# 1AC

### Adv. 1 Terrorism

#### US is losing the War on Terrorism due to the proliferation of extra-AUMF Al Qaeda affiliates

Kagan, 13

[Frederick W., Christopher DeMuth Chair and Director, Critical Threats Project, American Enterprise Institute, “The Continued Expansion of Al Qaeda Affiliates and their Capabilities”, Statement before the House Committee on Foreign Affairs Subcommittee on Terrorism, Nonproliferation, and Trade On “Global al-Qaeda: Affiliates, Objectives, and Future Challenges”, 7/18/13, <http://www.criticalthreats.org/al-qaeda/kagan-continued-expansion-al-qaeda-affiliates-capabilities-july-18-2013>, BJM]

**The war against al Qaeda is not going well**. Afghanistan has seen the most success, since Coalition and Afghan National Security Forces (ANSF) have been able to prevent al Qaeda from re-establishing effective sanctuary in the places from which the 9/11 attacks were planned and launched. The killing of Osama bin Laden has not been followed-up in Pakistan with disruption to the leadership group there on the scale of operations that preceded the Abbottabad raid. Al Qaeda affiliates in Iraq, Syria, Yemen, and West Africa have dramatically expanded their operating areas and capabilities since 2009 and appear poised to continue that expansion. Progress against al Shabaab, the al Qaeda affiliate in Somalia, is **extremely fragile** **and shows signs of beginning to unravel**. New groups with al Qaeda leanings, although not affiliations, are emerging in Egypt, and old groups that had not previously been affiliated with al Qaeda, such as Boko Haram in Nigeria, appear to be moving closer to it. Current trends point to continued expansion of al Qaeda affiliates and their capabilities, and it is difficult to see how current or proposed American and international policies are likely to contain that expansion, let alone reduce it to 2009 levels or below. Americans must seriously consider the possibility that **we are**, in fact, **starting to lose the war against al Qaeda**. The policy debate about al Qaeda has been bedeviled by competing definitions of the group and, consequently, evaluations of the threat it poses to the United States, as Katherine Zimmerman shows in a major paper that will be forthcoming from the Critical Threats Project at the American Enterprise Institute (AEI) in September. Whereas the Bush Administration saw the group as a global network of cells, the Obama Administration has focused narrowly on the "core group" in Pakistan around bin Laden and, after his death, around his successor, Ayman al Zawahiri. The current administration has also labored to distinguish al Qaeda franchises that have the intent and capability to attack the United States homeland from those that do not, implying (or sometimes stating) that the U.S. should act only against the former while observing the latter to ensure that they do not change course.

**Current AUMF ambiguity undermines effective counter-terrorism efforts against affiliates**

**Chesney et al. ‘13**

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The September 2001 AUMF provides for the use of force against the entity ¶ responsible for the 9/11 attacks, as well as those harboring that entity. It ¶ has been clear from the beginning that **the AUMF encompasses al Qaeda and** ¶ **the Afghan Taliban,** respectively. This was the right focus in late 2001, and for a ¶ considerable period thereafter. But for three reasons, **this focus is increasingly** ¶ **mismatched to the threat environment facing the U**nited **S**tates.4¶ **First, the original al Qaeda network has been substantially degraded by** ¶ **the success of the United States and its allies in killing or capturing the network’s** ¶ **leaders and key personnel**. That is not to say that al Qaeda no longer poses a ¶ significant threat to the United States, of course. The information available in the ¶ public record suggests that it does, and thus nothing we say below should be ¶ read to suggest that force is no longer needed to address the threat al Qaeda ¶ poses. Our point is simply that **the original al Qaeda network is no longer the** ¶ **preeminent operational threat to the homeland** that it once was.¶ **Second, the Afghan Taliban are growing increasingly marginal to the AUMF**. As ¶ noted above, **the AUMF extended to the Taliban because of the safe harbor they** ¶ **provided to al Qaeda. That rationale makes far less sense a dozen years later,** ¶ **with the remnants of al Qaeda long-since relocated** to Pakistan’s FATA region. ¶ This issue has gone largely unremarked in the interim because U.S. and coalition ¶ forces all along have been locked in hostilities with the Afghan Taliban, and ¶ thus no **occasion to reassess the AUMF nexus** has ever arisen. Such an occasion ¶ **may** well **loom on the horizon,** however, **as the U**nited **S**tates **draws down** ¶ **in Afghanistan with increasing rapidity**. To be sure, the United States no doubt ¶ will continue to support the Afghan government in its efforts to tamp down ¶ insurgency, and it also will likely continue to mount counterterrorism operations ¶ within Afghanistan. It may even be the case that at some future point, the Taliban ¶ will again provide safe harbor to what remains of al Qaeda, thereby at least ¶ arguably reviving their AUMF nexus. But for the time being, **the days of direct** ¶ **combat engagement with the Afghan Taliban appear to be numbered.**¶ If the decline of the original al Qaeda network and the decline of U.S. interest in ¶ the Afghan Taliban were the only considerations, one might applaud rather ¶ than fret over the declining relevance of the AUMF. **There is**, however, a **third** ¶ **consideration: significant new threats are emerging, ones that are not easily** ¶ **shoehorned into the current AUMF framework.** ¶To a considerable extent, **the new threats stem from the fragmentation of** ¶ **al Qaeda** itself. In this sense, the problem with the original AUMF is not so much ¶ that its primary focus is on al Qaeda, but rather that **it is increasingly difficult to** ¶ **determine with clarity which groups and individuals in al Qaeda’s orbit are** ¶ **sufficiently tied to the core so as to fall within the AUMF**. And given the gravity ¶ of the threat that some of these groups and individuals may pose on an ¶ independent basis, **it also is increasingly odd to premise the legal framework** ¶ **for using force against them on a chain of reasoning that requires a detour** ¶ **through the original, core al Qaeda organization.**¶The fragmentation process has several elements. First, **entities that** at ¶ least arguably **originated as** mere regional cells **of the core network have** ¶ **established a substantial degree of organizational and operational** ¶ **independence,** even while maintaining some degree of correspondence ¶ with al Qaeda’s leaders. **A**l **Q**aeda in the **A**rabian **P**eninsula **is a good example**. ¶ Al Qaeda in Iraq arguably fits this description as well, though in that case ¶ one might point to a substantial degree of strategic independence as well. ¶ Second, **entities that originated as independent, indigenous organizations** ¶ **have** to varying degrees **established formal ties to al Qaeda**, often rebranding ¶ themselves in the process. **Al** **Q**aeda in the **I**slamic **M**aghreb, formerly known ¶ as the Salafist Group for Call and Combat, **illustrates this path**. **Al Shabaab** ¶ in Somalia arguably **does as well**. **And then there are circumstances (such** ¶ **as the ones currently unfolding in Mali, Libya, and Syria) in which it is** ¶ **not entirely clear where the organizational lines lie** among (i) armed ¶ groups that work in concert with or even at the direction of one of the ¶ aforementioned al Qaeda affiliates; (ii) armed groups that are sympathetic ¶ and in communication with al Qaeda; and (iii) armed groups that are ¶ wholly independent of al Qaeda yet also stem from the same larger milieu ¶ of Salafist extremists.¶ **This situation**—which one of us has described as the emergence of “extraAUMF” threats—**poses a significant problem insofar as counterterrorism policy** ¶ **rests on the AUMF for its legal justification**. In some circumstances it remains ¶ easy to make the case for a nexus to the original al Qaeda network and hence to ¶ the AUMF. But **in a growing number of circumstances, drawing the requisite** ¶ **connection to the AUMF requires an increasingly complex daisy chain of** ¶ **associations—a task that is likely to be very difficult** (and hence subject to ¶ debate) **in some cases, and downright impossible in others**. The emergence of this problem should come as no surprise. **It has been nearly** ¶ **a dozen years since the AUMF’s passage, and circumstances have evolved** ¶ **considerably since then. It was inevitable that threats would emerge that might** ¶ **not fit easily or at all within its scope.** The question is whether Congress should ¶ do anything about this situation, and if so precisely what.

#### We’re at a turning point- the US must pivot to address the threat from al Qaeda affiliates. Congressional action is key because it provides legitimacy that induces public support for counter terrorism and international cooperation against terrorism

Wainstein ‘13

[STATEMENT OF ¶ KENNETH L. WAINSTEIN, PARTNER ¶ CADWALADER, WICKERSHAM & TAFT LLP ¶ BEFORE THE ¶ COMMITTEE ON FOREIGN RELATIONS ¶ UNITED STATES SENATE ¶ CONCERNING ¶ COUNTERTERRORISM POLICIES AND PRIORITIES: ¶ ADDRESSING THE EVOLVING THREAT ¶ PRESENTED ON ¶ MARCH 20, 2013. <http://www.foreign.senate.gov/imo/media/doc/Wainstein_Testimony.pdf> ETB]

It has recently become clear, however, that the Al Qaeda threat that occupied our ¶ attention after 9/11 is no longer the threat that we will need to defend against in the future. Due ¶ largely to the effectiveness of our counterterrorism efforts, the centralized leadership that had ¶ directed Al Qaeda operations from its sanctuary in Afghanistan and Pakistan -- known as “Al ¶ Qaeda Core” -- is now just a shadow of what it once was. While still somewhat relevant as an ¶ inspirational force, Zawahiri and his surviving lieutenants are reeling from our aerial strikes and ¶ no longer have the operational stability to manage an effective global terrorism campaign. The ¶ result has been a migration of operational authority and control from Al Qaeda Core to its ¶ affiliates in other regions of the world, such as Al Qaeda in the Arabian Peninsula, Al Qaeda in ¶ Iraq and Al Qaeda in the Islamic Maghreb. ¶ As Andy Liepman of the RAND Corporation cogently explained in a recent article, this ¶ development is subject to two different interpretations. While some commentators diagnose Al ¶ Qaeda as being in its final death throes, others see this franchising process as evidence that Al ¶ Qaeda is “coming back with a vengeance as the new jihadi hydra.” As is often the case, the truth ¶ likely falls somewhere between these polar prognostications. Al Qaeda Core is surely weakened, ¶ but its nodes around the world have picked up the terrorist mantle and continue to pose a threat ¶ to America and its allies -- as tragically evidenced by the recent violent takeover of the gas ¶ facility in Algeria and the American deaths at the U.S. Mission in Benghazi last September. This ¶ threat has been compounded by a number of other variables, including the opportunities created ¶ for Al Qaeda by the events following the Arab Spring; the ongoing threat posed by Hizballah, its ¶ confederates in Iran and other terrorist groups; and the growing incidence over the past few years ¶ of home-grown violent extremism within the United States, such as the unsuccessful plots ¶ targeting Times Square and the New York subway. ¶ We are now at a pivot point where we need to reevaluate the means and objectives of our ¶ counterterrorism program in light of the evolving threat. The Executive Branch is currently ¶ engaged in that process and has undertaken a number of policy shifts to reflect the altered threat ¶ landscape. First, it is working to develop stronger cooperative relationships with governments in ¶ countries like Yemen where the Al Qaeda franchises are operating. Second, they are ¶ coordinating with other foreign partners -- like the French in Mali and the African Union ¶ Mission in Somalia -- who are actively working to suppress these new movements. Finally, they ¶ are building infrastructure -- like the reported construction of a drone base in Niger -- that will ¶ facilitate counterterrorism operations in the regions where these franchises operate.¶ While it is important that the Administration is undergoing this strategic reevaluation, it ¶ is also important that Congress participate in that process. Over the past twelve years, Congress ¶ has made significant contributions to the post-9/11 reorientation of our counterterrorism ¶ program. First, it has been instrumental in strengthening our counterterrorism capabilities. From ¶ the Authorization for Use of Military Force passed within days of 9/11 to the Patriot Act and its ¶ reauthorization to the critical 2008 amendments to the Foreign Intelligence Surveillance Act, ¶ Congress has repeatedly answered the government’s call for strong but measured authorities to ¶ fight the terrorist adversary. ¶ Second, Congressional action has gone a long way toward institutionalizing measures ¶ that were hastily adopted after 9/11 and creating a lasting framework for what will be a “long ¶ war” against international terrorism. Some argue against such legislative permanence, citing the ¶ hope that today’s terrorists will go the way of the radical terrorists of the 1970’s and largely fade ¶ from the scene over time. That, I’m afraid, is a pipe dream. The reality is that international ¶ terrorism will remain a potent force for years and possibly generations to come. Recognizing ¶ this reality, both Presidents Bush and Obama have made a concerted effort to look beyond the ¶ threats of the day and to focus on regularizing and institutionalizing our counterterrorism ¶ measures for the future -- as most recently evidenced by the Administration’s effort to develop ¶ lasting procedures and rules of engagement for the use of drone strikes. ¶ Finally, Congressional action has provided one other very important element to our ¶ counterterrorism initiatives -- a measure of political legitimacy that could never be achieved ¶ through unilateral executive action. At several important junctures since 9/11, Congress has ¶ undertaken to carefully consider and pass legislation in sensitive areas of executive action, such ¶ as the legislation authorizing and governing the Military Commissions and the amendments to ¶ our Foreign Intelligence Surveillance Act. On each such occasion, Congress’ action had the ¶ effect of calming public concerns and providing a level of political legitimacy to the Executive ¶ Branch’s counterterrorism efforts. That legitimizing effect -- and its continuation through ¶ meaningful oversight -- is critical to maintaining the public’s confidence in the means and methods our government uses in its fight against international terrorism. It also provides assurance to our foreign partners and thereby encourages them to engage in the operational cooperation that is so critical to the success of our combined efforts against international terrorism.

#### Turning the tide is critical – al-Qaeda affiliates pose a high risk of nuclear and biological terrorism

Allison, IR Director @ Harvard, 12

[Graham, Director, Belfer Center for Science and International Affairs; Douglas Dillon Professor of Government, Harvard Kennedy School, "Living in the Era of Megaterror", Sept 7, <http://belfercenter.ksg.harvard.edu/publication/22302/living_in_the_era_of_megaterror.html>. BJM]

Forty years ago this week at the Munich Olympics of 1972, Palestinian terrorists conducted one of the most dramatic terrorist attacks of the 20th century. The kidnapping and massacre of 11 Israeli athletes attracted days of around-the-clock global news coverage of Black September’s anti-Israel message. Three decades later, on 9/11, Al Qaeda killed nearly 3,000 individuals at the World Trade Center and the Pentagon, announcing a new era of megaterror. In an act that killed more people than Japan’s attack on Pearl Harbor, a band of terrorists headquartered in ungoverned Afghanistan demonstrated that individuals and small groups can kill on a scale previously the exclusive preserve of states. Today, how many people can a small group of terrorists kill in a single blow? Had Bruce Ivins, the U.S. government microbiologist responsible for the 2001 anthrax attacks, distributed his deadly agent with sprayers he could have purchased off the shelf, tens of thousands of Americans would have died. Had the 2001 “Dragonfire” report that Al Qaeda had a small nuclear weapon (from the former Soviet arsenal) in New York City proved correct, and not a false alarm, detonation of that bomb in Times Square could have incinerated a half million Americans. In this electoral season, President Obama is claiming credit, rightly, for actions he and U.S. Special Forces took in killing Osama bin Laden. Similarly, at last week’s Republican convention in Tampa, Jeb Bush praised his brother for making the United States safer after 9/11. There can be no doubt that the thousands of actions taken at federal, state and local levels have made people safer from terrorist attacks. Many are therefore attracted to the chorus of officials and experts claiming that the “strategic defeat” of Al Qaeda means the end of this chapter of history. But we should remember a deeper and more profound truth. While applauding actions that have made us safer from future terrorist attacks, we must recognize that they **have not reversed an inescapable reality**: The relentless advance of science and technology is making it possible for smaller and **smaller groups to kill** **larger** and larger **numbers of people**. If a Qaeda affiliate, or some terrorist group in Pakistan whose name readers have never heard, acquires highly enriched uranium or plutonium made by a state, they can construct an elementary nuclear bomb capable of killing hundreds of thousands of people. At biotech labs across the United States and around the world, research scientists making medicines that advance human well-being are also capable of making pathogens, like anthrax, that can produce massive casualties. What to do? Sherlock Holmes examined crime scenes using a method he called M.M.O.: motive, means and opportunity. In a society where citizens gather in unprotected movie theaters, churches, shopping centers and stadiums, opportunities for attack abound. Free societies are inherently “target rich.” Motive to commit such atrocities poses a more difficult challenge. In all societies, a percentage of the population will be homicidal. No one can examine the mounting number of cases of mass murder in schools, movie theaters and elsewhere without worrying about a society’s mental health. Additionally, actions we take abroad unquestionably impact others’ motivation to attack us. As Faisal Shahzad, the 2010 would-be “Times Square bomber,” testified at his trial: “Until the hour the U.S. ... stops the occupation of Muslim lands, and stops killing the Muslims ... we will be attacking U.S., and I plead guilty to that.” Fortunately, it is more difficult for a terrorist to acquire the “means” to cause mass casualties. Producing highly enriched uranium or plutonium requires expensive industrial-scale investments that only states will make. If all fissile material can be secured to a gold standard beyond the reach of thieves or terrorists, aspirations to become the world’s first nuclear terrorist can be thwarted. Capabilities for producing bioterrorist agents are not so easily secured or policed. While more has been done, and much more could be done to further raise the technological barrier, as knowledge advances and technological capabilities to make pathogens become more accessible, the means for bioterrorism will come within the reach of terrorists. One of the hardest truths about modern life is that the same advances in science and technology that enrich our lives also empower potential killers to achieve their deadliest ambitions. To imagine that we can escape this reality and return to a world in which we are invulnerable to future 9/11s or worse is an illusion. For as far as the eye can see, we will live in an era of megaterror.

#### Nuclear terrorism causes nuclear escalation –retaliation goes global, it’s highly likely and rapid

Morgan 09

(Professor of Foreign Studies at Hankuk University, Dennis Ray, December, “World on fire: two scenarios of the destruction of human civilization and possible extinction of the human race” Futures, Vol 41 Issue 10, p 683-693, ScienceDirect)

In a remarkable website on nuclear war, Carol Moore asks the question “Is Nuclear War Inevitable??” In Section , Moore points out what most terrorists obviously already know about the nuclear tensions between powerful countries. No doubt, they’ve figured out that the best way to escalate these tensions into nuclear war is to set off a nuclear exchange. As Moore points out, all that militant terrorists would have to do is get their hands on one small nuclear bomb and explode it on either Moscow or Israel. Because of the Russian “dead hand” system, “where regional nuclear commanders would be given full powers should Moscow be destroyed,” it is likely that any attack would be blamed on the United States” Israeli leaders and Zionist supporters have, likewise, stated for years that if Israel were to suffer a nuclear attack, whether from terrorists or a nation state, it would retaliate with the suicidal “Samson option” against all major Muslim cities in the Middle East. Furthermore, the Israeli Samson option would also include attacks on Russia and even “anti-Semitic” European cities In that case, of course, Russia would retaliate, and the U.S. would then retaliate against Russia. China would probably be involved as well, as thousands, if not tens of thousands, of nuclear warheads, many of them much more powerful than those used at Hiroshima and Nagasaki, would rain upon most of the major cities in the Northern Hemisphere. Afterwards, for years to come, massive radioactive clouds would drift throughout the Earth in the nuclear fallout, bringing death or else radiation disease that would be genetically transmitted to future generations in a nuclear winter that could last as long as a 100 years, taking a savage toll upon the environment and fragile ecosphere as well. And what many people fail to realize is what a precarious, hair-trigger basis the nuclear web rests on. Any accident, mistaken communication, false signal or “lone wolf’ act of sabotage or treason could, in a matter of a few minutes, unleash the use of nuclear weapons, and once a weapon is used, then the likelihood of a rapid escalation of nuclear attacks is quite high while the likelihood of a limited nuclear war is actually less probable since each country would act under the “use them or lose them” strategy and psychology; restraint by one power would be interpreted as a weakness by the other, which could be exploited as a window of opportunity to “win” the war. In other words, once Pandora's Box is opened, it will spread quickly, as it will be the signal for permission for anyone to use them. Moore compares swift nuclear escalation to a room full of people embarrassed to cough. Once one does, however, “everyone else feels free to do so. The bottom line is that as long as large nation states use internal and external war to keep their disparate factions glued together and to satisfy elites’ needs for power and plunder, these nations will attempt to obtain, keep, and inevitably use nuclear weapons. And as long as large nations oppress groups who seek self-determination, some of those groups will look for any means to fight their oppressors” In other words, as long as war and aggression are backed up by the implicit threat of nuclear arms, it is only a matter of time before the escalation of violent conflict leads to the actual use of nuclear weapons, and once even just one is used, it is very likely that many, if not all, will be used, leading to horrific scenarios of global death and the destruction of much of human civilization while condemning a mutant human remnant, if there is such a remnant, to a life of unimaginable misery and suffering in a nuclear winter. In “Scenarios,” Moore summarizes the various ways a nuclear war could begin: Such a war could start through a reaction to terrorist attacks, or through the need to protect against overwhelming military opposition, or through the use of small battle field tactical nuclear weapons meant to destroy hardened targets. It might quickly move on to the use of strategic nuclear weapons delivered by short-range or inter-continental missiles or long-range bombers. These could deliver high altitude bursts whose electromagnetic pulse knocks out electrical circuits for hundreds of square miles. Or they could deliver nuclear bombs to destroy nuclear and/or non-nuclear military facilities, nuclear power plants, important industrial sites and cities. Or it could skip all those steps and start through the accidental or reckless use of strategic weapons.

#### High risk of nuke terror

Vladimir Z. Dvorkin ‘12 Major General (retired), doctor of technical sciences, professor, and senior fellow at the Center for International Security of the Institute of World Economy and International Relations of the Russian Academy of Sciences. The Center participates in the working group of the U.S.-Russia Initiative to Prevent Nuclear Terrorism, 9/21/12, "What Can Destroy Strategic Stability: Nuclear Terrorism is a Real Threat," belfercenter.ksg.harvard.edu/publication/22333/what\_can\_destroy\_strategic\_stability.html

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

**Bioattack causes extinction**

**Steinbrenner 97**

(John D. Steinbrenner, Brookings Senior Fellow, 1997, Foreign Policy, "Biological weapons: a plague upon all houses," Winter, InfoTrac)

Although human pathogens are often lumped with nuclear explosives and lethal chemicals as potential weapons of mass destruction, there is an obvious, fundamentally important difference: Pathogens are alive, weapons are not. Nuclear and chemical weapons do not reproduce themselves and do not independently engage in adaptive behavior; pathogens do both of these things. That deceptively simple observation has immense implications. The use of a manufactured weapon is a singular event. Most of the damage occurs immediately. The aftereffects, whatever they may be, decay rapidly over time and distance in a reasonably predictable manner. Even before a nuclear warhead is detonated, for instance, it is possible to estimate the extent of the subsequent damage and the likely level of radioactive fallout. Such predictability is an essential component for tactical military planning. The use of a pathogen, by contrast, is an extended process whose scope and timing cannot be precisely controlled. For most potential biological agents, the predominant drawback is that they would not act swiftly or decisively enough to be an effective weapon. But for a few pathogens - ones most likely to have a decisive effect and therefore the ones most likely to be contemplated for deliberately hostile use - the risk runs in the other direction. A lethal pathogen that could efficiently spread from one victim to another would be capable of initiating an intensifying cascade of disease that might ultimately threaten the entire world population. The 1918 influenza epidemic demonstrated the potential for a global contagion of this sort but not necessarily its outer limit. Nobody really knows how serious a possibility this might be, since there is no way to measure it reliably.

**New gene manipulation takes out their defense**

MSNBC 2011

(“Clinton warns of bioweapon threat from gene tech,” pg online @ http://www.msnbc.msn.com/id/45584359/ns/… “For an international verification system — akin to that for nuclear weapons — saying it is too complicated to monitor every lab's activities.”)

GENEVA — **New gene assembly technology** that offers great benefits for scientific research **could** also **be used by terrorists to create biological weapons,** U.S. Secretary of State Hillary Rodham Clinton warned Wednesday. **The threat from bioweapons has drawn little attention in recent years, as governments focused more on the risk of nuclear weapons proliferation to countries such as Iran and North Korea**. But **experts have warned that the increasing ease with which bioweapons can be created might be used by terror groups to develop and spread new diseases that could mimic the effects of** the fictional global epidemic portrayed in the Hollywood thriller **"Contagion."** Speaking at an international meeting in Geneva aimed at reviewing the 1972 Biological Weapons Convention, Clinton told diplomats that **the challenge was to maximize the benefits of scientific research and minimize the risks that it could be used for harm. "The emerging gene synthesis industry is making genetic material more widely available,"** she said. "**This** has many benefits for research, but it **could also potentially be used to assemble the components of a deadly organism." Gene synthesis allows genetic material — the building blocks of all organisms — to be artificially assembled in the lab, greatly speeding up the creation of artificial viruses and bacteria. The U.S. government has cited efforts by terrorist networks such as al-Qaeda to recruit scientists capable of making biological weapons** as a national security concern. "**A crude but effective terrorist weapon can be made using a small sample of any number of widely available pathogens, inexpensive equipment, and college-level chemistry and biology,"** Clinton told the meeting. "Less than a year ago**, al-Qaeda in the Arabian Peninsula made a call to arms for**, and I quote, **'brothers with degrees in microbiology or chemistry ... to develop a weapon of mass destruction,'"** she said. **Clinton also mentioned the Aum Shinrikyo cult's attempts in Japan to obtain anthrax in the 1990s, and the 2001 anthrax attacks** in the United States that killed five people. Washington has urged countries to be more transparent about their efforts to clamp down on the threat of bioweapons. But **U.S. officials have also resisted calls for an international verification system** — akin to that for nuclear weapons — saying it is too complicated to monitor every lab's activities around the world.

### Adv. 2 Firebreaks

#### The AUMF will inevitably expire in the squo – updating the authorization is key to prevent a limitless War on Terror based on article 2 and self-defense justifications that undermine US legitimacy and erode the global firebreak against use of force

**Barnes ‘12**

[Beau, J.D., Boston University School of Law (expected May 2013); M.A. in Law and ¶ Diplomacy (expected May 2013), The Fletcher School of Law and Diplomacy at Tufts ¶ University; B.A., 2006, Lewis & Clark College. Military law Review vol. 221. <https://www.jagcnet.army.mil/DOCLIBS/MILITARYLAWREVIEW.NSF/0/b7396120928e9d5e85257a700042abb5/$FILE/By%20Beau%20D.%20Barnes.pdf> ETB]

**The AUMF must inevitably expire because it is expressly linked to the September 11,** 2001, **attacks** against the United States. Moreover, **because of the impending downfall of Al Qaeda** as we know it, **the statute's demise will come more quickly than most assume.** Although the United States still faces myriad terrorist threats, **the threat from Al Qaeda itself**--the "core" group actually responsible for 9/11--**is dissipating. So long as a substantial terrorist threat continues, however, the United States will require a framework within which to combat terrorist organizations and activities.** Consequently, **Congress should enact a new statute that supersedes the AUMF and addresses the major legal and constitutional issues relating to the use of force by the President that have arisen since the September 11 attacks and will persist in the foreseeable future.**¶A. The AUMF's Inevitable Expiration¶ Although it is difficult to determine exactly when the AUMF will become obsolete, the mere fact that a precise date is unclear should not lead to the conclusion that the AUMF will be perpetually valid. Al Qaeda, the organization responsible for the September 11, 2001, attacks is considered by some to have been already rendered "operationally ineffective" n102 and "crumpled at its core." n103 Moreover, even if Al Qaeda continues to possess the ability to threaten the United States, n104 not all terrorist organizations currently possess a meaningful link to Al Qaeda, rendering the AUMF already insufficient in certain circumstances. Indeed, individuals from across the political spectrum have recognized that the AUMF's focus on those involved in "the terrorist attacks that occurred on September 11, 2001" is outdated and no longer addresses the breadth of threats facing the United States. n105 At a certain point, the [\*84] terrorist groups that threaten the United States targets will no longer have a plausible or sufficiently direct link to the September 11, 2001, attacks. n106¶ This shift has likely already occurred. Former Attorney General Michael Mukasey, writing recently in support of efforts to reaffirm the original AUMF, noted that currently "there are organizations, including the Pakistani Taliban, that are arguably not within its reach." n107 It is similarly unclear if the AUMF extends to organizations like Al Qaeda in the Arabian Penninsula, whose formation as a group--and connection to Al Qaeda's "core"--postdates 9/11 and is indirect at best. n108 Former State Department Legal Adviser John Bellinger has argued that the Obama Administration's reliance on the AUMF for its targeted killing and detention operations is "legally risky" because "[s]hould our military or intelligence agencies wish to target or detain a terrorist who is not part of al-Qaeda, they would lack the legal authority to do so, unless the [\*85] administration expands (and the federal courts uphold) its legal justification." n109 Indeed, "[c]ircumstances alone . . . will put enormous pressure on--and ultimately render obsolete--the legal framework we currently employ to justify these operations." n110¶ While the court of public opinion seems to have accepted the AUMF's inevitable expiration, courts of law appear poised to accept this argument as well. Justice O'Connor's plurality opinion in Hamdi admitted that the AUMF granted "the authority to detain for the duration of the relevant conflict." n111 She also suggested, however, that that authority would terminate at some point, based on "the practical circumstances of [this] conflict," which may be "entirely unlike those of the conflicts that informed the development of the law of war." n112 Justice Kennedy's opinion in Boumediene also hinted that the future contours of the war on terror might force the Court to revisit the extent of the conflict. n113 Lower federal courts have already started to ask some of the questions about the duration of the AUMF's authority, which the Supreme Court has left unaddressed to date. n114¶ [\*86] The Obama Administration has notably disagreed with these assessments, arguing that the AUMF "is still a viable authorization today." n115 The administration's position, however, appears contradictory, as it has simultaneously described the limited reach of the AUMF as "encompass[ing] only those groups or people with a link to the terrorist attacks on 9/11, or associated forces" n116 and celebrated the functional neutralization of Al Qaeda as a continuing threat to U.S. national security. n117 The administration's position, however, remains in the minority. Notwithstanding the administration's continuing fealty to the 2001 statute, as pressures build to address these issues, the "temporal vitality" n118 of the AUMF will continue to be challenged. The successful targeting of those responsible for the attacks of September 11, 2001, will ensure that the AUMF's vitality will not be indefinite.¶ Moreover, even if one rejects as overly optimistic the position that Al Qaeda is currently or will soon be incapable of threatening the United States, the AUMF is already insufficient to reach many terrorist organizations. Assuming a robust Al Qaeda for the indefinite future does not change the disconnected status of certain terrorist groups; as much as it might wish to the contrary, Al Qaeda does not control all Islamist terrorism. n119¶ B. The Consequences of Failing to Reauthorize¶ The AUMF's inevitable expiration, brought about by the increasingly tenuous link between current U.S. military and covert [\*87] operations and those who perpetrated the September 11 attacks, leaves few good options for the Obama Administration. Unless Congress soon reauthorizes military force in the struggle against international terrorists, the administration will face difficult policy decisions. Congress, however, shows no signs of recognizing the AUMF's limited lifespan or a willingness to meaningfully re-write the statute. In light of this reticence, one choice would be for the Obama Administration to acknowledge the AUMF's limited scope and, on that basis, forego detention operations and targeted killings against non-Al Qaeda-related terrorists. For both strategic and political reasons, this is extremely unlikely, especially with a president in office who has already shown a willingness to defy legal criticism and aggressively target terrorists around the globe. n120 Another option would be for the Executive Branch to acknowledge the absence of legal authority, but continue targeted killings nonetheless. For obvious reasons, this option is problematic and unlikely to occur.¶ Therefore, the more likely result is that the Executive Branch, grappling with the absence of explicit legal authority for a critical policy, would need to make increasingly strained legal arguments to support its actions. n121 Thus, the Obama Administration will soon be forced to rationalize ongoing operations under existing legal authorities, which, I argue below, will have significant harmful consequences for the United States. Indeed, the administration faces a Catch-22--its efforts to destroy Al Qaeda as a functioning organization will lead directly to the vitiation of the AUMF. The administration is "starting with a result and finding the legal and policy justifications for it," which often leads to poor policy formulation. n122 Potential legal rationales would perforce rest on exceedingly strained legal arguments based on the AUMF itself, the President's Commander in Chief powers, or the international law of self-defense. n123 [\*88] Besides the inherent damage to U.S. credibility attendant to unconvincing legal rationales, each alternative option would prove legally fragile, destabilizing to the international political order, or both.¶ 1. Effect on Domestic Law and Policy¶ Congress's failure to reauthorize military force would lead to bad domestic law and even worse national security policy. First, a legal rationale based on the AUMF itself will increasingly be difficult to sustain. Fewer and fewer terrorists will have any plausible connection to the September 11 attacks or Al Qaeda, and arguments for finding those connections are already logically attenuated. The definition of those individuals who may lawfully be targeted and detained could be expanded incrementally from the current definition, defining more and more groups as Al Qaeda's "co-belligerents" and "associated forces." n124 But this approach, apart from its obvious logical weakness, would likely be rejected by the courts at some point. n125 The policy of the United States should not be to continue to rely on the September 18, 2001, AUMF.¶ Second, basing U.S. counterterrorism efforts on the President's constitutional authority as Commander in Chief is legally unstable, and therefore unsound national security policy, because a combination of legal difficulties and political considerations make it unlikely that such a rationale could be sustained. This type of strategy would likely run afoul [\*89] of the courts and risk destabilizing judicial intervention, n126 because the Supreme Court has shown a willingness to step in and assert a more proactive role to strike down excessive claims of presidential authority. n127 Politically, using an overly robust theory of the Commander in Chief's powers to justify counterterrorism efforts would, ultimately, be difficult to sustain. President Obama, who ran for office in large part on the promise of repudiating the excesses of the Bush Administration, and indeed any president, would likely face political pressure to reject the claims of executive authority made "politically toxic" by the writings of John Yoo. n128 Because of the likely judicial resistance and political difficulties, claiming increased executive authority to prosecute the armed conflict against Al Qaeda would prove a specious and ultimately futile legal strategy. Simply put, forcing the Supreme Court to intervene and overrule the Executive's national security policy is anathema to good public policy. In such a world, U.S. national security policy would lack stability--confounding cooperation with allies and hindering negotiations with adversaries.¶ There are, of course, many situations where the president's position as Commander in Chief provides entirely uncontroversial authority for military actions against terrorists. In 1998, President Clinton ordered cruise missile strikes against Al Qaeda-related targets in Afghanistan and [\*90] Sudan in response to the embassy bombings in Kenya and Tanzania. In 1986, President Reagan ordered air strikes against Libyan targets after U.S. intelligence linked the bombing of a Berlin discotheque to Libyan operatives. n129 Executive authority to launch these operations without congressional approval was not seriously questioned, and no congressional approval was sought. n130 To be sure, many of the targeted killing operations carried out today fall squarely within the precedent of past practice supplied by these and other valid exercises of presidential authority. Notwithstanding disagreement about the scope of Congress's and the president's "war powers," few would disagree with the proposition that the president needs no authorization to act in self-defense on behalf of the country. However, it is equally clear that not all terrorists pose such a threat to the United States, and thus the [\*91] Commander in Chief cannot justify all counterterrorism operations as "self-defense."¶ A third option would be to conduct all counterterrorism operations as covert operations under the aegis of Title 50. n131 Although the CIA typically carries out such "Title 50 operations," the separate roles of the military and intelligence community have become blurred in recent years. n132 The president must make a "finding" to authorize such operations, n133 which are conducted in secret to provide deniability for the U.S. Government. n134¶ Relying entirely on covert counterterrorism operations, however, would suffer from several critical deficiencies. First, even invoking the cloak of "Title 50," it is "far from obvious" that covert operations are legal without supporting authority. n135 In other words, Title 50 operations, mostly carried out by the CIA, likely also require "sufficient domestic law foundation in terms of either an AUMF or a legitimate claim of inherent constitutional authority for the use of force under Article II." n136 Second, covert operations are by definition kept out of public view, making it difficult to subject them to typical democratic review. In light of "the democratic deficit that already plagues the nation in the legal war [\*92] on terror," n137 further distancing counterterrorism operations from democratic oversight would exacerbate this problem. n138 Indeed, congressional oversight of covert operations--which, presumably, operates with full information--is already considered insufficient by many. n139 By operating entirely on a covert basis, "the Executive can initiate more conflict than the public might otherwise [be] willing to support." n140¶ In a world without a valid AUMF, the United States could base its continued worldwide counterterrorism operations on various alternative domestic legal authorities. All of these alternative bases, however, carry with them significant costs--detrimental to U.S. security and democracy. The foreign and national security policy of the United States should rest on "a comprehensive legal regime to support its actions, one that [has] the blessings of Congress and to which a court would defer as the collective judgment of the American political system about a novel set of [\*93] problems." n141 Only then can the President's efforts be sustained and legitimate.¶ 2. Effect on the International Law of Self-Defense¶ A failure to reauthorize military force would lead to significant negative consequences on the international level as well. Denying the Executive Branch the authority to carry out military operations in the armed conflict against Al Qaeda would force the President to find authorization elsewhere, most likely in the international law of self-defense--the jus ad bellum. n142 Finding sufficient legal authority for the United States's ongoing counterterrorism operations in the international law of self-defense, however, is problematic for several reasons. As a preliminary matter, relying on this rationale usurps Congress's role in regulating the contours of U.S. foreign and national security policy. If the Executive Branch can assert "self-defense against a continuing threat" to target and detain terrorists worldwide, it will almost always be able to find such a threat. n143 Indeed, the Obama Administration's broad understanding of the concept of "imminence" illustrates the danger of allowing the executive to rely on a self-defense authorization alone. n144 [\*94] This approach also would inevitably lead to dangerous "slippery slopes." Once the President authorizes a targeted killing of an individual who does not pose an imminent threat in the strict law enforcement sense of "imminence," n145 there are few potential targets that would be off-limits to the Executive Branch. Overly malleable concepts are not the proper bases for the consistent use of military force in a democracy. Although the Obama Administration has disclaimed this manner of broad authority because the AUMF "does not authorize military force against anyone the Executive labels a 'terrorist,'" n146 relying solely on the international law of self defense would likely lead to precisely such a result.¶ The slippery slope problem, however, is not just limited to the United States's military actions and the issue of domestic control. The creation of international norms is an iterative process, one to which the United States makes significant contributions. Because of this outsized influence, the United States should not claim international legal rights that it is not prepared to see proliferate around the globe. Scholars have observed that the Obama Administration's "expansive and open-ended interpretation of the right to self-defence threatens to destroy the prohibition on the use of armed force . . . ." n147 Indeed, "[i]f other states were to claim the broad-based authority that the United States does, to kill people anywhere, anytime, the result would be chaos." n148¶ [\*95] Encouraging the proliferation of an expansive law of international self-defense would not only be harmful to U.S. national security and global stability, but it would also directly contravene the Obama Administration's national security policy, sapping U.S. credibility. The Administration's National Security Strategy emphasizes U.S. "moral leadership," basing its approach to U.S. security in large part on "pursu[ing] a rules-based international system that can advance our own interests by serving mutual interests." n149 Defense Department General Counsel Jeh Johnson has argued that "[a]gainst an unconventional enemy that observes no borders and does not play by the rules, we must guard against aggressive interpretations of our authorities that will discredit our efforts, provoke controversy and invite challenge." n150 Cognizant of the risk of establishing unwise international legal norms, Johnson argued that the United States "must not make [legal authority] up to suit the moment." n151 The Obama Administration's global counterterrorism strategy is to "adher[e] to a stricter interpretation of the rule of law as an essential part of the wider strategy" of "turning the page on the past [and rooting] counterterrorism efforts within a more durable, legal foundation." n152¶ [\*96] Widely accepted legal arguments also facilitate cooperation from U.S. allies, especially from the United States' European allies, who have been wary of expansive U.S. legal interpretations. n153 Moreover, U.S. strategy vis-a-vis China focuses on binding that nation to international norms as it gains power in East Asia. n154 The United States is an international "standard-bearer" that "sets norms that are mimicked by others," n155 and the Obama Administration acknowledges that its drone strikes act in a quasi-precedential fashion. n156 Risking the obsolescence of the AUMF would force the United States into an "aggressive interpretation" of international legal authority, n157 not just discrediting its [\*97] own rationale, but facilitating that rationale's destabilizing adoption by nations around the world. n158¶ United States efforts to entrench stabilizing global norms and oppose destabilizing international legal interpretations--a core tenet of U.S. foreign and national security policy n159 --would undoubtedly be hampered by continued reliance on self defense under the jus ad bellum to authorize military operations against international terrorists. Given the presumption that the United States's armed conflict with these terrorists will continue in its current form for at least the near term, ongoing authorization at the congressional level is a far better choice than continued reliance on the jus ad bellum. Congress should reauthorize the use of force in a manner tailored to the global conflict the United States is fighting today. Otherwise, the United States will be forced to continue to rely on a statute anchored only to the continued presence of those responsible for 9/11, a group that was small in 2001 and, due to the continued successful targeting of Al Qaeda members, is rapidly approaching zero.

#### We control terminal impact uniqueness - war taboo strong and effective now. Norms prevents miscalc and escalation

Beehner, 12

Council on Foreign Relations senior writer; Truman National Security Project fellow

[Lionel, "Is There An Emerging ‘Taboo’ Against Retaliation?" The Smoke Filled Room, 7-13-12, thesmokefilledroomblog.com/2012/07/13/is-there-an-emerging-taboo-against-retaliation/, accessed 9-22-13, ]

The biggest international news in the quiet months before 9/11 was the collision of a U.S. Navy spy aircraft and a PLA fighter jet in China, during which 24 American crew members were detained. Even though the incident was lampooned on SNL, there was real concern that the incident would blow up, damaging already-tense relations between the two countries. But it quickly faded and both sides reached an agreement. Quiet diplomacy prevailed. Flash-forward a decade later and we have a similar border incident of a spy plane being shot down between Turkey and Syria. Cue the familiar drumbeats for war on both sides. To save face, each side has ratcheted up its hostile rhetoric (even though Syria’s president did offer something of an admission of guilt). But, as in the spring of 2001, I wouldn’t get too worried. One of the least noted global norms to emerge in recent decades has been the persistence of state restraint in international relations. Retaliation has almost become an unstated taboo. Of course, interstate war is obviously not a relic of previous centuries, but nor is it as commonplace anymore, despite persistent flare-ups that have the potential to escalate to full-blown war. Consider the distinct cases of India and South Korea. Both have sustained serious attacks with mass casualties in recent years: South Korea saw 46 of its sailors killed after the Cheonan, a naval vessel, was sunk by North Korea; India saw 200 citizens killed by the Mumbai attacks, orchestrated by Islamist groups with links to Pakistani intelligence. Yet neither retaliated with military force. Why? The short answer might be: Because a response may have triggered a nuclear war (both Pakistan and North Korea are nuclear-armed states). So nukes in this case may have acted as a deterrent and prevented an escalation of hostilities. But I would argue that it was not the presence of nuclear weapons that led to restraint but rather normative considerations. South Korea and India are also both rising democratic powers with fast-growing economies, enemies along their peripheries, and the military and financial backing of the United States. Their leaders, subject to the whims of an electorate, may have faced domestic pressures to respond with force or suffer reputational costs. And yet no escalation occurred and war was averted. Again, I argue that this is because there is an emerging and under-reported norm of restraint in international politics. Even Russia’s invasion of Georgia in August 2008, which may at first appear to disprove this theory, actually upholds it: The Russians barely entered into Georgia proper and could easily have marched onto the capital. But they didn’t. The war was over in 5 days and Russian troops retreated to disputed provinces. Similarly, Turkey will not declare war on Syria, no matter how angry it is that Damascus shot down one of its spy planes. Quiet diplomacy will prevail. In 1999, Nina Tannenwald made waves by proclaiming the emergence of what she called a “nuclear taboo” – that is, the non-use of dangerous nukes had emerged as an important global norm. Are we witnessing the emergence of a similar norm for interstate war? Even as violence rages on in the form of civil war and internal political violence all across the global map, interstate conflict is increasingly rare. My point is not to echo Steven Pinker, whose latest book, The Better Angles of Our Nature, painstakingly details a “civilizing process” and “humanitarian revolution” that has brought war casualties and murder rates down over the centuries. I’m not fully convinced by his argument, but certainly agree with the observation that at the state level, a norm of non-retaliation has emerged. The question is why. Partly, war no longer makes as much sense as in the past because capturing territory is no longer as advantageous as it once was. We no longer live in a world where marauding throngs of Dothraki-like bandits – or what Mancur Olson politely called “non-stationary bandits” – seek to expand their writ over large unconquered areas. This goes on, of course, at the intrastate level, but the rationale for interstate war for conquest is no longer as strong. Interstate wars of recent memory — the Eritrea-Ethiopia conflicts of 1999 and 2005, the Russia-Georgia War of 2008 — upon closer inspection, actually look more like intrastate wars. The latter was fought over two secessionist provinces; the former between two former rebel leaders-turned-presidents who had a falling out. But if we have reached a norm of non-retaliation to threats or attacks, does that mean that deterrence is no longer valid? After all, if states know there will be no response, why not step up the level of attacks? I would argue that the mere threat of retaliation is enough, as evidenced by Turkish leaders’ harsh words toward Syria (there is now a de facto no-fly zone near their shared border). Still, doesn’t restraint send a signal of weakness and lack of resolve? After all, didn’t Seoul’s non-response to the Cheonan sinking only invite Pyongyang to escalate hostilities? Robert Jervis dismisses the notion that a tough response signals resolve as being overly simplified. The observers’ interpretation of the actor and the risks involved also matter. When Schelling writes about the importance of “saving face,” he describes it as the “interdependence of a country’s commitments; it is a country’s reputation for action, the expectations other countries have about its behavior.” Others note that the presence of nuclear weapons forces states, when attacked, to respond with restraint to avoid the risk of nuclear escalation. Hence, we get “limited wars” rather than full-blown conflicts, or what some deterrent theorists describe as the “stability-instability paradox.” This is not a new concept, of course: Thucydides quoted King Archimadus of Sparta: “And perhaps then they see that our actual strength is keeping pace with the language that we use, they will be more inclined to give way, since their land will still be untouched and, in making up their minds, they will be thinking of advantages which they still possess and which have not yet been destroyed.” There will be future wars between states, of course. But **the days when an isolated incident, such as a spy plane being shot down or a cross-border incursion, can unleash a chain of events that lead to interstate wars** I believe are largely over **because of the emergence of restraint as a powerful norm**ative force in international politics, not unlike Tannenwald’s “nuclear taboo.” Turkey and Syria will only exchange a war of words, not actual hostilities. To do otherwise would be a violation of this existing norm.

#### Specifically, erosion of the use of force taboo triggers nuclear conflict between India and Pakistan and China and Taiwan

Obayemi, 6

East Bay Law School professor [Olumide, admitted to the Bars of Federal Republic of Nigeria and the State of California, Golden Gate University School of Law, "Article: Legal Standards Governing Pre-Emptive Strikes and Forcible Measures of Anticipatory Self-Defense Under the U.N. Charter and General International Law," 12 Ann. Surv. Int'l & Comp. L. 19, l/n, accessed 9-19-13, ]

The United States must abide by the rigorous standards set out above that are meant to govern the use of preemptive strikes, because today's international system is characterized by a relative infrequency of interstate war. It has been noted that developing doctrines that lower the threshold for preemptive action could put that accomplishment at risk, and exacerbate regional crises already on the brink of open conflict. n100 This is important as O'Hanlon, Rice, and Steinberg have rightly noted: ...countries already on the brink of war, and leaning strongly towards war, might use the doctrine to justify an action they already wished to take, and the effect of the U.S. posture may make it harder for the international community in general, and the U.S. in particular, to counsel delay and diplomacy. Potential **examples abound**, ranging from Ethiopia and Eritrea, to China and Taiwan, to the Middle East. But perhaps the clearest case is the India-Pakistan crisis. n101 The world must be a safe place to live in. We cannot be ruled by bandits and rogue states. There must be law and order not only in the books but in enforcement as well. No nation is better suited to enforce international law than the United States. The Bush Doctrine will stand the test [\*42] of time and survive. Again, we submit that nothing more would protect the world and its citizens from nuclear weapons, terrorists and rogue states than an able and willing nation like the United States, acting as a policeman of the world within all legal boundaries. This is the essence of the preamble to the United Nations Charter.

#### Indo-Pak nuclear war causes extinction

Starr ’11

(Consequences of a Single Failure of Nuclear Deterrence by Steven Starr February 07, 2011 \* Associate member of the Nuclear Age Peace Foundation \* Senior Scientist for PSR)

Only a single failure of nuclear deterrence is required to start a nuclear war, and the consequences of such a failure would be profound. **Peer-reviewed studies predict** that **less than 1% of** the **nuclear weapons** now deployed in the arsenals of the Nuclear Weapon States, if detonated in urban areas, would immediately kill tens of millions of people, and cause long-term, **catastrophic disruptions** of the global **climate and** massive destruction ofEarth’sprotective **ozone** layer. The result would be a global nuclear famine that could kill up to one billion people. A full-scale war, fought with the strategic nuclear arsenals of the United States and Russia, would so utterly devastate Earth’s environment that most humans and other complex forms of life would not survive. Yet no Nuclear Weapon State has ever evaluated the environmental, ecological or agricultural consequences of the detonation of its nuclear arsenals in conflict. Military and political leaders in these nations thus remain dangerously unaware of the existential danger which their weapons present to the entire human race. Consequently, nuclear weapons remain as the cornerstone of the military arsenals in the Nuclear Weapon States, where nuclear deterrence guides political and military strategy. Those who actively support nuclear deterrence are trained to believe that deterrence cannot fail, so long as their doctrines are observed, and their weapons systems are maintained and continuously modernized. They insist that their nuclear forces will remain forever under their complete control, immune from cyberwarfare, sabotage, terrorism, human or technical error. They deny that the short 12-to-30 minute flight times of nuclear missiles would not leave a President enough time to make rational decisions following a tactical, electronic warning of nuclear attack. The U.S. and Russia continue to keep a total of 2000 strategic nuclear weapons at launch-ready status – ready to launch with only a few minutes warning. Yet both nations are remarkably unable to acknowledge that this high-alert status in any way increases the probability that these weapons will someday be used in conflict. How can strategic nuclear arsenals truly be “safe” from accidental or unauthorized use, when they can be launched literally at a moment’s notice? A cocked and loaded weapon is infinitely easier to fire than one which is unloaded and stored in a locked safe. The mere existence of immense nuclear arsenals, in whatever status they are maintained, makes possible their eventual use in a nuclear war. Our **best scientists** now **tell us** that **such a war would mean the end of human history**. We need to ask our leaders: Exactly what political or national goals could possibly justify risking a nuclear war that would likely cause the extinction of the human race? However, in order to pose this question, we must first make the fact known that existing nuclear arsenals – through their capacity to utterly devastate the Earth’s environment and ecosystems – threaten continued **human existence**. Otherwise, military and political leaders will continue to cling to their nuclear arsenals and will remain both unwilling and unable to discuss the real consequences of failure of deterrence. We can and must end the silence, and awaken the peoples of all nations to the realization that “nuclear war” means “global nuclear suicide”. A Single Failure of Nuclear Deterrence could lead to: \* A nuclear war **between India and Pakistan**; \* 50 Hiroshima-size (15 kiloton) weapons detonated in the mega-cities of both India and Pakistan (there are now 130-190 operational nuclear weapons which exist in the combined arsenals of these nations); \* The deaths of 20 to 50 million people as a result of the prompt effects of these nuclear detonations (blast, fire and radioactive fallout); \* Massive firestorms covering many hundreds of square miles/kilometers (created by nuclear detonations that produce temperatures hotter than those believed to exist at the center of the sun), that would engulf these cities and produce 6 to 7 million tons of thick, black smoke; \* About 5 million tons of smoke that would quickly rise above cloud level into the stratosphere, where strong winds would carry it around the Earth in 10 days; \* A stratospheric smoke layer surrounding the Earth, which would remain in place for 10 years; \* The dense smoke would heat the upper atmosphere, destroy Earth’s protective ozone layer, and block 7-10% of warming sunlight from reaching Earth’s surface; \* 25% to 40% of the protective ozone layer would be destroyed at the mid-latitudes, and 50-70% would be destroyed at northern and southern high latitudes; \* Ozone destruction would cause the average UV Index to increase to 16-22 in the U.S, Europe, Eurasia and China, with even higher readings towards the poles (readings of 11 or higher are classified as “extreme” by the U.S. EPA). It would take 7-8 minutes for a fair skinned person to receive a painful sunburn at mid-day; \* Loss of warming sunlight would quickly produce average surface temperatures in the Northern Hemisphere colder than any experienced in the last 1000 years; \* Hemispheric drops in temperature would be about twice as large and last ten times longer then those which followed the largest volcanic eruption in the last 500 years, Mt. Tambora in 1816. The following year, 1817, was called “The Year Without Summer”, which saw famine in Europe from massive crop failures; \* Growing seasons in the Northern Hemisphere would be significantly shortened. It would be too cold to grow wheat in most of Canada for at least several years; \* World grain stocks, which already are at historically low levels, would be completely depleted; grain exporting nations would likely cease exports in order to meet their own food needs; \* The one billion already hungry people, who currently depend upon grain imports, would likely starve to death in the years following this nuclear war; \* The total explosive power in these 100 Hiroshima-size weapons is less than 1% of the total explosive power contained in the currently operational and deployed U.S. and Russian nuclear forces.

#### So does China-Taiwan

Straits Times 2k

(6-25, Lexis, No one gains in war over Taiwan)

THE DOOMSDAY SCENARIO THE high-intensity scenario postulates a cross-strait war escalating into a full-scale war between the US and China. If Washington were to conclude that splitting China would better serve its national interests, then a full-scale war becomes unavoidable. Conflict on such a scale would embroil other countries far and near and -- horror of horrors -- raise the possibility of a nuclear war. Beijing has already told the US and Japan privately that it considers any country providing bases and logistics support to any US forces attacking China as belligerent parties open to its retaliation. In the region, this means South Korea, Japan, the Philippines and, to a lesser extent, Singapore. If China were to retaliate, east Asia will be set on fire. And the conflagration may not end there as opportunistic powers elsewhere may try to overturn the existing world order. With the US distracted, Russia may seek to redefine Europe's political landscape. The balance of power in the Middle East may be similarly upset by the likes of Iraq. In south Asia, hostilities between India and Pakistan, each armed with its own nuclear arsenal, could enter a new and dangerous phase. Will a full-scale Sino-US war lead to a nuclear war? According to General Matthew Ridgeway, commander of the US Eighth Army which fought against the Chinese in the Korean War, the US had at the time thought of using nuclear weapons against China to save the US from military defeat. In his book The Korean War, a personal account of the military and political aspects of the conflict and its implications on future US foreign policy, Gen Ridgeway said that US was confronted with two choices in Korea -- truce or a broadened war, which could have led to the use of nuclear weapons. If the US had to resort to nuclear weaponry to defeat China long before the latter acquired a similar capability, there is little hope of winning a war against China 50 years later, short of using nuclear weapons. The US estimates that China possesses about 20 nuclear warheads that can destroy major American cities. Beijing also seems prepared to go for the nuclear option. A Chinese military officer disclosed recently that Beijing was considering a review of its "non first use" principle regarding nuclear weapons. Major-General Pan Zhangqiang, president of the military-funded Institute for Strategic Studies, told a gathering at the Woodrow Wilson International Centre for Scholars in Washington that although the government still abided by that principle, there were strong pressures from the military to drop it. He said military leaders considered the use of nuclear weapons mandatory if the country risked dismemberment as a result of foreign intervention. Gen Ridgeway said that should that come to pass, we would see the destruction of civilisation. There would be no victors in such a war. While the prospect of a nuclear Armaggedon over Taiwan might seem inconceivable, it cannot be ruled out entirely, for China puts sovereignty above everything else.

### Plan

**The United States federal government should increase restrictions on the targeted killing and indefinite detention war powers authorities granted to the President of the United States by Public Law 107-40 and modified by the 2012 National Defense Authorization Act by limiting the targets of those authorities to al-Qaeda, the Taliban, or those nations, organizations, or persons who enjoy close and well-established collaboration with al-Qaeda or the Taliban.**

### Solvency

#### Action to clearly define the enemy restricts the executive scope of the AUMF while preserving presidential flexibility and the joint decision-making capabilities

**Cronogue ‘12**

[Graham. Duke University School of Law, J.D. expected 2013; University of North Carolina B.A. 2010. 22 Duke J. Comp. & Int'l L. 377 2011-2012. ETB]

The AUMF must be updated. In 2001, the AUMF authorized force to ¶ fight against America’s most pressing threat, the architects of 9/11. However, much has changed since 2001. Bin Laden is dead, the Taliban ¶ has been deposed, and it is extremist organizations other than al-Qaeda and ¶ the Taliban who are launching many of the attacks against Americans and ¶ coalition partners.124 In many ways, the greatest threat is coming from ¶ groups not even around in 2001, groups such as AQAP and al Shabaab.125¶ Yet these groups do not fall under the AUMF’s authorization of force. ¶ These groups are not based in the same country that launched the attacks, ¶ have different leaders, and were not involved in planning or coordinating ¶ 9/11. Thus, under a strict interpretation of the AUMF, the President is not ¶ authorized to use force against these groups. ¶ Congress needs to specifically authorize force against groups outside of al-Qaeda and the Taliban. Our security concerns demand that the ¶ President can act quickly and decisively when facing threats. The current ¶ authorization does not cover many of these threats, yet it is much more ¶ difficult to achieve this decisiveness if the President is forced to rely solely ¶ on his inherent powers. A clear congressional authorization would clear up ¶ much of this problem. Under Justice Jackson’s framework, granting or ¶ denying congressional authorization ensures that President does not operate ¶ in the “zone of twilight.”126 Therefore, if Congress lays out the exact scope ¶ of the President’s power, naming or clearly defining the targeted actors, the ¶ constitutionality or unconstitutionality of presidential actions will become ¶ much clearer.127¶ Removing the 9/11 nexus to reflect the current reality of war without ¶ writing a carte blanche is the most important form of congressional ¶ guidance regarding target authorization. In order for the President to ¶ operate under the current AUMF, he must find a strong nexus between the ¶ target and the attacks on September 11. As I have shown in this paper, this ¶ nexus is simply non-existent for many groups fighting the United States ¶ today. Yet, the President should want to operate pursuant to congressional ¶ authorization, Justice Jackson’s strongest zone of presidential authority. In ¶ order to achieve this goal, the administration has begun to stretch the ¶ statutory language to include groups whose connection to the 9/11 attacks, ¶ if any, is extraordinarily limited. The current presidential practice only ¶ nominally follows the AUMF, a practice Congress has seemingly ¶ consented to by failing to amend the statute for over ten years. This “stretching” is dangerous as Congress is no longer truly behind the ¶ authorization and has simply acquiesced to the President’s exercise of ¶ broad authority. ¶ The overarching purpose of the new authorization should be to make it ¶ clear that the domestic legal foundation for using military force is not ¶ limited to al-Qaeda and the Taliban but also extends to the many other ¶ organizations fighting the United States. The language in Representative ¶ McKeon’s bill does a fairly good job of achieving this goal by specifically ¶ naming al-Qaeda and the Taliban along with the term “associated force.” ¶ This provision makes it clear the President is still authorized to use force ¶ against those responsible for 9/11 and those that harbored them by ¶ specifically mentioning al-Qaeda and the Taliban. However, the additional ¶ term “associated force” makes it clear that the authorization is not limited ¶ to these two groups and that the President can use force against the allies ¶ and separate branches of al-Qaeda and the Taliban. This creates a very ¶ flexible authorization. ¶ Despite the significant flexibility of the phrase “associated force ¶ engaged in hostilities”, I would propose defining the term or substituting a ¶ more easily understood and limited term. Associated force could mean ¶ many things and apply to groups with varying levels of involvement. ¶ Arguably any group that strongly identifies with or funds al-Qaeda or the ¶ Taliban could be an associated force. Thus, we could end up in the ¶ previously describe situation where group “I” who is in conflict with the ¶ United States or a coalition partner in Indonesia over a completely different ¶ issue becomes a target for its support of an associated force of al-Qaeda. ¶ Beyond that, the United States is authorized to use all necessary force ¶ against any groups that directly aid group “I” in its struggle. ¶ My proposal for the new AUMF would appear as follows: ¶ AFFIRMATION OF ARMED CONFLICT WITH AL-QAEDA, ¶ THE TALIBAN, AND ASSOCIATED FORCES ¶ Congress affirms that— ¶ (1) the United States is engaged in an armed conflict with al-Qaeda, the ¶ Taliban, and associated forces and that those entities continue to ¶ pose a threat to the United States and its citizens, both domestically ¶ and abroad; ¶ a. for the purposes of this statute, an associated force is a ¶ nation, organization, or person who enjoys close and wellestablished collaboration with al-Qaeda or the Taliban and ¶ as part of this relationship has either engaged in or has ¶ intentionally provided direct tactical or logistical support ¶ for armed conflict against the United States or coalition ¶ partners.¶ the President has the authority to use all necessary and appropriate ¶ force during the current armed conflict with al-Qaeda, the Taliban, ¶ and associated forces pursuant to the Authorization for Use of ¶ Military Force (Public Law 107-40; 50 U.S.C. 1541); ¶ (3) the current armed conflict includes nations, organization, and ¶ persons who— ¶ a. are part of al-Qaeda, the Taliban, or associated forces; or ¶ b. engaged in hostilities or have directly supported hostilities ¶ in aid of a nation, organization or person described in ¶ subparagraph (A); ¶ c. or harbored a nation, organization, or person described in ¶ subparagraph (A); and ¶ (4) the President’s authority pursuant to the Authorization for Use of ¶ Military Force includes the authority to detain belligerents, ¶ including persons described in paragraph (3), until the termination ¶ of hostilities. ¶ (5) Nothing in this authorization should be construed to limit the ¶ President’s ability to respond to new and emerging threats or engage ¶ in appropriate and calculated actions of self-defense. ¶ The definition of “associated forces” will add much needed clarity and ¶ provide congressional guidance in determining what groups actually fall ¶ under this provision. Rather than putting faith in the President not to abuse ¶ his discretion, Congress should simply clarify what it means and limit his ¶ discretion to acceptable amounts. The “close and well-established ¶ collaboration” ensures that only groups with very close and observable ties ¶ to al-Qaeda and the Taliban are designated as “associated forces.” While ¶ the requirement that part of their collaboration involve some kind of ¶ tactical or logistical support ensures that those classified as enemy ¶ combatants are actually engaged, or part of an organization that is engaged, ¶ in violence against the United States. Also, requiring that the associated ¶ force’s violence be directed at the United States or a coalition partner and ¶ that this violence is part of its relationship with al-Qaeda or the Taliban is ¶ another important limitation. ¶ First, requiring the associated force to engage in violence that is ¶ directed at these nations ensures that “associated force” does not include ¶ countries such as Iran that might have a relationship with al-Qaeda and ¶ give it financial support but are not actually in violent conflict with the ¶ United States. Second, requiring that this violence is made in furtherance of ¶ its relationship with al-Qaeda and the Taliban ensures that the violence that ¶ makes a group an “associated force” is actually related to its collaboration ¶ with al-Qaeda and the Taliban. Without this second provision, a group that supports al-Qaeda would be elevated to an “associated force” if it engaged ¶ in violence with, for instance, Australia over a completely unrelated issue. ¶ While some groups that work closely with and support al-Qaeda ¶ would not be considered associated forces, it is important to limit the scope ¶ of this term. This label effectively elevates the group to the same status as ¶ al-Qaeda and the Taliban and attaches authorization for force against any ¶ group that supports or harbors it. Furthermore, there is little real harm by ¶ narrowly defining associated forces because the groups that do support alQaeda will still be subject to the authorization under the “support” or ¶ “harbor” prongs. Narrowly defining “associated forces” simply prevents ¶ the problem of authorization spreading to supporters of those who are ¶ merely supporters of al-Qaeda. ¶ Compared to Representative McKeon’s proposal, these new ¶ provisions would narrow the scope of authorization. The President would ¶ not be able to use this authorization to attack new groups that both spring ¶ up outside our current theater and have no relation to al-Qaeda, the Taliban ¶ or the newly defined associated forces. However, part (5) of my ¶ authorization would ensure that the President is not unnecessarily restricted ¶ in responding to new and emergent threats from organizations that do not ¶ collaborate and support al-Qaeda. In this way, the proposal incorporates ¶ Robert Chesney’s suggestion, “[i]t may be that it [is] better to draw the ¶ statutory circle narrowly, with language making clear that the narrow ¶ framing does not signify an intent to try and restrict the President’s ¶ authority to act when necessary against other groups in the exercise of ¶ lawful self-defense.”128 The purpose of the new AUMF should not be to ¶ give the President a carte blanche to attack any terrorist or extremist group ¶ all over the world. The purpose of this authorization is to provide clear ¶ authorization for the use of force against al-Qaeda and its allies. Moreover, ¶ if a new group is created that has no relation to any of the relevant actors ¶ defined in this statute, Congress can pass another authorization that ¶ addresses this reality. The purpose of congressional authorization should ¶ not be to authorize the President to act against every conceivable threat to ¶ American interests. In fact, such an authorization would effectively strip ¶ Congress of its constitutional war making powers. Instead, the new ¶ proposal should provide clear domestic authorization for the use of force against those nations that present the greatest threat to the United States ¶ today.

**Obama will adhere to the plan- wants to rely on congressional authority**

**WSJ ‘12**

[Julian Barnes and Evan Perez. December 6. <http://online.wsj.com/article/SB10001424127887323316804578163724113421726.html> ETB]

Obama **administration officials, concerned about the legal justifications behind counterterrorism operations, have preferred to rely on congressional authority for the use of force against al Qaeda, seeing such authority as more defensible** and acceptable **to allies.**

# 2AC

### 2ac- Exec CP

#### Perm- do the plan and the counterplan- solves the link to politics

**Corcoran 11** --- Professor of Law and Director at University of New Hampshire School of Law (March 2011, Erin M., University of New Hampshire Law Review, “Obama's Failed Attempt to Close Gitmo: Why Executive Orders Can't Bring About Systemic Change,” 9 U.N.H. L. Rev. 207))

Finally, this example highlights that **issuing unilateral executive orders, and then asking Congress to fund those decisions, is much less effective than having Congress help create the framework for significant policy changes.** Congress is an independent branch of government regardless of whether the members' party affiliation is the same as the President's. **Since members of the House are elected every two years, they are particularly sensitive to the idiosyncratic whims of the constituents in their district**. For the President, it is often easier to support sweeping change on a policy level. Although Senators are elected every six years, they are still bound to protect parochial concerns of their constituents. **Congress members go home every weekend to their respective districts and must explain their votes, decisions, and legislative priorities to the voters** often at supermarkets, churches, and bingo halls.¶ **Often times, when members of Congress can control the message or create the narrative addressing the problem, they can show their** [\*235] **constituents how their votes are in line with constituent priorities and concerns. In contrast, when Congress is told to do what the President wants and fund a controversial proposal, the members are in less control of the message and less invested in the outcome.**¶Furthermore, in the Senate, particularly in the Appropriations Committee, members work across the aisle. Until recently, appropriators tended to vote as a block regardless of party affiliation, protecting their funding prerogatives and funding for their home districts. For example, the Senate Supplemental Appropriations mark included funding to close Guantanamo Bay. Yet, **during the Senate floor debate about closing Guantanamo Bay, ultimately it was the Chair of the Appropriations Committee who filed the amendment on the floor to strip funding out of the supplemental bill.** n150 **The Chair's action provided cover to other appropriators to vote in support of stripping the funding.** Since the Chair authored the amendment, there was no longer any obligation to support the appropriations bill as it was marked up out of committee. Generally, appropriators vote together to protect funding when other senators attempt to strip funding out of appropriations bills or move funds from one account to fund a priority not accommodated by the appropriators. **Since these members value collegiality, compromise, and consultation, it is no surprise that Obama's efforts to fund Guantanamo Bay closure was thwarted. If the Senate had been charged with crafting legislation, the members would have been committed to making sure they had the votes to pass it.**¶Overall, if the Obama Administration wants to close Guantanamo Bay, it must get Congress to lead the charge. This is going to be extremely difficult now with a Republican House of Representatives and Democrat Senate that holds the majority by the narrowest of margins. At this point, it seems as if the Administration has abandoned its campaign to close Guantanamo Bay. The only silver lining is that the Administration hopefully has learned important lessons on what works and what is a non-starter and can use this knowledge when advancing the President's future controversial policy changes.

#### Perm- do the counterplan- CP doesn’t pose an opportunity cost to the aff because the net benefit is generated through fiat

#### CP doesn’t solve:

#### terrorism- lack of legal clarity prevents effective prosecution of WOT- and unilateral executive action can’t generate the public support and international cooperation necessary for sustainable counter terror operations- and executive action can’t solve interbranch fatigue that is decimating response times and info sharing- that’s Chesney, Wainstein, and Leiter

#### firebreaks- reliance on executive authority causes shift to article two justifications, which guts global non-use of force norms and erodes US legitimacy- that’s Barnes

#### CP doesn’t solve terrorism or legitimacy and links to politics

Chesney et al. ‘13

[Robert Chesney, Jack Goldsmith, Matthew C. Waxman, and Benjamin Wittes. Jean Perkins Task Force on National Security and Law. <http://media.hoover.org/sites/default/files/documents/Statutory-Framework-for-Next-Generation-Terrorist-Threats.pdf> ETB]

Consider first the option of Congress doing nothing. This is, at bottom, a ¶ choice to address extra-AUMF threats through a combination of increasingly ¶ strained executive branch interpretations of the AUMF, law enforcement ¶ and intelligence measures, and whatever supplemental military force the ¶ president can and will assert based on his Article II authorities. It is our ¶ contention that at some point even strained interpretations of the AUMF will ¶ not be possible, and that even before we reach that point, the strained ¶ interpretations will call into question the legitimacy of congressional and ¶ democratic backing for the president’s uses of force. That leaves law ¶ enforcement measures and Article II powers, which in combination are ¶ far from ideal.¶ To be very clear, we do not claim that all terrorism-related threats can or ¶ should be dealt with militarily. Law enforcement and intelligence tools can ¶ have tremendous effect, and we strongly endorse the view that the ¶ president’s authority to use them should not be unduly constrained out of a ¶ misguided sense that most or all terrorism scenarios require a military ¶ solution. But law enforcement and intelligence tools are not a panacea. In some ¶ circumstances—such as the late 1990s in Afghanistan and today in certain ¶ areas of Pakistan, Yemen, Somalia, and the Sahel region—these options simply ¶ do not provide sufficient capacity to capture individuals or to otherwise ¶ disrupt their activities. And in some circumstances, these tools are equally ¶ inadequate to the task of long-term incapacitation. Meanwhile, local ¶ governments are sometimes either incapable of addressing or unwilling to ¶ address terrorism threats; in some cases, for various reasons, we would not ¶ want to entrust them with these responsibilities. Whether this is the case ¶ with respect to any given extra-AUMF threat at any given point in time is ¶ exceedingly difficult to say, particularly for those (including us) who are ¶ outside government and lack access to the relevant intelligence. We proceed ¶ on the assumption, however, that some such circumstances do exist or ¶ will arise. Bearing this in mind, the next issue is whether the president’s inherent powers ¶ under Article II are adequate to address any gap that may emerge between ¶ what defense of the nation demands and what law enforcement and intelligence ¶ options can provide in extra-AUMF scenarios. We are skeptical, for three ¶ reasons.¶ First, it is worth bearing in mind that some administrations are more comfortable ¶ resorting to claims of Article II authority than others. The Obama administration, ¶ for example, has consciously distanced itself from the Bush administration on ¶ this dimension, at least in the counterterrorism setting (as opposed to the ¶ operation in support of the revolution in Libya, which relied on a surprisingly ¶ bold stand-alone Article II argument). In a situation where a military response is ¶ appropriate but officials are reluctant to act without statutory cover, a serious ¶ problem arises unless there is time to seek and receive legislative support.¶ Second, presidential action based on statutory authority has more political ¶ and legal legitimacy than action based on Article II alone. Article II actions leave ¶ the president without overt political support of Congress, which can later ¶ snipe at his decisions, or take actions to undermine them. We saw this happen, ¶ for example, in response to many of the Bush administration’s unilateral ¶ assertions of authority, and also to some degree in response to President ¶ Obama’s unilateral assertion of authority in Libya. This is a problem that grows ¶ with reliance on Article II over time. Also, of course, any subsequent judicial ¶ review of the president’s use of force is more likely to be upheld if supported ¶ by Congress.¶ Third, the president faces significant legal hurdles to detaining dangerous ¶ terrorism suspects over the longer term under Article II, and at a minimum ¶ would encounter substantial political and legal opposition if he attempted it. ¶ The Obama administration has shown no proclivity to detain terrorism ¶ suspects (outside the criminal justice system or in a combat zone like ¶ Afghanistan) other than those captured and detained under the previous ¶ administration. But a future administration might regard such detention as ¶ necessary in some circumstances, and would have a harder time doing so ¶ beyond short periods without statutory authorization. Relatedly, an ¶ exclusive reliance on Article II would make targeted killing politically and ¶ legally safer than detention, an outcome that would run contrary both to ¶ the security interests of the United States (by eliminating the possibility of useful intelligence through lawful interrogation) and to the interests of the ¶ individual in question (for obvious reasons).

#### CP links to politics but the aff doesn’t

Goldsmith ‘13

[Jack Goldsmith is the Henry L. Shattuck Professor at Harvard Law School, <http://www.lawfareblog.com/2013/03/why-the-administration-needs-to-get-congress-on-board-for-its-stealth-war/> ETB]

Having the intelligence committees publicly on board helps, but what the administration really needs now is to have Congress on board. The only way to legitimate the administration’s stealth war tactics, and to stop the growing bipartisan sniping at and distrust of them (which will only grow and grow if not addressed), is to make Congress vote on them and get behind them. The administration should ask for a comprehensive authorization for the tactics it is now deploying in the “war on terrorism.” I know, this approach is risky; secrets can spill out; Congress might give too much or too little authority; and the administration will be tagged with the legacy of making war permanent. There are plenty of excuses for not forging congressional approval, all of them premised on short-term thinking and a remarkable paucity of executive branch leadership. At some point soon the pain of not engaging Congress will be greater than the pain of engaging Congress, and at that point the administration will wish it had gone to Congress sooner.

**CP Links to flex/warfighting/prez powers but the aff doesn’t**

**Cronogue ‘12**

[Graham. Duke University School of Law, J.D. expected 2013; University of North Carolina B.A. 2010. 22 Duke J. Comp. & Int'l L. 377 2011-2012. ETB]

Though the President's inherent authority to act in times of emergency¶ and war can arguably make **congressional authorization of force**¶ unnecessary, it **is extremely important for the conflict against al-Qaeda and** **its allies**. First, as seen above, the existence of a state of war or national¶ emergency is not entirely clear and might not authorize offensive war¶ anyway. Next, assuming that a state of war did exist, specific **congressional authorization would** further **legitimate and guide the executive branch** in the prosecution of this conflict **by setting out exactly what Congress authorizes** and what it does not. Finally, **Congress should** specifically **set out what the President can and cannot do to limit his discretionary authority** **and prevent adding to the gloss on executive power**.¶ Even during a state of war, **a congressional authorization** for conflict¶ **that clearly sets out the acceptable targets and means would further** **legitimate the President's actions and help guide his decision making**¶ **during this new form of warfare.** Under Justice Jackson's framework from¶ Youngstown, presidential authority is at its height when the Executive is acting pursuant to an implicit or explicit congressional authorization. 74 In¶ this zone, the President can act quickly and decisively because he knows¶ the full extent of his power.75 In contrast, the constitutionality of¶ presidential action merely supported by a president's inherent authority¶ exists in the "zone of twilight." 76 **Without a congressional grant of power,** **the President's war actions are often of questionable constitutionality because Congress has not specifically delegated any of its own war powers to the executive.77**¶ **This** problem **forces the President to make complex judgments** **regarding the extent and scope of his inherent authority. The resulting uncertainty creates unwelcome issues of constitutionality that might hinder** the P**resident's ability to prosecute this conflict effectively.** **In time sensitive**¶ and dangerous **situations**, where **the President** needs to make splitsecond¶ decisions that could fundamentally impact American lives and¶ safety, he **should not have to guess at the scope of his authority. Instead, Congress should provide a clear, unambiguous grant of power, which would mitigate many questions of authorization. Allowing the President to understand the extent of his authority will enable him to act quickly, decisively but also constitutionally.**¶Finally, a grant or denial of **congressional authorization will allow Congress to control the "gloss" on the executive power.** There is¶ considerable **tension between the President's constitutional powers** as¶ Commander in Chief **and Congress's war making powers**.7 8 This tension is **not readily resolved** simply **by looking at the Constitution**. Instead **courts look to past presidential actions and congressional responses when evaluating the constitutionality of executive actions**.80 Indeed Justice¶ **Frankfurter** **noted** in Youngstown that "**a systematic**, unbroken, **executive**¶ **practice**, long pursued to the knowledge of the Congress and never before¶ questioned ... **may be treated as a gloss on 'executive Power'** vested in the¶ President by § 1 of Art. II."8 Thus, **congressional inaction can be deemed as implicit delegation of war making power to the executive.**82 Whether the United States is in a state of war or not, **an authorization of force provides legitimacy and clarity to the war effort**. **If the President acts pursuant to such an authorization his authority is at its height**;¶ consequently, **he can operate with greater certainty that his actions are constitutional**.83 **Absent such a declaration, the President's power is much less clear.** **While the President has the authority to frame the conflict and he might still be able to act pursuant to his inherent powers, he is operating in**¶ **the zone of twilight.84 Congressional authorizations remove this uncertainty by stamping specific acts with congressional approval or disapproval. This process also allows Congress to exert control over what the President can do in the future and prevents the "gloss" that comes from congressional acquiescence.**¶

#### Counterplan fiats the direction object the resolution, which is a voting issue- steals the aff with no 2ac recourse because it fiats through all of our solvency deficits and the core topic literature, which rigs the game in favor of the neg- rejecting the team is key to remedy abuse and set a precedent

**\*2AC Prez Powers DA\***

#### 1. Obama’s actions are reducing prez powers now

Yoo ‘13

[-John, WSJ**,**  John Yoo: Diminishing the Presidency online.wsj.com/article/SB10001424127887323375204578271681410646810.html]

A year ago this month, President Obama bypassed the Senate's advice-and-consent power by naming three new members to the National Labor Relations Board and appointing Richard Cordray to head the Consumer Financial Protection Bureau. Mr. Obama declared that these were "recess" appointments even though the Senate—by its own definition—remained in session. The D.C. Circuit Court of Appeals on Friday unanimously struck down these unilateral appointments, but the three-judge panel's decision in Noel Canning v. NLRB did more than knock a few people out of work and effectively nullify a year's worth of rules that eased union organizing and regulated mortgages and credit cards. Judge David Sentelle, given an opening by the unprecedented White House power grab, issued a ruling that has profound ramifications for the office of the presidency. He and judge Karen Henderson rejected the very idea of "intra-session recess appointments." Mr. Obama thus has jeopardized a vital executive power for all future presidents. Senate advice and consent serves as an important counterweight in the unending struggle between the president and Congress. The Constitution, however, allows presidents to temporarily fill "vacancies that may happen during the recess of the Senate," because in the late 18th century legislative sessions were short and breaks could last as long as nine months. Enlarge Image image Chad Crowe Since 1823, presidents have filled offices that opened even while Congress was in session, on the legal fiction that the vacancies continue to "happen" when the recess came. In the early 20th century, presidents also claimed that, in addition to the official break between a Congress's first and second years, a short Senate adjournment constituted a recess when unilateral appointments could be made. Mr. Obama's defenders may claim that his exercise of appointment power differed little from that of his predecessors. President George W. Bush, for example, appointed William Pryor in 2004 as a federal judge and John Bolton as U.N. ambassador in 2005 during Senate adjournments. President Bush acted after he became frustrated with Senate inaction on his nominees. He was also frustrated by Majority Leader Harry Reid's maneuver, beginning in 2007, to keep the body in "pro forma" session where it continued to meet but no important business was conducted. But Mr. Bush respected the Senate's authority over its own rules, and he declined to unilaterally select officials in violation of the Appointments Clause. Not so Mr. Obama, whose unwarranted use of executive authority has provoked the D.C. Circuit to reverse 190 years of constitutional practice. Though the Senate remained in session last January and even passed major legislation during that time, Mr. Obama went ahead and appointed the NLRB and CFPB officials anyway. The Justice Department argued that the president could decide for himself whether the Senate was really in session and whether it was "genuinely capable of exercising its constitutional function." Under the Constitution's separation of powers, each branch of government sets its own internal rules. Only the Senate can decide to allow a filibuster. Only justices decide to issue written opinions, or decide cases by majority vote. The president chooses to whom he listens, with whom he discusses, and through whom he transmits his decisions. Mr. Obama, however, claimed the right to judge the legitimacy of the other branches' proceedings—a seizure of power unheard of in American history. A future president employing this power could ignore legislation that he thought insufficiently debated, recognize laws that had not met the filibuster's 60-vote requirement, or only enforce unanimous Supreme Court decisions. In Noel Canning, Judge Sentelle confronted more than one instance of executive overreach. Mr. Obama has also distorted the Framers' presidency into an instigator of domestic revolution, rather than as the protector of the national security and the enforcer of the laws. As Alexander Hamilton explained in Federalist 70, an energetic executive "is essential to the protection of the community against foreign attacks; it is not less essential to the steady administration of the laws." The Bush administration made decisions that risked conflict with congressional policy. They were made during the 9/11 attacks to protect national security against an unforeseen enemy who refused to fight according to the rules of civilized warfare. This was in keeping with the Constitution's design. Only the president can respond with the"decision, activity, secrecy, and dispatch," in the words of Federalist 70, to confront an immediate emergency. Mr. Bush made grave choices—on Guantanamo Bay, war in Afghanistan, tough interrogation and aggressive wiretapping of terrorist communications—not for narrow partisan advantage or to improve his re-election chances. He defended the president's constitutional authority over what the Federalist calls "the direction of war" to stop future terror attacks. A glance at the extensive listing of Congress's prerogatives in Article I, Section 8 of the Constitution makes clear that the Framers had no such expectations of the president at home. They understood that Congress would exercise the primary power to legislate with regard to domestic affairs, and the president's main power to restrain the legislature was with a veto. Mr. Obama, however, has wasted his office's constitutional capital for domestic advantage. He did not fill a vital office during a time of crisis; instead his appointments to the NLRB rewarded constituencies vital to his re-election and burnished his populist credentials. This is of a piece with another unprecedented exercise of executive power: Mr. Obama's refusal to enforce laws that he dislikes. His Justice Department, for instance, will not deport illegal immigrants as required by law. Mr. Obama's abdication of a core constitutional responsibility as a way of advancing his political fortunes is a remarkable and troubling turn in the history of the presidency. Judge Sentelle's opinion best captures the Framers' original understanding of the Appointments Clause, but the case will almost certainly be appealed to the Supreme Court. The ruling is in conflict with the decisions of other federal courts, offers a broad holding on when a vacancy "may happen," and has significant regulatory impact. The justices could avoid a broader confrontation with the president—this is the court, after all, that shied away from striking down ObamaCare—by finding that the Senate was in session and dispatching the NLRB's rump officers in short order. The administration, however, is not helping itself: The NLRB officials are openly disobeying the D.C. Circuit's ruling by continuing to stay in their posts and conduct business, one must assume with the White House's approval. (See Notable & Quotable nearby.) Every president should seek to leave the office stronger than when he found it. The Framers understood that the future's challenges could not be anticipated, and so the executive's powers should not be wasted for short-term political advantage. Mr. Obama holds the prospect of leaving a diminished presidency that will put his successors in a far worse position than the one he inherited. That, unfortunately, will prove to be his historical legacy unless he changes course.

#### 2. Plan is critical to making prez powers effective- a clear congressional authorization is key to quick and decisive executive action during crisis- and it’s crucial to allow the president to fight emerging threats by clearly defining targets- that’s Cronogue and Chesney

\*\*Don’t read with XO

**More evidence**

\*plan is key to making prez powers effective – solves flex

**Cronogue ‘12**

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#### 4. No internal link- decreasing prez powers in one area doesn’t spillover- restrictions on Gitmo transfers proves

**5. No impact to prez powers**

**Healy 11**

Gene Healy is a vice president at the Cato Institute and the author of The Cult of the Presidency, The CATO Institute, June 2011, "Book Review: Hail to the Tyrant", http://www.cato.org/publications/commentary/book-review-hail-tyrant

Legal checks “have been relaxed largely because of the need for centralized, relatively efficient government under the complex conditions of a modern dynamic economy and a highly interrelated international order.” What’s more, the authors insist, America needs the legally unconstrained presidency both at home (given an increasingly complex economy) and abroad (given the shrinking of global distances). These are disputed points, to say the least. If Friedrich Hayek was at all correct about the knowledge problem, then if anything **increasing economic complexity argues for less central direction**. Nor does the fact that we face “a highly interrelated international order” suggest that we’re more vulnerable than we were in 1789, as a tiny frontier republic surrounded by hostile tribes and great powers. Economic interdependence — and the rise of other modern industrial democracies — means that other players have a stake in protecting the global trading system. Posner and Vermuele coin the term “tyrannophobia,” which stands for unjustified fear of executive abuse. That fear is written into the American genetic code: the authors call the Declaration of Independence “the ur-text of tyrannophobia in the United States.” As they see it, that’s a problem because “the risk that the public will fail to trust a well-motivated president is just as serious as the risk that it will trust an ill-motivated one.” They contend that our inherited skepticism toward power exacerbates biases that lead us to overestimate the dangers of unchecked presidential power. Our primate brains exaggerate highly visible risks that fill us with a sense of dread and loss of control, so we may decline to cede more power to the president even when more power is needed. Fair enough in the abstract — but Posner and Vermuele fail to provide a single compelling example that might lead you to lament our allegedly atavistic “tyrannophobia.” And they seem oblivious to the fact that **those same irrational biases drive the perceived need for emergency government at least as much as they do hostility towards it**. Highly visible public events like the 9/11 attacks also instill dread and a perceived loss of control, even if all the available evidence shows that such incidents are vanishingly rare. The most recent year for which the U.S. State Department has data, 2009, saw just 25 U.S. noncombatants worldwide die from terrorist strikes. **I know of no evidence suggesting** that **unchecked executive power is what stood between us and a much larger death toll**. Posner and Vermuele argue that only the executive unbound can address modernity’s myriad crises. But they spend little time exploring whether unconstrained power generates the very emergencies that the executive branch uses to justify its lack of constraint. Discussing George H.W. Bush’s difficulties convincing Congress and the public that the 1991 Gulf War’s risks were worth it, they comment, “in retrospect it might seem that he was clearly right.” Had that war been avoided, though, there would have been no mass presence of U.S. troops on Saudi soil — “Osama bin Laden’s principal recruiting device,” according to Paul Wolfowitz — and perhaps no 9/11. Posner and Vermuele are slightly more perceptive when it comes to the home front, letting drop as an aside the observation that because of the easy-money policy that helped inflate the housing bubble, “the Fed is at least partly responsible for both the financial crisis of 2008-2009 and for its resolution.” Oh, well — I guess we’re even, then. Sometimes, the authors are so enamored with the elegant economic models they construct that they **can’t be bothered to check their work against observable reality**. At one point, attempting to show that separation of powers is inefficient, they analogize the Madisonian scheme to “a market in which two firms must act in order to supply a good,” concluding that “the extra transaction costs of cooperation” make “the consumer (taxpayer) no better off and probably worse off than she would be under the unitary system.” **But the government-as-firm metaphor is daffy**. In the Madisonian vision, inefficiency isn’t a bug, it’s a feature — a check on “the facility and excess of law-making … the diseases to which our governments are most liable,” per Federalist No. 62. If the “firm” in question also generates public “bads” like unnecessary federal programs and destructive foreign wars — and if the “consumer (taxpayer)” has no choice about whether to “consume” them — he might well favor constraints on production. From Franklin Roosevelt onward, we’ve had something close to vertical integration under presidential command. Whatever benefits that system has brought, **it’s imposed considerable costs** — **not least over 100,000 U.S. combat deaths in the resulting presidential wars**. That system has also encouraged hubristic occupants of the Oval Office to burnish their legacies by engaging in “humanitarian war” — an “oxymoron,” according to Posner. In a sharply argued 2006 Washington Post op-ed, he noted that the Iraq War had killed tens of thousands of innocents and observed archly, “polls do not reveal the opinions of dead Iraqis.”

### 2AC Immigration DA

#### Won’t pass---Boehner irrelevant

Adam O'Neal 12-23, December 23rd, 2013, "Immigration reform in 2014? Not so fast," https://www.humanevents.com/2013/12/23/immigration-reform-in-2014-not-so-fast/

A California-based immigration reform activist, who spoke to CalWatchdog.com on the condition of anonymity to be more candid, said that Boehner’s recent behavior was “heart-warming” and seemed “honest.”¶ The activist, who has been involved in lobbying California Congressmen to push for reform, added, “It makes you think, ‘OK, maybe [Boehner will] play ball.’”¶ But he cautioned that, while activists are optimistic, they’re not blindly so. He expects that major immigration reform won’t be able to pass until 2015, at the earliest. It’s difficult to pass major legislation in an election year, he explained, and it makes more strategic sense (from the Republican point of view) to wait.¶ Republicans, who are at a politically advantageous position because of the trouble associated with the rollout of Obamacare, reasonably expect to pick up seats in the midterms. They could feasibly control the Senate — though that will be no easy task — by January 2015. So why would they pass immigration reform when they’re almost certain to pick up seats and enter a stronger bargaining position? The answer is simple: They wouldn’t.¶ So, yes, Speaker Boehner has changed his tune. But that doesn’t mean he’ll change his strategy just yet.

#### The DA is not intrinsic – it’s within the agential ambit of the USFG to do the plan and pass immigration

**Plan boosts Obama’s capital**

Douglas **Kriner 10**, Assistant Profess of Political Science at Boston University, After the Rubicon: Congress, Presidents, and the Politics of Waging War, p. 59-60

Presidents and politicos alike have long recognized Congress's ability to reduce the political costs that the White House risks incurring by pursuing a major military initiative. While declarations of war are all but extinct in the contemporary period, Congress has repeatedly moved to authorize presidential military deployments and consequently to tie its own institutional prestige to the conduct and ultimate success of a military campaign. Such authorizing legislation, even if it fails to pass both chambers, creates a sense of **shared legislative-executive responsibility** for a military action's success and provides the president with **considerable political support** for his chosen policy course.34 Indeed, the desire for this political cover—and not for the constitutional sanction a congressional authorization affords—has historically motivated presidents to seek Congress's blessing for military endeavors. For example, both the elder and younger Bush requested legislative approval for their wars against Iraq, while assiduously maintaining that they possessed sufficient independent authority as commander in chief to order the invasions unilaterally.35 This fundamental tension is readily apparent in the elder Bush's signing statement to HJ Res 77, which authorized military action against Saddam Hussein in January of 1991. While the president expressed his gratitude for the statement of congressional support, he insisted that the resolution was not needed to authorize military action in Iraq. "As I made clear to congressional leaders at the outset, my request for congressional support did not, and my signing this resolution does not, constitute any change in the long-standing positions of the executive branch on either the President's constitutional authority to use the Armed Forces to defend vital U.S. interests or the constitutionality of the War Powers Resolution."36

#### No fight-back link - No fight back – Obama asked for the plan – that’s WSJ

#### More evidence

Bannon 13

(Brad Bannon runs Bannon Communications Research, a political polling and consulting firm which helps labor unions, progressive issue groups, and Democratic candidates win public affairs and political campaigns, May 28, 2013, <http://www.usnews.com/opinion/blogs/brad-bannon/2013/05/28/obama-wants-us-to-take-away-his-war-powers--we-should>, “An Offer We Can’t Refuse”, AB)

President Obama kicked off the long Memorial Day weekend with a speech which had a request that you hardly get from a president or anybody else in Washington. The president asked Congress to take away some of his power. This is not the kind of offer that comes along very often, so Congress should snap it up while it's still on the table. President Obama asked Congress to replace or refine the Authorization for the Use of Military Force that Congress passed after the al-Qaida attack on the World Trade Center on 9/11. President George W. Bush used the authorization as a blank check to justify illegal renditions, drone attacks, indefinite detention and just about anything else he and Vice President Dick Cheney wanted to do. Reduction in presidential authority with the repeal of authorization would mean more power for the federal legislative branch to review and restrain the president's actions.

**PC not key**

Greg **Sargent 13**, "Syria won't make GOP's immigration problem go "poof" and disappear ; Syria or no Syria, Republicans will still pay the same price among Latinos if they kill reform," 9/12, Washington Post, Factiva

But when it comes to immigration -- as with this fall's fiscal fights -- **that question is largely irrelevant**. Obama's "standing" or "strength" with regard to Congress won't play any significant role in determining whether immigration reform happens. That, too, is a question that turns only on whether Republicans resolve their differences over it.¶ Immigration reform's fate, at bottom, **rests solely on** **whether Republicans decide it needs to pass** for the long term good of the party. **Either they will decide killing reform is too risky**, because it will lock in anti-GOP hostility among Latinos for a generation or more. **Or they will decide passing reform won't do enough to win over Latinos,** given their disagreement with the GOP on other issues, and that the downsides of alienating the base aren't worth the potential upsides. **Neither** the fact that Congress is distracted by **Syria, nor Obama's short term dip in popularity or standing** or whatever you want to call it, will have anything whatsoever to do with that decision. Nor will Latino reaction to the GOP's eventual decision. Does anyone imagine that if Republicans kill reform, Latinos will somehow see the Syria debate -- or, even more ludicrously, Beltway-generated ideas about Obama's "standing" -- as mitigating factors?

**Economic benefits are overstated**

Mike **Flynn 13**, Breitbart reporter, July 13, "White House Oversells Economic Benefits of Immigration Reform," www.breitbart.com/Big-Government/2013/07/13/white-house-oversells-economic-benefits-of-immigration-reform

On Saturday, President Obama used his weekly radio address to tout the economic benefits of passing the Senate immigration reform bill. On Wednesday, the White House issued a report saying the immigration reform bill would both trim the deficit and boost the economy over the next two decades. Even accepting the Administration's numbers at face-value, the report shows how little would be gained economically from reform in the long-term. In the short-term, however, there are some very real costs ignored by the White House.¶ The White House report draws heavily from a CBO analysis on the economic impact of the Senate bill, released in mid-June. The CBO estimates that, under the Senate bill, in 20 years, the nation's GDP would be $1.4 trillion higher than it otherwise would be if the bill didn't pass. The Administration claims the bill will grow the economy by 5.4% in that time-frame. ¶ Which sounds impressive, until one realizes that we are talking about a 20 year window here. An incremental growth of 5% over two decades isn't exactly an economic bonanza. ¶ In that time-span the US economy will generate $300-500 trillion in total economic impact. An extra few trillion is at the margins or the margins.¶ Worse, the economic benefits the CBO estimates will accrue only begin at least a decade after enactment. Through 2031, Gross National Product, which measures the output of US residents and firms, would be lower than it otherwise would be. In ten years, the per capita GNP would be almost 1% lower than without the Senate bill. ¶ The CBO analysis also shows that average wages of American workers would be lower than they otherwise would be through at least the first 10 years of the law's enactment. The unemployment rate would also rise for the first decade, due to a large increase in the labor force.¶ Supporters and opponents of immigration reform both overstate its economic impact. In a nation of more than 300 million people and a $16 trillion economy, any economic impact is going to be felt at the margins. The CBO, however, finds that, for at least a decade, the economic effects of the Senate bill are negative at the margins. After 2 decades, the CBO says the effects become positive at the margin. ¶ A decade of relatively worse economic performance to secure marginally better performance 20 years from now is not an obviously good bargain. One can make many argument in favor of immigration reform. Economic growth, however, seems a very weak one.

#### Obama’s PC is dead and he’s not using it anyway---and minimum wage, education, and climate change thump

Benac and Pace 1-1

Nancy Benac AND\*\*\* Julie Pace 1-1, AP writers, January 1st, 2014, "Obama’s presidency, beset by fits, starts new year," Wisconsin Gazette, [www.wisconsingazette.com/breaking-news/obamas-presidency-beset-by-fits-starts-year-5.html](http://www.wisconsingazette.com/breaking-news/obamas-presidency-beset-by-fits-starts-year-5.html)

In 2013, Obama’s critics doubled down. Fractured Republicans, swore off compromise. The president’s outreach to Congress was lacking or at times even non-existent. Obama’s team dropped the ball — calamitously — on his health care law. Snowden’s revelations had Democrats and Republicans alike calling for tighter surveillance rules. Foreign leaders were in a huff — Brazil’s president snubbing a proposed White House state dinner, Germany’s Angela Merkel incensed that her cellphone calls had been intercepted. The president’s pledge that people who liked their health plans would be able to keep them ran into a harsh reality as millions saw their coverage canceled.¶ The year ended with a only small-bore budget deal.¶ White House communications director Jennifer Palmieri called it a year of “fits and starts” for the president — and predicted better days ahead.¶ Yet Obama’s agenda of gun control, immigration reform, a grand budget bargain sits unfulfilled. Obama’s job approval and personal favorability ratings are near the lowest point of his presidency, with increasing numbers of Americans saying they no longer consider him to be honest or trustworthy. Abroad, too, positive views of Obama have slipped.¶ The mantra for the Obama White House has always been to take the long view. Officials scoff at the “who’s up, who’s down” churn of Washington’s chattering class.¶ But as Obama embarked on his second term, some of his closest outside advisers warned him that the next four years would have to be different: He might have just 18 months, perhaps as little as a year, to accomplish big domestic priorities.¶ Obama’s team thought it had a strategy for overcoming the second-term curse. They would make a quick play for stricter gun control measures, then press for an immigration overhaul and float the possibility of a big budget deal.¶ Each of those efforts failed and Obama quickly found himself consumed by distractions.¶ Some were fleeting, like the revelations that the Internal Revenue Service was applying extra scrutiny to conservative groups. But others threatened long-term damage to his presidency: the National Security Agency disclosures and the disastrous rollout of the “Obamacare” health law.¶ Some events were beyond Obama’s control, including the chemical weapons crisis in Syria.¶ But how could he not have known that his government was spying on the private communications of friendly world leaders? Why didn’t he know his health care website wouldn’t work? How could he have promised over and over again that Americans could keep their health insurance when his own advisers knew it wasn’t that simple?¶ As a result, the president is ending his fifth year in office in a “defensive crouch,” says presidential historian Douglas Brinkley, and may have to be content with simply protecting his health care law and other Democratic-backed programs that Republicans are eager to repeal.¶ The 2014 midterm elections give Obama his best opportunity to rebound. But Democrats, who just weeks ago saw an opportunity to retake the House after Republicans got blamed for the government shutdown, now fret about the health care law’s ongoing problems and may be content to just keep control of the Senate.¶ Lawmakers from both parties say Obama doesn’t talk to them much, nor do his aides. Both sides wistfully recall the voluble Clinton, who figured out how to craft deals with Republicans on welfare reform and other agenda.¶ Sen. Tom Coburn, an Oklahoma Republican who worked with Obama when he was a senator and still considers the president a friend, says flatly: “He’s flunked in terms of relations with Congress.”¶ “If you know him personally, he’s a very likable person,” says Coburn. “But it’s different than with most other presidents in terms of having relationships with Congress.”¶ Of course, the president’s tepid relationship with Congress is hardly his fault alone. The forces that pulled House Republicans to the right made it difficult for the GOP to reach agreement with Democrats on much of anything.¶ What does it matter if Obama doesn’t buddy up to his former colleagues?¶ “Instead of going out and talking to his enemies, making friends and schmoozing, or banging heads together with them or whatever, you can see that the man is diffident — deeply, deeply diffident about the kinds of politicking that are necessary to build consensus,” says Nigel Nicholson, a professor at the London Business School.¶ The president has been getting plenty of that kind of advice in recent weeks. Critics called for a sweeping shake-up of his White House inner circle.¶ Obama has responded in his typically restrained fashion. No one has lost a job over the massive health care screw-up, though the White House hasn’t ruled that out. And while the president is doing some minor reshuffling, he’s largely bringing in people he already knows.¶ To critics, the limited staff changes smack of a White House that doesn’t fully understand the depths of its problems.¶ But to presidential friend Ron Kirk said they are indicative of Obama’s “fairly dispassionate temperament.”¶ “He understands that overreacting to any one development in the moment is not the best way to achieve a long-term and stable objective,” said Kirk.¶ The president’s agenda for his sixth year in office is a stark reminder of how little he accomplished in 2013.¶ Obama plans to make another run at immigration reform. He’ll seek to increase the minimum wage, expand access to early childhood education, and look to implement key climate changes.¶ Foreign policy could be an oasis for the struggling second-term president. With Russia’s help, he turned his public indecision over attacking Syria into an unexpected agreement to strip President Bashar Assad of his chemical weapons, though the success of the effort won’t be known for some time and the civil war in Syria rages on. Obama also authorized daring secret negotiations with Iran, resulting in an interim nuclear agreement. But even the president says the prospects of getting a final deal are only 50-50.¶ In a year-end news conference, the president optimistically predicted that 2014 would be “a breakthrough year for America.” But Obama’s dismal standings in the polls suggest he can’t count on a public groundswell.

### 2AC Econ

#### Immigration not key to economy

Flynn 13

Mike Flynn 13, Breitbart reporter, July 13, "White House Oversells Economic Benefits of Immigration Reform," [www.breitbart.com/Big-Government/2013/07/13/white-house-oversells-economic-benefits-of-immigration-reform](http://www.breitbart.com/Big-Government/2013/07/13/white-house-oversells-economic-benefits-of-immigration-reform)

On Saturday, President Obama used his weekly radio address to tout the economic benefits of passing the Senate immigration reform bill. On Wednesday, the White House issued a report saying the immigration reform bill would both trim the deficit and boost the economy over the next two decades. Even accepting the Administration's numbers at face-value, the report shows how little would be gained economically from reform in the long-term. In the short-term, however, there are some very real costs ignored by the White House.¶ The White House report draws heavily from a CBO analysis on the economic impact of the Senate bill, released in mid-June. The CBO estimates that, under the Senate bill, in 20 years, the nation's GDP would be $1.4 trillion higher than it otherwise would be if the bill didn't pass. The Administration claims the bill will grow the economy by 5.4% in that time-frame. ¶ Which sounds impressive, until one realizes that we are talking about a 20 year window here. An incremental growth of 5% over two decades isn't exactly an economic bonanza. In that time-span the US economy will generate $300-500 trillion in total economic impact. An extra few trillion is at the margins or the margins.¶ Worse, the economic benefits the CBO estimates will accrue only begin at least a decade after enactment. Through 2031, Gross National Product, which measures the output of US residents and firms, would be lower than it otherwise would be. In ten years, the per capita GNP would be almost 1% lower than without the Senate bill. ¶ The CBO analysis also shows that average wages of American workers would be lower than they otherwise would be through at least the first 10 years of the law's enactment. The unemployment rate would also rise for the first decade, due to a large increase in the labor force.¶ Supporters and opponents of immigration reform both overstate its economic impact. In a nation of more than 300 million people and a $16 trillion economy, any economic impact is going to be felt at the margins. The CBO, however, finds that, for at least a decade, the economic effects of the Senate bill are negative at the margins. After 2 decades, the CBO says the effects become positive at the margin. ¶ A decade of relatively worse economic performance to secure marginally better performance 20 years from now is not an obviously good bargain. One can make many argument in favor of immigration reform. Economic growth, however, seems a very weak one.

#### No impact to econ decline

Miller 2k

(Morris, economist, adjunct professor in the University of Ottawa’s Faculty of Administration, consultant on international development issues, former Executive Director and Senior Economist at the World Bank, Winter, Interdisciplinary Science Reviews, Vol. 25, Iss. 4, “Poverty as a cause of wars?” p. Proquest)

The question may be reformulated. Do wars spring from a popular reaction to a sudden economic crisis that exacerbates poverty and growing disparities in wealth and incomes? Perhaps one could argue, as some scholars do, that it is some dramatic event or sequence of such events leading to the exacerbation of poverty that, in turn, leads to this deplorable denouement. This exogenous factor might act as a catalyst for a violent reaction on the part of the people or on the part of the political leadership who would then possibly be tempted to seek a diversion by finding or, if need be, fabricating an enemy and setting in train the process leading to war. According to a study undertaken by Minxin Pei and Ariel Adesnik of the Carnegie Endowment for International Peace, there would not appear to be any merit in this hypothesis. After studying ninety-three episodes of economic crisis in twenty-two countries in Latin America and Asia in the years since the Second World War theyconcluded that:19 Much of the conventional wisdom about the political impact of economic crises may be wrong ... The severity of economic crisis - as measured in terms of inflation and negative growth - bore no relationship to the collapse of regimes ... (or, in democratic states, rarely) **to** an outbreak of violence ... In the cases of dictatorships and semidemocracies, the ruling elites responded to crises by increasing repression (thereby using one form of violence to abort another).

#### It’s resilient

Globe and Mail ‘10

(5/31/10, BRIAN MILNER, "While gloom says bear, TIGER points to bull", lexis, WEA)

**Even at the height of the remarkable rebound** of 2009 that brought stocks back from the dead zone, **the bears never retreated** to their lairs. **Negative sentiment** among investors **remained stubbornly high, no matter how promising the economic indicators** looked. And **then** along **came the Greeks and their** little sovereign **debt** problem, **the Chinese and** their public hand-wringing over **asset bubbles and the North Koreans** **and their** latest idiotic **sabre-ratting** to remind nervous markets just how fragile the nascent global recovery could turn out to be. The latest survey of American investors last week showed bearish sentiment hovering close to 30 per cent, with plenty of room for an uptick in the months ahead, as the optimists come to realize that a V-shaped recovery was never in the cards after the worst global financial and economic crisis since the Great Depression. The world's most overexposed permabear, Nouriel Roubini, is still grabbing headlines with his dire Greece-is-just-the-tip-of-the-iceberg warnings. (Well, he does have a new book to sell.) And such high-profile Canadian bruins as gold-loving money manager Eric Sprott and eminent strategist and data miner David Rosenberg have never veered from their sombre outlooks. The fact that May turned into a particularly brutal month for just about everything but U.S. Treasuries - even after last week's modest rebound, the Dow posted its worst performance for the month in 70 years - only added fuel to arguments that worse, much worse, is yet to come. I mention all this to Eswar Prasad, when I reach the Cornell University economics professor at his hotel in Beijing. Prof. Prasad is a noted China watcher who once headed the IMF's China division and still keeps in close touch with top government finance officials. But on this call, I'm more interested in one of his other hats as a shrewd analyst of global economic and market trends. "**My inclination also is to be a bear**," the affable academic says. "**But** the data don't supportmybearishness as much as I would like. **One has to be a little cautious**, because these are based on a variety of **indicators**. Some of them certainly **show more strength than** I had **realized**." The data he's talking about come out of his work on a new composite index derived from a broad set of economic, market and confidence measures in the G20 countries and designed to provide a quarterly snapshot of the global recovery. "All signs are that the recovery has some momentum," says Prof. Prasad, who developed the index at the Brookings Institution, a Washington think tank where he is also a senior fellow. "But I wouldn't call it solid enough momentum that we can consider it 'in the bag.'" **The new index**, cutely named TIGER (Tracking Indices for the Global Economic Recovery), is a joint effort by Brookings and the Financial Times. And TIGER **shows that since the world began climbing out of the deep trough** about the middle of last year, **big** emerging economies have roared ahead, while the developed world has experienced much more uneven results. Industrial production and trade have bounced back **handsomely** - total exports from the big emerging countries now exceed pre-crisis levels - but the employment picture remains cloudy and consumption has yet to develop a new head of steam. "It'smucheasier at this stage to list all the things that could derailtherecovery," Prof. Prasad says. "But all of those things are still conjectural. The reality, and the data, is that things are looking better."

### 2AC K

#### Link turn – Their Fermon 98 evidence is about US law generically - The plan equally decreases the ability of the executive to use targeted killings against all people which hedges against the type of politics that only recognizes and works for male citizens – their evidence doesn’t assume the plan.

#### Perm: do the affirmative and all non-competitive parts of the alternative.

**The permutation allows you to read the affirmative and negative texts as plastic and mutable—this overcomes the potential to essentialize sexual difference and erase other vectors of oppression**

Ada S. **Jaarsma. 2003**. doctoral student in the Philosophy and Literature program at Purdue, “Irigaray's To Be Two: The Problem of Evil and the Plasticity of Incarnation,” Hypatia 18.1.

How do we read Irigaray's words, which themselves invoke a continual process of relationality and becoming? As Margaret Whitford has written, "**The important thing is to engage with Irigaray in order to go beyond her"** (1991, 6).How we understand this "going beyond" might allow us to respond to critics such as Ellen Armour, whose insightful reading of Irigaray forces us to acknowledge the stakes involved with proclaiming sexual difference as the central problem of philosophy. Armour writes, "If one thinks that only men are likely to confuse neutrality with sameness, then one might not view this leaning as problematic. If**,** however, one remembers that feminism has shown itself to be as vulnerable to an economy of sameness as any other aspect of western culture, one is disturbed by this slippage" (1999, 107). Armour goes on to point out **the erasure of race from sexual difference in Irigaray's writings, referring for example to the fact that "all women are not legitimate objects of exchange to all men"** (1999, 128). She concludes, then, that **the "power of her [Irigaray's] insistence that women resist the form of oppression that most affects them is undercut by her own failure to attend to any salient difference in oppression**" (1999, 133). According to this critique, **the analysis of sexual difference can become complicit with the problem of evil, enacting blindnesses toward other systemic forms of oppression that it excludes as equally fundamental**. However, responding to a similar critique by Judith Butler in a published conversation between Butler and Rosi Braidotti, Braidotti argues, "**You must not confuse the diagnostic function of sexual difference with its strategic or programmatic aims**" (1994, 39). Braidotti urges us to understand "**sexual difference**" as a critically rigorous project that **starts with "the political will to assert the specificity of the lived, female bodily experience"** (1994, 40). In responding to both Armour and Braidotti's concerns, **we can perhaps turn back to Malabou's strategy of reading in order to think through the need to both take up Irigaray's project, and in turn, discern its own limitations.** Describing the histological property of plasticity as regenerative and healing, **Malabou opens up the possibility that reading plastically reconstitutes a text on the basis of its very defect** (2000, 139). According to Malabou, this regeneration carries a text beyond its deconstruction to a new configuration. [End Page 59] Through Braidotti's reading of sexual difference as diagnostic, a plastic reading will take up Irigaray's philosophy as a critical theory for rereading and reconfiguring the Western tradition. Following Armour, **we will need to apply this regenerative strategy back to the Irigarayan text itself, identifying the limits of Irigaray's texts for theorizing race in relation to sexual difference.** Armour's critique points to the need for the Irigarayan texts themselves to be healed through careful and critical readings.

and, their link claims perpetuate the logic they critique - turns the K¶ by asserting women cannot participate in law is to claim that all women currently¶ working in what they would consider the legal field are essentially agentless dupes who have¶ too naive to avoid the deception that so oft befalls women. this regressive position is the necessary outcome of their link framing and precludes any alternative solvency

and, their link framing is bad for debate:

1. silences are infinite - the 1ac remains silent on virtually everything (except the content) - they repeat this same error but the ground is infinite and unpredictable bad for debate

2. destroys education - this plus conditionality ensures the negative has so much flexibility to destory the aff

3. destorys predictability

4. destorys limits

5. moots 1ac

#### Perm: do the affirmative and the alternative in all other instances.

**The alternative privileges sexual difference at the expense of all other power relations—creates a violent worldview that must be rejected.**

**Butler ‘93**

(Judith, *Bodies That Matter*, p. 167-168)

A number of theoretical questions have been raised by the effort to think the relationship between feminism, psychoanalysis, and race studies. For the most part, psychoanalysis has been used by feminist theorists to theorize sexual difference as a distinct and fundamental set of linguistic and cultural relations. The philosopher Luce Irigaray has claimed that he question of sexual difference is the question of our time. This **privileging of sexual difference implies not only that sexual difference should be understood as** more fundamental than other forms of difference, but that **other forms of difference** might **be derived from sexual difference. This view also presumes that sexual difference constitutes an autonomous sphere of relations** or disjunctions, and is **not be understood** as articulated through or **as other vectors of power**.

What would it mean, **on the other hand to consider the assumption of sexual positions**, the disjunctive ordering of the human as “masculine” or “feminine” **as taking place not only through a heterosexualizing symbolic with its taboo on homosexuality, but through a complex set of racial inunctions which operate in part through the taboo on miscegenation.** Further, how we understand homosexuality and miscegenation to converge at and as the constitutive outside of a normative heterosexuality that is at once the regulation of a racially pure reproduction? To coin Marx, then let us remember that the reproduction of the species will be articulated as the reproduction of relations of reproduction, that is, as the cathected site of a racialized version of the species in pursuit of hegemony through perpetuity, that requires and produces a normative heterosexuality in its service. Conversely, **the reproduction of heterosexuality will take different forms depending on how race and the reproduction of race are understood**. And though there are clearly good historical reasons for keeping “race” and “sexuality” and “sexual difference” as separate analytic spheres**, there are also quite pressing and significant historical reasons for asking how and where we might read not only their convergence, but the sites at which the one cannot be constituted save the other. This is something other than juxtaposing distinct spheres of power, subordination, agency, historicity** and something other than alist of attributes separated by those proverbial commas (gender, sexuality, race, class), **and usually mean that we have not yet figured out how to think the relations we need to mark**. Is there a way, then, to read Nella Larsen’s text as engaging psychoanalytic assumptions not to affirm the primacy of sexual difference but to articulate the convergent modalities of power by which sexual difference is articulated and assumed?

**Alt can’t produce political change -**

Alison **Martin**, Leverhulme Special Fellow in the Department of French, University of Nottingham, **2004** (“A European Initiative: Irigaray, Marx, and Citizenship” *Hypatia* 19.3 (2004)) Project Muse

The stakes and aims of Irigaray's political project are clearly idealistic and ambitious. It is difficult to envisage how the fact of sexual difference can be represented in political institutions in a universalist fashion without revealing particular cultural traditions' perception of gender. Her philosophy of sexual difference does not call for a worldwide uniformity in the culture of sexual difference—quite the opposite—but the process of making rights and laws appropriate to women and men ////raises the problem of how to define and represent them in a manner that does not rule out those cultural differences. But in assuming at least the validity of the claim of sexual difference, this question is still a long way from dominant political thinking on gender in European legal institutions, which, to the extent that difference is an issue, seem bound to the ideal of equality.

#### The alternative trivializes sexual violence by equating the 1ac with an act of sexual violence – this is a voting issue because it makes the debate space more closed to those who have experienced sexual violence and furthers the cycle of denying women space in the debate community.

**Victimology – irigary’s view of the feminine as weak ensures both domination over women and a racialized other**

**Butler 93** (Judith, *Bodies That Matter* 47-49)

To claim, though, as Irigaray does, that the logic of identity is potentially disruptable by the insurgence of metonymy, and then to identify with metonymy with the repressed and insurgent feminine is to consolidate the place of the feminine in and as the irruptive chora, that which cannot be figure, but which is necessary for any figuration. That is, of course to figure that chora nevertheless, and in such a way that the feminine is “always” the outside, and the outside is “always” the feminine. This is a move that at once positions the feminine as the unthematizable the non-figurable, but which, in identifying the feminine with that position thematiczes and figures, and so makes use of the phallogeocentric exercise to produce this identity which “is” the non-identical. There are good reasons, however, to reject the notion that the feminine monopolizes the sphere of the excluded here. Indeed, to enforce such a monopoly redoubles the effect of foreclosure performed by the phallogocentric discourse itself, one which “mimes” its founding violence in a way that works against the explicit claim to have found a linguisitic site in metonym that works as disruption. After all, Plato’s scenography of intelligibility depends on the exclusion of women, slaves, children and animals, where slaves are characterized as those who do no speak his language and who, in not speaking his language, are considered diminished in their capacity for reason. This xenophobic exclusion operates through the production of racialized Others, and the whose “natures” are considered less rational by virtue of their appointed task in the process of laboring to reproduce the conditions of private life. This domain of the less than rational human bounds the figure of human reason, producing that “man” as one who is without a childhood; is not a primate and who is originary and untranslatable. This is a figure of disembodiment, but one which is nevertheless a figure of a body, a bodying forth of a masculinist rationality, the figure of a male body which is not a body, a figure in crisis, a figure that enacts a crisis cannot fully control. This figuration of masculine reason as disembodied body is one whose imaginary morphology is crafted through the exclusion of other possible bodies. This is a materialization of reason which operaties through the dematerialization of other bodies, for the feminine, strictly speaking, has no morphe, nor morphology, no contour, for it is that which contributes to the contouring of things, but is itself undifferentiated, without boundary. The body that is reason dematerializes the bodies that may not properly stand for reason or its replicas, and yet this is a figure in crisis, for this body of reason is itself the phatasmatic dematerialization of masculinity, one which requires that women and slaves, children and animals be the body, perform the bodily functions, that it will not perform. Irigaray does not always help matters here, for she fails to follow through the metonymic link between women and these other Others, idealizing and appropriating the “elsewhere” as the feminine. But what is the “elsewhere of Irigaray’s elsewhere? If the feminine is not the only or primary kind of being that is excluded from the economy of masculinist reason, what and who is excluded in the course of Irigaray’s analysis?

# 1AR

### War Turns Sexual Violence

#### War fuels structural violence, not the other way around

Goldstein 2001

IR professor at American University (Joshua, War and Gender, p. 412, Google Books)

First, peace activists face a dilemma in thinking about causes of war and working for peace. **Many peace scholars and activists support the approach, “if you want peace, work for justice.”** Then, if one believes that sexism contributes to war, one can work for gender justice specifically (perhaps. among others) in order to pursue peace. This approach brings strategic allies to the peace movement (women, labor, minorities), but rests on the assumption that injustices cause war. The evidence in this book suggests that **causality runs at least as strongly the other way. War is not a product of capitalism, imperialism, gender, innate aggression,** or any other single cause, **although all of these influence wars’ outbreaks and outcomes. Rather, war has in part** fueled and sustained **these and other injustices**.9 So, “if you want peace, work for peace.” Indeed, if you want justice (gender and others), work for peace. **Causality does not run just upward through the levels of analysis, from types of individuals, societies, and governments up to war. It runs downward too**. Enloe suggests that changes in attitudes towards war and the military may be the most important way to “reverse women’s oppression.” The dilemma is that peace work focused on justice brings to the peace movement energy, allies, and moral grounding, yet, in light of this book’s evidence, **the emphasis on injustice as the main cause of war seems to be** empirically inadequate.