in its entirety. This speech, however, laid out little by way of specifics in terms of how the United States would know when that had happened, instead offering a vision of victory when "parents felt safe taking their children to school" and "veterans" were "starting businesses."[14]

Although Obama's 23 May speech offered little by way of identifying specific metrics for identifying Al Qaeda's demise, an earlier speech by then Department of Defense (DoD) counsel and now head of the Department of Homeland Security, Jeh Johnson, outlined the Administration's position in greater detail. His words are revealing both because it was one of the first times the Obama administration offered its views on the war's end-game, but also because of the role Johnson played and continues to play in the administration's thinking on war.[15] Johnson's speech remains—even after the 23 May address and despite it ostensibly being about the legal status of the war—the most specific administration articulation by the administration of what it means when it seeks to "first, finish the work of defeating Al Qaeda and its associated forces."[16] Johnson emphasized that ""War" must be regarded as a finite, extraordinary and unnatural state of affairs"—a point echoed in Obama's most recent address—and that "we must not accept the current conflict, and all that it entails, as the 'new normal.'" Unfortunately, the endgame he offered appears to risk exactly the outcome he warned against.[17]

The NDU speech offered a vision that is cloudy at best, and an indefinite commitment to war at worst. Given the uncertainty of the administration's position regarding ending the

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war it will be especially interesting to see whether and how this is addressed in the upcoming National Security Strategy (NSS).[18] The administration's first NSS signaled to the public and the world at large that the broadly understood war on terrorism had been narrowed dramatically to focus on Al Qaeda and its affiliates. However, given the networked nature of the threat and the proliferation and increasing relevance of affiliates—such as ISIS in Syria and Iraq, Al Qaeda in the Arabian Peninsula (AQAP) in Yemen (and its affiliates), as well as al-Shabab in Africa—the question remains just how narrow this strategy actually is.[19] The intent of the administration's first NSS was to narrow the scope of the war and in view of the stated willingness of the administration to sign legislation ending the War on Terrorism (if offered), the position taken here could be revealing.

Nevertheless, the president has been relatively silent since the speech about the end-game and efforts to reduce drone strikes by moving authority to the DoD rather than CIA have been delayed.[20] And although it is unlikely that the administration is going to take unilateral action to bring about an end to the conflict prior to the conclusion of his second term, it is worth noting that it is even less likely for that push to arise out of Congress. As a result, the end of the war is largely up to the administration—and it has declared that it will be decided on the "battlefield"—which begs the question of what a "battlefield" victory looks like in a war that largely lacks one. Johnson, speaking for the administration, asked and answered the question by saying "we must . . . ask ourselves: how will this conflict end? It is an unconventional conflict, against an unconventional enemy, and will not end in conventional terms."[21] The position he laid out is that it will end once we have reached a "tipping point," where "so many leaders and operatives" of Al Qaeda have been captured or killed that the organization "is no longer able to attempt or launch a strategic attack against the United States." Once that has been achieved, "Al Qaeda as we know it" will have been "effectively destroyed" and the threat from Al Qaeda will have been eliminated.

While this is a sound strategy in theory, it largely appears unachievable in practice. If the goal is to eliminate the threat from Al Qaeda, the clearest way to do so is to "destroy" the group completely and war does appear singularly appropriate for that task. This was a point emphasized by Obama recently when he chose to use the section emphasizing the need to "defeat Al Qaeda" as the site for his robust defense of the continued, if limited, operation of the targeted killing program and its drone strikes.[22] The problem is that this point of "effective destruction" as they define it is highly elusive. First, Al Qaeda threatens merely by its existence and even a handful of individuals pose an unacceptable threat given the radically asymmetric nature of the threat and the political value of each individual attack—almost regardless of the size of the attack itself. In fact, any attack with more than ten deaths can legitimately be understood as a massive achievement in the context of a terrorist organization.[23] Second, Al Qaeda is an idea as much as an organization and even if one were to decimate the organization *as currently structured* there will always be an incentive on the part of others to restart under the "flag" of Al Qaeda. The fact that so many affiliates are willing to align with the group already provides ample evidence on this point. Finally, the lack of clarity on the part of Al Qaeda as an organization renders this benchmark unverifiable even if it were theoretically achievable. How could one ever know they had truly ended Al Qaeda's ability to operate until after the fact? As well, this standard of "effective destruction" ignores the strong political disincentives at work domestically, which make declaring a final victory and full defeat of Al Qaeda exceptionally risky. The consequences of being proven wrong via terrorist attack could be electorally decisive.

Beyond achievability, the standard of "effective destruction"[24] makes it difficult to even *end* the conflict because it makes the ending of the conflict an *outcome*, rather than a deliberate action on the part of the United States. Leaving "effective destruction" as the

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benchmark ignores an intrinsic aspect of contemporary warfare: modern wars nearly always end through a negotiated conclusion decided upon by belligerent forces after some deliberation (internally, externally, or both) rather than through a unilateral declaration of victory on the part of the vanquishers.[25] So long as victory is predicated on Al Qaeda's complete destruction, ending the war will remain an elusive goal because the U.S. conception of war in this case is at odds with the typical process of de-escalation. Ending a war is rarely an outcome, but rather the product of a deliberate decision made on the part of both parties. Whether through cease-fire, peace treaty, articles of surrender, or something else entirely, wars end because both sides *decide* to stop fighting. And a war that cannot end cannot be won.

Complicating this further is the problem of Al Qaeda's status as an actor in international politics. If wars end as a result of a decision, then there must be a willingness to come to the table with your opponent, even if only for the delivery and receipt of instruments of surrender. Usually this is an unremarkable facet of any endgame because the "negotiation" simply reflects results on the battlefield, but the case of Al Qaeda is complicated by the longstanding U.S. position that "we do not negotiate with terrorists."[26] While perhaps advisable when dealing with hostage taking and hi-jacking, it is fundamentally at odds with the way wars end. Any agreement up to and including unconditional surrender requires both sides to agree on its terms and this is the case regardless of whether it is a truce, cease-fire, or complete and unconditional surrender. Former Secretary of Defense Donald Rumsfeld recognized this early on. When asked by a reporter how the war would end, he stated, "There isn't going to be a signing ceremony on the Missouri" as was the case in World War II.[27] In ending wars, both sides must meet to lay out expectations and conditions for the cessation of hostilities and at a bare minimum this requires a willingness to sit in a room with the enemy's proxies.[28] The problem this exposes is that the longstanding stated unwillingness on the part of the United States to sit down with terrorists is at odds with an inextricable part of war and war termination. Without a shift, it means the war will only end once victory has been achieved. But with victory defined as an *outcome*, and not a *decision* it means that the endpoint of the war is no longer up to the participants and most importantly, it is no longer up to the United States.

Targeted Killing as War With Al Qaeda

The U.S. strategy vis-à-vis Al Qaeda has created a catch-22—the process of fighting the war on Al Qaeda makes it increasingly difficult to achieve the stated end of eradicating the threat from Al Qaeda. Unlike a war with a state or a breakaway group, so long as Al Qaeda merely exists it remains "un-defeated" both in a literal sense and in the terms laid out by the Obama administration—"effective destruction." When paired with a goal of effectively destroying the enemy, rather than altering its behavior, targeted killing largely appears as the only means available to achieve this goal. The ultimate consequence is that targeted killing is unlikely to stop so long as the United States remains in a state of war and pursues the goal of "eliminating" Al Qaeda. If negotiating an end to the conflict is off the table because it recognizes the continuing existence of Al Qaeda then war is likely to continue indefinitely.

Using force to implement a policy of "effective destruction" is an instrumental action. At its most basic level, wars require targets, but Al Qaeda offers little in the way of targets for U.S. military forces to engage. Damaging and/or controlling territory is of no real use in the global fight with Al Qaeda because the group—especially those who pose the most direct risk to the U.S. homeland—does not possess or aspire to

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politically recognized control of territory.[29] Further complicating this issue is that territory only has a very thin utility for these groups and given the regional/global networks to which they belong, they can move to soft spots where political authority is lax and the United States (or others) have difficulty reaching them (e.g., Mali, Somalia, or areas of Pakistan).[30] The material assets Al Qaeda possess are not particularly valuable in strict military terms, generally replaceable, and have a very small footprint. Al Qaeda's attacks are conducted primarily against soft targets like civilian centers; the military capacity and technology necessary for those operations lacks the tail that usually characterizes militaries in terms of logistics, supply, and maintenance. Unlike a state, large ethnic group, or insurgency, the Al Qaeda that threatens the United States—providing the warrant for war in the first place—lacks a capital, production centers, or an economy to target or manipulate.

With such limited investments and a shadowy footprint, Al Qaeda proves a difficult entity to attack or deter.[31] When implementing the use of military force called for by the U.S. state of war virtually the only thing left of value to target are the *people* who constitute the group itself. Al Qaeda's most valuable assets are thinkers (e.g., the strategists who identify targets or individuals with the know-how to construct bombs that can escape detection).[32] Perhaps even more valuable than these operational leaders are the charismatic leaders who provide the public face of the organization, as well as those engaged in the production and dissemination of their message.[33] Al Qaeda is just as much an idea as it is the organization that carries out its operations, but those ideas are produced and supported by individuals who are part of the organization—the appeal of those ideas may be bottom-up but the organization's ideology is not simply an organic outgrowth of a feeling.[34] It is instead a deliberate strategy on the part of Al Qaeda, which requires individuals who are talented and skilled enough to continue that process. The net result of this is that it forces the United States to target individuals not only because they are the most valuable thing Al Qaeda possess but also because they might be the only aspect of Al Qaeda that can be engaged by weapons of war. At its most elemental level the difference between a metaphorical war and an actual war for the United States is that actual wars involve the use of military force. This force has to be directed somewhere and individuals are the only real physical targets left.

The result is a situation where targeting individuals is necessitated by the state of war, but such targeting is potentially at odds with the goal of "effectively destroying" the organization itself. So long as targeted killing takes place, the very idea of Al Qaeda as an organization continues and is supported by the process that seeks its elimination, because without "Al Qaeda" there is no entity with which the United States is at war. Put differently, without the idea of Al Qaeda as a meaningful organization, the individuals the United States targets would simply be individuals in foreign countries the United States chose to kill rather than members of an organization with which the United States is at war. Others have noted that even the operational successes the United States has had abroad are potentially offset in strategic terms because they provide perceptual support to the Al Qaeda claim that the United States is a violent, imperialist force that unilaterally intervenes into foreign countries, providing a boon to recruitment.[35] Others have also identified the psychological effect experiencing a loss from a drone strike can create for those individuals and how that can encourage militancy.[36] But what is missing is that on a *conceptual* level—that is, at the level of strategy—the United States needs Al Qaeda to exist in order to engage them in war. Even a war designed to eliminate Al Qaeda's organizational existence at some point has to transition into something other than war to successfully achieve that goal or it risks continuing on indefinitely.

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The Dangers of War as Counterterrorism

When describing the status of the War on Terrorism, the administration often notes its successes, but never fails to remind us that what we are seeing is "not the end" and not even the "beginning of the end" implying that the reason this is the case is because of the inherent difficulties involved in pursuing a shadowy, networked international organization.[37] While the administration may be correct in its assumption that the war with Al Qaeda will continue into the indefinite future, it is for the wrong reason. It is not (only) the resilience of Al Qaeda that continues the war, but a strategic flaw in the U.S. approach. Remaining at war likely risks the ongoing and continual use of force against individuals, limiting U.S. options and making it increasingly difficult to take the necessary steps to finally eliminate Al Qaeda as a meaningful organization. Continuing along this strategic path is dangerous because it risks a cycle of continuing tactical victories that bring the United States no closer to its stated goal—eliminating the threat from Al Qaeda.

The threat originating from Al Qaeda is ultimately one for U.S. counterterrorism policy, but the goal of U.S. policy—complete elimination of Al Qaeda—and the means chosen—war—are at odds with each other. Stating that the threat from Al Qaeda is a problem for counterterrorism policy does not mean that military force has no utility or that counterterror policy is one defined strategy, but rather, distinguishing between the two illustrates that the options available to the United States for combating this threat are much broader than the central focus on military force necessitated by the current state of war. Counterterrorism—in the context of the U.S. fight with Al Qaeda—includes all the means by which the state can address the threats it perceives as arising from those groups identified as terrorists and as such can include actions in a variety of areas. Audrey Kurth Cronin, for instance, cites six broad themes within *current* counterterrorism policy of which three are not force based—"building partner capacity," "countering violent extremism," and "shoring up the homeland" and this is in a political context dominated by a state of war.[38]

Some of the difficulty facing the United States lies in the adversary's particular characteristics, to be sure, but the larger problem facing the United States is the inherent difficulty in relying on war as the end-game when addressing an ongoing, yet progressively transforming, terrorist campaign. Up to this point, a counterterror strategy of war may have been effective, but as a tool for *ending* terrorist campaigns, military operations have generally not been particularly useful. In this particular case, a strategy of war has difficulties, but taking a step back to the level of counterterrorism, history and research on the subject holds that while it may be successful in *lowering* the threat from an organization, it rarely succeeds *by itself* in ending the conflict.[39] Typically another strategy, such as legal and intelligence approaches, dominates in the final endgame. Military repression on the domestic level has a dubious record of success and war on the international level possesses all of the drawbacks of domestic action with the inevitable added difficulties resulting from conducting operations against individuals and groups in areas where the United States lacks sovereign control.[40] The cases where repression or intervention *alone* have even arguably been successful such as Peru's experience with the Shining Path or the Kurdish Worker's Party (PKK) in Turkey are inconclusive when viewed over the long term.[41] More often states shift to a non-military centered strategy in the end stages to ensure a long-term solution can take hold and maintain the terrorist threat at an acceptable level over the long term as was the case in Northern Ireland.[42]

Although the current debate about the U.S. war on Al Qaeda primarily revolves around either ending or radically limiting the 2001 AUMF, a debate that often characterizes the choices available as "war or nothing," alternatives to the current framework do exist. History

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demonstrates that states can and should take many different approaches in countering terrorism and war is only one of the guiding strategies among the many that are available. In the case of the United States for instance, it could treat the threat primarily as a legal issue rather than as a war and therefore a problem of law enforcement. Alternatively, the United States could let the intelligence community take the lead and emphasize intelligence gathering and covert operations rather than military force.[43] A State Department–led approach could focus efforts around public diplomacy and managing media outlets or social networks in order to identify and undermine Al Qaeda's public support and message. Such an approach could be combined with cooperative measures to develop programs that make individual terrorist recruitment more difficult and exiting terrorist organizations much easier such as the re-orientation programs at work in Yemen.[44]

Each of these approaches has advantages and disadvantages. For instance a law enforcement approach may not emphasize the type of intelligence gathering needed to proactively prevent attacks. A public diplomacy approach requires navigating U.S. propaganda laws and combining disparate elements of the U.S. government so that the "U.S. message" coheres and is ultimately persuasive. Approaches like these are not uniform nor are they comprehensive on their own, but importantly, neither are they mutually exclusive. Successfully marshaling the potential benefits of alternatives to U.S. policy requires a first move to deemphasize force as the primary lens through which counterterrorism policy is viewed, which will remain the case so long as the United States remains in a state of war and casts Al Qaeda as "the enemy" to be defeated.[45] While these strategies—either alone or in combination—may not be off the table entirely in a state of war, they are inevitably complicated by the military focus the U.S. war footing encourages.

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Opportunity Costs of War

Much of the debate about the war on Al Qaeda focuses on how best to fight the conflict—what strategies and tactics are most likely to achieve victory? Overlooked in this debate is that war itself, due to its inextricable commitment to using force, does not have costs only in terms of civilian death, the potential to alienate allies, and the physical and material costs of war, but also in terms of *opportunity costs*. By remaining in a state of war with Al Qaeda the United States effectively limits its ability to pursue alternative strategies and tactics, and the longer the United States commits to a strategy of war, the harder it will be to successfully implement an alternative approach. While the question of which strategy or combination of strategies should or should not be taken is well beyond the scope of this article, the fact that the United States has had a military focused strategy for nearly a decade and a half without successfully concluding the campaign suggests seriously considering alternatives is warranted. If the United States were to move away from a state of war, what alternative strategy could the United States pursue in countering the terrorist threat from Al Qaeda? This section will identify three alternative strategies—law enforcement, intelligence, and positive incentives/concessions—and show how each is mutually exclusive with a strategy of war. It is not only at the strategic level that there is a tradeoff, however. More worryingly, the individual policies these alternatives would utilize as part of their strategy will remain difficult to implement because they are incompatible with the overall U.S. strategic approach. The effect of this is that remaining in a state of war largely precludes the countless permutations of initiatives one could conceivably bring together in potentially successful combinations.

Treating terrorism as an issue primarily for law enforcement is the alternative most often juxtaposed with a military strategy. Lindsey Clutterbuck puts it thusly, "two main theoretical models have been offered to delineate the counterterrorism strategies that states can exercise in the suppression of terrorism: the criminal justice and war models."[46] One can see the parameters of the discussion in every debate over indefinite detention, torture, or when the government must choose a military or civilian forum in which to try captured terrorists.[47] Terrorism can be considered a crime as well as a security threat—the United States has chosen to treat it first and foremost (if not exclusively) as a security threat from an enemy that must be "disrupted, defeated, and dismantled."[48]

Framing the issue in a legal manner rather than as a state of war would foster two important shifts in strategic approach. First, wars are generally considered to be discrete events with a beginning, middle, and end. Whether true in practice or not, wars are politically framed by states as a distinct time of its own. The idea of "wartime" is juxtaposed with "peacetime" as different political states where wartime is an exceptional period that begins and eventually ends—ideally with a victory.[49] A law enforcement approach, on the other hand, treats terrorism as an ongoing threat to be managed, not eradicated. Policing an issue—rather than fighting a war—acknowledges that the threat will continue indefinitely with the primary goal being to address it in a way that most effectively balances costs and benefits rather than achieving victory once and for all. Issues like surveillance, treatment of prisoners, and preemptive uses of force that address emerging threats are thus treated differently under a law enforcement model because of this recognition.[50]

A second shift would occur by taking a legal approach—the criminal justice model places a premium on capture, arrest and prosecution over killing. Administration officials and the president have repeatedly said that they prefer capture, but given the circumstances killing has been necessary. President Obama has argued, "America does not take strikes when we have the ability to capture individual terrorists" with John Brennan echoing his statements, claiming "we only decide to take that action if there is no other option available."[51] If strategically framed as an issue of law enforcement, the decision to use lethal force could still occur, but only in those rare cases where there was truly an imminent threat *and* there was no alternative. The ongoing, intentional targeting with force of those breaking the law is at odds with this approach.

A second strategy potentially available to the United States is one where the United States treats the threat from Al Qaeda primarily as an issue for the intelligence community to monitor and take action against rather than supporting a military-led effort to defeat an enemy.[52] While the CIA and other intelligence agencies are indisputably involved currently and are still taking the lead on the targeted killing program, their actions are still shaped and constrained by the overall state of war. So long as a military approach predominates, it precludes taking an intelligence-centered approach even if intelligence operates as a critical element in the current conflict.[53] Much like the legal approach, a strategy that was primarily intelligence oriented would seek to gather intelligence and penetrate organizations in order to gain information to thwart plots as well as manipulate these organizations from the inside rather than pursue the physical elimination of individuals at every opportunity. Force would not be excluded—as the current CIA operations amply demonstrate—but it would not be the primary goal or metric of success.[54] Targeted killing, regardless of the debate on how much local populations support it, inevitably complicates efforts to gain valuable on-the-ground human intelligence if only because it eliminates an entity that potentially could provide intelligence were they to be captured.[55] In addition to the oft-cited concern regarding recruitment, inevitable civilian casualties can dissuade individuals and/or groups from working with the United States in terms of providing intelligence. Human rights

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groups have reported that populations with constant drone patrols feel as if they are being held at gunpoint and strategically speaking, this can manifest in heightened difficulty in getting the type of support necessary for on the ground human intelligence.[56] At an even more elemental level part of intelligence involves identifying assets and turning them back into the field to observe their behavior and/or have them report back. Treating these individuals as soldiers with whom the United States is at war or targets to be eliminated makes that difficult both now and in the future. This risk also operates at the state level. Given the sovereignty issues inevitably raised by allowing U.S. drones into their airspace, leaders of states where the United States conducts these operations are playing a two-level game. Even as they cooperate with the United States they must retain enough independence and distance to ensure their continuing public support; this has especially been the case in Pakistan, but there is no reason to believe the issue is unique to its political system.[57]

A third strategy the United States could implement would focus on the utilization of positive as well as negative inducements to persuade individuals and groups to cease their campaigns of violence. While sitting down with core Al Qaeda members and negotiating an amicable solution is obviously outside the realm of possibility, the picture becomes much more complicated when taking into account the countless parties considered Al Qaeda affiliates. Remaining in a state of war makes the employment of positive incentives as a means of dissuading individuals or groups from continuing their violent campaign(s) nearly impossible. In particular, a state of war with the resultant targeting of individuals makes even the most rudimentary types of negotiation, strategic concessions, or positive inducements, much more difficult.

At the highest level, individual states involved in the war on Al Qaeda could conceivably engage in some sort of negotiation with particular groups. Empirically, these measures have had some success dampening violence in places like the Philippines as well as offering the possibility of heightened intelligence through direct contact with these typically opaque groups.[58] As the conflict continues and the affiliates become increasingly focused on local goals, some governments may wish to employ this option. There is some evidence that the Nigerian government explored this option in the case of the kidnapping of the over 200 girls by Boko Haram in March 2014.[59] While it is unclear whether U.S. pressure convinced the government to reject this option, it did expose that any local government wishing to consider this option will find its options limited due to the U.S. wartime footing and the resultant complications involved in seeking to compromise with its enemy.

Wars requires enemies and treating Al Qaeda as a "monolith" with whom the United States is at war limits options that involve positive incentives. Some experts have argued that limited concessions have significant potential for undermining Al Qaeda in terms of amplifying internal divisions and altering public support of both Al Qaeda and its affiliates. Moreover, they could also serve to increasingly isolate those who pose the greatest risk to the United States. Cronin argues:

> The U.S. objective must be to enlarge the movement's internal inconsistencies and differences. Al-Qaida's aims have become so sweeping that one might wonder whether they genuinely carry within them the achievement of specific local grievances. There is more hope of ending such groups through traditional methods if they are dealt with using traditional tools, even including, on a case-by-case basis, concessions or negotiations with specific local elements that may have negotiable or justifiable terms (albeit pursued through an illegitimate tactic). The key is to emphasize the differences with al-Qaida's agenda and to drive a wedge between the movement and its recent adherents. The historical

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> record of other terrorist groups indicates that it is a mistake to treat al-Qaida as a monolith, to lionize it as if it is an unprecedented phenomenon with all elements equally committed to its aims, for that eliminates a range of proven counterterrorist tools and techniques for ending it.[60]

These concessions need not necessarily be policy concessions in terms of granting Al Qaeda affiliates territory or recognizing the validity of their grandiose stated goals. Other types of concessions can operate at an even lower level—"secondary concessions"—such as granting amnesty to members of certain organizations. This can be done either as a blanket policy to undermine public support and allow individuals to leave these groups or it can be done in exchange for intelligence.[61] Historically, amnesty programs have had success in eradicating groups that find themselves near the end of their campaign—the Italian amnesty program was quite successful in ending the threat posed by the Red Brigades in the late 1970s.[62]

Given the spread of Al Qaeda into regional organizations focused on particular geographic areas with smaller groups fighting alongside them, there is intuitive appeal to pursuing an overall strategy that retains elements of each of these strategies as potentially successful options. It may turn out that these options are inadequate, inappropriate, or ineffective due to the relative intransigence of Al Qaeda, its affiliates, and the members that support it. Remaining in a state of war, however, inevitably makes pursuing these options, even in a limited manner, much more difficult.[63] One cannot treat Al Qaeda as a "monolith" with whom the United States is at war and simultaneously offer concessions (such as negotiation, cessation of hostilities, unfreezing of assets, release of prisoners) to groups with which the United States is at war *and* whom the United States refuses to recognize as legitimate actors in international politics.

Remaining in a state of war with Al Qaeda makes it so the United States almost exclusively relies on force as the primary strategy for countering the threat from Al Qaeda, despite the existence of options and alternatives. This strategy not only has physical, material, and emotional costs but it hinders, and in some cases, outright precludes, non-military alternatives that have historically had some success. Repression and/or intervention as a force-based strategy for combating terrorism may have been successful but only in past circumstances that do not line up with the specific U.S. case of confronting a diverse, networked organization that operates in multiple disparate states.[64] Utilizing force and framing the U.S. response as war has in some ways been effective up to this point and may even be the reason the United States is in a position where other strategies could be more effective, but this is not a reason to doggedly commit to this strategy indefinitely.

History matters when dealing with perception and the U.S. war on Al Qaeda is unintentionally creating a history of actions that feed into a negative perception of the United States and makes transitioning into softer efforts to erode Al Qaeda's public support increasingly difficult. It risks a vicious cycle—relying on force undermines the opportunity for other initiatives to succeed because the United States lacks credibility, which in turn leaves the United States with force as the only option. The resulting situation is one where the ongoing state of war makes it increasingly difficult to craft a combined, comprehensive approach that incorporates strategies that have had success in the past in ending terrorist campaigns. The U.S. government then sees itself as in an either/or situation: either continue along the path of targeting individuals until all or nearly all members of Al Qaeda and its affiliates have been killed or cease engaging the enemy. Despite this apparent trap, the choice facing the United States is not war or nothing, as there are multiple strategies and permutations of those strategies the United States could conceivably employ. But so long as the United

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States continues to insist that there are only two options left, finally eliminating the threat from Al Qaeda will remain an elusive goal.

Conclusion

Sun-Tzu claimed "victorious warriors win, then go to war, while defeated warriors go to war first, and then seek to win."[65] Without a change in strategy the United States risks taking the path of Sun-Tzu's "defeated warrior." The Al Qaeda that the United States was facing in September 2001 is vastly different than the one the United States faces today.[66] Thankfully, the United States is facing a trap largely of its own making. Continuing to remain in a state of war with Al Qaeda places the United States in a position where losing the conflict may be unlikely, but achieving victory equally so. Recognizing that military force is just one tool at its disposal for counterterrorism is the first step in a rational reappraisal of U.S. policy addressing the threat from Al Qaeda. Shifting away from a state of war is politically difficult, but functionally easy— congressional legislation repealing the AUMF would be the easiest and most direct way to do so.[67] Taking this step would not take force off the table, nor would it preclude a return to war should conditions change, but it would stimulate an important debate regarding how force should be used and most importantly, to what end. It is well past time for the United States to re-open this debate.

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Notes

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9. Public Law 107-40, "Authorization for Use of Military Force" (Washington, DC: GPO, 18 September 2001).

10. President Bush radio address, 15 September 2001. Available at http://georgewbush-whitehouse.archives.gov/news/releases/2001/09/20010915.html

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13. President Obama, "Remarks by the President at National Defense University," 23 May 2013 (whitehouse.gov).

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19. Daveed Gartenstein-Ross, "Al Qaeda's Big Year," *Politico*, 29 December 2013 and Bruce Riedel, "The Continuing Revolution of Al Qaeda 3.0," *Al-Monitor*, 2 January 2014.

20. Greg Miller, "CIA Remains Behind Most Drone Strikes Despite Effort to Shift Campaign to Defense," *Washington Post*, 25 November 2013.

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22. Interestingly, the limitations involved narrowing the scope to Al Qaeda and its affiliates—when there was little risk of civilian casualties and capture was impossible— but said nothing about which Al Qaeda could be targeted or at what point Al Qaeda has been eroded sufficiently so that strikes were no longer justified. In short, the Presidential Policy Guidance sets limits on where and when the United States may kill Al Qaeda and its associated forces—it does not limit the underlying state of combat or provide a metric for when these strikes will no longer be allowable under *any circumstance*.

23. Keir A. Lieber and Daryl G. Press, "Why States Won't Give Nuclear Weapons to Terrorists," *International Security* 38(1) (2013), pp. 80–104.

24. I employ quotes here to point out that this is the administration's stated goal, although it is not precisely the words he used in the speech. Johnson's speech referred to the point where Al Qaeda was "effectively destroyed."

25. Obviously the length of time for deliberation varies depending on the conflict.

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27. Robert Burns, "Anti-Terror Campaign will be Long, Bloody, Rumsfeld Says," *Albuquerque Journal*, 25 September 2001.

28. Harmonie Toros, "'We Don't Negotiate with Terrorists!': Legitimacy and Complexity in Terrorist Conflicts," *Security Dialogue* 39(4) (2008), pp. 407–428.

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31. Although not everyone agrees, see Robert Trager and Dessislava P. Zagorcheva, "Deterring Terrorism: It Can be Done," *International Security* 31(1) (2006), pp. 87–123.

32. For a discussion of the relative values of parts of Al Qaeda see Scott Helfstein and Dominick Wright, "Success, Lethality, and Cell Structure across the Dimensions of Al Qaeda," *Studies in Conflict & Terrorism* 34(5) (2011), pp. 367–382 and more generally Andrew Kydd and Barbara Walter, "The Strategies of Terrorism," *International Security* 31(1) (2006), pp. 49–79.

33. Audrey Kurth Cronin, "How Al-Qaida Ends: The Decline and Demise of Terrorist Groups," *International Security* 31(1) (2006), pp. 7–48.

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35. Bruce Hoffman, "Al Qaeda's Uncertain Future," *Studies in Conflict & Terrorism* 36(8) (2013), pp. 1–37 and Megan Smith and James Igoe Walsh, "Do Drone Strikes Degrade Al Qaeda? Evidence From Propaganda Output," *Terrorism and Political Violence* 25(2) (2013), pp. 311–327.

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37. Johnson, "The Conflict Against Al Qaeda."

38. Audrey Kurth Cronin, "U.S. Grand Strategy and Counterterrorism," *Orbis* 56(2) (2012), pp. 192–214.

39. Timothy Hoyt, "Military Force," in Audrey Kurth Cronin and James M. Ludes, eds., *Attacking Terrorism: Elements of a Grand Strategy* (Washington, DC: Georgetown University Press, 2004).

40. Hoyt, "Military Force."

41. And even in these cases it is hotly debated as to whether military force alone was successful. Audrey Kurth Cronin, *How Terrorism Ends: Understanding the Decline and Demise of Terrorist Campaigns* (Princeton, NJ: Princeton University Press, 2009).

42. Cronin, "How Al Qaida Ends" and Cronin, *How Terrorism Ends*.

43. Kruglanski et al., "What Should this Fight be Called?"

44. See, for example, Carnes Lord, *Losing Hearts and Minds: Public Diplomacy and Strategic Influence in the Age on Terror* (Westport, CT: Praeger Security International, 2006).

45. Max Abrahms, "What Terrorists Really Want: Terrorist Motives and Counterterrorism Strategy," *International Security* 32(4) (2008), pp. 78–105 and Kruglanski et al., "What Should this Fight be Called?"

46. Lindsey Clutterbuck, "Law Enforcement," in Audrey Cronin and James Ludes, eds., *Attacking Terrorism* (Washington, DC: Georgetown University Press, 2004).

47. Kruglanski et al., "What Should This Fight Be Called"; David S. Kris, "Law Enforcement as a Counterterrorism Tool," *Journal of National Security Law & Policy* 5 (2011), pp. 1–95 and Thomas J. Badley, "US Counter-Terrorism: Change in Approach, Continuity in Policy," *Contemporary Security Policy* 27(2) (2006), pp. 308–324.

48. *The National Security Strategy of the United States of America.*

49. Mary Dudziak, *War Time: An Idea, Its History, Its Consequences* (Oxford: Oxford University Press, 2012), p. 15.

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51. Obama, "Remarks by the President at National Defense University" and John Brennan, "The Efficacy and Ethics of US Counterterrorism Strategy," 30 April 2012 (response to a question). Remarks at the Wilson Center.

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54. See for example, Edmund F. McGarrell, Joshua D. Freilich, and Steven Chermak, "Intelligence-Led Policing as a Framework for Responding to Terrorism," *Journal of Contemporary Criminal Justice* 23(2) (2007), pp. 142–158 and Martin Rudner, "Hunters and Gatherers: The Intelligence Coalition against Islamic Terrorism," *International Journal of Intelligence and Counterintelligence* 17(2) (2004), pp. 193–230.

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63. Hoffman, "Al Qaeda's Uncertain Future."

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67. One could also do it through executive action, but it would require some creative planning and would not guarantee U.S. policy beyond the end of Obama's second term. The upcoming National Security Strategy could also offer an opportunity for change as well as reveal insight into the administration's thinking for the rest of its term.

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