## 1NC

### 1

#### Interpretation - Authority cannot be implied, it must be made explicit – WPR says so

Raven-Hansen 89

[Peter, Professor of Law, George Washington University National Law Center. “SPECIAL ISSUE: THE UNITED STATES CONSTITUTION IN ITS THIRD CENTURY: FOREIGN AFFAIRS: DISTRIBUTION OF CONSTITUTIONAL AUTHORITY: NUCLEAR WAR POWERS” American Journal of International Law, 83 A.J.I.L. 786, Nexis]

The statutory argument against delegation rests on the War Powers Resolution. Section 8(a)(1) of the Resolution provides that authorization for the introduction of U.S. armed forces into hostilities shall not be inferred from any provision of law (whether or not in effect before the date of the enactment of this joint resolution), including any provision contained in any appropriation Act, unless such provision specifically authorizes [such introduction] and states that it is intended to constitute specific statutory authorization within the meaning of this joint resolution. n35

#### War powers authority comes from Congressional delegation

Bradley and Goldsmith 05 (Curtis and Jack, professor of law at the University of Virginia and professor of law at Harvard, 118 Harvard Law Review 2047, May, lexis)

Second, under Justice Jackson's widely accepted categorization of presidential power, n5 "the strongest of presumptions and the widest latitude of judicial interpretation" attach "when the President acts pursuant to an express or implied authorization of Congress." n6 This  [\*2051]  proposition applies fully to presidential acts in wartime that are authorized by Congress. n7 By contrast, presidential wartime acts not authorized by Congress lack the same presumption of validity, and the Supreme Court has invalidated a number of these acts precisely because they lacked congressional authorization. n8 The constitutional importance of congressional approval is one reason why so many commentators call for increased congressional involvement in filling in the legal details of the war on terrorism. Before assessing what additional actions Congress should take, however, it is important to assess what Congress has already done. Third, basic principles of constitutional avoidance counsel in favor of focusing on congressional authorization when considering war powers issues. n9 While the President's constitutional authority as Commander-in-Chief is enormously important, determining the scope of that authority beyond what Congress has authorized implicates some of the most difficult, unresolved, and contested issues in constitutional law. n10 Courts have been understandably reluctant to address the scope of that constitutional authority, especially during wartime, when the consequences of a constitutional error are potentially enormous. n11 Instead,  [\*2052]  courts have attempted, whenever possible, to decide difficult questions of wartime authority on the basis of what Congress has in fact authorized. n12 This strategy makes particular sense with respect to the novel issues posed by the war on terrorism.

#### AUMF gives drone authority, but classifying the legal memos comes from Executive order 13526

Wagner ’13 (School of International & Public Affairs, Columbia University)

Abraham 2-8-13 http://www.huffingtonpost.com/abraham-r-wagner/obama-drone-legal-authority\_b\_2646458.html

Wrapping the argument in the rhetoric of human rights law and international humanitarian law fails to address the fundamental problem of increasing extremist threats in a number of regional states. While criticizing Bush for every ill imaginable, Obama has not repudiated the 2001 Authorization for the Use of Military Force (AUMF) or the subsequent Bush Doctrine. To the extent Brennan has acted to implement what is now long-standing policy against America's enemies and those who seek to kill Americans by whatever means possible from a number of foreign nations he has nothing to hide from or apologize for.¶ The stupidity in all of this lies not in the authorization of targeted killings abroad to ultimately save lives, but in failing to make openly available the legal analyses supporting these operations. There is simply no serious excuse to hold these as state secrets. Presumably they contain no military plans or reveal intelligence sources and methods. If the unclassified, leaked white paper provided by NBC is any example, it is just that -- a legal memo with various points and authorities supporting a plan of action. It is highly unlikely that release of the 2010 classified memorandum supporting this white paper would cause any grave damage to the national security of the nation -- the specific criteria for its classification under Obama's own Executive Order 13526. Critics are right in pointing to the example of an earlier legal memo from the Justice Department's Office of Legal Counsel on the Bush enhanced interrogation program -- the so-called "torture memo" which began as a classified document and subsequently released. In the open, the memo provided the basis for a rational debate over CIA's now discontinued methods of enhanced interrogation. Indeed, Harold H. Koh, then Dean of the Yale Law School and now the State Department Legal Adviser, was one of the nation's leading critics of this memo and the reasoning it contained. He is often quoted as saying it was "perhaps the most clearly erroneous legal opinion I have ever read" and at the time he was joined by other prominent legal scholars in this opinion.¶ There is nothing entirely secret about the use of drone aircraft overseas by CIA and the launching of Hellfire missiles against suspected terrorist targets. It is also the case that their use against a small number of Americans abroad directly involved in terrorist activities, with authorization from the highest authorities, has taken place. The targeting of U.S. citizen Anwar al-Awlaki has already been the subject of extensive press coverage and litigation.¶ Whether or not there is a sound legal basis for the use of drone aircraft targeting U.S. citizens abroad in this manner is a reasonable subject for debate among legal scholars, the press and the public. To the extent that the Obama Administration engages in such actions, and believes that it has sound legal authority to do so, it does itself no good in withholding the supporting legal arguments from open scrutiny.

#### B. 1. The aff is not a restriction of War powers authority—at best, it restricts a presidents executive privilege—which is an implied Executive power, not war powers authority

#### 2. Conditions are not restrictions

SCOTUS in NATIONAL FEDERATION v. SEBELIUS ‘12

Given the nature of the threat and the programs at issue here, we must agree. We have upheld Congress's authority to condition the receipt of funds on the [\*2604] States' complying with restrictions on the use of those funds, because that is the means by which Congress ensures that the funds are spent according to its view of the “general Welfare.” Conditions that do not here govern the use of the funds, however, cannot be justified on that basis. When, for example, such conditions take the form of threats to terminate other significant independent grants, the conditions are properly viewed as a means of pressuring the States to accept policy changes.¶ In South Dakota v. Dole, we considered a challenge to a federal law that threatened to withhold five percent of a State's federal highway funds if the State did not raise its drinking age to 21. The Court found that the condition was “directly related to one of the main purposes for which highway funds are expended--safe interstate travel.” [483 U.S., at 208, 107 S. Ct. 2793, 97 L. Ed. 2d 171](http://www.lexisnexis.com.ezproxy.baylor.edu/lnacui2api/mungo/lexseestat.do?bct=A&risb=21_T18270766414&homeCsi=6443&A=0.9155876742586228&urlEnc=ISO-8859-1&&citeString=483%20U.S.%20203,%20208&countryCode=USA). At the same time, the condition was not a restriction on how the highway funds--set [\*\*494] aside for specific highway improvement and maintenance efforts--were to be used.

#### 3. Vagueness. The plan text is overly vague on the solvency mechanism. “establish statutory requirements” can mean almost anything and is supported by NO 1AC solvency ev.

#### C. Limits. Their interp justifies restricting any presidential power as long as it relates, in some amorphous way to war powers. That explodes limits

#### Topic education. Their interp reduces depth of topic research.

#### D. Vote neg for fairness and education

### 2

#### CIR will pass now BUT it will be really close

Wilkinson 11/1 (Francis Wilkinson is a member of the Bloomberg View editorial board, <http://www.bloomberg.com/news/2013-11-01/republicans-will-pass-immigration-reform-soon-.html>, “Republicans Will Pass Immigration Reform. Soon.”, AB)

Republicans Will Pass Immigration Reform. Soon. Three Republicans signed on to the House Democrats' immigration bill in the past week, which is the best news the reform movement has had in a while. Even so, passing comprehensive reform in this Congress remains a tough slog. For one, the troubled rollout of Obamacare gives House Republicans an activity -- attacking! -- they enjoy far more than legislating. And given the political dynamics of the Republican conference, and the prickliness of the issue, immigration legislation is especially unfun. While some contend that the advent of an election year dooms immigration reform, history suggests otherwise. Many immigration bills have passed in even years, including the comprehensive reform of 1986, which the current Senate bill (slightly modified and embraced by House Democrats) resembles in its political balance between enforcement and legalization of undocumented immigrants. Other immigration legislation passed Congress in 1996, 1990, 1980, 1976 and 1952. Immigration laws don't invite smooth sailing. "The '86 bill was dead so many times," recalled Muzaffar Chishti, who runs the New York office of the Migration Policy Institute. "I took my vacation after it was clear Congress was not going to pass a bill." Chishti was not the only one surprised when a major overhaul passed both houses in mid-October, just weeks before the 1986 midterm election. The 2014 election promises to be nationalized, both because national partisanship increasingly pervades districts far from Washington and because the party arguments now taking shape -- basically "they're lunatics" vs. "socialism sucks" -- are national in character. By late spring, when the Tea Party primary season has passed, Republicans may want to take another look at immigration. Then again, because it's hard, they may not. And because the 2014 race will lack the unifying force field provided by a presidential contest, when the whole party is on the ballot, they won't necessarily have to. The main event, however, will come soon enough. Chishti said he believes "2015 is in many ways the best year" for immigration reform. "If the Hispanic vote keeps on going the way it has, that will send a message," he said. The way the Hispanic vote has been going is the same way the Asian vote has been going: up, and increasingly Democratic. In 2015, Republicans will be looking at immigration through presidential, rather than congressional, glasses. Strong Hispanic and Asian turnout in 2014 would especially encourage a new clarity of vision. The blunt logic encouraging Republican support for immigration reform is unchanged; only the timing is in doubt. In 2014 or 2015 or 2016 Republicans will have to pass legislation. Because a party that gets 20 percent of the nonwhite vote, as the Republican presidential ticket did in 2012, is a party set to collide violently with the 21st century. And while Republican nativists appear eager to go down with the ship, others have been eyeing the approaching iceberg with more trepidation. The question is when, exactly, they will start scrambling for the lifeboats.

#### The plan causes an inter-branch fight – saps PC and derails his agenda

Kriner 10

Douglas Kriner, Assistant Profess of Political Science at Boston University, 2010, After the Rubicon: Congress, Presidents, and the Politics of Waging War, p. 67-69

Raising or Lowering Political Costs by Affecting Presidential Political Capital Shaping both real and anticipated public opinion are two important ways in which Congress can raise or lower the political costs of a military action for the president. However, focusing exclusively on opinion dynamics threatens to obscure the much broader political consequences of domestic reaction—particularly congressional opposition—to presidential foreign policies. At least since Richard Neustadt's seminal work Presidential Power, presidency scholars have warned that costly political battles in one policy arena frequently have significant ramifications for presidential power in other realms. Indeed, two of Neustadt's three "cases of command"—Truman's seizure of the steel mills and firing of General Douglas MacArthur—explicitly discussed the broader political consequences of stiff domestic resistance to presidential assertions of commander-in-chief powers. In both cases, Truman emerged victorious in the case at hand—yet, Neustadt argues, each victory cost Truman dearly in terms of his future power prospects and leeway in other policy areas, many of which were more important to the president than achieving unconditional victory over North Korea." While congressional support leaves the president's reserve of political capital intact, congressional criticism saps energy from other initiatives on the home front by forcing the president to expend energy and effort defending his international agenda. Political capital spent shoring up support for a president's foreign policies is capital that is unavailable for his future policy initiatives. Moreover, any weakening in the president's political clout may have immediate ramifications for his reelection prospects, as well as indirect consequences for congressional races." Indeed, Democratic efforts to tie congressional Republican incumbents to President George W. Bush and his war policies paid immediate political dividends in the 2006 midterms, particularly in states, districts, and counties that had suffered the highest casualty rates in the Iraq War.6° In addition to boding ill for the president's perceived political capital and reputation, such partisan losses in Congress only further imperil his programmatic agenda, both international and domestic. Scholars have long noted that President Lyndon Johnson's dream of a Great Society also perished in the rice paddies of Vietnam. Lacking both the requisite funds in a war-depleted treasury and the political capital needed to sustain his legislative vision, Johnson gradually let his domestic goals slip away as he hunkered down in an effort first to win and then to end the Vietnam War. In the same way, many of President Bush's highest second-term domestic priorities, such as Social Security and immigration reform, failedperhaps in large part because the administration had to expend so much energy and effort waging a rear-guard action against congressional critics of the war in Iraq. When making their cost-benefit calculations, presidents surely consider these wider political costs of congressional opposition to their military policies. If congressional opposition in the military arena stands to derail other elements of his agenda, all else being equal, the president will be more likely to judge the benefits of military action insufficient to its costs than if Congress stood behind him in the international arena

#### Political capital AND focus is key

Wilson 10-17

(Scott and Juliet, Washington Post, 10-17-13, “Obama to refocus on key aspects of agenda,” Lexis, accessed 10-18-13, BS)

New York University public service professor Paul C. Light is pessimistic that Obama can accomplish much in coming months. He said Obama is running out of time to get things done in the face of GOP resistance and the decline of influence that comes with a second term. "I don't think that he'll get anything. His agenda is finished," Light said. "It's a political tragedy, because he's got more knowledge about the job and less juice to get it done." Keith Hennessey, who served as President George W. Bush's top economic adviser, said people shouldn't overstate the significance of Wednesday's political accord. "Substantively, the net result is they've pressed 'pause.' And that's it," said Hennessey, adding that while Obama "played defense successfully," that does not mean he will now be able to go on offense. Hennessey said it will be hard for the president and congressional Republicans to reconcile their competing fiscal goals - Obama wants to ease across-the-board budget cuts, known as the sequester, while the GOP wants broad entitlement reforms. In addition, he said, the way the White House will likely campaign for its priorities could deepen the partisan divide. "If the president portrays this as this battle between light and dark, it's hard for people to be simultaneously cooperating across party lines on other issues," he said. Obama sounded a conciliatory tone Wednesday night. "We could get all these things done even this year if everybody comes together in a spirit of how are we going to move this country forward and put the last three weeks behind us," he said. But the president's greatest opportunities in coming months are likely to come in areas where he can act on his own, both domestically and in foreign affairs. "His path to success is going to come through every single place that you can squeeze some authority which he has," said John Podesta, who chairs the liberal think tank Center for American Progress. "That is where you've got to focus your attention and where you could spend your political capital."

#### Immigration reform is key to the economy

Krudy 13

(Edward, “Analysis: Immigration reform could boost U.S. economic growth” Jan 29, 2013, Reuters)

The sluggish U.S. economy could get a lift if President Barack Obama and a bipartisan group of senators succeed in what could be the biggest overhaul of the nation's immigration system since the 1980s. Relaxed immigration rules could encourage entrepreneurship, increase demand for housing, raise tax revenues and help reduce the budget deficit, economists said. By helping more immigrants enter the country legally and allowing many illegal immigrants to remain, the United States could help offset a slowing birth rate and put itself in a stronger demographic position than aging Europe, Japan and China. "Numerous industries in the United States can't find the workers they need, right now even in a bad economy, to fill their orders and expand their production as the market demands," said Alex Nowrasteh, an immigration specialist at the libertarian Cato Institute. The emerging consensus among economists is that immigration provides a net benefit. It increases demand and productivity, helps drive innovation and lowers prices, although there is little agreement on the size of the impact on economic growth. President Barack Obama plans to launch his second-term push for a U.S. immigration overhaul during a visit to Nevada on Tuesday and will make it a high priority to win congressional approval of a reform package this year, the White House said. The chances of major reforms gained momentum on Monday when a bipartisan group of senators agreed on a framework that could eventually give 11 million illegal immigrants a chance to become American citizens. Their proposals would also include means to keep and attract workers with backgrounds in science, technology, engineering and mathematics. This would be aimed both at foreign students attending American universities where they are earning advanced degrees and high-tech workers abroad. An estimated 40 percent of scientists in the United States are immigrants and studies show immigrants are twice as likely to start businesses, said Nowrasteh. Boosting legal migration and legalizing existing workers could add $1.5 trillion to the U.S. economy over the next 10 years, estimates Raul Hinojosa-Ojeda, a specialist in immigration policy at the University of California, Los Angeles. That's an annual increase of 0.8 percentage points to the economic growth rate, currently stuck at about 2 percent. REPUBLICANS' HISPANIC PUSH Other economists say the potential benefit to growth is much lower. Richard Freeman, an economist at Harvard, believes most of the benefits to the economy from illegal immigrants already in the United States has already been recorded and legalizing their status would produce only incremental benefits. While opposition to reform lingers on both sides of the political spectrum and any controversial legislation can easily meet a quick end in a divided Washington, the chances of substantial change seem to be rising. Top Republicans such as Governor Bobby Jindal of Louisiana are not mincing words about the party's need to appeal to the Hispanic community and foreign-born voters who were turned off by Republican candidate Mitt Romney's tough talk in last year's presidential campaign. A previous Obama plan, unveiled in May 2011, included the creation of a guest-worker program to meet agricultural labor needs and something similar is expected to be in his new proposal. The senators also indicated they would support a limited program that would allow companies in certain sectors to import guest workers if Americans were not available to fill some positions. An additional boost to growth could come from rising wages for newly legalized workers and higher productivity from the arrival of more highly skilled workers from abroad. Increased tax revenues would help federal and state authorities plug budget deficits although the benefit to government revenues will be at least partially offset by the payment of benefits to those who gain legal status. In 2007, the Congressional Budget Office estimated that proposed immigration reform in that year would have generated $48 billion in revenue from 2008 to 2017, while costing $23 billion in health and welfare payments. There is also unlikely to be much of a saving on enforcement from the senators' plan because they envisage tougher border security to prevent further illegal immigration and a crackdown on those overstaying visas. One way to bump up revenue, according to a report co-authored by University of California, Davis economist Giovanni Peri, would be to institute a cap-and-trade visa system. Peri estimated it could generate up to $1.2 billion annually. Under such a system, the government would auction a certain number of visas employers could trade in a secondary market. "A more efficient, more transparent and more flexible immigration system would help firms expand, contribute to more job creation in the United States, and slow the movement of operations abroad," according to a draft report, soon to be published as part of a study by the Hamilton Project, a think tank. There was no immediate sign that either the Obama or the senators' plan would include such a system. The long-term argument for immigration is a demographic one. Many developed nations are seeing their populations age, adding to the burden of pension and healthcare costs on wage-earners. Immigration in the United States would need to double to keep the working-age population stable at its current 67 percent of total population, according to George Magnus, a senior independent economic adviser at UBS in London, While Magnus says a change of that magnitude may prove too politically sensitive, the focus should be on attracting highly skilled and entrepreneurial immigrants in the way Canada and Australia do by operating a points system for immigrants rather than focusing mainly on family connections. "The trick is to shift the balance of migration towards those with education (and) skills," he added. HARD ROAD Academics at major universities such as Harvard and the Massachusetts Institute of Technology often lament that many of their top foreign graduates end up returning to their home countries because visas are hard to get. "We have so much talent that is sitting here in the universities," said William Kerr, a professor at Harvard Business School. "I find it very difficult to swallow that we then make it so hard for them to stay." The last big amnesty for illegal immigrants was in 1986 when President Ronald Reagan legalized about 3 million already in the country. Numerous studies have shown that subsequently their wages rose significantly. Research on how immigration affects overall wages is inconclusive. George Borjas at Harvard says immigration has created a small net decrease in overall wages for those born in the United States, concentrated among the low-skilled, while Giovani Peri at UC Davis found that immigration boosts native wages over the long run. Hinojosa-Ojeda stresses that any reform needs to make it easier for guest workers to enter the country to avoid a new build-up of illegal workers. "If we don't create a mechanism that can basically bring in 300,000 to 400,000 new workers a year into a variety of labor markets and needs, we could be setting ourselves up for that again," said Hinojosa-Ojeda. Nowrasteh at Cato also believes an expanded guest worker program would stem illegal immigration and allow industries to overcome labor shortages. He found that harsher regulations in recent years in Arizona were adversely affecting agricultural production, increasing financial burdens on business and even negatively impacting the state's struggling real estate market. Some large companies have fallen foul of tougher enforcement regulations. Restaurant chain Chipotle Mexican Grill Inc fired roughly 500 staff in 2010 and 2011 after undocumented workers were found on its payrolls. Putting the chill on other employers, it is now subject of an ongoing federal criminal investigation into its hiring. "The current system doesn't seem to work for anyone," Chipotle spokesman Chris Arnold said.

#### Collapse causes nuclear conflicts

Harris and Burrows 9

Mathew J. Burrows counselor in the National Intelligence Council and Jennifer Harris a member of the NIC’s Long Range Analysis Unit “Revisiting the Future: Geopolitical Effects of the Financial Crisis” The Washington Quarterly 32:2 https://csis.org/files/publication/twq09aprilburrowsharris.pdf

Increased Potential for Global Conflict¶ Of course, the report encompasses more than economics and indeed believes the¶ future is likely to be the result of a number of intersecting and interlocking¶ forces. With so many possible permutations of outcomes, each with ample opportunity for unintended consequences, there is a growing sense of insecurity.¶ Even so, history may be more instructive than ever. While we continue to¶ believe that the Great Depression is not likely to be repeated, the lessons to be¶ drawn from that period include the harmful effects on fledgling democracies and¶ multiethnic societies (think Central Europe in 1920s and 1930s) and on¶ the sustainability of multilateral institutions (think League of Nations in the¶ same period). There is no reason to think that this would not be true in the¶ twenty-first as much as in the twentieth century. For that reason, the ways in¶ which the potential for greater conflict could grow would seem to be even more¶ apt in a constantly volatile economic environment as they would be if change¶ would be steadier.¶ In surveying those risks, the report stressed the likelihood that terrorism and¶ nonproliferation will remain priorities even as resource issues move up on the¶ international agenda. Terrorism’s appeal will decline if economic growth¶ continues in the Middle East and youth unemployment is reduced. For those¶ terrorist groups that remain active in 2025, however, the diffusion of¶ technologies and scientific knowledge will place some of the world’s most¶ dangerous capabilities within their reach. Terrorist groups in 2025 will likely be a¶ combination of descendants of long established groupsinheriting¶ organizational structures, command and control processes, and training¶ procedures necessary to conduct sophisticated attacksand newly emergent¶ collections of the angry and disenfranchised that become self-radicalized,¶ particularly in the absence of economic outlets that would become narrower¶ in an economic downturn.¶ The most dangerous casualty of any economically-induced drawdown of U.S.¶ military presence would almost certainly be the Middle East. Although Iran’s¶ acquisition of nuclear weapons is not inevitable, worries about a nuclear-armed¶ Iran could lead states in the region to develop new security arrangements with¶ external powers, acquire additional weapons, and consider pursuing their own¶ nuclear ambitions. It is not clear that the type of stable deterrent relationship¶ that existed between the great powers for most of the Cold War would emerge¶ naturally in the Middle East with a nuclear Iran. Episodes of low intensity¶ conflict and terrorism taking place under a nuclear umbrella could lead to an¶ unintended escalation and broader conflict if clear red lines between those states¶ involved are not well established. The close proximity of potential nuclear rivals¶ combined with underdeveloped surveillance capabilities and mobile¶ dual-capable Iranian missile systems also will produce inherent difficulties in¶ achieving reliable indications and warning of an impending nuclear attack. The¶ lack of strategic depth in neighboring states like Israel, short warning and missile¶ flight times, and uncertainty of Iranian intentions may place more focus on¶ preemption rather than defense, potentially leading to escalating crises.Types of conflict that the world continues¶ to experience, such as over resources, could¶ reemerge, particularly if protectionism grows and¶ there is a resort to neo-mercantilist practices.¶ Perceptions of renewed energy scarcity will drive¶ countries to take actions to assure their future¶ access to energy supplies. In the worst case, this¶ could result in interstate conflicts if government¶ leaders deem assured access to energy resources,¶ for example, to be essential for maintaining domestic stability and the survival of¶ their regime. Even actions short of war, however, will have important geopolitical¶ implications. Maritime security concerns are providing a rationale for naval¶ buildups and modernization efforts, such as China’s and India’s development of¶ blue water naval capabilities. If the fiscal stimulus focus for these countries indeed¶ turns inward, one of the most obvious funding targets may be military. Buildup of¶ regional naval capabilities could lead to increased tensions, rivalries, and¶ counterbalancing moves, but it also will create opportunities for multinational¶ cooperation in protecting critical sea lanes. With water also becoming scarcer in¶ Asia and the Middle East, cooperation to manage changing water resources is¶ likely to be increasingly difficult both within and between states in a more¶ dog-eat-dog world.

### 3

#### Text: The Executive branch of the United States federal government should issue and enforce an executive order to make necessary adjustments to its targeted killing policy to ensure compliance with relevant domestic and international law, including principles of necessity, distinction, and proportionality. The executive order should also publicly articulate the Executive branch’s legal rationale for its targeted killing policy, including the process and safeguards in place for target selection.

#### CP resolves drone legitimacy and resentment

Daskal 13

Jennifer Daskal, Fellow and Adjunct Professor, Georgetown Center on National Security and the Law, Georgetown University Law Center, April 2013, ARTICLE: THE GEOGRAPHY OF THE BATTLEFIELD: A FRAMEWORK FOR DETENTION AND TARGETING OUTSIDE THE "HOT" CONFLICT ZONE, 161 U. Pa. L. Rev. 1165

4. Procedural Requirements¶ Currently, officials in the executive branch carry out all such ex ante review of out-of-battlefield targeting and detention decisions, reportedly with the involvement of the President, but without any binding and publicly articulated standards governing the exercise of these authorities. n163 All ex post review of targeting is also done internally within the executive branch. There is no public accounting, or even acknowledgment, of most strikes, their success and error rates, or the extent of any collateral damage. Whereas the Department of Defense provides solatia or condolence payments to Afghan civilians who are killed or injured as a result of military actions in Afghanistan (and formerly did so in Iraq), there is no equivalent effort in areas outside the active conflict zone. n164¶ Meanwhile, the degree of ex post review of detention decisions depends on the location of detention as opposed to the location of capture. Thus, [\*1219] Guantanamo detainees are entitled to habeas review, but detainees held in Afghanistan are not, even if they were captured far away and brought to Afghanistan to be detained. n165¶ Enhanced ex ante and ex post procedural protections for both detention and targeting, coupled with transparency as to the standards and processes employed, serve several important functions: they can minimize error and abuse by creating time for advance reflection, correct erroneous deprivations of liberty, create endogenous incentives to avoid mistake or abuse, and increase the legitimacy of state action.¶ a. Ex Ante Procedures¶ Three key considerations should guide the development of ex ante procedures. First, any procedural requirements must reasonably respond to the need for secrecy in certain operations. Secrecy concerns cannot, for example, justify the lack of transparency as to the substantive targeting standards being employed. There is, however, a legitimate need for the state to protect its sources and methods and to maintain an element of surprise in an attack or capture operation. Second, contrary to oft-repeated rhetoric about the ticking time bomb, few, if any, capture or kill operations outside a zone of active conflict occur in situations of true exigency. n166 Rather, there is often the time and need for advance planning. In fact, advance planning is often necessary to minimize damage to one's own troops and nearby civilians. n167 Third, the procedures and standards employed must be transparent and sufficiently credible to achieve the desired legitimacy gains.¶ These considerations suggest the value of an independent, formalized, ex ante review system. Possible models include the Foreign Intelligence [\*1220] Surveillance Court (FISC), n168 or a FISC-like entity composed of military and intelligence officials and military lawyers, in the mode of an executive branch review board. n169¶ Created by the Foreign Intelligence Surveillance Act (FISA) in 1978, n170 the FISC grants ex parte orders for electronic surveillance and physical searches, among other actions, based on a finding that a "significant purpose" of the surveillance is to collect "foreign intelligence information." n171 The Attorney General can grant emergency authorizations without court approval, subject to a requirement that he notify the court of the emergency authorization and seek subsequent judicial authorization within seven days. n172 The FISC also approves procedures related to the use and dissemination of collected information. By statute, heightened restrictions apply to the use and dissemination of information concerning U.S. persons. n173 Notably, the process has been extraordinarily successful in protecting extremely sensitive sources and methods. To date, there has never been an unauthorized disclosure of an application to or order from the FISC court.¶ An ex parte review system for targeting and detention outside zones of active hostility could operate in a similar way. Judges or the review board would approve selected targets and general procedures and standards, while still giving operators wide rein to implement the orders according to the approved standards. Specifically, the court or review board would determine whether the targets meet the substantive requirements and would [\*1221] evaluate the overarching procedures for making least harmful means-determinations, but would leave target identification and time-sensitive decisionmaking to the operators. n174¶ Moreover, there should be a mechanism for emergency authorizations at the behest of the Secretary of Defense or the Director of National Intelligence. Such a mechanism already exists for electronic surveillance conducted pursuant to FISA. n175 These authorizations would respond to situations in which there is reason to believe that the targeted individual poses an imminent, specific threat, and in which there is insufficient time to seek and obtain approval by a court or review panel as will likely be the case in instances of true imminence justifying the targeting of persons who do not meet the standards applicable to operational leaders. As required under FISA, the reviewing court or executive branch review board should be notified that such an emergency authorization has been issued; it should be time-limited; and the operational decisionmakers should have to seek court or review board approval (or review, if the strike has already taken place) as soon as practicable but at most within seven days. n176¶ Finally, and critically, given the stakes in any application namely, the deprivation of life someone should be appointed to represent the potential target's interests and put together the most compelling case that the individual is not who he is assumed to be or does not meet the targeting criteria.¶ The objections to such a proposal are many. In the context of proposed courts to review the targeting of U.S. citizens, for example, some have argued that such review would serve merely to institutionalize, legitimize, and expand the use of targeted drone strikes. n177 But this ignores the reality of their continued use and expansion and imagines a world in which targeted [\*1222] killings of operational leaders of an enemy organization outside a zone of active conflict is categorically prohibited (an approach I reject n178). If states are going to use this extraordinary power (and they will), there ought to be a clear and transparent set of applicable standards and mechanisms in place to ensure thorough and careful review of targeted-killing decisions. The formalization of review procedures along with clear, binding standards will help to avoid ad hoc decisionmaking and will ensure consistency across administrations and time.¶ Some also condemn the ex parte nature of such reviews. n179 But again, this critique fails to consider the likely alternative: an equally secret process in which targeting decisions are made without any formalized or institutionalized review process and no clarity as to the standards being employed. Institutionalizing a court or review board will not solve the secrecy issue, but it will lead to enhanced scrutiny of decisionmaking, particularly if a quasi-adversarial model is adopted, in which an official is obligated to act as advocate for the potential target.¶ That said, there is a reasonable fear that any such court or review board will simply defer. In this vein, FISC's high approval rate is cited as evidence that reviewing courts or review boards will do little more than rubber-stamp the Executive's targeting decisions. n180 But the high approval rates only tell part of the story. In many cases, the mere requirement of justifying an application before a court or other independent review board can serve as an internal check, creating endogenous incentives to comply with the statutory requirements and limit the breadth of executive action. n181 Even if this system does little more than increase the attention paid to the stated requirements and expand the circle of persons reviewing the factual basis for the application, those features in and of themselves can lead to increased reflection and restraint.¶ Additional accountability mechanisms, such as civil or criminal sanctions in the event of material misrepresentations or omissions, the granting of far-reaching authority to the relevant Inspectors General, and meaningful ex post review by Article III courts, n182 are also needed to help further minimize abuse.¶ Conversely, some object to the use of courts or court-like review as stymying executive power in wartime, and interfering with the President's Article II powers. n183 According to this view, it is dangerous and potentially unconstitutional to require the President's wartime targeting decisions to be subject to additional reviews. These concerns, however, can be dealt with through emergency authorization mechanisms, the possibility of a presidential override, and design details that protect against ex ante review of operational decisionmaking. The adoption of an Article II review board, rather than an Article III-FISC model, further addresses some of the constitutional concerns.¶ Some also have warned that there may be no "case or controversy" for an Article III, FISC-like court to review, further suggesting a preference for an Article II review board. n184 That said, similar concerns have been raised with respect to FISA and rejected. n185 Drawing heavily on an analogy to courts' roles in issuing ordinary warrants, the Justice Department's Office of Legal Counsel concluded at the time of enactment that a case and controversy existed, even though the FISA applications are made ex parte. n186 [\*1224] Here, the judges would be issuing a warrant to kill rather than surveil. While this is significant, it should not fundamentally alter the legal analysis. n187 As the Supreme Court has ruled, killing is a type of seizure. n188 The judges would be issuing a warrant for the most extreme type of seizure. n189¶ It is also important to emphasize that a reviewing court or review board would not be "selecting" targets, but determining whether the targets chosen by executive branch officials met substantive requirements much as courts do all the time when applying the law to the facts. Press accounts indicate that the United States maintains lists of persons subject to capture or kill operations lists created in advance of specific targeting operations and reportedly subject to significant internal deliberation, including by the President himself. n190 A court or review board could be incorporated into the existing ex ante decisionmaking process in a manner that would avoid interference with the conduct of specific operations reviewing the target lists but leaving the operational details to the operators. As suggested above, emergency approval mechanisms could and should be available to deal with exceptional cases where ex ante approval is not possible.¶ Additional details will need to be addressed, including the temporal limits of the court's or review board's authorizations. For some high-level operatives, inclusion on a target list would presumably be valid for some set period of [\*1225] time, subject to specific renewal requirements. Authorizations based on a specific, imminent threat, by comparison, would need to be strictly time-limited, and tailored to the specifics of the threat, consistent with what courts regularly do when they issue warrants.¶ In the absence of such a system, the President ought to, at a minimum, issue an executive order establishing a transparent set of standards and procedures for identifying targets of lethal killing and detention operations outside a zone of active hostilities. n192 To enhance legitimacy, the procedures should include target list reviews and disposition plans by the top official in each of the agencies with a stake in the outcome the Secretary of Defense, the Director of the CIA, the Secretary of State, the Director of Homeland Security, and the Director of National Intelligence, with either the Secretary of Defense, Director of National Intelligence, or President himself, responsible for final sign-off. n193 In all cases, decisions should be unanimous, or, in the absence of consensus, elevated to the President of the United States. n194 Additional details will need to be worked out, including critical questions about the standard of proof that applies. Given the stakes, a clear and convincing evidentiary standard is warranted. n195¶ While this proposal is obviously geared toward the United States, the same principles should apply for all states engaged in targeting operations. n196 States would ideally subject such determinations to independent review or, alternatively, clearly articulate the standards and procedures for their decisionmaking, thus enhancing accountability.¶ b. Ex Post Review¶ For targeted-killing operations, ex post reviews serve only limited purposes. They obviously cannot restore the target's life. But retrospective review either by a FISC-like court or review board can serve to identify errors or overreaching and thereby help avoid future mistakes. This can, and ideally would, be supplemented by the adoption of an additional Article III damages mechanism. n197 At a minimum, the relevant Inspectors General should engage in regular and extensive reviews of targeted-killing operations. Such post hoc analysis helps to set standards and controls that then get incorporated into ex ante decisionmaking. In fact, post hoc review can often serve as a more meaningful and often more searching inquiry into the legitimacy of targeting decisions. Even the mere knowledge that an ex post review will occur can help to protect against rash ex ante decisionmaking, thereby providing a self-correcting mechanism.¶ Ex post review should also be accompanied by the establishment of a solatia and condolence payment system for activities that occur outside the active zone of hostilities. Extension of such a system beyond Afghanistan and Iraq would help mitigate resentment caused by civilian deaths or injuries and would promote better accounting of the civilian costs of targeting operations. n198

### 4

#### Restrictions on executive war powers DO NOTHING for the state of political legal exception we live in and only gives further justification for violent intervention on the basis of legality

Dyzenhaus 05 (David, is a professor of Law and Philosophy at the University of Toronto, and a Fellow of the Royal Society of Canada, “Schmitt v. Dicey: Are States of Emergency Inside or Outside the Legal Order?” Cardozo Law Review 27)

Rossiter had in mind Lincoln's actions during the Civil War, including the proclamation by which Lincoln, without the prior authority of Congress, suspended habeas corpus. n35 Lincoln, he said, subscribed to a theory that in a time of emergency, the President could assume whatever legislative, executive, and judicial powers he thought necessary to preserve the nation, and could in the process break the "fundamental laws of the nation, if such a step were unavoidable." n36 This power included one ratified by the Supreme Court: "an almost unrestrained power to act toward insurrectionary citizens as if they were enemies of the United States, and thus place them outside the protection of the Constitution." Rossiter's difficulties here illustrate rather than solve the tensions inherent in the idea of constitutional dictatorship. On the one hand, he wants to assert that emergency rule in a liberal democracy can be constitutional in nature. "Constitutional" implies restraints and limits in accordance not only with law, but with fundamental laws. These laws are not the constitution that is in place for ordinary times; rather, they are the laws that govern the management of exceptional times - the eleven criteria that he developed for constitutional dictatorship. The criteria are either put within the discretion of the dictator - they are judgments about necessity - or are couched as limits that should be enshrined either in the constitution or in legislation. However, Rossiter does not properly address the fact that judgments about necessity are for the dictator to make, which means that these criteria are not limits or constraints but merely factors about which the dictator will have to decide. Other criteria look more like genuine limits. Moreover, they are limits that could be constitutionally enshrined - for example, the second criterion, which requires that the person who makes the decision that there is an emergency should not be the person who assumes dictatorial powers. Yet, as we have seen, Rossiter's foremost example of the modern constitutional dictator, Lincoln, not only gave himself dictatorial powers but, Rossiter supposes, had no choice but to do this. Moreover, if these criteria are constitutionally enshrined, so that part of the constitution is devoted to the rules that govern the time when the rest of the constitution might be suspended, they still form part of the constitution. So, no less than the ordinary constitution, what we can think of as the exceptional or emergency constitution - the constitution that governs the state of emergency - is subject to suspension should the dictator deem this necessary. This explains why, on the other hand, Rossiter equated emergency rule with potentially unlimited dictatorship, with Locke's idea of prerogative. And Rossiter said, "whatever the theory, in moments of extreme national emergency the facts have always been with ... John Locke." So Rossiter at one and the same time sees constitutional dictatorship as unconstrained in nature and as constrainable by principles - his eleven criteria. The upshot is that "constitutional" turns out not to mean what we usually take it to mean; rather, it is a misleading name for the hope that the person who assumes dictatorial powers does so because of a good faith evaluation that this is really necessary and with the honest and steadfast intention to return to the ordinary way of doing things as soon as possible. Giorgio Agamben is thus right to remark that the bid by modern theorists of constitutional dictatorship to rely on the tradition of Roman dictatorship is misleading. n39 They rely on that tradition in an effort to show that dictatorship is constitutional or law-governed. But in fact they show that dictatorship is in principle absolute - the dictator is subject to whatever limits he deems necessary, which means to no limits at all. As H.L.A. Hart described the sovereign within the tradition of legal positivism, the dictator is an uncommanded commander. n40 He [\*2015] operates within a black hole, in Agamben's words, "an emptiness of law." n41 Agamben thus suggests that the real analogue to the contemporary state of emergency is not the Roman dictatorship but the institution of iustitium, in which the law is used to produce a "juridical void" - a total suspension of law. n42 And in coming to this conclusion, Agamben sides with Carl Schmitt, his principal interlocutor in his book. However, it is important to see that Schmitt's understanding of the state of exception is not quite a legal black hole, a juridically produced void. Rather, it is a space beyond law, a space which is revealed when law recedes, leaving the state, represented by the sovereign, to act. In substance, there might seem to be little difference between a legal black hole and space beyond law since neither is controlled by the rule of law. But there is a difference in that nearly all liberal legal theorists find the idea of a space beyond law antithetical, even if they suppose that law can be used to produce a legal void. This is so especially if such theorists want to claim for the sake of legitimacy that law is playing a role, even if it is the case that the role law plays is to suspend the rule of law. Schmitt would have regarded such claims as an attempt to cling to the wreckage of liberal conceptions of the rule of law brought about by any attempt to respond to emergencies through the law. They represent a vain effort to banish the exception from legal order. Because liberals cannot countenance the idea of politics uncontrolled by law, they place a veneer of legality on the political, which allows the executive to do what it wants while claiming the legitimacy of the rule of law. We have seen that Rossiter presents a prominent example which supports Schmitt's view, and as I will now show, it is a depressing fact that much recent post 9/11 work on emergencies is also supportive of Schmitt's view. II. Responding to 9/11 For example, Bruce Ackerman in his essay, The Emergency Constitution, n43 starts by claiming that we need "new constitutional concepts" in order to avoid the downward spiral in protection of civil liberties that occurs when politicians enact laws that become increasingly repressive with each new terrorist attack. n44 We need, he says, to rescue the concept of "emergency powers ... from fascist thinkers like Carl Schmitt, who used it as a battering ram against liberal [\*2016] democracy." n45 Because Ackerman does not think that judges are likely to do, or can do, better than they have in the past at containing the executive during an emergency, he proposes mainly the creative design of constitutional checks and balances to ensure, as did the Roman dictatorship, against the normalization of the state of emergency. Judges should not be regarded as "miraculous saviors of our threatened heritage of freedom." n46 Hence, it is better to rely on a system of political incentives and disincentives, a "political economy" that will prevent abuse of emergency powers. He calls his first device the "supramajoritarian escalator" n48 - basically the requirement that a declaration of a state of emergency requires legislative endorsement within a very short time, and thereafter has to be renewed at short intervals, with each renewal requiring the approval of a larger majority of legislators. The idea is that it will become increasingly easy with time for even a small minority of legislators to bring the emergency to an end, thus decreasing the opportunities for executive abuse of power. n49 The second device requires the executive to share security intelligence with legislative committees and that a majority of the seats on these committees belong to the opposition party. Ackerman does see some role for courts. They will have a macro role should the executive flout the constitutional devices. While he recognizes both that the executive might simply assert the necessity to suspend the emergency constitution and that this assertion might enjoy popular support, he supposes that if the courts declare that the executive is violating the constitution, this will give the public pause and thus will decrease incentives on the executive to evade the constitution. n51 In addition, the courts will have a micro role in supervising what he regards as the inevitable process of detaining suspects without trial for the period of the emergency. Suspects should be brought to court and some explanation should be given of the grounds of their detention, not so that they can contest it - a matter which Ackerman does not regard as practicable - but in order both to give the suspects a public identity so that they do not disappear and to provide a basis for compensation once the emergency is over in case the executive turns out to have fabricated [\*2017] its reasons. He also wishes to maintain a constitutional prohibition on torture, which he thinks can be enforced by requiring regular visits by lawyers. Not only is the judicial role limited, but it is clear that Ackerman does not see the courts as having much to do with preventing a period of "sheer lawlessness." n53 Even within the section on the judiciary, he says that the real restraint on the executive will be the knowledge that the supramajoritarian escalator might bring the emergency to an end, whereupon the detainees will be released if there is no hard evidence to justify detaining them. In sum, according to Ackerman, judges have at best a minimal role to play during a state of emergency. We cannot really escape from the fact that a state of emergency is a legally created black hole, a lawless void. It is subject to external constraints, controls on the executive located at the constitutional level and policed by the legislature. But internally, the rule of law does next to no work; all that we can reasonably hope for is decency. But once one has conceded that internally a state of emergency is more or less a legal black hole because the rule of law, as policed by judges, has no or little purchase, it becomes difficult to understand how external legal constraints, the constitutionally entrenched devices, can play the role Ackerman sets out. Recall that Ackerman accepts that the reason we should not give judges more than a minimal role is the history of judicial failure to uphold the rule of law during emergencies in the face of executive assertions of a necessity to operate outside of law's rule. For that reason, he constructs a political economy to constrain emergency powers. But that political economy still has to be located in law in order to be enforceable, which means that Ackerman cannot help but rely on judges. But why should we accept his claim that we can rely on judges when the executive asserts the necessity of suspending the exceptional constitution, the constitution for the state of emergency, when one of his premises is that we cannot so rely? Far from rescuing the concept of emergency powers from Schmitt, Ackerman's devices for an emergency constitution, an attempt to update Rossiter's model of constitutional dictatorship, fails for the same reasons that Rossiter's model fails. Even as they attempt to respond to Schmitt's challenge, they seem to prove the claim that Schmitt made in late Weimar that law cannot effectively enshrine a distinction between constitutional dictatorship and dictatorship. They appear to be vain attempts to find a role for law while at the same time conceding that law has no role. Of course, this last claim trades on an ambiguity in the idea of the rule of law between, on the one hand, the rule of law, understood as the rule of substantive principles, and, on the other, rule by law, where as long as there is a legal warrant for what government does, government will be considered to be in compliance with the rule of law. Only if one holds to a fairly substantive or thick conception of the rule of law will one think that there is a point on a continuum of legality where rule by law ceases to be in accordance with the rule of law. Ackerman's argument for rule by law, by the law of the emergency constitution, might not answer Schmitt's challenge. But at least it attempts to avoid dignifying the legal void with the title of rule of law, even as it tries to use law to govern what it deems ungovernable by law. The same cannot be said of those responses to 9/11 that seem to suggest that legal black holes are not in tension with the rule of law, as long as they are properly created. While it is relatively rare to find a position that articulates so stark a view, it is quite common to find positions that are comfortable with grey holes, as long as these are properly created. A grey hole is a legal space in which there are some legal constraints on executive action - it is not a lawless void - but the constraints are so insubstantial that they pretty well permit government to do as it pleases. And since such grey holes permit government to have its cake and eat it too, to seem to be governing not only by law but in accordance with the rule of law, they and their endorsement by judges and academics might be even more dangerous from the perspective of the substantive conception of the rule of law than true black holes.

#### Our alternative is to recognize the necessity of the opposition. Sovereignty necessarily functions in exception to the law. This exception is necessary to avoid the universal violence of the Law and the affirmative.

Rasch 2000 (William. "Conflict as a Vocation: Carl Schmitt and the Possibility of Politics." Theory Culture Society 17.1)

It is not difficult to see that the polemical elevation of sovereignty over the rule of law replicates a lively historical opposition, one that can be perhaps best evoked by that happy pair, Hobbes and Locke. Within the liberal tradition, the rule of law invokes reason and calculability in its battles against the arbitrary and potentially despotic whim of an unrestrained sovereign. The legitimacy of the sovereign is thus replaced by a legality that claims to provide its own immanent and unforced legitimacy. Predictable and universally accessible reason - the normative validity of an "uncorked consensus", to use the words of a prominent modern exponent - gently usurps, so it is claimed, the place that would otherwise be occupied by a cynical, pragmatic utilitarianism and the tyranny of a dark, incalculable will. The rule of law brings all the comforts of an uncontroversial, rule-based, normative security as if legality preceded by way of simple logical derivation, abolishing above all the necessity of decisions. Schmitt clearly will have none of this and in various writings attempts to expose what he considers to be the two-fold fallacy of the liberal position. As we have seen, if taken at its word, legality, or the rule of law, is seen by Schmitt to be impotent; it can neither legitimize nor effectively defend itself against determined enemies in times of crisis. Were law truly the opposite of force, it would cease to exist. But this self-description is deceptive, for if judged by its deeds, the same liberal regime that enunciates the self-evidence validity of universal norms strives to enact a universal consensus that is, indeed, far from uncorked. The rule of law inevitably reveals itself, precisely during moments of crisis, as the force of law, perhaps, not every bit as violent and "irrational" as the arbitrary tyrant, but nonetheless compelling and irresistible - indeed, necessarily so. Thus, Schmitt would argue the distinction between "decision", "force" and sovereignty", on the one hand, and the "rule of law", on the other, is based on a blithe and simple illusion. What agitates Schmitt is not the force, but the deception. More precisely, what agitates Schmitt is what he perceives to be the elimination of politics in the name of a higher legal or moral order. In its claim to a universal, normative, rule-bound validity, the liberal sleight-of-hand reveals itself to be not the opposite of force, but a force that outlaws opposition. In resurrecting the notion of sovereignty, therefore, Schmitt sees himself as one who rescues a legitimate notion of politics. Of course, this rescue attempt is itself political, a battle over the correct definition of politics. That is, we are not merely dealing with a logical problem, and not merely dealing with a desire to provide constitutional mechanisms that would prevent the self-dissolution of the constitution. Rather, we are dealing with a contest between a particularist notion of politics, in which individual conflicts can be resolved, but in which antagonism as a structure and reservoir of possible future conflicts is never destroyed, versus politics as the historical unfolding and pacific expansion of the universal morality. To evoke the long shadows of an ongoing contemporary debate, we are dealing with the difference between a politics of dissensus and a politics of consensus. Whereas the latter ideology entails an explicit or implicit belief in the "highest good" that can be rationally discerned and achieved, a "right regime", to use Leo Strauss's term, or the "just society" that hopes to actualize aspects of the City of God here on earth, the former stresses the necessity of determining a workable order where no single order bears the mantle of necessity, in fact, where all order is contingent, hence imperfect, and thus seeks to make the best of an inherently contradictory world by erecting structures that minimize self-inflicted damage. In Schmitt's eyes, the elements of such a structure must be the manifold of sovereign states. The liberal says there can only be one world-wide sovereign, the sovereignty of a universal moral and legal order. Schmitt counters with a plurality of equal sovereigns, for only in this way, he believes, can the economic and moral extinction of politics be prevented. Politics, on this view, is not the means by which the universally acknowledged good is actualized, but the mechanism that negotiates and limits disputes in the absence of any universally acknowledged good. Politics exists, in other words, because the just society does not.

### Terror Adv

#### Targeted killing’s vital to counterterrorism---disrupts leadership and makes carrying out attacks impossible

Byman 2013

(Daniel L., Research Director of Saban Center for Middle East Policy, “Why Drones Work: The Case for Washington's Weapon of Choice”, Foreign Affairs, July/August 2013, <http://www.brookings.edu/research/articles/2013/06/17-drones-obama-weapon-choice-us-counterterrorism-byman>)

The Obama administration relies on drones for one simple reason: they work. According to data compiled by the New America Foundation, since Obama has been in the White House, U.S. drones have killed an estimated 3,300 al Qaeda, Taliban, and other jihadist operatives in Pakistan and Yemen. That number includes over 50 senior leaders of al Qaeda and the Taliban—top figures who are not easily replaced. In 2010, Osama bin Laden warned his chief aide, Atiyah Abd al-Rahman, who was later killed by a drone strike in the Waziristan region of Pakistan in 2011, that when experienced leaders are eliminated, the result is “the rise of lower leaders who are not as experienced as the former leaders” and who are prone to errors and miscalculations. And drones also hurt terrorist organizations when they eliminate operatives who are lower down on the food chain but who boast special skills: passport forgers, bomb makers, recruiters, and fundraisers.¶ Drones have also undercut terrorists’ ability to communicate and to train new recruits. In order to avoid attracting drones, al Qaeda and Taliban operatives try to avoid using electronic devices or gathering in large numbers. A tip sheet found among jihadists in Mali advised militants to “maintain complete silence of all wireless contacts” and “avoid gathering in open areas.” Leaders, however, cannot give orders when they are incommunicado, and training on a large scale is nearly impossible when a drone strike could wipe out an entire group of new recruits. Drones have turned al Qaeda’s command and training structures into a liability, forcing the group to choose between having no leaders and risking dead leaders.

#### Constraining targeted killing’s role in the war on terror causes extinction

Beres 11

Louis Rene Beres 11, Professor of Political Science and International Law at Purdue, 2011, “After Osama bin Laden: Assassination, Terrorism, War, and International Law,” Case Western Reserve Journal of International Law, 44 Case W. Res. J. Int'l L. 93

Even after the U.S. assassination of Osama bin Laden, we are still left with the problem of demonstrating that assassination can be construed, at least under certain very limited circumstances, as an appropriate instance of anticipatory self-defense. Arguably, the enhanced permissibility of anticipatory self-defense that follows generally from the growing destructiveness of current weapons technologies in rogue hands may be paralleled by the enhanced permissibility of assassination as a particular strategy of preemption. Indeed, where assassination as anticipatory self-defense may actually prevent a nuclear or other highly destructive form of warfare, reasonableness dictates that it could represent distinctly, even especially, law-enforcing behavior. For this to be the case, a number of particular conditions would need to be satisfied. First, the assassination itself would have to be limited to the greatest extent possible to those authoritative persons in the prospective attacking state. Second, the assassination would have to conform to all of the settled rules of warfare as they concern discrimination, proportionality, and military necessity. Third, the assassination would need to follow intelligence assessments that point, beyond a reasonable doubt, to preparations for unconventional or other forms of highly destructive warfare within the intended victim's state. Fourth, the assassination would need to be founded upon carefully calculated judgments that it would, in fact, prevent the intended aggression, and that it would do so with substantially less harm [\*114] to civilian populations than would all of the alternative forms of anticipatory self-defense.Such an argument may appear manipulative and dangerous; permitting states to engage in what is normally illegal behavior under the convenient pretext of anticipatory self-defense. Yet, any blanket prohibition of assassination under international law could produce even greater harm, compelling threatened states to resort to large-scale warfare that could otherwise be avoided. Although it would surely be the best of all possible worlds if international legal norms could always be upheld without resort to assassination as anticipatory self-defense, the persisting dynamics of a decentralized system of international law may sometimes still require extraordinary methods of law-enforcement. n71¶ Let us suppose, for example, that a particular state determines that another state is planning a nuclear or chemical surprise attack upon its population centers. We may suppose, also, that carefully constructed intelligence assessments reveal that the assassination of selected key figures (or, perhaps, just one leadership figure) could prevent such an attack altogether. Balancing the expected harms of the principal alternative courses of action (assassination/no surprise attack v. no assassination/surprise attack), the selection of preemptive assassination could prove reasonable, life-saving, and cost-effective.¶ What of another, more common form of anticipatory self-defense? Might a conventional military strike against the prospective attacker's nuclear, biological or chemical weapons launchers and/or storage sites prove even more reasonable and cost-effective? A persuasive answer inevitably depends upon the particular tactical and strategic circumstances of the moment, and on the precise way in which these particular circumstances are configured.¶ But it is entirely conceivable that conventional military forms of preemption would generate tangibly greater harms than assassination, and possibly with no greater defensive benefit. This suggests that assassination should not be dismissed out of hand in all circumstances as a permissible form of anticipatory self-defense under international law. [\*115] ¶ What of those circumstances in which the threat to particular states would not involve higher-order (WMD) n72 military attacks? Could assassination also represent a permissible form of anticipatory self-defense under these circumstances? Subject to the above-stated conditions, the answer might still be "yes." The threat of chemical, biological or nuclear attack may surely enhance the legality of assassination as preemption, but it is by no means an essential precondition. A conventional military attack might still, after all, be enormously, even existentially, destructive. n73 Moreover, it could be followed, in certain circumstances, by unconventional attacks.

#### Drones minimize civilian casualties – “pattern-of-life” analysis and reduced operator tension makes collateral damage unlikely – the alternative is empirically worse

Lewis 13

(Michael W. Lewis, flew fighters for the Navy in the early 1990s. He now teaches international law at Ohio Northern University School of Law, “Drones: Actually the Most Humane Form of Warfare Ever” AUG 21 2013, <http://www.theatlantic.com/international/archive/2013/08/drones-actually-the-most-humane-form-of-warfare-ever/278746/>, KB)

Turning to the question of civilian casualties: All armed conflicts cause civilian casualties, and most modern conflicts have done so in large numbers, in part due to the fact that insurgents often hide among the civilian population. The 2006 Israeli conflict with Hezbollah and its 2009 and 2012 battles with Hamas in Gaza, the 1999 Russian war with Chechen rebels, and the final stages of the struggle between Sri Lanka and the LTTE (Tamil Tigers) all killed more civilians than combatants, in some cases substantially more. Although the U.S. has not caused civilian casualties at rates that high, there have been memorable examples of civilian casualties in each of the recent conflicts in which we have been involved, and those casualties were caused by all kinds of weapons systems. The 1991 Gulf War involved the Al-Firdos bunker airstrike that killed up to 400 civilians. The Kosovo campaign included airstrikes that hit the Chinese Embassy in Belgrade and struck a civilian train in the Grdelica gorge. The 2003 Iraq War included civilian casualties caused by Marine ground troops in Haditha and military contractors in Nisoor Square, while a cruise missile strike in 2009 killed approximately 35 civilians at al-Majalah in Yemen.¶ Like any other weapons system, drones have caused civilian casualties. But they also have the potential to dramatically reduce civilian casualties in armed conflicts, and particularly in counterinsurgencies. Their ability to follow targets for days or weeks accomplishes two things that contribute to saving the lives of innocents: First, it confirms that the target is engaged in the behavior that put them on the target list, reducing the likelihood of striking someone based on faulty intelligence. Second, by establishing a "pattern of life" for the intended target, it allows operators to predict when the target will be sufficiently isolated to allow a strike that is unlikely to harm civilians.¶ Another, less obvious, feature that reduces civilian casualties is that drones are controlled remotely, so the decision to employ a weapon can be reviewed in real time by lawyers, intelligence analysts, and senior commanders without any concern (in most cases) that a hesitation to act may cost lives. Even more importantly, the operators themselves are not concerned for their own safety, eliminating the possibility that the combination of tension, an unexpected occurrence, and a concern for personal safety leads to weapons being fired when they shouldn't be.¶ This potential of drones to vastly reduce civilian casualties was not fully realized at first, but it has been dramatically attained in the past few years.¶ In 2007, the U.S. Army and Marine Corps began disseminating a new Counterinsurgency (COIN) Manual that emphasized the need for soldiers to be involved in nation-building and bolstering local civil-society institutions, in addition to defeating insurgents militarily. Part of implementing this strategy involved minimizing civilian casualties. When Gen. Stanley McChrystal took command of ISAF (International Security Assistance Force) in Afghanistan in 2009, he emphasized the need to continue reducing civilian casualties in all phases of operations. He assigned teams of civilians and military officers to conduct root-cause analysis of every civilian casualty in theater and tasked them with developing protocols to eliminate such deaths.¶ These teams produced a number of recommendations for drones. One of the most significant was switching the preferred method of targeting from compounds to vehicles. While targeting compounds improved the likelihood that the right individual was being targeted, it also greatly increased the chances that members of the target's family and the families of his bodyguards and close associates would be harmed. Although vehicle strikes ran a greater risk of target misidentification, increasing surveillance and pattern-of-life analysis mitigated that risk. Because it is easier to determine who is in a vehicle than to keep track of everyone who enters and leaves a compound, vehicle strikes reduced the likelihood that family members and friends would be collateral damage. Also, because vehicle strikes can be conducted on isolated roads, the likelihood of other civilian bystanders being harmed was minimized.¶ How do we know that this has succeeded? Bowden mentions studies done by several independent organizations that have assessed civilian casualties caused by drones in Pakistan. The three most well respected and independent sources on this issue are the Long War Journal, the New America Foundation and The Bureau of Investigative Journalism (TBIJ). Among these, the U.K.-based TBIJ has consistently produced the highest estimates of civilian casualties for drone strikes. According to TBIJ, between January 2012 and July 2013, there were approximately 65 drone strikes in Pakistan, which they estimate to have killed a minimum of 308 people. Yet of these casualties, even TBIJ estimates that only 4 were civilians. This would amount to a civilian casualty rate of less than 1.5 percent, meaning that only 1 in 65 casualties caused by drones over that 19-month period was a civilian. This speaks to drones effective discrimination between civilian and military targets that no other weapons system can possibly match.¶ Another indication that drones cause fewer civilian casualties than traditional warfare was provided by Hamid Karzai in 2011. The U.S. was employing all types of units in Afghanistan, ground troops, airstrikes, artillery and drones. But the source of friction with the Afghan government was not drones but rather special forces night raids. Karzai proclaimed that he would withhold further cooperation until his government was given greater control over night raids. Drones did not cause him or the Afghan people any appreciable concern.

#### Overall levels of violence may increase, but the effectiveness and impact of those attacks goes way down - violence has to be evaluated in terms of frequency and magnitude.

Wilner 10

(Alex S. Wilner, Center for Security Studies, ETH Zurich, Swiss Federal Institute of Technology, Targeted Killings in Afghanistan: Measuring Coercion and Deterrence in Counterterrorism and Counterinsurgency, Studies in Conflict & Terrorism, Vol. 33 No. 4, 09 Mar 2010, http://dx.doi.org/10.1080/10576100903582543)

Generally, overall violence increased following the targeted eliminations (Figure 2). This was especially so with the Dadullah case. On the surface, these are unanticipated developments.74 The literature on targeted killings suggests that eliminations should result in a general diminishment of violence. In their quantitative analysis of Israel’s campaign of targeted killings between 2000 and 2004, Mohammed Hafez and Joseph Hatfield provide similar findings. They conclude that “targeted assassinations have no significant impact on rates of Palestinian violence.”75 That both this and the Hafez/Hatfield study find trends that contradict theoretical expectations would suggest that certain components of the literature on targeted killings need to be substantially revised. However, a closer examination of the Afghan data does corroborate the literature’s most basic theoretical principle: targeted killings influence the type of violence terrorists are capable of planning effectively and forces them to conduct less-preferred forms of activity.¶ Violent, non-state organizations have coercive preferences. The Taliban is no exception. The type of violence they engage in rests as much on the impact they are trying to have as it does on their capacity and capability to muster efforts toward particular goals. To that end, suicide attacks are the Taliban’s preferred tactic—they are the most effective form of violence, provide the greatest consequence (both in kill ratios and psychological effect), can be directed against hard targets, are difficult to detect, stop, and mitigate, and have a proven track record of killing Coalition and Afghan soldiers. Suicide bombings are also the most sophisticated type of violence to plan, the most difficult to organize effectively, and take a considerable amount of time, energy, and expertise to mount successfully. Improvised Explosive Devices (IED) are the Taliban’s second most preferred tactic—they have proven deadly against Afghan National Police (ANP) and other lightly armored ISAF/NATO and Afghan National Army (ANA) personnel carriers, they are cheaply constructed, and provide a deadly concentrated explosive blast. IEDs are also less sophisticated than suicide bombs and are easier to organize effectively. They offer less control, however, cannot be consistently directed against particular targets, can be detected and diffused more easily than suicide bombs, their detonation can be mitigated with proper armor, and they are all too often triggered by civilians. Small arms and rocket fire (SA/R) is the Taliban’s least preferred tactic—it is most effective against soft targets, Afghan and international officials, lightly armed ANP forces, and when used in complex ambushes. However, SA/R attacks against security forces can be easily mitigated and usually result in a disproportionately high rate of Taliban casualties. Likewise, Taliban SA/R attacks are usually successfully repelled and the heavy concentration of gunmen in one location can be easily attacked with aerial support. Furthermore, Taliban rocket fire is crude, uncontrolled, and ineffective. In sum, SA/R attacks are the least sophisticated type of violence and the easiest to organize yet provide the worst results.¶ With these Taliban preferences in mind, the aggregate data on overall levels of violence reveal a number of expected findings. After the targeted killings, for instance, suicide bombings dropped by over 30 percent, from a total of 43 before, to 29 after, the targeted eliminations. This is in keeping with the degree of difficulty, amount of time and expertise, and level of leadership that is required to coordinate effective suicide bombings. It is also plausible that the decrease in suicide attacks spurred a rise in less-sophisticated forms of violence, with IEDs increasing by 6 percent and SA/R attacks by roughly 15 percent following the four targeted attacks.76 As leaders and facilitators were eliminated, the Taliban began using less-sophisticated forms of violence that required less energy, expertise, and time to organize effectively. This shift resonates with elements outlined in the literature on targeted killings: as organizations succumb to the effects of a protracted campaign of elimination, their overall ability to operate at a high level of sophistication decreases and the selection and use of less formidable forms of violence increases.¶ Overall levels of violence, however, are only a minor part of the analysis. The data also reveal changes in Taliban professionalism following the targeted killings. For the two most sophisticated forms of violence (IEDs and suicide attacks), the aggregate data suggest a decrease in professionalism and an increase in failure rates. After the eliminations, IED failure rates rose precipitously from 20 to roughly 35 percent. This is a considerable change in proficiency. Suicide bombing success rates also dropped (by a less impressive though no less important five percentage points) following the strikes. Both are theoretically expected findings (Figure 3). Finally, the data also suggest that the targeted killings influenced the selection of targets. For instance, in terms of known target selection for suicide bombers, the aggregate data reveal that following the eliminations, soft targets were more often selected (as a percentage of all target selection) after the leadership strikes (Figure 4). As leaders where killed, remaining forces selected less formidable targets to attack, like Afghan government officials, civil-society actors, and off-duty police commanders, rather than hardened, military actors.

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

Archick 9-4

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

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

### Drone Prolif

#### Norm building takes decades – the aff can’t built them fast enough prevent escalatory drone conflicts

#### Plan doesn’t solve norms

Naureen Shah 13, August 17th, 2013, "Obama has not delivered on May's promise of transparency on drones," The Guardian, www.theguardian.com/commentisfree/2013/aug/17/obama-promise-transparency-drone-killing

Even more damning is that, in the absence of any commitment to investigating credible allegations of unlawful deaths, the United States appears indifferent to the question of who is actually dying in drone strikes. President Obama admitted in May that four US citizens had been killed, three of whom – including 16-year-old Abdulrahman Aal-Awlaki – he admitted were not intended targets. But the president did not define the identities of the more than 4,000 other people killed, or specifically address reports that a significant number of the dead – in assessments varying between 400 and nearly 1,000, according to the Bureau of Investigative Journalism – were civilians.¶ When the president acknowledges four deaths of US citizens, but not 4,000 deaths of non-Americans, he signals to the world a callous and discriminatory disregard for human life. Perhaps only a fraction of these 4,000 deaths were unlawful. But acknowledging and investigating these deaths is a matter of dignity and justice – for the survivors of strikes, their communities and their countrymen.¶ When deaths are found to be unlawful, victims' families and survivors have a right to reparation. Refusing to investigate deaths is a matter of disrespect both for international law and for the public's right to know the full truth.¶ Many critics, before President Obama's May address, feared that foreign governments would follow the US to lead and conduct secret drone strikes without regard for international law. They should still be concerned about the precedent the US government is setting: refusing to investigate or be held accountable for wrongful deaths.¶ The risk now is not just that the late May reforms on drone strikes were half-measures, but that they were calibrated to merely reassure the public, defuse criticism, and avert longer, harder scrutiny of whether the government's actions are lawful and right. A token dose of transparency may remove the sting of government secrecy, but it does not cure the disease.

#### Drone prolif now AND US restrictions don’t solve

Anderson 10 (Kenneth Anderson is a law professor at Washington College of Law, American University, a research fellow of the Hoover Institution at Stanford University and a Non-Resident Visiting Fellow at the Brookings Institution, April 10th 2010, “Acquiring UAV Technology”, http://www.volokh.com/2010/04/09/acquiring-uav-technology/, AB)

I’ve noticed a number of posts and comments around the blogosphere on the spread of UAV technology. Which indeed is happening; many states are developing and deploying UAVs of various kinds. The WCL National Security Law Brief blog, for example, notes that India is now acquiring weaponized UAVs: India is reportedly preparing to have “killer” unmanned aerial vehicles (UAVs) in response to possible threats from Pakistan and China. Until now India has denied the use of armed UAVs, but they did use UAVs that can detect incoming missile attacks or border incursions. The importance of obtaining armed UAVs grew enormously after the recent attack on paramilitary forces in Chhattisgarh that killed 75 security personnel. Sources reveal that the Indian Air Force (IAF) has been in contact with Israeli arms suppliers in New Delhi recently. The IAF is looking to operate Israeli Harop armed UAVs from 2011 onwards, and other units of the armed forces will follow. I’ve also read comments various places suggesting that increased use of drone technologies by the United States causes other countries to follow suit, or to develop or acquire similar technologies. In some cases, the dangling implication is that if the US would not get involved in such technologies, others would not follow suit. In some relatively rare cases of weapons technologies, the US refraining from undertaking the R&D, or stopping short of a deployable weapon, might induce others not to build the same weapon. Perhaps the best example is the US stopping its development of blinding laser antipersonnel weapons in the 1990s; if others, particularly the Chinese, have developed them to a deployable weapon, I’m not aware of it. The US stopped partly in relation to a developing international campaign, modeled on the landmines ban campaign, but mostly because of a strong sense of revulsion and pushback by US line officers. Moreover, there was a strong sense that such a weapon (somewhat like chemical weapons) would be not deeply useful on a battlefield – but would be tremendously threatening as a pure terrorism weapon against civilians. In any case, the technologies involved would be advanced for R&D, construction, maintenance, and deployment, at least for a while. The situation is altogether different in the case of UAVs. The biggest reason is that the flying-around part of UAVs – the avionics and control of a drone aircraft in flight – is not particularly high technology at all. It is in range of pretty much any functioning state military that flies anything at all. The same for the weaponry, if all you’re looking to do is fire a missile, such as an anti-tank missile like the Hellfire. It’s not high technology, it is well within the reach of pretty much any state military. Iran? Without thinking twice. Burma? Sure. Zimbabwe? If it really wanted to, probably. So it doesn’t make any substantial difference whether or not the US deploys UAVs, not in relation to a decision by other states to deploy their own. The US decision to use and deploy UAVs does not drive others’ decisions one way or the other. They make that decision in nearly all cases – Iran perhaps being an exception in wanting to be able to show that they can use them in or over the Iraqi border – in relation to their particular security perceptions. Many states have reasons to want to have UAVs, for surveillance as well as use of force. It is not as a counter or defense to the US use of UAVs. The real issue is not flying the plane or putting a missile on it. The question is the sensor technology (and related communication links) – for two reasons. One is the ability to identify the target; the other is to determine the level, acceptable or not, of collateral damage in relation to the target. That’s the technologically difficult part. And yet it is not something important to very many of the militaries that might want to use UAVs, because not that many are going to be worried about the use of UAVs for discrete, targeted killing. Not so discrete and not so targeted will be just fine – and that does not require super-advanced technology. China might decide that it wants an advanced assassination platform that would depend on such sensors, and in any case be interested in investing in such technology for many reasons – but that is not going to describe Iran or very many other places that are capable of deploying and using weaponized UAVs. Iran, for example, won’t have super advanced sensor technology (unless China sells it to them), but they will have UAVs. (The attached weaponry follows the same pattern. Most countries will find a Hellfire type missile just fine. The US will continue to develop smaller weapons finally capable of a single person hit. Few others will develop it, partly because they don’t care and partly because its effectiveness depends on advanced sensors that they are not likely to have.) Robots are broadly defined by three characteristics – computation, sensor inputs, and gross movement. Movement in the case of a weaponized robot includes both movement and the use of its weapon – meaning, flying the UAV and firing a weapon. The first of those, flying the UAV, is available widely; primitive weapons are available widely as well, and so is the fundamental computational power. Sensors are much, much more difficult – but only to the extent that a party cares about discretion in targeting. But it is not the case that they are making these decisions on account of US decisions about UAVs; UAVs are useful for many other reasons for many other parties, all on their own.

#### No Armenia-Azerbaijan war- lack of money and capability

Stratfor ‘11

[Why Russia, Turkey Look Toward Armenia and Azerbaijan” http://www.stratfor.com/geopolitical\_diary/20110331-why-russia-and-turkey-are-looking-towards-armenia-and-azerbaijan]

Though simmering hostilities have continued, there are two reasons the conflict has remained frozen. First, beginning in the mid-1990s, neither Armenia nor Azerbaijan had the resources to continue fighting. Armenia’s economy was, and is, non-existent for the most part. Without the financial means, it would be impossible for Armenia to launch a full-scale war. At the same time, Azerbaijan’s military has been too weak, thus far, to assert control over the occupied lands.

**No risk of drone wars**

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

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

### Heg

#### Wiretapping tanks soft power

Arkedis 2013

(Jim Arkedis, Senior Fellow at the Progressive Policy Institute and was a DOD counter-terrorism analyst, “PRISM Is Bad for American Soft Power”, Jun 19 2013, The Atlantic, http://www.theatlantic.com/international/archive/2013/06/prism-is-bad-for-american-soft-power/277015/)

The lack of public debate, shifting attitudes towards civil liberties, insufficient disclosure, and a decreasing terrorist threat demands that collecting Americans' phone and Internet records must meet the absolute highest bar of public consent. It's a test the Obama administration is failing. This brings us back to Harry Truman and Jim Crow. Even though PRISM is technically legal, the lack of recent public debate and support for aggressive domestic collection is hurting America's soft power. The evidence is rolling in. The China Daily, an English-language mouthpiece for the Communist Party, is having a field day, pointing out America's hypocrisy as the Soviet Union did with Jim Crow. Chinese dissident artist Ai Wei Wei made the link explicitly, saying "In the Soviet Union before, in China today, and even in the U.S., officials always think what they do is necessary... but the lesson that people should learn from history is the need to limit state power." Even America's allies are uneasy, at best. German Chancellor Angela Merkel grew up in the East German police state and expressed diplomatic "surprise" at the NSA's activities. She vowed to raise the issue with Obama at this week's G8 meetings. The Italian data protection commissioner said the program would "not be legal" in his country. British Foreign Minister William Hague came under fire in Parliament for his government's participation. If Americans supported these programs, our adversaries and allies would have no argument. As it is, the next time the United States asks others for help in tracking terrorists, it's more likely than not that they will question Washington's motives.

#### So does torture

Hilde 9

Thomas Hilde 09, professor at the University of Maryland School of Public Policy, “Beyond Guantanamo. Restoring U.S. Credibility on Human Rights,” Heinrich Böll Foundation, <http://www.boell.org/downloads/hbf_Beyond_Guantanamo_Thomas_Hilde(2).pdf>

Beginning at least in 2002, the United States created and developed a policy instituting torture — what it calls “enhanced interrogation” — of its detainees in the “global war on terror”2 under the general framework of a state of necessity. Many of these torture techniques have already been used and refined by the Western powers during the 20th century.3 They are also built partially into U.S. “survival, evasion, resistance, escape” (sere) training program techniques, which reportedly also adapt techniques previously used by China.4 The logic of torture used as an information-seeking instrument in the current conflict, however, has entailed the creation of a large-scale institution of torture, spread among several countries, and implicating hundreds and perhaps thousands of people.5¶ This institution strikes at the heart of the very idea of human rights and core principles of liberal democratic society. It raises important and uncomfortable questions about the nature of human rights in the wake of the torture at Guantánamo and other sites, the policy and practice of extraordinary rendition, indefinite detentions and the suspension of due process and habeas corpus, the violation of domestic and international laws, and perhaps other features and goals of the program yet to come into the public light. The claim is a claim to exception or necessity to the suspension of laws and civil liberties in a moment of national emergency. This is not unusual, unfortunately. Most states have similar national emergency procedures, even if only implicit. The law will always be suspended in the name of survival and the global war on terror was framed as a matter of the survival of civilization. With self-defense being the moral justification of violence par excellence, extraordinary acts may be viewed as entirely legitimate in the defense of civilization. What should also concern us, however, is the suspension of rights in the name of political expediency. In other words, this is not only a moment for lawyers to rise to the occasion. The problem is political and philosophical. There is more at stake than the legally appropriate punishment of terrorists and credibility of certain public officials and agencies.¶ The prohibition of torture has been formal international law since the UN Declaration on Human Rights (1948) and the Geneva Conventions (1949). It is also generally assumed to be an international peremptory norm (jus cogens), a norm accepted universally by the international community that cannot be derogated, such as the norm of state sovereignty. The UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984/1987) and the non-binding Istanbul Protocol (1999), among other international legal instruments, further codified the norm into international law. Torture violates international law, usually domestic law (as, for example, in the 8th Amendment to the United States constitution banning “cruel and unusual punishment”), basic morality, and one of the fundamental shared norms of international society. Violation of the law entails criminality by definition. Violation of a basic shared norm entails a loss of moral and political standing, of credibility, trust, and legitimacy in international society.

#### Zero data supports the resolve or credibility thesis

Mercer 13

Jonathan Mercer 13, associate professor of political science at the University of Washington in Seattle and a Fellow at the Center for International Studies at the London School of Economics, 5/13/13, “Bad Reputation,” <http://www.foreignaffairs.com/articles/136577/jonathan-mercer/bad-reputation>

Since then, the debate about what to do in Syria has been sidetracked by discussions of how central reputation is to deterrence, and whether protecting it is worth going to war. ¶ There are two ways to answer those questions: through evidence and through logic. The first approach is easy. Do leaders assume that other leaders who have been irresolute in the past will be irresolute in the future and that, therefore, their threats are not credible? No; broad and deep evidence dispels that notion. In studies of the various political crises leading up to World War I and of those before and during the Korean War, I found that leaders did indeed worry about their reputations. But their worries were often mistaken.

For example, when North Korea attacked South Korea in 1950, U.S. Secretary of State Dean Acheson was certain that America’s credibility was on the line. He believed that the United States’ allies in the West were in a state of “near-panic, as they watched to see whether the United States would act.” He was wrong. When one British cabinet secretary remarked to British Prime Minister Clement Attlee that Korea was “a rather distant obligation,” Attlee responded, “Distant -- yes, but nonetheless an obligation.” For their part, the French were indeed worried, but not because they doubted U.S. credibility. Instead, they feared that American resolve would lead to a major war over a strategically inconsequential piece of territory. Later, once the war was underway, Acheson feared that Chinese leaders thought the United States was “too feeble or hesitant to make a genuine stand,” as the CIA put it, and could therefore “be bullied or bluffed into backing down before Communist might.” In fact, Mao thought no such thing. He believed that the Americans intended to destroy his revolution, perhaps with nuclear weapons. ¶ Similarly, Ted Hopf, a professor of political science at the National University of Singapore, has found that the Soviet Union did not think the United States was irresolute for abandoning Vietnam; instead, Soviet officials were surprised that Americans would sacrifice so much for something the Soviets viewed as tangential to U.S. interests. And, in his study of Cold War showdowns, Dartmouth College professor Daryl Press found reputation to have been unimportant. During the Cuban Missile Crisis, the Soviets threatened to attack Berlin in response to any American use of force against Cuba; despite a long record of Soviet bluff and bluster over Berlin, policymakers in the United States took these threats seriously. As the record shows, reputations do not matter.

#### Cred is terminally low — lack of coherent security strategy means that the plan isn’t perceived

Loyola 9/8

Mario Loyola 9/8/13, Chief Counsel to the Texas Public Policy Foundation, served in the Pentagon as a special assistant to the Under Secretary of Defense for Policy, and on Capitol Hill as counsel for foreign and defense affairs to the U.S. Senate Republican Policy Committee, “Syria and U.S. Credibility,” <http://www.nationalreview.com/corner/357889/syria-and-us-credibility-mario-loyola>

Many of my fellow Syria hawks argue that the U.S. should strike because its “credibility” is at stake. They mean “credibility” in the sense of credible U.S. power to maintain peace and security, particularly the ability to project a credible threat. We certainly have a credibility problem, but the problem is much worse than most hawks seem to realize. It arises not just from Obama’s head-in-the-sand pacifism but — more important — from the lack of a consensus national-security strategy that is rationally related to the threats we face abroad. ¶ The Bush doctrine focused on the confluence of rogue regimes, terrorism, and weapons of mass destruction. It called for early preemption of gathering threats and the spread of democracy to drain the swamp in which threats take root. But the Bush doctrine was largely discredited by the trauma of the Iraq war, particularly among independents and younger conservatives of a more isolationist bent. The doctrine was replaced in the Obama administration by a fluffy collection of meaningless platitudes and campaign talking points. Since then, America has been almost totally permissive of rogue regimes that support terrorism and proliferate WMD. It no longer has any real policy of confronting them. Hence there is no real “threat” against Syria or Iran, and if there is no threat, there can’t be a credible threat. ¶ It certainly is worrisome that Obama is in danger of not following through on an explicit threat against Syria’s use of chemical weapons. But the source of his threat was not U.S. national-security policy. It was an “international norm” that matters mostly to proponents of world government among the academic Left. That group does not have enough influence to provide Obama with a solid majority in favor of strikes, so Obama has had to go looking for support among proponents of the old Bush doctrine. And they insist that any military strikes must materially weaken the Assad regime, enough to bring it down or at least push Assad to the negotiating table. To get their support, the administration is expanding the target list. But that does not mean Obama has embraced the Bush policy (which Bush himself often shied away from) of confronting rogue regimes that support terrorism and proliferate WMD. Even if he carries through on his threat, the threat doesn’t stem from any consensus policy, so strikes can’t make the policy more credible. ¶ Simply put, there is no national-security policy right now. That’s why we have a credibility problem. Following through on one isolated threat is not going to prevent U.S. credibility from diminishing further, because U.S. credibility is already zero. We know this by looking at the Persian Gulf, where a constant rotation of several aircraft-carrier strike forces — armadas of terrifying power — are having exactly the same effect on Iranian policy as a bunch of ducks floating in the water.

#### Hegemony isn’t key to peace

Fettweis, 11   
Christopher J. Fettweis, Department of Political Science, Tulane University, 9/26/11, Free Riding or Restraint? Examining European Grand Strategy, Comparative Strategy, 30:316–332, EBSCO

It is perhaps worth noting that there is no evidence to support a direct relationship between the relative level of U.S. activism and international stability. In fact, the limited data we do have suggest the opposite may be true. During the 1990s, the United States cut back on its defense spending fairly substantially. By 1998, the United States was spending $100 billion less on defense in real terms than it had in 1990.51 To internationalists, defense hawks and believers in hegemonic stability, this irresponsible “peace dividend” endangered both national and global security. “No serious analyst of American military capabilities,” argued Kristol and Kagan, “doubts that the defense budget has been cut much too far to meet America’s responsibilities to itself and to world peace.”52 On the other hand, if the pacific trends were not based upon U.S. hegemony but a strengthening norm against interstate war, one would not have expected an increase in global instability and violence. The verdict from the past two decades is fairly plain: The world grew more peaceful while the U**nited** S**tates** cut its forces. No state seemed to believe that its security was endangered by a less-capable United States military, or at least none took any action that would suggest such a belief. No militaries were enhanced to address power vacuums, no security dilemmas drove insecurity or arms races, and no regional balancing occurred once the stabilizing presence of the U.S. military was diminished. The rest of the world acted as if the threat of international war was not a pressing concern, despite the reduction in U.S. capabilities. Most of all, the United States and its allies were no less safe. The incidence and magnitude of global conflict declined while the United States cut its military spending under President Clinton, and kept declining as the Bush Administration ramped the spending back up. No complex statistical analysis should be necessary to reach the conclusion that the two are unrelated. Military spending figures by themselves are insufficient to disprove a connection between overall U.S. actions and international stability. Once again, one could presumably argue that spending is not the only or even the best indication of hegemony, and that it is instead U.S. foreign political and security commitments that maintain stability. Since neither was significantly altered during this period, instability should not have been expected. Alternately, advocates of hegemonic stability could believe that relative rather than absolute spending is decisive in bringing peace. Although the United States cut back on its spending during the 1990s, its relative advantage never wavered. However, even if it is true that either U.S. commitments or relative spending account for global pacific trends, then at the very least stability can evidently be maintained at drastically lower levels of both. In other words, even if one can be allowed to argue in the alternative for a moment and suppose that there is in fact a level of engagement below which the United States cannot drop without increasing international disorder, a rational grand strategist would still recommend cutting back on engagement and spending until that level is determined. Grand strategic decisions are never final; continual adjustments can and must be made as time goes on. Basic logic suggests that the United States ought to spend the minimum amount of its blood and treasure while seeking the maximum return on its investment. And if the current era of stability is as stable as many believe it to be, no increase in conflict would ever occur irrespective of U.S. spending, which would save untold trillions for an increasingly debt-ridden nation. It is also perhaps worth noting that if opposite trends had unfolded, if other states had reacted to news of cuts in U.S. defense spending with more aggressive or insecure behavior, then internationalists would surely argue that their expectations had been fulfilled. If increases in conflict would have been interpreted as proof of the wisdom of internationalist strategies, then logical consistency demands that the lack thereof should at least pose a problem. As it stands, the only evidence we have regarding the likely systemic reaction to a more restrained United States suggests that the current peaceful trends are unrelated to U.S. military spending. Evidently the rest of the world can operate quite effectively without the presence of a global policeman. Those who think otherwise base their view on faith alone.

### Solvency

#### Obama will circumvent the plan - empirics

McAuliff & Grimm ‘13

http://www.huffingtonpost.com/2013/03/13/drones-obama-rebuffs-demo\_n\_2869156.html

President Barack Obama rebuffed senators from his own party Tuesday when they sought greater transparency on drone strikes, arguing that the executive branch has the right to keep such information secret from lawmakers, sources said.¶ The assertion by Obama, more typical of his recent predecessors in the White House who wanted to withhold information, came in response to questions from Sens. Jay Rockefeller (D-W.Va.) and Pat Leahy (D-Vt.). Both lawmakers are deeply disturbed that the White House has maintained stringent restrictions on information about the nation's war on terror, and has refused to share with Leahy memos from the Office of Legal Counsel justifying the targeted killings of Americans with drones.¶ Sources familiar with Obama's meeting with the senators -- who spoke on condition of anonymity because the meeting was private -- said the discussion was calm, although Rockefeller seemed especially dissatisfied with the stance of Obama and the White House. And Obama did not concede.¶ "It was a reasonable conversation. [Obama] basically said it was privileged information and that the president is entitled to confidential discussions with his advisers," said one source.¶ "The basic deal is that the Office of Legal Counsel memos are confidential advice to [the president], and he did say that," said another.

#### OLC won’t even acknowledge existence of the documents the aff requests

McMahon 13

Judge Colleen McMahon, U. S. District Court, Southern District 11 Civ. 9336 (CM) Cite as: NYTimes v. DOJ, 11 Civ. 9336 (CM), NYLJ 1202583126402, at \*1 (SDNY, Decided January 2, 2013)

On June 11, 2010, Times reporter Scott Shane ("Shane") addressed a FOIA request to the Department of Justice's ("DoJ") Office of Legal Counsel ("OLC") seeking the following: …copies of all Office of Legal Counsel opinions or memoranda since 2001 that address the legal status of targeted killing, assassination, or killing of people suspected of ties to Al-Qaeda or other terrorist groups by employees or contractors of the United States government. This would include legal advice on these topics to the military, the Central Intelligence Agency or other intelligence agencies. It would include the legal status of killing with missiles fired from drone aircraft or any other means. (Declaration of John E. Bies ("Bies Decl."), Ex. A.) As a member of the news media, Shane sought expedited processing of his request. (Id.) On October 27, 2011, OLC denied Shane's request. (Id., Ex. B.) Citing FOIA Exemptions 1, 3, and 5, OLC withheld all responsive records pertaining to the Department of Defense ("DoD"). (Id.) Citing the same exemptions, OLC provided Shane with a so-called Glomar response, Military Audit Project v. Casey, 656 F.2d 724 (D.C. Cir. 1981); Phillippi v. CIA, 546 F.2d 1009 (D.C. Cir. 1976); that is, the OLC refused either to confirm or deny the existence of responsive records "because the very fact of the existence or nonexistence of such documents is itself classified, protected from disclosure by statute, and privileged." (Id.)

#### No political will to implement the plan

Druck 12

Druck, JD – Cornell Law, ‘12¶ (Judah, 98 Cornell L. Rev. 209)

There are obvious similarities between the causes and effects of the public scrutiny associated with the larger wars discussed above. In each situation, the United States was faced with some, or even all, of the traditional costs associated with war: a draft, an increasingly large military industry, logistical sacrifices (such as rationing and other noncombat expenses), and significant military casualties. n114 Americans looking to keep the United States out of foreign affairs ob-viously had a great deal on the line, which provided sufficient incentive to scrutinize military policy. In the face of these potentially colossal harms, the public was willing to assert a significant voice, which in turn increased the willingness of politicians to challenge and subsequently shift presidential policy. As a result, public scrutiny and activism placed a President under constant scrutiny in one war, delayed U.S. intervention in another, and even helped end two wars entire-ly. Thus, we may extract a general principle from these events: when faced with the prospect of a war requiring heavy domestic sacrifices, and absent an incredibly compelling reason to engage in such a war (as seen in World War II, for example), n115 the public is properly incentivized to emerge and exert social (and, consequently, political) pressure in order to engage and shift foreign policy. However, as we will see, the converse is true as well. B. The Introduction of Technology-Driven Warfare and Shifting Wartime Doctrines The recent actions in Libya illustrate the culmination of a shift toward a new era of warfare, one that upsets the system of social and political checks on presidential military action. Contrary to the series of larger conflicts fought in the twen-tieth century, this new era has ushered in a system of war devoid of some of the fundamental aspects of war, including the traditional costs discussed above. Specifically, through the advent of military technology, especially in the area of robotics, modern-day hostilities no longer require domestic sacrifices, thereby concealing the burden of war from main-stream consciousness. n116 By using fewer troops and introducing drones and other [\*228] forms of mechanized warfare into hostile areas more frequently, n117 an increased number of recent conflicts have managed to avoid many domestic casualties, economic damages, and drafts. n118 In a way, less is on the line when drones, rather than people, take fire from enemy combatants, and this reality displaces many hindrances and considerations when deciding whether to use drones in the first place. n119 This move toward a limited form of warfare has been termed the "Obama Doctrine," which "emphasizes air power and surgical strikes, rather than boots on the ground." n120 Under this military framework, as indicated by the recent use of drones in the Middle East, the traditional harms associated with war might become increasingly obsolete as technolo-gy replaces the need for soldiers. Indeed, given the increased level of firepower attached to drones, we can imagine a situation where large-scale military engagements are fought without any American soldiers being put in harm's way, without Americans having to ration their food purchases, and without teenagers worrying about being drafted. n121 For example, "with no oxygen-and sleep-needing human on board, Predators and other [unmanned aerial vehicles] can watch over a potential target for 24 hours or more - then attack when opportunity knocks." n122 Thus, if the recent actions in Libya are any indication of what the future will look like, we can predict a major shift in the way the United States carries out wars . n123 [\*229] C. The Effects of Technology-Driven Warfare on Politics and Social Movements The practical effects of this move toward a technology-driven, and therefore limited, proxy style of warfare are mixed. On the one hand, the removal of American soldiers from harm's way is a clear benefit, n124 as is the reduced harm to the American public in general. For that, we should be thankful. But there is another effect that is less easy to identify: pub-lic apathy. By increasing the use of robotics and decreasing the probability of harm to American soldiers, modern war-fare has "affected the way the public views and perceives war" by turning it into "the equivalent of sports fans watching war, rather than citizens sharing in its importance." n125 As a result, the American public has slowly fallen victim to the numbing effect of technology-driven warfare; when the risks of harm to American soldiers abroad and civilians at home are diminished, so too is the public's level of interest in foreign military policy. n126 In the political sphere, this effect snowballs into both an uncaring public not able (or willing) to effectively mobi-lize in order to challenge presidential action and enforce the WPR, and a Congress whose own willingness to check presidential military action is heavily tied to public opinion. n127 Recall, for example, the case of the Mayaguez, where potentially unconstitutional action went unchecked because the mission was perceived to be a success. n128 Yet we can imagine that most missions involving drone strikes will be "successful" in the eyes of [\*230] the public: even if a strike misses a target, the only "loss" one needs to worry about is the cost of a wasted missile, and the ease of deploying another drone would likely provide a quick remedy. Given the political risks associated with making critical statements about military action, especially if that action results in success, n129 we can expect even less congressional WPR en-forcement as more military engagements are supported (or, at the very least, ignored) by the public. In this respect, the political reaction to the Mayaguez seems to provide an example of the rule, rather than the exception, in gauging politi-cal reactions within a technology-driven warfare regime. Thus, when the public becomes more apathetic about foreign affairs as a result of the limited harms associated with technology-driven warfare, and Congress's incentive to act consequently diminishes, the President is freed from any possible WPR constraints we might expect him to face, regardless of any potential legal issues. n130 Perhaps unsurpris-ingly, nearly all of the constitutionally problematic conflicts carried out by presidents involved smaller-scale military actions, rarely totaling more than a few thousand troops in direct contact with hostile forces. n131 Conversely, conflicts that have included larger forces, which likely provided sufficient incentive for public scrutiny, have generally complied with domestic law. n132 The result is that as wars become more limited, n133 unilateral presidential action will likely become even more un-checked as the triggers for WPR enforcement fade away. In contrast with the social and political backlash witnessed during the Civil War, World War I, the Vietnam War, and the Iraq War, contemporary military actions provide insuffi-cient incentive to prevent something as innocuous and limited as a drone strike. Simply put, technology-driven warfare is not conducive to the formation of a substantial check on presidential action. n134

#### Military will backlash, prevents implementation

Yoo 9

Yoo, professor of law – U California, Berkeley, ‘9¶ (John, 58 Duke L.J. 2277)

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

# CP

### 2NC CP Solves

#### He says transparency key

Kennedy, Foreign Policy prof-Kings College, 13 (Greg, Professor of Strategic Foreign Policy at the Defence Studies Department, King's College London, Drones: Legitimacy and Anti-Americanism, http://www.strategicstudiesinstitute.army.mil/pubs/parameters/Issues/WinterSpring\_2013/3\_Article\_Kennedy.pdf)

The fact that the secret facility was the launching site for drones used to kill American citizens Anwar al-Awlaki and his son in September 2011, both classified by the CIA as al-Qaedalinked threats to US security, only deepened such suspicions. Despite the fact that Gulf State observers and officials knew about American drones operating from the Arabian peninsula for years, the existence of the CIA base was not openly admitted in case such knowledge should “ . . . damage counter-terrorism collaboration with Saudi Arabia.”

#### Counterplan only has to be sufficient

Kennedy, Foreign Policy prof-Kings College, 13 (Greg, Professor of Strategic Foreign Policy at the Defence Studies Department, King's College London, Drones: Legitimacy and Anti-Americanism, http://www.strategicstudiesinstitute.army.mil/pubs/parameters/Issues/WinterSpring\_2013/3\_Article\_Kennedy.pdf)

The divide between US policy and action is exacerbated by drone technology, which makes the once covert practice of targeted killing commonplace and undeniable. It may also cause deep-rooted distrust due to a spectrum of legitimacy issues. Such questions will, therefore, undermine the US desire to export liberal democratic principles. Indeed, it may be beneficial for Western democracies to achieve adequate rather than decisive victories, thereby setting an example of restraint for the international order.16 The United States must be willing to engage and deal with drone-legitimacy issues across the entire spectrum of tactical, operational, strategic, and political levels to ensure its strategic aims are not derailed by operational and tactical expediency.

#### Any solvency deficit links to the aff—their evidence highlights multiple steps the aff doesn’t solve—means it’s not a yes / no question

Kennedy, Foreign Policy prof-Kings College, 13 (Greg, Professor of Strategic Foreign Policy at the Defence Studies Department, King's College London, Drones: Legitimacy and Anti-Americanism, http://www.strategicstudiesinstitute.army.mil/pubs/parameters/Issues/WinterSpring\_2013/3\_Article\_Kennedy.pdf)

The four key features at the heart of the debate revolve around: who is controlling the weapon system; does the system of control and oversight violate international law governing the use of force; are the drone strikes proportionate acts that provide military effectiveness given the circumstances of the conflict they are being used in; and does their use violate the sovereignty of other nations and allow the United States to disregard formal national boundaries?

#### Any solvency deficit links to the aff - this evidence highlights multiple steps the aff doesn’t take

Machon 6

(Maj. Matthew J., US Army Major and investigor for the School of Advanced Military Studies, “Targeted Killing as an Element of U.S. Foreign Policy in the War on Terror”, 5/25/06, http://www.fas.org/irp/eprint/machon.pdf, p. 57)

The U.S. should make it abundantly clear that apprehension of the suspect is the primary ¶ objective. The intelligence value of detained terrorist suspects and the potential information they ¶ possess makes their capture and detention far preferable to outright elimination. The use of ¶ targeted killing should be a policy of last resort intended to eliminate a direct threat to the security ¶ of the United States when other means are unavailable or the risk of inaction is too great to await ¶ or attempt other methods. A clear review process needs to be established and publicized to ¶ provide a sense of transparency, and show these targeted killings are not randomly selected ¶ actions. While the details of each case should remain classified to prevent compromise of sources ¶ or sensitive information, awareness of a codified procedure for review prior to execution of any ¶ targeted killing would mollify some of the disparagement from critics of the policy. The policy should be used sparingly and selectively, which appears to be the case thus far in the war on ¶ terror.

### AT No Solve Drone Prolif

#### A) Lining up policy - Executive-branch transparency and bringing U.S. practice in line with policy builds the international diplomatic capital to press for drone norms

Roberts 13

Kristin Roberts 13, News Editor, National Journal, 3/22/13, “When the Whole World Has Drones,” <http://www.nationaljournal.com/magazine/when-the-whole-world-has-drones-20130321>

But even without raising standards, tightening up drone-specific restrictions in the standing control regime, or creating a new control agreement (which is never easy to pull off absent a bad-state actor threatening attack), just the process of lining up U.S. policy with U.S. practice would go a long way toward establishing the kind of precedent on use of this technology that America—in five, 10, or 15 years—might find helpful in arguing against another’s actions.¶ A not-insignificant faction of U.S. defense and intelligence experts, Dennis Blair among them, thinks norms play little to no role in global security. And they have evidence in support. The missile-technology regime, for example, might be credited with slowing some program development, but it certainly has not stopped non-signatories—North Korea and Iran—from buying, building, and selling missile systems. But norms established by technology-leading countries, even when not written into legal agreements among nations, have shown success in containing the use and spread of some weapons, including land mines, blinding lasers, and nuclear bombs.¶ Arguably more significant than spotty legal regimes, however, is the behavior of the United States. “History shows that how states adopt and use new military capabilities is often influenced by how other states have—or have not—used them in the past,” Zenko argued. Despite the legal and policy complexity of this issue, it is something the American people have, if slowly, come to care about. Given the attention that Rand Paul’s filibuster garnered, it is not inconceivable that public pressure on drone operations could force the kind of unforeseen change to U.S. policy that it did most recently on “enhanced interrogation” of terrorists.¶ The case against open, transparent rule-making is that it might only hamstring American options while doing little good elsewhere—as if other countries aren’t closely watching this debate and taking notes for their own future policymaking. But the White House’s refusal to answer questions about its drone use with anything but “no comment” ensures that the rest of the world is free to fill in the blanks where and when it chooses. And the United States will have already surrendered the moment in which it could have provided not just a technical operations manual for other nations but a legal and moral one as well.

#### B) Sufficiency – CP solves advantage the signal of the plan AND it spills over to future administrations

Singer 13

Singer, director – Center for 21st Century Security and Intelligence @ Brookings, and Wright, senior fellow – Brookings, 2/7/’13¶ (Peter W. and Thomas, "Obama, own your secret wars", www.nydailynews.com/opinion/obama-secret-wars-article-1.1265620)

It is time for a new approach. And all that is required of the President is to do the thing that he does perhaps best of all: to speak.¶ **Obama has a unique opportunity** — in fact, an urgent obligation — **to create a new doctrine**, unveiled in a major presidential speech, **for the use** and deployment **of these new tools of war**.¶ While the Republicans tried to paint the President as weak on security issues in the 2012 elections, history will record instead that his administration pushed into new frontiers of war, most especially in the new class of technologies that move the human role both geographically and chronologically further from the point of action on the battlefield.¶ The U.S. military’s unmanned systems, popularly known as “drones,” now number more than 8,000 in the air and 12,000 on the ground. And in a parallel development, the U.S. Cyber Command, which became operational in 2010, has added an array of new (and controversial) responsibilities — and is set to quintuple in size.¶ This is not just a military matter. American intelligence agencies are increasingly using these technologies as the tips of the spear in a series of so-called “shadow wars.” These include not only the more than 400 drone strikes that have taken place from Pakistan to Yemen, but also the deployment of the Stuxnet computer virus to sabotage Iranian nuclear development, the world’s first known use of a specially designed cyber weapon.¶ Throughout this period, **the administration has tried to** have it both ways — leaking out success stories of our growing **use** of **these** new **technologies but not** tying its hands **with official statements and set policies**.¶ This made great sense at first, when much of what was happening was ad hoc and being fleshed out as it went along.¶ But that position has become unsustainable. The less the U.S. government now says about our policies, the more that vacuum is becoming filled by others, in harmful ways.¶ By acting but barely explaining our actions, **we’re creating precedents for other states to exploit**. More than 75 countries now have military robotics programs, while another 20 have advanced cyber war capacities. Rest assured that nations like Iran, Russia and China will use these technologies in far more crude and indiscriminate ways — yet will do so while claiming to be merely following U.S. footsteps.¶ In turn, international organizations — the UN among them — are pushing ahead with special investigations into potential war crimes and proposing new treaties.¶ Our leaders, meanwhile, stay mum, which isolates the U.S. and drains its soft power.¶ The current policy also makes it harder to respond to growing concerns over civilian casualties. Indeed, Pew polling found 96% levels of opposition to U.S. drones in the key battleground state of Pakistan, a bellwether of the entire region. It is indisputable than many civilians have been harmed over the course of hundreds of strikes. And yet it is also indisputable that various groups have incentives to magnify such claims.¶ Yet so far, U.S. officials have painted themselves into a corner — either denying that any collateral losses have occurred, which no one believes, or reverting to the argument **that we cannot confirm or deny our involvement**, which no one believes, either.¶ Finally, the domestic support and legitimacy needed for the use of these weapons is in transition. Polling has found general public support for drone strikes, but only to a point, with growing numbers in the “not sure” category and growing worries around cases of targeting U.S. citizens abroad who are suspected of being terrorists.¶ The administration is so boxed in that, even when it recently won a court case to maintain the veil of semi-silence that surrounds the drone strike program, the judge described the current policy as having an “Alice in Wonderland” feel.¶ The White House seems to be finally starting to realize the problems caused by this disconnect of action but no explanation. **After years of silence**, occasional statements by senior aides are acknowledging the use of drones, while **lesser-noticed working level documents have been created to formalize strike policies** and even to explore what to do about the next, far more autonomous generation of weapons.¶ **These** efforts have been **good starts**, but they **have been disjointed and partial**. Most important, they are missing the much-needed stamp of the President’s voice and authority, which is essential to turn tentative first steps into established policy.¶ Much remains to be done — and said — out in the open.¶ This is why **it’s time for Obama’s voice to ring loud and clear**. Much as Presidents Harry Truman and Dwight Eisenhower were able keep secret aspects of the development of nuclear weapons, even as they articulated how and when we would use them, **Obama should publicly lay out criteria by which the U**nited **S**tates **will develop**, **deploy and use these new weapons**.¶ The President has a strong case to make — if only he would finally make it. After all, the new weapons have worked. They have offered new options for military action that are more accurate and proportionate and less risky than previously available methods.¶ But they have also posed many new complications. Explaining our position is about embracing both the good and the bad. It is about acknowledging the harms that come with war regardless of what technology is being used and making clear what structures of accountability are in place to respond.¶ **It’s** also **about** finally **defining where America** truly **stands on** some of **the** most **controversial questions**. These include the tactics of “signature” strikes, where the identity is not firmly identified, and “double tap” strikes, where rescuers aiding victims of a first attack are also brought under fire. These have been reported as occurring and yet seem to run counter to the principles under which the programs have been defended so far.¶ **The role of the President is** not to conduct some kind of retrospective of what we have done and why, but **to lay out a course of the future**. What are the key strategic goals and ethical guidelines that should drive the development and use of these new technologies? Is current U.S. and international law sufficient to cover them?¶ There are also crucial executive management questions, like where to draw the dividing line between military and civilian intelligence agency use of such technologies, and how to keep a growing range of covert actions from morphing into undeclared and undebated wars.¶ And, finally, **the President must help resolve growing tensions between the executive** branch **and** an increasingly restive **Congress**, including how to handle situations where we create the effect of war but no U.S. personnel are ever sent in harm’s way.¶ Given the sprawling complexity of these matters, only the President can deliver an official statement on where we stand. If only we somehow had a commander in chief who was simultaneously a law professor and Nobel Peace Prize winner!¶ The President’s voice on these issues won’t be a cure-all. But it will lay down a powerful marker, shaping not just the next four years but the actions of future administrations.

### AT PDB

#### Links to politics – the permutation is an executive surrender – Obama publically establishing transparency standards would avoid congressional restrictions of broader war powers – proves he wouldn’t necessarily fight back against congress, but the plan assures he loses

#### Losers lose - Fiat means that Obama loses the fight over the plan—that destroys the agenda.

Loomis 7

(Dr. Andrew J. Loomis is a Visiting Fellow at the Center for a New American Security, and Department of Government at Georgetown University, “Leveraging legitimacy in the crafting of U.S. foreign policy”, March 2, 2007, pg 36-37, http://citation.allacademic.com//meta/p\_mla\_apa\_research\_citation/1/7/9/4/8/pages179487/p179487-36.php)

American political analyst Norman Ornstein writes of the domestic context, In a system where a President has limited formal power, perception matters. The reputation for success—the belief by other political actors that even when he looks down, a president will find a way to pull out a victory—is the most valuable resource a chief executive can have. Conversely, the widespread belief that the Oval Office occupant is on the defensive, on the wane or without the ability to win under adversity can lead to disaster, as individual lawmakers calculate who will be on the winning side and negotiate accordingly. In simple terms, winners win and losers lose more often than not. Failure begets failure. In short, a president experiencing declining amounts of political capital has diminished capacity to advance his goals. As a result, political allies perceive a decreasing benefit in publicly tying themselves to the president, and an increasing benefit in allying with rising centers of authority. A president’s incapacity and his record of success are interlocked and reinforce each other. Incapacity leads to political failure, which reinforces perceptions of incapacity. This feedback loop accelerates decay both in leadership capacity and defection by key allies. The central point of this review of the presidential literature is that the sources of presidential influence—and thus their prospects for enjoying success in pursuing preferred foreign policies—go beyond the structural factors imbued by the Constitution. Presidential authority is affected by ideational resources in the form of public perceptions of legitimacy. The public offers and rescinds its support in accordance with normative trends and historical patterns, non-material sources of power that affects the character of U.S. policy, foreign and domestic.

### 2NC CP Avoids Politics

#### CP avoids politics – avoids the fight-back link – Obama obviously can’t fight his own policy

#### Disagreements over authority trigger constitutional showdowns – even if the executive wants the plan – it’s about who decides, not the decision itself

Posner and Vermeule, 10

\*professor of law at the University of Chicago AND \*\*professor of law at Harvard (Eric and Adrian, The Executive Unbound, p. 75-77)

Showdowns occur when the location of constitutional authority for making an important policy decision is ambiguous, and multiple political agents (branches, parties, sections, governments) have a strong interest in establishing that the authority lies with them. Although agents often have an interest in negotiating a settlement, asymmetric information about the interests and bargaining power of opposing parties will sometimes prevent such a settlement from being achieved. That is when a showdown occurs. Ultimately, however, someone must yield; this yielding to or acquiescence in the claimed authority of another agent helps clarify constitutional lines of authority, so that next time the issue arises, a constitutional impasse can be avoided. From a normative standpoint, constitutional showdowns thus have an important benefit, but they are certainly not costless. As long as the showdown lasts, the government may be paralyzed, unable to make important policy decisions, at least with respect to the issue under dispute. We begin by examining a simplified version of our problem, one involving just two agents—Congress and the executive. We assume for now that each agent is a unitary actor with a specific set of interests and capacities. We also assume that each agent has a slightly different utility function, reflecting their distinct constituencies. If we take the median voter as a baseline, we might assume that Congress is a bit to the left (or right) of the median voter, while the president is a bit to the right (or left). We will assume that the two agents are at an equal distance from the median, and that the preferences of the population are symmetrically distributed, so that the median voter will be indifferent between whether the president or Congress makes a particular decision, assuming that they have equal information.39 But we also will assume that the president has better information about some types of problems, and Congress has better information about other types of problems, so that, from the median voter’s standpoint, it is best for the president to make decisions about the first type of problem and for Congress to make decisions about the second type ofproblem.40 Suppose, for example, that the nation is at war and the government must decide whether to terminate it soon or allow it to continue. Congress and the president may agree about what to do, of course. But if they disagree, their disagreement may arise from one or both of two sources. First, Congress and the president have different information. For example, the executive may have better information about the foreign policy ramifications of a premature withdrawal, while Congress has better information about home-front morale. These different sources of information lead the executive to believe that the war should continue, while Congress believes the war should be ended soon. Second, Congress and the president have different preferences because of electoral pressures of their different constituents. Suppose, for example, that the president depends heavily on the continued support of arms suppliers, while crucial members of Congress come from districts dominated by war protestors. Thus, although the median voter might want the war to continue for a moderate time, the president prefers an indefinite extension, while Congress prefers an immediate termination. So far, we have explained why the president and Congress might disagree about when to terminate the war, but mere policy disagreement does not result in a showdown. Showdowns arise only when there is a disagreement about authority. If Congress believes that the president has the sole authority to terminate the war, then his view will prevail. Congress may try to pressure him or influence him by offering support for other programs desired by the president, or by trying to rile up the public, but these activities are part of normal politics, and do not provoke a constitutional showdown. Similarly, if the president believes that Congress has the sole authority to terminate the war, then Congress’s view will prevail. This outcome is shown in cell 3 in table 2.1. Similarly, no showdown occurs when the two branches agree both about authority and policy—for example, that the president decides, and Congress agrees with his decision (cell 1). The first column represents the domain of normal politics. Showdowns can arise only when Congress and the president disagree about who decides. Here, there are two further possibilities. First, Congress and the president disagree about who decides but agree about the correct policy outcome (cell 2). In these situations, which arise with some frequency, the two branches are often tempted to paper over their differences because an immediate policy choice is not at stake. But sometimes a showdown will occur. We will discuss this special case later. Second, Congress and the president disagree about the policy outcome and about authority (cell 4). In this case, showdowns are likely, because a policy decision must be made, and if the parties cannot agree about what it should be, then they cannot avoid resolving the question of authority. We focus on this case for now.

## Terror

#### Too interdependent to dump us over drones

Dworkin 13

Anthony Dworkin 7-3-2013; Senior Policy Fellow working on human rights, international justice and international humanitarian law at the European Council on foreign relations “Drones and targeted killing: defining a European position” http://ecfr.eu/publications/summary/drones\_and\_targeted\_killing\_defining\_a\_european\_position211

Torn between an evident reluctance to accuse Obama of breaking international law and an unwillingness to endorse his policies, divided in part among themselves and in some cases bound by close intelligence relationships to the US, European countries have remained essentially disengaged as the era of drone warfare has dawned. Yet, as drones proliferate, such a stance seems increasingly untenable. Moreover, where in the past the difference between US and European conceptions of the fight against al-Qaeda seemed like an insurmountable obstacle to agreement on a common framework on the use of lethal force, the evolution of US policy means that there may now be a greater scope for a productive dialogue with the Obama administration on drones.

## Drone

#### Russia and Turkey check escalation

Stratfor ‘11

[Why Russia, Turkey Look Toward Armenia and Azerbaijan” <http://www.stratfor.com/geopolitical_diary/20110331-why-russia-and-turkey-are-looking-towards-armenia-and-azerbaijan> ETB]

The involvement of Turkey and Russia is the main cause of deterrence that is holding the two sides back. Both Ankara and Moscow know that any Azerbaijani-Armenian conflict would not remain contained within the region. Each power would be expected by Baku and Yerevan to defend their respective ally — whether they actually would is unclear. Therefore, the standoff has become more about Moscow and Ankara holding back each side and not allowing the instability to become exacerbated to the extent of an open conflict or war.

## HEG

#### Empirics go negative

Friedman 10

Ben, research fellow in defense and homeland security, Cato. PhD candidate in pol sci, MIT, Military Restraint and Defense Savings, 20 July, http://www.cato.org/testimony/ct-bf-07202010.html

Another argument for high military spending is that U.S. military hegemony underlies global stability. Our forces and alliance commitments dampen conflict between potential rivals like China and Japan, we are told, preventing them from fighting wars that would disrupt trade and cost us more than the military spending that would have prevented war. The theoretical and empirical foundation for this claim is weak. It overestimates both the American military's contribution to international stability and the danger that instability abroad poses to Americans. In Western Europe, U.S. forces now contribute little to peace, at best making the tiny odds of war among states there slightly more so.7 Even in Asia, where there is more tension, the history of international relations suggests that without U.S. military deployments potential rivals, especially those separated by sea like Japan and China, will generally achieve a stable balance of power rather than fight. In other cases, as with our bases in Saudi Arabia between the Iraq wars, U.S. forces probably create more unrestthan they prevent. Our force deployments can also generate instability by prompting states to develop nuclear weapons. Even when wars occur, their economic impact is likely to be limited here.8 By linking markets, globalization provides supply alternatives for the goods we consume, including oil. If political upheaval disrupts supply in one location, suppliers elsewhere will take our orders. Prices may increase, but markets adjust. That makes American consumers less dependent on any particular supply source, undermining the claim that we need to use force to prevent unrest in supplier nations or secure trade routes.9 Part of the confusion about the value of hegemony comes from misunderstanding the Cold War. People tend to assume, falsely, that our activist foreign policy, with troops forward supporting allies, not only caused the Soviet Union's collapse but is obviously a good thing even without such a rival. Forgotten is the sensible notion that alliances are a necessary evil occasionally tolerated to balance a particularly threatening enemy. The main justification for creating our Cold War alliances was the fear that Communist nations could conquer or capture by insurrection the industrial centers in Western Europe and Japan and then harness enough of that wealth to threaten us — either directly or by forcing us to become a garrison state at ruinous cost. We kept troops in South Korea after 1953 for fear that the North would otherwise overrun it. But these alliances outlasted the conditions that caused them. During the Cold War, Japan, Western Europe and South Korea grew wealthy enough to defend themselves. We should let them. These alliances heighten our force requirements and threaten to drag us into wars, while providing no obvious benefit.

# Polt

### 2NC Overview - Growth

#### We control global impact uniqueness – the status quo solves their impacts but decline undermines crucial forms of restraint

Griswold 5

Director of the Center for Trade Policy Studies at the Cato Institute (Daniel, “Peace on earth? Try free trade among men,” 12-29-2005, http://www.freetrade.org/node/282)

Buried beneath the daily stories about car bombs and insurgents is an underappreciated but comforting fact during this Christmas season: The world has somehow become a more peaceful place.¶ As one little-noticed headline on an Associated Press story recently reported, "War declining worldwide, studies say." According to the Stockholm International Peace Research Institute, the number of armed conflicts around the world has been in decline for the past half century. In just the past 15 years, ongoing conflicts have dropped from 33 to 18, with all of them now civil conflicts within countries. As 2005 draws to an end, no two nations in the world are at war with each other. The death toll from war has also been falling. According to the AP story, "The number killed in battle has fallen to its lowest point in the post-World War II period, dipping below 20,000 a year by one measure. Peacemaking missions, meanwhile, are growing in number." Those estimates are down sharply from annual tolls ranging from 40,000 to 100,000 in the 1990s, and from a peak of 700,000 in 1951 during the Korean War. Many causes lie behind the good news -- the end of the Cold War and the spread of democracy, among them -- but expanding trade and globalization appear to be playing a major role. Far from stoking a "World on Fire," as one misguided American author has argued, growing commercial ties between nations have had a dampening effect on armed conflict and war, for three main reasons. First, trade and globalization have reinforced the trend toward democracy, and democracies don't pick fights with each other. Freedom to trade nurtures democracy by expanding the middle class in globalizing countries and equipping people with tools of communication such as cell phones, satellite TV, and the Internet. With trade comes more travel, more contact with people in other countries, and more exposure to new ideas. Thanks in part to globalization, almost two thirds of the world's countries today are democracies -- a record high. Second, as national economies become more integrated with each other, those nations have more to lose should war break out. War in a globalized world not only means human casualties and bigger government, but also ruptured trade and investment ties that impose lasting damage on the economy. In short, globalization has dramatically raised the economic cost of war. Third, globalization allows nations to acquire wealth through production and trade rather than conquest of territory and resources. Increasingly, wealth is measured in terms of intellectual property, financial assets, and human capital. Those are assets that cannot be seized by armies. If people need resources outside their national borders, say oil or timber or farm products, they can acquire them peacefully by trading away what they can produce best at home. Of course, free trade and globalization do not guarantee peace. Hot-blooded nationalism and ideological fervor can overwhelm cold economic calculations. But deep trade and investment ties among nations make war less attractive. Trade wars in the 1930s deepened the economic depression, exacerbated global tensions, and helped to usher in a world war. Out of the ashes of that experience, the United States urged Germany, France and other Western European nations to form a common market that has become the European Union. In large part because of their intertwined economies, a general war in Europe is now unthinkable. In East Asia, the extensive and growing economic ties among Mainland China, Japan, South Korea, and Taiwan is helping to keep the peace. China's communist rulers may yet decide to go to war over its "renegade province," but the economic cost to their economy would be staggering and could provoke a backlash among its citizens. In contrast, poor and isolated North Korea is all the more dangerous because it has nothing to lose economically should it provoke a war. In Central America, countries that were racked by guerrilla wars and death squads two decades ago have turned not only to democracy but to expanding trade, culminating in the Central American Free Trade Agreement with the United States. As the Stockholm institute reports in its 2005 Yearbook, "Since the 1980s, the introduction of a more open economic model in most states of the Latin American and Caribbean region has been accompanied by the growth of new regional structures, the dying out of interstate conflicts and a reduction in intra-state conflicts." Much of the political violence that remains in the world today is concentrated in the Middle East and Sub-Saharan Africa -- the two regions of the world that are the least integrated into the global economy. Efforts to bring peace to those regions must include lowering their high barriers to trade, foreign investment, and domestic entrepreneurship. Advocates of free trade and globalization have long argued that trade expansion means more efficiency, higher incomes, and reduced poverty. The welcome decline of armed conflicts in the past few decades indicates that free trade also comes with its own peace dividend.

#### Literally turns the entire aff - Congress will give Obama unfettered power in the event of an emergency

Brooks 13

(Rosa Brooks, “Mission Creep in the War on Terror” March 14, 2013, <http://www.foreignpolicy.com/articles/2013/03/14/mission_creep_in_the_war_on_terror>, KB)

AUMF or no AUMF, if the United States finds credible evidence of an imminent and grave terrorist attack -- of the 9/11 variety -- no one's going to give the president a hard time if he kills the bad guys before they have a chance to attack us. And trust me: If the president has solid evidence of such an impending attack, it won't matter if the terrorists are an al Qaeda offshoot or a rogue group of Canadian girl scouts.¶ And if, despite our best efforts at prevention, another serious terrorist attack occurs in the future, Congress will undoubtedly be quick to give the president any additional authorities he needs -- with the same speed with which Congress passed its 2001 authorization to use force.¶ In the end, it's not that complicated. If we can't shoehorn drone strikes against every "associate of an associate" of al Qaeda into the 2001 AUMF, we should stop trying to stretch or change the law. Instead, we should scale back the targeted killings.¶ It's past time for a serious overhaul of U.S. counterterrorism strategy. This needs to include a rigorous cost-benefit analysis of U.S. drone strikes, one that takes into account issues both of domestic legality and international legitimacy, and evaluates the impact of targeted killings on regional stability, terrorist recruiting, extremist sentiment, and the future behavior of powerful states such as Russia and China. If we undertake such a rigorous cost-benefit analysis, I suspect we'll come to see scaling back drone strikes less as an inconvenience than as a strategic necessity -- and we may come to a new appreciation of counterterrorism measures that don't involve missiles raining from the sky.¶ This doesn't mean we should never use armed drones -- drones, like any other weapons-delivery mechanism, will at times be justifiable and useful. But it does mean we should rediscover a long-standing American tradition: reserving the use of exceptional authorities for rare and exceptional circumstances.

### AT: Johnson

#### Immigration is top of the docket now—Obama will push it:

Reuters, 10/16

(“Obama plans immigration push after fiscal crisis ends,” <http://www.reuters.com/article/2013/10/16/us-usa-obama-immigration-idUSBRE99F01Q20131016>, Accessed 10/16/2013, rwg)

(Reuters) - President Barack Obama said on Tuesday that stalled immigration reform would be a top priority once the fiscal crisis has been resolved.¶ "Once that's done, you know, the day after, I'm going to be pushing to say, call a vote on immigration reform," he told the Los Angeles affiliate of Spanish-language television network Univision.

### AT: No Pass

#### CIR will pass, but it’s going to be close and a fight---PC is key and there’s momentum

Orlando Sentinel 11/1 “What we think: It'll take both parties to clear immigration logjam,” 11-1-13, <http://www.orlandosen-tinel.com/news/opinion/os-ed-immigration-reform-congress-20131031,0,7750574.story?dssReturn>, DOA: 11-1-13, y2k

For those who thought the end of the government shutdown would provide a break from the partisan bickering in Washington, think again. The battle over comprehensive immigration reform could be every bit as contentious. Polls show the popular momentum is there for comprehensive reform, which would include a path to citizenship for many of the nation's 11 million undocumented immigrants. But it'll take plenty of political capital from President Obama and leaders in both parties on Capitol Hill to make it happen. Immigration-reform activists, who have been pushing for reform for years, are understandably impatient. This week police arrested 15 who blocked traffic at a demonstration in Orlando. There are plenty of selling points for comprehensive immigration reform. An opportunity for millions of immigrants to get on the right side of the law. Stronger border security. The chance for law enforcement to focus limited resources on real threats to public safety, instead of nannies and fruit pickers. A more reliable work force to meet the needs of key industries. Reforms to let top talent from around the world stay here after studying in U.S. universities. The Senate passed its version of comprehensive immigration in June. It includes all of the benefits above. Its path to citizenship requires undocumented immigrants to pay fines, learn English, pass a criminal background check and wait more than a decade. So far, House Republicans have balked, taking a piecemeal rather than comprehensive approach. Many members fear being challenged from the right for supporting "amnesty." Yet polls show the public supports comprehensive reform. In June, a Gallup poll found 87 percent of Americans — including 86 percent of Republicans — support a pathway to citizenship like the one outlined in the Senate bill. Florida Republican Sen. Marco Rubio took flak from tea-party supporters for spearheading the comprehensive bill. Now, apparently aiming to mend fences, he says immigration should be handled piecemeal. He's politically savvy enough to know that's a dead end. But comprehensive reform won't have a chance without President Obama making full use of his bully pulpit to promote it, emphasizing in particular all that undocumented immigrants would need to do to earn citizenship. House Democratic leaders will have to underscore the president's message. And House Republican leaders will need to convince their members that comprehensive reform would be better for the economy, better for security, and better for the future of their party.

#### CIR will pass, it’s on top of the docket, but continual focus is key

Dan Nowicki 10/25 The Arizona Republic, “Pleas from Obama may hinder immigration bill push,” 10-25-13, http://www.usatoday.com/story/news/politics/2013/10/25/obama-immigration-bill-partisanship/3188629/ DOA: 11-1-13, y2k

As President Barack Obama re-engages on immigration reform, some of his allies disagree about how big of a role he should take in the debate. In Thursday remarks at the White House, Obama reiterated his position that common-sense changes to immigration law are a politically popular way to "grow the economy and shrink our deficits" while securing the U.S. border, modernizing the visa system and offering a pathway to citizenship for most of the estimated 11 million undocumented immigrants who already have settled in the United States. Urging Congress to act this year, Obama also made it clear that he prefers the bipartisan approach of the Democratic-controlled Senate, which passed a comprehensive package June 27 that has been languishing in the GOP-controlled House. House Democrats have offered similar legislation, but Obama added that "if House Republicans have new and different, additional ideas for how we should move forward, then we want to hear them." The House has been working on its own series of smaller immigration-related bills but has yet to pass any. House Speaker John Boehner, R-Ohio, has signaled that action on immigration is still possible, and several GOP lawmakers have indicated they are exploring approaches to addressing the legal status of the undocumented population. Obama's remarks earned applause in the immigrant community, but some observers said they want the president to move beyond prodding Congress and use his executive authority to halt deportations. Other reform supporters, particularly in the business world, worry that his high-profile stand risks further alienating conservative House Republicans, many of whom are still nursing bruised egos from the recent government shutdown and debt-ceiling fight. Immigration-reform advocates have considered 2013 their best opportunity to pass a comprehensive bill since the last serious effort failed in 2007, but time is running out. The push is on to finish immigration reform in the next few months because midterm-election politics will overshadow Congress by early 2014. Those partisan atmospherics make bipartisan cooperation less likely although some are hoping for another window of opportunity once primary-election ballots are set and Republican incumbents won't need to worry about challenges from conservatives who oppose "amnesty" for undocumented immigrants. "It doesn't make sense to have 11 million people who are in this country illegally without any incentive or any way for them to come out of the shadows, get right with the law, meet their responsibilities and permit their families then to move ahead," Obama said. "We have kicked this particular can down the road for too long." Growing support For most of this year, Obama has kept his distance from the legislative action, giving the Senate's bipartisan "Gang of Eight" of four Democrats and four Republicans the time they needed to craft their bill. Because of the delicate political dynamics of the House, Obama's increasing presence in the immigration debate gives anxiety to some pro-reform business leaders who traditionally have a good rapport with Republicans. The fear is that some GOP partisans who might otherwise support a bill could balk if they feel Obama is muscling them. "It hurts more than it helps," said President and Chief Executive Glenn Hamer of the Arizona Chamber of Commerce and Industry, who will travel to Washington next week with other business leaders to lobby lawmakers to pass immigration reform. "We understand and we appreciate that this is a big issue for him. It's a big issue for the country. This would be a good time for the House of Representatives to really pass out its vision for immigration reform." In his Thursday statement, Obama acknowledged that his support could provoke new antagonism from his conservative critics, but he emphasized that immigration reform — the top domestic priority of Obama's second term — has broad-based political appeal and historically has attracted support from Republicans, including former President George W. Bush. "I know that there are some folks in this town who are primed to think, 'Well, if Obama is for it, then I'm against it,'" Obama said. "But I'd remind everybody that my Republican predecessor was also for it when he proposed reforms like this almost a decade ago." He added: "I'm not running for office again. I just believe this is the right thing to do." One leading national champion of immigration change dismissed the idea that Obama should defer to House Republicans who dislike him. Frank Sharry, executive director of the pro-reform organization America's Voice and an expert in immigration politics, said the restraint that Obama has shown thus far is testament to how badly the president wants a bill passed. For example, Obama has refrained from trying to punish Republicans politically for holding it up, he said. "Come on, he's the president. He gets to use the bully pulpit to try to set the agenda," Sharry said. "Obviously, it's only going to happen if the House Republicans decide to do it. Everybody in the world knows that everybody wants to get it done except for the divided House GOP."

### 2NC PC Key

#### That wrecks Obama’s strategy – derails immigration reform

Milbank, 10/18

Washington Post Opinion Writer (Dana, “Now, lead from the front” Washington Post, <http://www.washingtonpost.com/opinions/dana-milbank-now-lead-from-the-front/2013/10/18/56c1fd42-37fe-11e3-8a0e-4e2cf80831fc_story.html>)

Obama got out in front of the shutdown and debt-ceiling standoff. He took a firm position — no negotiating — and he made his case to the country vigorously and repeatedly. Republicans miscalculated, assuming he would again give in. The result was the sort of decisive victory rarely seen in Washington skirmishes.¶ On Wednesday, Republicans surrendered. They opened the government and extended the debt limit with virtually no conditions. On Thursday, Obama rubbed their noses in it.¶ “You don’t like a particular policy or a particular president? Then argue for your position. Go out there and win an election,” Obama taunted from the State Dining Room. “Push to change it, but don’t break it. Don’t break what our predecessors spent over two centuries building.”¶ Obama said “there are no winners” after the two-week standoff, but his opponents, particularly his tea party foes, clearly lost the most; seven in 10 Americans thought Republicans put party ahead of country. These “extremes” who “don’t like the word ‘compromise’ ” were the obvious target of Obama’s demand that we all “stop focusing on the lobbyists and the bloggers and the talking heads on radio and the professional activists who profit from conflict.” (He did not mention newspaper columnists, so you are free to continue reading.)¶ The gloating was a bit unseemly, but the president is entitled to savor a victory lap. The more important thing is that Obama now maintain the forceful leadership that won him the budget and debt fights. In that sense, the rest of Obama’s speech had some worrisome indications that he was returning to his familiar position in the rear.¶ The agreement ending the shutdown requires Congress to come up with a budget by Dec. 13 . It’s a chance — perhaps Obama’s last chance — to tackle big issues such as tax reform and restructuring Medicare. The relative strength he gained over congressional Republicans during the shutdown left him in a dominant negotiating position. If he doesn’t use his power now to push through more of his agenda, he’ll lose his advantage. George W. Bush adviser Karl Rove called it the “perishability” of political capital.¶ But instead of being forceful, Obama was vague. He spoke abstractly about “the long-term obligations that we have around things like Medicare and Social Security.” He was similarly elliptical in saying he wants “a budget that cuts out the things that we don’t need, closes corporate tax loopholes that don’t help create jobs, and frees up resources for the things that do help us grow, like education and infrastructure and research.”¶ Laudable ideas all — but timidity and ambiguity in the past have not worked for Obama. The way to break down a wall of Republican opposition is to do what he did the past two weeks: stake out a clear position and stick to it. A plan for a tax-code overhaul? A Democratic solution to Medicare’s woes? As in the budget and debt fights, the policy is less important than the president’s ability to frame a simple message and repeat it with mind-numbing regularity.¶ If there’s going to be a big budget deal, the president eventually will have to compromise, perhaps even allowing some changes to his beloved Obamacare, which he didn’t mention while on his victory lap Thursday. Even then, forceful leadership may not be enough to prevail.¶ But he has a much better chance if he remains out in front. Otherwise, he’ll soon be knocked back on his behind.

### AT: Credibility

#### Framing issue – Obama has an advantage over the GOP

Baltimore Sun, 10/17

(“Winners and losers of the federal shutdown,” <http://www.baltimoresun.com/news/opinion/oped/bal-some-winners-and-losers-of-the-government-shutdown-20131016,0,743181.photogallery>, Accessed 10/17/2013, rwg)

President Barack Obama ended all doubt about whether his signature achievement, the Affordable Care Act, will survive, and he may have managed to break the House GOP of its habit of government by crisis. His approval ratings are down but not as much as his opponents, and it certainly helps his prospects for getting anything done in the last three years of his presidency to have shown strength and won.

### A2: Do Both

#### Obama fights the plan

Weber 2-6

Peter Weber 2/6/13, http://theweek.com/article/index/239716/will-congress-curb-obamas-drone-strikes

One problem for lawmakers, says The New York Times in an editorial, is that when it comes to drone strikes, the Obama team "utterly rejects the idea that Congress or the courts have any right to review such a decision in advance, or even after the fact." Along with citing the law authorizing broad use of force against al Qaeda, the white paper also "argues that judges and Congress don't have the right to rule on or interfere with decisions made in the heat of combat." And most troublingly, Obama won't give Congress the classified document detailing the legal justification used to kill American al Qaeda operative Anwar al-Awlaki. Going forward, he should submit decisions like this one to review by Congress and the courts. If necessary, Congress could create a special court to handle this sort of sensitive discussion, like the one it created to review wiretapping. This dispute goes to the fundamental nature of our democracy, to the relationship among the branches of government and to their responsibility to the public. [New York Times]

### AT: Next Summer

#### Time to deal with immigration in December

CBS News, 10-17

<http://www.cbsnews.com/8301-250_162-57607996/obamas-priorities-for-the-year-budget-immigration-and-farm-bill/>

Despite Washington’s recent focus on fiscal matters, **proponents of immigration reform have kept up efforts to rally public opinion and pressure lawmakers**. Conventional wisdom holds that Congress must act this year if reform is to succeed, since lawmakers will shy from casting politically-charged votes before next year’s midterm elections. **Reform advocate** Frank **Sharry says** time is of the essence. He said, “I **think it is going to be critical that the House of Representatives begins to address this issue**, has votes**. I think it is critical that we see action this yea**r." Sharry adds that **plenty of time remains on the House calendar between now and December, if Republican leaders choose to bring legislation for**ward.

#### CIR will pass – election year is irrelevant

Mershon 10/18/13

(Erin Mershon WASHINGTON INTERNET DAILY “Shutdown Delayed But Didn't Disrupt Tech Agenda, Say Advocates, Lobbyists” October 18, 2013 Monday Lexis, TSW)

Others said immigration reform could see movement. But several said a big topic like that could get harder as the 2014 election draws closer. West said House Speaker John Boehner, R-Ohio, might be reluctant to move legislation requiring a lot of Democratic support, following a shutdown deal that leaned on support from the minority party. But Hoffman, Beckerman and Herrera-Flanigan had hope for movement on the subject. "They could put some points on the board by moving a couple of those bills, and teeing things up," Hoffman said. The end of the year would be a kind of "legislative halftime," he said. "It would be great to see a bill introduced that we can respond to, to see some constructive movement in that arena." If things get under way this fall, moving the bills might not be as difficult as people think, even in an election year, said Hoffman. "Election year legislating is always a challenge, but there is precedent for some major pieces of legislation passing."

**PC Key**

#### Political capital is finite and drives decisionmaking

Schier 9

Professor of Poliitcal Science at Carleton, (Steven, "Understanding the Obama Presidency," The Forum: Vol. 7: Iss. 1, Berkely Electronic Press, <http://www.bepress.com/forum/vol7/iss1/art10>)

In additional to formal powers, a president’s informal power is situationally derived and highly variable. Informal power is a function of the “political capital” presidents amass and deplete as they operate in office. Paul Light defines several components of political capital: party support of the president in Congress, public approval of the presidential conduct of his job, the President’s electoral margin and patronage appointments (Light 1983, 15). Richard Neustadt’s concept of a president’s “professional reputation” likewise figures into his political capital. Neustadt defines this as the “impressions in the Washington community about the skill and will with which he puts [his formal powers] to use” (Neustadt 1990, 185). In the wake of 9/11, George W. Bush’s political capital surged, and both the public and Washington elites granted him a broad ability to prosecute the war on terror. By the later stages of Bush’s troubled second term, beset by a lengthy and unpopular occupation of Iraq and an aggressive Democratic Congress, he found that his political capital had shrunk. Obama’s informal powers will prove variable, not stable, as is always the case for presidents. Nevertheless, he entered office with a formidable store of political capital. His solid electoral victory means he initially will receive high public support and strong backing from fellow Congressional partisans, a combination that will allow him much leeway in his presidential appointments and with his policy agenda. Obama probably enjoys the prospect of a happier honeymoon during his first year than did George W. Bush, who entered office amidst continuing controversy over the 2000 election outcome. Presidents usually employ power to disrupt the political order they inherit in order to reshape it according to their own agendas. Stephen Skowronek argues that “presidents disrupt systems, reshape political landscapes, and pass to successors leadership challenges that are different from the ones just faced” (Skowronek 1997, 6). Given their limited time in office and the hostile political alignments often present in Washington policymaking networks and among the electorate, presidents must force political change if they are to enact their agendas. In recent decades, Washington power structures have become more entrenched and elaborate (Drucker 1995) while presidential powers – through increased use of executive orders and legislative delegation (Howell 2003) –have also grown. The presidency has more powers in the early 21st century but also faces more entrenched coalitions of interests, lawmakers, and bureaucrats whose agendas often differ from that of the president. This is an invitation for an energetic president – and that seems to describe Barack Obama – to engage in major ongoing battles to impose his preferences.

**Studies prove**

**Beckmann & Kumar ’11**

Matthew and Vimal are in the Department of Political Science at the University of California, Irvine, “How Presidents Push: Win Presidents Win: A Model of Presidential Power in U.S. Lawmaking,” Journal of Theoretical Politics 23:1

Fortunately for contemporary presidents, today’s White House affords its occupants an¶ unrivaled supply of persuasive carrots and sticks. Beyond the ofﬁce’s unique visibility¶ and prestige, among both citizens and their representatives in Congress, **presidents may¶ also sway lawmakers by using their discretion in budgeting** and/or **rulemaking**, unique¶ **fundraising and campaigning capacity, control over** executive and judicial n**ominations**,¶ veto power, or numerous other options under the chief executive’s control. Plainly, when¶ it comes to the arm-twisting, brow-beating, **and horse-trading** that so often characterizes¶ legislative battles, **modern** presidents are uniquely well equippedfor the ﬁght. In the following we employ the omnibus concept of ‘**presidential** political capital’ to¶ capture this conception of presidents’ positive power as persuasive bargaining.¶ 1¶ Speciﬁ-¶ cally, we deﬁne presidents’ political capital as the class of tactics White House ofﬁcials¶ employ to induce changes in lawmakers’ behavior.¶ 2¶ Importantly, this conception of presidents’ positive power as persuasive bargaining not only meshes with previous scholarship¶ on lobbying (see, e.g., Austen-Smith and Wright (1994), Groseclose and Snyder (1996),¶ Krehbiel (1998: ch. 7), and Snyder (1991)), but also presidential practice.¶ 3¶ For example, Goodwin recounts how President Lyndon Johnson routinely allocated ‘rewards’ to¶ ‘cooperative’ members:¶ The rewards themselves (and the withholding of rewards) . . . might be something as unobtrusive as receiving an invitation to join the President in a walk around the White House¶ grounds, knowing that pictures of the event would be sent to hometown newspapers . . . [or¶ something as pointed as] public works projects, military bases, educational research grants,¶ poverty projects, appointments of local men to national commissions, the granting of pardons,¶ and more. (Goodwin, 1991: 237)¶ Of course, **presidential** political capital is a scarce commodity w**ith a ﬂoating value.¶** Even **a favorably situated president enjoys only a ﬁnite supply of political capital; he¶ can only promise or pressure so much**. What is more, this **capital ebbs and ﬂows as¶ realities and/or perceptions change**. So, similarly to Edwards (1989), we believe presidents’ bargaining resources cannot fundamentally alter legislators’ predispositions, but¶ rather operate ‘at the margins’ of US lawmaking, however important those margins may¶ be (see also Bond and Fleisher (1990), Peterson (1990), Kingdon (1989), Jones (1994),¶ and Rudalevige (2002)). Indeed, our aim is to explicate those margins and show how¶ presidents may systematically inﬂuence them.

### 2NC Solves Econ

#### It’s the key internal link to sustainable growth ---

**A)** **Boosts all sectors**

**Klein 1-29**

Ezra is a Bloomberg and Washington Post Columnist, “To Fix the U.S. Economy, Fix Immigration,” <http://www.bloomberg.com/news/2013-01-29/to-fix-the-u-s-economy-fix-immigration.html>

Washington tends to have a narrow view of what counts as “economic policy.” Anything we do to the tax code is in. So is any stimulus we pass, or any deficit reduction we try. Most of this mistakes the federal budget for the economy.¶ The truth is, **the most important piece of economic policy we pass -- or don’t pass -- in 2013 may be** something we don’t think of as economic policy at all: **immigration reform.**¶ ¶ Congress certainly doesn’t consider it economic policy, at least not officially. Immigration laws go through the House and Senate judiciary committees. But consider a few facts about immigrants in the American economy: About a tenth of the U.S. population is foreign-born. **More than a quarter of U.S. technology and engineering businesses started from 1995 to 2005 had a foreign-born** owner. In Silicon Valley, half of all tech startups had a foreign-born founder.¶ Immigrants begin businesses and file patents at a much higher rate than their native-born counterparts, and while there are disputes about the effect immigrants have on the wages of low-income Americans, **there’s little dispute about their effect on wages overall: They lift them**.¶ The economic case for immigration is best made by way of analogy. Everyone agrees that aging economies with low birth rates are in trouble; this, for example, is a thoroughly conventional view of Japan. It’s even conventional wisdom about the U.S. **The retirement of the baby boomers is correctly understood as an economic challenge**. The ratio of working Americans to retirees will fall from 5-to-1 today to 3-to-1 in 2050. Fewer workers and more retirees is tough on any economy.¶ Importing Workers¶ There’s nothing controversial about that analysis. But if that’s not controversial, then immigration shouldn’t be, either. Immigration is essentially the importation of new workers. It’s akin to raising the birth rate, only easier, because most of the newcomers are old enough to work. And because living in the U.S. is considered such a blessing that even very skilled, very industrious workers are willing to leave their home countries and come to ours, the U.S. has an unusual amount to gain from immigration. **When it comes to the global draft for talent, we almost always get the first-round picks** -- at least, if we want them, and if we make it relatively easy for them to come here.¶ From the vantage of naked self-interest, the wonder isn’t that we might fix our broken immigration system in 2013. It’s that we might not.¶ **Few economic problems wouldn’t be improved by more immigration**. If you’re worried **about deficits, more young, healthy workers paying into Social Security and Medicare are an obvious boon**. **If you’re concerned about the slowdown in new company formation and its attendant effects on economic growth, more immigrant entrepreneurs should cheer you**. If you’re worried about the dearth of science and engineering majors in our universities, an influx of foreign-born students is the most obvious solution you’ll find. ¶ Politicians of both parties recognize this. “Our goal is to advance policies that make a difference in peoples’ lives, and that means we want to advance pro-growth reforms that are good for the economy,” Republican Representative Paul Ryan said at a recent Wall Street Journal breakfast. The first pro-growth reform he named? Immigration.¶ Many immigration opponents object to “amnesty” -- allowing people who broke the law to reap the benefits of legal status. That’s a moral question, and while I prefer not to stand on principle when we have 11 million people already living in the shadows in the U.S., it’s beyond the scope of this column. The main economic concern about allowing more immigration or legalizing the status of those who are already here is that immigrants will undermine the wages of the least-skilled Americans. In reality, it’s not clear that will happen.¶ Complementary Skills¶ In addition to growing the size of the national pie, unskilled immigrants tend to have what economists call complementary skills to U.S. workers. If one worker speaks English and another doesn’t, for example, they generally don’t pursue the same job.¶ In that way, it’s useful again to compare immigration with native birth rates. Increasing the number of native-born workers leads to more direct competition, because two native-born workers are probably more similar than an immigrant and a native worker. Yet most everyone cheers if they hear that the U.S. birth rate has ticked up.¶ Some workers are hurt by immigration, but they are typically already struggling. The best way to help them is with more training, better health care, a more generous earned income tax credit and so on. Those benefits are easier to provide in a growing economy with more young workers than in a sluggish one with chronic budget deficits. Immigration isn’t what really ails them, and it isn’t what stands in the way of aiding them.¶ Will immigrants use those same social services, as some immigration opponents contend, adding to the cost of the nation’s welfare state? Yes, but not as often as they’ll pay into it. In 2007, the Congressional Budget Office analyzed the issue while assessing President George W. Bush’s proposed immigration reforms. It found that **legalizing undocumented immigrants would increase federal revenue by $48 billio**n while costing only $23 billion in increased public services -- and that’s before accounting for the broader economic benefits of immigration.¶ There are few free lunches in public policy. But taking advantage of our unique position as a country where the world’s best, brightest and hardest-working desperately want to live is surely one. In the end, **economies aren’t mainly about budgets and tax cod**es, though Congress occasionally pretends otherwise. **They’re about workers and business owners. Immigration reform is a way to get more of both.**

#### B) Job growth and innovation

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(David, “Immigration Reform Is Key to Job Creation”, March 23, <http://www.usnews.com/opinion/blogs/economic-intelligence/2012/03/23/immigration-reform-is-key-to-job-creation>, CMR)

As America continues to look for more jobs Washington can't seem to come up with an answer. We've heard solutions from policy wonks, politicians, and academics, but rarely from people who have first-hand experience actually creating jobs. The voice of the small business owner is faintly being heard, but I'm not so sure our friends on Capitol Hill are listening. There is continual talk about destructive regulations and burdensome red tape, but very little discussion over specific policies and regulations that are so burdensome and in need of reform. Well, here's one from a job creator: immigration.¶ Immigration reform is key to spurring innovation and getting the economy back on track. I'm a small business owner who realizes the role legal immigrants play in creating new jobs. As founder and CEO of a boutique merchant bank, I've started or acquired nearly 30 small and midsize companies, creating hundreds of jobs for Americans across the country. I am also an immigrant and an example of how highly-skilled immigrants educated in the United States can drive job creation right here at home. ¶ Employment-based immigration provides ways for highly skilled immigrants to come to the United States on either a permanent or temporary visa and contribute to our economy. I came to the United States at the age of six because my parents wanted me to have the opportunity to live the American Dream. While at that time, immigration law was by no means lax, the window of legal immigration opportunity has been closing more and more as the process gets bogged down in the bureaucratic morass. The sad truth is, America's dysfunctional immigration law doesn't hurt the would-be immigrants as much as it cripples our nation's competitiveness and prospect for future prosperity and job growth.¶ Ironically, there is no cap placed on the number of temporary workers, as they are not eligible for citizenship. According to U.S. Citizenship and Immigration Services there are over 20 classifications in which a temporary nonimmigrant worker may enter the United States. These highly-skilled workers are usually sponsored by an employer for a specific job or have been accepted to an American university, with the expectation that they will only be in the United States on a temporary basis. After we train and educate these foreigners, we send them back to their home countries.¶ Meanwhile, the United States only accepts 140,000 permanent immigrants a year based on Citizenship and Immigration Services' employment-based standards. A recent report by The Partnership for a New American Economy found that immigrants or their children founded more than 40 percent of the 2010 Fortune 500 companies. Further, these U.S. companies employ more than 10 million people worldwide and have combined revenues of $4.2 trillion. And these are the very people we are turning our backs to.¶ In good economic times or bad, keeping entrepreneurs and productive workers beyond our shores and outside our borders is nonsensical. We shouldn't be denying our nation's economic engine the fuel of innovative talent it so desperately needs. We shouldn't be wasting our resources by perpetuating a broken immigration system where these highly skilled workers are trained and educated in America but sent back into their home countries.¶ We need immigration reform that reinforces the American Dream by encouraging and enabling the best and the brightest, regardless of their nation of origin, to launch businesses right here in the United States. That's the kind of progrowth policy that would ignite a more robust economic recovery, create jobs, and chart a course to a more prosperous future.