### 1

#### Interpretation - Targeted killings are directed at specific persons

Alston 2011

[Philip, John Norton Pomeroy Professor of Law, New York University School of Law. The author was UN Special Rapporteur on extrajudicial, summary or arbitrary executions from 2004 until 2010. “ARTICLE: The CIA and Targeted Killings Beyond Borders” Harvard National Security Journal, 2 Harv. Nat'l Sec. J. 283, Nexis

In a targeted killing, the specific goal of the operation is to use lethal force. This distinguishes targeted killings from unintentional, accidental, or reckless killings, or killings made without conscious choice. It also distinguishes them from law enforcement operations, e.g., against a suspected suicide bomber. Under such circumstances, it may be legal for law enforcement personnel to shoot to kill based on the imminence of the threat, but the goal of the operation, from its inception, should not be to kill.¶ Although in most circumstances targeted killings violate the right to life, in the exceptional circumstance of armed conflict, they may be legal. This is in contrast to other terms with which "targeted killing" has sometimes been interchangeably used, such as "extrajudicial execution," "summary execution," and "assassination," all of which are, by definition, illegal. n44 Consistent with the detailed analysis developed by Nils Melzer, n45 this Article adopts the following definition: a targeted killing is the intentional, premeditated, and deliberate use of lethal force, by States or their agents acting under color of law, or by an organized armed group in armed conflict, against a specific individual who is not in the physical custody of the perpetrator. n46

#### B. Violation: The plan restricts signature strikes, drone strikes includes those.

#### C. Standards

#### Ground. Our interp allows all parts of targeted killings to be restricted, while reserving assassinations, summary executions, and signature strikes as CP ground.

#### Precision – it’s key to topic education

Anderson 2011

[Kenneth, Professor at Washington College of Law, American University; and Hoover Institution visiting fellow, member of Hoover Task Force on National Security and Law; nonresident senior fellow, Brookings Institution. “Inside Executive Branch Policy-Making on Drone Strikes” The Volokh Conspiracy, Nexis]

A crucial distinction - one first made public, so far as I know, by these Wall Street Journal reporters a couple of years ago - is between targeting "high value" terrorist targets, "personality strikes," on the one hand, and so-called "signature strikes" on groups of fighters, on the other, often low level fighters who, for example, might be moving from Pakistan to Afghanistan to fight US and Aghan forces there. The personality strikes are at the core of the US's counterterrorism program, whereas the signature strikes are much more part of the counterinsurgency campaign - attacking safe havens, fighters who would otherwise wind up in Afghanistan, etc. (A distinct legal debate, as Charlie Savage has reported in the Times, took place over the legal authority for engaging in signature strikes in places outside of Afghanistan and Pakistan's border regions, such as Yemen, but it appear to have been resolved at this point in favor of a legal view that such strikes are permitted, but as a policy matter do not make sense for the United States at this point.) Much of the policy debate within the administration seems to have revolved around the extent of signature strikes which, by their nature, attack a group of people who the US has identified as fighters, rather than individual as in a targeted killing. Indeed, this illustrates the important point that as drone uses ramify, targeted killing is only one such use (and targeted killing, too, might be carried out with a human team; targeted killing and drone warfare only partly overlap). Signature strikes are supposed to produce a larger number of people killed, because the people being targeted are supposed to be groups of fighters. But the larger number of casualties raised these other concerns within the administration: Officials asked what precautions were being taken to aim at highly valued targets, rather than foot soldiers. "Donilon and others said, 'O.K., I got it; it's war and it's confusing. Are we doing everything we can to make sure we are focused on the target sets we want?'" said a participant in the discussions. "You can kill these foot soldiers all day, every day and you wouldn't change the course of the war." A senior Obama administration official declined to comment on Mr. Donilon's closed-door discussions but said that he wasn't second-guessing the CIA's targeting methodology and pointed to his long-standing support for the program. The official said the White House wanted to use the drone program smartly to pick off al Qaeda leaders and the Haqqanis. "It's about keeping our eyes on the ball," the official said.¶ In the end, it appears that there is greater discussion over interagency concerns about targeting, but the final decisions remain with the CIA. Or, as the article's closing quote put it:¶ "It's not like they took the car keys away from the CIA," a senior official said. "There are just more people in the car."

#### D. T is a voter for fairness and topic education, and extra T is voter because the aff dejustifies the resolution.

### 2

#### 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.

### 3

#### TPA will pass-strong bipartisan support

The White House Bulletin 1/15/14

HEADLINE: Business Roundtable Leaders See Strong Support For Trade Promotion Authority

Randall Stephenson, chairman and CEO of AT&T and chairman of the Business Roundtable, said that there is "general, broad, bipartisan support" for giving President Obama Trade Promotion Authority. "I've been surprised over the last couple of days at how much support there is for TPA on both sides of the aisle. So of the issues that I will walk away from being here this week concerned about, support for TPA is not really high on my concern list," he said. Business Roundtable President John Engler added that while Obama may be encountering some opposition from his own party, "I think he will get support. ... I think there's little risk in giving their president the authority, or his negotiator, [US Trade Representative Michael] Froman who's a splendid trade ambassador, giving him the authority to go into these negotiations and trying to get the best deal for America." Stephenson identified trade as one of the Roundtable's keys for economic growth. "As it relates to concerns about trade and the implication of investment moving from the US to other countries and employment moving I think the evidence is against it," he said. "We're 20 years into NAFTA, I think empirically virtually any metrics you look at" show that that agreement helped both employment and investment. He said similar deals with Europe and Asia would have similar effects. - Bulletin exclusive from US News

#### Obama is pushing and his push Is key

The Hill 1/21 < Obama: Give me fast track trade, http://thehill.com/homenews/administration/195858-white-house-works-to-convince-dems-to-give-obama-fast-track-on-trade>#SPS

The White House is making a major push to convince Congress to give the president trade promotion authority (TPA), which would make it easier for President Obama to negotiate pacts with other countries. ¶ A flurry of meetings has taken place in recent days since legislation was introduced to give the president the authority, with U.S. Trade Representative Mike Froman meeting with approximately 70 lawmakers on both sides of the aisle in the House and Senate.¶ White House chief of staff Denis McDonough has also been placing calls and meeting with top Democratic lawmakers in recent days to discuss trade and other issues.¶ Republicans have noticed a change in the administration’s interest in the issue, which is expected to be a part of Obama’s State of the Union address in one week.¶ While there was “a lack of engagement,” as one senior Republican aide put it, there is now a new energy from the White House since the bill dropped. ¶ The effort to get Congress to grant Obama trade promotion authority comes as the White House seeks to complete trade deals with the European Union, and a group of Asian and Latin American countries as part of the Trans-Pacific Partnership, or TPP.¶ The authority would put time limits on congressional consideration of those deals and prevent the deals from being amended by Congress. That would give the administration more leverage with trading partners in its negotiations.¶ The trade push dovetails with the administration’s efforts to raise the issue of income inequality ahead of the 2014 midterm elections. The White House is pressing Republicans to raise the minimum wage and extend federal unemployment benefits.¶ The difference is, on the minimum wage hike and unemployment issue, Obama has willing partners in congressional Democrats and unions, who are more skeptical of free trade. Republicans are more the willing partner on backing trade promotion authority.¶ Legislation introduced last week to give Obama trade promotion authority was sponsored by House Ways and Means Committee Chairman Dave Camp (R-Mich.) and Senate Finance Committee Chairman Max Baucus (D-Mont.), as well as Sen. Orrin Hatch (R-Utah), the ranking member on Finance.¶ No House Democrats are co-sponsoring the bill, however, and Rep. Sandy Levin (D-Mich.), the Ways and Means Committee ranking member, and Rep. Charles Rangel (D-N.Y.), the panel’s former chairman, have both criticized it. They said the legislation doesn’t give enough leverage and power to Congress during trade negotiations.¶ Getting TPA passed would be a major victory for the administration, and one that would please business groups, but the White House will first have to convince Democrats to go along with it.¶ One senior administration official said the White House has been in dialogue with lawmakers on both sides of the aisle “with a real focus on Democrats” to explain TPA and take into account their concerns. ¶ “Any trade matter presents challenges,” the senior administration official said, adding that White House officials are “devoted” to working with members on the issue. ¶ The Democratic opposition makes it highly unlikely the trade promotion authority bill, in its current form at least, will go anywhere.¶ One big problem is that it was negotiated by Baucus, who is about to leave the Senate to become ambassador to China.¶ Baucus will be replaced by Sen. Ron Wyden (Ore.), who is said to disagree with the approach taken by his predecessor. Democratic aides predict the legislation, which Majority Leader Harry Reid (D-Nev.) called “controversial” last week, would have to be completely redone to gain traction among lawmakers in their party.¶ Some Democrats might see a disconnect between the White House’s push for trade and it’s separate push on income inequality, which has been embraced by the party.¶ But that doesn’t mean the White House won’t ramp up their focus on trade in the coming weeks and months.¶ Senior congressional aides expect trade to be a part of Obama’s upcoming State of the Union address, since the White House has made clear that the trade bill is a priority and the TPP trade pact is a core part of the administration’s overall jobs agenda, in terms of increasing exports and opening markets.¶ “This is a priority of the president's,” White House press secretary Jay Carney told reporters last week. “It's part of a broad approach to expanding exports and, you know, creating more opportunities for our businesses to grow. And we're going to continue to push for it.”¶ In the same vein, House Republicans will continue to increase pressure on the administration to get Democrats on board.¶ “The White House carries the weight on this,” one senior House aide said.

#### 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.

#### Bill Key to Trade

Watson 1/15 <William, trade policy analyst with Cato’s Herbert A Stiefel Center for Trade Policy Studies. His research focuses on U.S. trade remedy policies, disguised protectionism, and the institutional aspects of global trade liberalization, What to Look for in the Upcoming Trade Policy Debate, http://www.cato.org/blog/what-look-upcoming-trade-policy-debate>#SPS

The most important piece of trade legislation Congress has dealt with in years was introduced in the House and Senate last week. The “Bipartisan Congressional Trade Priorities Act of 2014” sets out the parameters for renewing trade promotion authority (TPA), originally known as “fast track,” in order to ease eventual passage of the Trans-Pacific Partnership and other agreements through Congress. There will be a lot of debate in the coming months about what U.S. trade policy should look like, and this TPA bill will do a lot to establish the agenda. The [new bill](http://www.finance.senate.gov/imo/media/doc/TPA%20bill%20text.pdf) largely mirrors the last TPA grant in 2002. The basic idea of fast track is that Congress agrees to hold an up-or-down vote on any trade agreement submitted by the president, while the president agrees to adopt a series of negotiating objectives laid out by Congress. ¶I’ve explained before why I think TPA is [not necessary right now](http://www.cato.org/publications/free-trade-bulletin/stay-fast-track-why-trade-promotion-authority-wrong-trans-pacific) to get agreements through Congress and why it could even [make the TPP negotiations more difficult](http://www.cato.org/multimedia/daily-podcast/fast-track-authoritys-dubious-record). However, that argument is temporarily moot since this TPA bill is on the table and will apply not only to the TPP but to the U.S.-EU trade agreement and any World Trade Organzation negotiations for the next four years. ¶ Defeat of this bill could quite possibly [kill any chance the president has](http://online.wsj.com/news/articles/SB10001424052702304617404579306221047716030) to conclude trade agreements before the end of his term. Also, the negotiating objectives included in the new bill are not as bad as I had feared.

#### Free trade prevents multiple scenarios for world war and WMD Terrorism

Panzner 2008

Michael, faculty at the New York Institute of Finance, 25-year veteran of the global stock, bond, and currency markets who has worked in New York and London for HSBC, Soros Funds, ABN Amro, Dresdner Bank, and JPMorgan Chase “Financial Armageddon: Protect Your Future from Economic Collapse,” pg. 136-138

Continuing calls for curbs on the flow of finance and trade will inspire the United States and other nations to spew forth protectionist legislation like the notorious Smoot-Hawley bill. Introduced at the start of the Great Depression, it triggered a series of tit-for-tat economic responses, which many commentators believe helped turn a serious economic downturn into a prolonged and devastating global disaster. But if history is any guide, those lessons will have been long forgotten during the next collapse. Eventually, fed by a mood of desperation and growing public anger, restrictions on trade, finance, investment, and immigration will almost certainly intensify. Authorities and ordinary citizens will likely scrutinize the cross-border movement of Americans and outsiders alike, and lawmakers may even call for a general crackdown on nonessential travel. Meanwhile, many nations will make transporting or sending funds to other countries exceedingly difficult. As desperate officials try to limit the fallout from decades of ill-conceived, corrupt, and reckless policies, they will introduce controls on foreign exchange. Foreign individuals and companies seeking to acquire certain American infrastructure assets, or trying to buy property and other assets on the cheap thanks to a rapidly depreciating dollar, will be stymied by limits on investment by noncitizens. Those efforts will cause spasms to ripple across economies and markets, disrupting global payment, settlement, and clearing mechanisms. All of this will, of course, continue to undermine business confidence and consumer spending. In a world of lockouts and lockdowns, any link that transmits systemic financial pressures across markets through arbitrage or portfolio-based risk management, or that allows diseases to be easily spread from one country to the next by tourists and wildlife, or that otherwise facilitates unwelcome exchanges of any kind will be viewed with suspicion and dealt with accordingly. The rise in isolationism and protectionism will bring about ever more heated arguments and dangerous confrontations over shared sources of oil, gas, and other key commodities as well as factors of production that must, out of necessity, be acquired from less-than-friendly nations. Whether involving raw materials used in strategic industries or basic necessities such as food, water, and energy, efforts to secure adequate supplies will take increasing precedence in a world where demand seems constantly out of kilter with supply. Disputes over the misuse, overuse, and pollution of the environment and natural resources will become more commonplace. Around the world, such tensions will give rise to full-scale military encounters, often with minimal provocation. In some instances, economic conditions will serve as a convenient pretext for conflicts that stem from cultural and religious differences. Alternatively, nations may look to divert attention away from domestic problems by channeling frustration and populist sentiment toward other countries and cultures. Enabled by cheap technology and the waning threat of American retribution, terrorist groups will likely boost the frequency and scale of their horrifying attacks, bringing the threat of random violence to a whole new level. Turbulent conditions will encourage aggressive saber rattling and interdictions by rogue nations running amok. Age-old clashes will also take on a new, more heated sense of urgency. China will likely assume an increasingly belligerent posture toward Taiwan, while Iran may embark on overt colonization of its neighbors in the Mideast. Israel, for its part, may look to draw a dwindling list of allies from around the world into a growing number of conflicts. Some observers, like John Mearsheimer, a political scientist at the University of Chicago, have even speculated that an “intense confrontation” between the United States and China is “inevitable” at some point. More than a few disputes will turn out to be almost wholly ideological. Growing cultural and religious differences will be transformed from wars of words to battles soaked in blood. Long-simmering resentments could also degenerate quickly, spurring the basest of human instincts and triggering genocidal acts. Terrorists employing biological or nuclear weapons will vie with conventional forces using jets, cruise missiles, and bunker-busting bombs to cause widespread destruction. Many will interpret stepped-up conflicts between Muslims and Western societies as the beginnings of a new world war.

### 4

#### Text: The Executive branch should publicly articulate its 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

### Solvency

#### Drone court doesn’t appropriately promote effective control over drones

Roth 2013

(Kenneth Roth, Executive Director of Human Rights Watch, April 4, 2013, “What Rules Should Govern US Drone Attacks?,” New York Review of Books, http://www.nybooks.com/articles/archives/2013/apr/04/what-rules-should-govern-us-drone-attacks/?pagination=false)

Whatever the rules governing drone attacks, many object to the covert, unilateral way the administration decides who should be killed. In the heat of battle, that is a necessity. But drone targets are typically selected over lengthy periods, with more than enough time for independent scrutiny. Under US law, the executive branch cannot even secure a wiretap without court oversight, so why should it be allowed to select drone targets unilaterally? Senator Dianne Feinstein has thus put forward the idea of a drone court similar to the courts that review wiretap applications under the Foreign Intelligence Surveillance Act (FISA).¶But replicating the FISA courts would provide little by way of effective control because, by their nature, they must be kept secret from the target, so they provide no opportunity for an independent attorney to challenge the government’s claims. At least for wiretaps the law is reasonably settled. But the administration, as we have seen, seems to accept in only vague terms the law governing drone attacks. In the absence of an adversarial process, a judge cannot be counted on to challenge the administration’s permissive interpretation of the law.¶Moreover, a drone court could at most approve placing someone on a kill list, not whether the circumstances of a prospective attack, including the risk to civilians in a changing situation, would be lawful. That would require a determination of the sort that a court can’t possibly undertake in advance. In any event, most proposals for drone courts envision them being used only for targeted US citizens—not much help to the great majority of targets from other nationalities. Though of no help to those killed, permitting after-the-fact lawsuits against the government would be a better way to allow the courts to define the limits of the law. But the administration has blocked such suits through various claims of secrecy.

### Terror

#### Drone court ineffective – won’t listen internationally and kills effectiveness

Groves ‘13

(Steven Groves is Bernard and Barbara Lomas Senior Research Fellow in the Margaret Thatcher Center for Freedom, a division of the Kathryn and Shelby Cullom Davis Institute for International Studies, at The Heritage Foundation. “Drone Strikes: The Legality of U.S. Targeting Terrorists Abroad” April 10, 2013 <http://www.heritage.org/research/reports/2013/04/drone-strikes-the-legality-of-us-targeting-terrorists-abroad>, TSW)

What the U.S. Should Do¶ The U.S. drone program and its practices regarding targeted strikes against al-Qaeda and its associated forces are lawful. They are lawful because the United States is currently engaged in an armed conflict with those terrorist entities and because the United States has an inherent right to defend itself against imminent threats to its security. Moreover, the available evidence indicates that U.S. military and intelligence forces conduct targeted strikes in a manner consistent with international law. Military and intelligence officials go to great lengths to identify al-Qaeda operatives that pose an imminent threat and continually reassess the level of that threat. Decisions on each potential target are debated among U.S. officials before the target is placed in the “disposition matrix.” In conducting targeted strikes U.S. forces strive to minimize civilian casualties, although such casualties cannot always be prevented.¶ The United States will continue to face asymmetric threats from non-state actors operating from the territory of nations that are either unwilling or unable to suppress the threats. To confront these threats, the United States must retain its most effective operational capabilities, including targeted strikes by armed drones, even if U.S. forces degrade al-Qaeda and its associated forces to such an extent that the United States no longer considers itself to be in a non-international armed conflict. Moreover, the United States must continue to affirm its inherent right to self-defense to eliminate threats to its national security, regardless of the presence or absence of an armed conflict recognized by international law.¶ To that end, the United States should:¶ Continue to affirm existing use-of-force authorities. During the past three years, senior officials of the Obama Administration have publicly set out in significant detail U.S. policies and practices regarding drone strikes. The Administration should continue to do so, emphasizing that U.S. policies adhere to widely recognized international law. Critics of the United States will continue to claim that a lack of transparency surrounds U.S. policy and actions. Such critics will likely never be satisfied, not even with full disclosure of the relevant classified legal memoranda, and their criticism will not cease until the United States abandons its practice of targeting terrorist threats in Pakistan, Yemen, and elsewhere. However, consistent repetition of the U.S. legal position on targeted drone strikes may blunt such criticism.¶ Not derogate from the AUMF. At the 2012 NATO summit in Chicago, NATO agreed that the vast majority of U.S. and other NATO forces would be withdrawn from Afghanistan by the end of 2014, a time frame that President Obama confirmed during this year’s State of the Union address. Some critics of U.S. drone policy will inevitably argue that due to the drawdown the United States may no longer credibly claim that it remains in a state of armed conflict with the Taliban, al-Qaeda, and its associated forces, whether they are located in Afghanistan, the FATA, or elsewhere. Congress should pass no legislation that could be interpreted as a derogation from the AUMF or an erosion of the inherent right of the United States to defend itself against imminent threats posed by transnational terrorist organizations.¶ Not create a drone court. The concept of a drone court is fraught with danger and may be an unconstitutional interference with the executive branch’s authority to wage war. U.S. armed forces have been lawfully targeting enemy combatants in armed conflicts for more than 200 years without being second-guessed by Congress or a secret “national security court.” Targeting decisions, including those made in connection with drone strikes, are carefully deliberated by military officers and intelligence officials based on facts and evidence gathered from a variety of human, signals, and imagery intelligence sources. During an armed conflict, all al-Qaeda operatives are subject to targeting; therefore, a drone court scrutinizing targeting decisions would serve no legitimate purpose.¶ Rather than creating a special tribunal that is ill equipped to pass judgment on proportionality and military necessity, and that will never fully assuage the concerns of the critics of drone strikes, Congress should continue to leave decisions pertaining to the disposition of al-Qaeda terrorists—including U.S. citizens—with military and intelligence officials.¶ Conclusion¶ The debate within the international legal, academic, and human rights communities on the legality and propriety of drone strikes will likely continue unabated. To surrender to the demands of such critics would be equivalent to forgetting the lessons of September 11, when a small, non-state terrorist organization operating from a nation with which the United States was not at war planned and launched an attack that killed almost 3,000 Americans.¶ The United States should preserve its ability to use all of the tools in its arsenal to ensure that the plots hatched by terrorist organizations do not become successful attacks on the U.S. homeland. Armed drones have proved to be one of the most effective and discriminating tools available to U.S. forces, and their lawful use should continue until such time as non-state, transnational terrorist organizations no longer present an imminent threat to the United States.

#### 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.

#### No nuclear terrorism –statistically insignificant cumulative probability

Mueller, 2010

(John, Woody Hayes Chair of National Security Studies, Mershon Center, and is professor of Political Science, at Ohio State University) 2010 “Atomic Obsession: Nuclear Alarmism from Hiroshima to Al Qaeda” p, 187-190

Assigning a probability that terrorists will be able to overcome each barrier is, of course, a tricky business, and any such exercise should be regarded as rather tentative and exploratory, or perhaps simply as illustrative-though it is done all the time in cost-benefit analysis. One might begin a quantitative approach by adopting probability estimates that purposely, and heavily, bias the case in the terrorists' favor. In my view, this would take place if it is assumed that the terrorists have a fighting chance of 50 percent of overcoming each of the 20 obstacles displayed in Table 13-1, though for many barriers, probably almost all, the odds against them are surely much worse than that. Even with that generous bias, the chances that a concerted effort would be successful comes out to be less than one in a million, specifically 1,048,576. Indeed, the odds of surmounting even seven of the 20 hurdles at that unrealistically, even absurdly, high presumptive success rate is considerably less than one in a hundred. If one assumes, somewhat more realistically, that their chances at each barrier are one in three, the cumulative odds they will be able to pull off the deed drop to one in well over three billion specifically 3.486,784,401. What they would be at the (still entirely realistic) level of one in ten boggles the mind. One could also make specific estimates for each of the hurdles, but the cumulative probability statistics are likely to come out pretty much the same-or even smaller. There may be a few barriers, such as numbers 13 or absolute loyalty trump the one oftechnical competence. This would increase the chances that the bomb-making enterprise would go undetected, while at the same time decreasing the likelihood that it would be successful. However, given the monumentality of the odds confronting the would-be atomic terrorist, adjustments for such issues are scarcely likely to alter the basic conclusion. That is, if one drastically slashed the one in 3.5 billion estimate a thousandfold, the odds of success would still be one in 3.5 million. Moreover, all this focuses on the effort to deliver a single bomb. If the requirement were to deliver several, the odds become, of course, even more prohibitive. Getting away from astronomical numbers for a minute, Levi points out that even if there are only ten barriers and even if there were a wildly favorable 80 percent chance of overcoming each hurdle, the chance of final success, following the approach used here, would only be 10 percent. Faced even with such highly favorable odds at each step, notes Levi, the wouldbe atomic terrorist might well decide "that a nuclear plot is too much of a stretch to seriously try." Similarly, Jenkins calculates that even if there are only three barriers and each carried a 50/50 chance of success, the likelihood of accomplishing the full mission would only be 12.5 percent.14 Odds like that are not necessarily prohibitive, of course, but they are likely to be mind-arrestingly small if one is betting just about everything on a successful outcome. Multiple Attempts The odds considered so far are for a single attempt by a single group, and there could be multiple attempts by multiple groups, of course. Although Allison considers al-Qaeda to be "the most probable perpetrator" on the nuclear front, he is also concerned about the potential atomic exploits of other organizations such as Indonesia's Jemaah Islamiyah, Chechen gangsters, Lebanon's Hezbollah, and various doomsday cults. IS However, few, if any, groups appear to have any interest whatever in striking the United States except for al-Qaeda, an issue to be discussed more fully in the next chapter. But even setting that consideration aside, the odds would remain long even with multiple concerted attempts.16 If there were a hundred such efforts over a period of time, the chance at least one of these would be successful comes in at less than one in over 10,000 at the one chance in two level. At the far more realistic level of one chance in three, it would be about one in nearly 35 million. If there were 1,000 dedicated attempts, presumably over several decades, the chance of success would be worse than one in a thousand at the SO/50 level and one in nearly 3.5 million at the one in three level.I7 Of course, attempts in the hundreds are scarcely realistic, though one might be able to envision a dozen or so. Additionally, if there were a large number of concerted efforts, policing and protecting would presumably become easier because the aspirants would be exposing themselves repeatedly and would likely be stepping all over each other in their quest to access the right stuff. Furthermore, each foiled attempt would likely expose flaws in the defense system, holes the ...,. defenders would then plug, making subsequent efforts that much more dif• ficult. For example, when the would-be peddler of a tiny amount of pur loined highly enriched uranium was apprehended in 2006, efforts were made to trace its place of origin using nuclear forensics. IS ." Also, the difficulties for the atomic terrorists are likely to increase over time because of much enhanced protective and policing efforts by ... self-interested governments. Already, for example, by all accounts Russian nuclear materials are much more adequately secured than they were 10 or ~, .-s 15 years ago.19

#### Ethiopian collapse make their impact inevitable

Mountain 12

[Thomas, independent western journalist based in the Horn of Africa , Kavaz Center, “Could AQAP and al-Shabaab cause the death of the U.S.?”. News Fact Analysis, <http://www.foreignpolicyjournal.com/2011/11/19/choke-point-bab-el-mandeb-understanding-the-strategically-critical-horn-of-africa/>,]

The Horn of Africa is one of the most strategically critical regions in the world with the narrow passage where the Red Sea joins the Indian Ocean, the Bab el-Mandeb, being a potential choke point for much of the worlds commerce, wrote in his article Thomas Mountain. Almost all of the trade between the European Union and China, Japan, India and the rest of Asia passes through the Bab el-Mandeb everyday. Up to 30% of the worlds oil, including all of the oil and natural gas from the Persian Gulf heading west passes through the Horn of Africa daily. Who controls the Horn of Africa controls a major chunk of the worlds economies. Mr. Mountain indicates that the CIA, MI6 and all the western intelligence agencies know all to well just how critical the Horn of Africa is. The journalist suggests the following scenario: Somalia (or Yemen) became a strong, united, independent, and well armed Islamic country, and seeing the NATO attack on Libya, declares that no EU or USA bound shipments of goods, oil or natural gas would be allowed to pass through the Bab el-Mandeb as long as NATO bombardments of Libya continue. How long would the EU economies be able to hold out without the energy supplies from the Persian Gulf or the vital Asian imports?, asks Mr. Mountain. **Is it even conceivable that the USA and its NATO allies would allow a scenario such as this to develop?** Understanding this is crucial to understanding why the western powers conduct such a criminal policy in the Horn of Africa, writes Mr. Mountain. **The US**A, still the worlds lone superpower, **has a policy of using local enforcers, policemen on the beat, to do its dirty work in areas of the world of critical importance to its interests**. In South America the USA uses Columbia as its local gendarme or strongman to try and keep the region in line. In West Africa the USA uses Nigeria, in the Middle East, "Israel" and **in East Africa the main USA mafioso enforcer is Ethiopia. Every year the USA and its western underlings pour some $ 7 billion into keeping the Ethiopian regime headed by the former Marxist-Leninist guerilla leader Meles Zenawi afloat making Ethiopia one of the most aid dependent countries in the world and a rival to "Israel**" as the largest recipients of western aid on the planet. For this the USA can order Meles Zenawi to send his army to invade Somalia in the name of the "War on Terror" in 2006. Earlier, in 2000, Ethiopia invaded Eritrea (see map), again at the urging of the USA. Today, the USA is paying the salaries of some 10,000 Ethiopian Army "peacekeepers" deployed around Abeye (see map), the oil producing region on the border between north and South Sudan. For these and other crimes in the service of Pax Americana Ethiopian Prime Minister Meles Zenawi has a permanent "get out of jail free" card, or blanket immunity. He has at least a billion dollars stashed in his mainly London bank accounts for the not so distant day when he boards his final flight out of Addis Ababa, writes Mr. Mountain. Whether it was former Brit PM Tony Blair anointing Meles Zenawi as chair of the short lived Africa Commission to the Obama White house arranging for Meles to stride the stage of the latest G-20 meeting of world leaders. With the largest, best equipped army in Africa, **Ethiopia has a job to do and first and foremost it is to make sure that the region surrounding the Bab el-Mandeb choke point remains firmly under western control**. For he who controls Bab el-Mandeb has his fingers around the throats of both the EU and Asia's economies. Today **the USA's grip on the region is increasingly in doubt, for the Ethiopian regime is ever closer to the day of its demise** and what comes after Meles Zenawi's departure could shake the world as we know it. Choke Point Bab el-Mandeb is **strategically critical** in today's world and just how important can be judged by how careful the western media is in covering the region. Almost nothing is allowed in the news that might hasten the day of Meles Zenawi's departure. Meles must stride the G-20 stage once again for all the world to see that he remains the anointed defender of western control of the Bab el-Mandeb, writes Mr. Mountain. **The day the USA loses control of the Bab el-Mandeb may** very well **mark the end of the USA's days as the worlds lone superpower and it's control of the world** as we know it.

#### Oil shock not likely and no impact

Yetiv ‘12

[Steve A. Yetiv is a professor of political science and international studies at Old Dominion University. <http://www.thejakartaglobe.com/opinion/oil-shock-not-as-likely-as-you-think/508788> ETB]

Oil prices are up more than 30 percent from six months ago amid fears that Israel or the United States may strike Iran. Concerns have spread that military conflict would cause a major shock to oil prices, damaging the US and global economies. While the situation is serious, such predictions are unlikely to pan out. Understanding how such fears are exaggerated would clarify the stakes in the standoff and underscore how scholars, market analysts and oil traders often overestimate the effect geopolitical events will have on prices. For starters, Iran and Saudi Arabia have been at loggerheads since Iran’s 1979 revolution, with Tehran intermittently trying to undermine the Saudi regime. The last thing Sunni-dominated Saudi Arabia wants is a nuclear Shiite Iran to which it would have to kowtow. The Saudis are ready to use their spare and idle oil capacity to make up for any disruption in the 2.4 million barrels Iran exports per day, as the Saudi oil minister recently noted. In the event of war, it is almost certain that the United States would coordinate an oil release with the International Energy Agency. The IEA requires each of its 28 members to hold enough oil in the form of international oil company stocks and/or strategic petroleum reserves to withstand a total cutoff of imports for 90 days. When the US-led coalition attacked Iraqi forces in Kuwait in 1991, a US-IEA joint release helped significantly lower world oil prices. Even if the IEA does not act, the United States has strategic oil reserves it could release on its own. IEA members hold more than 1.6 billion barrels of oil, with the United States alone holding well over 700 million barrels. That capacity could be used to defray the loss of Iran’s oil exports for many months. President Obama referred to this capacity Friday when noting that new sanctions that target Iran’s oil exports on Iran would not harm allies. Recent tensions sparked fears that Iran would close the Strait of Hormuz, through which 17 percent of the world’s oil flows. Tehran can certainly disrupt oil transit, but, whatever its threats, it does not have the capability to challenge the US Navy for long. Such a fight would be one of history’s biggest mismatches. Another concern is that terror groups Hamas and Hezbollah, which are linked to Iran and sometimes viewed as its proxies, would attack Israel if the Jewish state or the United States strikes Iran. That is quite possible. But such conflicts have little to do with oil disruptions. Oil traders would eventually understand that an Israeli border conflict means little for oil prices unless it triggers a wider Middle East battle, such as the 1973 Arab-Israeli war. The chances of that are slim unless one believes that Sunni, Arab Egypt — a state in chaos — would suddenly align with Shiite, Persian Iran, an unprecedented alliance. And without Egypt, a broader war is not possible. Those concerned about the fallout of a war with Iran should also consider that Libya’s oil exports, which were cut off from February to October last year, are likely to reach pre-conflict levels in the next three to six months. That is one less constraint on the global oil supply. We should also consider that Europe’s economic woes, the lackluster US economy and China’s slowing rate of growth are restraining the global demand for oil. Prices would jump much more if an Iran war coincided with higher global economic growth and oil demand.

#### Low risk of a successful bioterror attack – wind patterns, logistics and weaponization

Keller ‘13

(Rebecca Keller of Stratfor which is a geopolitical intelligence firm that provides strategic analysis and forecasting to individuals and organizations around the world. By placing global events in a geopolitical framework, we help customers anticipate opportunities and better understand international developments. “Bioterrorism and the Pandemic Potential” THURSDAY, MARCH 7, 2013 - 04:01 <http://www.stratfor.com/weekly/bioterrorism-and-pandemic-potential>, TSW)

The Risk-Reward Equation¶ The risk of an accidental release of H5N1 is similar to that of other infectious pathogens currently being studied. Proper safety standards are key, of course, and experts in the field have had a year to determine the best way to proceed, balancing safety and research benefits. Previous work with the virus was conducted at biosafety level three out of four, which requires researchers wearing respirators and disposable gowns to work in pairs in a negative pressure environment. While many of these labs are part of universities, access is controlled either through keyed entry or even palm scanners. There are roughly 40 labs that submitted to the voluntary ban. Those wishing to resume work after the ban was lifted must comply with guidelines requiring strict national oversight and close communication and collaboration with national authorities. The risk of release either through accident or theft cannot be completely eliminated, but given the established parameters the risk is minimal.¶ The use of the pathogen as a biological weapon requires an assessment of whether a non-state actor would have the capabilities to isolate the virulent strain, then weaponize and distribute it. Stratfor has long held the position that while terrorist organizations may have rudimentary capabilities regarding biological weapons, the likelihood of a successful attack is very low. ¶ Given that the laboratory version of H5N1 -- or any influenza virus, for that matter -- is a contagious pathogen, there would be two possible modes that a non-state actor would have to instigate an attack. The virus could be refined and then aerosolized and released into a populated area, or an individual could be infected with the virus and sent to freely circulate within a population.¶ There are severe constraints that make success using either of these methods unlikely. The technology needed to refine and aerosolize a pathogen for a biological attack is beyond the capability of most non-state actors. Even if they were able to develop a weapon, other factors such as wind patterns and humidity can render an attack ineffective. Using a human carrier is a less expensive method, but it requires that the biological agent be a contagion. Additionally, in order to infect the large number of people necessary to start an outbreak, the infected carrier must be mobile while contagious, something that is doubtful with a serious disease like small pox. The carrier also cannot be visibly ill because that would limit the necessary human contact.¶ As far as continued research is concerned, there is a risk-reward equation to consider. The threat of a terrorist attack using biological weapons is very low. And while it is impossible to predict viral outbreaks, it is important to be able to recognize a new strain of virus that could result in an epidemic or even a pandemic, enabling countries to respond more effectively. All of this hinges on the level of preparedness of developed nations and their ability to rapidly exchange information, conduct research and promote individual awareness of the threat.

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

Alan **Dove** 2/24/**12**

(PhD in Microbiology, science journalist and former Adjunct Professor at New York University, “Who’s Afraid of the Big, Bad Bioterrorist?” <http://alandove.com/content/2012/01/whos-afraid-of-the-big-bad-bioterrorist/>)

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

### Drone Prolif

#### US restrictions don’t solve drone prolif

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.

#### Surveillance drones independently cause escalation – aff can’t solve –1AC author

Read pink

Boyle 13

Michael J Boyle 13, Assistant Professor of Political Science at La Salle University, former Lecturer in International Relations and Research Fellow at the Centre for the Study of Terrorism and Political Violence at the University of St Andrews, PhD from Cambridge University, January 2013, “The costs and consequences of drone warfare,” International Affairs 89: 1 (2013) 1–29, <http://www.chathamhouse.org/sites/default/files/public/International%20Affairs/2013/89_1/89_1Boyle.pdf> (//mtc)

A second consequence of the spread of drones is that many of the traditional concepts which have underwritten stability in the international system will be radically reshaped by drone technology. For example, much of the stability among the Great Powers in the international system is driven by deterrence, specifically nuclear deterrence.135 Deterrence operates with informal rules of the game and tacit bargains that govern what states, particularly those holding nuclear weapons, may and may not do to one another.136 While it is widely understood that nuclear-capable states will conduct aerial surveillance and spy on one another, overt military confrontations between nuclear powers are rare because they are assumed to be costly and prone to escalation. One open question is whether these states will exercise the same level of restraint with drone surveillance, which is unmanned, low cost, and possibly deniable. States may be more willing to engage in drone overflights which test the resolve of their rivals, or engage in ‘salami tactics’ to see what kind of drone-led incursion, if any, will motivate a response.137 This may have been Hezbollah’s logic in sending a drone into Israeli airspace in October 2012, possibly to relay information on Israel’s nuclear capabilities.138 After the incursion, both Hezbollah and Iran boasted that the drone incident demonstrated their military capabilities.139 One could imagine two rival states—for example, India and Pakistan—deploying drones to test each other’s capability and resolve, with untold consequences if such a probe were misinterpreted by the other as an attack. As drones get physically smaller and more precise, and as they develop a greater flying range, the temptation to use them to spy on a rival’s nuclear programme or military installations might prove too strong to resist. If this were to happen, drones might gradually erode the deterrent relationships that exist between nuclear powers, thus magnifying the risks of a spiral of conflict between them.

#### No risk of drone collapsing deterence

Singh 12

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.

#### Rationality prevents nuclear war from occurring between india and pakistan

Chari 11

(research professor at the Institute for Peace and Conflict Studies in New Delhi, former member of the Indian Administrative Service. How they learned to stop worrying and junk the bomb, Mar 15, 2011,

A different line of reasoning is required to recognise the essential truth underlying nuclear weapons, which is that they are unusable for any rational purpose. Why? Clearly any use of NWs between nuclear adversaries would result in mutual annihilation; it will also lead to the destruction of the very population and territory in dispute. Clausewitz had warned that war without a rational objective is a senseless thing. The empirical evidence shows that, after the Cuban Missile Crisis in 1962, the United States and the Soviet Union had eschewed any direct confrontation. Significantly, the United States and Soviet Union were even willing to suffer humiliating defeat in Vietnam and Afghanistan rather than contemplate using or threatening the use of nuclear weapons due to the prevailing moral taboo against their use. South Asia, too, witnessed the Kargil conflict in 1999 after India and Pakistan had tested their nuclear weapons. Neither could enlarge the theatre of operations, fearing escalation of the conflict and possible nuclear confrontation.

#### Internal and external accountability mechanisms are effective now---and they’ll stay that way as drone missions increase

Jack Goldsmith 12, Harvard Law professor and a member of the Hoover Task Force on National Security and Law, 3/19/12, “Fire When Ready,” http://www.foreignpolicy.com/articles/2012/03/19/fire\_when\_ready

In this new age of drone warfare, probing the constitutional legitimacy of targeted killings has never been more vital. The Obama administration has carried out well over 200 drone strikes in its first three years, and the practice promises to ramp up even more in the next few years as the United States decreases its footprint in Afghanistan and relies even more heavily on special operations and covert actions centered around the use of drones. There are contested legal issues surrounding drone strikes, and -- in contrast to issues like military detention and military commissions -- courts have not pushed back against the presidency on this issue. But judicial review is not the only constitutional check on the presidency, especially during war. Awlaki's killing and others like it have solid legal support and are embedded in an unprecedentedly robust system of legal and political accountability that includes courts but also includes other institutions and actors as well.

When the Obama administration made the decision to kill Awlaki, it did not rely on the president's constitutional authority as commander in chief. Rather, it relied on authority that Congress gave it, and on guidance from the courts. In September 2001, Congress authorized the president "to use all necessary and appropriate force against those nations, organizations, or persons he determines" were responsible for 9/11. Whatever else the term "force" may mean, it clearly includes authorization from Congress to kill enemy soldiers who fall within the statute. Unlike some prior authorizations of force in American history, the 2001 authorization contains no geographical limitation. Moreover, the Supreme Court, in the detention context, has ruled that the "force" authorized by Congress in the 2001 law could be applied against a U.S. citizen. Lower courts have interpreted the same law to include within its scope co-belligerent enemy forces "associated" with al Qaeda who are "engaged in hostilities against the United States."

International law is also relevant to targeting decisions. Targeted killings are lawful under the international laws of war only if they comply with basic requirements like distinguishing enemy soldiers from civilians and avoiding excessive collateral damage. And they are consistent with the U.N. Charter's ban on using force "against the territorial integrity or political independence of any state" only if the targeted nation consents or the United States properly acts in self-defense. There are reports that Yemen consented to the strike on Awlaki. But even if it did not, the strike would still have been consistent with the Charter to the extent that Yemen was "unwilling or unable" to suppress the threat he posed. This standard is not settled in international law, but it is sufficiently grounded in law and practice that no American president charged with keeping the country safe could refuse to exercise international self-defense rights when presented with a concrete security threat in this situation. The "unwilling or unable" standard was almost certainly the one the United States relied on in the Osama bin Laden raid inside Pakistan.

These legal principles are backed by a system of internal and external checks and balances that, in this context, are without equal in American wartime history. Until a few decades ago, targeting decisions were not subject to meaningful legal scrutiny. Presidents or commanders typically ordered a strike based on effectiveness and, sometimes, moral or political considerations. President Harry Truman, for example, received a great deal of advice about whether and how to drop the atomic bomb on Hiroshima and Nagasaki, but it didn't come from lawyers advising him on the laws of war. Today, all major military targets are vetted by a bevy of executive branch lawyers who can and do rule out operations and targets on legal grounds, and by commanders who are more sensitive than ever to legal considerations and collateral damage. Decisions to kill high-level terrorists outside of Afghanistan (like Awlaki) are considered and approved by lawyers and policymakers at the highest levels of the government.

#### No impact to firebreak and it’s impossible to solve

Alejandro Sueldo 12, J.D. candidate and Dean’s Fellow at the University of California, Berkeley, School of Law and a PhD candidate at the Department of War Studies at King’s College London of the University of London, 4/11/12, “The coming drone arms race,” <http://dyn.politico.com/printstory.cfm?uuid=70B6B991-ECA7-4E5F-BE80-FD8F8A1B5E90>

Of particular concern are the legal and policy challenges posed if other states imitate the U.S. targeted killing program. For Washington is setting a precedent whereby states can send drones, often over sovereign borders, to kill foreigners or their own citizens, who are deemed threats. ¶ Other states may also follow Washington’s example and develop their own criteria to define imminent threats and use drones to counter them. ¶ Washington will find it increasingly difficult to protest other nations’ targeted killing programs — particularly when the United States has helped define this lethal practice. U.S. opposition will prove especially difficult when other states justify targeted killings as a matter of domestic affairs. ¶ Should enough states follow the U.S. example, the practice of preemptively targeting and killing suspected threats may develop into customary international law. ¶ Such a norm, however, which requires consistent state practice arising out of a sense of legal obligation, now looks unlikely. While targeted killing policies are arguably executed by states citing a legal obligation to protect themselves from imminent threats, widespread state practice is still uncommon. ¶ But international law does not forbid drones. And given the lack of an international regime to control drones, state and non-state actors are free to determine their future use. ¶ This lack of international consensus about how to control drones stems from a serious contradiction in incentives. Though drones pose grave challenges, they also offer states lethal and non-lethal capabilities that are of great appeal. Because the potential for drone technology is virtually limitless, states are now unwilling to control how drones evolve.

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### TKs=/=Drones

#### They conflate overall drone strategy and tareted killings

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

This feature of Predators and Reapers -- the two forms of drones really at issue today -- enables the second aspect of drone warfare: targeted killing, a method of using force that takes advantage of drone technology. But drones and targeted killing are not the same thing: One is a technology and weapon platform, the other a way to use it. Targeted killing can be done not only with drones, but with human teams, too, as seen most dramatically in the Bin Laden raid by the Navy SEALs.

Similarly, drones are useful for more than targeted killing. They have broad, indeed rapidly expanding, military functions as a weapons platform -- as evidenced in counterinsurgency strikes in Pakistan, Afghanistan, and Yemen against groups of fighters, not only individuals. This is conventional targeting of hostile forces in conventional conflict, just like one would see with a manned war plane. They have much in common. The pilot of a manned craft is often far away from the target, as would be a drone pilot -- over the horizon or many miles away. Unlike the drone pilot, however, he might have minimal situational awareness of the actual events on the ground at the target -- his knowledge may be nothing more than instrument data. A drone pilot may in fact have far greater visual and other sensor data than the pilot of a manned craft without handling the distractions caused by the work to keep a high-speed jet in the air.

#### Historical analysis proves

Afsheen John Radsan 12, Professor, William Mitchell College of Law, Assistant General Counsel at the Central Intelligence Agency from 2002 to 2004; and Richard Murphy, the AT&T Professor of Law, Texas Tech University School of Law, 2012, “The Evolution of Law and Policy for CIA Targeted Killing,” Journal of National Security Law & Policy, Vol. 5, p. 439-463

Some of the concerns about a CIA drone campaign relate to the personalized nature of targeted killing. All attacks in an armed conflict must, as a matter of basic law and common sense, be targeted. To attack something, whether by shooting a gun at a person or dropping a bomb on a building, is to target it. “Targeted killing,” however, refers to a premeditated attack on a specific person. President Franklin D. Roosevelt, for instance, ordered Admiral Yamamoto killed not because he was any Japanese sailor, but because he was the author of “tora, tora, tora” on Pearl Harbor. President Obama, more recently, ordered Osama bin Laden killed not because the Saudi was any member of al Qaeda, but because he was the author of 9/11 who continued to command the terrorist organization. Targeted killing is psychologically disturbing because it is individualized. It is easier for a U.S. operator to kill a faceless soldier in a uniform than someone whom the operator has been tracking with photographs, videos, voice samples, and biographical information in an intelligence file.

### Limits/Fair Ground 2NC

#### AND, our interp allows a fair number of affs means we don’t overlimit—sniper shots, poison letters, personality drone attacks, specific commando raids—while their interp allows reckless killings, non-premeditated attacks, and collateral damage affs AND our definition is precise and intuitive

Abresch 9 (William, 2009, “Targeted Killing in International Law” book review, original book by Nils Melzer, Oxford: Oxford University Press, 2008, <http://ejil.oxfordjournals.org/content/20/2/449.full>)

Studies of targeted killing are often situated within the politically fraught debate over Hellfire missile attacks on suspected terrorists. The scope of Melzer's analysis is, then, refreshingly broad, covering equally sniper shots used to end hostage stand-offs, poison letters sent to insurgent commanders, and commando raids launched with orders to liquidate opponents. These diverse practices are marked off from other uses of lethal force by states, such as soldiers shooting in a firefight, with a precise and intuitively satisfying definition. Melzer defines targeted killing as a use of lethal force by a subject of international law that is directed against an individually selected person who is not in custody and that is intentional (rather than negligent or reckless), premeditated (rather than merely voluntary), and deliberate (meaning that ‘the death of the targeted person [is] the actual aim of the operation, as opposed to deprivations of life which, although intentional and premeditated, remain the incidental result of an operation pursuing other aims’) (at 3–4). It is a strength of Melzer's book that, although the concepts deployed in this definition do not correspond with those found in either international human rights law or international humanitarian law (IHL), he eschews de lege ferenda argumentation in favour of a rigorous elaboration of the implications of the lex lata for the practices covered by his definition.

#### plan restricts the authority to enact targeted killings AND targeting on suspicion- topical version of the plan limits the restriction to personality strikes

Barela 2013

[Steven J., Postdoctoral Research Fellow, Faculty of Law, University of Geneva, “Book Reviews: Targeted Killings: Law and Morality in an Asymmetrical World” Journal of International Criminal Justice, J Int Criminal Justice (2013) 11 (1): 277, Nexis]

The concluding point here is not a critique of this book specifically, but rather to draw attention to the fact that the legal and moral contours of targeted killing continue to shift in important ways. Since this book went to press, the administration has indicated a legal focus upon the question of ′imminence′, n18 put forward the outlines of its own definition, n19 and formally admitted to drone strikes in countries where the United States is not at war. n20 Additionally, there have been significant revelations about the programme in the media. Most pointedly, there have been reports that the drone strikes in Pakistan are of two different types: (1) ′personality′ strikes where the target is a known terrorist leader; and (2) ′signature′ strikes which target groups of men believed to be militants associated with terrorist groups. n21 Since the latter action is said to constitute the bulk of the strikes carried out in that country, this suggests that much of the drone programme might be more accurately termed targeting on suspicion, rather than applying the more conventional term of ′targeted killing′.

### AT Reasonability

#### 3) It’s arbitrary and undermines research

Resnick 1

Evan Resnick 1, assistant professor of political science – Yeshiva University, “Defining Engagement,” Journal of International Affairs, Vol. 54, Iss. 2

In matters of national security, establishing a clear definition of terms is a precondition for effective policymaking. Decisionmakers who invoke critical terms in an erratic, ad hoc fashion risk alienating their constituencies. They also risk exacerbating misperceptions and hostility among those the policies target. Scholars who commit the same error undercut their ability to conduct valuable empirical research. Hence, if scholars and policymakers fail rigorously to define "engagement," they undermine the ability to build an effective foreign policy.

### 2NC terror

#### Precision and effectinveness of drone strikes is increasing

Munter 9-30

Cameron Munter 9-30, professor of practice in international relations at Pomona College, served as a U.S. Foreign Service Officer for nearly three decades, was Ambassador to Pakistan 2010-2012, 9/30/13, “Guest Post: A New Face in the U.S.-Pakistani Relationship,” <http://justsecurity.org/2013/09/30/cameron-munter-pakistan-relations/>

In doing so, however, we have made the image of a soldier or a drone the image of America’s strategic vision for Pakistan and the region. As 2014 approaches, and American troops end their combat mission in Afghanistan; as drone strikes in the Pakistani tribal areas appear to be fewer in number and more precise in targeting; as the general trends of the U.S. “pivot toward Asia” become clear, the soldier and the drone will be less common. Even though the President’s commitment to U.S. security does not waver, the reminders of his commitment will be fewer and far between – at least it would seem, seen from the street in Pakistan. ¶ Will that face of America – the M-16 and flak jacket, the film of a predator strike – remain, or can we replace it with something else? A different face of commitment, one that Americans have supported throughout the last decade but which has, in the Pakistani media (fairly or not) been shoved aside by the violence in the tribal areas and unrest throughout the country? That other commitment has been enormous expenditure by the U.S. government in support of economic growth, building schools, replacing crops destroyed by floods, refurbishing power plants, and improving health delivery services, to name just a few achievements. But few Pakistanis believe this aid has made a difference. Instead, they associate us only with the manifestations of the war on terror. ¶ In the coming month this can change. No, it should not just be a PR campaign to convince Pakistanis of our commitment to what they care about (not just what we care about). Certainly, PR is necessary, but lacking a new face, it won’t be sufficient. It will require two things. ¶ First, on the policy level, we must use the changes in 2014 to wrest U.S. policy toward Pakistan from its current status as derivative of the war in Afghanistan. Of course, Pakistan has an enormous role to play in security arrangements of the region in years to come. Its relationship to India, to China, to Iran, and of course to Afghanistan are very important as the international community seeks to find a just and equitable peace in the region. But we should make every effort to consider Pakistan’s needs. Not just the needs of the Pakistani military and intelligence leadership, important as they are. Rather, the needs of a country of nearly 200 million people whose stability and prosperity will be essential to the long-term stability and prosperity of the entire region. Pakistan’s success is not a guarantee of regional peace; but Pakistani failure is certainly a guarantee of regional strife. ¶ Second, on a practical level, we should provide a face of American commitment that we know, through decades of effort, is welcome. Polling shows consistently that while most Pakistanis are angry at America (citing security policies as the reason), most Pakistanis – across the political spectrum, rural and urban, young and old – want a better relationship with us. Why? Because despite all the searing problems of the last decade, they admire us: they admire our educational institutions, our business acumen, our commitment to philanthropy. And here, I believe, they can find the practical partners to renew Pakistani understanding of American commitment to the relationship. Universities, businesses, foundations. Students and teachers, businesspeople and investors, donors and grassroots workers. These are the faces of the relationship in which America can play to its strengths, and in doing so, help build a successful Pakistan that is so necessary for us to achieve our own strategic interests in South Asia and beyond. ¶ Recent press articles highlight just how worried we’ve been about Pakistan’s nuclear arsenal. And we should be worried. We need to know if that arsenal can be misused or fall into the wrong hands. But even a massive surveillance effort, while necessary, will be insufficient. We need to take modest but purposeful measures to help Pakistan remain stable. That’s not the same as focusing so overwhelmingly on immediate security concerns. We also need to engage in Pakistani politics, economics, society, where we have a much stronger hand to play than we perhaps realize. ¶ Certainly, such changes cannot take place overnight. After all, the main reason that we see so few American university professors or businesspeople in Pakistan is that it’s still considered too dangerous. Yes, Pakistan’s government must take on the terrorist challenge, and it is enormous. And when Pakistan’s new Interior Minister propose plans to make the best use of Pakistan’s internal security forces, we should engage with him and take seriously any requests for help. But I believe we have a chance to do so, a chance afforded by the potential change in the face of America in Pakistan: difficult as it is, painful as our experiences in Pakistan have been, let’s listen to them and see if their plans to tackle terrorism have a place for our help. It’s certainly in our interest and theirs. Who knows? If Pakistan’s new leadership is able to make real progress against terrorism, there may be another new face – a face of a Pakistan that is not the negative image so common in recent years, but a Pakistan where people of good will are determined to succeed, and ask the help of an old friend in doing so.

#### The link threshold’s as low as possible---internal executive standards are already as stringent as they can be without compromising mission effectiveness

McNeal 13

Gregory McNeal 13, Associate Professor of Law, Pepperdine University, 3/5/13, “Targeted Killing and Accountability,” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1819583>

In Part I we discussed the broad legal and policy determinations that lead to the creation of kill-lists, in Part II we narrowed our focus to the bureaucratic and political vetting of those lists. Now the article turns to the legal and policy considerations that inform the kinetic implementation of the targeted killing policy. When it comes time to eliminate a person on the kill-list, the United States has developed an extensive pre-execution set of policies, doctrine and practices designed to ensure that a target is in fact the person on the kill-list. Similarly, once that target is correctly identified, an elaborate process exists for estimating and mitigating the incidental harm to nearby civilians and civilian objects (so called collateral damage) that might flow from attacking the kill-list target. Discussing the mixture of law and policy applicable to the execution of a targeted killing is critical because in most contemporary operations the policy guidelines, special instructions, and rules of engagement are so restrictive that legal issues will rarely be the determinative factor in a strike.225 Rather, policy instruments will often prohibit attacks against persons that would clearly qualify as lawful targets under the law of armed conflict, and those instructions will place such a low threshold for acceptable collateral damage that attacks are usually prohibited before an operation could ever inflict “excessive” harm to civilians.226 As will be discussed in the end of this Part, where policy instruments differ as to strike authority or “acceptable collateral damage” (e.g strikes in Pakistan versus Afghanistan) we see a difference in the number of reported civilian casualties per strike, suggesting that policy instruments can have a significant impact on the conduct of targeted killings.

#### Plan would collapse military effectiveness and command structure---causes second-guessing of every battlefield decision

Delery 12

Stuart F. Delery 12, Principal Deputy Assistant Attorney General, Civil Division, 12/14/12, Defendants’ Motion to Dismiss, NASSER AL-AULAQI, as personal representative of the estate of ANWAR AL-AULAQI, et al., Plaintiffs, v. LEON E. PANETTA, et al., in their individual capacities, Defendants, No. 1:12-cv-01192 (RMC), <http://www.lawfareblog.com/wp-content/uploads/2012/12/MTD-AAA.pdf>

First, the D.C. Circuit has repeatedly held that where claims directly implicate matters involving national security and particularly war powers, special factors counsel hesitation. See Doe, 683 F.3d at 394-95 (discussing the “strength of the special factors of military and national security” in refusing to infer remedy for citizen detained by military in Iraq); Ali, 649 F.3d at 773 (explaining that “the danger of obstructing U.S. national security policy” is a special factor in refusing to infer remedy for aliens detained in Iraq and Afghanistan (internal quotation and citation omitted)); Rasul v. Myers, 563 F.3d 527, 532 n.5 (D.C. Cir. 2009) (same for aliens detained at Guantánamo Bay). These cases alone should control Plaintiffs’ claims here. Plaintiffs challenge the alleged targeting of and missile strikes against members of AQAP in Yemen. Few cases more clearly present “the danger of obstructing U.S. national security policy” than this one. Ali, 649 F.3d at 773. Accordingly, national security considerations bar inferring a remedy for Plaintiffs’ claims.19¶ Second, Plaintiffs’ claims implicate the effectiveness of the military. As with national security, the D.C. Circuit has consistently held that claims threatening to undermine the military’s command structure and effectiveness present special factors. See Doe, 683 F.3d at 396; Ali, 649 F.3d at 773. Allowing a damages suit brought by the estate of a leader of AQAP against officials who allegedly targeted and directed the strike against him would fly in the face of explicit circuit precedent. As the court in Ali explained: “It would be difficult to devise more effective fettering of a field commander than to allow the very enemies he is ordered to reduce to submission to call him to account in his own civil courts and divert his efforts and attention from the military offensive abroad to the legal defensive at home.” 649 F.3d at 773 (quoting Eisentrager, 339 U.S. at 779). Moreover, allowing such suits to proceed “would diminish the prestige of our commanders, not only with enemies but with wavering neutrals.” Id.; see also Vance, 2012 WL5416500 at \*5 (“The Supreme Court’s principal point was that civilian courts should not interfere with the military chain of command . . . .”); Lebron, 670 F.3d at 553 (barring on special factors grounds Bivens claims by detained terrorist because suit would “require members of the Armed Services and their civilian superiors to testify in court as to each other’s decisions and actions” (citation and internal quotation omitted)). ¶ Creating a new damages remedy in the context of alleged missile strikes against enemy forces in Yemen would have the same, if not greater, negative outcome on the military as in the military detention context that is now well-trodden territory in this and other circuits. These suits “would disrupt and hinder the ability of our armed forces to act decisively and without hesitation in defense of our liberty and national interests.” Ali, 649 F.3d at 773 (citation and internal quotation omitted). To infuse such hesitation into the real-time, active-war decision-making of military officers absent authorization to do so from Congress would have profound implications on military effectiveness. This too warrants barring this new species of litigation.

#### 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.

### 2NC No Modeling

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

Wright 12

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

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

#### No one will follow US lead on drones – especially Russia and China

Boot ‘11

[Max Boot is a leading military historian and foreign-policy analyst. The Jeane J. Kirkpatrick Senior Fellow in National Security Studies at the Council on Foreign Relations in New York, he is the author of the critically acclaimed New York Times bestseller "Invisible Armies: An Epic History of Guerrilla Warfare from Ancient Times to the Present." <http://www.commentarymagazine.com/2011/10/09/drone-arms-race/> ETB]

This is a familiar trope of liberal critics who are always claiming we should forego “X” weapons system or capability, otherwise our enemies will adopt it too. We have heard this with regard to ballistic missile defense, ballistic missiles, nuclear weapons, chemical and biological weapons, land mines, exploding bullets, and other fearsome weapons. Some have even suggested the U.S. should abjure the first use of nuclear weapons–and cut down our own arsenal–to encourage similar restraint from Iran. The argument falls apart rather quickly because it is founded on a false premise: that other nations will follow our example. In point of fact, Iran is hell-bent on getting nuclear weapons no matter what we do; China is hell-bent on getting drones; and so forth. Whether and under what circumstances they will use those weapons remains an open question–but there is little reason to think self-restraint on our part will be matched by equal self-restraint on theirs. Is Pakistan avoiding nuking India because we haven’t used nuclear weapons since 1945? Hardly. The reason is that India has a powerful nuclear deterrent to use against Pakistan. If there is one lesson of history it is a strong deterrent is a better upholder of peace than is unilateral disarmament–which is what the New York Times implicitly suggests. Imagine if we did refrain from drone strikes against al-Qaeda–what would be the consequence? If we were to stop the strikes, would China really decide to take a softer line on Uighurs or Russia on Chechen separatists? That seems unlikely given the viciousness those states already employ in their battles against ethnic separatists–which at least in Russia’s case already includes the suspected assassination of Chechen leaders abroad. What’s the difference between sending a hit team and sending a drone? While a decision on our part to stop drone strikes would be unlikely to alter Russian or Chinese thinking, it would have one immediate consequence: al-Qaeda would be strengthened and could regenerate the ability to attack our homeland. Drone strikes are the only effective weapon we have to combat terrorist groups in places like Pakistan or Yemen where we don’t have a lot of boots on the ground or a lot of cooperation from local authorities. We cannot afford to give them up in the vain hope it will encourage disarmament on the part of dictatorial states.

### 2NC No Indo-Pak War

#### International pressure ensure no indo-pak war

Dhanda 11

[Suresh Dhanda, Department of Political Science, S.A.Jain College,, Haryana, India, International Affairs and Global Strategy www.iiste.org ISSN 2224-574X (Paper) ISSN 2224-8951 (Online) Vol 2, 2011, “Dangers of Missile Race in South Asia: an India-Pakistan Perspective” http://www.iiste.org/Journals/index.php/IAGS/article/view/1065/985 SS]

Fourthly, India and Pakistan will face international opprobrium if they opt to deploy nuclear weapons. **Although the international community** may have **reluctantly accepted their possession of nuclear weapon**s, the transition to operational deployments will likely lead to **sanctions and isolation**. **This** factor is unique to South Asia and **constrains the implementation of deterrence strategies by Pakistan and India.** For example, **during the Kargil conflict, reports that both countries had activated and deployed their nuclear missile forces triggered intense international pressure on both countries**.6 **National actions,** such as signaling, **that play a role in deterrence strategy may thus be constrained by international pressure**. In contrast, offensive conventional force deployments do not seem to engender the same level of concern in the international community.

## Polt

# XO CP

#### And, it matches the academic debate

Sinnar, assistant professor of law at Stanford Law School, May 2013

(Shirin, “Protecting Rights from Within? Inspectors General and National Security Oversight,” 65 Stan. L. Rev. 1027, Lexis)

More than a decade after September 11, 2001, the debate over which institutions of government are best suited to resolve competing liberty and national security concerns continues unabated. While the Bush Administration's unilateralism in detaining suspected terrorists and authorizing secret surveillance initially raised separation of powers concerns, the Obama Administration's aggressive use of drone strikes to target suspected terrorists, with little oversight, demonstrates how salient these questions remain. Congress frequently lacks the [\*1029] information or incentive to oversee executive national security actions that implicate individual rights. Meanwhile, courts often decline to review counterterrorism practices challenged as violations of constitutional rights out of concern for state secrets or institutional competence. n1¶ These limitations on traditional external checks on the executive - Congress and the courts - have led to increased academic interest in potential checks within the executive branch. Many legal scholars have argued that executive branch institutions supply, or ought to supply, an alternative constraint on executive national security power. Some argue that these institutions have comparative advantages over courts or Congress in addressing rights concerns; others characterize them as a second-best option necessitated by congressional enfeeblement and judicial abdication.

# DA

### Overview

#### 4. And we have the stronger internal link to international escalation – trade reduces conflict escalation

Morrow, Research Fellow at the Hoover Institution at Stanford University, ’99 (James, “How Could Trade Affect Conflict?” Journal of Peace Research, Vol 36 No 4, p 481-489, SagePub)

For war to occur, both i and j must be willing to escalate. The likelihood function then requires both conditions above, both of which require the bivariate distribution of unobservable resolve. A complete estimation of the conflict process, including both initiation and escalation, can and should be done with one likelihood function (Reed, 1998). In review, international conflict occurs because states cannot fully observe one another’s resolve for war. A state considering the initiation of a militarized dispute compares its own resolve to what it knows about the resolve of its target. It must also possess a credible threat in the sense that the target must believe that it is possible for the initiator to prefer war to the status quo. In a crisis, the sides signal their unobservable resolve through the exchange of threats. A side escalates to violence or concedes the stakes based on what it has learned about the other side’s resolve from the latter’s actions in the crisis. The greater its resolve relative to what it believes the other side’s resolve, the more likely a state is to escalate to violence. Escalation to war requires both sides to use violence. Trade, Conflict, and Resolve If trade prevents conflict, it does so by altering the terms of the argument above. Trade flows are observable ex ante and so are part of observable resolve in cases where we look at aggregate trade flows or a measure of interdependence based on trade and size of the economy. Precisely because trade flows are ex ante observable, we can use them as an independent variable in statistical models of dispute initiation and escalation. The common argument is that higher trade flows reduce a state’s resolve to fight due to the fear of losing the trade-war should break out. That is, the expectation is that resolve declines as trade increases, making war less attractive, with the understanding that the value of trade should be assessed by a measure of dependence. If higher levels of trade reduce a nation’s resolve for war against its trading partners, the argument above implies that the effect of trade on the initiation and escalation of disputes is indeterminate. Relative resolve determines the willingness of a state to initiate a crisis. A prospective initiator considers the likely response of the intended target of its threat; if the latter is likely to yield the stakes without a fight, then the former is more likely to use a threat to make a demand of the latter. If two states have a high level of trade, and higher levels of trade reduce resolve, the two could be more or less likely to have militarized disputes with each other, compared to a pair of states with a low level of trade. The threat of the loss of trade could either deter the prospective initiator or intimidate its target into making concessions, and so encourage the prospective initiator.

### AT: TPP Fails

#### Talks succeeding Now, TPP key

Reuters 1/24 < Pacific Trade Partners Working on Final Stages for Agreement: U.S. Official, http://www.insurancejournal.com/news/international/2014/01/24/318274.htm>#SPS

Pacific Rim trading partners are working to resolve the last thorny issues in sealing an ambitious free trade pact and are likely to have further high-level talks next month, a senior U.S. trade official said on Wednesday.¶ Acting Deputy U.S. Trade Representative Wendy Cutler said sensitive and difficult issues were typically the ones worked out in the final stages of any trade agreement and the Trans-Pacific Partnership was in that phase now.¶ “We are now in the end-game of the TPP negotiations and momentum is mounting to close the remaining gaps in the agreement,” she told a Center for Strategic and International Studies conference.¶ “The TPP countries are now in the process of scheduling the next meeting of TPP ministers, which is likely to take place next month.”¶ The United States had aimed to finish the TPP in 2013 but the last round of negotiations in December failed to reach an agreement. Cutler declined to give a new target for finalizing the pact, which would span 12 countries making up nearly 40 percent of the global economy.¶ Outstanding issues in the TPP include levels of intellectual property and environmental protection and market access for agricultural products, a major sticking point for countries including Japan, the United States and Australia.¶ The United States is also facing a policy fight close to home over whether the White House should be granted fast-track authority to close the TPP and other trade deals and put them before Congress for an up or down vote without amendments.¶ Republican lawmakers have urged the U.S. administration to do more to push fast-track legislation currently before Congress. The proposed bill has been criticized by some members of President Barack Obama’s Democrats for having insufficient protection for local workers and industry.¶ U.S. Trade Representative Michael Froman, who will meet with some of his TPP counterparts on the sidelines of global economic talks in Davos this week, said the Obama administration was keen to get Congress to approve this so-called Trade Promotion Authority.¶ “The administration has made clear that we’d like to get TPA, we’d like it to have as broad bipartisan support as possible,” he told reporters before leaving for Davos.¶ Securing fast-track authority would be seen as a boost for TPP talks between the United States, Canada, Japan, Australia, New Zealand, Singapore, Malaysia, Brunei, Vietnam, Chile, Mexico and Peru. Mexico’s economy minister said last week the pact could be wrapped up as early as April.

#### Will succeed

Hepworth and Elliott 1/24 <GEOFF ELLIOTT AND ANNABEL HEPWORTH, THE AUSTRALIAN, “'Endgame' in talks on Pacific trade deal,” JANUARY 24, 2014, http://www.theaustralian.com.au/national-affairs/policy/endgame-in-talks-on-pacific-trade-deal/story-fn59nm2j-1226809025121#>#SPS

AUSTRALIAN businesses are gearing up to tap regional markets after a senior US trade representative declared the trans-Pacific Partnership between Australia and 11 other Pacific nations was at the "endgame" and the Obama administration was keen to expand the partnership.¶ In a bullish assessment that was yesterday welcomed by the Australian business community, Wendy Cutler, the acting deputy US Trade Representative, told a conference on emerging Asia that the TPP "is going to be completed and it is going to set the economic architecture for the region".

#### T-TIP key to US-EU relations and EU soft power

Brattberg, 13 – Swedish Institute of International Affairs analyst

[Erik, currently Visiting Fellow at the Atlantic Council of the United States and a Non-Resident Fellow at the Paul H. Nitze School of Advanced International Studies (SAIS) at Johns Hopkins University, "The Geopolitical Importance of TTIP," 11-8-13, www.euglobalstrategy.eu/nyheter/opinions/reinventing-the-west-the-geopolitical-importance-of-ttip, accessed 1-3-14]

Although the obstacles remain several, European and American leaders have very good reasons to keep pushing for a TTIP deal. Besides the immediate positive economic effects for both sides, the agreement could also give spark to a more strategic transatlantic relationship – something that is desperately needed. As former Secretary of State Hillary Clinton has observed, TTIP could potentially serve as a second anchor, in addition to NATO, binding together the US and the EU. Along similar lines, the European Global Strategy report correctly notes that TTIP, if successful, could ‘spill over into more robust political and security cooperation’ between the US and Europe. There is a great sense of urgency to this task. 2015 will mark the ten-year anniversary of the New Transatlantic Agenda (NTA). Originally established by the Clinton White House, this framework was designed to bring the US and EU together. While some progress has been made over the past decade, the US-EU relationship remains far from strategic in nature. Washington still prefers to deal with European countries on a strictly bilateral level, rather than with Brussels. Clearly, a New Transatlantic Compact requires a new set of leadership structures. Moreover, the disappointments as of late with creating a robust EU security and defense policy has reinforced the notion that NATO is the only Euro-Atlantic security organization that really matters. While the US wants a strong EU as its core partner, it is uncertain about Brussels’ level of ambition. In fact, Washington currently thinks the EU has no ambition whatsoever. If Europe and the US can agree on TTIP it would send a signal to Washington that Brussels is indeed a serious strategic partner. If so, this could be the start of a recreated and re-invented transatlantic relationship. The development of a more strategic EU-US relationship could also help allay fears regarding the US ‘abandonment’ of Europe. While US strategic thinking is changing – and fast (the so-called ‘Asian pivot’ is only the beginning) – a more strategic transatlantic relationship would still serve a critical function for Washington, and not just on the security side of things. The drawdown of the military mission in Afghanistan means that the US will have less need for Europe in coming years. Focusing more on global economic and trade issues could constitute a new strategic imperative for closer EU-US ties. At the same time, for the EU, which still views itself predominantly as a global soft power, TTIP could help the union utilize its role as the world’s single largest trading bloc in a more strategic way. The EGS report correctly notes that the EU must seek to ‘maximize the opportunities that trade and development provide as a means of pursuing its strategic objectives’. TTIP is accordingly an opportunity for Europe to reinforce its role as a global trading superpower. In summary, Europe must strive for an ambitious and comprehensive TTIP. Such an agreement would not only generate economic growth on both sides of the Atlantic, it would also pave the way for a more strategic transatlantic partnership. As US strategic attention is quickly fading away from Europe toward the global East and South, an agreement could send a message to Washington that Europe remains America’s core partner in the world. In doing so, Europe could also draw on its unique strengths as a global trading superpower, but apply these strengths more strategically.

#### US-EU relations key to global war

O'Sullivan, 4 -- National Interest editor

(John, Nixon Center for Peace and Freedom Distinguished Fellow in International Relations, "Europe and the Establishment," The National Interest, 7-31-2004, nationalinterest.org/article/europe-and-the-establishment-2608]

### AT: Uniqueness

#### TPA will pass but political capital is key-failure collapses global trade momentum

Financial Times 1/20/14

http://www.ft.com/intl/cms/s/0/60506de0-7f9c-11e3-b6a7-00144feabdc0.html#axzz2qtDiKryq

US trade debate prompts fears of delay in talks

A heated debate over trade in the US Congress risks stalling two trade negotiations that cover 70 per cent of the global economy, senior international officials have warned. For President Barack Obama the key to sealing both the Trans-Pacific Partnership and a deal with the EU is securing so-called fast-track authority. It gives the White House power to negotiate trade deals and limits Congress’s ability to intervene in nitty-gritty details once talks are concluded. If Mr Obama fails, it would scupper his ambitious second-term trade agenda. He has already hit stumbling blocks as he missed his self-imposed aim to reach a preliminary agreement with TPP members by the end of 2013. It would also threaten US-led efforts in Geneva to update the rules for the $4tn annual trade in services around the world. After months of haggling, Congressional leaders this month introduced a bipartisan bill to grant Mr Obama what is formally known as Trade Promotion Authority (TPA). But it is already facing opposition from many Democrats and criticism from Republicans who want Mr Obama to do more to bring his own party into line. In an interview with the Financial Times, Ildefonso Guajardo Villarreal, Mexico’s economy minister, said governments in the TPP talks, in which it is a member, were unlikely to offer any significant concessions until they were sure Mr Obama had fast-track authority and any agreement could get through the US Congress. “We have to wait until we really get a better sense of how things evolve. From a negotiating point of view . . . things will go along slowly until that happens,” Mr Guajardo Villarreal said, adding he believed the Obama administration would eventually secure fast-track authority. “If they are able to send a strong signal of support from Congress that will make it easier for us to finish the deal.” The TPP negotiations are further along than the EU talks so the immediate impact is likely to be greater on those talks. But a senior European official said officials in Brussels were bracing for a TPA debate that could last through this year and would inevitably affect negotiations. “Without TPA we will always feel very reticent to show our real red lines,” the official said. Administration officials remain confident that they can get the bill through Congress and Michael Froman, the US trade representative, said there was no reason for the fast-track debate in Washington to affect the progress of any trade negotiations. “Every TPP partner has domestic politics, from elections to legislative battles over various policies that could impact the agreement,” he said. “We trust our partners to manage their own domestic processes, and we will be working with our Congress to pass broadly supported trade promotion authority here. In the meantime, there is no reason talks should slow.” The bill is raising concern among negotiating partners. It would require the administration to include mechanisms to address currency manipulation in agreements, a sore point for TPP partner Japan. It also would require any deal the US enters to have strict, environmental, labour and intellectual property rules. EU officials are concerned about a section of the bill which would give some members of Congress the right to attend negotiations. The concern in Brussels is that it could cause the European parliament to request the same access and thus add a political element to the complex negotiations. Deborah Elms, an American TPP expert at Singapore’s S. Rajaratnam School of International Studies, said the concerns of other TPP countries over the conditions in the bill, particularly on currency, should not be underestimated. But, above all, she said, President Obama needed to send a signal in this month’s State of the Union address that he was prepared to push for fast-track authority. “You have two big negotiations that are a bit stuck waiting for Congress to move,” she said. “This is the time [to spend political capital]. Your whole trade agenda is stuck unless you get [fast-track authority] very soon.”

### AT: Link Turn

#### Prefer Kriner - only comprehensive study

Fowler 10

Professor of Government, Chair in Policy Studies at Dartmouth [Linda L. Fowler, After the Rubicon, CONGRESS, PRESIDENTS, AND THE POLITICS OF WAGING WAR, http://press.uchicago.edu/ucp/books/book/chicago/A/bo10156999.html]

Studies of war and research on Congress typically stand in isolation from each other. Kriner’s new book demonstrates big payoffs from examining the two in concert. He shows how the balance of party power in the legislature trumps conventional strategic variables in explaining the duration of U.S. military conflicts. Kriner also reveals how informal legislative actions, such as hearings, investigations, and resolutions, limit the president’s use of force. The book draws on a wide range of statistical and qualitative evidence and should cause even diehard realists to look more seriously at domestic constraints on U.S. actions abroad. In sum, Kriner’s work suggests that reports of Congress’s death as a participant in international relations are greatly exaggerated.

#### Discussion is coopted – sucks up PC and is a loss

Vladeck 13

(Steve--- professor of law and the associate dean for scholarship at American University Washington College of Law, “Drones, Domestic Detention, and the Costs of Libertarian Hijacking”, 3/14, <http://www.lawfareblog.com/2013/03/drones-domestic-detention-and-the-costs-of-libertarian-hijacking/>)

The same thing appears to be happening with targeted killings. Whether or not Attorney General Holder’s second letter to Senator Paul actually answered the relevant question, it certainly appeared to mollify the junior Senator from Kentucky, who declared victory and withdrew his opposition to the Brennan nomination immediately upon receiving it. Thus, as with the Feinstein Amendment 15 months ago, the second Holder letter appears to have taken wind out of most of the libertarian critics’ sails, many of whom (including the Twitterverse) have now returned to their regularly scheduled programming. It seems to me that both of these episodes represent examples of what might be called “libertarian hijacking”–wherein libertarians form a short-term coalition with progressive Democrats on national security issues, only to pack up and basically go home once they have extracted concessions that don’t actually resolve the real issues. Even worse, in both cases, such efforts appeared to consume most (if not all) of the available oxygen and political capital, obfuscating, if not downright suppressing, the far more problematic elements of the relevant national security policy. Thus, even where progressives sought to continue the debate and/or pursue further legislation on the relevant questions (for an example from the detention context, consider Senator Feinstein’s Due Process Guarantee Act), the putative satisfaction of the libertarian objections necessarily arrested any remaining political inertia (as Wells cogently explained in this post on Senator Paul and the DPGA from November).

#### **Losers lose - the plan saps capital and causes defections**

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

Declining political authority encourages defection. 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.

#### GOP hates the plan

Munoz 13

(Carlo, The Hill, “No court for drone oversight, says GOP” 2/13/13 http://thehill.com/blogs/defcon-hill/policy-and-strategy/282687-no-court-for-drones-says-gop)

Senate Republicans on Tuesday ruled out placing armed drone strikes under the authority of a special court, arguing the move would be a dangerous intrusion on presidential power. Sen. Dianne Feinstein (D-Calif.) last week raised the idea of creating a new oversight court for drones that would be patterned after the checks and balances that govern surveillance. But senior Republicans in the Senate dismissed that plan as unrealistic, and warned it would undermine critical counterterrorism efforts. “I think it is a terrible idea,” Sen. Lindsey Graham (R-S.C.) told The Hill. A new court would be “the biggest intrusion ... in the history of [this] country” on the president’s authority as commander in chief, Graham said. Click here to find out more! The recent release of a white paper that spells out the administration’s rationale for drone attacks against terrorism suspects overseas — including U.S. citizens — has put pressure on both parties to put the operations on firmer ground. Sen. John McCain (R-Ariz.) said the concerns about drone oversight could be resolved by handing the program over to the military. “You just need to move it to the Department of Defense,” McCain told reporters. “We are talking about using equipment to kill people.” While “there may be some role to play” for the CIA and the U.S. intelligence community, placing armed drones under the exclusive control of the Pentagon “solves the problem” of balancing oversight with national security, McCain said. Feinstein floated the idea of an oversight court patterned after the Foreign Intelligence and Surveillance Act (FISA) after last week’s confirmation hearing for John Brennan, President Obama’s pick to head the CIA. Brennan stressed in his public testimony that the administration only authorizes lethal force against U.S. citizens as a “last resort to save lives when there is no other alternative.” But some lawmakers argue that the drone powers cannot continue to be treated as a presidential prerogative. FISA established a special federal court to approve surveillance on suspected foreign spies working inside the United States. Feinstein, the chairwoman of the Senate Intelligence Committee, suggested a similar federal court could be created to review possible targets compiled by the CIA for lethal drone attacks. But the creation of a FISA-like court for drone strikes has been met with fierce resistance from Republicans who say protecting the nation must always come first. “We don’t allow [the judicial branch] to control the commander in chief’s decision to send people into battle,” Graham said. “Courts are not trained for this. They are not in the targeting business. Who the enemy is composed of and who represents a threat is a military decision, not a criminal decision.” Asked whether he would support McCain’s notion of fully transitioning the program to the Pentagon, Graham replied: “That might make a lot of sense [and] I might be open to that.” Sen. Chuck Grassley (R-Iowa), who was one of several Republicans pushing for the release of the classified legal rulings on drones, also rejected a court as the wrong approach. “There would have to be an analysis other than FISA,” Grassley said. “I am not saying there should not be some curbs on the [administration’s] power over drones, but I do not think it can be a court [system].” One powerful Democrat said he shares concerns about bureaucratic red tape hampering the president. Senate Armed Services Committee Chairman Carl Levin (D-Mich.) said some kind of “independent review” of the White House counterterrorism program was necessary — but not necessarily involving a judge. “We have got to at least consider some ways ... to have some kind of independent review of the targets,” he said, “[but] I am not sure courts are the right way to do it.” One problem with a courts-based approach, according to Levin and Grassley, is the lengthy review process that comes with it. Many times, the window of time to take out suspected terror targets via drone strikes is very small. Grassley said a drawn-out review process in the courts could result in U.S. military and intelligence officials missing an opportunity to take out a terror suspect. “In most instances of FISA, you are trying to track people that [pose] an imminent danger, sometime down the road,” Grassley said. “When you are commander in chief, you need to be able to act right now.” Former Defense Secretary Robert Gates has also questioned the viability of legal reviews of the strikes due to the time constraints inherent to the operations, according to Levin. Sen. Kelly Ayotte (R-N.H.) suggested the oversight role for the armed drone program can and should fall to Capitol Hill. “There needs to be more robust congressional oversight of the drone program,” she said, adding the FISA-like court approach “is not workable, in light of how quick you have to move once you find a target.” For her part, Feinstein said members of the Senate Intelligence and Judiciary panels “really haven’t put anything together [yet]” on a proposal for a FISA-like court for armed drone operations. “We will look into it, [but] we are trying to get the Brennan nomination done first,” she said. Feinstein’s panel will weigh in on Brennan’s nomination on Thursday. He is expected to clear the committee and be confirmed by the Senate despite the controversy surrounding his role in creating the armed drone program during his time at CIA and in the Obama administration.

#### Popularity is irrelevant—no capacity for the plan

John Grant, Minority Counsel for the Senate Committee on Homeland Security and Governmental Affairs, 8/13/2010, Will There Be Cybersecurity Legislation?, jnslp.com/2010/08/13/will-there-be-cybersecurity-legislation/

In the course of just a few decades, information technology has become an essential component of American life, playing a critical role in nearly every sector of the economy. Consequently, government policy affecting information technology currently emanates from multiple agencies under multiple authorities – often with little or no coordination. The White House’s Cyberspace Policy Review (the Review) wisely recognized that the first priority in improving cybersecurity is to establish a single point of leadership within the federal government and called for the support of Congress in pursuit of this agenda.¶ Congressional involvement in some form is inevitable, but there is considerable uncertainty as to what Congress needs to do and whether it is capable of taking action once it decides to do so. With an agenda already strained to near the breaking point by legislation to address health care reform, climate change, energy, and financial regulatory reform – as well as the annual appropriations bills – the capacity of Congress to act will depend, in some part, on the necessity of action. For the last eight years, homeland security has dominated the congressional agenda. With the memory of the terrorist attacks of September 11 becoming ever more distant, there may be little appetite for taking on yet another major piece of complex and costly homeland security legislation.

### AT: Obama Link Turn

#### Obama would backlash to the plan REGARDLESS of who enacts it – that turns case

Epps 13

(Feb 16, “Why a Secret Court Won't Solve the Drone-Strike Problem,” The Atlantic, Garrett, <http://www.theatlantic.com/politics/archive/2013/02/why-a-secret-court-wont-solve-the-drone-strike-problem/273246/>)

Professor Stephen I. Vladeck of American University has offered a remedy to this problem. He proposes a statute in which Congress assigns jurisdiction to a specific judicial district, probably the District Court for the District of Columbia. Congress in the statute would strip the executive of such defenses as "state secrets" and "political question." Survivors of someone killed in a drone attack could bring a wrongful-death suit. The secret evidence would be reviewed by the judge, government lawyers, and the lawyers for the plaintiff. Those lawyers would have to have security clearance; the evidence would not be shown to the plaintiffs themselves, or to the public. After review of the evidence, the court would rule. If the plaintiffs won, they would receive only symbolic damages--but they'd also get a judgment that the dead person had been killed illegally.¶ It's an elegant plan, and the only one I've seen that would permit us to involve the Article III courts in adjudicating drone attacks. Executive-power hawks would object that courts have no business looking into the president's use of the war power. But Vladeck points out that such after-the-fact review has taken place since at least the Adams administration. "I don't think there's any case that says that how the president uses military force--especially against a U.S. citizen--is not subject to judicial review," he said in an interview. "He may be entitled to some deference and discretion, but not complete immunity."¶ The real problem with Vladeck's court might be political. I expect that any president would resist such a statute as a dilution of his commander in chief power, and enactment seems unlikely. Without such a statute, then, systematic review of secret drone killings must come inside the executive branch.

#### It’s the authority that matters—Obama believes he needs discretion for how he uses drones

Radsan and Murphy 12 (Afsheen John – Professor, William Mitchell College of Law; Assistant General Counsel at the Central Intelligence Agency from 2002 to 2004, and Richard – AT&T Professor of Law, Texas Tech University School of Law, “The Evolution of Law and Policy for CIA Targeted Killing”, 2012, 5 J. Nat'l Security L. & Pol'y 439, lexis)

This scenario emphasizes a simple point: President Obama, a Harvard Law School graduate, a former teacher of constitutional law at the University of Chicago and a Nobel Peace Laureate, must believe that he has the authority to order the CIA to fire missiles from drones to kill suspected terrorists. Not everyone agrees with him, though. For almost a decade now, the United States has been firing missiles from unmanned drones to kill people identified as leaders of al Qaeda and the Taliban. This "targeted killing" has engendered controversy in policymaking and legal circles, spilling into law review articles, op-ed pieces, congressional hearings, and television programs. n2 On one level, this [\*441] controversy is curious. A state has considerable authority in war to kill enemy combatants - whether by gun, bomb, or cruise missile - so long as those attacks obey basic, often vague, rules (e.g., avoidance of "disproportionate" collateral damage). So what is so different about targeted killing by drone? Some of the concerns about a CIA drone campaign relate to the personalized nature of targeted killing. All attacks in an armed conflict must, as a matter of basic law and common sense, be targeted. To attack something, whether by shooting a gun at a person or dropping a bomb on a building, is to target it. "Targeted killing," however, refers to a premeditated attack on a specific person. President Franklin D. Roosevelt, for instance, ordered Admiral Yamamoto killed not because he was any Japanese sailor, but because he was the author of "tora, tora, tora" on Pearl Harbor. President Obama, more recently, ordered Osama bin Laden killed not because the Saudi was any member of al Qaeda, but because he was the author of 9/11 who continued to command the terrorist organization. Targeted killing is psychologically disturbing because it is individualized. It is easier for a U.S. operator to kill a faceless soldier in a uniform than someone whom the operator has been tracking with photographs, videos, voice samples, and biographical information in an intelligence file. There is also concern that drones will attack improperly identified targets or cause excessive collateral damage. Targets who hide among peaceful civilians heighten these dangers. Of course, drone strikes should be far more precise than bombs dropped from a piloted aircraft. The lower [\*442] "costs" of drone strikes, however, encourage governments to resort to deadly force more quickly - a trend that may accelerate as drone technology rapidly improves and perhaps becomes fully automated through advances in artificial intelligence. Paradoxically, improved precision could lead to an increase in deadly mistakes. Another concern relates to granting an intelligence agency trigger authority. Entrusting drones to the CIA, an intelligence agency with a checkered history as to the use of force whose activities are largely conducted in secret, heightens concerns in some quarters that strikes may sometimes kill the wrong people for the wrong reasons. If applied sloppily or maliciously, targeted killing by drones could amount to nothing more than advanced death squads. For these and related reasons, the use of killer drones merits serious thought and criticism. Along these lines, many opponents of the reported CIA program have decried it as illegal. Without questioning their sincerity, one can acknowledge the soundness of their tactics. "Law talk" offers them a strong weapon. How could anyone, without shame or worse, support an illegal killing campaign? Illegality is for gangsters, drug dealers, and other outlaws - not the Oval Office.

#### Obama will attempt to block any congressional limitations

Weber 13 (Peter, The Week, degree from Northwestern, “Will Congress curb Obama's drone strikes? “, February 6, 2013, <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.

#### Obama would fight restrictions on his authority --- fiat means he loses

Scheuerman 13 (William, Professor of Political Science at Indiana University, PhD from Harvard, Barack Obama's "war on terror", Eurozine, 3/7, http://www.eurozine.com/pdf/2013-03-07-scheuerman-en.pdf)

Given dual democratic legitimacy, holders of executive power face deeply rooted institutional incentives to retain whatever power or authority has landed¶ in their laps. Fundamentally, their political fate is separate from that of the¶ legislature's. They have to prove −− on their own −− that they deserve the trust placed in them by the electorate. Unlike prime ministers in parliamentary¶ regimes, they also face strict term limits. As astute observers have noted, this¶ provides political life in presidential regimes with a particular sense of urgency¶ since the executive will only have a short span of time in which to advance his¶ or her program. Presidentialism's strict separation of powers means that the¶ executive will soon likely face potentially hostile opponents who have gained a¶ foothold in the legislature. In the US, for example, even presidents recently¶ elected with large majorities immediately need to worry about looming¶ midterm congressional elections. To be sure, even prime ministers in¶ parliamentary systems will want to get things done. But incentives to do so in a¶ high−speed fashion remain more deeply ingrained in presidential systems.¶ These familiar facts about presidentialism allow us to help make sense of¶ Obama's disappointing record. Without doubt, Obama has been personally as¶ well as ideologically committed to reining in Bush−era executive prerogative.¶ Yet he now occupies an institutional position which necessarily makes him averse to far−reaching attempts to limit his own room for effective political¶ and administrative action, especially when the stakes are high, as is manifestly¶ the case in counterterrorism. Understandably, he needs to worry that the¶ electorate will punish him −− and not the Congress or Supreme Court −− for¶ mistakes which might result in deadly terrorist attacks on US citizens. Given the institutional dynamics of a presidential system characterized by more−or−less permanent rivalry, it is hardly surprising that he has held onto so much of the prerogative power successfully claimed for the executive branch¶ by his right−wing predecessor. As Obama's own political advisors have been¶ vocally telling him since 2009, it might indeed prove politically perilous if he¶ were to go too far in abandoning the substantial discretionary powers he enjoys¶ in the war on terror. Unfortunately, their "sound" political advice −− which¶ indeed may have helped Obama get reelected −− simultaneously has had¶ deeply troublesome humanitarian and legal consequences.

### AT: No PC

#### Obama rebounding-Obamacare, economy, and bipartisanship are all going Obamas way

Independent Voices 1/6/14

Last-chance saloon: Last year was the nadir of Obama’s presidency. In 2014, he needs more than economic growth to salvage his legacy The President is not yet a lame duck

<http://www.independent.co.uk/voices/editorials/lastchance-saloon-last-year-was-the-nadir-of-obamas-presidency-in-2014-he-needs-more-than-economic-growth-to-salvage-his-legacy-9042137.html>

Largely as a result, the President’s approval rating has tumbled to 40 per cent; not as dismal a level as post-Katrina George W Bush, but far behind both Ronald Reagan and Bill Clinton at a similar point. Mr Obama is not yet a lame duck. That unwanted status threatens only after November’s mid-term elections, especially if Democrats lose control of the Senate. But already he is perilously close. All is not yet lost, however. After its disastrous debut in October, the Obamacare website now works reasonably well, and more Americans are signing up for coverage on the new health exchanges. Moreover, new benefits have kicked in that also might gradually win over a still largely hostile public. If so, then the President’s political prospects could be transformed. A second reason for the White House to believe that 2014 can only be better than 2013 is the improving US economy. Recent unemployment and growth statistics suggest that a recovery hitherto mainly visible only in soaring stock prices on Wall Street is becoming self-sustaining, and that Main Street is finally feeling the benefits, too. A rising economic tide will lift all boats, including Mr Obama’s. Even on Capitol Hill, there are faint glimmers of bipartisan momentum. The modest budget deal passed before Christmas raises hopes that yet another damaging confrontation over the debt ceiling can be avoided next month. Similarly, Republicans are making slightly more encouraging noises about immigration reform, the passage of which would much enhance the Obama legacy. At the same time, Speaker John Boehner is showing an overdue willingness to face down the Tea Party zealots in his own ranks who have made virtually all compromise impossible. Lastly, it is conceivable, albeit distinctly unlikely, that the Democrats recapture control of the House. Much depends on Mr Obama himself. Perhaps even the most accomplished horse-traders like Lyndon Johnson or Bill Clinton would not have achieved much in Washington’s current poisonous climate. But this President has a manifest contempt for Congress; indeed he gives little sign of enjoying the rough and tumble of politics at all. Even the Democratic faithful who once adored him have wearied of rhetoric without results. The best way Mr Obama can restore his fortunes is to roll up his sleeves and enter the fray. Welcome back, Mr President.

### 2NC AT Winners Win

#### No uniqueness – the shutdown fight was a win

Parnes 10-16

Amie Parnes, 10/16/2013 (staff writer, “Obama hails debt deal's passage as lifting 'cloud of unease'” <http://thehill.com/homenews/administration/328985-obama-hails-debt-deals-passage-as-lifting-cloud-of-unease>, Accessed 10/17/2013, rwg)

President Obama signed a deal to reopen the government and raise the debt ceiling on Thursday morning.¶ Hundreds of thousands of federal workers will return to their jobs on Thursday, and national parks and memorials shuttered for 16 days will reopen.¶ Obama, who won a political victory with the congressional votes, hailed the deal, saying it would “begin to lift this cloud of uncertainty and unease from our businesses and the American people.”

#### Wins on foreign policy don’t matter to Congress – Obama could cure cancer and they wouldn’t care

Rooks 11

Doug Rooks 8-28-11 Obama needs to step up leadership at home http://www.sunjournal.com/columns-analysis/story/1079510

**The fall of Moammar Gaddafi, Libya’s brutal dictator, is the latest evidence that Barack Obama**, 31 months into his first term, **is compiling the strongest foreign policy record of any president since Ronald Reagan**, and possibly longer. **Though in Washington’s poisonous political atmosphere** Obama is not going to get credit **for any achievement** short of curing cancer**,** his astute balancing act beyond our shores is impressive indeed. More to the point, Obama has studiously avoided the pitfalls that bedeviled his two most recent Democratic predecessors, Bill Clinton and Jimmy Carter, the only others Democrats to hold the office in the past 35 years.

#### Second-term jinx outweighs

Raum 13

Tom Raum 13 1/16 (Writer for the Associated Press, "Obama not only faces big battles ahead with Congress but must navigate second-term jinx" [www.startribune.com/politics/187154791.html?page=2&c=y](http://www.startribune.com/politics/187154791.html?page=2&c=y))

President Barack Obama acknowledges the dangers of overreach but vows to steer cautiously. The odds are against him. He's the 20th U.S. president to serve all or parts of two terms. Most of the others have encountered setbacks and frustrations. He's also the third in a row to win a second four-year term. Both predecessors stumbled. President Bill Clinton was impeached by the House over lying about an affair with White House intern Monica Lewinsky, although the Senate declined to remove him from office. President George W. Bush failed to get a big Social Security overhaul through Congress and was slammed for his handling of Hurricane Katrina and growing voter anxiety over the Iraq and Afghanistan wars. From Inauguration Day, a second term president's influence and power begin to ebb. "It's called fatigue, people burn out. Typically, the top people are recruited for the first term. For the second term, you kind of go to the bench," said Ross Baker, a political science professor at Rutgers University. "It's a little less illustrious than the starting lineup. You're going to get more people perhaps a little less sure-footed. That's putting it, perhaps, mildly." There's something of a political Continental Divide with second terms. At some point everybody's attention starts flowing in the other direction as those in both parties start shifting their focus to the next election. Also, Obama sets out against a backdrop of looming new fiscal showdowns that will come to a head in March — another battle over the debt limit, mandatory spending cuts postponed from January and the expiration of spending authority for the entire government. And some of his top second-term goals such as immigration and tax-code overhaul, gun control and climate-change legislation come as grim budget realities cast a long shadow over what he can accomplish. History is littered with troubled second terms.

#### Even if winners win, regeneration is too slow to affect the debt ceiling

Lashof 10

Dan Lashof, director of NRDC's climate and clean air program,¶ “Lessons from Senate climate fail”¶ <http://www.grist.org/article/2010-07-28-lessons-from-senate-climate-fail/>

Perhaps the most fateful decision the Obama administration made early on was to move healthcare reform before energy and climate legislation. I'm sure this seemed like a good idea at the time. Healthcare reform was popular, was seen as an issue that the public cared about on a personal level, and was expected to unite Democrats from all regions. **White House officials and Congressional leaders reassured environmentalists with their theory that success breeds success.** A quick victory on healthcare reform would renew Obama's political capital, some of which had to be spent early on to push the economic stimulus bill through Congress with no Republican help. **Healthcare reform was eventually enacted, but only after an exhausting battle that eroded public support, drained political capital, and created the Tea Party movement**. Public support **for healthcare reform is slowly rebounding** as some of the early benefits kick in and people realize that the forecasted Armageddon is not happening. B**ut this is occurring** too slowly to rebuild Obama's political capital **in time to help push climate legislation** across the finish line.

#### Even if a confrontational strategy is key, that doesn’t mean the plan’s singular win spills-over—it’s more likely to undermine Obama’s careful strategy on that issue

Lizza 1/7

Ryan Lizza, 1/7/13, Will Hagel Spike the G.O.P.’s Fever?, www.newyorker.com/online/blogs/newsdesk/2013/01/how-much-will-the-nomination-of-chuck-hagel-hurt-obamas-second-term-agenda.html

But Obama’s victory has made almost no difference in changing the psychology or incentives of the members of the G.O.P. who matter most: the House Republicans. The idea that a bloc of conservative, mostly Southern, Republicans would start to coöperate with the President on issues like tax policy and immigration may have rested on a faulty assumption.¶ The past few weeks of fiscal-cliff drama have taught us that “breaking the fever” was the wrong metaphor. There is no one event—even the election of a President—that can change a political party overnight. Congress is a co-equal branch of government, and House Republicans feel that they have as much of a mandate for their policies as Obama does for his. Shouldn’t House Republicans care that their views on Obama’s priorities, like tax cuts for the rich and immigration, helped cost Romney the White House and will make it difficult for their party’s nominee to win in 2016? In the abstract, many do, but that’s not enough to change the voting behavior of the average House Republican, who represents a gerrymandered and very conservative district.¶ A better metaphor for the coming battles with Congress may be what Woody Hayes, the college-football coach, famously called “three yards and a cloud of dust”: a series of grinding plays where small victories are earned only after lots of intense combat. While the fiscal-cliff showdown demonstrated that there’s potential for bipartisan deal-making in the Senate, passing any Obama priority through the House of Representatives is nearly impossible unless the political pressure is extremely intense.¶ The fiscal-cliff bill passed the House only when Speaker John Boehner’s members realized that their only alternative was blowing up the settlement negotiated by Joe Biden and Mitch McConnell—and accepting all the blame and consequences.¶ That episode offers the White House a general template for the coming fights over spending, immigration, and gun control—three issues where there is very little consensus between Obama and most House Republicans. Deals will have to be negotiated in the Senate and gain the imprimatur of some high-profile Republicans. Then a pressure campaign will have to be mounted to convince Boehner to move the legislation to the floor of the House under rules that allow it to pass with mostly Democratic votes. It’s easier to see how this could happen with the coming budgetary issues, which have deadlines that force action, than for the rest of Obama’s agenda, which is more likely than not to simply die in the House.

#### Wins don’t spillover—capital is finite and decreases—prioritizing it is key to 100-day agenda success

Schultz 1/22

David Schultz, professor at Hamline University School of Business, 1/22/13, Obama's dwindling prospects in a second term, www.minnpost.com/community-voices/2013/01/obamas-dwindling-prospects-second-term

Four more years for Obama. Now what? What does Barack Obama do in his second term and what can he accomplish? Simply put, his options are limited and the prospects for major success quite limited.¶ Presidential power is the power to persuade, as Richard Neustadt famously stated. Many factors determine presidential power and the ability to influence including personality (as James David Barber argued), attitude toward power, margin of victory, public support, support in Congress, and one’s sense of narrative or purpose. ¶ Additionally, presidential power is temporal, often greatest when one is first elected, and it is contextual, affected by competing items on an agenda. All of these factors affect the political power or capital of a president.¶ Presidential power also is a finite and generally decreasing product. The first hundred days in office – so marked forever by FDR’s first 100 in 1933 – are usually a honeymoon period, during which presidents often get what they want. FDR gets the first New Deal, Ronald Reagan gets Kemp-Roth, George Bush in 2001 gets his tax cuts.¶ Presidents lose political capital, support¶ But, over time, presidents lose political capital. Presidents get distracted by world and domestic events, they lose support in Congress or among the American public, or they turn into lame ducks. This is the problem Obama now faces.¶ Obama had a lot of political capital when sworn in as president in 2009. He won a decisive victory for change with strong approval ratings and had majorities in Congress — with eventually a filibuster margin in the Senate, when Al Franken finally took office in July. Obama used his political capital to secure a stimulus bill and then pass the Affordable Care Act. He eventually got rid of Don’t Ask, Don’t Tell and secured many other victories. But Obama was a lousy salesman, and he lost what little control of Congress that he had in the 2010 elections.