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#### Executive war power primacy now – Syria debate proves.

Posner, Kirkland & Ellis Professor, University of Chicago Law School, 9-3

[Eric, 9/3/13, Obama Is Only Making His War Powers Mightier, [www.slate.com/articles/news\_and\_politics/view\_from\_chicago/2013/09/obama\_going\_to\_congress\_on\_syria\_he\_s\_actually\_strengthening\_the\_war\_powers.html](http://www.slate.com/articles/news_and_politics/view_from_chicago/2013/09/obama_going_to_congress_on_syria_he_s_actually_strengthening_the_war_powers.html)]

¶ President Obama’s surprise announcement that he will ask Congress for approval of a military attack on Syria is being hailed as a vindication of the rule of law and a revival of the central role of Congress in war-making, even by critics. But all of this is wrong. Far from breaking new legal ground, President Obama has reaffirmed the primacy of the executive in matters of war and peace. The war powers of the presidency remain as mighty as ever.¶ It would have been different if the president had announced that only Congress can authorize the use of military force, as dictated by the Constitution, which gives Congress alone the power to declare war. That would have been worthy of notice, a reversal of the ascendance of executive power over Congress. But the president said no such thing. He said: “I believe I have the authority to carry out this military action without specific congressional authorization.” Secretary of State John Kerry confirmed that the president “has the right to do that”—launch a military strike—“no matter what Congress does.”¶ Thus, the president believes that the law gives him the option to seek a congressional yes or to act on his own. He does not believe that he is bound to do the first. He has merely stated the law as countless other presidents and their lawyers have described it before him.¶ The president’s announcement should be understood as a political move, not a legal one. His motive is both self-serving and easy to understand, and it has been all but acknowledged by the administration. If Congress now approves the war, it must share blame with the president if what happens next in Syria goes badly. If Congress rejects the war, it must share blame with the president if Bashar al-Assad gases more Syrian children. The big problem for Obama arises if Congress says no and he decides he must go ahead anyway, and then the war goes badly. He won’t have broken the law as he understands it, but he will look bad. He would be the first president ever to ask Congress for the power to make war and then to go to war after Congress said no. (In the past, presidents who expected dissent did not ask Congress for permission.)¶ People who celebrate the president for humbly begging Congress for approval also apparently don’t realize that his understanding of the law—that it gives him the option to go to Congress—maximizes executive power vis-à-vis Congress. If the president were required to act alone, without Congress, then he would have to take the blame for failing to use force when he should and using force when he shouldn’t. If he were required to obtain congressional authorization, then Congress would be able to block him. But if he can have it either way, he can force Congress to share responsibility when he wants to and avoid it when he knows that it will stand in his way.

#### Congressional control of targeted killing destroys war fighting and turns the case.

Issacharoff and Pildes, ‘13

[Samuel (Reiss Professor of Constitutional Law, New York University School of Law) and Richard (Family Professor of Constitutional Law, New York University School of Law; CoDirector, NYU Program on Law and Security), “Drones and the Dilemma of Modern Warfare,” PUBLIC LAW & LEGAL THEORY RESEARCH PAPER SERIES WORKING PAPER NO. 13-34 Star Chamber=politicized secret court from 15th century England, symbol of abuse]

Procedural Safeguards

As with all use of lethal force, there must be procedures in place to maximize the likelihood of correct identification and minimize risk to innocents. **In the absence of formal legal processes, sophisticated institutional entities engaged in repeated, sensitive actions** – including the military – will **gravitate toward their own internal analogues** to legal process, even **without** the **compulsion or shadow of** formal **judicial review.** This is the role of bureaucratic legalism63 in developing sustained institutional practices, even with the dim shadow of unclear legal commands. **These forms of self-regulation are generated by programmatic needs to enable the entity’s own aims to be accomplished effectively;** at times, that necessity will share an overlapping converge with humanitarian concerns to generate internal protocols or process-like protections that minimize the use of force and its collateral consequences, in contexts in which the use of force itself is otherwise justified. **But because these process-oriented protections are not codified** in statute or reflected in judicial decisions, **they typically are too invisible to draw the eye of constitutional law scholars** who survey these issues from much higher levels of generality. In theory, **such review procedures could be fashioned alternatively as a matter of judicial review** (perhaps following warrant requirements or the security sensitivities of the FISA court), **or accountability to legislative oversight** (using the processes of select committee reporting), or the institutionalization of friction points within the executive branch (as with review by multiple agencies). **Each could serve as a check on the development of unilateral excesses by the executive**. And, presumably, **each could guarantee that internal processes were adhered to and that there be accountability for wanton error.** **The centrality of dynamic targeting** in the active theaters such as the border areas between Afghanistan and Pakistan **make it difficult to integrate legislative or judicial review mechanisms**. Conceivably, **the decision to place an individual on a list for targeting could be a moment for review outside the boundaries of the executive branch**, but even this has its drawback. **Any court engaged in the ex parte review of the decision to execute someone outside the formal mechanisms of crime and punishment risks appearing as** a modern variant of the Star Chamber.64 Similarly, **there are difficulties in forcing a polarized Congress as a whole to assume collective responsibility for decisions of life and death and the incentives have turned out to not to be well aligned to get a subset of Congress**, **such as the intelligence committees, to play this role effectively**.65

#### Congressional restraints spill over to destabilize all presidential war powers.

Heder, J.D., magna cum laude , J. Reuben Clark Law School, Brigham Young University, ’10

[Adam, “THE POWER TO END WAR: THE EXTENT AND LIMITS OF CONGRESSIONAL POWER,” St. Mary’s Law Journal Vol. 41 No. 3, <http://www.stmaryslawjournal.org/pdfs/Hederreadytogo.pdf>]

**This constitutional silence invokes Justice Rehnquist’s oftquoted language from the landmark “political question” case, Goldwater v. Carter . 121 In Goldwater , a group of senators challenged President Carter’s termination, without Senate approval, of the United States ’ Mutual Defense Treaty with Taiwan**. 122 **A plurality of the Court held, 123 in an opinion authored by Justice Rehnquist, that this was a nonjusticiable political question.** 124 He wrote: “In light of the absence of any constitutional provision governing the termination of a treaty, . . . the instant case in my view also ‘must surely be controlled by political standards.’” 125 Notably, Justice Rehnquist relied on the fact that there was no constitutional provision on point. Likewise**, there is no constitutional provision on whether Congress has the legislative power to limit, end, or otherwise redefine the scope of a war**. Though Justice **Powell argues** in Goldwater **that the Treaty Clause** and Article VI of the **Constitution “add support to the view that the text of the Constitution does not unquestionably commit the power to terminate treaties to the President alone**,” 126 **the same cannot be said about Congress’s legislative authority to terminate or** limit a warin a way that goes beyond its explicitly enumerated powers. There are no such similar provisions that would suggest Congress may decline to exercise its appropriation power but nonetheless legally order the President to cease all military operations. Thus, the case for deference to the political branches on this issue is even greater than it was in the Goldwater context. Finally, the Constitution does not imply any additional powers for Congress to end, limit, or redefine a war. **The textual and historical evidence suggests the Framers purposefully declined to grant Congress such powers**. And as this Article argues, **granting Congress this power would be inconsistent with the general war powers structure of the Constitution.** **Such a reading of the Constitution would unnecessarily empower Congress and tilt the scales heavily in its favor**. More over, **it** would strip the President of his Commander in Chief authority **to direct the movement of troops at a time when the Executive’s expertise is needed.** 127 And fears that the President will grow too powerful are unfounded, given the reasons noted above. 128 In short, **the Constitution does not impliedly afford Congress any authority to prematurely terminate a war above what it explicitly grants**. 129 Declaring these issues nonjusticiable political questions would be the most practical means of balancing the textual and historical demands, the structural demands, and the practical demands that complex modern warfare brings . Adjudicating these matters would only lead the courts to engage in impermissible line drawing — lines that would both confus e the issue and add layers to the text of the Constitution in an area where the Framers themselves declined to give such guidance.

#### Perception of weak Presidential crisis response collapses heg.

Bolton, Senior Fellow at the American Enterprise Institute, ‘9

[John, Former U.S. ambassador to the United Nations, “The danger of Obama's dithering,” Los Angeles Times, October 18, http://articles.latimes.com/2009/oct/18/opinion/oe-bolton18]

**Weakness in American foreign policy in one region often** invites challenges elsewhere**, because our adversaries carefully follow** diminished American resolve. Similarly, presidential indecisiveness**, whether because of uncertainty or** internal political struggles**, signals that the United States may not respond to international challenges in clear and coherent ways.** Taken together, **weakness and indecisiveness have proved historically to be a** toxic **combination for America's global interests.** That is exactly the combination we now see under President Obama. If anything, his receiving the Nobel Peace Prize only underlines the problem. All of Obama's campaign and inaugural talk about "extending an open hand" and "engagement," especially the multilateral variety, isn't exactly unfolding according to plan. Entirely predictably, we see more clearly every day that diplomacy is not a policy but only a technique. **Absent** presidential leadership, **which at a minimum means** clear policy direction and persistence in the face of criticism and adversity**, engagement simply embodies** weakness and indecision.

#### Heg solves nuclear war.

Barnett 11 (Thomas P.M., Former Senior Strategic Researcher and Professor in the Warfare Analysis & Research Department, Center for Naval Warfare Studies, U.S. Naval War College American military geostrategist and Chief Analyst at Wikistrat., worked as the Assistant for Strategic Futures in the Office of Force Transformation in the Department of Defense, “The New Rules: Leadership Fatigue Puts U.S., and Globalization, at Crossroads,” March 7 <http://www.worldpoliticsreview.com/articles/8099/the-new-rules-leadership-fatigue-puts-u-s-and-globalization-at-crossroads>)

Events in Libya are a further reminder for Americans that we stand at a crossroads in our continuing evolution as the world's sole full-service superpower. Unfortunately, we are increasingly seeking change without cost, and shirking from risk because we are tired of the responsibility. We don't know who we are anymore, and our president is a big part of that problem. Instead of leading us, he explains to us. Barack Obama would have us believe that he is practicing strategic patience. But many experts and ordinary citizens alike have concluded that he is actually beset by strategic incoherence -- in effect, a man overmatched by the job. It is worth first examining the larger picture: We live in a time of arguably the greatest structural change in the global order yet endured, with this historical moment's most amazing feature being its relative and absolute lack of mass violence. That is something to consider when Americans contemplate military intervention in Libya, because if we do take the step to prevent larger-scale killing by engaging in some killing of our own, we will not be adding to some fantastically imagined global death count stemming from the ongoing "megalomania" and "evil" of American "empire." We'll be engaging in the same sort of system-administering activity that has marked our stunningly successful stewardship of global order since World War II. Let me be more blunt: As the guardian of globalization, the U.S. military has been the greatest force for peace the world has ever known. Had America been removed from the global dynamics that governed the 20th century, the mass murder never would have ended. Indeed, it's entirely conceivable there would now be no identifiable human civilization left, once nuclear weapons entered the killing equation. But the world did not keep sliding down that path of perpetual war. Instead, America stepped up and changed everything by ushering in our now-perpetual great-power peace. We introduced the international liberal trade order known as globalization and played loyal Leviathan over its spread. What resulted was the collapse of empires, an explosion of democracy, the persistent spread of human rights, the liberation of women, the doubling of life expectancy, a roughly 10-fold increase in adjusted global GDP and a profound and persistent reduction in battle deaths from state-based conflicts. That is what American "hubris" actually delivered. Please remember that the next time some TV pundit sells you the image of "unbridled" American military power as the cause of global disorder instead of its cure. With self-deprecation bordering on self-loathing, we now imagine a post-American world that is anything but. Just watch who scatters and who steps up as the Facebook revolutions erupt across the Arab world. While we might imagine ourselves the status quo power, we remain the world's most vigorously revisionist force. As for the sheer "evil" that is our military-industrial complex, again, let's examine what the world looked like before that establishment reared its ugly head. The last great period of global structural change was the first half of the 20th century, a period that saw a death toll of about 100 million across two world wars. That comes to an average of 2 million deaths a year in a world of approximately 2 billion souls. Today, with far more comprehensive worldwide reporting, researchers report an average of less than 100,000 battle deaths annually in a world fast approaching 7 billion people. Though admittedly crude, these calculations suggest a 90 percent absolute drop and a 99 percent relative drop in deaths due to war. We are clearly headed for a world order characterized by multipolarity, something the American-birthed system was designed to both encourage and accommodate. But given how things turned out the last time we collectively faced such a fluid structure, we would do well to keep U.S. power, in all of its forms, deeply embedded in the geometry to come. To continue the historical survey, after salvaging Western Europe from its half-century of civil war, the U.S. emerged as the progenitor of a new, far more just form of globalization -- one based on actual free trade rather than colonialism. America then successfully replicated globalization further in East Asia over the second half of the 20th century, setting the stage for the Pacific Century now unfolding.

## 2

#### Immigration reform will pass now and PC is key.

TNR 10/24 (Seven Reasons To Stop Being Fatalistic About Immigration Reform. http://www.newrepublic.com/article/115341/immigration-reform-may-actually-pass)

President Obama’s East Room pitch on Thursday to revitalize comprehensive immigration reform was met with a collective shrug, as was Speaker John Boehner’s comment the day before that “immigration reform is an important subject that needs to be addressed. And I'm hopeful.” The prevailing conventional wisdom is that the issue is defunct for now, lost in the welter of the Republican civil war. Plus, it’s more fun to talk about illicit Twitter accounts, concocted ad hominem blind quotes and, of course, Web site malfunctions.¶ But the natural optimist in me thinks that the odds for some sort of serious immigration reform happening in the months ahead are better than many realize. A few reasons why, in no particular order:¶ Boehner has space. To the extent that there was any logic to the Speaker’s letting the government shutdown and debt-ceiling brinkmanship drag out as long as he did, it was that he had strengthened his position with his caucus’s hard-right flank and thereby created some room to maneuver on other fronts. “Boehner’s hold is a little stronger than it was” a few months ago, his near-predecessor as speaker, the lobbyist supreme Bob Livingston, told me when I ran into him at a function Wednesday night.¶ Well, there is no better opportunity for Boehner to show that this is the case – to retroactively justify a gambit that cost the country billions of dollars – than to press forward with immigration reform. To do that will require more than just casual comments like the one he tossed off Wednesday – it will require making clear that the leadership is serious about this and setting aside time on the calendar for it.¶ But wouldn’t pushing the issue forward mean once again breaking the not-so-hallowed Hastert Rule, which requires leadership to bring up for a vote only measures supported a majority of the caucus? Well, yes and no. There is increasing talk of taking a piecemeal route in the House – with, among others, one Dream Act-style measure to legalize those who came into the country as minors, one to stiffen border enforcement, one to expand visas for skilled foreign workers, and, yes, one to provide some sort of eventual path to citizenship for illegal immigrants beyond the Dreamers. The latter would not get a majority of House GOP support, but perhaps if brought through in a stream of other measures would not set off the Hastert Rule alarms as loudly. There would remain the question of how to reconcile whatever passed with the comprehensive reform bill already passed by the Senate – House conservatives say they are wary of a conference committee. But the fact remains that there is a conceivable path forward – if Boehner wants to pursue it. “He’s in a much stronger place for himself job-security-wise all around,” says one House Democratic aide.¶ It’s in the Republicans’ interest. Why would the cautious, conflict-averse Boehner want to put himself through the hassle, even if he does have a path forward? Because, of course, he and so many other leaders of his party and the conservative movement – Paul Ryan, Karl Rove, Grover Norquist – grasp that the party cannot continue be seen as obstructing immigration reform by the country’s growing legions of Hispanic and Asian-American voters. Yes, many of the same leaders were warning the hard-liners in the House and Senate off of the defund-Obamacare government-shutdown path to no avail, but those warnings were highly ambivalent, a matter of tactical disagreement after years in which the leaders had been banging the same anti-Obamacare drum. Whereas in this case the leaders are truly in favor of immigration reform, even if just for reasons of self-preservation.¶ It’s not Obamacare. This is the other reason why Boehner might be able to push forward on this front: as incendiary an issue as immigration reform has been for many Republican voters in recent years, it’s actually less threatening than the two-headed beast of Obamacare and government spending. For one thing, it predates Obama as an issue – it was fellow Republicans George W. Bush and John McCain who were most identified with the 2007 push. For another, some of the most ardent anti-Obamacare soldiers are in favor of immigration reform to varying degrees, from Idaho Rep. Raul Labrador to border congressmen like New Mexico's Steve Pearce to the evangelical groups that have come out for reform. “In the grand scheme of Republican issues, it just doesn’t match up to Obamacare – that’s health care and Obama. That’s partly because they haven’t yet made it about Obama,” said the House Democratic aide.¶ Follow the money. Put simply: the pro-reform side has lots of it, the opponents not so much. Again, this is a crucial contrast with the battles over Obamacare, where the Club for Growth, Koch Brothers and the like are spending heavily to thwart the reformers, even to the point of punishing Republican state legislators who dare to contemplate embracing federal funds for Medicaid expansion. In the immigration realm, the big bucks are coming from these guys.¶ The pro-reform side isn’t giving up. This is the element too often discounted in drawn-out legislative battles: the energy and resolve of the footsoldiers. And it has not abated as much on the pro-reform side as much as the pessimistic Beltway take on the issue would have one think. There are millions of people in this country with a huge stake in this fight, and plenty others who have taken up arms in their support, and not just in the usual places: I was amazed to see several dozen people agitating for reform at the annual Fancy Farm political picnic in far western Kentucky, in August. Advocates have gotten further than ever before – they’ve gotten a bipartisan vote in their favor in the Senate, and they’ve gotten key agreements between the AFL-CIO and Chamber of Commerce and growers and farmworkers in California, among others. They’re not about to give up now. “This is the absolute best opportunity we have to pass reform,” says Angelica Salas, executive director of the Coalition for Humane Immigrant Rights of Los Angeles. “If we were going to leave it to the national pundits, this issue would have died a long time ago, but the reality is that it’s in the hands of the immigration rights movement and people are not going to end the fight until there’s a fix to this cruel situation that we’re living in.”¶ Obama wants to make it happen. One might think this would be the biggest obstacle for reform, in that Republicans would be unwilling to grant the president a legislative triumph. In fact, Democrats are having to contend with the reverse, a suspicion among many House Republicans that Obama and the Democrats secretly want reform to fail, so that they can keep bludgeoning Republicans with the issue among Hispanic voters. This is hogwash, as far as Obama is concerned: he desperately wants a major achievement in his second term, not least given the troubles that have arisen in implementing his main first-term one. As for the Republicans’ suspicion, there’s an easy way to keep Democrats from using immigration as a wedge issue: voting for a reform package. “It’s a self-fulfilling prophecy,” says the Democratic House aide.¶ Redemption. This one applies to both sides of the aisle. This may be overly naïve, but I suspect there are members of both parties who are genuinely abashed by how badly Congress has come across in recent weeks, not to mention recent years, and would like to be able to show that they can come to Washington and address a major national problem. For the reasons listed above, this could offer just the ticket. And it sure beats spending the next year talking about chained CPI.

#### Having to defend authority derails the current agenda

Kriner 10 Douglas L. Kriner (assistant professor of political science at Boston University) “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.

#### Current immigration law endangers all innovation – reform is key

McCraw, professor emeritus at Harvard Business School, 11/1/2012

(Thomas, “Innovative Immigrants,” <http://www.nytimes.com/2012/11/02/opinion/immigrants-as-entrepreneurs.html?pagewanted=all>)

SOME 70 million **immigrants** have come to America since the first colonists arrived. The role their labor has played in economic development is widely understood. Much less familiar is the extent to which their remarkable **innovations have driven American prosperity**. Indeed, while both Barack Obama and Mitt Romney have lauded entrepreneurship, innovation and “job creation,” neither candidate has made comprehensive immigration reform an issue, despite immigrants’ crucial role in those fields. Yet understanding how **immigrants have fueled innovation through history** is critical to making sure they continue to drive prosperity in the future. At the country’s beginning, the three most important architects of its financial system were immigrants: Alexander Hamilton, from St. Croix, then part of the Danish West Indies; Robert Morris, born in Liverpool, England; and Albert Gallatin of Geneva. Morris was superintendent of finance during the Revolutionary War, using every resource at his command to support the army in the field. Hamilton, as the first secretary of the Treasury, rescued the country from bankruptcy and designed its basic financial system. Gallatin paid down much of the national debt, engineered the financing of the Louisiana Purchase and remains the longest-serving Treasury secretary ever. Immigrants’ financial innovations continued through the 19th century. In 1808 Alexander Brown, from Ireland, founded the nation’s first investment bank, and his immigrant sons set up Brown Brothers. The Lehman brothers, from Germany, began as dry-goods merchants and cotton brokers in Alabama, then moved to New York just before the Civil War and eventually founded a bank. Many other immigrants, including Marcus Goldman of Goldman Sachs, followed similar paths, starting very small, traveling to new cities and establishing banks. Meanwhile, “Yankee” firms like Kidder, Peabody and Drexel, Morgan — whose partners were native-born — remained less mobile, tied by family and high society to Boston and New York. Immigrant innovators were pioneers in many other industries after the Civil War. Three examples were Andrew Carnegie (Scotland, steel), Joseph Pulitzer (Hungary, newspapers) and David Sarnoff (Russia, electronics). Each came to America young, poor and full of energy. Carnegie’s mother brought the family to Pittsburgh in 1848, when Andrew was 12. He became a bobbin-boy in a textile mill, a telegram messenger, a telegraph-key operator, a low-level manager at the Pennsylvania Railroad, a division superintendent for the same railroad and a bond salesman for the railroad in Europe. Recognizing the limitless market for the rails that carried trains, Carnegie jumped to steel. His most important innovation was “hard driving” blast furnaces, wearing them out quickly. This violated the accepted practice of “coddling” furnaces, but he calculated that his vastly increased output cut the price of steel far more than replacing the furnaces cost his company. In turn, an immense quantity of cheap steel found its way into lucrative new uses: structural steel for skyscrapers, sheet steel for automobiles. Pulitzer was the home-tutored son of a prosperous Hungarian family that lost its fortune. He came to the United States in 1864 at age 17, recruited by a Massachusetts Civil War regiment. Penniless after the war ended, he went to St. Louis, a center for German immigrants, whose language he spoke fluently. He worked as a waiter, a railroad clerk, a lawyer and a reporter for a local German newspaper, part of which he eventually purchased. In 1879, he acquired two English-language papers and merged them into The St. Louis Post-Dispatch. In 1883, he moved to New York, where he bought The New York World and began a fierce competition with other New York papers, mainly the Sun and, later, William Randolph Hearst’s New York Journal. The New York World was pro-labor, pro-immigration and, remarkably, both serious and sensationalist. It achieved a huge circulation. Sarnoff was just 9 years old when he arrived from Russia in 1901. He earned money selling Yiddish newspapers on the street and singing at a synagogue, and then worked as an office clerk, a messenger and, like Carnegie, a telegraph operator. From there he became part of the fledgling radio firm RCA and rose rapidly within its ranks. Sarnoff was among the first to see radio’s potential as “point-to-mass” entertainment, i.e., broadcasting. He devoted a huge percentage of profits to research and development, and won an epic battle with CBS over industry standards for color TV. For decades, RCA and electronics were practically synonymous. As these men show, **one of the key traits of** immigrant **innovators is geographic mobility**, both from the home country and within the United States. Consider the striking roster of 20th-century immigrants who led the development of fields like movies and information technology: the Hollywood studios MGM, Warner Brothers, United Artists, Paramount and Universal; the Silicon Valley companies Intel, eBay, Google, Yahoo and Sun Microsystems. The economist Joseph Schumpeter — yet another immigrant, and the most perceptive early analyst of innovation — considered it to be the fundamental component of entrepreneurship: “The typical entrepreneur is more self-centered than other types, because he relies less than they do on tradition and connection” and because his efforts consist “precisely in breaking up old, and creating new, tradition.” For that reason, innovators always encounter resistance from people whose economic and social interests are threatened by new products and methods. Compared with the native-born, who have extended families and lifelong social and commercial relationships, **immigrants without** such ties — without businesses to inherit or family **property to protect** — **are** in some ways **better prepared to play** the i**nnovator**’s role. A hundred academic monographs could not prove that immigrants are more innovative than native-born Americans, because each spurs the other on. **Innovations by the blended population** were, and still **are**, **integral to the economic growth of the** United States. **But our** overly complex **immigration law hampers** even the most obvious **innovators**’ efforts to become citizens. **It endangers our tradition of entrepreneurship**, and it must be repaired — soon.

#### Immigration reform solves warming

Norris and Jenkins 9, \*Project Director at the Breakthrough Institute, \* Director of Energy and Climate Policy, The Breakthrough Institute,(Teryn and Jessie, “ Want to Save the World? Make Clean Energy Cheap,” Huffington Post, March 10, <http://www.thebreakthrough.org/blog/2009/03/want_to_save_the_world_make_cl.shtml>)

Whatever the cause, we have very little chance of overcoming climate change without enlisting young innovators at a drastically greater scale. Simply put, they represent one of the most important catalysts for creating a clean energy economy and achieving long-term prosperity. The reason is this: at its core, climate change is a challenge of technology innovation. Over the next four decades, global energy demand will approximately double. Most of this growth will happen in developing nations as they continue lifting their citizens out of poverty and building modern societies. But over the same period, global greenhouse gas emissions must fall dramatically to avert the worst consequences of climate change. Shortly before his untimely death in 2005, the Nobel Prize-winning physicist Richard Smalley coined this the "Terawatt Challenge": increasing global energy production from roughly 15 terawatts in 2005 to 60 terawatts annually by 2100 in a way that simultaneously confronts the challenges of global warming, poverty alleviation, and resource depletion. The single greatest obstacle to meeting the Terawatt Challenge is the "technology gap" between dirty and clean energy sources. Low-carbon energy technologies remain significantly more expensive than fossil fuels. For example, solar photovoltaic electricity costs up to three to five times that of coal electricity, and plug-in hybrid and electric vehicles can be twice as expensive as their gasoline-fueled competitors. Unless this technology gap is bridged and clean energy technologies become affordable and scalable, poor and rich nations alike will continue opposing significant prices on their carbon emissions and will continue relying primarily upon coal and other fossil fuels to power their development. This will virtually assure massive climate destabilization. So the task is clear: to avoid climate catastrophe and create a new energy economy, we must unleash our forces of innovation - namely, scientists, engineers and entrepreneurs- to invent a new portfolio of truly scalable clean energy technologies, chart new paths to bring these technologies to market, and ensure they are affordable enough to deploy throughout the world.

#### Warming leads to extinction

Sify ‘10 (Sify, Sydney newspaper citing Ove Hoegh-Guldberg, professor at University of Queensland and Director of the Global Change Institute, and John Bruno, associate professor of Marine Science at UNC (Sify News, “Could unbridled climate changes lead to human extinction?”, <http://www.sify.com/news/could-unbridled-climate-changes-lead-to-human-extinction-news-international-kgtrOhdaahc.html>)

The findings of the comprehensive report: 'The impact of climate change on the world's marine ecosystems' emerged from a synthesis of recent research on the world's oceans, carried out by two of the world's leading marine scientists. One of the authors of the report is Ove Hoegh-Guldberg, professor at The University of Queensland and the director of its Global Change Institute (GCI). 'We may see sudden, unexpected changes that have serious ramifications for the overall well-being of humans, including the capacity of the planet to support people. This is further evidence that we are well on the way to the next great extinction event,' says Hoegh-Guldberg. 'The findings have enormous implications for mankind, particularly if the trend continues. The earth's ocean, which produces half of the oxygen we breathe and absorbs 30 per cent of human-generated carbon dioxide, is equivalent to its heart and lungs. This study shows worrying signs of ill-health. It's as if the earth has been smoking two packs of cigarettes a day!,' he added. 'We are entering a period in which the ocean services upon which humanity depends are undergoing massive change and in some cases beginning to fail', he added. The 'fundamental and comprehensive' changes to marine life identified in the report include rapidly warming and acidifying oceans, changes in water circulation and expansion of dead zones within the ocean depths. These are driving major changes in marine ecosystems: less abundant coral reefs, sea grasses and mangroves (important fish nurseries); fewer, smaller fish; a breakdown in food chains; changes in the distribution of marine life; and more frequent diseases and pests among marine organisms. Study co-author John F Bruno, associate professor in marine science at The University of North Carolina, says greenhouse gas emissions are modifying many physical and geochemical aspects of the planet's oceans, in ways 'unprecedented in nearly a million years'. 'This is causing fundamental and comprehensive changes to the way marine ecosystems function,' Bruno warned, according to a GCI release. These findings were published in Science.

## Case

### Solvency

#### No enforcement - no incentive for Congress to act

Druck, JD – Cornell Law, ‘12

[Judah, 98 Cornell L. Rev. 209]

Of course, despite these various suits, Congress has received much of the blame for the WPR's treatment and failures. For example, Congress has been criticized for doing little to enforce the WPR in using other Article I tools, such as the "power of the purse," n76 or by closing the loopholes frequently used by presidents to avoid the WPR [\*221] in the first place. n77 Furthermore, in those situations where Congress has decided to act, it has done so in such a disjointed manner as to render any possible check on the President useless. For example, during President Reagan's invasion of Grenada, Congress failed to reach an agreement to declare the WPR's sixty-day clock operative, n78 and later faced similar "dead-lock" in deciding how best to respond to President Reagan's actions in the Persian Gulf, eventually settling for a bill that reflected congressional "ambivalence." n79 Thus, between the lack of a "backbone" to check rogue presidential action and general ineptitude when it actually decides to act, n80 Congress has demonstrated its inability to remedy WPR violations. Worse yet, much of Congress's interest in the WPR is politically motivated, leading to inconsistent review of presi-dential military decisions filled with post-hoc rationalizations. Given the political risk associated with wartime deci-sions, n81 Congress lacks any incentive to act unless and until it can gauge public reaction - a process that often occurs after the fact. n82 As a result, missions deemed successful by the public will rarely provoke "serious congressional con-cern" about presidential compliance with the WPR, while failures will draw scrutiny. n83 For example, in the case of the Mayaguez, "liberals in the Congress generally praised [President Gerald Ford's] performance" despite the constitutional questions surrounding the conflict, simply because the [\*222] public deemed it a success. n84 Thus, even if Congress was effective at checking potentially unconstitutional presidential action, it would only act when politically safe to do so. This result should be unsurprising: making a wartime decision provides little advantage for politicians, especially if the resulting action succeeds. n85 Consequently, Congress itself has taken a role in the continued disregard for WPR enforcement. The current WPR framework is broken: presidents avoid it, courts will not rule on it, and Congress will not enforce it. This cycle has culminated in President Obama's recent use of force in Libya, which created little, if any, controversy, n86 and it provides a clear pass to future presidents, judges, and congresspersons looking to continue the system of pas-sivity and deferment.

#### Targeted killing regulation is impossible.

Alston, professor – NYU Law, ‘11

[Philip, 2 Harv. Nat'l Sec. J. 283]

Despite the existence of a multiplicity of techniques by which the CIA might be held to account at the domestic level, the foregoing survey demonstrates that there is no evidence to conclude that any of them has functioned effective-ly in relation to the expanding practices involving targeted killings. The CIA Inspector General's Office has been unable to exact accountability and proposals to expand or strengthen his role run counter to almost all official actions taken in relation to his work. The President's Intelligence Oversight Board and the President's Foreign Intelligence Advisory Board are lauded by some for their potential, but there is no indication that they scrutinize activities such as targeted killings policy or practice, and many indications that they view their role as being to support rather than monitor the intelligence community. The Privacy and Civil Liberties Oversight Board remains dormant. Congressional oversight has been seriously deficient and far from manifesting an appetite to scrutinize the CIA's targeted killings policies, a range of senior members of congress are on record as favoring a hands-off policy. And a combination of the political question doctrine, the state secrets privilege, and a reluctance to prosecute, ensure that the courts have indeed allowed the CIA to fall into a convenient legal **gre**y hole. Finally, civil society has been largely stymied by the executive and the courts in their efforts to make effective use of freedom of information laws. All that remains is the media, and most of what they obtain through leaks come from government sources that are deliberately "spinning" the story in their own favor. Simi-lar conclusions have been reached in closely related contexts. Thus, for example, Kitrosser's survey of official responses to the warrantless wiretapping initiated after 9/11 led her to conclude that it was a shell [\*406] game, involving "an indefinite bi-partisan, cross-administration, cross-institutional pattern of accountability-avoidance." n450 In brief, at least in relation to targeted killings, the CIA enjoys almost complete impunity and is not subject to any form of meaningful internal or external accountability. Whether from the perspective of democratic theory or of interna-tional accountability for violations of the right to life, this is deeply problematic. One solution to this that has been sug-gested by some commentators is to follow the precedent set by Israel in its efforts to ensure legal oversight of its target killings programs. We turn now to examine the feasibility and desirability of pursuing such an option.

#### Military will backlash, prevents implementation

Yoo, professor of law – U California, Berkeley, ‘9

[John, 58 Duke L.J. 2277]

As conditions worsened in Iraq after the fall of Saddam Hussein's regime, the military became more critical of Sec-retary Rumsfeld. Military officers anonymously criticized the Secretary for refusing to send enough troops to pacify the country, and generally attacked him for ignoring their advice and counsel. In an April 2006 act known in the military as the "revolt of the generals," dozens of senior retired military officers called for Rumsfeld's resignation for allegedly mismanaging the war. n73 In 2006, retired general Gregory Newbold, former director of operations of the Joint Chiefs, wrote an essay in Time declaring that it was his "sincere view ... that the commitment of forces to this fight was done with a casualness and swagger that are the special province of those who have never had to execute these missions - or bury the results." n74 Part of the impetus for the revolt was the deeper lesson, taken by the officer corps from Vietnam, that the military had been too subservient to civilian leaders and that they should talk straight to the political leadership about their views. Ironically, the 2007-08 surge in forces in Iraq and the improvement in the country's rebuilding came against the advice of the senior military leadership, which had decided that the size of the American footprint in Iraq was part of the problem. n75 Dissension over Iraq was matched by contention over the continuing war on terrorism. Perhaps the most public ex-ample was Congress's consideration of the Military Commissions Act of 2006 [\*2290] (MCA), n76 which established rules for the detention and military trials of terrorists. In November 2001, President Bush issued an executive order es-tablishing military commissions, in the form of a military tribunal, to try al Qaeda members and their allies for war crimes. n77 Some members of the military's Judge Advocate Generals (JAG) corps wanted to use courts-martial instead, but civilian leaders in the Pentagon favored commissions, which promised a flexible balance between the need for an open, fair proceeding and the need to keep national security secrets. In Hamdan v. Rumsfeld, n78 the Supreme Court held that the tribunals had to operate according to the lines set out in Common Article 3 of the Geneva Conventions, n79 set-ting off Congress's consideration of the 2006 Act. During congressional hearings, JAGs for the Marines and the Army testified that commission rules withholding classified evidence from the defendant, but not his lawyer, would still vio-late the Geneva Conventions, whereas the civilian representative of the Department of Justice testified to the opposite effect. n80 Military disagreement over civilian policy in the war on terrorism extended back to the beginning of the conflict. JAGs challenged President Bush's decision in February 2002, after extensive debate within the executive branch, that members of al Qaeda and the Taliban were not to receive the status of prisoners of war under the Geneva Conventions. n81 After that decision, JAGs reportedly cooperated with private human rights groups to challenge the decision in federal court. Once uniformed lawyers were appointed to represent detainees in the military commission process, they [\*2291] dispensed with the secrecy and filed suit against the Bush administration directly. n82 Members of the uniformed military also challenged the legality of holding suspected al Qaeda at the U.S. Navy Station at Guantanamo Bay, Cuba. n83 Ac-cording to media reports, JAGs representing detainees in the military commission process met with members of Con-gress to seek their assistance in reversing Bush administration policies on detainees. n84 Congress's enactment of the MCA hewed closely to civilian preferences on the commissions and the designation of al Qaeda as illegal combatants. Although the Supreme Court, in Boumediene v. Bush, n85 reversed the MCA's effort to prohibit federal habeas corpus review over the detainees at Guantanamo Bay, n86 it has not yet addressed the substance of the MCA. All of this has led historians and political scientists to warn of a crisis in civil-military relations. Russell Weigley, a prominent military historian, compared General Powell's resistance to intervention in Bosnia to General McClellan's reluctance to engage General Lee during the Civil War. n87 By 2002, Richard Kohn, a distinguished military historian, had already concluded that "civilian control of the military has weakened in the United States and is threatened today." n88 According to Kohn, "the American military has grown in influence to the point of being able to impose its own per-spective on many policies and decisions." n89 He detects "no conspiracy but repeated efforts on the part of the armed forces to frustrate or evade civilian authority when that opposition seems likely to preclude outcomes the military dis-likes." n90 He believes that civilian-military relations in that period are as poor as in any other period in American histo-ry. n91 Michael Desch argues that the high tensions in civil-military relations are due [\*2292] not to the military but to the civilians, which have violated Huntington's advice in favor of "objective control" by giving the military broad dis-cretion over tactics and operations while keeping final say over politics and grand strategy. n92 In a 1999 study, Desch found that civilians prevailed in almost all of the seventy-five civil-military disputes from 1938 to 1997, but that the military has won in seven or eight of the twelve post-Cold War conflicts. n93 Some attribute this discord to the regular give-and-take inherent in the civil-military relationship, whereas others believe that the military has grown bold in ques-tioning the foreign policy decisions of the civilian leadership. n94

#### CMR crisis leads to nuclear war.

COHEN 1997 [Eliot, PhD from Harvard in political science, Professor of Strategic Studies at the Paul H. Nitze School of Advanced International Studies (SAIS) at the Johns Hopkins University, Director of the Strategic Studies Program at SAIS, served as Counselor to the United States Department of State under Secretary Condoleezza Rice from 2007 to 2009, http://www.fpri.org/americavulnerable/06.CivilMilitaryRelations.Cohen.pdf]

Left uncorrected, the trends in American civil-military relations could breed certain pathologies. The most serious possibility is that of a dramatic civil-military split during a crisis involving the use of force. In the recent past, such tensions did not result in open division. For example, Franklin Roosevelt insisted that the United States invade North Africa in 1942, though the chiefs of both the army and the navy vigorously opposed such a course, favoring instead a buildup in England and an invasion of the continent in 1943. Back then it was inconceivable that a senior military officer would leak word of such a split to the media, where it would have reverberated loudly and destructively. To be sure, from time to time individual officers broke the vow of professional silence to protest a course of action, but in these isolated cases the officers paid the accepted price of termination of their careers. In the modern environment, such cases might no longer be isolated. Thus, presidents might try to shape U.S. strategy so that it complies with military opinion, and rarely in the annals of statecraft has military opinion alone been an adequate guide to sound foreign policy choices. Had Lincoln followed the advice of his senior military advisers there is a good chance that the Union would have fallen. Had Roosevelt deferred to General George C. Marshall and Admiral Ernest J. King there might well have been a gory debacle on the shores of France in 1943. Had Harry S. Truman heeded the advice of his theater commander in the Far East (and it should be remembered that the Joint Chiefs generally counseled support of the man on the spot) there might have been a third world war. Throughout much of its history, the U.S. military was remarkably politicized by contemporary standards. One commander of the army, Winfield Scott, even ran for president while in uniform, and others (Leonard Wood, for example) have made no secret of their political views and aspirations. But until 1940, and with the exception of periods of outright warfare, the military was a negligible force in American life, and America was not a central force in international politics. That has changed. Despite the near halving of the defense budget from its high in the 1980s, it remains a significant portion of the federal budget, and the military continues to employ millions of Americans. More important, civil-military relations in the United States now no longer affect merely the closet-room politics of Washington, but the relations of countries around the world. American choices about the use of force, the shrewdness of American strategy, the soundness of American tactics, and the will of American leaders have global consequences. What might have been petty squabbles in bygone years are now magnified into quarrels of a far larger scale, and conceivably with far more grievous consequences. To ignore the problem would neglect one of the cardinal purposes of the federal government: “to provide for the common defense” in a world in which security cannot be taken for granted.

### Norms

#### Drones are locked in - plan can’t solve

McDonald 13 **(**Jack, lecturer at the Department of War Studies, King’s College London, completed his PhD thesis on targeted killings, has worked with The Centre for Defence Studies, “Losing perspective on proliferation,” <http://kingsofwar.org.uk/2013/01/losing-perspective-on-proliferation/>)

The control of UAV technology is, however, a problem. In short, it isn’t that amenable to control in any meaningful sense of the word. **If one wishes to “control” the proliferation of** technology automating human behaviour and actions, then there would need to be some form of global bar on research in that area.\* I imagine that MIT and Google might have a problem this idea. Similarly, if someone wants to control the design and building of small **unmanned aircraft**, well, too late, that horse bolted **a long time ago**. Of course, you could lock up every amateur geek enthusiast, but that would be a bit pointless. The point is**, the tech**nology **to build UAVs is** embedded into our society **to a far greater degree than nuclear weapons, chemical and biological weapons and small arms are. UAVs are effectively an extension of the industrial revolution** (mechanisation, automation, replacement of human action by machine). I’m writing this on a laptop that was probably made by a large number of robots. **UAVs need to be put into perspective – despite their dangers they can’t make human life as we know it extinct and they likely can’t be controlled by treaty. A little less rhetoric and a little more thought from critics** of military UAVs **might produce** a **better critique**.

#### All their “precedent” evidence relies on the assertion that there’s a causal link between U.S. drone doctrine and other’ countries choices---that’s not true---no tangible evidence

Kenneth Anderson 11, Professor of International Law at American University, 10/9/11, “What Kind of Drones Arms Race Is Coming?,” <http://www.volokh.com/2011/10/09/what-kind-of-drones-arms-race-is-coming/#more-51516>

New York Times national security correspondent Scott Shane has an opinion piece in today’s Sunday Times predicting an “arms race” in military drones. The methodology essentially looks at the US as the leader, followed by Israel – countries that have built, deployed and used drones in both surveillance and as weapons platforms. It then looks at the list of other countries that are following fast in US footsteps to both build and deploy, as well as purchase or sell the technology – noting, correctly, that the list is a long one, starting with China. The predicament is put this way: ¶ Eventually, the United States will face a military adversary or terrorist group armed with drones, military analysts say. But what the short-run hazard experts foresee is not an attack on the United States, which faces no enemies with significant combat drone capabilities, but the political and legal challenges posed when another country follows the American example. The Bush administration, and even more aggressively the Obama administration, embraced an extraordinary principle: that the United States can send this robotic weapon over borders to kill perceived enemies, even American citizens, who are viewed as a threat. ¶ “Is this the world we want to live in?” asks Micah Zenko, a fellow at the Council on Foreign Relations. “Because we’re creating it.” ¶ By asserting that “we’re” creating it, this is a claim that there is an arms race among states over military drones, and that it is a consequence of the US creating the technology and deploying it – and then, beyond the technology, changing the normative legal and moral rules in the international community about using it across borders. In effect, the combination of those two, technological and normative, forces other countries in strategic competition with the US to follow suit. (The other unstated premise underlying the whole opinion piece is a studiously neutral moral relativism signaled by that otherwise unexamined phrase “perceived enemies.” Does it matter if they are not merely our “perceived” but are our actual enemies? Irrespective of what one might be entitled to do to them, is it so very difficult to conclude, even in the New York Times, that Anwar al-Awlaki was, in objective terms, our enemy?) ¶ It sounds like it must be true. But is it? There are a number of reasons to doubt that moves by other countries are an arms race in the sense that the US “created” it or could have stopped it, or that something different would have happened had the US not pursued the technology or not used it in the ways it has against non-state terrorist actors. Here are a couple of quick reasons why I don’t find this thesis very persuasive, and what I think the real “arms race” surrounding drones will be. ¶ Unmanned aerial vehicles have clearly got a big push from the US military in the way of research, development, and deployment. But the reality today is that the technology will transform civil aviation, in many of the same ways and for the same reasons that another robotic technology, driverless cars (which Google is busily plying up and down the streets of San Francisco, but which started as a DARPA project). UAVs will eventually move into many roles in ordinary aviation, because it is cheaper, relatively safer, more reliable – and it will eventually include cargo planes, crop dusting, border patrol, forest fire patrols, and many other tasks. There is a reason for this – the avionics involved are simply not so complicated as to be beyond the abilities of many, many states. Military applications will carry drones many different directions, from next-generation unmanned fighter aircraft able to operate against other craft at much higher G stresses to tiny surveillance drones. But the flying-around technology for aircraft that are generally sizes flown today is not that difficult, and any substantial state that feels like developing them will be able to do so. ¶ But the point is that this was happening anyway, and the technology was already available. The US might have been first, but it hasn’t sparked an arms race in any sense that absent the US push, no one would have done this. That’s just a fantasy reading of where the technology in general aviation was already going; Zenko’s ‘original sin’ attribution of this to the US opening Pandora’s box is not a credible understanding of the development and applications of the technology. Had the US not moved on this, the result would have been a US playing catch-up to someone else. For that matter, the off-the-shelf technology for small, hobbyist UAVs is simple enough and available enough that terrorists will eventually try to do their own amateur version, putting some kind of bomb on it.¶ Moving on from the avionics, weaponizing the craft is also not difficult. The US stuck an anti-tank missile on a Predator; this is also not rocket science. Many states can build drones, many states can operate them, and crudely weaponizing them is also not rocket science. The US didn’t spark an arms race; this would occur to any state with a drone. To the extent that there is real development here, it lies in the development of specialized weapons that enable vastly more discriminating targeting. The details are sketchy, but there are indications from DangerRoom and other observers (including some comments from military officials off the record) that US military budgets include amounts for much smaller missiles designed not as anti-tank weapons, but to penetrate and kill persons inside a car without blowing it to bits, for example. This is genuinely harder to do – but still not all that difficult for a major state, whether leading NATO states, China, Russia, or India. The question is whether it would be a bad thing to have states competing to come up with weapons technologies that are … more discriminating.¶

#### No risk of drone wars

Joseph Singh 12, researcher at the Center for a New American Security, 8/13/12, “Betting Against a Drone Arms Race,” http://nation.time.com/2012/08/13/betting-against-a-drone-arms-race/#ixzz2eSvaZnfQ

In short, the doomsday drone scenario Ignatieff and Sharkey predict results from an excessive focus on rapidly-evolving military technology. ¶ Instead, we must return to what we know about state behavior in an anarchistic international order. Nations will confront the same principles of deterrence, for example, when deciding to launch a targeted killing operation regardless of whether they conduct it through a drone or a covert amphibious assault team. ¶ Drones may make waging war more domestically palatable, but they don’t change the very serious risks of retaliation for an attacking state. Any state otherwise deterred from using force abroad will not significantly increase its power projection on account of acquiring drones. ¶ What’s more, the very states whose use of drones could threaten U.S. security – countries like China – are not democratic, which means that the possible political ramifications of the low risk of casualties resulting from drone use are irrelevant. For all their military benefits, putting drones into play requires an ability to meet the political and security risks associated with their use. ¶ Despite these realities, there remain a host of defensible arguments one could employ to discredit the Obama drone strategy. The legal justification for targeted killings in areas not internationally recognized as war zones is uncertain at best. ¶ Further, the short-term gains yielded by targeted killing operations in Pakistan, Somalia and Yemen, while debilitating to Al Qaeda leadership in the short-term, may serve to destroy already tenacious bilateral relations in the region and radicalize local populations. ¶ Yet, the past decade’s experience with drones bears no evidence of impending instability in the global strategic landscape. Conflict may not be any less likely in the era of drones, but the nature of 21st Century warfare remains fundamentally unaltered despite their arrival in large numbers.

#### Erdogan causes regional instability and all of their impacts – Turkey is a bad regional model

Aveniri 10 (Shlomo, PoliSci@Hebrew U., http://www.project-syndicate.org/commentary/avineri37/English)

Brazil’s President Luiz Inácio Lula da Silva may have stepped on a hornets’ nest, owing to his unfamiliarity with regional policies and his general anti-Yanqui sentiments. **Erdogan must have known that, by trying in this way to shield Iran, he is opening a wider chasm with the EU – and obviously with the** U**nited** S**tates.** **Opposing new sanctions against Iran** in the Security Council further **alienated Turkey from both the EU and the US.** This does not sit well with a “zero conflict” policy. The same can be said about the shrill **tone that Turkey,** and **Erdogan himself, has recently adopted vis-à-vis Israel**. Walking off the stage at Davos during a round-table debate with Israel’s President Shimon Peres might have gained Erdogan points in the Arab world, which has historically viewed Turkey with the suspicion owed to the old imperial ruler. But the vehemence with which he lashed out at Israel during the Gaza flotilla crisis obviously went far beyond (justified) support for beleaguered Palestinians and (equally justified) criticism of the messy way in which Israel dealt with an obviously difficult situation. While gaining support on the so-called Arab street, and perhaps upstaging Iranian President Mahmoud Ahmedinejad in the role of a modern Commander-of-the-Faithful, Erdogan’s policy and behavior have shocked not only Israelis, but also moderate Arab leaders in Egypt, Saudi Arabia, Jordan, and some of the Gulf states. For many years, the AKP appeared to many in the region and elsewhere as a model for a democratic party with Islamic roots. But by supporting **Hamas, Erdogan has allied Turkey with the most disruptive and extremist fundamentalist force in the Muslim Arab world** – an organization that has its origins in the Muslim Brotherhood, the arch-enemy of all Arab regimes in the region (including, of course, Syria). Since Erdogan is a critic of Israel, Arab rulers cannot say this openly. But **Arab governments** – and their security services – **are beginning to ask themselves whether Turkey’s policies will undermine whatever internal stability their states** possess. This is the exact opposite of a genuine “zero conflict” policy that aims to minimize tensions and enhance stability. Turkey n**ow finds itself, through its alliance with Iran and support for Hamas, rushing headlong into a** series of conflicts **– with Europe, the US, Israel, and moderate Arab regimes that have survived Iranian Shia fundamentalism but may now feel** threatened by a neo-Ottoman Sunni foreign policy. **Turkey is** thus **emerging** not as a regional mediator, equidistant from contending local players, but **as an assertive**, if not aggressive, regional power aiming for hegemony. Far from avoiding conflicts and mediating existing tensions, Turkey under the AKP appears intent on stoking new conflicts and creating new frontlines**.**

#### Most recent ev says no Middle East war.

Conrad Black ‘13, Canadian-born former newspaper publisher, a historian, and a columnist, 6/15/13, “Forty years of peace and war,” fullcomment.nationalpost.com/2013/06/15/conrad-black-forty-years-of-peace-and-war/

My optimism is based on the fact that, from 1973 onwards, it was never going to be possible for the great powers to impose a solution from the outside (though the U.S. administrations that followed, from Nixon to Clinton, all deserve varying degrees of credit for their efforts). Nothing but the development of some local balance of forces, such as exists or is developing elsewhere in the world, will produce stability. And that balance will be brought into shape through the tensions emerging within Muslim nations themselves.¶ In Egypt, the Muslim Brotherhood shows no sign of being able to produce the economic growth that alone can bring civil society and political stability to that country. The lassitude of the Obama administration seems likely to allow a quasi-Iranian victory in Syria, with some emaciated Assad puppet-sate (as with Mussolini in German–occupied Italy after 1943). The Turkish premier, RecepTayyipErdoğan, cannot impose Islamist superstition and dictatorship after 90 years of secularism, and his pursuit of grandeur will force him into rivalry with Iran. Saudi Arabia, which is a joint venture between the House of Saud and Wahabbi Islamist extremists, will have to work with the Turks and Egyptians in an informal Sunni coalition to bar the way to the Iranian Shiites. The Petro-states generally will have to live with much less money as the oil price assimilates the recovery of energy self-sufficiency by the United States, which gradually is sensibly retiring to its own shores.¶ In short, only the Middle East can sort out the Middle East. And the ancient contest between Turks, Persians and Arabs will have to be resolved by Turks, Persians and Arabs. If Iran becomes a nuclear power, so will Turkey, Egypt and Saudi Arabia. The United States will only supply anti-missile defences to those powers who behave responsibly, and thanks to Ronald Reagan, they are the only country with those defences. The dynamic among these nations will reach the point of Mutual Assured Destruction. This struggle will consume the attention and resources of these nations. And in the meanwhile, no one will make war on Israel, and Hamas and Hezbollah will not be allowed to provoke a nuclear conflict. The Muslims will sort it out eventually and Israel will flourish.

### Terrorism

#### Allies agree that TKs are appropriate as a first resort even outside of conflict zones

Geoffrey S. Corn 12, Professor of Law and Presidential Research Professor, South Texas College of Law, 2012, “Blurring the Line Between the Jus ad Bellum and the Jus in Bello,” in Non-International Armed Conflict in the Twenty-First Century, p. 75-76

The statement by Legal Advisor Koh following the Bin Laden raid addressing U.S. legal authority for the mission and for killing Bin Laden is perhaps as clear an articulation of a legal basis for a military action ever provided by the Department of State.175 Indeed, the fact that Koh articulated an official U.S. interpretation of both the jus ad helium and jus in bello makes his use of a website titled Opinio Juris176 especially significant (as such a statement by a government official in Koh's position is clear evidence of opinio juris). Unlike his earlier statement at a meeting of the American Society of International Law,'77 Koh did not restrict his invocation of law to the jus ad helium. Instead, he asserted the U.S. position that the mission was justified pursuant to the inherent right of self-defense, but also that Bin Laden's killing was lawful pursuant to the jus in bello. Koh properly noted that as a mission executed in the context of the armed conflict with al Qaeda, the LOAC imposed no obligation on U.S. forces to employ minimum necessary force. Instead, Bin Laden's status as an enemy belligerent justified the use of deadly force as a measure of first resort, and Bin Laden bore the burden of manifesting his surrender in order to terminate that authority. Hence, U.S. forces were in no way obligated to attempt to capture Bin Laden before resorting to deadly force.178 A recent statement made by John Brennan, Deputy National Security Advisor for Homeland Security and Counterterrorism, further clarifies the current administration's justification for using deadly force as a first resort against al Qaeda operatives: The United States does not view our authority to use military force against al-Qa'ida as being restricted solely to "hot" battlefields like Afghanistan. Because we are engaged in an armed conflict with al-Qa'ida, the United States takes the legal position that... we have the authority to take action against al-Qa'ida and its associated forces without doing a separate self-defense analysis each time---- This Administration's counterterrorism efforts outside of Afghanistan and Iraq are focused on those individuals who are a threat to the United States, whose removal would cause a significant—even if only temporary—disruption of the plans and capabilities of al-Qa'ida and its associated forces. Practically speaking, then, the question turns principally on how you define "imminence." We are finding increasing recognition in the international community that a more flexible understanding of "imminence" may be appropriate when dealing with terrorist groups, in part because threats posed by non-state actors do not present themselves in the ways that evidenced imminence in more traditional conflicts… Over time, an increasing number of our international counterterrorism partners have begun to recognize that the traditional conception of what constitutes an "imminent" attack should be broadened in light of the modern-day capabilities, techniques, and technological innovations of terrorist organizations.1'9

#### Drone program sustainable – the programs are insulated from domestic and international pressures. Even if they win pressure exists, there will be NO action curtailing the drone program.

Robert Chesney 12, professor at the University of Texas School of Law, nonresident senior fellow of the Brookings Institution, distinguished scholar at the Robert S. Strauss Center for International Security and Law, 8/29/12, “Beyond the Battlefield, Beyond Al Qaeda: The Destabilizing Legal Architecture of Counterterrorism,” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2138623>

This multi-year pattern of cross-branch and cross-party consensus gives the impression that the legal architecture of detention has stabilized at last. But the settlement phenomenon is not limited to detention policy. The same thing has happened, albeit to a lesser extent, in other areas.¶ The military commission prosecution system provides a good example. When the Obama administration came into office, it seemed quite possible, indeed likely, that it would shut down the commissions system. Indeed, the new president promptly ordered all commission proceedings suspended pending a policy review.48 In the end, however, the administration worked with the then Democratic-controlled Congress to pursue a mend-it-don’t-end-it approach culminating in passage of the Military Commissions Act of 2009, which addressed a number of key objections to the statutory framework Congress and the Bush administration had crafted in 2006. In his National Archives address in spring 2009, moreover, President Obama also made clear that he would make use of this system in appropriate cases.49 He has duly done so, notwithstanding his administration’s doomed attempt to prosecute the so-called “9/11 defendants” (especially Khalid Sheikh Mohamed) in civilian courts. Difficult questions continue to surround the commissions system as to particular issues—such as the propriety of charging “material support” offenses for pre-2006 conduct50—but the system as a whole is far more stable today than at any point in the past decade.51¶ There have been strong elements of cross-party continuity between the Bush and Obama administration on an array of other counterterrorism policy questions, including the propriety of using rendition in at least some circumstances and, perhaps most notably, the legality of using lethal force not just in contexts of overt combat deployments but also in areas physically remote from the “hot battlefield.” Indeed, the Obama administration quickly outstripped the Bush administration in terms of the quantity and location of its airstrikes outside of Afghanistan,52 and it also greatly surpassed the Bush administration in its efforts to marshal public defenses of the legality of these actions.53 What’s more, the Obama administration also succeeded in fending off a lawsuit challenging the legality of the drone strike program (in the specific context of Anwar al-Awlaki, an American citizen and member of AQAP known to be on a list of approved targets for the use of deadly force in Yemen who was in fact killed in a drone strike some months later).54¶ The point of all this is not to claim that legal disputes surrounding these counterterrorism policies have effectively ended. Far from it; a steady drumbeat of criticism persists, especially in relation to the use of lethal force via drones. But by the end of the first post-9/11 decade, this criticism no longer seemed likely to spill over in the form of disruptive judicial rulings, newly-restrictive legislation, or significant spikes in diplomatic or domestic political pressure, as had repeatedly occurred in earlier years. Years of law-conscious policy refinement—and quite possibly some degree of public fatigue or inurement when it comes to legal criticisms—had made possible an extended period of cross-branch and cross-party consensus, and this in turn left the impression that the underlying legal architecture had reached a stage of stability that was good enough for the time being.

#### Status quo target vetting is carefully calibrated to avoid every aff impact in balance with CT--- there’s only a risk that restrictions destroy it.

McNeal, Associate Professor of Law, Pepperdine University, ‘13

[Gregory, 3/5/13, “Targeted Killing and Accountability,” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1819583>]

Target vetting is the process by which the government integrates the opinions of subject matter experts from throughout the intelligence community.180 The United States has developed a formal voting process which allows members of agencies from across the government to comment on the validity of the target intelligence and any concerns related to targeting an individual. At a minimum, the vetting considers the following factors: target identification, significance, collateral damage estimates, location issues, impact on the enemy, environmental concerns, and intelligence gain/loss concerns.181 An important part of the analysis also includes assessing the impact of not conducting operations against the target.182 Vetting occurs at multiple points in the kill-list creation process, as targets are progressively refined within particular agencies and at interagency meetings.¶ A validation step follows the vetting step. It is intended to ensure that all proposed targets meet the objectives and criteria outlined in strategic guidance.183 The term strategic is a reference to national level objectives—the assessment is not just whether the strike will succeed tactically (i.e. will it eliminate the targeted individual) but also whether it advances broader national policy goals.184 Accordingly, at this stage there is also a reassessment of whether the killing will comport with domestic legal authorities such as the AUMF or a particular covert action finding.185 At this stage, participants will also resolve whether the agency that will be tasked with the strike has the authority to do so.186 Individuals participating at this stage analyze the mix of military, political, diplomatic, informational, and economic consequences that flow from killing an individual. Other questions addressed at this stage are whether killing an individual will comply with the law of armed conflict, and rules of engagement (including theater specific rules of engagement). Further bolstering the evidence that these are the key questions that the U.S. government asks is the clearly articulated target validation considerations found in military doctrine (and there is little evidence to suggest they are not considered in current operations). Some of the questions asked are:¶ • Is attacking the target lawful? What are the law of war and rules of engagement considerations?¶ • Does the target contribute to the adversary's capability and will to wage war?¶ • Is the target (still) operational? Is it (still) a viable element of a target system? Where is the target located?¶ • Will striking the target arouse political or cultural “sensitivities”?¶ • How will striking the target affect public opinion? (Enemy, friendly, and neutral)?¶ • What is the relative potential for collateral damage or collateral effects, to include casualties?¶ • What psychological impact will operations against the target have on the adversary, friendly forces, or multinational partners?¶ • What would be the impact of not conducting operations against the target?187¶ As the preceding criteria highlight, many of the concerns that critics say should be weighed in the targeted killing process are considered prior to nominating a target for inclusion on a kill-list.188 For example, bureaucrats in the kill-list development process will weigh whether striking a particular individual will improve world standing and whether the strike is worth it in terms of weakening the adversary's power.189 They will analyze the possibility that a strike will adversely affect diplomatic relations, and they will consider whether there would be an intelligence loss that outweighs the value of the target.190 During this process, the intelligence community may also make an estimate regarding the likely success of achieving objectives (e.g. degraded enemy leadership, diminished capacity to conduct certain types of attacks, etc.) associated with the strike. Importantly, they will also consider the risk of blowback (e.g. creating more terrorists as a result of the killing).191

#### Restricting targeted killing as a first resort outside active hostilities collapses counter-terrorism by signaling availability of safe havens and immunity from strikes.

Geoffrey Corn 13, Professor of Law and Presidential Research Professor, South Texas College of Law, 5/16/13, Statement before the Senate Armed Services Committee, CQ Congressional Testimony, lexis

3. What is the geographic scope of the AUMF and under what circumstances may the United States attack belligerent targets in the territory of another country?

In my opinion, there is no need to amend the AUMF to define the geographic scope of military operations it authorizes. On the contrary, I believe doing so would fundamentally undermine the efficacy of U.S. counter-terror military operations by overtly signaling to the enemy exactly where to pursue safe-haven and de facto immunity from the reach of U.S. power. This concern is similar to that associated with explicitly defining co- belligerents subject to the AUMF, although I believe it is substantially more significant. It is an operational and tactical axiom that insurgent and non-state threats rarely seek the proverbial "toe to toe" confrontation with clearly superior military forces. Al Qaeda is no different. Indeed, their attempts to engage in such tactics in the initial phases of Operation Enduring Freedom proved disastrous, and ostensibly caused the dispersion of operational capabilities that then necessitated the co-belligerent assessment. Imposing an arbitrary geographic limitation of the scope of military operations against this threat would therefore be inconsistent with the strategic objective of preventing future terrorist attacks against the United States.¶ I believe much of the momentum for asserting some arbitrary geographic limitation on the scope of operations conducted to disrupt or disable al Qaeda belligerent capabilities is the result of the commonly used term "hot battlefield." This notion of a "hot" battlefield is, in my opinion, an operational and legal fiction. Nothing in the law of armed conflict or military doctrine defines the meaning of "battlefield." Contrary to the erroneous assertions that the use of combat power is restricted to defined geographic locations such as Afghanistan (and previously Iraq), the geographic scope of armed conflict must be dictated by a totality assessment of a variety of factors, ultimately driven by the strategic end state the nation seeks to achieve. The nature and dynamics of the threat -including key vulnerabilities - is a vital factor in this analysis. These threat dynamics properly influence the assessment of enemy capabilities and vulnerabilities, which in turn drive the formulation of national strategy, which includes determining when, where, and how to leverage national power (including military power) to achieve desired operational effects. Thus, threat dynamics, and not some geographic "box", have historically driven and must continue to drive the scope of armed hostilities. The logic of this premise is validated by (in my opinion) the inability to identify an armed conflict in modern history where the scope of operations was legally restricted by a conception of a "hot" battlefield. Instead, threat dynamics coupled with policy, diplomatic considerations and, in certain armed conflicts the international law of neutrality, dictate such scope. Ultimately, battlefields become "hot" when persons, places, or things assessed as lawful military objectives pursuant to the law of armed conflict are subjected to attack.¶ I do not, however, intend to suggest that it is proper to view the entire globe as a battlefield in the military component of our struggle against al Qaeda, or that threat dynamics are the only considerations in assessing the scope of military operations. Instead, complex considerations of policy and diplomacy have and must continue to influence this assessment. However, suggesting that the proper scope of combat operations is dictated by a legal conception of "hot" battlefield is operationally irrational and legally unsound. Accordingly, placing policy limits on the scope of combat operations conducted pursuant to the legal authority provided by the AUMF is both logical and appropriate, and in my view has been a cornerstone of U.S. use of force policy since the enactment of the AUMF. In contrast, interpreting the law of armed conflict to place legal limits on the scope of such operations to "hot" battlefields, or imposing such a legal limitation in the terms of the AUMF, creates a perverse incentive for the belligerent enemy by allowing him to dictate when and where he will be subject to lawful attack.¶ I believe this balance between legal authority and policy and diplomatic considerations is reflected in what is commonly termed the "unable or unwilling" test for assessing when attacking an enemy belligerent capability in the territory of another country is permissible. First, it should be noted that the legality of an attack against an enemy belligerent is determined exclusively by the law of armed conflict when the country where he is located provides consent for such action (is the target lawful within the meaning of the law and will attack of the target comply with the targeting principles of distinction, proportionality and precautions in the attack). In the unusual circumstance where a lawful object of attack associated with al Qaeda and therefore falling within the scope of the AUMF is identified in the territory of another country not providing consent for U.S. military action, policy and diplomacy play a decisive role in the attack decision-making process. Only when the U.S. concludes that the country is unable or unwilling to address the threat will attack be authorized, which presupposes that the nature of the target is determined to be sufficiently significant to warrant a non-consensual military action in that territory. I believe the Executive is best positioned to make these judgments, and that to date they have been made judiciously. I also believe that imposing a statutory scope limitation would vest terrorist belligerent operatives with the benefits of the sovereignty of the state they exploit for sanctuary. It strikes me as far more logical to continue to allow the President to address these sovereignty concerns through diplomacy, focused on the strategic interests of the nation.

#### Our link destroys all their spin about the plan merely codifying current policy---the current approach makes limits on first-resort killings part of the rules of engagement, not a legal restriction on authority---legally codifying them would destroy flexibility

Geoffrey Corn 13, Professor of Law and Presidential Research Professor, South Texas College of Law, 2013, “Geography of Armed Conflict: Why it is a Mistake to Fish for the Red Herring,” International Legal Studies, 89 INT’L L. STUD. 77 (2013)

Ironically, when Professor Gabrielle Blum proposed such a limitation in her article The Dispensable Lives of Soldiers,76 I was quite skeptical. However, my skepticism focused primarily on two considerations. First, her proposal extended to “hot zones”. I remain opposed to such an extension, as I believe it would inject a dangerous dilution of tactical initiative into the ex-ecution of combat operations.77 Second, it was unclear whether Professor Blum was proposing a legal norm, or a policy constraint on permissible legal authority. Once it was clear that we shared opposition to modifying the existing legal authority to attack even an inoffensive enemy belligerent operative (such as an enemy soldier sleeping in a barracks or assembly area or attempting to retreat from an ongoing attack), and that she was in fact proposing consideration of policy limits on that authority, we were much more closely aligned in our views.78¶ This latter aspect of the “capture or kill” debate is critical, and in my opinion, if such a limitation on targeting authority is justified, it must be framed as a policy limit on otherwise lawful authority: a rule of engagement.79 This is because there may be situations, even where these conditions are satisfied, when an attack is justified because of the influence it will produce on enemy leadership and other belligerent operatives. It is this corporate, as opposed to individualized, approach to attack justification that distinguishes targeting belligerent operatives from targeting civilians taking a direct part in hostilities. It therefore requires strictly limiting any “capture or kill” obligation to a policy applique restricting underlying legal authority. In short, even when capture is a completely feasible option to incapacitate an enemy belligerent operative, there still are times when attack is preferred because of the shock effect it will produce on the corporate enemy capability.80

# 2NC

## DA

### OV

#### Disad outweighs the AFF – Senkaku conflict escalation is likely in the status quo. Rising tensions between China and Japan. Only strong signal via the US can delay conflict. Outweighs on timeframe.

#### Iran prolif, North African terrorism and Russian aggression are all other external impacts – I’ll impact them here.

#### Iranian prolif causes extinction.

Shavit 12

[Ari, A senior correspondent at Haaretz Newspaper and a member of its editorial board and writer for the NY Times. Published by the NY Times “The Bomb and the Bomber” March 12 <http://www.nytimes.com/2012/03/22/opinion/the-bomb-and-the-bomber.html>]

*If Iran goes nuclear it will change our world.* An Iranian atom bomb will force Saudi Arabia, Turkey and Egypt to acquire their own atom bombs. Thus a multipolar nuclear arena will be established in the most volatile region on earth. Sooner or later, this unprecedented development will produce a nuclear event. The world we know will cease to be the world we know after Tehran, Riyadh, Cairo or Tel Aviv become the 21st century’s Hiroshima. An Iranian bomb will bring about universal nuclear proliferation. Humanity’s greatest achievement since 1945 was controlling nuclear armament by limiting the number of members in the exclusive nuclear club. This unfair arrangement created a world order that guaranteed relative world peace. But if Iran goes nuclear and the Middle East goes nuclear so will the Third World. If the ayatollahs are allowed to have Robert Oppenheimer’s deadly toy, every emerging power in Asia and Africa will be entitled to have it. The 60-year-old world order that guaranteed world peace will collapse. An Iranian atom bomb will give radical Islam overwhelming influence. Once nuclear, the rising Shiite power will dominate Iraq, the Gulf and international oil prices. It will spread terror, provoke conventional wars and destabilize moderate Arab nations. As Iranian nuclear warheads will jeopardize Israel, they will imperil Europe. For the first time, hundreds of millions of citizens of free societies will live under the shadow of the nuclear might of religious fanatics. The union of ultimate fundamentalism with the ultimate weapon will imbue the world we live in with a hellish undertone. *If Israel strikes Iran it will change our world.* An Israeli attack on Iran’s nuclear facilities will create the most dramatic international crisis of the post-cold war era. As the Jewish state and the Shiite republic exchange blows, the Middle East will be rattled. Tensions will rise between pro-Iranian Russia, China and India and anti-Iranian United States, Britain, France and Germany. As oil prices soar higher (to $250-$300 a barrel), financial markets will panic and the world economy will experience a real setback. An Israeli attack on Iran’s nuclear facilities will unleash a regional war whose consequences might be catastrophic. Iran will strike back with all it has: Hezbollah, Hamas, Shahab missiles, strategic surprises. Iran will block the Strait of Hormuz and call upon all Muslims to come to its rescue. Although most Arab regimes will be secretly supportive of the Israeli operation, the Arab masses might rise. Throughout the world, millions of Muslims will see the attack on Iran as an attack on their own dignity and pride. The religious struggle provoked by the Israeli action might go on for decades. An Israeli attack on Iran’s nuclear facilities might drag the United States into war. Israel has limited air power. Israeli cities are threatened by 200,000 rockets. If an Iranian-led counteroffensive sets Tel Aviv ablaze and kills thousands of Israeli civilians, the U.S. will feel obliged to intervene. Rather than initiate a well-planned and internationally backed American surgical strike on Iran’s nuclear project, America will become captive of an Israeli-Iranian war spiraling out of control. After getting out of the Iraqi mud and while trying to pull out of the Afghan desert, America will be bogged down by a highly charged and highly priced conflict with the Islamic Republic. The pivotal international issue the West has faced in the first 12 years of the 21st century has been Iran. The cardinal strategic challenge of the last decade has been how to prevent two threats: (an Iranian) bomb and (an Israeli) bombing. Yet the West failed to rise to the challenge in time. For years it made every possible mistake. First President George W. Bush focused on Iraq rather than Iran. Then President Barack Obama wasted precious time on idle diplomacy. Britain and France tried their best but the European Union dragged its feet before taking decisive action. The economic sanctions that should have been activated 10 years ago were activated only last year. The crippling sanctions that should have been imposed back in 2005 are yet to be imposed. The assertive-diplomacy track was not seriously pursued when it could have been effective. The creative-political-solution track was never really explored. Western leadership did not endorse a comprehensive, resourceful, consistent and tough third-way-strategy that could prevent Bomb and Bombing. Now we are witnessing a shift. Terrified by the prospect of an imminent Israeli strike, decision makers and opinion leaders in the United States and Europe have Iran on their mind. Last week Tehran was cut off from the SWIFT bank-transfer network. By July, all E.U. nations will stop purchasing Iranian oil. Yet all this is too little too late. Within nine months the Iranians will be immune to an Israeli air strike. By Christmas, Israel will lose the military capability to stop the Shiite bomb. As it will be existentially threatened, the Jewish State will feel obliged to take action. So the summer of 2012 now seems to be the summer of last opportunity. If in the coming months crippling sanctions are not imposed on Iran and Israel doesn’t get substantial guarantees that will ensure its future, anything might happen. All hell might break loose. If the West doesn’t get its act together at this very last moment, it might soon face the dire consequences of its own impotence.

### Block – Drones Specific Cards

#### Congressional control of targeted killing destroys war fighting and turns the case.

Issacharoff and Pildes, ‘13

[Samuel (Reiss Professor of Constitutional Law, New York University School of Law) and Richard (Family Professor of Constitutional Law, New York University School of Law; CoDirector, NYU Program on Law and Security), “Drones and the Dilemma of Modern Warfare,” PUBLIC LAW & LEGAL THEORY RESEARCH PAPER SERIES WORKING PAPER NO. 13-34 Star Chamber=politicized secret court from 15th century England, symbol of abuse]

Procedural Safeguards

As with all use of lethal force, there must be procedures in place to maximize the likelihood of correct identification and minimize risk to innocents. **In the absence of formal legal processes, sophisticated institutional entities engaged in repeated, sensitive actions** – including the military – will **gravitate toward their own internal analogues** to legal process, even **without** the **compulsion or shadow of** formal **judicial review.** This is the role of bureaucratic legalism63 in developing sustained institutional practices, even with the dim shadow of unclear legal commands. **These forms of self-regulation are generated by programmatic needs to enable the entity’s own aims to be accomplished effectively;** at times, that necessity will share an overlapping converge with humanitarian concerns to generate internal protocols or process-like protections that minimize the use of force and its collateral consequences, in contexts in which the use of force itself is otherwise justified. **But because these process-oriented protections are not codified** in statute or reflected in judicial decisions, **they typically are too invisible to draw the eye of constitutional law scholars** who survey these issues from much higher levels of generality. In theory, **such review procedures could be fashioned alternatively as a matter of judicial review** (perhaps following warrant requirements or the security sensitivities of the FISA court), **or accountability to legislative oversight** (using the processes of select committee reporting), or the institutionalization of friction points within the executive branch (as with review by multiple agencies). **Each could serve as a check on the development of unilateral excesses by the executive**. And, presumably, **each could guarantee that internal processes were adhered to and that there be accountability for wanton error.** **The centrality of dynamic targeting** in the active theaters such as the border areas between Afghanistan and Pakistan **make it difficult to integrate legislative or judicial review mechanisms**. Conceivably, **the decision to place an individual on a list for targeting could be a moment for review outside the boundaries of the executive branch**, but even this has its drawback. **Any court engaged in the ex parte review of the decision to execute someone outside the formal mechanisms of crime and punishment risks appearing as** a modern variant of the Star Chamber.64 Similarly, **there are difficulties in forcing a polarized Congress as a whole to assume collective responsibility for decisions of life and death and the incentives have turned out to not to be well aligned to get a subset of Congress**, **such as the intelligence committees, to play this role effectively**.65

#### Statutory resolution undermines TK operations.

Harris, Special Assistant to the President and Senior Director for African Affairs, former Deputy Chief of Staff and Counselor to Susan E. Rice, ‘5

[Grant, 2005, JD candidate at time of publication, The CIA Mandate and the War on Terror,” Yale Law & Policy Review Vol. 23:529, 2005]

Legislative reconsideration of the CIA mandate is not without risk. There may be benefits to retaining a certain level of ambiguity (more often cast as "flexibility" by supporters of this argument) in the language of the National [\*569] Security Act. According to the IC21 Commission: "There is no need to further clarify the National Security Act of 1947, as amended, or the subsequent Executive Orders" because "there is a flexibility in these laws that permits a reasonable, but well-bounded, range of interpretation that will allow for improved cooperation and coordination between law enforcement and intelligence without blurring important demarcations between the missions and authorities of the two communities." n213 Yet this IC21 recommendation predated September 11 by five years, and the fight against terrorism (as well as other post-Cold War national security priorities) is making such "important demarcations" increasingly difficult to discern. n214 Furthermore, the IC21 Commission conceded that one of the outcomes of the intelligence scandals of the 1970s was a sometimes overly conservative approach toward cooperation between the law enforcement and intelligence communities. n215 Additionally, this "range of interpretation" in the CIA mandate led to interpretations of convenience in the Cold War and leaves us more vulnerable to abuse. n216¶ Clarification of the CIA mandate could be "overlawyered" and therefore reduce the effectiveness of cooperation between intelligence and law enforcement. A similar result occurred in the aftermath of two banking scandals in the 1980s involving Bank of Credit and Commerce International (BCCI) and Banca Nazionale del Lavoro (BNL). The BCCI and BNL scandals resulted largely from problems in the sharing and management of information between the CIA and law enforcement officials. n217 In the early 1990s, a high-level interagency task force produced recommendations to improve communication between intelligence and law enforcement and created several interagency working groups, including the Joint Task Force on Intelligence and Law Enforcement (JICLE), to further develop those recommendations. JICLE produced memoranda of understanding in the wake of the banking scandals but, according to Jeffrey Smith, General Counsel of the CIA at the time, the JICLE process had "overlawyered it" and "the product was going to "gum up the works' and make cooperation [between intelligence and law enforcement] more difficult." n218 Statutory revision could similarly open the door to overregulation [\*570] or hamper cooperation between law enforcement and intelligence if not done correctly.

### Link

#### Restricting targeted killing as a first resort establishes a requirement that the U.S. offer opportunities for surrender before targeting

Laurie R. Blank 12, Director, International Humanitarian Law Clinic, Emory Law School, 2012, “NATIONAL SECURITY: PART II: ARTICLE: TARGETED STRIKES: THE CONSEQUENCES OF BLURRING THE ARMED CONFLICT AND SELF-DEFENSE JUSTIFICATIONS,” William Mitchell Law Review, 38 Wm. Mitchell L. Rev. 1655

In the immediate aftermath of the May 1, 2011 raid that killed Osama bin Laden, one issue that dominated news stories and blogs for several days was the question of whether the Navy Seals executing the mission were obligated to attempt to capture bin Laden before killing him and, as a subsidiary question, whether bin Laden attempted to surrender before he was killed. n92 This issue highlights the distinction between the armed conflict and self-defense regimes and the dangers of conflating them most directly.¶ Under the LOAC, an individual who is a legitimate target can be targeted with deadly force as a first resort. Once an individual is hors de combat, either through injury, sickness or capture, he or she may not be attacked. n93 Furthermore, the LOAC outlaws any [\*1684] denial of quarter. n94 Indeed, killing or wounding an enemy fighter who has laid down his arms and surrendered is a war crime under Article 8(2)(b)(vi) of the Rome Statute of the International Criminal Court. n95 The prohibition on killing or harming detained persons, whether prisoners of war or other detainees, does not extend to an obligation to seek to capture before killing, however. Rather, "combatants and civilians directly participating in the hostilities must be hors de combat ... before an obligation to capture attaches." n96 Thus, while combatants must not attack persons who have surrendered (technically there is no obligation to actually capture persons who surrender; the law prohibits attacking persons who have surrendered), they have no obligation to offer opportunities for surrender. n97 As one scholar has explained, ¶ Once an armed conflict exists, it is not incumbent on the army of the one party to inquire whether members of a military unit of the other party wish to surrender before attacking it. The onus is on the party that wishes to surrender and thereby prevent attack to make this clear. n98 ¶ At the heart of the matter, therefore, the legal issue centers on a clear expression of the intent to surrender. n99 Surrender must be [\*1685] accepted but need not be solicited. By all accounts, for example, this appeared to be the rules of engagement for the bin Laden raid. According to then-CIA director Leon Panetta's explanation, ¶ The authority here was to kill bin Laden. And obviously, under the rules of engagement, if he had in fact thrown up his hands, surrendered and didn't appear to be representing any kind of threat, then they were to capture him. But they had full authority to kill him. n100 ¶ In contrast, human rights law's requirement that force only be used as a last resort when absolutely necessary for the protection of innocent victims of an attack creates an obligation to attempt to capture a suspected terrorist before any lethal targeting. n101 A state using force in self-defense against a terrorist cannot therefore target him or her as a first resort but can only do so if there are no alternatives - meaning that an offer of surrender or an attempt at capture has been made or is entirely unfeasible in the circumstances. Thus, if non-forceful measures can foil the terrorist attack without the use of deadly force, then the state may not use force in self-defense. n102 The supremacy of the right to life means that "even the most dangerous individual must be captured, rather than killed, so long as it is practically feasible to do so, bearing in mind all of the circumstances." n103 No more, this obligation to capture first rather than kill is not dependent on the target's efforts to surrender; the obligation actually works the other way: the forces [\*1686] may not use deadly force except if absolutely necessary to protect themselves or innocent persons from immediate danger, that is, self-defense or defense of others. As with any law enforcement operation, "the intended result ... is the arrest of the suspect," n104 and therefore every attempt must be made to capture before resorting to lethal force.

### UQ

#### Obama signaling US strength – UN speech proves – no Syria thumper

Zogby 9/30 – President, Arab American Institute

Dr James J Zogby, “A good week for diplomacy”, <http://www.gulf-daily-news.com/NewsDetails.aspx?storyid=362077>

By any measure, last week was a big one for diplomacy at the United Nations. On Tuesday, President Obama set the tone for the week delivering an important and potentially far-reaching speech before the General Assembly. In his remarks, he reflected on the challenges America faces in attempting to protect its core interests and project its values in a rapidly changing world.¶ It was a humble speech: that recognised that force cannot always advance progress in democratisation; that we live in a world of "imperfect choices" and "unintended consequences" which must always be factored into any discussion of the use of force; and that after more than a decade or war, Americans have developed a "hard earned humility" regarding foreign interventions.¶ Obama acknowledges all this, noting that although "we've worked to end a decade of war", his Administration must still contend with the mess left behind by the mindset of "perpetual war"- specifically citing the controversies emanating from the failure to close Guantanamo, the continuing use of drones, and the NSA's intrusive electronic spying programme.¶ The speech, however, was not a pacifist manifesto since President Obama acknowledged that even with these complicating considerations, there were times when America would need to act in defence of its core interests, or to stop a humanitarian catastrophe. And there would be times when the "credible threat of force" might be required to transform a situation or avert a crisis.¶ And there was no suggestion that America was withdrawing from the world or the Middle East. More than one half of the speech was focused on his commitment to the region - focusing on: the need to end the slaughter in Syria; a way to engage Iran; resolving the Israeli-Palestinian conflict; and continuing US support for Egypt.¶ But there was more to the week than a speech. Throughout the past several days the US and Iran flirted with each other, sending repeated positive signals about their commitment to turn a page to work to address concerns relating to Iran's nuclear programme. The P5+1 meeting ended on a positive note, with all sides acknowledging a change in tone and the promise of more constructive talks in the future. Then came the news of a late-Friday surprise phone call between Presidents Obama and Rouhani in which it was reported that the two leaders agreed to focus their efforts on not only the nuclear issue, but on other regional matters - most notably achieving a negotiated settlement to the conflict in Syria.¶ There was also news about progress on a Security Council resolution on Syria that would press the Syrian government to comply with the agreement to surrender their chemical weapons' stockpile. The US and its allies may have wanted the resolution to be tougher and to say and do more to punish the Assad regime. But given the realities of the Council, the fact that a consensus was reached that may hasten the removal of chemical weapons is itself important.¶ There were critics who responded in full force. The President's speech was denounced as a muddled celebration of weakness, and a surrender of leadership. The Security Council resolution on Syria was dismissed as toothless. The outreach to Iran was derided as dangerous. And there were those who suggested that credit for the week should not go to Obama, but to President Putin and President Rouhani.¶ But the critics were wrong. It was smart for the President to recognise and seize on openings when they occur. Credit, of course, must be given to the Iranian and Russian leaders. But there can be no denying that Obama, by not behaving as George Bush might have: was able to wring the best out of what was a bad situation; replace hollow boasting and absolutist proclamations with a commitment to dialogue based on mutual respect; and put us on the path to the resolution of some (not all) problems, without risking involvement in a new war.

#### Past decisions don’t matter – they did not decide on the right to indefinitely detain.

Devins 10 (Neal, Goodrich Professor of Law and Professor of Government, College of William & Mary,“Talk Loudly and Carry a Small Stick: The Supreme Court and Enemy Combatants”, Journal of Constitutional Law, Vol. 12, No. 2, February 2010, RSR]

For much the same reason, the Court understood that its decision posed few national security risks. The Court said nothing about the President's power to indefinitely detain enemy combatants, nor did the Court detail how habeas proceedings were to be conducted. 62 The Court, moreover, said nothing about the availability of habeas corpus by enemy combatants held outside U.S. soil or at facilities (like Guant~namo) that were under the control of the United States. 63 Assuming that the next administration would close GuantAnamo, the decision would only impact governmental practices for a short time.1 More than that, the Court had been told by the Bush administration that "any reopening of the prisoners' right to habeas would not be swift, but would face a variety of 'fundamental and unprecedented issues' complicating that process.' ' 65 In other words, the Court understood that the Bush administration would do everything in its power to slow down the release of enemy combatants during its final months in office. 166 For all these reasons, Boumediene should not be seen as an attempt by the Court to meaningfully transform U.S. policy towards enemy combatants (a decision that might risk national security or prompt an elected government backlash). Instead, Boumediene principally served as a vehicle for the Court to make strong symbolic statements about the judicial power to "say what the law is" and, correspondingly, the necessity of the political branches to respect the centrality of habeas corpus limits on governmental power.

### Spillover

#### Flexibility is key to hegemony – that’s 1NC Bolton. Weakness in our foreign policy invites challengers and makes countries question our resolve. Indecisiveness by the president and weakness triggers a rapid decline in our ability to protect our global interests.

#### Restrictions establish visible impediments that prevents the development of credible threats.

Matthew Waxman 8/25/13, Professor of Law @ Columbia and Adjunct Senior Fellow for Law and Foreign Policy @ CFR, “The Constitutional Power to Threaten War,” Forthcoming in Yale Law Journal, vol. 123, August 25, 2013, SSRN

A claim previously advanced from a presidentialist perspective is that stronger legislative checks on war powers is harmful to coercive and deterrent strategies, because it establishes easily-visible impediments to the President’s authority to follow through on threats. This was a common policy argument during the War Powers Resolution debates in the early 1970s. Eugene Rostow, an advocate inside and outside the government for executive primacy, remarked during consideration of legislative drafts that any serious restrictions on presidential use of force would mean in practice that “no President could make a credible threat to use force as an instrument of deterrent diplomacy, even to head off explosive confrontations.”178 He continued:¶ In the tense and cautious diplomacy of our present relations with the Soviet Union, as they have developed over the last twenty-five years, the authority of the President to set clear and silent limits in advance is perhaps the most important of all the powers in our constitutional armory to prevent confrontations that could carry nuclear implications. … [I]t is the diplomatic power the President needs most under the circumstance of modern life—the power to make a credible threat to use force in order to prevent a confrontation which might escalate.179

### Heg Impact XT

#### Heg solves nuclear war – that’s 1NC Barnett. The US military has ushered in great peace by introducing globalization, democracy, doubling life expectancy, improving the global GDP and reducing state based conflict.

#### Every academic discipline confirms the centrality of hegemony as a guarantor of peace.

**Wohlforth 9** [Professor of government @ Dartmouth College. [[William C. Wohlforth](http://muse.jhu.edu/journals/world_politics/v061/61.1.wohlforth.html#back), “Unipolarity, Status Competition, and Great Power War,” World Politics, Volume 61, Number 1, January 2009]

Second, **I question the dominant view that status quo evaluations are relatively independent of the distribution of capabilities**. **If the status of states depends** in some measure **on** their **relative capabilities**, and if states derive utility from status, **then different distributions of capabilities** may **affect** levels of **satisfaction**, just as different income distributions may affect levels of status competition in domestic settings. [6](http://muse.jhu.edu/journals/world_politics/v061/61.1.wohlforth.html#f6) **Building on research in psychology and sociology**, **I argue that even capabilities distributions among major powers foster ambiguous status hierarchies, which generate** more **dissatisfaction and clashes** over the status quo. And the more stratified the distribution of capabilities, the less likely such status competition is. **Unipolarity thus generates far fewer** **incentives** than either bipolarity or multipolarity **for direct great power positional competition** over status. Elites in the other major powers continue to prefer higher status, but in a unipolar system they face comparatively weak incentives to translate that preference into costly action. And the absence of such incentives matters because **social status is a positional good—something whose value depends on how much one has in relation to others**.[7](http://muse.jhu.edu/journals/world_politics/v061/61.1.wohlforth.html#f7) “**If everyone has high status**,” Randall Schweller notes, “**no one does**.”[8](http://muse.jhu.edu/journals/world_politics/v061/61.1.wohlforth.html#f8) While one actor might increase its status, all cannot simultaneously do so. **High status is thus inherently scarce, and competitions for status tend to be zero sum**.[9](http://muse.jhu.edu/journals/world_politics/v061/61.1.wohlforth.html#f9) I begin by describing the puzzles facing predominant theories that status competition might solve. **Building on recent research on social identity and status seeking, I** then **show that** under certain conditions **the ways decision makers identify with the states they represent may prompt them to frame issues as positional disputes over status in a social hierarchy**. I develop hypotheses that tailor this scholarship to the domain of great power politics, showing how **the probability of status competition is likely to be linked to polarity**. The rest of the article investigates whether there is sufficient evidence for these hypotheses to warrant further refinement and testing. I pursue this in three ways: by showing that **the theory advanced here is consistent with** what we know about **large-scale patterns of great power conflict through history**; by [End Page 30] demonstrating that the causal mechanisms it identifies did drive relatively secure major powers to military conflict in the past (and therefore that they might do so again if the world were bipolar or multipolar); and by showing that observable evidence concerning the major powers’ identity politics and grand strategies under unipolarity are consistent with the theory’s expectations. Puzzles of Power and War Recent research on the connection between the distribution of capabilities and war has concentrated on a hypothesis long central to systemic theories of power transition or hegemonic stability: that **major war arises out of a power shift in favor of a rising state dissatisfied with a status quo defended by a declining satisfied state**.[10](http://muse.jhu.edu/journals/world_politics/v061/61.1.wohlforth.html#f10) Though they have garnered substantial empirical support, these theories have yet to solve two intertwined empirical and theoretical puzzles—each of which might be explained by positional concerns for status. First, if the material costs and benefits of a given status quo are what matters, why would a state be dissatisfied with the very status quo that had abetted its rise? The rise of China today naturally prompts this question, but it is hardly a novel situation. Most of the best known and most consequential power transitions in history featured rising challengers that were prospering mightily under the status quo. In case after case, historians argue that these revisionist powers sought recognition and standing rather than specific alterations to the existing rules and practices that constituted the order of the day. In each paradigmatic case of hegemonic war, the claims of the rising power are hard to reduce to instrumental adjustment of the status quo. In R. Ned Lebow’s reading, for example, Thucydides’ account tells us that the rise of Athens posed unacceptable threats not to the security or welfare of Sparta but rather to its identity as leader of the Greek world, which was an important cause of the Spartan assembly’s vote for war.[11](http://muse.jhu.edu/journals/world_politics/v061/61.1.wohlforth.html#f11) The issues that inspired Louis XIV’s and Napoleon’s dissatisfaction with the status quo were many and varied, but most accounts accord [End Page 31] independent importance to the drive for a position of unparalleled primacy. In these and other hegemonic struggles among leading states in post-Westphalian Europe, the rising challenger’s dissatisfaction is often difficult to connect to the material costs and benefits of the status quo, and much contemporary evidence revolves around issues of recognition and status.[12](http://muse.jhu.edu/journals/world_politics/v061/61.1.wohlforth.html#f12) Wilhemine Germany is a fateful case in point. As Paul Kennedy has argued, underlying material trends as of 1914 were set to propel Germany’s continued rise indefinitely, so long as Europe remained at peace.[13](http://muse.jhu.edu/journals/world_politics/v061/61.1.wohlforth.html#f13) Yet Germany chafed under the very status quo that abetted this rise and its elite focused resentment on its chief trading partner—the great power that presented the least plausible threat to its security: Great Britain. At fantastic cost, it built a battleship fleet with no plausible strategic purpose other than to stake a claim on global power status.[14](http://muse.jhu.edu/journals/world_politics/v061/61.1.wohlforth.html#f14) Recent historical studies present strong evidence that, far from fearing attacks from Russia and France, German leaders sought to provoke them, knowing that this would lead to a long, expensive, and sanguinary war that Britain was certain to join.[15](http://muse.jhu.edu/journals/world_politics/v061/61.1.wohlforth.html#f15) And of all the motivations swirling round these momentous decisions, no serious historical account fails to register German leaders’ oft-expressed yearning for “a place in the sun.” The second puzzle is bargaining failure. Hegemonic theories tend to model war as a conflict over the status quo without specifying precisely what the status quo is and what flows of benefits it provides to states.[16](http://muse.jhu.edu/journals/world_politics/v061/61.1.wohlforth.html#f16) Scholars generally follow Robert Gilpin in positing that the underlying issue concerns a “desire to redraft the rules by which relations among nations work,” “the nature and governance of the system,” and “the distribution of territory among the states in the system.”[17](http://muse.jhu.edu/journals/world_politics/v061/61.1.wohlforth.html#f17) If these are the [End Page 32] issues at stake, then systemic theories of hegemonic war and power transition confront the puzzle brought to the fore in a seminal article by James Fearon: what prevents states from striking a bargain that avoids the costs of war? [18](http://muse.jhu.edu/journals/world_politics/v061/61.1.wohlforth.html#f18) Why can’t states renegotiate the international order as underlying capabilities distributions shift their relative bargaining power? Fearon proposed that one answer consistent with strict rational choice assumptions is that such bargains are infeasible when the issue at stake is indivisible and cannot readily be portioned out to each side. **Most aspects of a given international order are readily divisible**, however, and, as Fearon stressed, “both the intrinsic complexity and richness of most matters over which states negotiate and the availability of linkages and side-payments suggest that intermediate bargains typically will exist.”[19](http://muse.jhu.edu/journals/world_politics/v061/61.1.wohlforth.html#f19) Thus, most scholars have assumed that the indivisibility problem is trivial, focusing on two other rational choice explanations for bargaining failure: uncertainty and the commitment problem.[20](http://muse.jhu.edu/journals/world_politics/v061/61.1.wohlforth.html#f20) In the view of many scholars, it is these problems, rather than indivisibility, that likely explain leaders’ inability to avail themselves of such intermediate bargains. Yet **recent research inspired by constructivism shows how issues that are physically divisible can become socially indivisible, depending on how they relate to the identities of decision makers**.[21](http://muse.jhu.edu/journals/world_politics/v061/61.1.wohlforth.html#f21) **Once issues** surrounding the status quo **are framed in positional terms as bearing on the disputants’ relative standing, then**, to the extent that they value their standing itself, **they may be unwilling to pursue intermediate bargaining solutions**. **Once linked to status, easily divisible issues** that theoretically provide opportunities for linkages and side payments of various sorts **may** themselves **be** seen as indivisible and thus **unavailable as avenues for** possible intermediate **bargains**. **The historical record surrounding major wars is rich with evidence suggesting that positional concerns over status frustrate bargaining**: expensive, **protracted conflict over** what appear to be **minor issues**; a propensity on the part of **decision makers** to **frame issues in terms of relative rank even when doing so makes bargaining harder**; **decision-makers’** [End Page 33] **inability to accept feasible divisions** of the matter in dispute **even when failing to do so imposes high costs**; demands on the part of states for observable evidence to confirm their estimate of an improved position in the hierarchy; **the inability** of private bargains **to resolve issues**; a frequently observed compulsion for the public attainment of concessions from a higher ranked state; and **stubborn resistance** on the part of states to which such demands are addressed **even when acquiescence entails limited material cost**. The literature on bargaining failure in the context of power shifts remains inconclusive, and it is premature to take any empirical pattern as necessarily probative. Indeed, Robert Powell has recently proposed that indivisibility is not a rationalistic explanation for war after all: fully rational leaders with perfect information should prefer to settle a dispute over an indivisible issue by resorting to a lottery rather than a war certain to destroy some of the goods in dispute. What might prevent such bargaining solutions is not indivisibility itself, he argues, but rather the parties’ inability to commit to abide by any agreement in the future if they expect their relative capabilities to continue to shift.[22](http://muse.jhu.edu/journals/world_politics/v061/61.1.wohlforth.html#f22) This is the credible commitment problem to which many theorists are now turning their attention. But how it relates to the information problem that until recently dominated the formal literature remains to be seen.[23](http://muse.jhu.edu/journals/world_politics/v061/61.1.wohlforth.html#f23) The larger point is that positional concerns for status may help account for the puzzle of bargaining failure. In the rational choice bargaining literature, war is puzzling because it destroys some of the benefits or flows of benefits in dispute between the bargainers, who would be better off dividing the spoils without war. Yet what happens to these models if what matters for states is less the flows of material benefits themselves than their implications for relative status? The salience of this question depends on the relative importance of positional concern for status among states. Do Great Powers Care about Status? **Mainstream theories generally posit that states come to blows** over an international status quo **only when it has implications for their security** or material well-being. The guiding assumption is that a state’s satisfaction [End Page 34] with its place in the existing order is a function of the material costs and benefits implied by that status.[24](http://muse.jhu.edu/journals/world_politics/v061/61.1.wohlforth.html#f24) By that assumption, once a state’s status in an international order ceases to affect its material wellbeing, its relative standing will have no bearing on decisions for war or peace. **But the assumption is undermined by cumulative research in disciplines ranging from neuroscience** and **evolutionary biology** to **economics, anthropology, sociology, and psychology that human beings are powerfully motivated by the desire for favorable social status comparisons**. **This research suggests that the preference for status is a basic disposition rather than merely a strategy for attaining other goals**.[25](http://muse.jhu.edu/journals/world_politics/v061/61.1.wohlforth.html#f25) **People often seek tangibles** not so much because of the welfare or security they bring but because of the social status they confer. Under certain conditions, **the search for status will cause people to behave in ways that directly contradict their material interest in security and**/or **prosperity**. Pg. 33-35//1ac

## Terrorism Advantage

### UQ

#### Obama’s retooled drone policy is already the best of both worlds – we’ll keep drones but we’ve started an international signal of regulation

Ratnesar 5-23 (Ramesh, Deputy Editor of Bloomberg Businessweek, Five Reasons Why Drones Are Here to Stay, http://www.businessweek.com/articles/2013-05-23/five-reasons-why-drones-are-here-to-stay#p2)

In his much-lauded speech on counterterrorism at the National Defense University, President Obama sought to draw limits on U.S. use of unmanned aerial vehicles, or drones, to target terrorists. The administration has announced plans to shift responsibility for the drone program from the CIA to the Pentagon and require that drones be used only against those who pose an imminent threat to the country. In his speech, Obama signaled an openness to the creation of a special court that would oversee future drone operations. He suggested that the number of drone strikes will drop in the “Afghan war theater”—which includes the tribal areas of Pakistan, where the vast majority of strikes have taken place (as illustrated in this comprehensive map by my colleagues at Bloomberg Businessweek.) According to Obama, the withdrawal of U.S. troops in 2014 and “the progress we have made against core al Qaeda will reduce the need for unmanned strikes.”¶ There’s some reason to believe, then, that the drone campaign will slow down considerably during Obama’s second term. But it’s far too soon to herald the end of the drone war. Fiscal constraints, strategic realities, and tactical considerations—some of which Obama highlighted during his speech—mean that drones will remain a central feature of U.S. counterterrorism policies for years to come. Here are five reasons why flying robots are here to stay:

### A2: Battlefield Definition Now

#### Uniqueness---there’s currently no legal consensus over how to define the battlefield in the war on terror---but clearly conflict takes place outside traditional battlefields

Laurie R. Blank 10, Director, International Humanitarian Law Clinic, Emory Law School, 9/16/10, “DEFINING THE BATTLEFIELD IN CONTEMPORARY CONFLICT AND COUNTERTERRORISM: UNDERSTANDING THE PARAMETERS OF THE ZONE OF COMBAT,” Georgia Journal of International and Comparative Law, Vol. 39, No. 1, 2010, <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1677965>

The English language and traditional military discourse contain numerous terms to describe wartime areas. A battlefield is “a place where a battle is fought”; a combat area is a military area where combat forces operate.1 A theater of operations is a region in which active combat operations are in progress, and a theater of war refers to “the entire land, sea, and air area that is or may become involved directly in war operations.”2 These common terms provide generally clear descriptions of physical areas during traditional armed conflicts. United States Civil War enthusiasts thus visit battlefields at Antietam, Gettysburg, Chancellorsville, and elsewhere. World War II historians have the beaches at Normandy. We can identify the major battles of the Vietnam War, Operation Desert Storm, and even Operation Iraqi Freedom. Moreover, with the exception of the second Gulf War, we can also identify—often to the day—when each of these conflicts began and ended. We cannot say the same for the current struggle against terrorism, often called the “global war on terror.” Many contemporary conflicts, in which states fight against non-state actors and terrorist groups unbounded by sovereign territorial boundaries and preferring tactics aimed at civilians often far from any traditionally understood battlefield,3 can easily confound attempts to use these existing terms effectively. In particular, the present conflict between the United States and al Qaeda and affiliated terrorist groups poses significant yet seemingly fundamental questions about not only the law applicable to operations against terrorists but also about where the conflict is taking place and where that law applies. Beyond the obvious areas of Afghanistan, Iraq, and the border areas of Pakistan, there is, at present, little agreement on where the battlefield is—i.e., where this conflict is taking place—and an equal measure of uncertainty regarding when it started and how it might end. “A war against groups of transnational terrorists, by its very nature, lacks a well-delineated timeline or a traditional battlefield context . . . .”4 In addition to the clear political challenges these uncertainties produce, they also lead to complex legal conundrums regarding the application of the law to military and counterterrorism operations.

### Link

#### The current approach makes limits on first-resort killings part of the rules of engagement, not a legal restriction on authority---legally codifying them would destroy flexibility

Geoffrey Corn 13, Professor of Law and Presidential Research Professor, South Texas College of Law, 2013, “Geography of Armed Conflict: Why it is a Mistake to Fish for the Red Herring,” International Legal Studies, 89 INT’L L. STUD. 77 (2013)

Ironically, when Professor Gabrielle Blum proposed such a limitation in her article The Dispensable Lives of Soldiers,76 I was quite skeptical. However, my skepticism focused primarily on two considerations. First, her proposal extended to “hot zones”. I remain opposed to such an extension, as I believe it would inject a dangerous dilution of tactical initiative into the ex-ecution of combat operations.77 Second, it was unclear whether Professor Blum was proposing a legal norm, or a policy constraint on permissible legal authority. Once it was clear that we shared opposition to modifying the existing legal authority to attack even an inoffensive enemy belligerent operative (such as an enemy soldier sleeping in a barracks or assembly area or attempting to retreat from an ongoing attack), and that she was in fact proposing consideration of policy limits on that authority, we were much more closely aligned in our views.78¶ This latter aspect of the “capture or kill” debate is critical, and in my opinion, if such a limitation on targeting authority is justified, it must be framed as a policy limit on otherwise lawful authority: a rule of engagement.79 This is because there may be situations, even where these conditions are satisfied, when an attack is justified because of the influence it will produce on enemy leadership and other belligerent operatives. It is this corporate, as opposed to individualized, approach to attack justification that distinguishes targeting belligerent operatives from targeting civilians taking a direct part in hostilities. It therefore requires strictly limiting any “capture or kill” obligation to a policy applique restricting underlying legal authority. In short, even when capture is a completely feasible option to incapacitate an enemy belligerent operative, there still are times when attack is preferred because of the shock effect it will produce on the corporate enemy capability.80

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## Addon

### A2: They Solve Heg

#### Ability to act outweighs any of their cred turns.

TR 9—Air Force Academy graduate. Master’s in Unconventional Warfare, American Military U. Co-founder of The PULSE Review (The Realist, Why We Are Called the Paper Tiger, 7 June 2009, http://pulsereview.com/?p=1111)

What we perceive is what we believe. When other nations perceive that America will not act in its interests, they perceive us as a paper tiger. The reader may note that the “Paper Tiger” rhetoric has been absent as of late. After all, other nations perceived us conquering one country, sustaining operations in another, and persuading several other countries to sit down and play nice. Whatever other nations consider us, a paper tiger is not one of them currently. We built our credibility by doing what we said we would do. Credibility, is the lynch pin of international relations. It creates the difference between diplomatic lip service and statements that actually effect change. Some nations have a great deal of credibility - there is little doubt they will do what they threaten. The Chinese are an example of this, as was the former Soviet Union. Other nations vary in credibility. As Americans, we have seen our national credibility oscillate wildly. No matter what our credibility is, America sustains a very strong ability to project power. Other nations understand that our credibility is a function of our will, and our will shifts. These shifts in will to enforce our decisions create credibility issues. North Korea is a credibility issue, as is Iran. Both nations routinely ignore international declarations in ostentatious ways, like launching missiles, or stating they plan to become nuclear powers. Most nations break international law in one way or another. Some do it fairly overtly, such as the Chinese claiming exorbitant swaths of sea lanes as their territory. Still others are mostly suspected of breaking the law through assassinations or other nefarious acts. When the international community, and America, tell a country not to do something, and don’t back their words with actions, credibility is lost. Any parent, schoolteacher, drill sergeant, or leader of any sort clearly understands the issue. No repercussions equates to tacit acceptance of the actions. A clear failure of actions to follow words undermines the credibility of the words. When words fail, actions tend to become necessary. This is the innate reason that words must carry weight. It is far better to deter a nation from doing something, than to revert to the use force to stop that nation further down the path. Pay now, or pay later, with interest. This applies to credit cards, education, physical fitness, and international affairs. When America says “Stop, or I will stop you” if the words do not stop the nation, America will have to act to protect its interests, potentially at a greater cost, later. It is better to stop something with words than with actions, for words are far cheaper. Words are cheap, but their credibility is bought with blood and treasure. When a nation maintains the credibility of its words, the long term cost is less. North Korea is a case in point. The international community has gotten to the point where maintaining the dysfunctional regime is preferable to ending it. If North Korea destabilizes (pretend with me that it is stable for the moment), the South will be in dire peril. Between the military and economic consequences, the South will potentially be destabilized itself. Millions of refugees with nothing more than the clothes on their back, malnourished, uneducated, and in need of a great deal of care, will come South - assuming South Korea can even take care of itself in the aftermath of potential armed conflict. The reason we don’t act now is the hope that North Korea will somehow get better, or the desire to let it be someone else’s problem. Hope is neither a plan nor a strategy. Passing the buck is not a legitimate strategy either. In the bitter, unfortunate end, North Korea must either become a legitimate state, or meet the end of illegitimate states. The question is, how much harm will North Korea inflict on the world beforehand? Paper Tigers and fallen nations go hand in hand. When other nations, or non-state actors (Bin Laden) perceive America as a Paper Tiger, they end up provoking America beyond endurance, and reap what they sow a thousand fold. As Americans, we end up paying far more than we should due to the wild oscillation of credibility we routinely engage in. If we don’t want other nations to perceive us as paper tigers and act accordingly, we have to maintain our credibility. It is better for everyone involved — especially us.

#### Restrictions establish visible impediments that prevents the development of credible threats.

Matthew Waxman 8/25/13, Professor of Law @ Columbia and Adjunct Senior Fellow for Law and Foreign Policy @ CFR, “The Constitutional Power to Threaten War,” Forthcoming in Yale Law Journal, vol. 123, August 25, 2013, SSRN

A claim previously advanced from a presidentialist perspective is that stronger legislative checks on war powers is harmful to coercive and deterrent strategies, because it establishes easily-visible impediments to the President’s authority to follow through on threats. This was a common policy argument during the War Powers Resolution debates in the early 1970s. Eugene Rostow, an advocate inside and outside the government for executive primacy, remarked during consideration of legislative drafts that any serious restrictions on presidential use of force would mean in practice that “no President could make a credible threat to use force as an instrument of deterrent diplomacy, even to head off explosive confrontations.”178 He continued:¶ In the tense and cautious diplomacy of our present relations with the Soviet Union, as they have developed over the last twenty-five years, the authority of the President to set clear and silent limits in advance is perhaps the most important of all the powers in our constitutional armory to prevent confrontations that could carry nuclear implications. … [I]t is the diplomatic power the President needs most under the circumstance of modern life—the power to make a credible threat to use force in order to prevent a confrontation which might escalate.179

#### Empirically proven

David Mervin 2k, reader in politics at the University of Warwick, “The Law: Controversy: Demise of the War Clause,” Presidential Studies Quarterly, http://drworley.org/NSPcommon/War%20Powers/Journal%20Articles/PSQ%202000,12%20Mervin%20demise%20war%20clause.pdf

The Yugoslavia case, however, also provides powerful support for those who question whether it is appropriate for Congress to be the ultimate authority in national security policy making. In a series of votes, during the course of three weeks, the national legislature sent an extraordinary mixture of messages casting grave doubt on where the United States stood with regard to one of the greatest crises of modern times. Thus, the House rejected by a vote of 427 to 2 a measure to formally declare war on Yugoslavia. On the other hand, a proposal to bring all U.S. forces home was defeated 290 to 139. A House resolution to give retrospective approval to air strikes already under way failed to pass, the result of the vote being a 213 to 213 tie (CNN 1999). The Senate by contrast voted to approve the air strikes but shortly afterward declined to pass a resolution authorizing Clinton to use “all necessary force” in the conflict. Subsequently, the House did what one reporter described as “a full back flip” by voting to approve special appropriations for the military twice as large as Clinton had requested (Gugliotta 1999).¶ The behavior of legislators in the face of this crisis was understandably the subject of scornful comment from the White House. Joe Lockhart, Clinton’s press secretary, said at a press briefing,¶ The House yesterday voted not to move forward, not to pull back, tied on what we’re doing. The only thing they seem able to agree on is to try to double the money we spend on a policy they’re not sure what they think about. If we were worried about sending mixed signals, I don’t imagine we should be because I don’t think anyone can comprehend the signal they sent. (CNN 1999)¶ The Kosovo case did little for the credibility of Congress as a foreign policy maker. Confronted by a major crisis, the legislature proved incapable of agreeing on a consistent, constructive, coherent policy. There was nothing unusual about this; coherence has never been one of Congress’ strong suits and is never likely to be given the weakness of parties and the centrifugal structure of power in Congress. There is also no guarantee of coherence in the executive branch, but the chances of achieving coherence there are infinitely greater.

## Terrorism Adv

#### Intel sharing is sustainable

NYT, 1/30/’13

(“Drone Strike Prompts Suit, Raising Fears for U.S. Allies”)

The issue is more complex than drone-strike foes suggest, the current and former officials said, and is based on decades of cooperation rather than a shadowy pact for the United States to do the world’s dirty work. The arrangements for intensive intelligence sharing by Western allies go back to World War II, said Richard Aldrich, professor of international security at the University of Warwick, when the United States, Canada, Britain, Australia and New Zealand agreed to continue to collaborate. “There’s a very high volume of intelligence shared, some of which is collected automatically, so it’s impossible to track what every piece is potentially used for,” said Mr. Aldrich, who is also the author of a history of the Government Communications Headquarters, the British signal-intelligence agency. Britain’s history and expertise in South Asia means that the intelligence it gathers in Pakistan, Afghanistan and the tribal areas in between is in high demand, Mr. Aldrich said. The arrangement has been focused recently by a chill in relations between the United States and Pakistan, and by the shared war in Afghanistan. Other nations, too, intercept communications in the region that are shared broadly with the United States, he said. In Afghanistan, for example, German and Dutch forces run aggressive electronic interception operations, he said, because their rules on collaborating with local interpreters are less stringent than those of the United States. A spokesman for the coalition forces in Afghanistan, Lt. Col. Lester Carroll, declined to give details about intelligence sharing, saying agreements were classified. But he confirmed that American military forces “do share information with other U.S. government organizations on a need-to-know basis.” Few argue against the notion that European nations, many of which have been attacked by terrorists, have benefited from the drone killing, however controversial, of many of the most hardened Islamic extremist leaders.

#### Allied terror coop is high now, despite frictions

Kristin Archick, European affairs specialist @ CRS, 9-4-2013, “U.S.-EU Cooperation Against Terrorism,” Congressional Research Service, <http://www.fas.org/sgp/crs/row/RS22030.pdf>

As part of the EU’s efforts to combat terrorism since September 11, 2001, the EU made improving law enforcement and intelligence cooperation with the United States a top priority. The previous George W. Bush Administration and many Members of Congress largely welcomed this EU initiative in the hopes that it would help root out terrorist cells in Europe and beyond that could be planning other attacks against the United States or its interests. Such growing U.S.-EU cooperation was in line with the 9/11 Commission’s recommendations that the United States should develop a “comprehensive coalition strategy” against Islamist terrorism, “exchange terrorist information with trusted allies,” and improve border security through better international cooperation. Some measures in the resulting Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108-458) and in the Implementing Recommendations of the 9/11 Commission Act of 2007 (P.L. 110-53) mirrored these sentiments and were consistent with U.S.-EU counterterrorism efforts, especially those aimed at improving border controls and transport security. U.S.-EU cooperation against terrorism has led to a new dynamic in U.S.-EU relations by fostering dialogue on law enforcement and homeland security issues previously reserved for bilateral discussions. Despite some frictions, most U.S. policymakers and analysts view the developing partnership in these areas as positive. Like its predecessor, the Obama Administration has supported U.S. cooperation with the EU in the areas of counterterrorism, border controls, and transport security. At the November 2009 U.S.-EU Summit in Washington, DC, the two sides reaffirmed their commitment to work together to combat terrorism and enhance cooperation in the broader JHA field. In June 2010, the United States and the EU adopted a new “Declaration on Counterterrorism” aimed at deepening the already close U.S.-EU counterterrorism relationship and highlighting the commitment of both sides to combat terrorism within the rule of law. In June 2011, President Obama’s National Strategy for Counterterrorism asserted that in addition to working with European allies bilaterally, “the United States will continue to partner with the European Parliament and European Union to maintain and advance CT efforts that provide mutual security and protection to citizens of all nations while also upholding individual rights.”

#### US anti-terror intel is fine on its own – outstrips everybody else

Barton Gellman and Greg Miller, 8-29-2013, “Top secret ‘black budget’ reveals US spy agencies’ spending,” LA Daily News, http://www.dailynews.com/government-and-politics/20130829/top-secret-black-budget-reveals-us-spy-agencies-spending

“The United States has made a considerable investment in the Intelligence Community since the terror attacks of 9/11, a time which includes wars in Iraq and Afghanistan, the Arab Spring, the proliferation of weapons of mass destruction technology, and asymmetric threats in such areas as cyber-warfare,” Director of National Intelligence James Clapper said in response to inquiries from The Post. “Our budgets are classified as they could provide insight for foreign intelligence services to discern our top national priorities, capabilities and sources and methods that allow us to obtain information to counter threats,” he said. Among the notable revelations in the budget summary: Spending by the CIA has surged past that of every other spy agency, with $14.7 billion in requested funding for 2013. The figure vastly exceeds outside estimates and is nearly 50 percent above that of the National Security Agency, which conducts eavesdropping operations and has long been considered the behemoth of the community. The CIA and NSA have launched aggressive new efforts to hack into foreign computer networks to steal information or sabotage enemy systems, embracing what the budget refers to as “offensive cyber operations.” The NSA planned to investigate at least 4,000 possible insider threats in 2013, cases in which the agency suspected sensitive information may have been compromised by one of its own. The budget documents show that the U.S. intelligence community has sought to strengthen its ability to detect what it calls “anomalous behavior” by personnel with access to highly classified material. U.S. intelligence officials take an active interest in foes as well as friends. Pakistan is described in detail as an “intractable target,” and counterintelligence operations “are strategically focused against [the] priority targets of China, Russia, Iran, Cuba and Israel.” In words, deeds and dollars, intelligence agencies remain fixed on terrorism as the gravest threat to national security, which is listed first among five “mission objectives.” Counterterrorism programs employ one in four members of the intelligence workforce and account for one-third of all spending. The governments of Iran, China and Russia are difficult to penetrate, but North Korea’s may be the most opaque. There are five “critical” gaps in U.S. intelligence about Pyongyang’s nuclear and missile programs, and analysts know virtually nothing about the intentions of North Korean leader Kim Jong Un. Formally known as the Congressional Budget Justification for the National Intelligence Program, the “Top Secret” blueprint represents spending levels proposed to the House and Senate intelligence committees in February 2012. Congress may have made changes before the fiscal year began on Oct 1. Clapper is expected to release the actual total spending figure after the fiscal year ends on Sept. 30. The document describes a constellation of spy agencies that track millions of individual surveillance targets and carry out operations that include hundreds of lethal strikes. They are organized around five priorities: combating terrorism, stopping the spread of nuclear and other unconventional weapons, warning U.S. leaders about critical events overseas, defending against foreign espionage and conducting cyber operations. In an introduction to the summary, Clapper said the threats now facing the United States “virtually defy rank-ordering.” He warned of “hard choices” as the intelligence community — sometimes referred to as the “IC” — seeks to rein in spending after a decade of often double-digit budget increases. This year’s budget proposal envisions that spending will remain roughly level through 2017 and amounts to a case against substantial cuts. “Never before has the IC been called upon to master such complexity and so many issues in such a resource-constrained environment,” Clapper wrote. The summary provides a detailed look at how the U.S. intelligence community has been reconfigured by the massive infusion of resources that followed the Sept. 11 attacks. The United States has spent more than $500 billion on intelligence during that period, an outlay that U.S. officials say has succeeded in its main objective: preventing another catastrophic terrorist attack in the United States. The result is an espionage empire with resources and reach beyond those of any adversary, sustained even now by spending that rivals or exceeds the levels reached at the height of the Cold War.

#### Retaining legal authority to revert back from current policy restrictions as the threat changes is key to counter-terror.

[Italics in original]

Geoffrey Corn 10-1, The Presidential Research Professor of Law at South Texas College of Law, Lieutenant Colonel (Retired), U.S. Army, was formerly the Army’s senior law of war expert advisor, 10/1/13, “Debate (Round 2): A Reply to Rona and Jinks,” http://justsecurity.org/2013/10/01/debate-round-ii-reply-corn/

Professor Jinks assertion of a complementary role for IHL and IHR suggests certain human rights based constraints on authority to disable or defeat an opponent in what we might call a “low level” armed conflict – operations that straddle the line between war and law enforcement. I think this is an almost inevitable reality for issues related to post-capture treatment of opposition personnel (such as detention and trial). But I do not believe that authority to use force against such individuals is, as a matter of law, subject to human rights based limitations. However, as noted in my own post, as a matter of policy, it is routine to impose analogous limits on the authority to employ force during armed conflict. The reasons for such rule of engagement based policy constraints are as varied as the operational missions they are imposed upon. Of course, the policy nature of these constraints preserves the flexibility to revert to more robust uses of force based on operational and tactical necessities. In my view, use of such ROE limitations is operationally and strategically logical when dealing with highly unconventional threats, and must continue to be the order of the day. But we should be extremely cautious about the increasingly common assertion that these policy limitations are in fact reflections of legal obligation. Ultimately, at some point the complementarity principle must yield to the core logic of armed conflict, and no place is this more compelling than in the targeting process.

## Solvency

### Congress No Enforce XT

#### History – the history of restrictions is a history of abject failure – they check the President in the short-term – but future Congresses will acquiesce.

Posner and Vermeule, ‘10

[Eric (Professor of Law at the University of Chicago) and Adrian (Professor of Law at Harvard), The Executive Unbound, p. 84-88]

¶ If the constitutional framework of liberal legalism is too rickety to contain executive power, perhaps statutes can substitute new legal constraints. A principal hope of liberal legal theory is that the deficiencies of the constitutional framework can be patched up by framework statutes that will channel and constrain executive power. The executive comprises the president and (various types of) agencies, and liberal legalism tries to constrain both, through different statutes. As to the agencies, liberal legalists hope that general procedural statutes such as the Administrative Procedure Act (APA) can “translate” the principles and values underlying the separation of powers into a world in which agencies routinely hold consolidated powers of lawmaking, law-execution, and law-interpretation.1 As to the president, Congress has enacted many subject-specific framework statutes that attempt to constrain executive power, especially with regard to warmaking, foreign policy, and emergencies. And liberal legal theorists often propose new statutes of this sort—for example, a statute that would confine presidential emergency powers in the aftermath of a terrorist attack.2¶ These efforts all fall short of the aspirations of liberal legalism, in greater or lesser degree. The subject-specific framework statutes that attempt to constrain presidential power are the most conspicuous failure; most are dead letters. Seemingly more successful is the APA, which remains the central framework for the administrative state. We will suggest that this is something of an illusion; the greater specificity of the subject-specific statutes, and the greater plasticity and ambiguity of the APA, make the failure of the former group more conspicuous, while giving the latter a misleading appearance of constraining force.¶ The secret of the APA’s “success”—its ability to endure in a nominal sense—is that it contains a series of adjustable parameters that the courts use to dial up and down the intensity of their scrutiny over time. The APA’s basic flexibility allows courts to allow government to do what government needs to do when it needs to do it. The result is a series of legal “black holes” and “grey holes”—the latter being standards of reasonableness that have the appearance of legality, but not the substance, at least not when pressing interests suggest otherwise. This regime is a triumph for the nominal supremacy of the APA, but not for any genuine version of the rule of law. Liberal legalism’s basic aspiration, that statutes (if not the Constitution) will subject the administrative state to the rule of law, is far less successful than it appears.¶ SUBJECT-SPECIFIC FRAMEWORK STATUTES¶ With a few exceptions, most of the subject-specific firamework statutes that attempt to constrain executive power, particularly presidential power, are a product of the era after Watergate. As revelations of executive abuses by both federal and state governments multiplied and a backlash against executive power set in, all three branches of government acted to reduce the scope of executive discretion in matters touching on security and antiterrorism. In the middle to late 1970s, Congress imposed a range of statutory constraints on the powers and activities of the executive branch generally and the presidency in particular, especially in matters relating to foreign affairs and national security.¶ The most prominent examples are the War Powers Resolution,3 which constrained executive use of force abroad; the National Emergencies Act,4 which limited executive declarations of emergency; the International Economic Emergency Powers Act,5 which limited the executive’s power to impose various economic sanctions and controls; the Ethics in Government Act,6 which created independent counsels to investigate government wrongdoing; and the Inspector General Act of 1978, described below. Other constraints were imposed by litigation and judicial decree. Finally, some constraints were self-imposed, by executive guidelines that curtailed FBI authority to investigate groups with the potential to engage in terrorism. The restrictive Levi Guidelines of 19767 exemplified this executive self-constraint.¶ This framework for national security law has not endured. Indeed, a large part of the story of national security law in ensuing decades, and especially after 9/11, has involved efforts by various institutions and groups to loosen the constraints of the post-Watergate framework. By and large, those efforts have succeeded.8 The following are four major examples.¶ 1. The War Powers Resolution (1973). At its core, the resolution attempts to limit executive use of armed forces in conflicts abroad, without congressional approval, to a period of 60 or 90 days (omitting many complicated details). But the resolution has by many accounts become a dead letter, especially after President Clinton’s rather clear breach of its terms during the Kosovo conflict.9 Congress has proven unable to enforce the resolution by ex post punishment of executive violations or arguable violations; the courts have invoked various doctrines of justiciability to avoid claims for enforcement of the resolution by soldiers and others. As one Madisonian scholar puts it, “In the area of military policy making, the War Powers Resolution, in its current form, has simply proven inadequate to discipline executive branch unilateralism.”10¶ 2. The National Emergencies Act (1976). This statute abolished all preexisting states of emergency declared by executive order, and substituted a process for congressional review of new declarations. The process has proven largely ineffective, in large part because later Congresses have usually proven unable to use the statutory mechanism for overriding executive declarations. The Act’s default rule is set so that affirmative congressional action is necessary to block an executive proclamation of emergency, and congressional inertia has generally prevailed. In practice, “anything the President says is a national emergency is a national emergency.”11¶ 3. The International Emergency Economic Powers Act (1977). Enacted to regulate and constrain executive action during international economic crises, the statute has been construed by the courts to grant broad executive power. The Supreme Court held that it implicitly authorized the president to suspend claims pending in American courts against Iranian assets, as part of a deal to free hostages.12 And a lower court said that the president had unreviewable discretion to determine that the government of Nicaragua satisfied the statutory requirement of “an unusual and extraordinary threat,” thus triggering enhanced executive powers.13¶ 4. Inspector General Act of 1978. A final accountability mechanism is the cadre of inspectors general, who now hold offices within most federal agencies, including the Department of Justice. Inspectors general have the power to investigate legal violations, sometimes including crimes, within the executive branch. Some can be discharged by the agency head, but some can be discharged only by the president, and in either case Congress must be notified. It is clear that inspectors general have created a large apparatus of compliance monitoring and bureaucratic reporting, and have used a great deal of paper; what is harder to assess is whether they have been effective at promoting executive accountability, either to Congress or to the citizenry. The leading systematic study14 concludes that “the Inspectors General have been more or less effective at what they do, but what they do has not been effective. That is, they do a relatively good job of compliance monitoring, but compliance monitoring alone has not been that effective at increasing governmental accountability. Audits and investigations focus too much on small problems at the expense of larger systemic issues.”15¶ Why did these statutes prove less effective than their proponents hoped or, in the extreme, become dead letters? In all the cases, the basic pattern is similar. The statutes were enacted during a high-water mark of political backlash against strong executive power, which supermajorities in Congress attempted to translate into binding legal constraints. However, once the wave of backlash receded and the supermajorities evaporated, there was insufficient political backing for the laws to ensure their continued vigor over time. Later Congresses have not possessed sufficient political backing or willpower to employ the override mechanisms that the statutes create, such as the override of presidential declarations of emergency created by the National Emergencies Act.¶ Even where the statutes attempt to change the legal default rule, so that the president cannot act without legislative permission—as in the case of the War Powers Resolution, after the 60- or 90-day grace period has passed—the president may simply ignore the statutory command, and will succeed if he has correctly calculated that Congress will be unable to engage in ex post retaliation and the courts will be unwilling to engage in ex post review. President Clinton’s implicit decision to brush aside the resolution during the Kosovo conflict (albeit with the fig leaf of a compliant legal opinion issued by the Justice Department’s Office of Legal Counsel)16 shows that what matters is what Congress can do after the fact, not what it says before the fact.¶ Here a major problem for framework statutes is the “presidential power of unilateral action”17 to which we referred in the introduction. Statutory drafters may think they have cleverly closed off the executive’s avenues of escape when they set the legal status quo to require legislative permission. Because the president can act in the real world beyond the law books, however—the armed forces did not threaten to stand down from their Kosovo mission until Congress gave its clear approval, but instead simply obeyed the President’s orders—the actual status quo may change regardless of whether the legal situation does. Once armed forces are in action, the political calculus shifts and legislators will usually be unable to find enough political support to retaliate—especially not on the basis of an arcane framework statute passed years or decades before.

#### Motive – Congress is made of political hacks concerned mainly about re-election – political incentives make it difficult to oppose the President in a crisis

Posner and Vermeule, ‘10

[Eric (Professor of Law at the University of Chicago) and Adrian (Professor of Law at Harvard), The Executive Unbound, p. 88]

To be sure, if the framework statutes are very specific, then violating them may itself create a political cost for the president, whose political opponents will denounce him for Caesarism. This cost is real, but in the type of high-stakes matters that are most likely to create showdowns between the president and Congress in the first place, the benefits are likely to be greater than the costs so long as the president’s action is popular and credible—the crucial constraints we will discuss in chapter 4. Moreover, if the president can credibly claim to the public that the violation was necessary, then the public will be unlikely to care too much about the legal niceties. As legal theorist Frederick Schauer argues for constitutional violations18 (and, we add, the argument holds a fortiori for statutory violations), there is an interesting asymmetry surrounding illegality: if the underlying action is unpopular, then citizens will treat its illegality as an aggravating circumstance, but if the underlying action is popular, its illegality usually has little independent weight. Finally, if the president credibly threatens to violate the statute, then Congress will have strong incentives to find some face-saving compromise that allows the president to do what he wishes without forcing a showdown that, legislators anticipate, may well end badly.

### Block – Targeted Killing Reg Impossible XT

#### The cover nature of TKs means regulations are impossible.

Lohmann 13 **(**Julia, director of the Harvard Law National Security Research Committee, BA in political science from the University of California, Berkeley, “Distinguishing CIA-Led from Military-Led Targeted Killings,” <http://www.lawfareblog.com/wiki/the-lawfare-wiki-document-library/targeted-killing/effects-of-particular-tactic-on-issues-related-to-targeted-killings/>)

**The U.S. military**—in particular, the Special Operations Command (SOCOM), and its subsidiary entity, the Joint Special Operations Command (JSOC)—**is responsible for** carrying out military-led **targeted killings**.¶ Military-led **targeted killings are subject to various legal restrictions, including a complex web of statutes and executive orders**. For example, because the Covert Action Statute does not distinguish among institutions undertaking covert actions, targeted killings conducted by the military that fall within the definition of “covert action” set forth in 50 U.S.C. § 413(b) are subject to the same statutory constraints as are CIA covert actions. 50 U.S.C. § 413b(e). However, as Robert Chesney explains, many military-led **targeted killings may fall into** one of the **CAS exceptions**—for instance, that for traditional military activities—**so that the statute’s requirements will not always apply to military-led targetings. Such activities are exempted from** the CAS’s presidential finding and authorization requirements, as well as its **congressional reporting rules**.¶ **Because such** unacknowledged military **operations are**, in many respects, **indistinguishable from traditional covert actions** conducted by the CIA, this exception may provide a “loophole” allowing the President to circumvent existing oversight mechanisms **without substantively changing his operational decisions**. However, at least some military-led targetings do not fall within the CAS exceptions, and are thus subject to that statute’s oversight requirements. For instance, Chesney and Kenneth Anderson explain, some believe that the traditional military activities exception to the CAS only applies in the context of overt hostilities, yet it is not clear that the world’s tacit awareness that targeted killing operations are conducted (albeit not officially acknowledged) by the U.S. military, such as the drone program in Pakistan, makes those operations sufficiently overt to place them within the traditional military activities exception, and thus outside the constraints of the CAS.¶ Chesney asserts, however, that despite the gaps in the CAS’s applicability to military-led targeted killings, those targetings are nevertheless subject to a web of oversight created by executive orders that, taken together, largely mirrors the presidential authorization requirements of the CAS. But, **this process is not enshrined in statute or** regulation **and** arguably could be changed or revoked by the President at any time. Moreover, this internal Executive Branch process does not involve Congress or the Judiciary in either ex ante or ex post oversight **of** military-led **targeted killings, and thus**, Philip Alston asserts, it may be insufficient to provide a meaningful check against arbitrary and overzealous Executive actions.

#### Obama will fight anything that intrudes on his authority – he’ll circumvent.

Anita Kumar 13, White House correspondent for McClatchy Newspapers, former writer for The Washington Post, covering Virginia politics and government, and spent a decade at the St. Petersburg Times, writing about local, state and federal government both in Florida and Washington, “Obama turning to executive power to get what he wants,” 3/19 <http://www.mcclatchydc.com/2013/03/19/186309/obama-turning-to-executive-power.html#.Ue18CdK1FSE>

Yet Obama’s use of power echoes that of his predecessors. For example, he signed 145 executive orders in his first term, putting him on track to issue as many as the 291 that Bush did in two terms.¶ John Yoo, who wrote the legal opinions that supported an expansion of presidential power after the 2001 terrorist attacks, including harsh interrogation methods that some called torture, said he thought that executive orders were sometimes appropriate – when conducting internal management and implementing power given to the president by Congress or the Constitution – but he thinks that Obama has gone too far.¶ “I think President Obama has been as equally aggressive as President Bush, and in fact he has sometimes used the very same language to suggest that he would not obey congressional laws that intrude on his commander-in-chief power,” said Yoo, who’s now a law professor at the University of California at Berkeley. “This is utterly hypocritical, both when compared to his campaign stances and the position of his supporters in Congress, who have suddenly discovered the virtues of silence.”¶ Most of Obama’s actions are written statements aimed at federal agencies that are published everywhere from the White House website to the Federal Register. Some are classified and hidden from public view.¶ “It seems to be more calculated to prod Congress,” said Phillip J. Cooper, the author of “By Order of the President: The Use and Abuse of Executive Direct Action.” “I can’t remember a president being that consistent, direct and public.”¶ Bush was criticized for many of his actions on surveillance and interrogation techniques, but attention has focused on Obama’s use of actions mostly about domestic issues.¶ In his first two years in the White House, when fellow Democrats controlled Capitol Hill, Obama largely worked through the regular legislative process to try to achieve his domestic agenda. His biggest achievements – including a federal health care overhaul and a stimulus package designed to boost the economy –came about with little or no Republican support.¶ But Republicans took control of the House of Representatives in 2010, making the task of passing legislation all the more difficult for a man with a detached personality who doesn’t relish schmoozing with lawmakers. By the next year, Obama wasn’t shy about his reasons for flexing his presidential power.¶ In fall 2011, he launched the “We Can’t Wait” campaign, unveiling dozens of policies through executive orders – creating jobs for veterans, adopting fuel efficiency standards and stopping drug shortages – that came straight from his jobs bills that faltered in Congress.¶ “We’re not waiting for Congress,” Obama said in Denver that year when he announced a plan to reduce college costs. “I intend to do everything in my power right now to act on behalf of the American people, with or without Congress. We can’t wait for Congress to do its job. So where they won’t act, I will.”¶ When Congress killed legislation aimed at curbing the emissions that cause global warming, Obama directed the Environmental Protection Agency to write regulations on its own incorporating some parts of the bill.¶ When Congress defeated pro-union legislation, he had the National Labor Relations Board and the Labor Department issue rules incorporating some parts of the bill.¶ “The president looks more and more like a king that the Constitution was designed to replace,” Sen. Charles Grassley, R-Iowa, said on the Senate floor last year.¶ While Republicans complain that Obama’s actions cross a line, experts say some of them are less aggressive than they appear.¶ After the mass shooting in Newtown, Conn., in December, the White House boasted of implementing 23 executive actions to curb gun control. In reality, Obama issued a trio of modest directives that instructed federal agencies to trace guns and send information for background checks to a database.¶ In his State of the Union address last month, Obama instructed businesses to improve the security of computers to help prevent hacking. But he doesn’t have the legal authority to force private companies to act.¶ “The executive order can be a useful tool but there are only certain things he can do,” said Melanie Teplinsky, an American University law professor who’s spoken extensively on cyber-law.¶ Executive actions often are fleeting. They generally don’t settle a political debate, and the next president, Congress or a court may overturn them.¶ Consider the so-called Mexico City policy. With it, Reagan banned federal money from going to international family-planning groups that provide abortions. Clinton rescinded the policy. George W. Bush reinstated it, and Obama reversed course again.¶ But congressional and legal action are rare. In 1952, the Supreme Court threw out Harry Truman’s order authorizing the seizure of steel mills during a series of strikes. In 1996, the District of Columbia Court of Appeals dismissed an order by Clinton that banned the government from contracting with companies that hire workers despite an ongoing strike.¶ Obama has seen some pushback.¶ Congress prohibited him from spending money to move inmates from the Guantanamo Bay U.S. naval base in Cuba after he signed an order that said it would close. A Chinese company sued Obama for killing its wind farm projects by executive order after he said they were too close to a military training site. A federal appeals court recently ruled that he’d exceeded his constitutional powers when he named several people to the National Labor Relations Board while the Senate was in recess.¶ But Obama appears to be undaunted.¶ “If Congress won’t act soon to protect future generations,” he told Congress last month, “I will.”

#### Pressure to fight terror o/w pub pressure

Dickinson 11—Professor of political science @ Middlebury College. [Dr. Matthew Dickinson (Expert on presidential powers with a PhD from Harvard), “Will You End Up in Guantanamo Bay Prison?,” Presidential Power, December 3, 2011 pg. http://sites.middlebury.edu/presidentialpower/2011/12/03/will-you-end-up-in-guantanamo-bay/

Despite the overwhelming Senate support for passage (the bill passed 93-7 and will be reconciled with a House version. Senators voting nay included three Democrats, three Republicans and one independent), however, President Obama is still threatening to veto the bill in its current form. However, if administration spokespersons are to be believed, Obama’s objection is based not so much on concern for civil liberties as it is on preserving the president’s authority and flexibility in fighting the war on terror. According to White House press secretary Jay Carney, “Counterterrorism officials from the Republican and Democratic administrations have said that the language in this bill would jeopardize national security by restricting flexibility in our fight against Al Qaeda.” (The administration also objects to language in the bill that would restrict any transfer of detainees out of Guantanamo Bay prison for the next year.) For these reasons, the President is still threatening to veto the bill, which now goes to the Republican-controlled House where it is unlikely to be amended in a way that satisfies the President’s concerns. If not, this sets up an interesting scenario in which the President may have to decide whether to stick by his veto threat and hope that partisan loyalties kick in to prevent a rare veto override.¶ The debate over the authorization bill is another reminder of a point that you have heard me make before: that when it comes to national security issues and the War on Terror, President Obama’s views are much closer to his predecessor’s George W. Bush’s than they are to candidate Obama’s. The reason, of course, is that once in office, the president—as the elected official that comes closest to embodying national sovereignty—feels the pressure of protecting the nation from attack much more acutely than anyone else. That pressure drives them to seek maximum flexibility in their ability to respond to external threats, and to resist any provision that appears to constrain their authority. This is why Obama’s conduct of the War on Terror has followed so closely in Bush’s footsteps—both are motivated by the same institutional incentives and concerns.¶ The Senate debate, however, also illustrates a second point. We often array elected officials along a single ideological line, from most conservative to most liberal. Think Bernie Sanders at one end and Jim DeMint at the other. In so doing, we are suggesting that those individuals at the farthest ends of the spectrum have the greatest divergence in ideology. But on some issues, including this authorization bill, that ideological model is misleading. Instead, it is better to think of legislators arrayed in a circle, with libertarian Republicans and progressive Democrats sitting much closer together, say, at the top of the circle, joined together in their resistance to strong government and support for civil liberties. At the “bottom” of the circle are Republicans like Graham and Democrats like Levin who share an affinity for strengthening the government’s ability to protect the nation’s security.¶ For Obama, however, the central issue is not the clash of civil liberties and national security—it is the relative authority of the President versus Congress to conduct the War on Terror. That explains why he has stuck by his veto threat despite the legislative compromise. And it raises an interesting test of power. To date he has issued only two presidential vetoes, by far the lowest number of any President in the modern era. His predecessor George W. Bush issued 12, and saw Congress override four—a historically high percentage of overrides. On average, presidential vetoes are overridden about 7% of the time. These figures, however, underplay the use of veto threats as a bargaining tool. In the 110th (2007-08) Congress alone, Bush issued more than 100 veto threats. I’ve not calculated Obama’s veto threats, but it is easy enough to do by going to the White House’s website and looking under its Statements of Administrative Policy (SAP’s) listings. Those should include veto threats. Note that most veto threats are relatively less publicized and often are issued early in the legislative process. This latest veto threat, in contrast, seems to have attracted quite a bit of press attention. It will be interesting to see whether, if the current authorization language remains unchanged, Obama will stick to his guns.

## Norms

### Prolif = Inevitable

#### Actors can’t be checked which makes drone prolif and use inevitable

Wood 12 (David, American Drones Ignite New Arms Race From Gaza To Iran To China, Huffington Post, 27 November 2012, http://www.huffingtonpost.com/2012/11/27/american-drones\_n\_2199193.html, da 8-2-13) PC

Obama administration officials have said they are weighing various options to codify the use of armed U.S. drones, because the increased use of drones has been driven more by perceived necessity than by deliberative policy. But that effort is complicated by the wildfire spread of drone technology: how could the U.S. restrict its use of armed drones if others do not?¶ Already, the Pentagon is worried that China not only is engaged in an "alarming" effort to develop and field high-tech drones, but it intends to sell drone technology abroad, according to the Pentagon report.¶ Indeed, the momentum of the drone wars seems irresistible. "The increasing worldwide focus on unmanned systems highlights how U.S. military success has changed global strategic thinking and spurred a race for unmanned aircraft," the Pentagon study reported.¶ Modern drones were first perfected by Israel, but the U.S. Air Force took the first steps in 2001 to mount sophisticated drones with precision weapons. Today the U.S. fields some 8,000 drones and plans to invest $36.9 billion to boost its fleet by 35 percent over the next eight years.¶ Current research on next-generation drones seems certain to exacerbate the drone arms race. The U.S. and other countries are developing "nano" drones, tiny weapons designed to attack in swarms. Both the U.S. and China are working to incorporate "stealth" technology into micro drones. The Pentagon is fielding a new weapon called the Switchblade, a 5.5-pound precision-attack drone that can be carried and fired by one person -- a capability sure to be envied by terrorists.¶ "This is a robotics revolution, but it's not just an American revolution -- everyone's involved, from Hezbollah to paparazzi," Singer, the Brookings Institution expert, told The Huffington Post. "This is a revolution in which billions and trillions of dollars will be made. To stop it you'd have to first stop science, and then business, and then war."

#### Can’t put the tech back in the box – unrestrained use is inevitable.

Steigerwald ‘13 (Lucy, “The Inevitability of Drones in the US and Abroad”, Anti War, 4-29-13, <http://antiwar.com/blog/2013/04/29/the-inevitability-of-drones-in-the-u-s-and-abroad/>, RSR)

The proliferation of drones will not long be an American issue alone. “The number of countries that have acquired or developed drones expanded to more than 75, up from about 40 in 2005, according to the Government Accountability Office, the investigative arm of Congress,” USA Today reported in January.¶ In spite of some heartening legislative attempts to rein in drones here at home, as well as protests over their international use, they cannot be fully put back into the box. That’s why endlessly rehashing the concerns that are fundamentally tied in with this technology is a good thing to do, even if it brings up a sense of Deja Vu for anyone even halfway paying attention. The RCP article contains no breaking news about drones, but the moment that such articles disappear, we’re in real trouble. That’s when drones have been fully accepted as the most efficient killing machines abroad, and the ideal mechanisms for surveillance at home.

### Plan Can’t Solve XT

**Other tech proves that US action is irrelevant to international norms on drones.**

**Etzioni 13** – professor of IR @ George Washington (Amitai, “The Great Drone Debate”, March/April, <http://usacac.army.mil/CAC2/MilitaryReview/Archives/English/MilitaryReview_20130430_art004.pdf>)

Other **critics contend** that **by the U**nited **S**tates ¶ **using drones, it leads other countries into making and** ¶ **using them.** For example, Medea Benjamin, the cofounder of the anti-war activist group CODEPINK ¶ and author of a book about drones argues that, “The ¶ proliferation of drones should evoke reﬂection on the ¶ precedent that the United States is setting by killing ¶ anyone it wants, anywhere it wants, on the basis of ¶ secret information. Other nations and non-state entities are watching—and are bound to start acting in ¶ a similar fashion.”60 Indeed scores of countries are ¶ now manufacturing or purchasing drones. There can ¶ be little doubt that the fact that drones have served ¶ the United States well has helped to popularize them. ¶ However, **it does not follow that U**nited **S**tates ¶ **should not have employed drones in the hope that** ¶ **such a show of restraint would deter others**. First ¶ of all, this would have meant that either the United ¶ States would have had to allow terrorists in hardto-reach places, say North Waziristan, to either ¶ roam and rest freely—or it would have had to use ¶ bombs that would have caused much greater collateral damage. ¶ Further, **the record shows** that **even when the** ¶ **U**nited **S**tates **did not develop a particular weapon,** ¶ **others did.** Thus, **China has taken the lead in** the ¶ development of **anti-ship missiles and** seemingly ¶ **cyber weapons** as well. One must keep in mind ¶ that **the international environment is** a **hostile** ¶ one. **Countries**—and especially non-state actors—¶ most of the time **do not play by** some set of **selfconstraining rules**. Rather, **they** tend **to employ** ¶ **whatever weapons they can obtain that will further** ¶ **their interests.** The United States correctly does ¶ not assume that it can rely on some non-existent ¶ implicit gentleman’s agreements that call for the ¶ avoidance of new military technology by nation X ¶ or terrorist group Y—if the United States refrains ¶ from employing that technology¶ I am not arguing that there are no natural norms ¶ that restrain behavior. There are certainly some ¶ that exist, particularly in situations where all parties beneﬁt from the norms (e.g., the granting of ¶ diplomatic immunity) or where particularly horrifying weapons are involved (e.g., weapons of ¶ mass destruction). However **drones are but one** ¶ **step**—following bombers and missiles—**in the** ¶ **development of distant battleﬁeld tech**nologies. ¶ (Robotic soldiers—or future ﬁghting machines—¶ are next in line). **In such circumstances, the role** ¶ **of norms is much more limited**.

#### Zero chance that U.S. self-restraint causes any other country to give up their plans for drones.

Boot, the Jeane J. Kirkpatrick Senior Fellow in National Security Studies at the Council on Foreign Relations, ‘11

[Max, 10/9/11, “We Cannot Afford to Stop Drone Strikes,” Commentary Magazine, <http://www.commentarymagazine.com/2011/10/09/drone-arms-race/>]

The New York Times engages in some scare-mongering today about a drone ams race. Scott Shane notes correctly other nations such as China are building their own drones and in the future U.S. forces could be attacked by them–our forces will not have a monopoly on their use forever. Fair enough, but he goes further, suggesting our current use of drones to target terrorists will backfire: ¶ If China, for instance, sends killer drones into Kazakhstan to hunt minority Uighur Muslims it accuses of plotting terrorism, what will the United States say? What if India uses remotely controlled craft to hit terrorism suspects in Kashmir, or Russia sends drones after militants in the Caucasus? American officials who protest will likely find their own example thrown back at them. ¶ “The problem is that we’re creating an international norm” — asserting the right to strike preemptively against those we suspect of planning attacks, argues Dennis M. Gormley, a senior research fellow at the University of Pittsburgh and author of Missile Contagion, who has called for tougher export controls on American drone technology. “The copycatting is what I worry about most.” ¶ This is a familiar trope of liberal critics who are always claiming we should forego “X” weapons system or capability, otherwise our enemies will adopt it too. We have heard this with regard to ballistic missile defense, ballistic missiles, nuclear weapons, chemical and biological weapons, land mines, exploding bullets, and other fearsome weapons. Some have even suggested the U.S. should abjure the first use of nuclear weapons–and cut down our own arsenal–to encourage similar restraint from Iran. ¶ The argument falls apart rather quickly because it is founded on a false premise: that other nations will follow our example. In point of fact, Iran is hell-bent on getting nuclear weapons no matter what we do; China is hell-bent on getting drones; and so forth. Whether and under what circumstances they will use those weapons remains an open question–but there is little reason to think self-restraint on our part will be matched by equal self-restraint on theirs. Is Pakistan avoiding nuking India because we haven’t used nuclear weapons since 1945? Hardly. The reason is that India has a powerful nuclear deterrent to use against Pakistan. If there is one lesson of history it is a strong deterrent is a better upholder of peace than is unilateral disarmament–which is what the New York Times implicitly suggests. ¶ Imagine if we did refrain from drone strikes against al-Qaeda–what would be the consequence? If we were to stop the strikes, would China really decide to take a softer line on Uighurs or Russia on Chechen separatists? That seems unlikely given the viciousness those states already employ in their battles against ethnic separatists–which at least in Russia’s case already includes the suspected assassination of Chechen leaders abroad. What’s the difference between sending a hit team and sending a drone? ¶ While a decision on our part to stop drone strikes would be unlikely to alter Russian or Chinese thinking, it would have one immediate consequence: al-Qaeda would be strengthened and could regenerate the ability to attack our homeland. Drone strikes are the only effective weapon we have to combat terrorist groups in places like Pakistan or Yemen where we don’t have a lot of boots on the ground or a lot of cooperation from local authorities. We cannot afford to give them up in the vain hope it will encourage disarmament on the part of dictatorial states.

#### The idea that China wouldn’t have realized it could use drones to carry out strikes internationally absent the U.S. doing so, is stupid

Kenneth Anderson 11, Professor of International Law at American University, 10/9/11, “What Kind of Drones Arms Race Is Coming?,” <http://www.volokh.com/2011/10/09/what-kind-of-drones-arms-race-is-coming/#more-51516>

It is indeed likely that the future will see more instances of uses of force at a much smaller, often less attributable, more discrete level than conventional war. Those uses will be most easily undertaken against non-state actors, rather than states, though the difference is likely to erode. The idea that it would not have occurred to China or Russia that drones could be used to target non-state actors across borders in safe havens, or that they would not do so because the United States had not done so is far-fetched. That is so not least because the United States has long held that it, or other states threatened by terrorist non-state actors in safe havens across sovereign borders, can be targeted if the sovereign is unable or unwilling to deal with them. There’s nothing new in this as a US view of international law; it goes back decades, and the US has not thought it some special rule benefiting the US alone. So the idea that the US has somehow developed this technology and then changed the rules regarding cross-border attack on terrorists is just wrong; the US has believed this for a long time and thinks it is legally and morally right.

#### The ‘drone precedent’ arg is incoherent---their claim is that other states will use drones in far different ways than the U.S. does---proves our drone policies are irrelevant, and pretexts at best for what states will inevitably do

Kenneth Anderson 13, Professor of International Law at American University, June 2013, “The Case for Drones,” Commentary, Vol. 135, No. 6

This critique often leads, however, to the further objection that the American use of drones is essentially laying the groundwork for others to do the same. Steve Coll wrote in the New Yorker: "America's drone campaign is also creating an ominous global precedent. Ten years or less from now, China will likely be able to field armed drones. How might its Politburo apply Obama's doctrines to Tibetan activists holding meetings in Nepal?"¶ The United States, it is claimed, is arrogantly exerting its momentary technological advantage to do what it likes. It will be sorry when other states follow suit. But the United States does not use drones in this fashion and has claimed no special status for drones. The U.S. government uses drone warfare in a far more limited way, legally and morally, and entirely within the bounds of international law. The problem with China (or Russia) using drones is that they might not use them in the same way as the United States. The drone itself is a tool. How it is used and against whom -- these are moral questions. If China behaves malignantly, drones will not be responsible. Its leaders will be.¶

#### No ‘global precedent’ is affected by anything the U.S. does---states will inevitably pursue drones

Robert Wright 12, “The Incoherence of a Drone-Strike Advocate,” 11/14/12, http://www.theatlantic.com/international/archive/2012/11/the-incoherence-of-a-drone-strike-advocate/265256/

Naureen Shah of Columbia Law School, a guest on the show, had raised the possibility that America is setting a dangerous precedent with drone strikes. If other people start doing what America does--fire drones into nations that house somebody they want dead--couldn't this come back to haunt us? And haunt the whole world? Shouldn't the U.S. be helping to establish a global norm against this sort of thing? Host Warren Olney asked Boot to respond. ¶ Boot started out with this observation:¶ I think the precedent setting argument is overblown, because I don't think other countries act based necessarily on what we do and in fact we've seen lots of Americans be killed by acts of terrorism over the last several decades, none of them by drones but they've certainly been killed with car bombs and other means.¶ That's true--no deaths by terrorist drone strike so far. But I think a fairly undeniable premise of the question was that the arsenal of terrorists and other nations may change as time passes. So answering it by reference to their current arsenal isn't very illuminating. In 1945, if I had raised the possibility that the Soviet Union might one day have nuclear weapons, it wouldn't have made sense for you to dismiss that possibility by noting that none of the Soviet bombs dropped during World War II were nuclear, right? ¶ As if he was reading my mind, Boot immediately went on to address the prospect of drone technology spreading. Here's what he said: ¶ You know, drones are a pretty high tech instrument to employ and they're going to be outside the reach of most terrorist groups and even most countries. But whether we use them or not, the technology is propagating out there. We're seeing Hezbollah operate Iranian supplied drones over Israel, for example, and our giving up our use of drones is not going to prevent Iran or others from using drones on their own. So I wouldn't worry too much about the so called precedent it sets..."

#### Zero chance of precedent setting – other countries don’t act based on the United States policy

Wright 12

[Robert Wright, finalist for the Pulitzer Prize, former writer and editor at The Atlantic, “The Incoherence of a Drone-Strike Advocate” NOV 14 2012, <http://www.theatlantic.com/international/archive/2012/11/the-incoherence-of-a-drone-strike-advocate/265256/>]

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### Block – Turkey Bad

#### Turkey is a terrible model – leads to aggression.

Soner Cagaptay 11, Senior Fellow and Director of the Turkish Reseaerch Program – Washington Institute for Near East Policy, “Turkey's Future Role in the 'Arab Spring',” inFocus Quarterly, 5(4), Winter, http://www.jewishpolicycenter.org/2814/turkey-arab-spring

Turkey ruled the Arab Middle East until World War I, and it must now be careful about how its messages are perceived there. Arabs might be drawn to fellow Muslims; the Turks are also former imperial masters. Arabs are pressing for democracy, and if Turkey behaves like a new imperial power, this approach will backfire. Arab liberals and Islamists alike regularly suggest that Turkey is welcome in the Middle East but should not dominate it. Then, there is the problem of transferring the "Turkish model" to Arab countries. In September 2011, when Turkish Prime Minister Recep Tayyip Erdogan landed at Cairo's new airport terminal (built by Turkish companies), he was warmly met by joyous millions, mobilized by the Muslim Brotherhood. However, he soon upset his pious hosts by preaching about the importance of a secular government that provides freedom of religion, using the Turkish word "laiklik"—derived from the French word for secularism. In Arabic, this term translates as "irreligious." Mr. Erdogan's message may have been partly lost in translation, yet the incident illustrates the limits of Turkey's influence in countries that are far more socially conservative than it is. What is more, Ankara also faces domestic challenges that could hamper its influence in the "Arab Spring." At the moment, Turkey is debating chartering its first civilian-made constitution. If Turkey wants to become a true beacon of democracy in the Middle East, its new constitution must provide broader individual rights for the country's citizens, as well as lifting limits on freedoms, such as curbs on the media. Turkey will also need to fulfill Foreign Minister Ahmet Davutoglu's vision of a "no problems" foreign policy. This means moving past the 2010 flotilla episode to rebuild strong ties with Israel and getting along with the Greek Cypriots who live on the southern part of the divided island of Cyprus (Turkish Cypriots control the north).