## 1NC

### 1

Restrictions are limitations imposed on action–not reporting and monitoring

**Schiedler-Brown ‘12**

Jean, Attorney, Jean Schiedler-Brown & Associates, Appellant Brief of Randall Kinchloe v. States Dept of Health, Washington, The Court of Appeals of the State of Washington, Division 1, <http://www.courts.wa.gov/content/Briefs/A01/686429%20Appellant%20Randall%20Kincheloe%27s.pdf>

3. The ordinary definition of the term "restrictions" also does not include the reporting and monitoring or supervising terms and conditions that are included in the 2001 Stipulation. Black's Law Dictionary, 'fifth edition,(1979) defines "restriction" as; A limitation often imposed in a deed or lease respecting the use to which the property may be put. The term "restrict' is also cross referenced with the term "restrain." Restrain is defined as; To limit, confine, abridge, narrow down, restrict, obstruct, impede, hinder, stay, destroy. To prohibit from action; to put compulsion on; to restrict; to hold or press back. To keep in check; to hold back from acting, proceeding, or advancing, either by physical or moral force, or by interposing obstacle, to repress or suppress, to curb. In contrast, the terms "supervise" and "supervisor" are defined as; To have general oversight over, to superintend or to inspect. See Supervisor. A surveyor or overseer. . . In a broad sense, one having authority over others, to superintend and direct. The term "supervisor" means an individual having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but required the use of independent judgment. Comparing the above definitions, it is clear that the definition of "restriction" is very different from the definition of "supervision"-very few of the same words are used to explain or define the different terms. In his 2001 stipulation, Mr. Kincheloe essentially agreed to some supervision conditions, but he did not agree to restrict his license.

“Restriction on war powers authority” must limit presidential discretion

**Lobel, 8** - Professor of Law, University of Pittsburgh Law School (Jules, “Conflicts Between the Commander in Chief and Congress: Concurrent Power over the Conduct of War” 392 OHIO STATE LAW JOURNAL [Vol. 69:391, <http://moritzlaw.osu.edu/students/groups/oslj/files/2012/04/69.3.lobel_.pdf>)

So  too, the congressional power to declare or authorize war has been long held to permit Congress to authorize and wage a limited war—“limited in place, in objects, and in time.” 63 When Congress places such restrictions on the President’s authority to wage war, it limits the President’s discretion to conduct battlefield operations. For example, Congress authorized President George H. W. Bush to attack Iraq in response to Iraq’s 1990 invasion of Kuwait, but it confined the President’s authority to the use of U.S. armed forces pursuant to U.N. Security Council resolutions directed to force Iraqi troops to leave Kuwait. That restriction would not have permitted the President to march into Baghdad after the Iraqi army had been decisively ejected from Kuwait, a limitation recognized by President Bush himself.64

“Authority” is the ex-ante allocation of decision rights

Garfagnini, ITAM School of Business, 10/15/2012

(Umberto, italics emphasis in original, “The Dynamics of Authority in Innovating Organizations,” <https://editorialexpress.com/cgi-bin/conference/download.cgi?db_name=MWETFall2012&paper_id=62>)

Why do organizations change their internal allocation of authority over time? We propose a simple theory in which innovation with a new technology generates an *endogenous need for coordination* among divisions. A division manager has private information about the expected productivity of new technologies, which can be communicated strategically to headquarters. The organization has an advantage in coordinating technologies across divisions and can only commit to **an ex-ante allocation of decision rights** (**i.e.**, ***authority***). When the importance of cross-divisional externalities is small and the organization's coordination advantage is moderate, we show that an organization can optimally delegate authority to a division manager initially and then later centralize authority.

Vote negative—

Limits–hundreds of policies raise the costs of Presidential authority – they allow all of them

Ground–the key question is overarching authority in future situations – not programmatic changes

Precision–it’s the most important distinction

Solum, professor of law at UCLA, 2003

(Lawrence, “Legal Theory Lexicon 001: Ex Ante & Ex Post,” <http://lsolum.typepad.com/legal_theory_lexicon/2003/09/legal_theory_le_2.html>)

**If I had to select only one theoretical tool for a** first-year law **student to master**, **it would be the ex post/ex ante distinction**. (Of course, this is cheating, because there is a lot packed into the distinction.) The terminology comes from law and economics, and here is the basic idea:

The ex post perspective is backward looking. From the ex post point of view, we ask questions like: Who acted badly and who acted well? Whose rights were violated? Roughly speaking, we associated the ex post perspective with fairness and rights. The ex post perspective in legal theory is also loosely connected with deontological approaches to moral theory. In general jurisprudence, we might associate the ex post perspective with legal formalism.

The ex ante perspective is forward looking. From the ex ante point of view, we ask questions like: **What affect will this rule have on the future?** Will decision of a case in this way produce good or bad consequences? Again, roughly speaking we associate the ex ante perspective with policy and welfare. The ex ante perspective in legal theory is loosely connected with consequentialist (or utilitarian or welfarist) approaches to moral theory. In general jurisprudence, we might associate the ex ante perspective with legal instrumentalism (or legal realism).

Topicality is a voting issue, or the aff will read a new uncontested aff every debate

### 2

The affirmative re-inscribes the primacy of liberal legalism as a method of restraint

Margulies ‘11

Joseph, Joseph Margulies is a Clinical Professor, Northwestern University School of Law. He was counsel of record for the petitioners in Rasul v. Bush and Munaf v. Geren. He now is counsel of record for Abu Zubaydah, for whose torture (termed harsh interrogation by some) Bush Administration officials John Yoo and Jay Bybee wrote authorizing legal opinions. Earlier versions of this paper were presented at workshops at the American Bar Foundation and the 2010 Law and Society Association Conference in Chicago., Hope Metcalf is a Lecturer, Yale Law School. Metcalf is co-counsel for the plaintiffs/petitioners in Padilla v. Rumsfeld, Padilla v. Yoo, Jeppesen v. Mohammed, and Maqaleh v. Obama. She has written numerous amicus briefs in support of petitioners in suits against the government arising out of counterterrorism policies, including in Munaf v. Geren and Boumediene v. Bush., “Terrorizing Academia,” http://www.swlaw.edu/pdfs/jle/jle603jmarguilies.pdf

In an observation more often repeated than defended, we are told that the attacks of September 11 “changed everything.” Whatever merit there is in this notion, it is certainly true that 9/11—and in particular the legal response set in motion by the administration of President George W. Bush—left its mark on the academy. Nine years after 9/11, it is time to step back and assess these developments and to offer thoughts on their meaning. In Part II of this essay, we analyze the post-9/11 scholarship produced by this “emergency” framing. We argue that legal scholars writing in the aftermath of 9/11 generally fell into one of three groups: unilateralists, interventionists, and proceduralists. Unilateralists argued in favor of tilting the allocation of government power toward the executive because the state’s interest in survival is superior to any individual liberty interest, and because the executive is best able to understand and address threats to the state. Interventionists, by contrast, argued in favor of restraining the executive (principally through the judiciary) precisely to prevent the erosion of civil liberties. Proceduralists took a middle road, informed by what they perceived as a central lesson of American history.1 Because at least some overreaction by the state is an inevitable feature of a national crisis, the most one can reasonably hope for is to build in structural and procedural protections to preserve the essential U.S. constitutional framework, and, perhaps, to minimize the damage done to American legal and moral traditions. Despite profound differences between and within these groups, legal scholars in all three camps (as well as litigants and clinicians, including the authors) shared a common perspective—viz., that repressive legal policies adopted by wartime governments are temporary departures from hypothesized peacetime norms. In this narrative, metaphors of bewilderment, wandering, and confusion predominate. The country “loses its bearings” and “goes astray.” Bad things happen until at last the nation “finds itself” or “comes to its senses,” recovers its “values,” and fixes the problem. Internment ends, habeas is restored, prisoners are pardoned, repression passes. In a show of regret, we change direction, “get back on course,” and vow it will never happen again. Until the next time, when it does. This view, popularized in treatments like All the Laws but One, by the late Chief Justice Rehnquist,2 or the more thoughtful and thorough discussion in Perilous Times by Chicago’s Geoffrey Stone,3 quickly became the dominant narrative in American society and the legal academy. **This narrative also figured heavily in the many challenges to Bush-era policies,** including by the authors. The narrative permitted litigators and legal scholars to draw upon what elsewhere has been referred to as America’s “civic religion”4 and to cast the courts in the role of hero-judges5 **whom we hoped would restore legal order.**6 But by framing the Bush Administration’s response as the latest in a series of regrettable but temporary deviations from a hypothesized liberal norm, the legal academy ignored the more persistent, and decidedly illiberal, authoritarian tendency in American thought to demonize communal “others” during moments of perceived threat. Viewed in this light, what the dominant narrative identified as a brief departure caused by a military crisis is more accurately seen as part of a recurring process of intense stigmatization tied to periods of social upheaval, of which war and its accompanying repressions are simply representative (and particularly acute) illustrations. It is worth recalling, for instance, that the heyday of the Ku Klux Klan in this country, when the organization could claim upwards of 3 million members, was the early-1920s, and that the period of greatest Klan expansion began in the summer of 1920, almost immediately after the nation had “recovered” from the Red Scare of 1919–20.7 Klan activity during this period, unlike its earlier and later iterations, focused mainly on the scourge of the immigrant Jew and Catholic, and flowed effortlessly from the anti-alien, anti-radical hysteria of the Red Scare. Yet this period is almost entirely unaccounted for in the dominant post-9/11 narrative of deviation and redemption, which in most versions glides seamlessly from the madness of the Red Scare to the internment of the Japanese during World War II.8 And because we were studying the elephant with the wrong end of the telescope, we came to a flawed understanding of the beast. In Part IV, we argue that the interventionists and unilateralists came to an incomplete understanding by focusing almost exclusively on what Stuart Scheingold called “the myth of rights”—the belief that if we can identify, elaborate, and secure judicial recognition of the legal “right,” **political structures and policies will adapt their behavior to the requirements of the law** and change will follow more or less automatically.9 Scholars struggled to define the relationship between law and security primarily through exploration of structural10 and procedural questions, and, to a lesser extent, to substantive rights. And they examined the almost limitless number of subsidiary questions clustered within these issues. Questions about the right to habeas review, for instance, generated a great deal of scholarship about the handful of World War II-era cases that the Bush Administration relied upon, including most prominently Johnson v. Eisentrager and Ex Parte Quirin. 11 Regardless of political viewpoint, a common notion among most unilateralist and interventionist scholars was that when law legitimized or delegitimized a particular policy, **this would have a direct and observable effect on actual behavior**. The premise of this scholarship, in other words, was that policies “struck down” by the courts, or credibly condemned as lawless by the academy, would inevitably be changed—and that this should be the focus of reform efforts. Even when disagreement existed about the substance of rights or even which branch should decide their parameters, it reflected shared acceptance of the primacy of law, often to the exclusion of underlying social or political dynamics. Eric Posner and Adrian Vermeule, for instance, may have thought, unlike the great majority of their colleagues, that the torture memo was “standard fare.”12 But their position nonetheless accepted the notion that if the prisoners had a legal right to be treated otherwise, then the torture memo authorized illegal behavior and must be given no effect.13 Recent developments, however, cast doubt on two grounding ideas of interventionist and unilateralist scholarship—viz., that post-9/11 policies were best explained as responses to a national crisis (and therefore limited in time and scope), and that the problem was essentially legal (and therefore responsive to condemnation by the judiciary and legal academy). One might have reasonably predicted that in the wake of a string of Supreme Court decisions limiting executive power, apparently widespread and bipartisan support for the closure of Guantánamo during the 2008 presidential campaign, and the election of President Barack Obama, which itself heralded a series of executive orders that attempted to dismantle many Bush-era policies, the nation would be “returning” to a period of respect for individual rights and the rule of law. Yet the period following Obama’s election has been marked by an increasingly retributive and venomous narrative surrounding Islam and national security. **Precisely when the dominant narrative would have predicted change** and redemption, we have seen retreat and retrenchment. This conundrum is not adequately addressed by dominant strands of post-9/11 legal scholarship. In retrospect, it is surprising that much post-9/11 scholarship appears to have set aside critical lessons from previous decades as to the relationship among law, society and politics.14 Many scholars have long argued in other contexts that rights—or at least the experience of rights—are subject to political and social constraints, particularly for groups subject to historic marginalization. Rather than self-executing, rights are better viewed as contingent political resources, capable of mobilizing public sentiment and generating social expectations.15 From that view, a victory in Rasul or Boumediene no more guaranteed that prisoners at Guantánamo would enjoy the right to habeas corpus than a victory in Brown v. Board16 guaranteed that schools in the South would be desegregated.17 Rasul and Boumediene, therefore, should be seen as part (and probably only a small part) of a varied and complex collection of events, including the fiasco in Iraq, the scandal at the Abu Ghraib prison, and the use of warrantless wiretaps, as well as seemingly unrelated episodes like the official response to Hurricane Katrina. These and other events during the Bush years merged to give rise to a powerful social narrative critiquing an administration committed to lawlessness, content with incompetence, and engaged in behavior that was contrary to perceived “American values.”18 Yet the very success of this narrative, culminating in the election of Barack Obama in 2008, produced quiescence on the Left, even as it stimulated massive opposition on the Right. The result has been the emergence of a counter-narrative about national security that has produced a vigorous social backlash such that most of the Bush-era policies will continue largely unchanged, at least for the foreseeable future.19 Just as we see a widening gap between judicial recognition of rights in the abstract and the observation of those rights as a matter of fact, there appears to be an emerging dominance of proceduralist approaches, which take as a given that rights dissolve under political pressure, and, thus, are best protected by basic procedural measures. But that stance falls short in its seeming readiness to trade away rights in the face of political tension. First, it accepts the tropes du jour surrounding radical Islam—namely, that it is a unique, and uniquely apocalyptic, threat to U.S. security. In this, proceduralists do not pay adequate heed to the lessons of American history and sociology. And second, it endorses too easily the idea that procedural and structural protections will protect against substantive injustice in the face of popular and/or political demands for an outcome-determinative system that cannot tolerate acquittals. Procedures only provide protection, however, if there is sufficient political support for the underlying right. Since the premise of the proceduralist scholarship is that such support does not exist, it is folly to expect the political branches to create meaningful and robust protections. In short, a witch hunt does not become less a mockery of justice when the accused is given the right to confront witnesses. And a separate system (especially when designed for demonized “others,” such as Muslims) cannot, by definition, be equal. In the end, we urge a fuller embrace of what Scheingold called “the politics of rights,” which recognizes the contingent character of rights in American society. We agree with Mari Matsuda, who observed more than two decades ago that rights are a necessary but not sufficient resource for marginalized people with little political capital.20 To be effective, therefore, we must look beyond the courts and grapple with the hard work of long-term change with, through and, perhaps, in spite of law. These are by no means new dilemmas, but the post-9/11 context raises difficult and perplexing questions that deserve study and careful thought as our nation settles into what appears to be a permanent emergency.

That causes endless violence – extinction

The alternative is to vote negative to endorse political, rather than legal restrictions on Presidential war powers authority

Dossa ‘99

Shiraz, Department of Political Science, St. Francis Xavier University, Antigonish, Nova Scotia, “Liberal Legalism: Law, Culture and Identity,” The European Legacy, Vol. 4, No. 3, pp. 73-87,1

No discipline in the rationalized arsenal of modernity is as rational, impartial, objective as the province of law and jurisprudence, in the eyes of its liberal enthusiasts. Law is the exemplary countenance of the conscious and calculated rationality of modern life, **it is the** emblematic face of liberal civilization. Law and legal rules symbolize the spirit of science, the march of human progress. As Max Weber, the reluctant liberal theorist of the ethic of rationalization, asserted: judicial formalism enables the legal system to operate like a technically **rational machine**. Thus it guarantees to individuals and groups within the system a relative of maximum of freedom, and greatly increases for them the possibility of predicting the legal consequences of their action. In this reading, law encapsulates the western capacity to bring order to nature and human beings, to turn the ebb and flow of life into a "rational machine" under the tutelage of "judicial formalism".19 Subjugation of the Other races in the colonial empires was motivated by power and rapacity, but it was justified and indeed rationalized, by an appeal to the civilizing influence of religion and law: western Christianity and liberal law. To the imperialist mind, "the civilizing mission of law" was fundamental, though Christianity had a part to play in this program.20 Liberal colonialists visualized law, civilization and progress as deeply connected and basic, they saw western law as neutral, universally relevant and desirable. The first claim was right in the liberal context, the second thoroughly false. In the liberal version, the mythic and irrational, emblems of thoughtlessness and fear, had ruled all life-forms in the past and still ruled the lives of the vast majority of humanity in the third world; in thrall to the majesty of the natural and the transcendent, primitive life flourished in the environment of traditionalism and lawlessness, hallmarks of the epoch of ignorance. By contrast, liberal ideology and modernity were abrasively unmythic, rational and controlled. Liberal order was informed by knowledge, science, a sense of historical progress, a continuously improving future. But this canonical, secular, bracing self-image, is tendentious and substantively illusory: it blithely scants the bloody genealogy and the extant historical record of liberal modernity, liberal politics, and particularly liberal law and its impact on the "lower races" (Hobson). In his Mythology of Modern Law, Fitzpatrick has shown that the enabling claims of liberalism, specifically of liberal law, are not only untenable but implicated in canvassing a racist justification of its colonial past and in eliding the racist basis of the structure of liberal jurisprudence.21 Liberal law is mythic in its presumption of its neutral, objective status. Specifically, the liberal legal story of its immaculate, analytically pure origin obscures and veils not just law's own ruthless, violent, even savage and disorderly trajectory, but also its constitutive association with imperialism and racism.22 In lieu of the transcendent, divine God of the "lower races", modern secular law postulated the gods of History, Science, Freedom. Liberal law was to be the instrument for realizing the promise of progress that the profane gods had decreed. Fitzpatrick's invasive surgical analysis lays bare the underlying logic of law's self-articulation in opposition to the values of cultural-racial Others, and its strategic, continuous reassertion of liberalism's superiority and the civilizational indispensability of liberal legalism. Liberal law's self-presentation presupposes a corrosive, debilitating, anarchic state of nature inhabited by the racial Others and lying in wait at the borders of the enlightened modern West. This mythological, savage Other, creature of raw, natural, unregulated fecundity and sexuality, justified the liberal conquest and control of the racially Other regions.23 Law's violence and resonant savagery on behalf of the West in its imperial razing of cultures and lands of the others, has been and still is, justified in terms of the necessary, beneficial spread of liberal civilization. Fitzpatrick's analysis parallels the impassioned deconstruction of this discourse of domination initiated by Edward Said's Orientalism, itself made possible by the pioneering analyses of writers like Aime Cesaire and Frantz Fanon. Fitzpatrick's argument is nevertheless instructive: his focus on law and its machinations unravels the one concrete province of imperial ideology that is centrally modern and critical in literally transforming and refashioning the human nature of racial Others. For liberal law carries on its back the payload of "progressive", pragmatic, **instrumental modernity**, its ideals of order and rule of law, its articulation of human rights and freedom, its ethic of procedural justice, its hostility to the sacred, to transcendence or spiritual complexity, its recasting of politics as the handmaiden of the nomos, its valorization of scientism and rationalization in all spheres of modern life. Liberal law is not synonymous with modernity tout court, but it is the exemplary voice of its rational spirit, **the custodian of its civilizational ambitions.** For the colonized Others, no non-liberal alternative is available: a non-western route to economic progress is inconceivable in liberal-legal discourse. For even the truly tenacious in the third world will never cease to be, in one sense or another, the outriders of modernity: their human condition condemns them to **playing perpetual catch-up**, eternally subservient to Western economic and technological superiority in a epoch of self-surpassing modernity.24 If the racially Other nations suffer exclusion globally, the racially other minorities inside the liberal loop enjoy the ambiguous benefits of inclusion. As legal immigrants or refugees, they are entitled to the full array of rights and privileges, as citizens (in Canada, France, U.K., U.S—Germany is the exception) they acquire civic and political rights as a matter of law. Formally, they are equal and equally deserving. In theory liberal law is inclusive, but concretely it is routinely **partial and invidious**. Inclusion is conditional: it depends on how robustly the new citizens wear and deploy their cultural difference. Two historical facts account for this phenomenon: liberal law's role in western imperialism and the Western claim of civilizational superiority that pervades the culture that sustains liberal legalism. Liberal law, as the other of the racially Other within its legal jurisdiction, differentiates and locates this other in the enemy camp of the culturally raw, irreducibly foreign, making him an unreliable ally or citizen. Law's suspicion of the others socialized in "lawless" cultures is instinctive and undeniable. Liberal law's constitutive bias is in a sense incidental: the real problem is racism or the racist basis of liberal ideology and culture.25 The internal racial other is not the juridical equal in the mind of liberal law but the juridically and humanly inferior Other, the perpetual foreigner.

### 3

#### Iran strategy working—Congressional rebuke to command in chief flexibility spoils negotiations—results in Iran strikes and prolif

Joel Rubin, Politico, 10/20/13, Iran’s diplomatic thaw with the West, dyn.politico.com/printstory.cfm?uuid=FBFABC3B-C9A8-47F8-A9AC-BC886BCE0552

Congratulations, Congress. Your Iran strategy is working. Now what?

The diplomatic thaw between Iran and the West is advancing, and faster than most of us had imagined. This is the result of years of painstaking efforts by the Obama administration and lawmakers to pressure the Islamic Republic into deciding whether it’s in Iran’s interest to pursue diplomacy or to continue suffering under crushing economic sanctions and international isolation.

Now that Iran has made a clear decision to engage seriously in diplomatic negotiations with the West over its nuclear program, its intentions should be tested. Members of Congress should be open to seizing this opportunity by making strategic decisions on sanctions policy.

The economic sanctions against Iran that are in place have damaged the Iranian economy. A credible military threat — with more than 40,000 American troops in the Persian Gulf — stands on alert. International inspectors are closely monitoring Iran’s every nuclear move. Iran has not yet made a decision to build a bomb, does not have enough medium-enriched uranium to convert to weapons grade material for one bomb and has neither a workable nuclear warhead nor a means to deliver it at long ranges. If Iran were to make a dash for a bomb, the U.S. intelligence community estimates that it would take roughly one to two years to do so.

Congress, with its power to authorize sanctions relief, plays a crucial role in deciding whether a deal will be achieved. This gives Congress the opportunity to be a partner in what could potentially be a stunning success in advancing our country’s security interests without firing a shot.

Consider the alternative: If the administration negotiates a deal that Congress blocks, and Congress becomes a spoiler, Iran will most likely continue to accelerate its nuclear program. Then lawmakers would be left with a stark choice: either acquiesce to an unconstrained Iranian nuclear program and a potential Iranian bomb or endorse the use of force to attempt to stop it. Most military experts rate the odds of a successful bombing campaign low and worry that failed strikes would push Iran to get the bomb outright.

Iran and the United States need a political solution to this conflict. Now is the time to test the Iranians at the negotiating table, not push them away.

Congress is also being tested, but the conventional wisdom holds that lawmakers won’t show the flexibility required to make a deal. Such thinking misses the political volatility just beneath the surface: Americans simply don’t support another war in the Middle East, as the congressional debate over Syria made crystal clear. Would they back much riskier military action in Iran?

Fortunately for Congress, President Barack Obama was agile enough to seize the diplomatic route and begin to eliminate Syria’s chemical weapons. These results are advancing U.S. security interests. And members of Congress breathed a collective sigh of relief as well as they didn’t have to either vote to undercut the commander in chief on a security issue or stick a finger in the eye of their constituents.

The same can happen on Iran. By pursuing a deal, Obama can provide Congress with an escape hatch, where it won’t have to end up supporting unpopular military action or have to explain to its constituents why it failed to block an Iranian bomb. A verifiable deal with Iran that would prevent it from acquiring a nuclear weapon would require sanctions relief from Congress. But that’s an opportunity to claim victory, not a burden. And it would make Congress a partner with the president on a core security issue. Congress could then say, with legitimacy, that its tough sanctions on Iran worked — and did so without starting another unpopular American war in the Middle East.

#### Iran proliferation causes nuclear war

Edelman, distinguished fellow – Center for Strategic and Budgetary Assessments, ‘11

(Eric S, “The Dangers of a Nuclear Iran,” *Foreign Affairs*, January/February)

The reports of the Congressional Commission on the Strategic Posture of the United States and the Commission on the Prevention Of Weapons of Mass Destruction Proliferation and Terrorism, as well as other analyses, have highlighted the risk that a nuclear-armed Iran could trigger additional nuclear proliferation in the Middle East, even if Israel does not declare its own nuclear arsenal. Notably, Algeria, Bahrain, Egypt, Jordan, Saudi Arabia,Turkey, and the United Arab Emirates— all signatories to the Nuclear Nonproliferation Treaty (npt)—have recently announced or initiated nuclear energy programs. Although some of these states have legitimate economic rationales for pursuing nuclear power and although the low-enriched fuel used for power reactors cannot be used in nuclear weapons, these moves have been widely interpreted as hedges against a nuclear-armed Iran. The npt does not bar states from developing the sensitive technology required to produce nuclear fuel on their own, that is, the capability to enrich natural uranium and separate plutonium from spent nuclear fuel. Yet enrichment and reprocessing can also be used to accumulate weapons-grade enriched uranium and plutonium—the very loophole that Iran has apparently exploited in pursuing a nuclear weapons capability. Developing nuclear weapons remains a slow, expensive, and di⁄cult process, even for states with considerable economic resources, and especially if other nations try to constrain aspiring nuclear states’ access to critical materials and technology. Without external support, it is unlikely that any of these aspirants could develop a nuclear weapons capability within a decade.

There is, however, at least one state that could receive significant outside support: Saudi Arabia. And if it did, proliferation could accelerate throughout the region. Iran and Saudi Arabia have long been geopolitical and ideological rivals. Riyadh would face tremendous pressure to respond in some form to a nuclear-armed Iran, not only to deter Iranian coercion and subversion but also to preserve its sense that Saudi Arabia is the leading nation in the Muslim world. The Saudi government is already pursuing a nuclear power capability, which could be the first step along a slow road to nuclear weapons development. And concerns persist that it might be able to accelerate its progress by exploiting its close ties to Pakistan. During the 1980s, in response to the use of missiles during the Iran-Iraq War and their growing proliferation throughout the region, Saudi Arabia acquired several dozen css-2 intermediate-range ballistic missiles from China. The Pakistani government reportedly brokered the deal, and it may have also oªered to sell Saudi Arabia nuclear warheads for the css-2s, which are not accurate enough to deliver conventional warheads eªectively. There are still rumors that Riyadh and Islamabad have had discussions involving nuclear weapons, nuclear technology, or security guarantees. This “Islamabad option” could develop in one of several diªerent ways. Pakistan could sell operational nuclear weapons and delivery systems to Saudi Arabia, or it could provide the Saudis with the infrastructure, material, and technical support they need to produce nuclear weapons themselves within a matter of years, as opposed to a decade or longer. Not only has Pakistan provided such support in the past, but it is currently building two more heavy-water reactors for plutonium production and a second chemical reprocessing facility to extract plutonium from spent nuclear fuel. In other words, it might accumulate more fissile material than it needs to maintain even a substantially expanded arsenal of its own. Alternatively, Pakistan might oªer an extended deterrent guarantee to Saudi Arabia and deploy nuclear weapons, delivery systems, and troops on Saudi territory, a practice that the United States has employed for decades with its allies. This arrangement could be particularly appealing to both Saudi Arabia and Pakistan. It would allow the Saudis to argue that they are not violating the npt since they would not be acquiring their own nuclear weapons. And an extended deterrent from Pakistan might be preferable to one from the United States because stationing foreign Muslim forces on Saudi territory would not trigger the kind of popular opposition that would accompany the deployment of U.S. troops. Pakistan, for its part, would gain financial benefits and international clout by deploying nuclear weapons in Saudi Arabia, as well as strategic depth against its chief rival, India. The Islamabad option raises a host of difficult issues, perhaps the most worrisome being how India would respond. Would it target Pakistan’s weapons in Saudi Arabia with its own conventional or nuclear weapons? How would this expanded nuclear competition influence stability during a crisis in either the Middle East or South Asia? Regardless of India’s reaction, any decision by the Saudi government to seek out nuclear weapons, by whatever means, would be highly destabilizing. It would increase the incentives of other nations in the Middle East to pursue nuclear weapons of their own. And it could increase their ability to do so by eroding the remaining barriers to nuclear proliferation: each additional state that acquires nuclear weapons weakens the nonproliferation regime, even if its particular method of acquisition only circumvents, rather than violates, the NPT.

n-player competition

Were Saudi Arabia to acquire nuclear weapons, the Middle East would count three nuclear-armed states, and perhaps more before long. It is unclear how such an n-player competition would unfold because most analyses of nuclear deterrence are based on the U.S.- Soviet rivalry during the Cold War. It seems likely, however, that the interaction among three or more nuclear-armed powers would be more prone to miscalculation and escalation than a bipolar competition. During the Cold War, the United States and the Soviet Union only needed to concern themselves with an attack from the other. Multipolar systems are generally considered to be less stable than bipolar systems because coalitions can shift quickly, upsetting the balance of power and creating incentives for an attack. More important, emerging nuclear powers in the Middle East might not take the costly steps necessary to preserve regional stability and avoid a nuclear exchange. For nuclear-armed states, the bedrock of deterrence is the knowledge that each side has a secure second-strike capability, so that no state can launch an attack with the expectation that it can wipe out its opponents’ forces and avoid a devastating retaliation. However, emerging nuclear powers might not invest in expensive but survivable capabilities such as hardened missile silos or submarinebased nuclear forces. Given this likely vulnerability, the close proximity of states in the Middle East, and the very short flight times of ballistic missiles in the region, any new nuclear powers might be compelled to “launch on warning” of an attack or even, during a crisis, to use their nuclear forces preemptively. Their governments might also delegate launch authority to lower-level commanders, heightening the possibility of miscalculation and escalation. Moreover, if early warning systems were not integrated into robust command-and-control systems, the risk of an unauthorized or accidental launch would increase further still. And without sophisticated early warning systems, a nuclear attack might be unattributable or attributed incorrectly. That is, assuming that the leadership of a targeted state survived a first strike, it might not be able to accurately determine which nation was responsible. And this uncertainty, when combined with the pressure to respond quickly,would create a significant risk that it would retaliate against the wrong party, potentially triggering a regional nuclear war.

### 4

#### Immigration reform is up—Obama has leverage—that’s key to overcome GOP obstructionism

Jeff Mason, Reuters, 10/19/13, Analysis: Despite budget win, Obama has weak hand with Congress , health.yahoo.net/news/s/nm/analysis-despite-budget-win-obama-has-weak-hand-with-congress

Democrats believe, however, that Obama's bargaining hand may be strengthened by the thrashing Republicans took in opinion polls over their handling of the shutdown.

"This shutdown re-emphasized the overwhelming public demand for compromise and negotiation. And that may open up a window," said Ben LaBolt, Obama's 2012 campaign spokesman and a former White House aide.

"There's no doubt that some Republican members (of Congress) are going to oppose policies just because the president's for it. **But the hand of those members was** significantly weakened."

If he does have an upper hand, Obama is likely to apply it to immigration reform. The White House had hoped to have a bill concluded by the end of the summer. A Senate version passed with bipartisan support earlier this year but has languished in the Republican-controlled House.

"It will be hard to move anything forward, unless the Republicans find the political pain of obstructionism too much to bear," said Doug Hattaway, a Democratic strategist and an adviser to Hillary Clinton's 2008 presidential campaign.

"That may be the case with immigration - they'll face pressure from business and Latinos to advance immigration reform," he said.

#### The plan reverses these dynamics—sparks an inter-branch fight derailing the agenda

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, **failed** perhaps in large part **because the administration had to expend so much energy** and effort **waging a rear-guard action against congressional critics** of the war in Iraq.

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

#### Obama’s push locks-up a House vote, but the window is narrow

Bill Scher, The Week, 10/18/13, How to make John Boehner cave on immigration, theweek.com/article/index/251361/how-to-make-john-boehner-cave-on-immigration

Speaker John Boehner (R-Ohio) generally adheres to the unwritten Republican rule that bars him from allowing votes on bills opposed by a majority of Republicans, even if they would win a majority of the full House.

But he's caved four times this year, allowing big bills to pass with mainly Democratic support. They include repealing the Bush tax cuts for the wealthiest Americans; providing Hurricane Sandy relief; expanding the Violence Against Women act to better cover immigrants, Native Americans, and LGBT survivors of abuse; and this week's bill raising the debt limit and reopening the federal government.

Many presume the Republican House is a black hole sucking President Obama's second-term agenda into oblivion. But the list of Boehner's past retreats offers a glimmer of hope, especially to advocates of immigration reform. Though it has languished in the House, an immigration overhaul passed with bipartisan support in the Senate, and was given a fresh push by Obama in the aftermath of the debt limit deal.

The big mystery that immigration advocates need to figure out: What makes Boehner cave? Is there a common thread? Is there a sequence of buttons you can push that forces Boehner to relent?

Two of this year's caves happened when Boehner was backed up against hard deadlines: The Jan. 1 fiscal cliff and the Oct. 17 debt limit. Failure to concede meant immediate disaster. Reject the bipartisan compromise on rolling back the Bush tax cuts, get blamed for jacking up taxes on every taxpayer. Reject the Senate's three-month suspension of the debt limit, get blamed for sparking a global depression. Boehner held out until the absolute last minute both times, but he was not willing to risk blowing the deadline.

A third involved the response to an emergency: Hurricane Sandy. Conservative groups were determined to block disaster relief because — as with other federal disaster responses — the $51 billion legislative aid package did not include offsetting spending cuts. Lacking Republican votes, Boehner briefly withdrew the bill from consideration, unleashing fury from New York and New Jersey Republicans, including Gov. Chris Christie. While there wasn't a hard deadline to meet, disaster relief was a time-sensitive matter, and the pressure from Christie and his allies was unrelenting. Two weeks after pulling the bill, Boehner put it on the floor, allowing it to pass over the objections of 179 Republicans.

The fourth cave occurred in order to further reform and expand a government program: The Violence Against Women Act. The prior version of the law had been expired for over a year, as conservatives in the House resisted the Senate bill in the run-up to the 2012 election. But after Mitt Romney suffered an 18-point gender gap in his loss to Obama, and after the new Senate passed its version again with a strong bipartisan vote, Boehner was unwilling to resist any longer. Two weeks later, the House passed the Senate bill with 138 Republicans opposed.

Unfortunately for immigration advocates, there is no prospect of widespread pain if reform isn't passed. There is no immediate emergency, nor threat of economic collapse.

But there is a deadline of sorts: The 2014 midterm elections.

If we've learned anything about Boehner this month, it's that he's a party man to the bone. He dragged out the shutdown and debt limit drama for weeks, without gaining a single concession, simply so his most unruly and revolutionary-minded members would believe he fought the good fight and stay in the Republican family. What he won is party unity, at least for the time being.

What Boehner lost for his Republicans is national respectability. Republican Party approval hit a record low in both the most recent NBC/Wall Street Journal poll and Gallup poll.

Here's where immigration advocates have a window of opportunity to appeal to Boehner's party pragmatism. Their pitch: The best way to put this disaster behind them is for Republicans to score a big political victory. You need this.

A year after the Republican brand was so bloodied that the Republican National Committee had to commission a formal "autopsy," party approval is the worst it has ever been. You've wasted a year. Now is the time to do something that some voters will actually like.

There's reason to hope he could be swayed. In each of the four cases in which he allowed Democrats to carry the day, he put the short-term political needs of the Republican Party over the ideological demands of right-wing activists.

Boehner will have to do another round of kabuki. He can't simply swallow the Senate bill in a day. There will have to be a House version that falls short of activists' expectations, followed by tense House-Senate negotiations. Probably like in the most formulaic of movies, and like the fiscal cliff and debt limit deals, there will have to be an "all-is-lost moment" right before we get to the glorious ending. Boehner will need to given the room to do all this again.

But he won't do it without a push. A real good push.

#### Immigration reform necessary to sustain the economy and competitiveness

Javier Palomarez, Forbes, 3/6/13, The Pent Up Entrepreneurship That Immigration Reform Would Unleash, www.forbes.com/sites/realspin/2013/03/06/the-pent-up-entrepreneurship-that-immigration-reform-would-unleash/print/

The main difference between now and 2007 is that today the role of immigrants and their many contributions to the American economy have been central in the country’s national conversation on the issue. Never before have Latinos been so central to the election of a U.S. President as in 2012. New evidence about the economic importance of immigration reform, coupled with the new political realities presented by the election, have given reform a higher likelihood of passing. As the President & CEO of the country’s largest Hispanic business association, the U.S. Hispanic Chamber of Commerce (USHCC), which advocates for the interests of over 3 million Hispanic owned businesses, I have noticed that nearly every meeting I hold with corporate leaders now involves a discussion of how and when immigration reform will pass. The USHCC has long seen comprehensive immigration reform as an economic imperative, and now the wider business community seems to be sharing our approach. It is no longer a question of whether it will pass. Out of countless conversations with business leaders in virtually every sector and every state, a consensus has emerged: our broken and outdated immigration system hinders our economy’s growth and puts America’s global leadership in jeopardy. Innovation drives the American economy, and without good ideas and skilled workers, our country won’t be able to transform industries or to lead world markets as effectively as it has done for decades. Consider some figures: Immigrant-owned firms generate an estimated $775 billion in annual revenue, $125 billion in payroll and about $100 billion in income. A study conducted by the New American Economy found that over 40 percent of Fortune 500 companies were started by immigrants or children of immigrants. Leading brands, like Google, Kohls, eBay, Pfizer, and AT&T, were founded by immigrants. Researchers at the Kauffman Foundation released a study late last year showing that from 2006 to 2012, one in four engineering and technology companies started in the U.S. had at least one foreign-born founder — in Silicon Valley it was almost half of new companies. There are an estimated 11 million undocumented workers currently in the U.S. Imagine what small business growth in the U.S. would look like if they were provided legal status, if they had an opportunity for citizenship. Without fear of deportation or prosecution, imagine the pent up entrepreneurship that could be unleashed. After all, these are people who are clearly entrepreneurial in spirit to have come here and risk all in the first place. Immigrants are twice as likely to start businesses as native-born Americans, and statistics show that most job growth comes from small businesses. While immigrants are both critically-important consumers and producers, they boost the economic well-being of native-born Americans as well. Scholars at the Brookings Institution recently described the relationship of these two groups of workers as complementary. This is because lower-skilled immigrants largely take farming and other manual, low-paid jobs that native-born workers don’t usually want. For example, when Alabama passed HB 56, an immigration law in 2012 aimed at forcing self-deportation, the state lost roughly $11 billion in economic productivity as crops were left to wither and jobs were lost. Immigration reform would also address another important angle in the debate – the need to entice high-skilled immigrants. Higher-skilled immigrants provide talent that high-tech companies often cannot locate domestically. High-tech leaders recently organized a nationwide “virtual march for immigration reform” to pressure policymakers to remove barriers that prevent them from recruiting the workers they need. Finally, and perhaps most importantly, fixing immigration makes sound fiscal sense. Economist Raul Hinojosa-Ojeda calculated in 2010 that comprehensive immigration reform would add $1.5 trillion to the country’s GDP over 10 years and add $66 billion in tax revenue – enough to fully fund the Small Business Administration and the Departments of the Treasury and Commerce for over two years. As Congress continues to wring its hands and debate the issue, lawmakers must understand what both businesses and workers already know: The American economy needs comprehensive immigration reform.

**Extinction**

**Auslin 9**

(Michael, Resident Scholar – American Enterprise Institute, and Desmond Lachman – Resident Fellow – American Enterprise Institute, “The Global Economy Unravels”, Forbes, 3-6, http://www.aei.org/article/100187)

What do these trends mean in the short and medium term? The Great Depression showed how social and **global chaos** followed hard on economic collapse. The mere fact that parliaments across the globe, from America to Japan, are unable to make responsible, economically sound recovery plans suggests that they do not know what to do and are simply hoping for the least disruption. Equally worrisome is the adoption of more statist economic programs around the globe, and the concurrent decline of trust in free-market systems. The threat of instability is a pressing concern. China, until last year the world's fastest growing economy, just reported that 20 million migrant laborers lost their jobs. Even in the flush times of recent years, China faced upward of 70,000 labor uprisings a year. A sustained downturn poses grave and possibly immediate threats to Chinese internal stability. The regime in Beijing may be faced with a choice of repressing its own people or diverting their energies outward, leading to conflict with China's neighbors. Russia, an oil state completely dependent on energy sales, has had to put down riots in its Far East as well as in downtown Moscow. Vladimir Putin's rule has been predicated on squeezing civil liberties while providing economic largesse. If that devil's bargain falls apart, then wide-scale repression inside Russia, along with a continuing threatening posture toward Russia's neighbors, is likely. Even apparently stable societies face increasing risk and the threat of internal or possibly external conflict. As Japan's exports have plummeted by nearly 50%, one-third of the country's prefectures have passed emergency economic stabilization plans. Hundreds of thousands of temporary employees hired during the first part of this decade are being laid off. Spain's unemployment rate is expected to climb to nearly 20% by the end of 2010; Spanish unions are already protesting the lack of jobs, and the specter of violence, as occurred in the 1980s, is haunting the country. Meanwhile, in Greece, workers have already taken to the streets. Europe as a whole will face dangerously increasing tensions between native citizens and immigrants, largely from poorer Muslim nations, who have increased the labor pool in the past several decades. Spain has absorbed five million immigrants since 1999, while nearly 9% of Germany's residents have foreign citizenship, including almost 2 million Turks. The xenophobic labor strikes in the U.K. do not bode well for the rest of Europe. A prolonged global downturn, let alone a collapse, would **dramatically raise tensions** inside these countries. Couple that with possible protectionist legislation in the United States, unresolved ethnic and territorial disputes in **all regions of the globe** and a loss of confidence that world leaders actually know what they are doing. The result may be a series of small explosions that coalesce **into a big bang**.

### 5

Plan destroys the entire targeted killing program and chain of command—collapses military effectiveness

Richard Klingler, 7/25/12, Bivens and/as Immunity: Richard Klingler Responds on Al-Aulaqi–and I Reply, www.lawfareblog.com/2012/07/bivens-andas-immunity-richard-klingler-responds-on-al-aulaqi-and-i-reply/

Steve’s post arguing that courts should recognize Bivens actions seeking damages from military officials based on wartime operations, including the drone strikes at issue in al-Aulaqi v. Obama, seemed to omit some essential legal and policy points. The post leaves unexplained why any judge might decline to permit a Bivens action to proceed against military officials and policymakers, but a fuller account indicates that **barring** such **Bivens actions is sensible as a matter of national security policy and the better view of the law**. A Bivens action is a damages claim, directed against individual officials personally for an allegedly unconstitutional act, created by the judiciary rather than by Congress. The particular legal issue is whether a suit addressing military operations implicates “special factors” that “counsel hesitation” in recognizing such claims (injunctions and relief provided by statute or the Executive Branch are unaffected by this analysis). In arguing that the answer is ‘no,’ the post (i) bases its Bivens analysis on how the Supreme Court “has routinely relied on the existence of alternative remedial mechanisms” in limiting Bivens relief; (ii) argues that the Bivens Court “originally intended” that there be some remedy for all Constitutional wrongs in the absence of an express statutory bar to relief; (iii) invokes the policy interest in dissuading military officials from acting unlawfully, and (iv) argues that courts should ensure that a remedy exists if an officer has no defenses to liability (such as immunity). The post’s first point, which underpins the legal analysis, is simply not correct. United States v. Stanley, the Supreme Court’s most recent and important Bivens case in the military context, directly rejected that argument: “it is irrelevant to a ‘special factors’ analysis whether the laws currently on the books afford Stanley, or any other particular serviceman, an ‘adequate’ federal remedy for his injuries. The ‘special factor’ that ‘counsels hesitation’ is … the fact that congressionally uninvited intrusion into military affairs by the judiciary is inappropriate.” Wilkie v. Robbins, too, expressly indicated that consideration of ‘special factors’ is distinct from consideration of alternative remedies and may bar a Bivens claim even where no remedy exists (and that in a Souter opinion for eight Justices). Similarly, the Bivens Court’s original intention is a poor basis for implying a damages claim in the military context. Justice Brennan in 1971 no doubt would have resisted the separation of powers principles reflected in cases that have since limited Bivens relief, especially for military matters. Instead, the relevant inquiry needs to address either first principles (did Congress intend a remedy and personal liability in this particular context? should judges imply one?) or the line of Supreme Court cases beginning with, but also authoritatively limiting, Bivens. There’s considerable support for denying a Bivens remedy under either of those analyses: for the former, support in the form of the presumptions deeply rooted in precedent and constitutional law that disfavor implied causes of action, as well as the legal and policy reasons that have traditionally shielded military officials from suit or personal liability; for the latter, Stanley, Chappell v. Wallace, Wilkie, the last thirty years of Supreme Court decisions that have all limited and declined to find a Bivens remedy, and various separation of powers cases pointing to a limited judicial role in military affairs. The post’s policy point regarding incentives that should be created for military officers to do no wrong is hardly as self-evident as the post claims. Congress has never accepted it in the decades since Stanley and has instead generally shielded military officials from personal financial liability for their service. Supreme Court and other cases from Johnson v. Eisentrager to Stanley to Ali v. Rumsfeld have elaborated the strong policy interest in not having military officials weigh the costs and prospects of litigation and thus fail to act decisively in the national interest. Many other Supreme Court cases have emphasized the potential adverse security consequences and limited judicial capabilities when military matters are litigated. The post criticizes Judge Wilkinson’s view of the adverse incentives that Bivens liability would create. That view is, however, supported by decades of Supreme Court and other precedent (and strong national security considerations) and was joined in that particular case, as in certain others, by a liberal jurist — while the post’s view is, well, popular in faculty lounges and among advocacy groups that would relish the opportunities to seek damages against military officers and policymakers. As for the post’s proposed test, it fails to account for either the Bivens case law addressed above or the separation of powers principles and litigation interests identified in the cases. It would simply require courts to determine facts and defenses, often in conditions of great legal uncertainty and following discovery, which begs the question whether Congress intended such litigation to proceed at all and fails to account for the costs of litigating military issues — to the chain of command, confidentiality, and operational effectiveness. As noted in Stanley, those **harms arise whether the officer is eventually found liable or prevails**. Those costs and the appropriate limits on the judicial role are recognized, too, in the separation of powers principles that run throughout national security cases – principles that jurists, even jurists sympathetic to the post’s perspective, should and will weigh as they resolve cases brought against military officials and policymakers.

It wrecks TK operations and broader military effectiveness

Stuart Delery, Principal Deputy Assistant Attorney General Civil Division, 12/14/12, DEFENDANTS’ MOTION TO DISMISS, 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 WL 5416500 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.

Nuclear war

Frederick Kagan and Michael O’Hanlon 7, Fred’s a resident scholar at AEI, Michael is a senior fellow in foreign policy at Brookings, “The Case for Larger Ground Forces”, April, <http://www.aei.org/files/2007/04/24/20070424_Kagan20070424.pdf>

We live at a time when wars not only rage in nearly every region but threaten to erupt in many places where the current relative calm is tenuous. To view this as a strategic military challenge for the United States is not to espouse a specific theory of America’s role in the world or a certain political philosophy. Such an assessment flows directly from the basic bipartisan view of American foreign policy makers since World War II that overseas threats must be countered before they can directly threaten this country’s shores, that the basic stability of the international system is essential to American peace and prosperity, and that no country besides the United States is in a position to lead the way in countering major challenges to the global order. Let us highlight the threats and their consequences with a few concrete examples, emphasizing those that involve key strategic regions of the world such as the Persian Gulf and East Asia, or key potential threats to American security, such as the spread of nuclear weapons and the strengthening of the global Al Qaeda/jihadist movement. The Iranian government has rejected a series of international demands to halt its efforts at enriching uranium and submit to international inspections. What will happen if the US—or Israeli—government becomes convinced that Tehran is on the verge of fielding a nuclear weapon? North Korea, of course, has already done so, and the ripple effects are beginning to spread. Japan’s recent election to supreme power of a leader who has promised to rewrite that country’s constitution to support increased armed forces—and, possibly, even nuclear weapons— may well alter the delicate balance of fear in Northeast Asia fundamentally and rapidly. Also, in the background, at least for now, SinoTaiwanese tensions continue to flare, as do tensions between India and Pakistan, Pakistan and Afghanistan, Venezuela and the United States, and so on. Meanwhile, the world’s nonintervention in Darfur troubles consciences from Europe to America’s Bible Belt to its bastions of liberalism, yet with no serious international forces on offer, the bloodletting will probably, tragically, continue unabated. And as bad as things are in Iraq today, they could get worse. What would happen if the key Shiite figure, Ali al Sistani, were to die? If another major attack on the scale of the Golden Mosque bombing hit either side (or, perhaps, both sides at the same time)? Such deterioration might convince many Americans that the war there truly was lost—but the costs of reaching such a conclusion would be enormous. Afghanistan is somewhat more stable for the moment, although a major Taliban offensive appears to be in the offing. Sound US grand strategy must proceed from the recognition that, over the next few years and decades, the world is going to be a very unsettled and quite dangerous place, with Al Qaeda and its associated groups as a subset of a much larger set of worries. The only serious response to this international environment is to develop armed forces capable of protecting America’s vital interests throughout this dangerous time. Doing so requires a military capable of a wide range of missions—including not only deterrence of great power conflict in dealing with potential hotspots in Korea, the Taiwan Strait, and the Persian Gulf but also associated with a variety of Special Forces activities and stabilization operations. For today’s US military, which already excels at high technology and is increasingly focused on re-learning the lost art of counterinsurgency, this is first and foremost a question of finding the resources to field a large-enough standing Army and Marine Corps to handle personnel intensive missions such as the ones now under way in Iraq and Afghanistan. Let us hope there will be no such large-scale missions for a while. But preparing for the possibility, while doing whatever we can at this late hour to relieve the pressure on our soldiers and Marines in ongoing operations, is prudent. At worst, the only potential downside to a major program to strengthen the military is the possibility of spending a bit too much money. Recent history shows no link between having a larger military and its overuse; indeed, Ronald Reagan’s time in office was characterized by higher defense budgets and yet much less use of the military, an outcome for which we can hope in the coming years, but hardly guarantee. While the authors disagree between ourselves about proper increases in the size and cost of the military (with O’Hanlon preferring to hold defense to roughly 4 percent of GDP and seeing ground forces increase by a total of perhaps 100,000, and Kagan willing to devote at least 5 percent of GDP to defense as in the Reagan years and increase the Army by at least 250,000), we agree on the need to start expanding ground force capabilities by at least 25,000 a year immediately. Such a measure is not only prudent, it is also badly overdue.

### 6

The executive branch should publish its standards and procedures for target selection in targeted killing and establish ex ante transparency of targeted killing standards and procedures.

Executive order establishing transparency of targeting decisions resolves drone legitimacy and resentment

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

### adv 1

The plan specifies cause of action for unlawful strikes – they’re all lawful, including collateral damage

--Also means they don’t change the definition of imminent threat

--Also means the courts can’t mold the law because they don’t fait standings for those cases in the first place

#### UCMJ solves need for remedy

Alan Rozenshtein, Harvard Law School J.D., Lawfare Blog, 10/31/2011, Argument Recap in Lebron v. Rumsfeld (Padilla’s Bivens Suit), www.lawfareblog.com/2011/10/argument-recap-in-lebron-v-rumsfeld-padillas-bivens-suit/

Rivkin returns to the issue of Bivens and why the UCMJ is a satisfactory alternate remedy that forecloses Bivens. First, unlike in the civilian system, where complaints need not be pursued, a complaint under the UCMJ prompts a mandatory investigation and failure to address a complaint of misconduct is itself an offense. Second, there are a number of sanctions that can be deployed if a member of the military is found to have engaged in wrongdoing, and military defendants have fewer procedural rights than do civilian defendants. Judge Wilkinson brings the discussion back to RFRA and asks Rivkin how the Supreme Court’s decision last term in Sossamon v. Texas bears on Padilla’s RFRA claim. Rivkin apologies and says that he is not familiar with the case and was not planning to discuss RFRA. Judge Wilkinson says that he understands, but that when advocates divide an argument, they each have to be prepared to “field whatever ground balls are hit.” Rivkin returns to the UCMJ. The third reason that the UCMJ is a satisfactory alternative scheme is that **even “very benign military punishments are** an absolute career killer.” Thus, it doesn’t take much to produce an effective deterrent. Fourth, the military system is a system “permeated with consultation with lawyers,” including regarding conditions of confinement. The upshot of these four factors is that the military is “shackled” (as it should be) by the UCMJ regarding military discipline. Thus, Rivkin argues, Stanley and Chappell should not be read as limited to military-to-military interactions. Judge Wilkinson notes that **the UCMJ has been explicitly approved by Congress.** Rivkin then cites Middlebrook, noting that, in that case, a Bivens **remedy for a civilian plaintiff** (a nurse who unsuccessfully tried to join an auxilliary part of the military and sued for employment discrimination) **was foreclosed because of the military context**, even though the plaintiff could not readily avail herself of the UCMJ. Rivkin also notes that, in Stanley, half of the defendants were civilians. Rivkin concludes.

Drone backlash is small and inevitable

Byman 13 (Daniel Byman, Brookings Institute Saban Center for Middle East Policy, Research Director, and Foreign Policy, Senior Fellow, July/Aug 2013, “Why Drones Work: The Case for the Washington's Weapon of Choice”, www.brookings.edu/research/articles/2013/06/17-drones-obama-weapon-choice-us-counterterrorism-byman)

Such concerns are valid, but the level of local anger over drones is often lower than commonly portrayed. Many surveys of public opinion related to drones are conducted by anti-drone organizations, which results in biased samples. Other surveys exclude those who are unaware of the drone program and thus overstate the importance of those who are angered by it. In addition, many Pakistanis do not realize that the drones often target the very militants who are wreaking havoc on their country. And for most Pakistanis and Yemenis, the most important problems they struggle with are corruption, weak representative institutions, and poor economic growth; the drone program is only a small part of their overall anger, most of which is directed toward their own governments. A poll conducted in 2007, well before the drone campaign had expanded to its current scope, found that only 15 percent of Pakistanis had a favorable opinion of the United States. It is hard to imagine that alternatives to drone strikes, such as seal team raids or cruise missile strikes, would make the United States more popular.

No groupthink

Anthony Hempell 4 [User Experience Consulting Senior Information Architect, “Groupthink: An introduction to Janis' theory of concurrence-seeking tendencies in group work., http://www.anthonyhempell.com/papers/groupthink/, March 3]

In the thirty years since Janis first proposed the groupthink model, **there is still little agreement as to the validity of the model in assessing decision-making behaviour** (Park, 2000). **Janis' theory** is often criticized because it **does not present a framework that is suitable for** empirical testing; instead, the evidence for groupthink comes from largely qualitative, historical or archival methods (Sunstein, 2003). Some critics go so far as to say that **Janis's work relies on "anecdote, casual observation, and intuitive appeal rather than** rigorous research" (Esser, 1998, cited in Sunstein, 2003, p.142). While some studies have shown support for the groupthink model, the **support tends to be mixed or conditional** (Esser, 1998); some studies have revealed that a closed leadership style and external threats (in particular, time pressure) promote groupthink and defective decision making (Neck & Moorhead, 1995, cited by Choi & Kim, 1999); **the effect of group cohesiveness is still inconclusive** (Mullen, Anthony, Salas & Driskel, 1994, cited by Choi & Kim, 1999). Janis's model tends to be supported by studies that employ a qualitative case-study approach **as opposed to experimental research, which tends to either partially support or not support Janis's thesis** (Park, 2000). The lack of success in experimental validation of groupthink may be due to difficulties in operationalizing and conceptualizing it as a testable variable (Hogg & Hains, 1998; Park, 2000).

Some **researchers have criticized Janis for categorically denouncing groupthink as a negative phenomenon** (Longley & Pruitt, 1980, cited in Choi & Kim, 1999). Sniezek (1992) argues that there are instances where concurrence-seeking may promote group performance. When used to explain behaviour in a practical setting, **groupthink has been frames as a detrimental group process; the result of this has been that many corporate** training programs have created strategies for avoiding groupthink in the workplace (Quinn, Faerman, Thompson & McGrath, 1990, cited in Choi & Kim, 1999).

Another criticism of groupthink is that Janis overestimates the link between the decision-making process and the outcome (McCauley, 1989; Tetlock, Peterson, McGuire, Chang & Feld, 1992; cited in Choi & Kim, 1999). Tetlock et al argue that there are many other factors between the decision process and the outcome. The outcome of any decision-making process, they argue, will only have a certain probability of success due to various environmental factors (such as luck).

A large-scale study researching decision-making in seven major American corporations concluded that decision-making worked best when following a sound information processing method; however these groups also showed signs of groupthink, in that they had strong leadership which attempted to persuade others in the group that they were right (Peterson et al, 1998, cited in Sunstein, 2003).

Esser (1998) found that groupthink characteristics were correlated with failures; however cohesiveness did not appear to be a factor: groups consisting of strangers, friends, or various levels of previous experience together did not appear to effect decision-making ability. Janis' claims of insulation of groups and groups led by autocratic leaders did show that these attributes were indicative of groupthink symptoms.

Moorhead & Montanari conducted a study where they concluded that groupthink symptoms had no significant effect on group performance, and that "the relationship between groupthink-induced decision defects and outcomes were not as strong as Janis suggests" (Moorhead & Montanari, 1986, p. 399; cited by Choi & Kim, 1999).

Overall, the groupthink hypothesis appears to be valuable as a descriptive, analytic and heuristic tool (Esser, 1998) **but is not a good model for empirical testing;** it attempts to explain a complex phenomenon but is **difficult to operationalize into testable variables**. While some areas of Janis' theory have been supported by empirical or experimental, others remain ambiguous or even contradictory (Sunstein, 2003). When reading the assessments of others, it begs the question of whether groupthink is suited to being used as a model for empirical analysis: is it fair to measure groupthink theory on the basis of laboratory tests, when in real life groupthink occurs within a complex and volatile environment? Janis's original method was one of inductive reasoning from archival records and case studies; perhaps it is better left as a qualitative model that can help illuminate the inexact spheres of organizational behaviour and communications theory.

No Pakistan collapse and it doesn't escalate

Dasgupta 13

Sunil Dasgupta is Director of the University of Maryland Baltimore County Political Science Program at the Universities at Shady Grove and non-resident Senior Fellow at the Brookings Institution, East Asia Forum, February 25, 2013, "How will India respond to civil war in Pakistan?", http://www.eastasiaforum.org/2013/02/25/how-will-india-respond-to-civil-war-in-pakistan/

As it is, India and Pakistan have gone down to the nuclear edge four times — in 1986, 1990, 1999 and 2001–02. In each case, India responded in a manner that did not escalate the conflict. Any incursion into Pakistan was extremely limited. An Indian intervention in a civil war in Pakistan would be subject to the same limitations — at least so long as the Pakistani army maintains its integrity.

Given the new US–India ties, the most important factor in determining the possibility and nature of Indian intervention in a possible Pakistani civil war is Washington. If the United States is able to get Kabul and Islamabad to work together against the Taliban, as it is trying to do now, then India is likely to continue its current policy or try to preserve some influence in Afghanistan, especially working with elements of the Northern Alliance.

India and Afghanistan already have a strategic partnership agreement in place that creates the framework for their bilateral relationship to grow, but the degree of actual cooperation will depend on how Pakistan and the Taliban react. If Indian interests in Afghanistan come under attack, New Delhi might have to pull back. The Indian government has been quite clear about not sending troops to Afghanistan.

If the United States shifts its policy to where it has to choose Kabul over Islamabad, in effect reviving the demand for an independent Pashtunistan, India is likely to be much more supportive of US and Afghan goals. The policy shift, however, carries the risk of a full-fledged proxy war with Pakistan in Afghanistan, but should not involve the prospect of a direct Indian intervention in Pakistan itself.

India is not likely to initiate an intervention that causes the Pakistani state to fail. Bill Keller of the New York Times has described Pakistani president Asif Ail Zardari as overseeing ‘a ruinous kleptocracy that is spiraling deeper into economic crisis’. But in contrast to predictions of an unravelling nation, British journalist-scholar Anatol Lieven argues that the Pakistani state is likely to continue muddling through its many problems, unable to resolve them but equally predisposed against civil war and consequent state collapse. Lieven finds that the strong bonds of family, clan, tribe and the nature of South Asian Islam prevent modernist movements — propounded by the government or by the radicals — from taking control of the entire country.

Lieven’s analysis is more persuasive than the widespread view that Pakistan is about to fail as a state. The formal institutions of the Pakistani state are surprisingly robust given the structural conditions in which they operate. Indian political leaders recognise Pakistan’s resilience. Given the bad choices in Pakistan, they would rather not have anything to do with it. If there is going to be a civil war, why not wait for the two sides to exhaust themselves before thinking about intervening? The 1971 war demonstrated India’s willingness to exploit conditions inside Pakistan, but to break from tradition requires strong, countervailing logic, and those elements do not yet exist. Given the current conditions and those in the foreseeable future, India is likely to sit out a Pakistani civil war while covertly coordinating policy with the United States.

Military can’t take over

Bandow 9 – Senior Fellow @ Cato, former special assistant to Reagan (11/31/09, Doug, “Recognizing the Limits of American Power in Afghanistan,” Huffington Post, http://www.cato.org/pub\_display.php?pub\_id=10924)

From Pakistan's perspective, limiting the war on almost any terms would be better than prosecuting it for years, even to "victory," whatever that would mean. In fact, the least likely outcome is a takeover by widely unpopular Pakistani militants. The Pakistan military is the nation's strongest institution; while the army might not be able to rule alone, it can prevent any other force from ruling. Indeed, Bennett Ramberg made the important point: "Pakistan, Iran and the former Soviet republics to the north have demonstrated a brutal capacity to suppress political violence to ensure survival. This suggests that even were Afghanistan to become a terrorist haven, the neighborhood can adapt and resist." The results might not be pretty, but the region would not descend into chaos. In contrast, warned Bacevich: "To risk the stability of that nuclear-armed state in the vain hope of salvaging Afghanistan would be a terrible mistake."

#### AQAP won’t take out Saudi

**Hill and Nonneman 11** (Ginny and Gerd, Associate Fellows of the Middle East and North Africa Programme at Chatham House, “Yemen, Saudi Arabia and the Gulf States: Elite Politics, Street Protests and Regional Diplomacy”, 5/11, <http://humansecuritygateway.com/documents/CH_YemenSaudiArabiaandGulfStatesPolPrtsRegDip.pdf>)

However, the campaign also enjoyed significant public support in Saudi Arabia and was ‘spun’ by the media as ‘a heroic and successful struggle to protect Saudi sovereignty’. 80 Some satisfaction is derived from the fact that there have been no further incursions since the intervention, and that Saudi Arabia was able to turn the episode to its advantage by securing the border area. There is now a semi-permanent military complex around the southern Saudi city of Najran. Nearly 80 border villages have been evacuated and the villagers are being re-housed in 10,000 purpose-built units. Visible security improvements have been reported, including earthen berms, concertina wire, floodlights and thermal cameras. 81 These measures serve Saudi Arabia’s longer-term objective of containing AQAP, as well as constraining cross-border flows of drugs, weapons and illegal migrants.

They’re dead

Sanderson & Fellman 8/6 (Thomas and Zack, senior fellow and codirector of the Transnational Threats Project at CSIS AND program coordinator and research assistant with the CSIS Transnational Threats Project, “Closing Embassies in the Middle East and the Threat from al Qaeda,” CSIS, http://csis.org/publication/closing-embassies-middle-east-and-threat-al-qaeda)

A2: While loose adherence to Operation Hemorrhage may be the norm for AQAP, prominent members of the Saudi faction likely desire to signal their group’s capabilities and relevance to a wider audience and with greater impact. According to Dr. Christopher Swift of Georgetown University, AQAP’s ability to mount large-scale operations has been reduced since losing control of strongholds in Abyan and Shabwa provinces to the Yemeni military last year. Launching an attack of international significance around the time of Yemeni president Abd Rabbuh Manur Hadi’s visit to the United States would prove to be a public-relations coup for the group. It may be for these reasons that Germany and France have closed their embassies in Yemen, and that the United States and United Kingdom have ordered their embassy staff to leave that country.

#### No impact

Fettweis, Asst Prof Poli Sci – Tulane, Asst Prof National Security Affairs – US Naval War College, ‘7

(Christopher, “On the Consequences of Failure in Iraq,” *Survival*, Vol. 49, Iss. 4, December, p. 83 – 98)

Without the US presence, a second argument goes, nothing would prevent Sunni-Shia violence from sweeping into every country where the religious divide exists. A Sunni bloc with centres in Riyadh and Cairo might face a Shia bloc headquartered in Tehran, both of which would face enormous pressure from their own people to fight proxy wars across the region. In addition to intra-Muslim civil war, cross-border warfare could not be ruled out. Jordan might be the first to send troops into Iraq to secure its own border; once the dam breaks, Iran, Turkey, Syria and Saudi Arabia might follow suit. The Middle East has no shortage of rivalries, any of which might descend into direct conflict after a destabilising US withdrawal. In the worst case, Iran might emerge as the regional hegemon, able to bully and blackmail its neighbours with its new nuclear arsenal. Saudi Arabia and Egypt would soon demand suitable deterrents of their own, and a nuclear arms race would envelop the region. Once again, however, none of these outcomes is particularly likely.

Wider war

No matter what the outcome in Iraq, the region is not likely to devolve into chaos. Although it might seem counter-intuitive, by most traditional measures the Middle East is very stable. Continuous, uninterrupted governance is the norm, not the exception; most Middle East regimes have been in power for decades. Its monarchies, from Morocco to Jordan to every Gulf state, have generally been in power since these countries gained independence. In Egypt Hosni Mubarak has ruled for almost three decades, and Muammar Gadhafi in Libya for almost four. The region's autocrats have been more likely to die quiet, natural deaths than meet the hangman or post-coup firing squads. Saddam's rather unpredictable regime, which attacked its neighbours twice, was one of the few exceptions to this pattern of stability, and he met an end unusual for the modern Middle East. Its regimes have survived potentially destabilising shocks before, and they would be likely to do so again.

The region actually experiences very little cross-border warfare, and even less since the end of the Cold War. Saddam again provided an exception, as did the Israelis, with their adventures in Lebanon. Israel fought four wars with neighbouring states in the first 25 years of its existence, but none in the 34 years since. Vicious civil wars that once engulfed Lebanon and Algeria have gone quiet, and its ethnic conflicts do not make the region particularly unique.

The biggest risk of an American withdrawal is intensified civil war in Iraq rather than regional conflagration. Iraq's neighbours will likely not prove eager to fight each other to determine who gets to be the next country to spend itself into penury propping up an unpopular puppet regime next door. As much as the Saudis and Iranians may threaten to intervene on behalf of their co-religionists, they have shown no eagerness to replace the counter-insurgency role that American troops play today. If the United States, with its remarkable military and unlimited resources, could not bring about its desired solutions in Iraq, why would any other country think it could do so?17

Common interest, not the presence of the US military, provides the ultimate foundation for stability. All ruling regimes in the Middle East share a common (and understandable) fear of instability. It is the interest of every actor - the Iraqis, their neighbours and the rest of the world - to see a stable, functioning government emerge in Iraq. If the United States were to withdraw, increased regional cooperation to address that common interest is far more likely than outright warfare.

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### adv 2

No drone prolif—capabilities and costs

Zenko, Douglas Dillon fellow in the Center for Preventive Action – CFR, ‘13

(Micah, “U.S. Drone Strike Policies”, Council Special Report No. 65, January)

There are also few examples of armed drone sales by other countries. After the United States, Israel has the most developed and varied drone capabilities; according to the Stockholm International Peace Research Institute (SIPRI), Israel was responsible for 41 percent of drones exported between 2001 and 2011.57 While Israel has used armed drones in the Palestinian territories and is not a member of the MTCR, it has pre- dominantly sold surveillance drones that lack hard points and electrical engineering. Israel reportedly sold the Harop, a short-range attack drone, to France, Germany, Turkey, and India. Furthermore, Israel allows the United States to veto transfers of weapons with U.S.-origin technology to select states, including China.58 Other states invested in developing and selling **surveillance drones** have reportedly refrained from selling fully armed versions. For example, the UAE spent five years building the armed United-40 drone with an associated Namrod missile, but there have been no reported deliveries.59 A March 2011 analysis by the mar- keting research firm Lucintel projected that a “fully developed [armed drone] product will take another decade.”60 Based on current trends, it is unlikely that most states will have, within ten years, the complete system architecture required to carry out distant drone strikes that would be harmful to U.S. national interests. However, those candidates able to obtain this technology will most likely be states with the financial resources to purchase or the industrial base to manufacture tactical short-range armed drones with limited firepower that lack the precision of U.S. laser-guided munitions; the intelligence collection and military command-and-control capabilities needed to deploy drones via line-of-sight communications; and cross- border adversaries who currently face attacks or the threat of attacks by manned aircraft, such as Israel into Lebanon, Egypt, or Syria; Russia into Georgia or Azerbaijan; Turkey into Iraq; and Saudi Arabia into Yemen. When compared to distant U.S. drone strikes, these contingen- cies do not require system-wide infrastructure and host-state support. Given the costs to conduct manned-aircraft strikes with minimal threat to pilots, it is questionable whether states will undertake the significant investment required for armed drones in the near term.

The US can’t set drone norms

Wright, Pulitzer-winning journalist, former writer and editor – The Atlantic, 11/14/’12

(Robert, citing Max Boot, senior fellow @ CFR, “The Incoherence of a Drone-Strike Advocate,” http://www.theatlantic.com/international/archive/2012/11/the-incoherence-of-a-drone-strike-advocate/265256/)

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

No impact—drones make wars less intense

McGinnis, senior professor – Northwestern Law, ‘10

(John O., 104 Nw. U. L. Rev. Colloquy 366)

It is not as if in the absence of AI wars or weapons will cease to exist. The way to think about the effects of AI on war is to think of the consequences of substituting technologically advanced robots for humans on the battlefield. In at least three ways, that substitution is likely to be beneficial to humans. First, robots make conventional forces more effective and less vulnerable to certain weapons of mass destruction, like chemical and biological weapons. Rebalancing the world to make such weapons **less effective**, even if marginally so, must be counted as a benefit. Second, one of the reasons that conventional armies deploy lethal force is to protect the human soldiers against death or serious injury. If only robots are at stake in a battle, a nation is more likely to use non-lethal force, such as stun guns and the like. The United States is in fact considering outfitting some of its robotic forces with non-lethal weapon-ry. Third, AI-driven weaponry gives an advantage to the developed world and particularly to the United States, be-cause of its advanced capability in technological innovation. Robotic weapons have been among the most successful in the fight against Al-Qaeda and other groups waging asymmetrical warfare against the United States. The Predator, a robotic airplane, has been successfully targeting terrorists throughout Afghanistan and Pakistan, and more technologi-cally advanced versions are being rapidly developed. Moreover, it does so in a targeted manner without the need to launch large-scale wars to hold territory--a process that would almost certainly result in more collateral damage. n61 If one believes that the United States is on the whole the best enforcer of rules of conduct that make for a peaceful and prosperous world, this development must also be counted as a benefit.

China won’t use drones offensively

Erickson, associate professor – Naval War College, associate in research – Fairbank Centre @ Harvard, 5/23/’13

(Andrew, China Has Drones. Now What?", www.foreignaffairs.com/articles/136600/andrew-erickson-and-austin-strange/china-has-drones-now-what)

Beijing, however, is unlikely to use its drones lightly. It already faces tremendous criticism from much of the international community for its perceived brazenness in continental and maritime sovereignty disputes. With its leaders attempting to allay notions that China's rise poses a threat to the region, injecting drones conspicuously into these disputes would prove counterproductive. China also fears setting a **precedent** for the use of drones in East Asian hotspots that the United States could eventually exploit. For now, Beijing is showing that it understands these risks, and to date it has limited its use of drones in these areas to surveillance, according to recent public statements from China's Defence Ministry. What about using drones outside of Chinese-claimed areas? That China did not, in fact, launch a drone strike on the Myanmar drug criminal underscores its caution. According to Liu Yuejin, the director of the anti-drug bureau in China's Ministry of Public Security, Beijing considered using a drone carrying a 20-kilogram TNT payload to bomb Kham's mountain redoubt in northeast Myanmar. Kham had already evaded capture three times, so a drone strike may have seemed to be the best option. The authorities apparently had at least two plans for capturing Kham. The method they ultimately chose was to send Chinese police forces to lead a transnational investigation that ended in April 2012 with Kham's capture near the Myanmar-Laos border. The ultimate decision to refrain from the strike may reflect both a fear of political reproach and a lack of confidence in untested drones, systems, and operators. The restrictive position that Beijing takes on sovereignty in international forums will further constrain its use of drones. China is not likely to publicly deploy drones for precision strikes or in other military assignments without first having been granted a credible mandate to do so. The gold standard of such an authorisation is a resolution passed by the UN Security Council, the stamp of approval that has permitted Chinese humanitarian interventions in Africa and anti-piracy operations in the Gulf of Aden. China might consider using drones abroad with some sort of regional authorisation, such as a country giving Beijing explicit permission to launch a drone strike within its territory. But even with the endorsement of the international community or specific states, China would have to weigh any benefits of a drone strike abroad against the potential for mishaps and perceptions that it was infringing on other countries' sovereignty - something Beijing regularly decries when others do it. The limitations on China's drone use are reflected in the country's academic literature on the topic. The bulk of Chinese drone research is dedicated to scientific and technological topics related to design and performance. The articles that do discuss potential applications primarily point to major combat scenarios -such as a conflagration with Taiwan or the need to attack a US aircraft carrier - which would presumably involve far more than just drones. Chinese researchers have thought a great deal about the utility of drones for domestic surveillance and law enforcement, as well as for non-combat-related tasks near China's contentious borders. Few scholars, however, have publicly considered the use of drone strikes overseas. Yet there is a reason why the United States has employed drones extensively despite domestic and international criticism: it is much easier and cheaper to kill terrorists from above than to try to root them out through long and expensive counterinsurgency campaigns. Some similar challenges loom on China's horizon. Within China, Beijing often considers protests and violence in the restive border regions, such as Xinjiang and Tibet, to constitute terrorism. It would presumably consider ordering precision strikes to suppress any future violence there. Even if such strikes are operationally prudent, China's leaders understand that they would damage the country's image abroad, but they prioritise internal stability above all else. Domestic surveillance by drones is a different issue; there should be few barriers to its application in what is already one of the world's most heavily policed societies. China might also be willing to use stealth drones in foreign airspace without authorisation if the risk of detection were low enough; it already deploys intelligence-gathering ships in the exclusive economic zones of Japan and the United States, as well as in the Indian Ocean. Still, although China enjoys a rapidly expanding and cutting-edge drone fleet, it is bound by the same rules of the game as the rest of the military's tools. Beyond surveillance, the other non-lethal military actions that China can take with its drones are to facilitate communications within the Chinese military, support electronic warfare by intercepting electronic communications and jamming enemy systems, and help identify targets for Chinese precision strike weapons, such as missiles. Beijing's overarching approach remains one of caution - something Washington must bear in mind with its own drone programme.

No SCS escalation – interdependence

Kania 13 [Elsa Kania, Harvard Political Review, 1/11/13, “The South China Sea: Flashpoints and the U.S. Pivot,” <http://www.iop.harvard.edu/south-china-sea-flashpoints-and-us-pivot>, accessed 9/14/13, JTF]

One paradox at the heart of the South China Sea is the uneasy equilibrium that has largely been maintained. Despite the occasional confrontation and frequent diplomatic squabbling, **the situation has never escalated into full-blown physical conflict.** The main stabilizing factor has been that the countries involved have too much to lose form turmoil, and so much to gain from tranquility. Andrew Ring—former Weatherhead Center for International Affairs Fellow—emphasized that “With respect to the South China Sea, we all have the same goals” in terms of regional stability and development. With regional trade flows and interdependence critical to the region’s growing economies, conflict could be devastating. Even for China—the actor with by far the most to gain from such a dispute—taking unilateral action would irreparably tarnish its image in the eyes of the international community. With the predominant narrative of a “rising” and “assertive China”—referred to as a potential adversary by President Obama in the third presidential debate—China’s behavior in the South China Sea may be sometimes exaggerated or sensationalized. Dr. Auer, former Naval officer and currently Director of the Center for U.S.-Japan Studies and Cooperation at the Vanderbilt Institute for Public Policy Studies, told the HPR that “China has not indicated any willingness to negotiate multilaterally” and remains “very uncooperative.” Across its maritime territorial disputes—particularly through recent tensions with Japan in the East China Sea—Auer sees China as having taken a very aggressive stance, and he claims that “Chinese behavior is not understandable or clear.”

## 2NC

### DA

### 2nc yemen DA

Plan crushes Yemen coop

Stuart Delery, Principal Deputy Assistant Attorney General Civil Division, 12/14/12, DEFENDANTS’ MOTION TO DISMISS, http://www.lawfareblog.com/wp-content/uploads/2012/12/MTD-AAA.pdf

Lastly, litigating this suit directly implicates foreign affairs, yet another special factor under binding precedent. See Ali, 649 F.3d at 774 ( “[T]he danger of foreign citizens’ using the courts . . . to obstruct the foreign policy of our government is sufficiently acute that we must leave to Congress the judgment whether a damage remedy should exist.” (quoting Sanchez- Espinoza, 770 F.2d at 209)). Although Plaintiffs’ decedents are all U.S. citizens, and therefore the precise foreign affairs concerns detailed in Ali and Sanchez-Espinoza do not squarely arise in this case, see Doe, 683 F.3d at 396, without question, litigating the allegations in this case, which involve at least one foreign citizen and purported events abroad, threatens to disrupt U.S. foreign policy. Cf. Vance, 2012 WL 5416500 at \*4 (“The [Supreme] Court has never created or even favorably mentioned a nonstatutory right of action for damages on account of conduct that occurred outside the borders of the United States.”).21 Plaintiffs’ **claims, if litigated**, could **clearly affect** our government’s **relations with** the government of **Yemen**. Litigating these issues also could affect our relations with Egypt because Plaintiffs claim Defendants specifically targeted and attempted to kill an Egyptian national. See Compl. ¶ 37. Beyond these countries, Plaintiffs allege that the United States has conducted strikes in other countries as well. See id. ¶ 1. Assuming the truth of Plaintiffs’ allegations, **adjudication of this case could disrupt U.S. relations with these countries** too. It takes little imagination to envision the repercussions on foreign relations that could be spurred by the creation of an entirely novel and discretionary damages remedy—in private civil litigation no less. Given the above separation-of-powers, national security, military effectiveness, classified information, and foreign policy concerns—and the binding precedent on these issues—the Court should decline to create a remedy for Plaintiffs’ claims in this novel context.

Cooperation with Yemen key to defeat AQAP

Zimmerman 12

Katherine Zimmerman is a senior analyst and the al Qaeda and Associated Movements Team Lead for the American Enterprise Institute’s Critical Threats Project, Critical Threats, October 19, 2012, "Al Qaeda in Yemen: Countering the Threat from the Arabian Peninsula",

http://www.criticalthreats.org/yemen/zimmerman-qaeda-yemen-countering-threat-arabian-peninsula-october-19-2012

Hadi’s new government has been willing to fight against AQAP, but there is no guarantee that it will be both willing and able to conduct counter-terrorism or even counter-insurgency operations in the future. The level of cooperation now may be more an indication of the current conditions facing Hadi. The threat from AQAP to the Yemeni state has changed: Before 2011, AQAP did not pose an existential threat to the state. Hadi is also in a position where he needs international support, and international actors, primarily Saudi Arabia and the U.S., have made clear that continued support is based on Hadi taking action to address the terrorist threat emanating out of Yemen. It is not clear that Hadi will continue to combat AQAP should these conditions change. Saleh, when he was in power, vacillated on the issue of counter-terrorism cooperation based on what would serve him best. As Yemen’s disparate opposition groups coalesced around the call for Saleh to step down, Saleh became more cooperative on counter-terrorism issues in an effort to retain slipping international support. Furthermore, the Yemeni government remains challenged by limited resources and military capabilities. A more exigent security threat to the Yemeni state would prompt Hadi to divert resources to addressing the new threat.[33] It is too early to determine whether Hadi will be a steadfast counter-terrorism partner, though recent cooperation has helped to limit AQAP’s growth in Yemen.

CONCLUSION: LOOKING FORWARD IN YEMEN

American strategy in Yemen today leaves determinants for its success primarily outside of U.S. control. Success in Yemen requires an effective partner. America’s partner there, the Yemeni government, could still collapse or once again be paralyzed by resumed internal political, or even armed, conflict. Key government and military personnel also play a pivotal role in carrying out the fight against AQAP and a successful assassination campaign will affect the pursuit of this fight. When AQAP assassinated the commander leading the offensive against Ansar al Sharia in Abyan and Shabwah in June 2012, the military operation effectively ceased. AQAP also appears to be resorting to direct intimidation of the population to affect the fight. Three tribesmen and three soldiers were found decapitated near Ma’rib, the capital of the governorate east of Sana’a, on October 9 and October 11, 2012, respectively.[34] A warning to others cooperating with the government against AQAP was found with the tribesmen’s bodies. Hadi’s government will need public support to be able to continue its counter-terrorism cooperation, but is unlikely to retain that support if it cannot protect its people against such intimidation.

### At: commanders not liable

Possibility of remedies collapses our commanders’ credibility and chain of command. That’s key to effective military operations—that’s Klinger—the chain of command is key to everything

Fenster et al ‘10

Herbert, Phillip Carter, MCKENNA LONG & ALDRIDGE LLP, “BRIEF OF THE VETERANS OF FOREIGN WARS OF THE UNITED STATES AS AMICUS CURIAE IN SUPPORT OF DEFENDANTS AND DISMISSAL,” http://ccrjustice.org/files/Amicus\_Curiae\_Brief\_of\_VFW.pdf

C. Military Leadership And Decisionmaking Would Suffer

War is the province of chance. “If we now consider briefly the subjective nature of war—the means by which war has to be fought—it will look more than ever like a gamble . . . [i]n the whole range of human activities, war most closely resembles a game of cards.” Clausewitz, 86-87. Within this field of human endeavor, the most successful armies are those led by **decisive commanders** who visualize the operational environment and make rapid, sound decisions. Combat leadership involves the motivation of others to risk their lives, and only the most decisive and confident leaders can inspire this kind of self-sacrifice. Leadership is the multiplying and unifying element of combat power. Confident, competent, and informed leadership intensifies the effectiveness of all other elements of combat power by formulating sound operational ideas and assuring discipline and motivation in the force . . . Leadership in today’s operational environment is often the difference between success and failure. Dept. of the Army, Field Manual 3-0, Operations, at ¶¶ 4-6 - 4-8 (2008), available at http://www.army.mil/fm3-0/fm3-0.pdf. Battle command is a subset of combat leadership—it is how wartime leaders operationalize their intent and transmit their guidance to subordinate units. Battle command is the art and science of understanding, visualizing, describing, directing, leading, and assessing forces to impose the commander’s will on a hostile, thinking, and adaptive enemy. Battle command applies leadership to translate decisions into actions—by synchronizing forces and warfighting functions in time, space, and purpose—to accomplish missions. Battle command is guided by professional judgment gained from experience, knowledge, education, intelligence, and intuition. It is driven by commanders. Id. at ¶ 5-9. Battlefield decisionmaking involves the visualization of the battlefield and all its components, the deliberate assessment of operational risk, and the selection of a course of action which accepts certain risks in order to achieve tactical, operational or strategic success. Id. at ¶ 5-10; see also Gen. Frederick M. Franks, Jr., Battle Command: A Commander’s Perspective, Military Review, May-June 1996, at 120-121. “Given the inherently uncertain nature of war, the object of planning is not to eliminate or minimize uncertainty but to foster decisive and effective action in the midst of such uncertainty.” Army Field Manual 3-07, Stability Operations, at ¶ 4-4 (2008), available at http://usacac.army.mil/cac2/repository/FM307/FM307.pdf. In bringing this case, Plaintiff asks this Court to substitute itself as the battlefield commander, and to second-guess the strategic, operational and tactical decisions made by this nation’s military chain of command in the campaign against Al Qaeda. Judicial decisionmaking is incompatible with military decisionmaking. Rather than produce rapid, confident, decisive actions, judicial resolution of this matter would produce deliberate and measured decisions which are the product of adversarial process, and which would reflect judicial considerations, not strategic or tactical ones. Also, judicial involvement may induce risk aversion among commanders, who would worry about how their actions might be judged in courtrooms far removed from the battlefield, and thus hedge their battlefield decisions in order to protect themselves and their units from future judicial scrutiny. This is particularly true of Plaintiff’s prayer for relief, which calls upon the Court to enjoin the Government from using lethal force “except in circumstances in which they present concrete, specific, and imminent threats to life or physical safety, and there are no means other than lethal force that could reasonably be employed to neutralize the threats.” Such decisions about the use of force can often be made by soldiers in a split-second, on the basis of intuition and training. The specter of judicial involvement will affect the way soldiers and leaders approach these decisions, potentially complicating and slowing their decisions by injecting judicial considerations which have no place on the battlefield.

### 2nc link

They undermine the pace and surprise in TK—that’s key

Stuart Delery, Principal Deputy Assistant Attorney General Civil Division, 12/14/12, DEFENDANTS’ MOTION TO DISMISS, http://www.lawfareblog.com/wp-content/uploads/2012/12/MTD-AAA.pdf

The third and fourth Baker factors also warrant dismissal. The decision to use lethal force involves policy choices—**to be taken in light of** fast-paced and evolving intelligence available regarding specific threats posed by armed terrorist organizations that operate outside the constraints of the laws of war and hide amongst civilian populations—that are “of a kind clearly for nonjudicial discretion.” Baker, 369 U.S. at 217. It requires balancing the risk of harm to our Nation and the potential consequences of using force. Similarly, whether non-lethal means were “reasonably” available requires “policy choices and value determinations.” Japan Whaling, 478 U.S. at 230. As detailed above, the risks to ground forces that may or may not be tolerable as a possible non-lethal alternative to a purported missile strike clearly involve policy choices, as do the foreign policy implications that making such an operational choice abroad might entail. Any decision on the potential level of harm to innocent bystanders that may be tolerable in the context of alleged missile strikes against enemy targets overseas in an armed conflict undoubtedly raises policy choices for executive, not judicial, determination. As Plaintiffs implicitly acknowledge, Compl. ¶¶ 35, 40, civilian casualties are a regrettable but ever-present reality in armed conflict. The question is not whether such casualties will occur, but rather if they do, what amount of risk of harm to bystanders would be consistent with an appropriate use of force under the circumstances, based on principles that guide the Executive in an armed conflict. Moreover, judicially crafted standards that are specific, particular, and applied to a given set of facts may **prevent** or control **the contours of future operations involving armed force overseas, which could inhibit the Executive’s ability to carry out its national self-defense prerogative**. These issues all require “policy choices and value determinations” that are reserved for the Executive. Japan Whaling, 478 U.S. at 230. Deciding these issues in the context of this case would also fail to acknowledge the distinct role and structure of judicial decision-making in relation to the political branches, and would thus show a “lack of the respect due” to those branches, the fourth Baker factor. The Judiciary has “institutional limitations” when it comes to “strategic choices” involving national security and foreign affairs. El-Shifa, 607 F.3d at 843. Unlike the Executive, “the judiciary has no covert agents, no intelligence sources, and no policy advisors.” Schneider, 412 F.3d at 196. Moreover, the “complex subtle, and professional decisions as to the composition, training, equipping, and control of a military force are essentially professional military judgments, subject always to civilian control of the Legislative and Executive Branches.” Gilligan, 413 U.S. at 10. “The ultimate responsibility for these decisions is appropriately vested in branches of the government which are periodically subject to electoral accountability.” Id. Thus, “[i]t is not the role of judges to second-guess, with the benefit of hindsight, another branch’s determination that the interests of the United States call for military action.” El-Shifa, 607 F.3d at 844. The use of RPAs to combat the threat to this Nation’s security emanating from abroad posed by al-Qa’ida and associated forces involves just such a considered policy choice. See Robert Chesney, Text of John Brennan’s Speech on Drone Strikes Today at the Wilson Center (RPA Speech), Lawfare (Apr. 30, 2012, 12:50 pm), http://www.lawfareblog.com/2012/04/ brennanspeech/ (“Targeted strikes are wise.”).11 A finding by a court that another method of counterterrorism was more appropriate under the precise circumstances alleged—and in fact was constitutionally required—would show a “lack of the respect due” to the Executive’s policy choices regarding how to conduct a congressionally authorized armed conflict and its national defense mission. See El-Shifa, 607 F.3d at 844; Ctr. for Nat’l Sec. Studies v. U.S. Dep’t of Justice, 331 F.3d 918, 932 (D.C. Cir. 2003) (“It is not within the role of the courts to second- guess executive judgments made in furtherance of that branch’s proper role.”).

### 2nc official think twice link

Their 1AC Vladeck ev says the plan makes officials think twice—that destroys targeted killing

Jack Goldsmith, Harvard Law School Professor, focus on national security law, presidential power, cybersecurity, and conflict of laws, Former Assistant Attorney General, Office of Legal Counsel, and Special Counsel to the Department of Defense, Hoover Institution Task Force on National Security and Law, March 2012, Power and Constraint, P. 199-201

This strategy is having an impact. The slew of lawsuits in the United States and threatened prosecutions in Europe against Bush administration officials imposes reputational, emotional, and financial costs on them that help to promote the human rights groups' ideological goals, even if courts never actually rule against the officials. By design, these suits also give pause to current officials who are considering controversial actions for fear that the same thing might later happen to them. This effect is starting to be felt with drones. Several Obama administration officials have told me that they worry targeted killings will be seen in the future (as Stafford Smith predicts) as their administration's GTMO. The attempted judicial action against Rizzo, the earlier lawsuits against top CIA officials in Pakistan and elsewhere, and the louder and louder proclamations of illegality around the world all of which have gained momentum after al-Aulaqi's killing—are also having an impact. These actions are rallying cries for protest and political pushback in the countries where the drone strikes take place. And they lead CIA operators to worry about legal exposure before becoming involved in the Agency's drone program." We don't know yet whether these forces have affected actual targeting practices and related tactics. But they induce the officials involved to take more caution. And it is only a matter of time, if it has not happened already, before they lead the U.S. government to forgo lawful targeted killing actions otherwise deemed to be in the interest of U.S. national security.

### at immunity checks

The aff eliminates immunity OR doesn’t solve

Marguiles ‘12

Peter, Professor of Law, Roger Williams University, “Reforming Lawyers into Irrelevance?: Reconciling Crisis and Constraint at the Office of Legal Counsel”

Concerns about procedural justice and paralysis would also doom a Bivens lawsuit for damages162 as a method of accountability. Plaintiffs face multiple obstacles in such lawsuits, including persuading the courts to recognize such a remedy absent congressional authorization,163 and dealing with official immunities that thwart relief.164 Each problem is formidable for plaintiffs hoping to prevail in a lawsuit against OLC lawyers. In some cases involving national security, courts have declined to permit suits for damages, citing the chilling effect on officials and the risk of disclosing sensitive information as “factors counseling hesitation.”165 While there are strong arguments that precluding a lawsuit at this stage bends the law too far in the direction of impunity, courts in national security cases have often discounted this countervailing factor.166 In addition, official immunity interposes a significant obstacle to recovery. Officials have qualified immunity, which courts can breach only if an official acts in disregard of clearly settled law.167 Official immunities protect public servants from the unfairness of being surprised by legal developments that the officials could not have predicted.168 Viewed from an ex ante perspective, immunities allow officials to make difficult decisions without paralyzing worries about the effects of hindsight bias.169 The lawsuit by former detainee Jose Padilla170 against Yoo is vulnerable on each of these counts. While categorical preclusion of Bivens suits can send an unhealthy signal to officials and encourage official overreaching, an appeals court might view the need for secrecy in the provision of legal advice as justifying such a step.171 In any case, the Padilla suit will also flounder on the grounds of official immunity. A district court found that the suit could go forward.172 However, the decision failed to adequately explain how Padilla overcame Yoo’s qualified immunity, in light of the court’s acknowledgement that “the legal framework relating to [Padilla’s detention] . . . was developing at the time of the conduct alleged in the complaint.”173 The combination of questions about the availability of a cause of action and the scope of immunity dims the prospects for a lawsuit against Yoo.174

### 1nc sustainability

Drones are sustainable—US government won’t react to backlash

Benjamin Wittes, editor in chief of Lawfare and a Senior Fellow in Governance Studies at the Brookings Institution. He is the author of several books and a member of the Hoover Institution's Task Force on National Security and Law, 2/27/13, In Defense of the Administration on Targeted Killing of Americans, www.lawfareblog.com/2013/02/in-defense-of-the-administration-on-targeted-killing-of-americans/

This view has currency among European allies, among advocacy groups, and in the legal academy. **Unfortunately for its proponents, it has no currency among the three branches of government** of the United States. The courts and the executive branch have both taken the opposite view, and the Congress passed a broad authorization for the use of force and despite many opportunities, has never revisited that document to impose limitations by geography or to preclude force on the basis of co-belligerency—much less to clarify that the AUMF does not, any longer, authorize the use of military force at all. Congress has been repeatedly briefed on U.S. targeting decisions, including those involving U.S. persons.[5] It was therefore surely empowered to either use the power of the purse to prohibit such action or to modify the AUMF in a way that undermined the President’s legal reasoning. Not only has it taken neither of these steps, but Congress has also funded the relevant programs. Moreover, as I noted above, Congress’s recent reaffirmation of the AUMF in the 2012 NDAA with respect to detention, once again contains no geographical limitation. There is, in other words, a consensus among the branches of government on the point that the United States is engaged in an armed conflict that involves co-belligerent forces and follows the enemy to the new territorial ground it stakes out. It is a consensus that rejects the particular view of the law advanced by numerous critics. And it is a consensus on which the executive branch is entitled to rely in formulating its legal views.

### korea

#### No ext impact to this prolif turn—just in case--Zero risk of Korean conflict

Ashley **Rowland**, 12/3/20**10**. Stars and Stripes. “Despite threats, war not likely in Korea, experts say,” http://www.stripes.com/news/despite-threats-war-not-likely-in-korea-experts-say-1.127344?localLinksEnabled=false.

Despite increasingly belligerent threats to respond swiftly and strongly to military attacks, analysts say there is one thing both North Korea and South Korea want to avoid: an escalation into war. The latest promise to retaliate with violence came Friday, when South Korea’s defense minister-to-be said during a confirmation hearing that he supports airstrikes against North Korea in the case of future provocations from the communist country. “In case the enemy attacks our territory and people again, we will thoroughly retaliate to ensure that the enemy cannot provoke again,” Kim Kwan-jin said, according to The Associated Press. The hearing was a formality because South Korea’s National Assembly does not have the power to reject South Korean president Lee Myung-bak’s appointment. Kim’s comments came 10 days after North Korea bombarded South Korea’s Yeonpyeong island near the maritime border, killing two marines and two civilians — the first North Korean attack against civilians since the Korean War. South Korea responded by firing 80 rounds, less than half of the 170 fired by North Korea. It was the second deadly provocation from the North this year. In March, a North Korean torpedo sank the South Korean warship Cheonan, killing 46 sailors, although North Korea has denied involvement in the incident. The South launched a series of military exercises, some with U.S. participation, intended to show its military strength following the attack. John Delury, a professor at Yonsei University in Seoul, said South Korea is using “textbook posturing” to deter another attack by emphasizing that it is tough and firm. But it’s hard to predict how the South would respond to another attack. The country usually errs on the side of restraint, he said. “I think they’re trying to send a very clear signal to North Korea: Don’t push us again,” Delury said. “For all of the criticism of the initial South Korean response that it was too weak, in the end I think people don’t want another hot conflict. I think the strategy is to rattle the sabers a bit to prevent another incident.” Meanwhile, Yonhap News reported Friday that North Korea recently added multiple-launch rockets that are capable of hitting Seoul, located about 31 miles from the border. The report was based on comments from an unnamed South Korean military source who said the North now has 5,200 multiple-launch rockets. A spokesman for South Korea’s Joint Chiefs of Staff would not comment on the accuracy of the report because of the sensitivity of the information. Experts say it is a question of when — not if — North Korea will launch another attack. But those experts doubt the situation will escalate into full-scale war. “I think that it’s certainly possible, but I think that what North Korea wants, as well as South Korea, is to contain this,” said Bruce Bechtol, author of “Defiant Failed State: The North Korean Threat to International Security” and an associate professor of political science at Angelo State University in Texas. He said North Korea typically launches small, surprise attacks that can be contained — not ones that are likely to escalate. Delury said both Koreas want to avoid war, and North Korea’s leaders have a particular interest in avoiding conflict — they know the first people to be hit in a full-scale fight would be the elites.

### CP

### 2nc ov—adv 1

AQAP—their author says transparency solves and that the CIA is key, so they don’t solve either

Jacqueline Manning 12, Senior Editor of International Affairs Review, December 9 2012, “Free to Kill: How a Lack of Accountability in America’s Drone Campaign Threatens U.S. Efforts in Yemen,” http://www.iar-gwu.org/node/450

Earlier this year White House counter-terrorism advisor, John Brennan, named al-Qaeda in the Arabian Peninsula (AQAP) in Yemen the greatest threat to the U.S. Since 2009, the Obama administration has carried out an estimated 28 drone strikes and 13 air strikes targeting AQAP in Yemen, while the Yemeni Government has carried out 17 strikes, and another five strikes cannot be definitively attributed to either state . There is an ongoing debate over the effectiveness of targeted killings by drone strikes in the fight against al-Qaeda. However, what is clear is that the secrecy and unaccountability with which these drone strike are being carried out are undermining U.S. efforts in Yemen.¶ The drone campaign in Yemen is widely criticized by human rights activists, the local population and even the United Nations for its resulting civilian casualties. It is also credited with fostering animosity towards the U.S. and swaying public sentiment in Yemen in favor of AQAP. The long-term effects, as detailed by a 2012 report by the Center for Civilians in Conflict, seem to be particularly devastating. The resulting loss of life, disability, or loss of property of a bread-winner can have long-term impacts, not just on an individual, but on an entire family of dependents.¶ The effectiveness of drone technology in killing al-Qaeda militants, however, cannot be denied. Targeted killings by drone strikes have eliminated several key AQAP members such as Anwar al-Awlaki, Samir Khan, Abdul Mun’im Salim al Fatahani, and Fahd al-Quso . Advocates of the counterterrorism strategy point out that it is much less costly in terms of human lives and money than other military operations.¶ While there are strong arguments on both sides of the drone debate, both proponents and critics of targeted killings of AQAP operatives by drones agree that transparency and accountability are needed.¶ Authorizing the CIA to carry out signature strikes is of particular concern. In signature strikes, instead of targeting individual Al Qaeda leaders, the CIA targets locations without knowing the precise identity of the individuals targeted as long as the locations are linked to a “signature” or pattern of behavior by Al Qaeda officials observed over time. This arbitrary method of targeting often results in avoidable human casualties.¶ Secrecy surrounding the campaign often means that victims and families of victims receive no acknowledgement of their losses, much less compensation. There are also huge disparities in the reported number of deaths. In addition, according to The New York Times, Obama administration officials define “militants” as “all military-age males in a strike zone...unless there is explicit intelligence posthumously proving them innocent” This definition leads to a lack of accountability for those casualties and inflames anti-American sentiment.¶ In a report submitted to the UN Human Rights Council, Ben Emmerson, special rapporteur on the promotion and protection of human rights while countering terrorism, asserted that, "Human rights abuses have all too often contributed to the grievances which cause people to make the wrong choices and to resort to terrorism….human rights compliant counter-terrorism measures help to prevent the recruitment of individuals to acts of terrorism." There is now statistical evidence that supports this claim. A 2010 opinion poll conducted by the New America Foundation in the Federally Administered Tribal Areas (FATA) of Pakistan, where U.S. drone strikes have been carried out on a much larger scale, shows an overwhelming opposition to U.S. drone strikes coupled with a majority support for suicide attacks on U.S. forces under some circumstances.¶ It is clear that the drone debate is not simply a matter of morality and human rights; it is also a matter of ineffective tactics. At a minimum the U.S. must implement a policy of transparency and accountability in the use of drones. Signature strikes take unacceptable risks with innocent lives. Targets must be identified more responsibly, and risks of civilian casualties should be minimized. When civilian casualties do occur, the United States must not only acknowledge them, but also pay amends to families of the victims.

Transparency solves drone prolif and backlash in Yemen—their internal link author’s conclusion

Michael J. **Boyle 13**, Assistant Professor, Political Science – La Salle, International Affairs 89: 1 (2013) 1–29

In his second term, President Obama has an opportunity to reverse course

and establish a new drones policy which mitigates these costs and **avoids** some of

the long-term **consequences** that flow from them. A more sensible US approach

would impose some limits on drone use in order to minimize the political costs

and long-term strategic consequences. One step might be to limit the use of drones

to HVTs, such as leading political and operational figures for terrorist networks,

while reducing or eliminating the strikes against the ‘foot soldiers’ or other Islamist

networks not related to Al-Qaeda. This approach would reduce the number of

strikes and civilian deaths associated with drones while reserving their use for those

targets that pose a direct or imminent threat to the security of the United States.

Such a **self-limiting approach** to drones might also **minimize the degree of political**

**opposition** that US drone strikes generate in states such as Pakistan and Yemen, as

their leaders, and even the civilian population, often tolerate or even **approve of**

**strikes** against HVTs. Another step might be to **improve the levels of transparency**

of the drone programme. At present, there are no publicly articulated guidelines

stipulating who can be killed by a drone and who cannot, and no data on drone

strikes are released to the public.154

Even a Department of Justice memorandum

which authorized the Obama administration to kill Anwar al-Awlaki, an American

citizen, remains classified.155

Such **non-transparency fuels suspicions** that the US is

indifferent to the civilian casualties caused by drone strikes, a perception which in

turn magnifies the deleterious political consequences of the strikes. Letting some

sunlight in on the drones programme would not eliminate all of the opposition to

it, but it would go some way towards undercutting the worst conspiracy theories

about drone use in these countries while also signalling that the US government

holds itself legally and morally accountable for its behaviour.

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Solves responsible drone use, but avoids the DA

John Harwood, Major, J.D. and LL.M., Judge Advocate in USAF, Fall 2012, ARTICLE: KNOCK, KNOCK; WHO'S THERE? ANNOUNCING TARGETED KILLING PROCEDURES AND THE LAW OF ARMED CONFLICT, 40 Syracuse J. Int'l L. & Com. 1

While the law may not require states to publicly disclose their targeting procedures and an analysis for each individual targeted killing during armed conflict, as a matter of policy **the U.S. should provide enough information to allow the public to be satisfied that the government is fulfilling its international obligations**. The speeches of the nation's prominent national security lawyers are a good start; however, the government should continue to provide information on the processes and procedures of the targeted killing program, where operational and intelligence considerations allow.

As a beginning point, now that the existence of the targeted killing program is an acknowledged fact, the government should disclose whether the legal structures of aerial targeting are being followed by all the departments and agencies of the government who are engaged in targeted killings. The legal principles that the Air Force and the Department of Defense follow in aerial targeting are well-known and publicly available. While our enemies have occasionally sought to use our adherence to lawful targeting procedures to their benefit, n114 this openness has not been shown to be a hindrance to air-based military operations. n115

Second, the government should discuss in general terms the process of vetting targets and approving them for targeted killing. While covertness and operational security should protect the disclosure of the details of any individual strike, a general description of the procedures would "credibly convey to the public that [the government's] decisions about who is being targeted - [\*26] especially when the target is a U.S. citizen - are sound." n116 The basis of these disclosures, however, should be rooted in policy - as shown, there is no requirement under LOAC to divulge military targeting procedures during an armed conflict.

VI. Conclusion

International observers and human rights groups have rightly scrutinized targeted killing programs for compliance with international law. All programs, procedures, and operations should be subject to rigorous scrutiny; as noted by Mr. Brennan, "there is no more consequential a decision than deciding whether to use lethal force against another human being." n117 Because the subject matter is so weighty, there are no sacred cows in armed conflict. Too often, however, IHRL has been the prism through which criticism of the targeted killing program has come. Rather than providing a license to kill, as is feared by Alston and others, LOAC provides a robust legal framework for analyzing the legality of targeted killings.

To its credit, the **Obama** administration **has taken steps to reassure the public that the targeted killing program is being conducted in a lawful manner**; most notably by dispatching high-level officials and attorneys to speak openly and publicly. There is more that could be done, however, without compromising intelligence and ongoing operations. The administration could begin by requiring the CIA to conduct all aerial targeting in accordance with the well-established principles of military aerial targeting, and then publicize this requirement. This would rebut the claim that the CIA's operational-level targeting decisions are being made in a lawless vacuum.

Also, the administration could provide a basic, on-the-record description of the strategic-level target vetting process, rather than the non-specific "just trust us" statements previously made by Mr. Brennan and others. n118 While **these steps** may not placate the [\*27] critics of targeted killing, and fall far short of what Professor Alston calls for, they **would** help to reassure the public and the international community that the U.S. is committed to the rule of law during armed conflict.

Executive transparency is sufficient—solves backlash and modeling

Roth, executive director – Human Rights Watch, April ‘13

(Kenneth, “What Rules Should Govern US Drone Attacks?” The New York Review of Books)

At the very least, the CIA’s drone program, the source of most of the controversy, should be transferred to the Pentagon, with its stronger tradition of accountability to the law. That should be accompanied by a new policy of transparency about which laws govern drone attacks, and about why people are targeted, as well as prompt investigation whenever there is a credible allegation of civilian casualties or inappropriate targeting. The aim should be to open to independent scrutiny—by Congress, the courts, the press, and the public—many aspects of the drone program that have unjustifiably been kept secret (however open that secret may be) and treat drone attacks like normal military or police operations.

Any program that kills on the basis of secret intelligence risks abuse. The administration could go a long way toward minimizing the possibility of illegal killings—and discouraging others from acting in kind—if it explicitly recognized clear limits in the law governing drone attacks and allowed as much independent consideration of its compliance as possible.

### 2nc ov—adv 2

Transparency solves norms—their author

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

But even without raising standards, tightening up drone-specific restrictions in the standing control regime, or creating a new control agreement (which is never easy to pull off absent a bad-state actor threatening attack), just the process of lining up U.S. policy with U.S. practice would go a long way toward establishing the kind of precedent on use of this technology that America—in five, 10, or 15 years—might find helpful in arguing against another’s actions.

A not-insignificant faction of U.S. defense and intelligence experts, Dennis Blair among them, thinks norms play little to no role in global security. And they have evidence in support. The missile-technology regime, for example, might be credited with slowing some program development, but it certainly has not stopped non-signatories—North Korea and Iran—from buying, building, and selling missile systems. But norms established by technology-leading countries, even when not written into legal agreements among nations, have shown success in containing the use and spread of some weapons, including land mines, blinding lasers, and nuclear bombs.

Arguably more significant than spotty legal regimes, however, is the behavior of the United States. “History shows that how states adopt and use new military capabilities is often influenced by how other states have—or have not—used them in the past,” Zenko argued. Despite the legal and policy complexity of this issue, it is something the American people have, if slowly, come to care about. Given the attention that Rand Paul’s filibuster garnered, it is not inconceivable that public pressure on drone operations could force the kind of unforeseen change to U.S. policy that it did most recently on “enhanced interrogation” of terrorists.

The case against open, transparent rule-making is that it might only hamstring American options while doing little good elsewhere—as if other countries aren’t closely watching this debate and taking notes for their own future policymaking. But the White House’s refusal to answer questions about its drone use with anything but “no comment” ensures that the rest of the world is free to fill in the blanks where and when it chooses. And the United States will have already surrendered the moment in which it could have provided not just a technical operations manual for other nations but a legal and moral one as well.

### Zenko – 2NC

Zenko concludes Obama solves

Micah Zenko, Douglas Dillon fellow in the Center for Preventive Action at the Council on Foreign Relations, January 2013, “Reforming U.S. Drone Strike Policies,” CFR Special Report #65, i.cfr.org/content/publications/attachments/Drones\_CSR65.pdf‎

Recommendations

In his Nobel Peace Prize acceptance speech, President Obama declared: “Where force is necessary, we have a moral and strategic interest in binding ourselves to certain rules of conduct. Even as we confront a vicious adversary that abides by no rules, I believe the United States of America must remain a standard bearer in the conduct of war.”63 Under President Obama drone strikes have expanded and intensified, and they will remain a central component of U.S. counterterrorism operations for at least another decade, according to U.S. officials.64 But much as the Bush administration was compelled to reform its controversial counterterrorism practices, it is likely that the United States will ultimately be forced by domestic and international pressure to scale back its drone strike policies. The Obama administration can preempt this pressure by clearly articulating that the rules that govern its drone strikes, like all uses of military force, are based in the laws of armed conflict and international humanitarian law; by engaging with emerging drone powers; and, most important, by matching practice with its stated policy by limiting drone strikes to those individuals it claims are being targeted (which would reduce the likelihood of civilian casualties since the total number of strikes would significantly decrease).

### AT: Object Fiat

#### Internal constraints are key neg ground – 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.

### At: accountability

Transparency creates an incentive to constrain drone strikes

Gregory McNeal, Pepperdine University Professor, 3/15/13, Presidential Politics, International Affairs and (a bit on) Pakistani Sovereignty, www.lawfareblog.com/2013/03/presidential-politics-international-affairs-and-a-bit-on-pakistani-sovereignty/

Despite this lack of interest, some evidence exists to suggest that presidents do care about how their activities may be viewed by the public. As Baker has noted, during the bombing campaign in Kosovo, the possibility of civilian casualties from any given airstrike was seen as both a legal and political constraint. Due to this fact, some individual target decisions were deemed to have strategic policy implications that only the president could resolve (and we see similar presidential approvals for certain strikes in current operations). Moreover, **even in the absence of effective judicial constraints, and even without evidence of public concern** over matters of foreign policy, **the president is still constrained by politics and public opinion**. As Posner and Vermeule state, the president needs “both popularity, in order to obtain political support for his policies, and credibility, in order to persuade others that his factual and causal assertions are true and his intentions are benevolent.”

As was described in prior posts, the President is oftentimes directly involved in targeting decisions. This is due in part to globalized communications and also because as precision has increased, so too has the expectation (unrealistic as it is) that civilian casualties will be low or nonexistent. Given these expectations, presidents have oftentimes felt compelled to involve themselves to a greater degree in targeting decisions. This involvement brings with it enhanced political accountability. It allows for greater public awareness of kinetic operations and creates direct responsibility for results tied to the commander in chief’s immediate involvement in the decision-making process. Successes and failures are imputed (or at least can be imputed) directly to the president.

Presidential decision-making brings to light public recognition that the military and intelligence community are implementing rather than making policy. Moreover, when the president chooses to nominate people to assist him in making targeted killing decisions, the nomination process provides a mechanism of political accountability over the executive branch. This was aptly demonstrated by President Obama’s nomination of John Brennan to head the CIA. Given Brennan’s outsized role as an adviser to the president in the supervision of targeted killings, his nomination provided an opportunity to hold the president politically accountable by allowing senators to openly question him about the targeted killing process, and by allowing interest groups and other commentators to suggest questions that should be asked of him. Of course, secrecy can stifle some aspects of political accountability, but secrecy also has costs. Presidents require public support for their actions, and if the public does not trust him, that lack of trust may undermine other items on the administration’s agenda.

INTERNATIONAL POLITICAL CONSTRAINTS

Other political constraints from outside the U.S. may also impose costs on the conduct of targeted killings and those costs may serve as a form of accountability. For example, in current operations, targeted killings that affect foreign governments (as in domestic public opinion in Pakistan) or alliances (as in the case of UK support to targeting) all have associated with them higher political costs. Other **international political constraints can impose accountability on the targeting process**. For example, if Pakistan wanted to credibly protest the U.S. conduct of targeted killings, they could do so through formal mechanisms such as complaining at the UN General Assembly, petitioning the UN Security Council to have the matter of strikes in their country added to the Security Council’s agenda, or they could lodge a formal complaint with the UN Human Rights Committee. (UPDATE: In Emmerson’s letter he notes that the Pakistani government says they have at least made “public statements” regarding their lack of consent and their calls for “an immediate end to the use of drones by any other State on the territory of Pakistan.”). Pakistan could also expel U.S. personnel from their country, reject U.S. foreign aid, cut off diplomatic relations, and even threaten to shoot down U.S. aircraft. Despite apoplectic headlines, ledes and press releases, the fact that Pakistan has not pursued these means of international political accountability says a lot about the credibility of the sovereignty complaint.

Another international political mechanism can be seen in the form of overflight rights. As Zenko notes, sovereign states can constrain U.S. intelligence and military activities; “[t]hough not sexy and little reported, deploying CIA drones or special operations forces requires constant behind-the-scenes diplomacy: with very rare exceptions—like the Bin Laden raid—the U.S. military follows the rules of the world’s other 194 sovereign, independent states.” Other international political checks can be seen in the conduct of military operations. For example, during the 1991 Gulf War, the U.S. lawfully targeted Iraqi troops as they fled on what became known as the “highway of death.” The images of destruction broadcast on the news caused a rift in the coalition. Rather than lose coalition partners, the U.S. chose to stop engaging fleeing Iraqi troops, even though those troops were lawful targets. The U.S. government has similarly noted the importance of international public opinion, even highlighting its importance in its own military manuals. For example, the Army’s Civilian Casualty Mitigation manual states civilian casualties may “lead to ill will among the host-nation population and political pressure that can limit freedom of action of military forces. If Army units fail to protect civilians, for whatever reason, the legitimacy of U.S. operations is likely to be questioned by the host nation and other partners.”(See more here).

Critics of targeted killings tend to favor judicial mechanisms of accountability, believing that such externally imposed measures are the only effective mechanism of control over executive action. However, judicial accountability is not the only mechanism of control over targeted killings — **political accountability can**, under the right circumstances, **serve as an effective mechanism of control**. In the paper I also discuss bureaucratic and professional accountability, two of the less visible mechanisms of control in the targeted killing process. My next post will discuss reform recommendations that can enhance accountability for targeted killings.

Solves better than the plan

Afsheen John Radsan, William Mitchell College of Law, and Richard W. Murphy, Texas Tech University School of Law, 2009, Due Process and Targeted Killing of Terrorists, , papers.ssrn.com/sol3/papers.cfm?abstract\_id=1349357

Yet **as a practical matter, the judicial role** just identified **is** vanishingly small. Justice Thomas is surely correct that the executive must dominate decisions about who lives and dies in war. This makes executive self-control all the more important—and leads to our second claim. Due process is everywhere. For a century, debate has bubbled over the extra-territorial reach of the Constitution.30 The logic of Boumediene‘s five-justice majority opinion is that the Due Process Clause binds the executive worldwide—from Alaska to Zimbabwe.31 This duty exists even for matters that cannot or should not be subject to significant judicial control; the executive must obey the Constitution even if no court is in a position to say so. Honoring this obligation requires the executive to adopt procedures that maximize the accuracy and propriety of the CIA‘s targeted killing without unacceptably harming national security.32 Following the lead of cases from the European Court of Human Rights and the Supreme Court of Israel,33 we submit that as one integral element of these procedures, executive authorities should conduct independent, impartial, post-hoc review of the legality of any targeted killing by the CIA and that this review should be as public as national security permits.34

#### The CP’s transparency makes the president accountable

Eric Posner, Professor of Law, The University of Chicago Law School, and Adrian Vermeule, Professor of Law, Harvard Law School, 2007, The Credible Executive, 74 U. Chi. L. Rev. 865

As we noted earlier, legal scholars rarely note the problem of executive credibility, preferring to dwell on the problem of aggrandizement by ill-motivated presidents. Ironically, this assumption that presidents seek to maximize power has obscured one of the greatest constraints on aggrandizement, namely, the president's own interest in maintaining his credibility. Neither a well-motivated nor an ill-motivated president can accomplish his goals if the public does not trust him. n34 This concern with reputation may **put a** far greater check **on the president's actions than** do the **reactions of the other branches of the government.**

### at imminence too broad

Imminence standard aren’t broad

Benjamin Wittes, editor in chief of Lawfare and a Senior Fellow in Governance Studies at the Brookings Institution. He is the author of several books and a member of the Hoover Institution's Task Force on National Security and Law, 2/27/13, In Defense of the Administration on Targeted Killing of Americans, www.lawfareblog.com/2013/02/in-defense-of-the-administration-on-targeted-killing-of-americans/

A great deal of confusion and anxiety about the targeting of American citizens has flowed from the inelegant discussion in the White Paper of the word “imminent.” Neither the White Paper nor Holder’s speech makes clear what precise legal question the concept of imminence is addressing in its analysis. It is a bit of a mystery, in fact, whether the administration is using it to address resort-to-force matters under international law, domestic separation-of-powers questions, issues of the constitutional rights of the targets, as a possible defense against criminal prohibitions on killing Americans, or perhaps as a prudential invocation of the standards of international human rights law. What is clear is that the administration, for whatever reason, has limited itself in targeting Americans overseas to circumstances of an imminent threat. And its specific characterization of imminence has produced a barrage of criticism. The criticism, in my view, is unwarranted and rests on a misreading of the White Paper. Although it is true that the administration is using the term in a manner slightly relaxed from its common-sense meaning, many **commentators** and media figures **are dramatically overstating the degree of relaxation**. A word of explanation on this point is in order.

The term “imminent threat,” as the administration uses it, is something of a term of art—one that does not equate precisely to the common understanding of the word.Attorney General Holder has openly emphasized—consistent with the U.S. view of imminence in other national-security law circumstances—that this use does not mean imminence in some immediate temporal sense. It does not mean, for example, the last chance to act before disaster strikes. Rather, this definition of imminence incorporates a more flexible notion of an open window in time to address a threat which, left unaddressed, has independent momentum toward an unacceptable outcome. The Constitution, Holder explained,

does not require the president to delay action until some theoretical end-stage of planning—when the precise time, place, and manner of an attack become clear. Such a requirement would create an unacceptably high risk that our efforts would fail and that Americans would be killed.

Whether the capture of a U.S. citizen terrorist is feasible is a fact-specific, and potentially time-sensitive, question. It may depend on, among other things, whether capture can be accomplished in the window of time available to prevent an attack and without undue risk to civilians or to U.S. personnel. Given the nature of how terrorists act and where they tend to hide, it may not always be feasible to capture a United States citizen terrorist who presents an imminent threat of violent attack. In that case, our government has the clear authority to defend the United States with lethal force.

The White Paper’s wording on the subject of imminence is unfortunately imprecise, but it should not be over-read as authorizing—as one journalist put it—the killing of top Al Qaeda leaders “even if there is no intelligence indicating they are engaged in an active plot to attack the U.S.” In reality, the White Paper says something much more modest: that a finding of imminence does not require “clear evidence” that “a specific attack” will take place in the “immediate future.” It goes on to say that for those senior Al Qaeda leaders who are “continually planning attacks,” one has to consider the window of opportunity available in which to act against them and the probability that another window may not open before an attack comes to fruition. The result is that a finding of imminence for such a senior-level Al Qaeda operational leader can be based on a determination that such a figure is “personally and continually” planning attacks—not on a determination that any one planned attack is necessarily nearing ripeness.

The confusion arises largely out of a single, poorly-worded and easily misunderstood passage on page 8 of the White Paper:

a high-level official could conclude, for example, that an individual poses an “imminent threat” of violent attack against the United States where he is an operational leader of Al Qa’ida or an associated force and is personally continually involved in planning terrorist attacks against the United States. Moreover, where the al-Qa’ida member in question has recently been involved in activities posing an imminent threat of violent attack against the United States, and there is no evidence suggesting that he has renounced or abandoned such activities, that member’s involvement in al-Qa’ida’s continuing terrorist campaign against the United States would support the conclusion that the member poses an imminent threat.

The temptation is to read this passage broadly, as stating that targeting may be predicated on nothing more than an unrenounced history of plotting attacks—and without regard for the target’s present-day activities. In my view, however, such a reading places the White Paper at odds both with other public administration statements and with the history of U.S. interpretation of “imminence” in the international law context. The better way to understand the passage is that the first sentence of the paragraph states the general rule: that an Al Qaeda operational leader may be considered an imminent threat if he is “personally continually” planning attacks against the United States. The second sentence states the view that when evaluating whether a potential target is personally and continually planning such attacks, his recent activity is important to that evaluation, and a recent history of plotting major attacks will tend to support the inference that a person is currently plotting as well—at least to the extent it is not contradicted by some sort of renunciation of violence.

Read this way, the passage strikes me as both correct and unsurprising. If one is trying to assess whether Anwar Al Aulaqi is personally and continually planning major attacks against the U.S., after all, surely it is not irrelevant that he had only recently coaxed Umar Farouk Abdulmutallab onto a plane with a bomb, emailed with would-be terrorists in Britain about how to carry out attacks on aviation, and corresponded with Nidal Hassan in the run-up to the latter’s shooting at Fort Hood. To the contrary, surely this pattern of behavior supports an inference—at least to some extent—that this is a person who is continually plotting attacks of this nature. And surely it is also relevant that the possible target has not merely failed to renounce participation in such attacks but is also continuing to release videos calling for them.

Whether a pattern of this sort would adequately and on its own support a finding that an individual is continually involved in plotting major attacks would likely depend on how recent the pattern was, and how extensive. But there is nothing especially remarkable about the government’s position that for senior operational figures, recent past leadership conduct of an operational nature can serve as probative evidence of a figure’s current role.

While the precise contours of the administration’s thinking on the subject will remain unclear as long as it refuses to release the underlying legal memoranda, there is good reason to believe that this narrower reading of the White Paper’s “imminence” language—and not the more expansive readings—accurately reflects the administration’s thinking.

Unless and until the broader readings of the White Paper’s imminence language are confirmed to reflect administration thinking, **there is no reason to believe that the government has adopted a concept of imminence so expansive as to widen the narrow conception of the category** the administration has declared the lawful authority to target. Nor is there any evidence to suggest that the government is, in fact, targeting Americans based on nothing more than a distant pattern of past acts.

### Overreach

### 2nc groupthink

Groupthink doesn’t apply to this administration

Pillar, 13 -- Brookings Foreign Policy Senior Fellow

[Paul, "The Danger of Groupthink," The National Interest, 2-26-13, webcache.googleusercontent.com/search?q=cache:6rnyjYlVKY0J:www.brookings.edu/research/opinions/2013/02/26-danger-groupthink-pillar+&cd=3&hl=en&ct=clnk&gl=us, accessed9-21-13, mss]

David Ignatius has an interesting take on national security decision-making in the Obama administration in the wake of the reshuffle of senior positions taking place during these early weeks of the president's second term. Ignatius perceives certain patterns that he believes reinforce each other in what could be a worrying way. One is that the new team does not have as much “independent power” as such first-term figures as Clinton, Gates, Panetta and Petraeus. Another is that the administration has “centralized national security policy to an unusual extent” in the White House. With a corps of Obama loyalists, the substantive thinking may, Ignatius fears, run too uniformly in the same direction. He concludes his column by stating that “by assembling a team where all the top players are going in the same direction, he [Obama] is perilously close to groupthink.” We are dealing here with tendencies to which the executive branch of the U.S. government is more vulnerable than many other advanced democracies, where leading political figures with a standing independent of the head of government are more likely to wind up in a cabinet. This is especially true of, but not limited to, coalition governments. Single-party governments in Britain have varied in the degree to which the prime minister exercises control, but generally room is made in the cabinet for those the British call “big beasts”: leading figures in different wings or tendencies in the governing party who are not beholden to the prime minister for the power and standing they have attained. Ignatius overstates his case in a couple of respects. Although he acknowledges that Obama is “better than most” in handling open debate, he could have gone farther and noted that there have been egregious examples in the past of administrations enforcing a national security orthodoxy, and that the Obama administration does not even come close to these examples. There was Lyndon Johnson in the time of the Vietnam War, when policy was made around the president's Tuesday lunch table and even someone with the stature of the indefatigable Robert McNamara was ejected when he strayed from orthodoxy. Then there was, as the most extreme case, the George W. Bush administration, in which there was no policy process and no internal debate at all in deciding to launch a war in Iraq and in which those who strayed from orthodoxy, ranging from Lawrence Lindsey to Eric Shinseki, were treated mercilessly. Obama's prolonged—to the point of inviting charges of dithering—internal debates on the Afghanistan War were the **polar opposite** of this. Ignatius also probably underestimates the contributions that will be made to internal debate by the two most important cabinet members in national security: the secretaries of state and defense. He says John Kerry “has the heft of a former presidential candidate, but he has been a loyal and discreet emissary for Obama and is likely to remain so.” The heft matters, and Kerry certainly qualifies as a big beast. Moreover, the discreet way in which a member of Congress would carry any of the administration's water, as Kerry sometimes did when still a senator, is not necessarily a good indication of the role he will assume in internal debates as secretary of state. As for Chuck Hagel, Ignatius states “he has been damaged by the confirmation process and will need White House cover.” But now that Hagel's nomination finally has been confirmed, what other “cover” will he need? It's not as if he ever will face another confirmation vote in the Senate. It was Hagel's very inclination to flout orthodoxy, to arrive at independent opinions and to voice those opinions freely that led to the fevered opposition to his nomination.

### Pakistan backlash

Their studies are biased

Qazi 13

Muatasim Qazi is the Assistant Editor of The Baloch Hal, Balochistan’s first online English newspaper, Seattle Globalist, June 3, 2013, "The 6 big myths that turned us against drone strikes", http://www.seattleglobalist.com/2013/06/03/six-myths-about-drone-strikes-in-pakistan/13558

Drones kill civilians

Critics argue that drones are counterproductive and lead to civilian casualties, mainly children and women.

Their argument is based on research and surveys conducted with direct or indirect influence from Pakistani military. Independent journalists and rights groups are not allowed to confirm if there are civilian casualties and on what scale.

Local journalists from the tribal region who have tried to provide a glimpse into Pakistan military’s close relations with the militants have been targeted.

Civilian casualties are a terrible thing. But even this incomplete data clearly shows that the number of civilians killed by drones pales in comparison to the number killed by the militants the drone strikes are targeting.

Drones displace people

A large number of people in these regions have been forced to leave their homes and move to safer parts of the country. People in rest of Pakistan believe drones have chased these internally displaced persons out of their homes in the mountains.

But the fact is that these people are tired of Taliban’s atrocities in their villages. The latter have grabbed their land and destroyed the tribal structure that was both a source of pride and a peaceful way of living for the tribal people. They have killed Maliks, the tribal chiefs who held the tribal society altogether.

Dr. Akbar Ahmed, a professor at Washington DC’s American University, has recently published a remarkable book, The Thistle and the Drone, highlighting how the Pakistani central government and the tribal militants’ activities have ruined the lives of the tribal people. While Dr. Ahmed criticizes the drones, he admits that the Pakistani central government and the militants equally contribute to the sufferings of the tribal people.

Drone strikes create more terrorists

The impression that drone strikes create additional terrorists is not entirely grounded in reality. The truth is that Islamist extremism is midwifed by the ideology of global jihad and political Islam.

The bulk of the Taliban fighters come from the Punjab province that has become a hub of extremism in recent years. These fighters come from urban, middle class families. Neither the Punjab province faces drone strikes nor have these militants ever lost a relative and family member in any of the drone strikes. The history of Islamic extremism in Pakistan dates back to days much earlier the use of the drone technology.

### Aqap backlash

Doesn’t boost AQAP—their ev cites a 2010 study about PAKISTAN—that’s wrong

Watts 12 (Clinton Watts is a Senior Analyst with the Navanti Group and a Senior Fellow at The George Washington University Homeland Security Policy Institute (HSPI). He is also a former U.S. Army Officer and former Special Agent with the FBI. Frank J. Cilluffo is the Director of the Homeland Security Policy Institute at The George Washington University., 6/21/2012, "Drones in Yemen: Is the U.S. on Target?", www.gwumc.edu/hspi/policy/drones.pdf)

AQAP’s persistence arises not only from internal instability in Yemen but even more from exogenous forces leading this al Qaeda affiliate to be bolstered above all others. Critics of drone strikes myopically focus on this tactic as the singular cause for AQAP’s ascension. Drone strikes at most provide only a peripheral and recent motivation for the growth of a terrorist affiliate that has been aggressively attempting to expand over the past five years. Several phenomena occurring outside Yemen’s borders have been the primary catalyst for AQAP’s emergence. First, foreign fighter records captured by U.S. forces in Iraq in 2007 indicated that Yemeni foreign fighters were the second most likely to choose to be “fighters” rather than “martyrs” when they arrived in Iraq. This data point signaled the intent of some Yemeni al Qaeda members in Iraq to return home should they survive Iraqi battlefields. By 2008, the U.S. “Surge” strategy took effect and foreign fighter flows slowed and largely reversed from Iraq. In turn, terrorist attack data from 2008 showed Yemen as the second highest country for terrorist attacks outside of Iraq and Afghanistan suggesting seasoned Yemeni foreign fighters from Iraq may have returned to wage jihad in their homeland.7 Second, in 2005-2006, Saudi Arabia initiated a major counterterrorism clampdown on AQAP operatives pushing many veteran, Saudi al Qaeda members into Yemen where they helped form AQAP’s second incarnation in 2009.8 Young Saudi men have long filled the ranks of al Qaeda and its affiliates, and Saudi Arabia’s persistent tamping down of internal al Qaeda threats creates terrorist bleedover in nearby Yemen. Third, prior to his death, Bin Laden began searching for a new safe haven for relocating his battered operatives in Pakistan and Afghanistan. As noted by Gabriel Koehler Derrick in recent analysis of the Abbottabad documents declassified in May 2012, Bin Laden envisioned Yemen, “either as a “safe haven” for jihadists or a “reserve” force for al-Qa`ida in Afghanistan or Iraq.” Of all al Qaeda affiliates, Yemen provided the best venue for those al Qaeda operatives (particularly those from the Arabian Peninsula) seeking shelter from U.S. counterterrorism efforts.9 Fourth, Yemen provides Bin Laden and al Qaeda a safe haven more proximate to their essential base of financial support – wealthy Persian Gulf donors. Being bled by middlemen and the endless amount of protection money needed to sustain safe harbor in Pakistan, Bin Laden likely saw Yemen as a more efficient and effective location for securing resources. With his death, financial support for al Qaeda in Pakistan has decreased substantially and many believe that the remaining stream of al Qaeda donor support now flows to AQAP in Yemen, not al Qaeda’s senior leadership in Pakistan.10Even a slight increase in donor support in the wake of Bin Laden’s death would further empower AQAP. Finally, foreign fighters that once would have flocked to Iraq (2005-2007) or Afghanistan (2008-2010) now likely see more opportunity for jihad by migrating to Yemen. While the foreign fighter flow to Yemen represents merely a trickle of what al Qaeda’s recruitment was at its height, AQAP in Yemen likely provides the most appealing option for joining an official affiliate of the al Qaeda movement – especially for those potential recruits in the Arabian Peninsula. Keep in mind that military actions, including the use of drones, have made travel to Pakistan’s Federally Administered Tribal Areas (FATA) less appealing and less hospitable to foreign fighters. These successful U.S. military activities have had significant operational effects on al Qaeda and its affiliates by disrupting pipelines, and they serve as a strong deterrent to future al Qaeda activities in the FATA.11In parallel to the many exogenous factors strengthening AQAP over the past five years, Yemen’s instability and intermittent military commitment to fighting AQAP has provided ample opportunity for the terror groups to expand over the past year. The political struggles of the Saleh regime and its replacement have undermined the country’s military capacity allowing for AQAP and its insurgent arm Ansar al-Sharia to successfully advance and hold territory. The Yemeni government’s continuing inability to provide for portions of the Yemeni population allows AQAP and Ansar al-Sharia space to fill a void in needed social services and secure local popular support. Most importantly, Yemeni incompetence breathed life into a dormant AQAP franchise allowing known al Qaeda operatives on at least two occasions to escape detention providing much of the group’s current energy.12 While some narrowly point to drones for manufacturing AQAP, many exogenous and endogenous factors propel the group’s current external terrorism campaign and internal insurgency against the Yemeni state. What do critics of drones misunderstand about drone operations in Yemen? Critics of the U.S. drone campaign in Yemen confusingly lump together disparate issues related to terminology, intelligence processes, legal authorities and terrorist propaganda to justify stopping the use of the U.S.’s most effective counterterrorism technique – all while failing to offer a viable alternative for countering AQAP’s immediate threat to the U.S. Although an imperfect tool, drone strikes suppress terrorists in otherwise denied safe havens and limit jihadists’ ability to organize, plan and carry out attacks. These strikes help shield us from harm and serve our national interests. Doing nothing is simply not an option. Media accounts of attacks in Yemen often mistakenly credit U.S. drones for every explosion in Yemen. Drones represent one of several technology platforms executing airstrikes that include cruise missiles, potentially U.S. or Yemeni fighter aircraft or even helicopter assaults. Drone critics correctly cite instances where poor intelligence leads to the killing of civilians and/or those in opposition to the Saleh regime. However, one of the instances commonly used in calls to end drone use in Yemen is actually not the result of a drone strike. Critics point to the intelligence failures of a cruise missile attack in al Majalah on December 17, 2009.13 As an example, Gregory Johnsen at Princeton University and Yemen expert writing at Waq-al-Waq led his rebuttal of current drone policy, entitled “Drones, Drift and the (New) American Way of War,” with criticisms of drone warfare by citing this December 17, 2009 cruise missile attack.14Instead of pointing to this incident as justification for halting drone strikes in Yemen, the civilian casualties created by this intelligence failure and use of a cruise missile alternatively suggest the need for the use of drones as a more surgical platform for achieving our counterterrorism objectives while minimizing civilian casualties. Cruise missiles introduce several factors that may contribute to errant targeting. The limitations of cruise missiles, in many ways, provided the impetus for developing the drone platform.15 Cruise missiles 1) require intelligence far in advance of hitting their target, 2) take a considerable amount of time to travel to their target, 3) are difficult to divert from their target once launched and 4) employ large scale and more devastating munitions such as cluster bombs which can lead to increased civilian casualties. In contrast, drones can provide their own targeting intelligence devoid of Yemeni government influence, provide real-time visual surveillance

 of a target, minimize the time between target engagement and target impact, and use smaller munitions able to reduce civilian casualties. While neither technology platform is a perfect engagement tool, drones vis-à-vis cruise missiles have further improved the U.S. ability to engage terrorists and minimize civilian casualties. Drone critics this past year have also challenged the legality of targeting AQAP members, specifically those members that are American citizens.16 First, drone and legal critics have challenged the legality of the drone strike killing American AQAP cleric Anwar al-Awlaki. In response, the U.S. Department of Justice released a memo in February 2012 detailing its justifications for targeting al-Awlaki in response to his planning and directing the attempted Christmas Day 2009 attempt on an airliner over Detroit.17 Even when given this evidence, these same critics continue to advocate that Awlaki should have been pursued through the U.S. legal system, charged with a federal crime, arrested and then tried in a courtroom. In addition to the obvious limitations the U.S. encounters trying to capture a terrorist residing in a volatile foreign safe haven, these arguments ignore the fact that Awlaki knowingly traveled outside the U.S. and admittedly joined an officially designated Foreign Terrorist Organization (FTO). This action alone permits Awlaki’s targeting and undercuts the claims of illegality by drone critics. These authors believe the legal argument posed by drone critics in the case of Awlaki lacks legitimacy. It is worth emphasizing furthermore that drone strikes may not always be the preferred course. Attempts to capture high value targets are riskier but that downside may be outweighed by the potential intelligence value of key individuals. A case-by-case assessment will always be needed. The second contentious legal debate related to drone targeting comes from the inadvertent killing of Anwar al-Awlaki’s son Abdulrahman al-Awlaki on October 14, 2012. Reporting suggests the intended target of the strike was AQAP’s media chief, Ibrahim al Bana.18 The death of Abdulrahaman al-Awlaki is a tragedy and has become a rallying point for those believing U.S. drone strikes create excessive civilian casualties. However, these same critics cannot explain why Abdulrahman al-Awlaki was present in the home of a suspected AQAP target, nor do they place any responsibility on Anwar al-Awlaki’s family who knowingly placed Abdulrahman in the orbit of terrorists clearly being pursued by the U.S. Third and most recently, anti-drone advocates have rallied against the Obama administration’s recent authorization to implement signature strikes against AQAP in Yemen.19 This argument against drones, above all others, may prove the most credible. The term “signature strikes” suggests the notion that the U.S. fires missiles at unknown targets for simply looking suspicious. Journalists and human rights advocates are right to draw attention to the use of this tactic as it implies the killing of unknown people for unclear reasons. The signature strike tactic, if used injudiciously, will result in the killing of innocent civilians and is certainly more inclined to radicalize local populations and inspire further AQAP recruitment. Those opposing drone use in Yemen commonly cite civilian casualties as reason for stopping drone strikes. Civilian casualties should be avoided at all costs, however drones in comparison to all other kinetic counterterrorism options, likely produce the fewest civilian casualties per engagement. Statistics and ratios remain difficult to calculate, and research has only just begun on this new counterterrorism application. But, in comparison to other forms of warfare, drone strikes may be one of the least civilian casualty producing tools in the history of warfare (See endnote).20 Large scale military intervention (i.e. regime change), broad-based counterinsurgency, backing of the Yemeni military, arming of militias – all of these counterterrorism options are far more likely to produce civilian casualties. Drones supported by intelligence provide U.S. counterterrorism efforts the most surgical and the least casualty-producing tool for engaging AQAP. In conjunction with the debate over drones creating civilian casualties, media debates ignore how al Qaeda deliberately uses civilians as human shields against attack. In documents seized during the Abbottabad raid, Bin Laden instructs his operatives to avoid drone strikes by staying out of cars noting, “We could leave the cars because they are targeting cars now, but if we leave them, they will start focusing on houses and that would increase casualties among women and children.”21 Bin Laden instructed his operatives to use women and children as human shields against drones knowing 1) the U.S. would be more reluctant to target operatives when civilian casualties would be numerous and 2) the U.S. unknowingly killing civilians during drone attacks would undermine local popular support for U.S. counterterrorism efforts providing al Qaeda ample fuel for propaganda – a lesson learned by al Qaeda in past failed jihadi campaigns where their expansive violence against innocent civilians eroded local popular support for the terror group. The U.S. should continue to avoid civilian casualties from drone strikes, but drone critics must also realize how al Qaeda uses civilians as pawns for undermining drone strikes. Some thoughtful critics of U.S. counterterrorism operations in Yemen with whom we respectfully disagree, notably Gregory Johnsen of Princeton University22 and Jeremy Scahill of The Nation (although there are others)23, cite drone strikes as increasing the number of AQAP operatives in Yemen. The logic behind this assertion appears horribly backwards. The U.S. deploys drones where terrorist go – weak and failed states providing adequate safe haven for planning and executing terrorists attacks. However, the U.S. does not deploy drones to countries for the purpose of shooting at innocent people in hopes of creating terrorists. Johnsen24, Scahill, the recent Washington Post article by Sudarsan Raghavan, “In Yemen, U.S. airstrikes breed anger, and sympathy for al-Qaeda,”25 and others (see endnote for summary)26 point to AQAP propaganda citing drones as motivation for terrorist recruitment and in turn suggest this as justification for the U. S. ceasing the tactic – essentially determining that if our terrorist enemies don’t like a tactic we should stop pursuing it. If one wants to assess which counterterrorism techniques are most effective against al Qaeda and affiliated groups, then look no further than al Qaeda’s propaganda. Al Qaeda, the Taliban and now AQAP have all focused their propaganda campaigns on eliminating the U.S. ability to employ night raids and drones. Why do they focus on these two tactics? Because night raids and drones are the most effective means for deterring these groups; Bin Laden admits this in his own internal documents captured in Abbottabad. Unable to leverage effective counter drone operations, al Qaeda, the Taliban and now AQAP seek to use propaganda to enrage local populations in hopes of interrupting this highly effective counterterrorism tool. Letting our adversaries (AQAP) dictate our tactics should never be an option.

### Aqap L

AQAP is reeling

Bergen & Rowland 13—CNN’s national security analyst AND program associate at the New America Foundation (Peter and Jennifer, 18 July 2013, “Al Qaeda in Yemen: On the ropes,” http://www.cnn.com/2013/07/18/opinion/bergen-al-qaeda-yemen/index.html?hpt=op\_t1)

Shihri's death in the U.S. drone strike is part of larger story of AQAP decline over the **past two years**. In 2011, AQAP had gained significant territory in Yemen as it exploited the popular uprising against longtime Yemeni president Ali Abdullah Saleh. Its core membership grew from approximately 300 members in 2009 to around 1,000 three years later, according to Gregory Johnsen, the author of the authoritative book "The Last Refuge: Yemen, al-Qaeda, and America's War in Arabia".

But the jihadist group **lost all of these gains within about a year**. An offensive by the Yemeni army that was supported by U.S. intelligence last year pushed AQAP out of the central Yemeni province of Abyan, forcing AQAP's fighters to flee to the remote desert province of Hadramaut.

The group has since been reduced to carrying out much smaller attacks; nothing compared to the massive suicide bombing it was able to conduct in the heart of the Yemeni capital in May 2012, which killed upwards of 100 soldiers as they rehearsed for a military parade.

And despite its focus on attacking U.S. targets, AQAP has not tried to attack one since its October 2010 attempt to plant bombs hidden in printer cartridges on cargo planes destined for the United States. (Last year AQAP plotted to send an operative with explosives in his underwear aboard a plane bound for the United States, but that operative was actually secretly working for the British and Saudi intelligence services, so the plot was never a real threat.)

Despite all the losses AQAP has suffered its capable chief bomb maker, Ibrahim al-Asiri, remains at large. Al-Asiri was the brains behind AQAP's failed "underwear bomb" attempt to bring down a Detroit-bound U.S. airliner on Christmas Day 2009.

AQAP's overall leader, Nasser al-Wuhayshi also remains at large, Wuhayshi is AQAP's founder and his continued survival is surely important for the organization.

AQAP could regenerate, particularly if Yemen sees more upheaval, but for now, the group is on the run from the Yemeni army and U.S. drone strikes, fearful of spies in its midst, is unable to launch large-scale attacks, and boasts a dwindling cadre of leaders. AQAP, in short, is struggling to survive.

### Norms

### 2nc no impact

Their ev is hype

Bartsch 13

Golo M. Bartsch is Associate of the Ecologic Institute Berlin, PhD candidate at the University of Bielefeld, and former German Air Force officer, Atlantic Community, August 10, 2013, "Drones as a Means of a Pre-emptive Security Strategy", http://www.atlantic-community.org/-/drones-as-a-means-of-a-pre-emptive-security-strategy

Let us begin by bringing some sobriety into a highly emotional public debate: Unmanned Combat Aerial Vehicles (UCAVs) are not even our sword of Damocles, as the atomic bomb was in Kästner's 20th Century: They do not shape the essence of global politics, nor do they mark a quantum leap in physical understanding. From a technical viewpoint on military history, they even are not as revolutionary as the submarines and tanks of WWI, or the V-2 missiles of WWII were. UCAVs are no more than remotely piloted aircraft, suited to carry air-to-ground armaments – and most are quite sluggish in comparison to conventional fighters. And, in spite of the progress technology has made, fully "robotic warfare" is still no more than dystopian science fiction: NATO's current arsenal of UCAVs is not at all a Hollywood-like force of armed robots seeking to "terminate" targets of their own choice beyond any human possibility to abort or intercept.

### 2nc at china impact

Their impact is alarmism—US lead is locked in and other modernization makes their impact inevitable

Moss, writer – The Diplomat, former editor for the Asia-Pacific – Jane’s Defence Weekly, 3/2/’13

(Trefor, “Here Come…China’s Drones,” http://thediplomat.com/2013/03/02/here-comes-chinas-drones/?all=true)

Unmanned systems have become the legal and ethical problem child of the global defense industry and the governments they supply, rewriting the rules of military engagement in ways that many find disturbing. And this sense of unease about where we’re headed is hardly unfamiliar. Much like the emergence of drone technology, the rise of China and its reshaping of the geopolitical landscape has stirred up a sometimes understandable, sometimes irrational, fear of the unknown. It’s safe to say, then, that Chinese drones conjure up a particularly intense sense of alarm that the media has begun to embrace as a license to panic. China is indeed developing a range of unmanned aerial vehicles/systems (UAVs/UASs) at a time when relations with Japan are tense, and when those with the U.S. are delicate. But that **hardly justifies claims** that “drones have taken center stage in an escalating arms race between China and Japan,” or that the “China drone threat highlights [a] new global arms race,” as some observers would have it. This hyperbole was perhaps fed by a 2012 U.S. Department of Defense report which described China’s development of UAVs as "alarming." That’s quite unreasonable. All of the world’s advanced militaries are adopting drones, not just the PLA. That isn’t an arms race, or a reason to fear China, it’s just the direction in which defense technology is naturally progressing. Secondly, while China may be demonstrating impressive advances, Israel and the U.S. retain a substantial lead in the UAV field, with China—alongside Europe, India and Russia— still in the second tier. And thirdly, China is modernizing in all areas of military technology – unmanned systems being no exception.

## 1NR

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Competitiveness dodges their heg d

Baru 9 (Sanjaya, Visiting Professor at the Lee Kuan Yew School of Public Policy in Singapore Geopolitical Implications of the Current Global Financial Crisis, Strategic Analysis, Volume 33, Issue 2 March 2009 , pages 163 – 168)

The management of the economy, and of the treasury, has been a vital aspect of statecraft from time immemorial. Kautilya’s Arthashastra says, ‘From the strength of the treasury the army is born. …men without wealth do not attain their objectives even after hundreds of trials… Only through wealth can material gains be acquired, as elephants (wild) can be captured only by elephants (tamed)… A state with depleted resources, even if acquired, becomes only a liability.’4 Hence, economic policies and performance do have strategic consequences.5 In the modern era, the idea that strong economic performance is the foundation of power was argued most persuasively by historian Paul Kennedy. ‘Victory (in war),’ Kennedy claimed, ‘has repeatedly gone to the side with more flourishing productive base.’6 Drawing attention to the interrelationships between economic wealth, technological innovation, and the ability of states to efficiently mobilize economic and technological resources for power projection and national defence, Kennedy argued that nations that were able to better combine military and economic strength scored over others. ‘The fact remains,’ Kennedy argued, ‘that all of the major shifts in the world’s military-power balance have followed alterations in the productive balances; and further, that the rising and falling of the various empires and states in the international system has been confirmed by the outcomes of the major Great Power wars, where victory has always gone to the side with the greatest material resources.’7

Turns Pakistan

Ferguson, Prof. History @ Harvard, April, ‘9

(Niall, <http://www.foreignpolicy.com/story/cms.php?story_id=4681&page=0>)

The democratic governments in Kabul and Islamabad are two of the weakest anywhere. Among the biggest risks the world faces this year is that one or both will break down amid escalating violence. Once again, the economic crisis is playing a crucial role. Pakistan’s small but politically powerful middle class has been slammed by the collapse of the country’s stock market. Meanwhile, a rising proportion of the country’s huge population of young men are staring unemployment in the face. It is not a recipe for political stability.

#### Growth solves terrorism

Becker, Senior Lecturer-Law @ Chicago and Posner, Prof. Business @ Chicago, ‘5

(Gary and Richard, http://www.becker-posner-blog.com/archives/2005/05/terrorism\_and\_p\_1.html)

A second possible qualification would arise if the process of rapid economic development reduces terrorism by orienting more educated and abler individuals toward advancing economically rather than toward terrorist activities. I have not done a systematic study of the link between say economic growth and terrorism, but nations or regions that are experiencing rapid growth appear to have lower incidences of terrorism. Continuing economic growth also eventually leads to greater democracy, so a positive link between economic growth and democracy and a negative link between growth and terrorism could help explain the observed negative relation between terrorism and democracy. To be sure, terrorism may be less common when nations are growing rapidly because the causation goes from terrorism to little growth; that is, terrorism discourages investments and other engines of growth. Whether the causation is from growth to little terrorism or from terrorism to little growth would have to be discovered from systematic and careful studies. But I believe that some of the causation runs from growth to reduced terrorism because it becomes harder to interest many individuals in risky terrorist activities (and other political activism) when economies are expanding rapidly and opportunities are booming.

### Impact d

#### Drezner says there was no great power war in 2012 – that’s brink for us, more causes state failure

Kemp 10

Geoffrey Kemp, Director of Regional Strategic Programs at The Nixon Center, served in the White House under Ronald Reagan, special assistant to the president for national security affairs and senior director for Near East and South Asian affairs on the National Security Council Staff, Former Director, Middle East Arms Control Project at the Carnegie Endowment for International Peace, 2010, The East Moves West: India, China, and Asia’s Growing Presence in the Middle East, p. 233-4

The second scenario, called Mayhem and Chaos, is the opposite of the first scenario; everything that can go wrong does go wrong. The world economic situation weakens rather than strengthens, and India, China, and Japan suffer a major reduction in their growth rates, further weakening the global economy. As a result, energy demand falls and the price of fossil fuels plummets, leading to a financial crisis for the energy-producing states, which are forced to cut back dramatically on expansion programs and social welfare. That in turn leads to political unrest: and nurtures different radical groups, including, but not limited to, Islamic extremists. The internal stability of some countries is challenged, and there are more “failed states.” Most serious is the collapse of the democratic government in Pakistan and its takeover by Muslim extremists, who then take possession of a large number of nuclear weapons. The danger of war between India and Pakistan increases significantly. Iran, always worried about an extremist Pakistan, expands and weaponizes its nuclear program. That further enhances nuclear proliferation in the Middle East, with Saudi Arabia, Turkey, and Egypt joining Israel and Iran as nuclear states. Under these circumstances, the potential for nuclear terrorism increases, and the possibility of a nuclear terrorist attack in either the Western world or in the oil-producing states may lead to a further devastating collapse of the world economic market, with a tsunami-like impact on stability. In this scenario, major disruptions can be expected, with dire consequences for two-thirds of the planet’s population.

### us key

U.S key to the global economy

**Caploe 9** (David Caploe is CEO of the Singapore-incorporated American Centre for Applied Liberal Arts and Humanities in Asia., “Focus still on America to lead global recovery”, April 7, The Strait Times, lexis)

IN THE aftermath of the G-20 summit, most observers seem to have missed perhaps the most crucial statement of the entire event, made by United States President Barack Obama at his pre-conference meeting with British Prime Minister Gordon Brown: 'The world has become accustomed to the US being a voracious consumer market, the engine that drives a lot of economic growth worldwide,' he said. 'If there is going to be renewed growth, it just can't be the US as the engine.' While superficially sensible, this view is deeply problematic. To begin with, it ignores the fact that the global economy has in fact been 'America-centred' for more than 60 years. Countries - China, Japan, Canada, Brazil, Korea, Mexico and so on - either sell to the US or they sell to countries that sell to the US. This system has generally been advantageous for all concerned. America gained certain historically unprecedented benefits, but the system also enabled participating countries - first in Western Europe and Japan, and later, many in the Third World - to achieve undreamt-of prosperity. At the same time, this deep inter-connection between the US and the rest of the world also explains how the collapse of a relatively small sector of the US economy - 'sub-prime' housing, logarithmically exponentialised by Wall Street's ingenious chicanery - has cascaded into the worst global economic crisis since the Great Depression. To put it simply, Mr Obama doesn't seem to understand that there is no other engine for the world economy - and hasn't been for the last six decades. If the US does not drive global economic growth, growth is not going to happen. Thus, US policies to deal with the current crisis are critical not just domestically, but also to the entire world. Consequently, it is a matter of global concern that the Obama administration seems to be following Japan's 'model' from the 1990s: allowing major banks to avoid declaring massive losses openly and transparently, and so perpetuating 'zombie' banks - technically alive but in reality dead. As analysts like Nobel laureates Joseph Stiglitz and Paul Krugman have pointed out, the administration's unwillingness to confront US banks is the main reason why they are continuing their increasingly inexplicable credit freeze, thus ravaging the American and global economies. Team Obama seems reluctant to acknowledge the extent to which its policies at home are failing not just there but around the world as well. Which raises the question: If the US can't or won't or doesn't want to be the global economic engine, which country will? The obvious answer is China. But that is unrealistic for three reasons. First, China's economic health is more tied to America's than practically any other country in the world. Indeed, the reason China has so many dollars to invest everywhere - whether in US Treasury bonds or in Africa - is precisely that it has structured its own economy to complement America's. The only way China can serve as the engine of the global economy is if the US starts pulling it first. Second, the US-centred system began at a time when its domestic demand far outstripped that of the rest of the world. The fundamental source of its economic power is its ability to act as the global consumer of last resort. China, however, is a poor country, with low per capita income, even though it will soon pass Japan as the world's second largest economy. There are real possibilities for growth in China's domestic demand. But given its structure as an export-oriented economy, it is doubtful if even a successful Chinese stimulus plan can pull the rest of the world along unless and until China can start selling again to the US on a massive scale. Finally, the key 'system' issue for China - or for the European Union - in thinking about becoming the engine of the world economy - is monetary: What are the implications of having your domestic currency become the global reserve currency? This is an extremely complex issue that the US has struggled with, not always successfully, from 1959 to the present. Without going into detail, it can safely be said that though having the US dollar as the world's medium of exchange has given the US some tremendous advantages, it has also created huge problems, both for America and the global economic system. The Chinese leadership is certainly familiar with this history. It will try to avoid the yuan becoming an international medium of exchange until it feels much more confident in its ability to handle the manifold currency problems that the US has grappled with for decades. Given all this, the US will remain the engine of global economic recovery for the foreseeable future, even though other countries must certainly help. This crisis began in the US - and it is going to have to be solved there too.

### oil shocks

No impact to oil shocks

Kahn 11 (Jeremy, Jeremy Kahn is an independent journalist who writes about international affairs, politics, business, the environment and the arts. His work has recently appeared in Newsweek International, The New York Times, The Atlantic, Smithsonian, The Boston Globe, The New Republic, Slate, Foreign Policy, Fortune, and Inc., as well as other publications. He has also contributed to the public radio program "Marketplace." Kahn was the managing editor at The New Republic from 2004 to 2006. There he had a hand in most of the magazine's politics and world affairs coverage. He also oversaw the magazine's "Notebook" section. Kahn was twice named one of America's 30 top financial journalists under the age of 30 by the trade publication TJFR. 2/13, “Crude reality”, <http://www.boston.com/bostonglobe/ideas/articles/2011/02/13/crude_reality/>)

The idea that a sudden spike in oil prices spells economic doom has influenced America’s foreign policy since at least 1973, when Arab states, upset with Western support for Israel during the Yom Kippur War, drastically cut production and halted exports to the United States. The result was a sudden quadrupling in crude prices and a deep global recession. Many Americans still have vivid memories of gas lines stretching for blocks, and of the unemployment, inflation, and general sense of insecurity and panic that followed. Even harder hit were our allies in Europe and Japan, as well as many developing nations. Economists have a term for this disruption: an oil shock. The idea that such oil shocks will inevitably wreak havoc on the US economy has become deeply rooted in the American psyche, and in turn the United States has made ensuring the smooth flow of crude from the Middle East a central tenet of its foreign policy. Oil security is one of the primary reasons America has a long-term military presence in the region. Even aside from the Iraq and Afghan wars, we have equipment and forces positioned in Oman, Saudi Arabia, Kuwait, and Qatar; the US Navy’s Fifth Fleet is permanently stationed in Bahrain. But a growing body of economic research suggests that this conventional view of oil shocks is wrong. The US economy is far less susceptible to interruptions in the oil supply than previously assumed, according to these studies. Scholars examining the recent history of oil disruptions have found the worldwide oil market to be remarkably adaptable and surprisingly quick at compensating for shortfalls. Economists have found that much of the damage once attributed to oil shocks can more persuasively be laid at the feet of bad government policies. The US economy, meanwhile, has become less dependent on Persian Gulf oil and less sensitive to changes in crude prices overall than it was in 1973.

### link

**Authority is a redline – empirically outweighs pro-review rhetoric**

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

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

Empirics are conclusive

**Berger 8/12/13** (Judson, Fox, “Yemen drone strikes may revive war-powers battle between administration, Congress”, <http://www.foxnews.com/politics/2013/08/12/yemen-drone-strikes-could-revive-war-powers-battle-between-administration/>, ZBurdette)

The escalation of drone strikes in Yemen, presumably in response to the ongoing Al Qaeda threat, and other technology-based military options could fuel calls to re-write laws that govern such actions to give Congress greater oversight over the administration's remote-controlled warfare.

"Some of these campaigns by the administration clearly constitute an act of war," said Jonathan Turley, an attorney and professor at George Washington University Law School.

To date, the administration has claimed broad latitude in its authority to launch limited military operations -- including drone strikes -- without congressional authorization. There's no indication this time will be any different.

A total of nine suspected drone strikes reportedly have been recorded in Yemen since late July, taking out dozens of alleged Al Qaeda operatives and other militants. The most recent strike was on Saturday. The Washington Post reported last week that the strikes were authorized by the Obama administration in connection with the ongoing terror threat.

If challenged on the strikes, the president is likely to argue that the operation is contained and does not require congressional authorization. He has in the past.

This debate flared during the 2011 operation in Libya, when the administration launched a series of air and drone strikes in support of the campaign against Muammar Qaddafi.

Transparency requests prove

**Glaser 13** (John, “Congress Considers Limiting President’s Drone Authority”, February 05, 2013, <http://news.antiwar.com/2013/02/05/congress-considers-limiting-presidents-drone-authority/>, ZBurdette)

A small but growing opposition in Congress to the Obama administration’s targeted killing policies is beginning to demand hearings and accountability, after a leaked legal memo this week revealed the President’s rationale for assassinating US citizens.

“It has to be in the agenda of this Congress to reconsider the scope of action of drones and use of deadly force by the United States around the world because the original authorization of use of force, I think, is being strained to its limits,” said Senator Chris Coons, a Democrat.

According to congressional aides the Senate Foreign Relations Committee likely will hold hearings on US drone policy in the near future.

Rep. Steny Hoyer, the No. 2 Democrat in the House, said Tuesday that “it deserves a serious look at how we make the decisions in government to take out, kill, eliminate, whatever word you want to use, not just American citizens but other citizens as well.”

A bipartisan group of 11 senators wrote a letter to President Obama requesting he provide his administration’s official legal memos justifying the use of armed drones to kill American citizens without due process.

The request was issued on Monday, the same day that NBC News published an exclusive story based on a leaked Department of Justice “white paper” that was provided to Senate committees months ago.

The memo, while not the official documents the senators have repeatedly requested, laid out the government’s case for targeted assassinations of US citizens accused of being terrorists even when there is no active intelligence accusing them of carrying out a specific terrorist attack.

“We ask that you direct the Justice Department to provide Congress, specifically the Judiciary and Intelligence Committees, with any and all legal opinions that lay out the executive branch’s official understanding of the President’s authority to deliberately kill American citizens,” the eight Democrats and three Republicans wrote.

“We should be concerned when the White House is acting as judge, jury and executioner,” Naureen Shah, a lecturer at Columbia Law School said. “And there’s no one outside of the White House who has real oversight over that process. What’s put forward here is there’s no role for the courts, not even after the fact.”

“Anyone should be concerned when the president and his lawyers make up their own interpretation of the law or their own rules,” Mary Ellen O’Connell, a law professor at the University of Notre Dame and an authority on international law and the use of force told NBC News.

“This is a very, very dangerous thing that the president has done,” she added.

The senators even suggested that they would hold up the nominations of Chuck Hagel and John Brennan if the President does not comply.

“The executive branch’s cooperation on this matter will help avoid an unnecessary confrontation that could affect the Senate’s consideration of nominees for national security positions,” they warned.

As Marcy Wheeler points out, this is at least the 12th time this group of senators has requested the Obama administration’s legal documents on this matter. All have been met with stiff rejection.

The plan disrupts time and focus necessary for passage

Sean Sullivan, 10/24/13, Why Obama is racing against the clock on immigration, www.washingtonpost.com/blogs/the-fix/wp/2013/10/24/why-obama-is-racing-against-the-clock-on-immigration/?wprss=rss\_politics&clsrd

President Obama used a very urgent tone Thursday in remarks designed to press House Republicans to pass immigration reform, calling on them at least twice to try to get it done “this year.”

“Let’s not wait,” the president said. “It doesn’t get easier to just put it off. Let’s do it now.”

Politically speaking, the president is right. **The longer the immigration debate drags on, the lower the odds it will culminate in a bill on his desk.**

Here’s why.

Every day that goes by is a day closer to the 2014 midterm elections. And the months leading up to Election Day are a time for lawmakers to campaign, raise money, and do everything they can to hold on to their jobs. It’s not a time for a contentious legislative debate that could complicate the fall campaign.

That’s why history has shown that little gets done legislatively right before the election. Members are in their districts and states more and more often and less and less willing to take risks in Congress.

And immigration reform is a risky proposition for many House Republicans. Despite national polls showing the public largely in favor of overhauling the nation’s laws, the calculus is often different back home. This is in large part why months after the Senate passed a sweeping bipartisan immigration bill, the House has yet to act.

But that doesn’t mean it won’t. Republicans have already moved ahead on some piecemeal measures. And House Speaker John A. Boehner (R-Ohio) said Wednesday that he was “hopeful” something could get done by the end of the year.

Coming off a fiscal battle that badly damaged the Republican brand, there is, arguably, more political incentive for Boehner to act on immigration than there has been in the past. Republicans need to repair their image. Helping pass broadly popular reforms is one way to do that.

But there isn’t much time left on the legislative calendar this year, and it’s not clear whether Boehner will bring immigration to a vote before the year is up. But this much we do know: Every day that goes by makes it increasingly difficult to pass new immigration laws.

### uq

#### Passage likely—Obama pushing, Boehner has space and a path for viable legislation, momentum favors reform

Alec Macgillis, TNR, 10/24/13, <http://www.newrepublic.com/article/115341/immigration-reform-may-actually-pass>

But the natural optimist in me thinks that the odds for some sort of serious immigration reform happening in the months ahead are better than many realize. A few reasons why, in no particular order:

Boehner has space. To the extent that there was any logic to the Speaker’s letting the government shutdown and debt-ceiling brinkmanship drag out as long as he did, it was that he had strengthened his position with his caucus’s hard-right flank and thereby created some room to maneuver on other fronts. “Boehner’s hold is a little stronger than it was” a few months ago, his near-predecessor as speaker, the lobbyist supreme Bob Livingston, told me when I ran into him at a function Wednesday night.

Well, there is no better opportunity for Boehner to show that this is the case – to retroactively justify a gambit that cost the country billions of dollars – than to press forward with immigration reform. To do that will require more than just casual comments like the one he tossed off Wednesday – it will require making clear that the leadership is serious about this and setting aside time on the calendar for it.

But wouldn’t pushing the issue forward mean once again breaking the not-so-hallowed Hastert Rule, which requires leadership to bring up for a vote only measures supported a majority of the caucus? Well, yes and no. There is increasing talk of taking a piecemeal route in the House – with, among others, one Dream Act-style measure to legalize those who came into the country as minors, one to stiffen border enforcement, one to expand visas for skilled foreign workers, and, yes, one to provide some sort of eventual path to citizenship for illegal immigrants beyond the Dreamers. The latter would not get a majority of House GOP support, but perhaps if brought through in a stream of other measures would not set off the Hastert Rule alarms as loudly. There would remain the question of how to reconcile whatever passed with the comprehensive reform bill already passed by the Senate – House conservatives say they are wary of a conference committee. But **the fact remains that there is a** conceivable **path forward** – if Boehner wants to pursue it. “He’s in a much stronger place for himself job-security-wise all around,” says one House Democratic aide.

It’s in the Republicans’ interest. Why would the cautious, conflict-averse Boehner want to put himself through the hassle, even if he does have a path forward? Because, of course, he and so many other leaders of his party and the conservative movement – Paul Ryan, Karl Rove, Grover Norquist – grasp that the party cannot continue be seen as obstructing immigration reform by the country’s growing legions of Hispanic and Asian-American voters. Yes, many of the same leaders were warning the hard-liners in the House and Senate off of the defund-Obamacare government-shutdown path to no avail, but those warnings were highly ambivalent, a matter of tactical disagreement after years in which the leaders had been banging the same anti-Obamacare drum. Whereas in this case the leaders are truly in favor of immigration reform, even if just for reasons of self-preservation.

It’s not Obamacare. This is the other reason why Boehner might be able to push forward on this front: as incendiary an issue as immigration reform has been for many Republican voters in recent years, it’s actually less threatening than the two-headed beast of Obamacare and government spending. For one thing, it predates Obama as an issue – it was fellow Republicans George W. Bush and John McCain who were most identified with the 2007 push. For another, some of the most ardent anti-Obamacare soldiers are in favor of immigration reform to varying degrees, from Idaho Rep. Raul Labrador to border congressmen like New Mexico's Steve Pearce to the evangelical groups that have come out for reform. “In the grand scheme of Republican issues, it just doesn’t match up to Obamacare – that’s health care and Obama. That’s partly because they haven’t yet made it about Obama,” said the House Democratic aide.

Follow the money. Put simply: the pro-reform side has lots of it, the opponents not so much. Again, this is a crucial contrast with the battles over Obamacare, where the Club for Growth, Koch Brothers and the like are spending heavily to thwart the reformers, even to the point of punishing Republican state legislators who dare to contemplate embracing federal funds for Medicaid expansion. In the immigration realm, the big bucks are coming from these guys.

The pro-reform side isn’t giving up. This is the element too often discounted in drawn-out legislative battles: the energy and resolve of the footsoldiers. And it has not abated as much on the pro-reform side as much as the pessimistic Beltway take on the issue would have one think. There are millions of people in this country with a huge stake in this fight, and plenty others who have taken up arms in their support, and not just in the usual places: I was amazed to see several dozen people agitating for reform at the annual Fancy Farm political picnic in far western Kentucky, in August. Advocates have gotten further than ever before – they’ve gotten a bipartisan vote in their favor in the Senate, and they’ve gotten key agreements between the AFL-CIO and Chamber of Commerce and growers and farmworkers in California, among others. They’re not about to give up now. “This is the absolute best opportunity we have to pass reform,” says Angelica Salas, executive director of the Coalition for Humane Immigrant Rights of Los Angeles. “If we were going to leave it to the national pundits, this issue would have died a long time ago, but the reality is that it’s in the hands of the immigration rights movement and people are not going to end the fight until there’s a fix to this cruel situation that we’re living in.”

Obama wants to make it happen. One might think this would be the biggest obstacle for reform, in that Republicans would be unwilling to grant the president a legislative triumph. In fact, Democrats are having to contend with the reverse, a suspicion among many House Republicans that Obama and the Democrats secretly want reform to fail, so that they can keep bludgeoning Republicans with the issue among Hispanic voters. **This is hogwash**, as far as Obama is concerned: he desperately wants a major achievement in his second term, not least given the troubles that have arisen in implementing his main first-term one. As for the Republicans’ suspicion, there’s an easy way to keep Democrats from using immigration as a wedge issue: voting for a reform package. “It’s a self-fulfilling prophecy,” says the Democratic House aide.

Debevec = inconclusive, quoting anonymous GOP congressional aide

#### Obama pushing capital on immigration—it works

Reid Epstein, Politico, 10/17/13, Obama’s latest push features a familiar strategy, dyn.politico.com/printstory.cfm?uuid=00B694F1-5D59-4D13-B6D1-FC437A465923

President Barack Obama made his plans for his newly won political capital official — he’s going to hammer House Republicans on immigration.

And it’s evident from his public and private statements that Obama’s latest immigration push is, in at least one respect, similar to his fiscal showdown strategy: yet again, the goal is to boost public pressure on House Republican leadership to call a vote on a Senate-passed measure.

“The majority of Americans think this is the right thing to do,” Obama said Thursday at the White House. “And it’s sitting there waiting for the House to pass it. Now, if the House has ideas on how to improve the Senate bill, let’s hear them. Let’s start the negotiations. But let’s not leave this problem to keep festering for another year, or two years, or three years. This can and should get done by the end of this year.”

And yet Obama spent the bulk of his 20-minute address taking whack after whack at the same House Republicans he’ll need to pass that agenda, culminating in a jab at the GOP over the results of the 2012 election — and a dare to do better next time.

“You don’t like a particular policy or a particular president? Then argue for your position,” Obama said. “Go out there and win an election. Push to change it. But don’t break it. Don’t break what our predecessors spent over two centuries building. That’s not being faithful to what this country’s about.”

Before the shutdown, the White House had planned a major immigration push for the first week in October. But with the shutdown and looming debt default dominating the discussion during the last month, immigration reform received little attention on the Hill.

Immigration reform allies, including Obama’s political arm, Organizing for Action, conducted a series of events for the weekend of Oct. 5, most of which received little attention in Washington due to the the shutdown drama. But activists remained engaged, with Dream Act supporters staging a march up Constitution Avenue, past the Capitol to the Supreme Court Tuesday, to little notice of the Congress inside.

Obama first personally signaled his intention to re-emerge in the immigration debate during an interview Tuesday with the Los Angeles Univision affiliate, conducted four hours before his meeting that day with House Democrats.

Speaking of the week’s fiscal landmines, Obama said: “Once that’s done, you know, the day after, I’m going to be pushing to say, call a vote on immigration reform.”

When he met that afternoon in the Oval Office with the House Democratic leadership, Obama said that he planned to be **personally engaged in selling the reform package** he first introduced in a Las Vegas speech in January.

Still, during that meeting, Obama knew so little about immigration reform’s status in the House that he had to ask Rep. Xavier Becerra (D-Calif.) how many members of his own party would back a comprehensive reform bill, according to a senior Democrat who attended.

The White House doesn’t have plans yet for Obama to participate in any new immigration reform events or rallies — that sort of advance work has been hamstrung by the 16-day government shutdown.

But the president emerged on Thursday to tout a “broad coalition across America” that supports immigration reform. He also invited House Republicans to add their input specifically to the Senate bill — an approach diametrically different than the House GOP’s announced strategy of breaking the reform into several smaller bills.

White House press secretary Jay Carney echoed Obama’s remarks Thursday, again using for the same language on immigration the White House used to press Republicans on the budget during the shutdown standoff: the claim that there are enough votes in the House to pass the Senate’s bill now, if only it could come to a vote.

“When it comes to immigration reform … we’re confident that if that bill that passed the Senate were put on the floor of the House today, it would win a majority of the House,” Carney said. “And I think that it would win significant Republican votes.”

#### Momentum—the shutdown dampened dynamics blocking passaged

Mark Liasson, and Frank Sherry, NPR, 10/23/13, Obama Wants To Pivot To Immigration Reform, But Can It Work?, www.npr.org/templates/story/story.php?storyId=240291587

LIASSON: And unlike the healthcare law, the president's number one achievement in his first term, an immigration overhaul is actually popular with strong majorities across both parties. A comprehensive bill passed the Senate by a big bipartisan margin, but in the House there's been little movement. On Monday, at a Christian Science Monitor breakfast, Chamber of Commerce head Tom Donahue said the business community will push the House to take up the issue.

TOM DONAHUE: The Chamber is keeping up the push for reform. It's an opportunity to show the world we can get a big thing done that we can all benefit from.

LIASSON: After the political damage the Republicans suffered from the shutdown, immigration reform advocates like Frank Sharry says it's in Republicans interests to work with the Senate on immigration.

FRANK SHARRY: I think the pro-shutdown politics makes immigration reform more likely. There's a real demand within the Republican caucus from some that they can do more than shut down the government and threaten the world economy, and so those voices are saying, what can we do in a bipartisan basis that shows we can do big things?

And immigration reform is the issue that's waiting to be grabbed by them.

### pound

#### Obama has a new reserve of capital—sets him up to win the immigration fight

Kenneth Walsh, US News & World Report, 10/18/13, Obama Strengthened for Now, www.usnews.com/news/blogs/Ken-Walshs-Washington/2013/10/18/obama-strengthened-for-now

President **Obama emerges from his budget victory** this week **with a stronger hand as he heads into the next round of political fights** in Washington.

What's helping Obama in particular is the new perception that he is willing to stick to his guns. He demonstrated the ability to take a tough stand against his adversaries even when he was under enormous pressure to cave in. And this image of resolve is expected to help him in future showdowns with the Republicans regarding immigration, farm legislation, climate change regulations, health care and economic policy. Up to now, many legislators considered Obama a weak bargainer and a vacillating leader; now they have clear evidence that he isn't a pushover, Democratic strategists say.

After accepting a congressional deal that ended Washington's embarrassing economic crisis for now, and largely on his own terms, Obama blamed the mess on Republican conservatives allied with the tea party. He said they stubbornly forced a partial government shutdown and threatened to allow a government default unless Obama weakened his signature health care law, known as Obamacare.

Using his presidential bully pulpit to good effect, Obama declined to give in, and blasted the GOP day after day. In the end, the Republicans blinked.

"To say we as Republicans left a lot on the table would be one of the biggest understatements in American political history," said Sen. Lindsey Graham, R-S.C., on Twitter.

On Thursday, Obama acknowledged what many opinion polls have shown in the past few weeks when he said, "The American people are completely fed up with Washington." And Republicans get most of the blame, according to the polls. Only 13 percent of Americans approve of the job Republicans are doing in Congress and 24 percent approve of the job Democrats are doing, according to the latest survey by Zogby Analytics.

#### Obamacare doesn’t hurt Obama’s agenda

Mike Dorning, Business Week, 10/26/13, Obamacare Website Flaws Imperil President’s Activist Agenda, www.businessweek.com/news/2013-10-25/obamacare-website-flaws-imperil-activist-agenda-president-backs

Bill McInturff, a Republican pollster, says Obama has time, possibly even months, to fix the snags before suffering lasting political damage from the initial performance of the website.

The public isn’t likely to hold early difficulties with the Patient Protection and Affordable Care Act against Obama if they fade quickly, said McInturff, who consulted with the Bush administration on the Medicare prescription-drug rollout.

“There’s some tolerance in the beginning,” he said. “In general, people are not shocked that you can have some problems as a major new federal program gets off the ground.”

### pc key

Capital’s key to Boehner, he’s all that matters

William Galston, WSJ, 10/23/13, William Galston: An Immigration Challenge for Boehner, online.wsj.com/news/articles/SB10001424052702303448104579149470077037700

In his post-shutdown remarks, President Obama identified three areas in which bipartisan progress is possible—agriculture, the budget and immigration. The farm bill is usually routine and should pass easily once agreement is reached on nutrition programs. Unless the ever-elusive grand bargain is on the table, and few believe it is, fiscal talks will yield modest results at best. But immigration is different. Comprehensive immigration reform would be to Mr. Obama's second term what the Affordable Care Act was to his first: a signature legislative achievement.

Unlike the ACA, immigration reform enjoys majority support. The American people strongly back a comprehensive approach that includes a path to earned citizenship for the 11 million immigrants now here illegally. In a survey performed by the Public Religion Research Institute, 84% said the economy would benefit if illegal immigrants became taxpayers; 76% believe illegal immigrants would work hard to earn citizenship; 64% think illegal immigrants take only jobs that Americans don't want.

And most people reject half-measures to deal with illegal immigrants: When offered a three-way choice among a path to citizenship, deportation and permanent-resident status without citizenship, PRRI found earlier this year, only 14% preferred the third option, while those favoring a path to citizenship outnumbered the pro-deportation forces by three to one.

Support for comprehensive reform is near-universal among Democrats; no surprise there. But the majority of Republicans and independents back it as well. Nor is there an ideological split: Comprehensive immigration reform enjoys majority support among liberals, moderates and conservatives. They also agree on the principles that should guide the legislation.

Even more significant, core parts of the Republican coalition are pushing for it. Three major business groups—the Chamber of Commerce, the National Association of Manufacturers and the Business Roundtable—have offered formal statements of support. On May 13, after the "Gang of Eight" had produced what became the blueprint for the Senate bill, the Chamber of Commerce sent a forceful letter to the Judiciary Committee. Immigration reform, this influential organization declared, "must include a workable means for people to come out of the shadows who are currently undocumented, without creating a permanent underclass of people who do not have the opportunity to become citizens."

In a pointed reminder of the need for realism and compromise, the business group also declared that it opposes "any amendments that would weaken this bill or upset the delicate balance the sponsors of this legislation achieved when they crafted it"—an admonition that the Judiciary Committee and Senate wisely heeded.

Another development is more surprising and potentially more significant: Substantial numbers of white evangelicals have joined the push for comprehensive immigration reform. A new umbrella group—the Evangelical Immigration Table—enjoys the support of the National Evangelical Association, the leaders of well-known megachurches and the Ethics and Religious Liberty Commission of the Southern Baptist Convention.

Evangelicals put special emphasis on the Biblical injunction to welcome the stranger, a maxim at the heart of the umbrella group's message. It turns out that pro-immigration-reform evangelical leaders are preaching to the choir. By a margin of 17 percentage points, according to PRRI, evangelicals who attend church regularly are more likely to support comprehensive reform, including a path to citizenship, than are those who attend seldom or never.

If a majority of rank-and-file Republicans, backed by evangelical leaders and business, favor immigration reform, why is it stalled in the House? The answer is simple: the tea party.

Americans who identify with the tea party are more opposed to comprehensive reform than is any other group. According to PRRI, a majority of tea-party identifiers oppose giving illegal immigrants an opportunity to earn citizenship. In June, the Tea Party Patriots organization threatened to mount a primary challenge against any Republican who votes for comprehensive immigration reform. In response, House Republicans have adopted a "piece by piece" strategy designed to separate measures that the tea party supports from those it doesn't, allowing the congressional GOP to say it's reforming the system without stepping on political land mines.

So **it comes down to this: Will** Speaker John **Boehner allow the tea party to sink comprehensive reform** supported by a majority of the American people and a majority of the House?

### impact

#### Reform key to biotech leadership

Schuster 2/17

(Dr. Sheldon – President @ Keck Graduate Institute, “Immigration Reform Could Lead to Great Things, Including Better Science and Better Science Education” 02/17/2013, http://www.huffingtonpost.com/dr-sheldon-schuster/immigration-reform-could-\_b\_2706832.html)

These students and young researchers not only do amazing things while they're here but their ideas and their drive enhances the quality of education for all of our students and the quality of life for all of our citizens. There can be a multiplying effect to innovation when international knowledge and ideas gain their own traction in homegrown academic institutions and industries. German rocket scientists who came to work in the U.S. in the wake of World War II were not solely responsible for landing Neil Armstrong on the moon. But they were the core from which a great international community of scholars and engineers were able to take NASA to astounding heights. The input of international students teaches all of our students how to integrate ideas that may vary greatly from their own and how to approach problems from a global perspective -- two skills that are required for success in the life science industry and that we need if we are to continue to remain the world leader in the rapidly advancing biotechnologies, such as individualized human genome sequencing. Reforming our immigration system so that more young professionals like these have the option to work in the United States not only boosts the national economy and strengthens the biotech hubs here in Southern California, which are so important to my state's economy, it also improves the quality of U.S. academic institutions, and, ultimately, is likely to hasten the pace of scientific discovery and innovation. It will certainly go a long way toward keeping the U.S. and its academic institutions at the center of such discovery and innovation.

**Breakthroughs in biotechnology key to rapid global expansion of GM agriculture**

**Martino-Catt and Sachs, 8**

[Susan J. Martino-Catt, Monsanto Company Member of Plant Physiology Editorial Board, Eric S. Sachs Monsanto Company Member of ASPB Education Foundation Board of Directors, “ Editor's Choice Series: The Next Generation of Biotech Crops,” Plant Physiology 147:3-5 (2008)]

 **Crop genetic modification** using traditional methods **has been essential for improving food quality and abundance**; however, f**armers** globally **are steadily increasing the area planted to crops improved with modern biotechnology**. **Breakthroughs in science and genetics have expanded the toolbox of genes available** for reducing biotic stressors, such as weeds, pests, and disease, which reduce agricultural productivity. Today, plant scientists are leveraging traditional and modern approaches in tandem to increase crop yields, quality, and economic returns, while reducing the environmental consequences associated with the consumption of natural resources, such as water, land, and fertilizer, for agriculture.

**The current need to accelerate agricultural productivity on a global scale has never been greater or more urgent.** At the same time, **the need to implement more sustainable approaches to conserve natural resources and preserve native habitats is also of paramount importance**. **The challenge** for the agricultural sector **is to:** (1) **deliver twice as much food in 2050 as is produced today** (Food and Agricultural Organization of the World Health Organization, 2002Go); (2) **reduce environmental impacts by producing more from each unit of land, water, and energy invested in crop production** (Raven, 2008Go); (3) **adapt cropping systems to climate changes that threaten crop productivity and food security on local and global levels**; and (4) encourage the development of new technologies that deliver economic returns for all farmers, small and large. **These are important and challenging goals, and are much more so when real or perceived risks lead to regulatory and policy actions that may slow the adoption of new technology**. Optimistically, **the adoption of rational approaches for introducing new agricultural and food technologies should lead to more widespread use that in turn will help address the agricultural challenges and also increase the acceptance of modern agricultural biotechnology** (Raven, 2008Go).

In the 12 years since commercialization of the first genetically modified (GM) crop in 1996, farmers have planted more than 690 million hectares (1.7 billion acres; James, 2007Go) without a single confirmed incidence of health or environmental harm (Food and Agricultural Organization of the World Health Organization, 2004Go; National Academy of Sciences, 2004Go). In the latest International Service for the Acquisition of Agri-biotech Applications report, planting of biotech crops in 2007 reached a new record of 114.3 million hectares (282.4 million acres) planted in 23 countries, representing a 12.3% increase in acreage from the previous year (James, 2007Go). Farmer benefits associated with planting of GM crops include reduced use of pesticides and insecticides (Brookes and Barfoot, 2007Go), increased safety for nontarget species (Marvier et al., 2007Go; Organisation for Economic Co-operation and Development, 2007Go), increased adoption of reduced/conservation tillage and soil conservation practices (Fawcett and Towry, 2002Go), reduced greenhouse gas emissions from agricultural practices (Brookes and Barfoot, 2007Go), as well as increased yields (Brookes and Barfoot, 2007Go).

**The first generation of biotech crops focused primarily on the single gene traits of herbicide tolerance and insect resistance**. These traits were accomplished by the expression of a given bacterial gene in the crops. In the case of herbicide tolerance, expression of a glyphosate-resistant form of the gene CP4 EPSPS resulted in plants being tolerant to glyphosate (Padgette et al., 1995Go). Similarly, expression of an insecticidal protein from Bacillus thuringiensis in plants resulted in protection of the plants from damage due to insect feeding (Perlak et al., 1991Go). Both of these early biotech products had well-defined mechanisms of action that led to the desired phenotypes. Additional products soon came to market that coupled both herbicide tolerance and insect resistance in the same plants. As farmers adopt new products to maximize productivity and profitability on the farm, they are increasingly planting crops with "stacked traits" for management of insects and weeds and "pyramided traits" for management of insect resistance. The actual growth in combined trait products was 22% between 2006 and 2007, which is nearly twice the growth rate of overall planting of GM crops (James, 2007Go).

**The next generation of biotech crops promises to include a broad range of products that will provide benefits to both farmers and consumers,** **and continue to meet the global agricultural challenges.** These products will most likely involve regulation of key endogenous plant pathways resulting in improved quantitative traits, such as yield, nitrogen use efficiency, and abiotic stress tolerance (e.g. drought, cold). These quantitative traits are known to typically be multigenic in nature, adding a new level of complexity in describing the mechanisms of action that underlie these phenotypes**. In addition to these types of traits, the first traits aimed at consumer benefits, such as healthier oils and enhanced nutritional content, will also be developed for commercialization**.

As with the first generation, successful delivery of the next generation of biotech crops to market will depend on establishing their food, feed, and environmental safety. Scientific and regulatory authorities have acknowledged the potential risks associated with genetic modification of all kinds, including traditional cross-breeding, biotechnology, chemical mutagenesis, and seed radiation, yet have established a safety assessment framework only for biotechnology-derived crops designed to identify any potential food, feed, and environmental safety risks prior to commercial use. Importantly, it has been concluded that **crops developed through modern biotechnology do not pose significant risks over and above those associated with conventional plant breeding** (National Academy of Sciences, 2004Go). The European Commission (2001)Go acknowledged that **the greater regulatory scrutiny given to biotech crops and foods probably make them even safer than conventional plants and foods**. The current comparative safety assessment process has been repeatedly endorsed as providing assurance of safety and nutritional quality by identifying similarities and differences between the new food or feed crop and a conventional counterpart with a history of safe use (Food and Drug Administration, 1992Go; Food and Agricultural Organization of the World Health Organization, 2002Go; Codex Alimentarius, 2003Go; Organisation for Economic Co-operation and Development, 2003Go; European Food Safety Authority, 2004Go; International Life Sciences Institute, 2004Go). Any differences are subjected to an extensive evaluation to determine whether there are any associated health or environmental risks, and, if so, whether the identified risks can be mitigated though preventative management.

**Biotech crops undergo detaile**d phenotypic, agronomic, morphological, and compositional **analyses to identify potential harmful effects that could affect product safety.** This process is a rigorous and robust assessment that is applicable to the next generation of biotech crops that potentially could include genetic changes that modulate the expression of one gene, several genes, or entire pathways. The safety assessment will characterize the nature of the inserted molecules, as well as their function and effect within the plant and the overall safety of the resulting crop. **This well-established and proven process will provide assurance of the safety of the next generation of biotech crops and help to reinforce rational approaches that enable the development and commercial use of new products that are critical to meeting agriculture's challenges.**

**Only way to Solve Extinction**

**Trewavas 2k** (Anthony, Institute of Cell and Molecular Biology – University of Edinburgh, “GM Is the Best Option We Have”, AgBioWorld, 6-5, <http://www.agbioworld.org/biotech-info/articles/biotech-art/best_option.html>)

There are some Western critics who oppose any solution to world problems involving technological progress. They denigrate this remarkable achievement. These luddite individuals found in some Aid organisations instead attempt to impose their primitivist western views on those countries where blindness and child death are common. This new form of Western cultural domination or neo-colonialism, because such it is, should be repelled by all those of good will. Those who stand to benefit in the third world will then be enabled to make their own choice freely about what they want for their own children. But these are foreign examples; **global warming is the problem that requires the** UK to **develop GM technology**. 1998 was the warmest year in the last one thousand years. Many think global warming will simply lead to a wetter climate and be benign. I do not. Excess rainfall in northern seas has been predicted to halt the Gulf Stream. In this situation, average UK temperatures would fall by 5 degrees centigrade and give us Moscow-like winters. **There are already worrying signs of salinity changes in the deep oceans. Agriculture would be seriously damaged and necessitate the rapid development of new crop varieties to secure our food supply. We would not have much warning.** Recent detailed analyses of arctic ice cores has shown that the climate can switch between stable states in fractions of a decade. **Even if the climate is only wetter and warmer new crop pests and rampant disease will be the consequence. GM technology can enable new crops to be constructed in months and to be in the fields within a few years. This is the unique benefit GM offers**. The UK populace needs to much more positive about GM or we may pay a very heavy price. In 535A.D. **a volcano near the present Krakatoa exploded with the force of 200 million Hiroshima A bombs**. **The dense cloud of dust so reduced the intensity of the sun that for at least two years thereafter, summer turned to winter and crops** here and elsewhere **in the Northern hemisphere failed completely.** **The population survived by hunting a rapidly vanishing population of edible animals**. The after-effects continued for a decade and human history was changed irreversibly. But **the planet recovered**. **Such examples of benign nature's wisdom**, in full flood as it were**, dwarf and make miniscule the tiny modifications we make upon our environment**. **There are** apparently **100 such volcanoes round the world that could at any time unleash forces as great.** And **even smaller volcanic explosions change our climate and can easily threaten the security of our food supply**. Our hold on this planet is tenuous. In the present day an equivalent 535A.D. explosion would destroy much of our civilisation. **Only those with agricultural technology sufficiently advanced would have a chance at survival.** **Colliding asteroids are another problem that requires us to be forward-looking accepting that technological advance may be the only buffer between us and annihilation**. When people say to me they do not need GM, I am astonished at their prescience, their ability to read a benign future in a crystal ball that I cannot. Now is the time to experiment; not when a holocaust is upon us and it is too late. **GM is a technology whose time has come and just in the nick of time.** **With each billion that mankind has added to the planet have come technological advances to increase food supply**. In the 18th century, the start of agricultural mechanisation; in the 19th century knowledge of crop mineral requirements, the eventual Haber Bosch process for nitrogen reduction. In the 20th century plant genetics and breeding, and later the green revolution. Each time population growth has been sustained without enormous loss of life through starvation even though crisis often beckoned. For the 21st century, **genetic manipulation is our primary hope to maintain developing and complex technological civilisations**. **When the climate is changing in unpredictable ways, diversity in agricultural technology is a strength and a necessity not a luxury**. Diversity helps secure our food supply. We have heard much of the precautionary principle in recent years; my version of it is "be prepared".

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**Conclusion of their article – other countries have the capacity but aren’t stepping up**

This is surely good news. But it does leave a big unanswered question. The big emerging market countries are acquiring the will and the way to protect their own interests during global economic crises. We don't know, though, whether they will have sufficiently broad perspective to step up to leadership roles in managing global crises as their economic power converges with that of the rich industrial countries.

#### New 1ar commodities impact justifies new D – Bab-al-Mandab is resilient

**AFP 11** (Unrest in Yemen unlikely to disrupt oil supplies, experts say, 6/5/11, Al Arabiya, <http://www.alarabiya.net/articles/2011/06/05/151898.html>)

Yemen's unrest is unlikely to disrupt oil supplies through the strategic Bab al-Mandab straits, experts said on Sunday after the country's injured president went abroad for medical treatment. The clashes intensified with an assassination attempt on President Ali Abdullah Saleh that forced him on Saturday to seek treatment in neighboring Saudi Arabia after his compound in Sana’a was shelled. The escalation comes at a time when global demand for oil appears to be waning and as OPEC is expected to consider raising output for the first time in almost 30 months to curb high prices. "The strategic region had seen major troubles in the past but oil supplies through Bab al-Mandab have never stopped even in the presence of the threat of Somali pirates," Saudi economist Abdulwahab Abu-Dahesh said. "If unrest spreads into a full-scale civil war, I don't think it will have a significant impact on oil supplies and consequently prices," Mr. Abu-Dahesh told AFP. Large quantities of merchandise and shipping pass through the Bab al-Mandab waterway which links the Mediterranean Sea and the Indian Ocean through the Red Sea and Suez Canal. Over three million barrels per day (bpd), out of around 20 million bpd of crude exports from the Gulf region, pass through the straits northward to Europe and the United States and southward to Asia. Closure of the Bab al-Mandab would block trade through the Suez Canal, apart from within the Red Sea region. Neil Partrick, an associate at the London-based Royal United Services Institute, a private think-tank on security and defense issues, said closure would be very difficult. "The international maritime policing presence in the area, which may well be stepped up, is likely to prevent that happening," Mr. Partrick said, asked if hostilities in Yemen could close the Bab al-Mandab. "If Yemen, and this is a big if, slides into a full-scale civil war and chaos, it does not necessarily mean there will be a sustained disruption of oil supplies. But it certainly raises security concerns," he said. "I am not trying to downplay the concerns, but at the same time I don't want to be too alarmist." Oil traders have been building in a risk premium linked to tensions in the Middle East and North Africa, but this has been offset by fears of weaker demand over worrying US economic data. Yemen itself produces around 300,000 bpd, most of it is exported, making its supply to the world market almost a non-factor with neighboring OPEC kingpin Saudi Arabia boasting around three million bpd of spare capacity alone. "Oil prices were not impacted even when OPEC member Libya halted exports because there are fears that demand for crude may drop and there is a huge surplus in world markets," Mr. Abu-Dahesh said. "I don't think that Yemen's unrest will add a big premium on oil prices." Also, Saudi Arabia can bypass Bab al-Mandab with its east-west oil pipeline by diverting exports from its Red Sea ports in the west to the Gulf coast in the east, Mr. Abu-Dahesh said.