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\*\*\*SAME AS RD 2 except the following card was added at the bottom\*\*\*

Status quo administration policy delineates between geographic zones, but our legal justification for war everywhere remains in place

Anthony Dworkin 13, senior policy fellow at the European Council on Foreign Relations, “Drones And Targeted Killing: Defining A European Position”, July, http://ecfr.eu/page/-/ECFR84\_DRONES\_BRIEF.pdf

Two further points are worth noting. First, the administration has acknowledged that in the case of American citizens, even when they are involved in the armed conflict, the US Constitution imposes additional requirements of due process that bring the threshold for targeted killing close to that involved in a self-defence analysis. These requirements were listed in a Department of Justice white paper that became public earlier this year.26 Second, the administration has at times suggested that even in the case of non-Americans its policy is to concentrate its efforts against individuals who pose a significant and imminent threat to the US. For example, John Brennan said in his Harvard speech in September 2011 that the administration’s counterterrorism efforts outside Afghanistan and Iraq were “focused on those individuals who are a threat to the United States, whose removal would cause a significant – even if only temporary – disruption of the plans and capabilities of al-Qaeda and its associated forces”.27

However, the details that have emerged about US targeting practices in the past few years raise questions about how closely this approach has been followed in practice. An analysis published by McClatchy Newspapers in April, based on classified intelligence reports, claimed that 265 out of 482 individuals killed in Pakistan in a 12-month period up to September 2011 were not senior al-Qaeda operatives but instead were assessed as Afghan, Pakistani, and unknown extremists.28 It has been widely reported that in both Pakistan and Yemen the US has at times carried out “signature strikes” or “Terrorist Attack Disruption Strikes” in which groups are targeted based not on knowledge of their identity but on a pattern of behaviour that complies with a set of indicators for militant activity. It is widely thought that these attacks have accounted for many of the civilian casualties caused by drone strikes. In both Pakistan and Yemen, there may have been times when some drone strikes – including signature strikes – could perhaps best be understood as counterinsurgency actions in support of government forces in an internal armed conflict or civil war, and in this way lawful under the laws of armed conflict. Some attacks in Pakistan may also have been directly aimed at preventing attacks across the border on US forces in Afghanistan. However, by presenting its drone programme overall as part of a global armed conflict. the Obama administration continues to set an expansive precedent that is damaging to the international rule of law.

Obama’s new policy on drones

It is against this background that Obama’s recent counterterrorism speech and the policy directive he announced at the same time should be understood. On the subject of remotely piloted aircraft and targeted killing, there were two key aspects to his intervention. First, he suggested that the military element in US counterterrorism may be scaled back further in the coming months, and that he envisages a time in the not-too-distant future when the fight against the al-Qaeda network will no longer qualify as an armed conflict. He said that “the core of al Qaeda in Afghanistan and Pakistan is on the path to defeat” and that while al-Qaeda franchises and other terrorists continued to plot against the US, “the scale of this threat closely resembles the types of attacks we faced before 9/11”.29 Obama promised that he would not sign legislation that expanded the mandate of the AUMF, and proclaimed that the United States’ “systematic effort to dismantle terrorist organizations must continue […] but this war, like all wars, must end”. The tone of Obama’s speech contrasted strongly with that of US military officials who testified before the Senate Committee on Armed Services the week before; Michael Sheehan, the Assistant Secretary of Defence for Special Operations and Low-Intensity Conflict, said then that the end of the armed conflict was “a long way off” and appeared to say that it might continue for 10 to 20 years.30

Second, the day before his speech, Obama set out regulations for drone strikes that appeared to restrict them beyond previous commitments (the guidance remains classified but a summary has been released). The guidance set out standards and procedures for drone strikes “that are either already in place or will be transitioned into place over time”.31 Outside areas of active hostilities, lethal force will only be used “when capture is not feasible and no other reasonable alternatives exist to address the threat effectively”. It will only be used against a target “that poses a continuing, imminent threat to US persons”. And there must be “near certainty that non-combatants will not be injured or killed”.

In some respects, these standards remain unclear: the president did not specify how quickly they would be implemented, or how “areas of active hostilities” should be understood. Nevertheless, taken at face value, they seem to represent a meaningful change, at least on a conceptual level. Effectively, they bring the criteria for all targeted strikes into line with the standards that the administration had previously determined to apply to US citizens. Where the administration had previously said on occasions that it focused in practice on those people who pose the greatest threat, this is now formalised as official policy. In this way, the standards are significantly more restrictive than the limits that the laws of armed conflict set for killing in wartime, and represent a shift towards a threat-based rather than status-based approach. In effect, the new policy endorses a self-defence standard as the de facto basis for US drone strikes, even if the continuing level of attacks would strike most Europeans as far above what a genuine self-defence analysis would permit.32 The new standards would seem to prohibit signature strikes in countries such as Yemen and Somalia and confine them to Pakistan, where militant activity could be seen as posing a cross-border threat to US troops in Afghanistan. According to news reports, signature strikes will continue in the Pakistani tribal areas for the time being.33

However, the impact of the new policy will depend very much on how the concept of a continuing, imminent threat is interpreted. The administration has not given any definition of this phrase, and the leaked Department of Justice white paper contained a strikingly broad interpretation of imminence; among other points, the white paper said that it “does not require the United States to have clear evidence that a specific attack on US persons or interests will take place in the immediate future” and that it “must incorporate considerations of the relevant window of opportunity, the possibility of reducing collateral damage to civilians, and the likelihood of heading off future disastrous attacks on Americans”.34 The presidential policy guidance captures the apparent concerns behind the administration’s policy more honestly by including the criterion of continuing threat, but this begs the question of how the notions of a “continuing” and “imminent” threat relate to each other. Even since Obama’s speech, the US is reported to have carried out four drone strikes (two in Pakistan and two in Yemen) killing between 18 and 21 people – suggesting that the level of attacks is hardly diminishing under the new guidelines.35

It is also notable that the new standards announced by Obama represent a policy decision by the US rather than a revised interpretation of its legal obligations. In his speech, Obama drew a distinction between legality and morality, pointing out that “to say a military tactic is legal, or even effective, is not to say it is wise or moral in every instance”. The suggestion was that the US was scaling back its use of drones out of practical or normative considerations, not because of any new conviction that the its previous legal claims went too far. The background assertion that the US is engaged in an armed conflict with al-Qaeda and associated forces, and might therefore lawfully kill any member of the opposing forces wherever they were found, remains in place to serve as a precedent for other states that wish to claim it.

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3) It’s lethal force used w/ pre-meditation

Alston, U.N. Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, 5/28/2010

(Philip, “Study on Targeted Killings,” U.N. General Assembly, Human Rights Council, Fourteenth Session, http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.24.Add6.pdf)

A. **Definition of** “**targeted killing**”

7. Despite the frequency with which it is invoked, “targeted killing” is not a term defined under international law. Nor does it fit neatly into any particular legal framework. It came into common usage in 2000, after Israel made public a policy of “targeted killings” of alleged terrorists in the Occupied Palestinian Territories.1 The term has also been used in other situations, such as: • The April 2002 killing, allegedly by Russian armed forces, of “rebel warlord” Omar Ibn al Khattab in Chechnya.2 • The November 2002 killing of alleged al Qaeda leader Ali Qaed Senyan al-Harithi and five other men in Yemen, reportedly by a CIA-operated Predator drone using a Hellfire missile.3 • Killings in 2005 – 2008 by both Sri Lankan government forces and the opposition LTTE group of individuals identified by each side as collaborating with the other.4 • The January 2010 killing, in an operation allegedly carried out by 18 Israeli Mossad intelligence agents, of Mahmoud al-Mahbouh, a Hamas leader, at a Dubai hotel.5 According to Dubai officials, al-Mahbouh was suffocated with a pillow; officials released videotapes of those responsible, whom they alleged to be Mossad agents.6 8. Targeted killings thus take place in a variety of contexts and may be committed by governments and their agents in times of peace as well as armed conflict, or by organized armed groups in armed conflict.7 The means and methods of killing vary, and include sniper fire, shooting at close range, missiles from helicopters, gunships, drones, the use of car bombs, and poison.8 9. **The common element in all these contexts is that lethal force is intentionally and deliberately used**, **with a degree of pre-meditation**, **against an individual or individuals specifically identified in advance by the perpetrator**.9 **In a targeted killing**, **the specific goal of the operation is to use lethal force**. This distinguishes targeted killings from unintentional, accidental, or reckless killings, or killings made without conscious choice. It also distinguishes them from law enforcement operations, e.g., against a suspected suicide bomber. Under such circumstances, it may be legal for law enforcement personnel to shoot to kill based on the imminence of the threat, but **the goal of the operation**, **from its inception**, should not be to kill. 10. Although in most circumstances targeted killings violate the right to life, in the exceptional circumstance of armed conflict, they may be legal.10 **This is in contrast to** other terms with which “targeted killing” has sometimes been interchangeably used, such as “**extrajudicial execution**”, “**summary execution**”, **and** “**assassination**”, all of which are, by definition, illegal.11

4) Signature strikes and targeted killing are the same thing they are playing semantic games to lock us into only restricting good targeted killing

**Zenko 12**- Douglas Dillon fellow in the Center for Preventive Action (CPA) at the Council on Foreign Relations (CFR). Previously, he worked for five years at the Harvard Kennedy School and in Washington, DC, at the Brookings Institution, Congressional Research Service, and State Department's Office of Policy Planning (July 2012, Micah, “Targeted Killings and Signature Strikes,” http://blogs.cfr.org/zenko/2012/07/16/targeted-killings-and-signature-strikes/)JCP

It should be noted that while no government official will acknowledge or defend the practice, anonymous officials claim that the criteria for signature strikes is “tighter” today than when Obama entered office. The only known alteration to the practice is that the CIA changed its name. As Klaidman revealed:

**Signature strike has gotten to be sort of a pejorative term**. They sometimes call it crowd killing. And it makes a lot of people uncomfortable. If you don’t have positive ID on the people you’re targeting with these drone strikes. So the CIA actually changed the name of signature strikes to something called TADS. I had the acronym but I didn’t know what it stood for. I had a couple of words. I kind of figured it out. Terrorist, T for terrorist, S for strike and I was trying to find out what does the A-D stand for. Eventually I figured it out. It was Terrorist attack disruption strike. And I was going to put it in Newsweek. And actually it was the excerpt from my book. And various agencies from the government were very unhappy about that. I sort of could not understand why. They said, well, it’s a classified term. And I said, well, why would it be classified? It doesn’t make any sense. It’s just a term to describe a particular kind of activity that we know takes place. They asked me not to print it. You know, I printed it anyway.

No matter how U.S. officials (secretly) **refer to the practice, signature strikes** against military-age men **have been part of U.S. targeted killings** outside of battlefields from their beginning. **In fact, the very first targeted killing was a signature strike.**

After a year-long manhunt and several missed opportunities by Yemeni soldiers, on November 3, 2002, a fusion of human intelligence assets and signals intercepts pinpointed Abu Ali al-Harithi—an operational planner in the al-Qaeda cell that bombed the USS Cole in 2002—and his bodyguards living in the Marib region near the border with Saudi Arabia. Yemeni and U.S. forces on the ground, supported by a Predator drone circling above, were monitoring al-Harithi’s group when they left a compound in two Toyota SUVs. All of the men were in one vehicle and the women in the other. According to an unnamed U.S. official, “If the women hadn’t gotten into another car, we wouldn’t have fired.” (A member of the Senate Select Committee on Intelligence later wondered, “What do we do, next time, if the women get into the car?”)

Reportedly, the National Security Agency (NSA) intercepted a satellite phone call coming from the SUV filled with men. After an NSA analyst—who had listened to tapes of al-Harithi’s voice for years—heard confirming evidence, he shouted: “He’s in the backseat, and he’s giving the driver directions!” With that confirmation, a CIA-controlled Predator drone was authorized to fire a single Hellfire missile, which destroyed the SUV and killed al-Harithi, four unknown Yemenis, and Ahmed Hijazi (otherwise known as Kemal Derwish)—a naturalized U.S. citizen who recruited six men from Lackawanna, New York, to briefly attend an al-Qaeda training camp in Afghanistan. Ultimately, the Lackawanna Six pled guilty to providing material support to al-Qaeda and received sentences ranging from seven to nine years in federal prison.

As the Los Angeles Times reported the drone strike: “Even though the CIA wasn’t sure who else was in the car, the customary rules of armed conflict say that anyone sitting next to a legitimate target such as Harithi was, in effect, accepting the risk of imminent death.” (Many international legal scholars would dispute this interpretation.) At the same time, U.S. officials acknowledged that the CIA did not know Hijazi was in the vehicle before the CIA launched the missile, although one later claimed his death was justifiable “collateral damage” since “he was just in the wrong place at the wrong time.”

It is plausible that the military-age males who happened to get into al-Harithi’s SUV that day were involved with the suspected al-Qaeda operative in planning terrorist plots. However, there is no way to know this with any certainty, and the Bush administration never presented any supporting evidence to this effect. Moreover, we will never know what specific evidence was used to target al-Harithi, because some of it came from suspected al-Qaeda operative Abd al Rahim al-Nashiri. In 2008, CIA director Hayden testified before the Senate Select Committee on Intelligence that Nashiri was one of three detainees that the CIA waterboarded, and information obtained by torture is not admissible in a military commission trial.

**Whether they are called signature strikes, crowd killing, or Terrorist Attack Disruption Strikes, all have been part of U.S. targeted killings from the start,** and continue with the CIA’s tactic of staggered drone strikes to kill rescuers of initial victims. The Obama administration makes the false choice that kinetic counterterrorism options are either “large, intrusive military deployments” or drone strikes (although some signature strikes have been conducted with cruise missiles). Or, as former CIA official Henry Crumpton—who, according to his memoir, authorized the first U.S. drone strike on October 20, 2001, in Afghanistan—crudely described the dichotomy: “Look at the firebombing of Dresden, and compare what we’re doing today.” However, people have the right to disagree with the ethical and moral tradeoffs of how drone strikes are currently conducted, and the unwillingness of the Obama administration to discuss them, as well as Congress’ reticence to question them. After ten years of signature strikes, isn’t this a debate worth having?

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Asia war is the most probable impact

**Campbell et al 8** (Kurt M, Assistant Secretary of State for East Asian and Pacific Affairs, Dr. Campbell served in several capacities in government, including as Deputy Assistant Secretary of Defense for Asia and the Pacific, Director on theNational Security Council Staff, previously the Chief Executive Officer and co-founder of the Center for a New American Security (CNAS), served as Director of the Aspen Strategy Group and the Chairman of the Editorial Board of the Washington Quarterly, and was the founder and Principal of StratAsia, a strategic advisory company focused on Asia, rior to co-founding CNAS, he served as Senior Vice President, Director of the International Security Program, and the Henry A. Kissinger Chair in National Security Policy at the Center for Strategic and International Studies, doctorate in International Relation Theory from Oxford, former associate professor of public policy and international relations at the John F. Kennedy School of Government and Assistant Director of the Center for Science and International Affairs at Harvard University, member of Council on Foreign Relations and  International Institute for Strategic Studies, “The Power of Balance: America in iAsia” June 2008, http://www.cnas.org/files/documents/publications/CampbellPatelSingh\_iAsia\_June08.pdf)

Asian *investment* is also at record levels. Asian countries lead the world with unprecedented infra­structure projects. With over $3 trillion in foreign currency reserves, Asian nations and businesses are starting to shape global economic activity. Indian firms are purchasing industrial giants such as Arcelor Steel, as well as iconic brands of its once-colonial ruler, such as Jaguar and Range Rover. China’s Lenovo bought IBM’s personal computer We call the transformations across the Asia-Pacific the emergence of “iAsia” to reflect the adoption by countries across Asia of fundamentally new stra­tegic approaches to their neighbors and the world. Asian nations are pursuing their interests with real power in a period of both tremendous potential and great uncertainty. iAsia is: *Integrating:* iAsia includes increasing economic interdependence and a flowering of multinational forums to deal with trade, cultural exchange, and, to some degree, security. *Innovating:* iAsia boasts the world’s most successful manufacturing and technology sectors and could start taking the lead in everything from finance to nanotech to green tech. *Investing:* Asian nations are developing infrastruc­ture and human capital at unprecedented rates. But the continent remains plagued by: Insecurity: Great-power rivalry is alive in Asia. Massive military investments along with historic suspicions and contemporary territorial and other conflicts make war in Asia plausible. Instability: From environmental degradation to violent extremism to trafficking in drugs, people, and weapons, Asian nations have much to worry about. *Inequality:* Within nations and between them, inequality in Asia is more stark than anywhere else in the world. Impoverished minorities in countries like India and China, and the gap in governance and capacity within countries, whether as back­ward as Burma or as advanced as Singapore, present unique challenges. A traditional approach to Asia will not suffice if the United States is to both protect American interests and help iAsia realize its potential and avoid pitfalls. business and the Chinese government, along with other Asian financial players, injected billions in capital to help steady U.S. investment banks such as Merrill Lynch as the American subprime mortgage collapse unfolded. Chinese investment funds regional industrialization, which in turn creates new markets for global products. Asia now accounts for over 40 percent of global consumption of steel 4 and China is consuming almost half of world’s available concrete. 5 Natural resources from soy to copper to oil are being used by China and India at astonishing rates, driving up commodity prices and setting off alarm bells in Washington and other Western capitals. Yet Asia is not a theater at peace. On average, between 15 and 50 people die every day from causes tied to conflict, and suspicions rooted in rivalry and nationalism run deep. The continent harbors every traditional and non-traditional challenge of our age: it is a cauldron of religious and ethnic tension; a source of terror and extrem­ism; an accelerating driver of the insatiable global appetite for energy; the place where the most people will suffer the adverse effects of global climate change; the primary source of nuclear proliferation; and the most likely theater on Earth for a major conventional confrontation and even a nuclear conflict. Coexisting with the optimism of iAsia are the ingredients for internal strife, non-traditional threats like terrorism, and traditional interstate conflict, which are all magnified by the risk of miscalculation or poor decision-making.

## --- at nuke terror d

A nuclear attack in the US is possible – preventing group organization is key

Neely 13 (Meghan, 21 March 2013, “Doubting Deterrence of Nuclear Terrorism,” CSIS, http://csis.org/blog/doubting-deterrence-nuclear-terrorism)

Assessing the Threat of Nuclear Terrorism The risk that terrorists will set off a nuclear weapon on U.S. soil is disconcertingly high. While a terrorist organization may experience difficulty constructing nuclear weapons facilities, there is significant concern that terrorists can obtain a nuclear weapon or nuclear materials. The fear that an actor could steal a nuclear weapon or fissile material and transport it to the United States has long-existed. It takes a great amount of time and resources (including territory) to construct centrifuges and reactors to build a nuclear weapon from scratch. Relatively easily-transportable nuclear weapons, however, present one opportunity to terrorists. For example, exercises similar to the recent Russian movement of nuclear weapons from munitions depots to storage sites may prove attractive targets. Loose nuclear materials pose a second opportunity. Terrorists could use them to create a crude nuclear weapon similar to the gun-type design of Little Boy. Its simplicity – two subcritical masses of highly-enriched uranium – may make it attractive to terrorists. While such a weapon might not produce the immediate destruction seen at Hiroshima, the radioactive fall-out and psychological effects would still be damaging. These two opportunities for terrorists differ from concerns about a “dirty bomb,” which mixes radioactive material with conventional explosives. According to Gary Ackerman of the National Consortium for the Study of Terrorism and Responses to Terrorism, the number of terrorist organizations that would detonate a nuclear weapon is probably small. Few terrorist organizations have the ideology that would motivate nuclear weapons acquisition. Before we breathe a sigh of relief, we should recognize that this only increases the “signal-to-noise ratio”: many terrorists might claim to want to detonate a nuclear weapon, but the United States must find and prevent the small number of groups that actually would. Transportable nuclear weapons and loose fissile materials grant opportunities to terrorists with nuclear pursuits. How should the United States seek to undercut the efforts of the select few with a nuclear intent?

## --- at circumvention

Obama complies with war power statutes

Beau Barnes, J.D., Boston University School of Law, Spring 2012, REAUTHORIZING THE “WAR ON TERROR”: THE LEGAL AND POLICY IMPLICATIONS OF THE AUMF’S COMING OBSOLESCENCE, https://www.jagcnet.army.mil/DOCLIBS/MILITARYLAWREVIEW.NSF/20a66345129fe3d885256e5b00571830/b7396120928e9d5e85257a700042abb5/$FILE/By%20Beau%20D.%20Barnes.pdf

Unsurprisingly, this article embraces an interpretation of the Constitution that is at odds with the Vesting Clause thesis, and instead hews closer to the view expressed in Justice Robert Jackson’s concurrence in the 1952 Steel Seizure case.13 The Constitution explicitly empowers Congress in the area of foreign affairs to, among other actions, approve treaties,14 declare war,15 and regulate the armed forces.16 These textual grants of authority would be vitiated if Congress were unable, in the exercise of these powers, to “wage a limited war; limited in place, in objects, and in time.”17 A full exposition of this oft-addressed topic is beyond the scope of this article, however, and it suffices for present purposes to merely align it with the overwhelming majority of scholars who conceive of a Constitution where Congress may authorize limited military force in a manner which is binding on the Executive Branch.18

Furthermore, the Vesting Clause thesis and all-powerful views of the Commander in Chief Clause have been rejected in large part by the judiciary and the current administration.20 Indeed, **one significant reason for considering the AUMF to be an actual limit on Presidential power, and a relevant subject for legal analysis, is because that is how the Obama Administration understands the statute**. State Department Legal Adviser Harold Koh, in his March 25, 2010, speech to the American Society of International Law, clarified that “as a matter of domestic law” the Obama Administration relies on the AUMF for its authority to detain and use force against terrorist organizations.21 Furthermore, Koh specifically disclaimed the previous administration’s reliance on an expansive reading of the Constitution’s Commander in Chief Clause.22 Roughly stated, the AUMF matters, at least in part, because the Obama Administration says it matters.

The scope of the AUMF is also important for any future judicial opinion that might rely in part on Justice Jackson’s Steel Seizure concurrence.23 Support from Congress places the President’s actions in Jackson’s first zone, where executive power is at its zenith, because it “includes all that he possesses in his own right plus all that Congress can delegate.”24 Express or implied congressional disapproval, discernible by identifying the outer limits of the AUMF’s authorization, would place the President’s “power . . . at its lowest ebb.”25 In this third zone, executive claims “must be scrutinized with caution, for what is at stake is the equilibrium established by our constitutional system.”26 Indeed, Jackson specifically rejected an overly powerful executive, observing that the Framers did not intend to fashion the President into an American monarch.27

Jackson’s concurrence has become the most significant guidepost in debates over the constitutionality of executive action in the realm of national security and foreign relations.28 Indeed, some have argued that it was given “the status of law”29 by then-Associate Justice William Rehnquist in Dames & Moore v. Regan.30 Speaking for the Court, Rehnquist applied Jackson’s tripartite framework to an executive order settling pending U.S. claims against Iran, noting that “[t]he parties and the lower courts . . . have all agreed that much relevant analysis is contained in [Youngstown].”31 More recently, Chief Justice John Roberts declared that “Justice Jackson’s familiar tripartite scheme provides the accepted framework for evaluating executive action in [the area of foreign relations law].”32 Should a future court adjudicate the nature or extent of the President’s authority to engage in military actions against terrorists, an applicable statute would confer upon such executive action “the strongest of presumptions and the widest latitude of judicial interpretation.”33 The AUMF therefore exercises a profound legal influence on the future of the United States’ struggle against terrorism, and its precise scope, authorization, and continuing vitality matter a great deal.

## self restraint

6) Congressional legitimacy’s key to allied coop

Kenneth Anderson, Professor of Law, Washington College of Law, American University, and Research Fellow, The Hoover Institution, Stanford University and Member of its Task Force on National Security and the Law, 5/11/2009, Targeted Killing in U.S. Counterterrorism Strategy and Law, http://www.brookings.edu/~/media/research/files/papers/2009/5/11%20counterterrorism%20anderson/0511\_counterterrorism\_anderson.pdf

To all of this, the Obama Administration might ask a resounding “So what?” These human rights and other issues might exist in some hypothetical counterterrorism campaign far in the future if some administration were prepared to sign on to readings of international law the United States has always rejected. But for now, in the fight against al Qaeda, we have the AUMF, and we don’t accede to the more extravagant arguments of the international human rights community. The result is that targeted killings are governed by IHL. We are only using them when the conditions of self-defense have all been met. And those facts also conveniently get us around the assassination ban. Perhaps someone might raise some legal difficulty over operating in parts of Pakistan and over targeting parties not clearly related to al Qaeda. But practically, it all seems like the same “armed conflict.” So whatever the problems that might exist legally tomorrow, we do not have a legal difficulty today.

That even the Bush Administration always treated its targeted killings as the targeting of combatants covered by the AUMF in a war covered by IHL says something about the pressures the American legal structure faces from actors in the international legal community. **Those pressures are unlikely to abate**. For the current American view of its authority to conduct targeted killings, as described above, is barely more palatable to key elements of the international community than the one I advocate. What’s more, seemingly innocuous changes in and acquiescence to various legal regimes and rules could end up undermining the American legal rationale for targeted killings. The United States, to cite only one example, would like to have a more productive engagement with the International Criminal Court; this would put a considerable premium on the definition of the crime of “aggression” in that tribunal.

Some of the long term international legal pressure turns on a fundamental difference in understanding concerning how international law works—a difference that sometimes has a strong effect on interpretive outcome. In the long-held American view, international law classically binds sovereign states through their consent, either contractually through explicit treaties or implicitly through their assent to gradually evolving customary law. By contrast, those seeking to constrain states or alter their behavior beyond their consent have an incentive to expand the canon of what is implicitly agreed to by states, and generally binding on all of them, in the form of this body of customary international law.95 Since custom is not limited to the explicit terms of a ratified treaty, it is open to expansive restatement, interpretation, and invention by a wide variety of actors, both governmental and non-governmental. Classically, customary law has been evidenced principally by the actual behavior of states—functioning to ensure that international law does not over time become a purely paper enterprise with terms departing further and further from what states actually do. What is not prohibited to states, however, is generally permissible for them. So on this view, the question of targeted killing is not whether it is affirmatively allowed, but instead whether some treaty provision, or some genuinely accepted customary rule, prohibits it.

These traditional underpinnings of international law are, however, contested in the contemporary world as the “ownership” of international law—who sets its terms, interprets its rules, determines its content and meaning—is no longer entirely in the hands of sovereign states. Other actors—international advocacy organizations, international tribunals, international organizations and their functionaries, professors and academics, middle-weight states that see international law as a means to constrain more powerful sovereign states—play a significant role in setting the terms of the meaning and interpretation of international law. And while it’s easy now for the American administration to pretend these currents don’t exist, they have a way of seeping in as real constraints on American practice.

**The stakes are higher than American policymakers appear to realize**—as even a cursory look back over the past few years should make plain. At the most overt level, there is the possibility of prosecution abroad based on a consensus view of international law that the United States rejects. No one who has watched the European eagerness to initiate criminal and civil proceedings against Israeli and American officials in ever-proliferating judicial forums can be entirely sanguine about a giant gulf between American and international understanding of a practice that the international law community regards as murder.96 The more aggressively the United States uses this instrument, the more glaring the gulf will become—until, in some jurisdiction, someone decides to assert the consensus view as operative law. **Absent** some **aggressive effort to defend the American position**, **that magistrate** or prosecutor **will have the overwhelming weight of international legal opinion behind him**.

But the problem for the United States is not limited to the possibility of criminal proceedings abroad. American courts themselves are far from immune to the influence of soft law development. Consider only the manner in which American detention policy has been affected by parallel currents of international law opinion imported into American law through Supreme Court opinions. Only seven years ago, an American administration took a “so what” attitude toward international law ferment over detention that was rather similar to the current consensus on targeted killings. International legal scholars, NGOs, international organizations, and most countries took a far more restrictive view of the detention authority residing in IHL—specifically with respect to the protections due to unlawful enemy combatants—than did the United States, which had quietly preserved but not fought aggressively for a different approach over the preceding decades. The Supreme Court, however, has now gone a considerable distance to bridge the gulf by insisting that at least a portion of the Geneva Conventions covers all detainees. Whatever one thinks of that judgment, it is a striking example of the capacity to impact American law of the sort of international legal developments we are now seeing with respect to targeted killing.

More broadly, there are hidden but important costs when the United States is perceived by the rest of the world to be acting illegally. For one thing, it limits the willingness and capacity of other countries to assist American efforts. Detention here again offers a striking example; virtually no other country has assisted in American detention operations since September 11 in large part because of concerns over its legality. The more heavily and aggressively the United States banks on a policy that a strong consensus regards as per se criminal, the more tension it can expect in efforts to garner other countries’ and organizations’ cooperation in counterterrorism efforts. **Absent a strong effort to establish the legitimacy of current American practice, this too, over time, will push the U**nited **S**tates **away** from it.

The Obama foreign policy team may assume that the world’s goodwill toward the new administration means acceptance over time of these actions. That is surely mistaken. The admirable, if mistaken, views of international law scholars and the international law community on how human rights law should apply universally did not develop because Obama’s predecessor was named Bush—and they won’t melt in the face of affection for a popular new president. Over the long run, if the Obama Administration wants to continue to fight using more discriminating, precisely-targeted weapons instead of fullscale combat, it’s going to have to confront this problem while it still has intellectual and legal maneuvering space.

Legitimate Concerns

The concerns that underlie all of this international law ferment—chiefly, mistaken targeting decisions and excessive collateral damage—are real and substantial. A wholly justified worry about targeted killing, particularly as offered here, is that it is a defense of the practice without offering anything in the way of standards for its effective regulation. **If Congress** and the administration **wish to maintain and defend the legitimacy of this category of violence** and to demonstrate that it is not unlimited or unregulated and exists within bounds, **the question of visible domestic standards requires attention**. Indeed, the reach to situate this activity under the law of IHL armed conflict is, in its substance, a reach to standards of proportionality, discrimination in targeting, and minimizing collateral damage.

Heightened standards won’t prevent needed attacks

**Daskal 13** Jennifer Daskal, Fellow and Adjunct Professor, Georgetown Center on National Security and the Law, Georgetown University Law Center, April 2013, ARTICLE: THE GEOGRAPHY OF THE BATTLEFIELD: A FRAMEWORK FOR DETENTION AND TARGETING OUTSIDE THE "HOT" CONFLICT ZONE, 161 U. Pa. L. Rev. 1165

Some likely will object that such an official designation would recreate the same safe havens that this proposal seeks to avoid. But a critical difference exists **between a territorially restricted framework that** effectively **prohibits reliance on law-of-war tools outside of specific zones of active hostilities and a zone approach that merely imposes heightened procedural and substantive standards on the use of such tools**. Under the zone approach, the non-state enemy is not free from attack or capture; rather, the belligerent state simply must take greater care to ensure that the target meets the enhanced criteria described in Section III.B.

No slippery slope – if things get out of hand the executive can reassert its power in critical areas

Barron ‘8 David, Professor of Law, Harvard Law School, and Martin Lederman, Visiting Professor of Law, Georgetown University Law Center, THE COMMANDER IN CHIEF AT THE LOWEST EBB --- A CONSTITUTIONAL HISTORY, 121 Harv. L. Rev. 941

But that dramatic deviation did not come from nowhere. Rarely does our constitutional framework admit of such sudden creations. Instead, the new claims have drawn upon those elements in prior presidential practice most favorable to them. That does not mean our constitutional tradition is foreordained to develop so as to embrace unchecked executive authority over the conduct of military campaigns. At the same time, **it would be wrong to assume**, as some have suggested, that **the emergence of such claims will be necessarily self-defeating**, inevitably **inspiring a popular and legislative reaction that will leave the presidency especially weakened**. In light of the unique public fears that terrorism engenders, the more substantial concern is an opposite one. It is entirely possible that the emergence of these claims of preclusive power will subtly but increasingly influence future Executives to eschew the harder work of accepting legislative constraints as legitimate and actively working to make them tolerable by building public support for modifications. The temptation to argue that the President has an obligation to protect the prerogatives of the office asserted by his or her predecessors will be great. **Congress's capacity to effectively check such defiance will be comparatively weak. After all, the President can veto any effort to legislatively respond to defiant actions,** **and impeachment is neither an easy nor an attractive remedy.**

## iran da

No spillover

Walt 11/30 (Stephen M. Walt is the Robert and Renée Belfer professor of international relations at Harvard University., 11/30/12, “The mother of all worst-case assumptions about Iran”, http://walt.foreignpolicy.com/posts/2012/11/30/the\_mother\_of\_all\_worst\_case\_assumptions\_about\_iran)

The debate on Iran and its nuclear program does little credit to the U.S. foreign policy community, because much of it rests on **dubious assumptions that do not stand up to even casual scrutiny**. Lots of ink, pixels, and air-time has been devoted to discussing whether Iran truly wants a bomb, how close it might be to getting one, how well sanctions are working, whether the mullahs in charge are "rational," and whether a new diplomatic initiative is advisable. Similarly, journalists, politicians and policy wonks spend endless hours asking if and when Israel might attack and whether the United States should help. But we hardly ever ask ourselves if this issue is being blown wildly out of proportion. At bottom, the whole debate on Iran rests on the assumption that Iranian acquisition of a nuclear weapon would be an event of shattering geopolitical significance: On a par with Hitler's rise to power in Germany in 1933, the fall of France in 1940, the Sino-Soviet split, or the breakup of the former Soviet Union. In this spirit, Henry Kissinger recently argued that a latent Iranian capability (that is, the capacity to obtain a bomb fairly quickly) would have fearsome consequences all by itself. Even if Iran stopped short of some red line, Kissinger claims this would: 1) cause "uncontrollable military nuclear proliferation throughout [the] region," 2) "lead many of Iran's neighbors to reorient their political alignment toward Tehran" 3) "submerge the reformist tendencies in the Arab Spring," and 4) deliver a "potentially fatal blow" to hopes for reducing global nuclear arsenals. Wow. And that's just if Iran has nuclear potential and not even an actual weapon! It follows that the United States must either persuade them to give up most of their enrichment capacity or go to war to destroy it. Yet this "mother of all assumptions" is simply asserted and rarely examined. The obvious question to ask is this: did prior acts of nuclear proliferation have the same fearsome consequences that Iran hawks now forecast? **The answer is no**. In fact, **the spread of nuclear weapons has had** remarkably little impact on the basic nature of world politics **and the ranking of major powers**. The main effect of the nuclear revolution has been to induce greater caution in the behavior of both those who possessed the bomb and anyone who had to deal with a nuclear-armed adversary. Proliferation has not transformed weak states into influential global actors, has not given nuclear-armed states the ability to blackmail their neighbors or force them to kowtow, **and it has not triggered far-reaching regional arms races**. In short, fears that an Iranian bomb would transform regional or global politics **have been greatly exaggerated**; one might even say that **they are just a lot of hooey**. Consider the historical record. Did the world turn on its axis when the mighty Soviet Union tested its first bomb in 1949? Although alarmist documents like NSC-68 warned of a vast increase in Soviet influence and aggressiveness, Soviet nuclear development simply reinforced the caution that both superpowers were already displaying towards each other. The United States already saw the USSR as an enemy, and the basic principles of containment were already in place. NATO was being formed before the Soviet test and Soviet dominance of Eastern Europe was already a fait accompli. Having sole possession of the bomb hadn't enabled Truman to simply dictate to Stalin, and getting the bomb didn't enable Stalin or his successors to blackmail any of their neighbors or key U.S. allies. It certainly didn't lead any countries to "reorient their political alignment toward Moscow." Nikita Khrushchev's subsequent missile rattling merely strengthened the cohesion of NATO and other U.S.-led alliances, and we now know that much of his bluster was intended to conceal Soviet strategic inferiority. Having a large nuclear arsenal didn't stop the anti-commnist uprisings in East Germany, Hungary, Czechoslovakia, or Poland, and didn't allow the Soviet Union to win in Afghanistan. Nor did it prevent the USSR from eventually collapsing entirely. Did British and French acquisition of nuclear weapons slow their decline as great powers? Not in the slightest. Having the force de frappe may have made De Gaulle feel better about French prestige and having their own deterrent made both states less dependent on America's security umbrella, but it didn't give either state a louder voice in world affairs or win them new influence anywhere. And you might recall that Britain couldn't get Argentina to give back the Falklands by issuing nuclear threats -- even though Argentina had no bomb of its own and no nuclear guarantee -- they had to go retake the islands with conventional forces. Did China's detonation of a bomb in 1964 suddenly make them a superpower? Hardly. China remained a minor actor on the world stage until it adopted market principles, and its rising global influence is due to three decades of economic growth, not a pile of nukes. And by the way, did getting a bomb enable Mao Zedong--a cruel megalomaniac who launched the disastrous Great Leap Forward in 1957 and the destructive Cultural Revolution in the 1960s -- to start threatening and blackmailing his neighbors? Nope. In fact, China's foreign policy behavior after 1964 was generally quite restrained. What about Israel? Does Israel's nuclear arsenal allow it to coerce its neighbors or impose its will on Hezbollah or the Palestinians? No. Israel uses its conventional military superiority to try to do these things, not its nuclear arsenal. Indeed, Israel's bomb didn't even prevent Egypt and Syria from attacking it in October 1973, although it did help convince them to limit their aims to regaining the territory they had lost in 1967. It is also worth noting that Israel's nuclear program did not trigger a rapid arms race either. Although states like Iraq and Libya did establish their own WMD programs after Israel got the bomb, none of their nuclear efforts moved very rapidly or made it across the finish line. But wait, there's more. The white government in South Africa eventually produced a handful of bombs, but nobody noticed and apartheid ended anyway. Then the new government gave up its nuclear arsenal to much acclaim. If anything, South Africa was more secure without an arsenal than it was before. What about India and Pakistan? India's "peaceful nuclear explosion" in 1974 didn't turn it into a global superpower, and its only real effect was to spur Pakistan -- which was already an avowed rival -- to get one too. And it's worth noting that there hasn't been a large-scale war between the two countries since, despite considerable grievances on both sides and occasional skirmishes and other provocations. Finally, North Korea is as annoying and weird as it has always been, but getting nuclear weapons didn't transform it from an economic basket case into a mighty regional power and didn't make it more inclined to misbehave. In fact, what is most remarkable about North Korea's nuclear program **is how little impact it has had on its neighbors**. States like Japan and South Korea could go nuclear very quickly if they wanted to, but neither has done so in the six years since North Korea's first nuclear test. In short, **both** theory and history teach **us that getting a nuclear weapon has less impact on a country's power and influence than many believe**, **and the slow spread of nuclear weapons has** only modest effects on global and regional politics. Nuclear weapons are good for deterring direct attacks on one's homeland, and they induce greater caution in the minds of national leaders of all kinds. **What they don't do is turn weak states into great powers, they are useless as tools of blackmail, and they cost a lot of money**. They also lead other states to worry more about one's intentions and to band together for self-protection. For these reasons, **most potential nuclear states have concluded that getting the bomb isn't worth it**. But a few states-and usually those who are worried about being attacked-decide to go ahead. The good news is that when they do, it **has** remarkably little impact **on world affairs**. For some strange reason, however, the U.S. national security community seems to think that both logic and all this prior history does not apply to Iran. They forget that similarly dire warnings were uttered before many of these others states got the bomb, **yet none of these fearsome forecasts took place.** Ironically, by repeatedly offering doom-and-gloom scenarios about the vast geopolitical consequences of an Iranian bomb, they may be strengthening the hands of Iranian hardliners who might be interested in actually obtaining a working weapon. After all, if getting a bomb would give Iran all the influence that Kissinger and others fear, why wouldn't Tehran want one?

Iran prolif doesn’t cause extinction

Young 12 (Michael Young is opinion editor of The Daily Star newspaper in Beirut, 8/9/2012, "Misjudging Iran's rationality is a recipe for more calamity", www.thenational.ae/thenationalconversation/comment/misjudging-irans-rationality-is-a-recipe-for-more-calamity#full)

Amid signs that negotiations between the international community and Iran over the Iranian nuclear programme are going nowhere, the debate as to whether the Islamic Republic should actually be permitted to develop nuclear weapons has resurfaced. In a recent article in Foreign Affairs magazine, the American scholar Kenneth Waltz maintained that, far from destabilising the Middle East, an Iran armed with nuclear weapons would do precisely the contrary. Israel's nuclear monopoly in the region, not Iran's pursuit of a nuclear capability, is what has fuelled instability, he writes, because power begs to be balanced. "What is surprising about the Israeli case is that it has taken so long for a potential balancer to emerge," Mr Waltz notes. Many will disagree with Mr Waltz's assessment, and have long provided arguments disputing approaches such as his. And yet most of those opinions are unpersuasive, no matter how distasteful is the prospect of Tehran acquiring nuclear weapons. The first contention, and the one most often echoed by Israeli and American politicians, is that Iran's regime is fundamentally irrational. The premise is that mad mullahs rule in Tehran, and that their religious zeal may push them to press the button if it means that they can destroy Israel. Notions of deterrence, therefore, are irrelevant, because an eschatological ideology has taken over. This line is useful in public statements, but if there is one thing that Israelis and Americans have learnt over the years, it is that Iran's leaders are eminently rational in the pursuit of their interests, and in the protection of their authority. A nuclear attack on Israel would be matched by more severe Israeli, and probably American, nuclear retaliation against Iran. Moreover, hundreds of thousands of Palestinians would be killed in a first strike against Israel. No Iranian leader will sign off on such a scheme, religion or no religion. Iran has also shown exceptional rationality in working through proxies and in building up alliances far and wide to compensate for its shortcomings internationally. The Islamic Republic has, of course, transformed Lebanon's Hizbollah into a powerful military force on Israel's border; it has bolstered Muqtada Al Sadr in Iraq, and even rival groups to his; and it has extended its reach to Latin America and Africa. These patient endeavours are hardly those of a rabid regime hell bent on provoking Armageddon in the Middle East. A second argument is that, while Iran may not deploy nuclear weapons against Israeli directly, it might encourage proxies or terrorist groups to do so. But as Mr Waltz writes, two things work against this: it would be easy to discover Iranian responsibility, and countries that develop nuclear weapons generally retain tight control over their arsenals. "After all, building a bomb is costly and dangerous. It would make little sense to transfer the product of that investment to parties that cannot be trusted or managed," he believes. Iran's intention to closely monitor its weapons was plain during the Lebanon war of 2006, when the Iranians apparently gave final approval for use of, or even operated, Hizbollah's most advanced systems. But that begs another question, namely whether an entirely trusted Hizbollah might receive nuclear weapons from Iran. Such an alternative cannot be discounted, but it is improbable. First, Israel would not hesitate to engage in a ferocious pre-emptive strike against Lebanon, perhaps even initiating a ground war to prevent such an outcome. And Lebanese society, with many Shia among them, recognising the potentially disastrous consequences of a nuclear-armed Hizbollah, would angrily challenge the party, undermining the national unity required to give a nuclear deterrent its value. A third basis for opposing a nuclear Iran is that under a nuclear cover it would become more aggressive throughout the region. That's possible, but it's not clear that there is a correlation between aggressiveness and nuclear weapons. Without such weapons, Iran has already been exceptionally assertive in the region in the past years. But would it be more so with a bomb? Mr Waltz believes that history shows otherwise. "[W]hen countries acquire the bomb, they feel increasingly vulnerable and become acutely aware that their nuclear weapons make them a potential target in the eyes of major powers." The merits of the discussion are imposed by the stark reality that Iran, if it does indeed pursue nuclear weapons, will not be dissuaded from doing so whatever the political and economic pressures, assuming there is no change of regime. Nor will a military attack, Israeli or American, necessarily halt Iran's nuclear programme, even if it delays it for a time. On the other hand, the cost of bombing Iran would be exceptionally high in the region and beyond, dividing the international community more than it already is. Strangely, the United States has not factored Syria into its approach to the Iranian nuclear question. The Iranians will lose a great deal if the regime of President Bashar Al Assad falls. Yet few officials in Washington have asked whether an Iran minus its Syrian partner - with Hizbollah therefore isolated in an increasingly hostile environment and wary of waging war - would still constitute a major threat in the Levant, with or without nuclear weapons. In other words the situation in Syria may prove as decisive, if not more so, in defining Iranian influence than whether it has weapons it can never use. Iran has done enough to worry its neighbours. However, careful and multifaceted political containment is the best way to oppose Tehran, not a military onslaught that will unite Iranians, strengthen their leaders, spawn great and small wars, and ultimately alter little. An Iran with the bomb is thoroughly undesirable, but it is not the existential calamity it has been made out to be.

Sanctions fail

Abrams 13 (Elliott Abrams Senior Fellow for Middle Eastern Studies, 2/21/2013, "Are Iran Sanctions Working?", blogs.cfr.org/abrams/2013/02/21/are-iran-sanctions-working/)

It’s a commonplace to say that sanctions against Iran are tighter than ever and are working. Here’s an example from White House spokesman Jay Carney last Fall: ”We have diplomatic isolation and international isolation that’s unprecedented in history and it’s having a profound impact on both the Iranian economy and the Iranian regime’s internal political structure.” The problem is that sanctions appear to be having no impact on Iran’s nuclear weapons program, which is after all their purpose. Impoverishing Iranians is not the goal. The damage to Iran’s economy is visible: oil exports are down (though because oil prices are up, the impact of this is reduced); the currency has fallen in value by about two-thirds against the dollar; foreign exchange reserves are apparently down from about $100 billion to perhaps $75 billion. But that is not economic collapse. A foreign ambassador stationed in Iran recently told me that the depressed value of the currency means, for example, that a middle class family used to an annual vacation in Turkey can no longer afford to take that trip. They now have to vacation inside Iran. But as he noted, that’s hardly the kind of thing that produces rioting and it isn’t going to produce a change in the Supreme Leader’s nuclear policy. Reuters‘ Middle East economics editor recently wrote that sanctions “are not close to having the ‘crippling’ effect envisaged by Washington. The Iranian government has found ways to soften the impact, and Iran’s economy is large and diverse enough to absorb a lot of punishment.” He noted that “The International Monetary Fund estimated in October that Iran would post a general state budget deficit of 3.9 percent of gross domestic product this year – easily bearable for a government with gross debt of only about 9 percent of GDP.” Moreover, “government subsidies and handouts are expected to continue softening the impact of inflation on Iran’s poorer families by keeping staple foods such as bread, rice, sugar and edible oil affordable for them. Parliament agreed last month to allocate a further $2 billion to support low-income families.” So sanctions are hurting Iran’s economy, and are hurting many Iranians–though the richest can take care of themselves, and the poorest are protected by the government. But there is no crisis, and it seems to be wishful thinking that the ayatollahs will abandon their nuclear program because the economic pain, and the political risk it is producing, are too great. That could happen if sanctions–especially sanctions that reduce Iran’s oil exports a good deal more and interfere with its ability to import refined products–are strengthened. But that does not seem to be in the cards.

no deal – GOP, Dems, Israel lobby, and no veto

Weisman 11/12/13

Jonathan, NYT, “Iran Talks Face Resistance in U.S. Congress,” http://www.nytimes.com/2013/11/13/world/middleeast/iran-talks-face-resistance-in-us-congress.html?\_r=0

After having come tantalizingly close over the weekend to an agreement to freeze Iran’s nuclear program, the Obama administration is gingerly weighing a threat to the talks potentially more troublesome than the opaque leadership in Tehran: Congress. Secretary of State John Kerry will meet behind closed doors on Wednesday afternoon with members of the Senate Banking, Housing and Urban Affairs Committee to try to head off a new round of stiff sanctions on Iran that administration officials fear could derail the talks in Geneva. In addition, Vice President Joseph R. Biden Jr.; Mr. Kerry; Wendy R. Sherman, the administration’s chief negotiator; and David S. Cohen, under secretary of the Treasury for terrorism and financial intelligence, are scheduled to brief Senate Democratic leaders that day in a full-court press to win backing of the diplomatic initiative. But the **administration is running headlong into** Prime Minister Benjamin **Netanyahu** of Israel **and pro-Israel lobbyists** pressing their case that the deal taking shape would be a major blunder. Diplomats from the United States and five other countries are pursuing an accord that would cause Iran to freeze its nuclear program in exchange for the loosening of some of the sanctions that have crippled the Iranian economy. Talks broke off this weekend but are scheduled to resume on Nov. 20. But they are facing bipartisan doubt about their course. “I understand what they’re saying about destroying a chance for a peaceful outcome here with new sanctions, but I really do believe if the new sanctions were crafted in the right way, they would be more helpful than harmful,” said Senator Lindsey Graham, Republican of South Carolina. Senator Charles E. Schumer of New York, the third-ranking Democrat, was briefed Monday on the negotiations by Mr. Biden and has met with the White House chief of staff, Denis R. McDonough, as well as with cabinet officials. Yet he still proclaimed himself “dubious” of the possible agreement because of concerns that the administration might be willing to give too much away while getting too little in return. In a letter to the editor in The New York Times last week and an opinion article in USA Today, Senator Robert Menendez of New Jersey, the Democratic chairman of the Foreign Relations Committee, indicated he would press forward against the administration’s wishes on the sanctions legislation. “Iran is on the ropes because of its intransigent policies and our collective will, and it would be imprudent to want an agreement more than the Iranians do,” he wrote in USA Today on Monday. “Tougher sanctions will serve as an incentive for Iran to verifiably dismantle its nuclear weapons program.” A powerful lobbying group, the American Israel Public Affairs Committee, issued its own broadside. “Aipac continues to support congressional action to adopt legislation to further strengthen sanctions, and there will absolutely be no pause, delay or moratorium in our efforts,” the group’s president, Michael Kassen, said in a statement this month. But the group’s officials are taking a wait-and-see stance for now. If the talks collapse on their own, the group can avoid wading into a political donnybrook, but if a diplomatic breakthrough is achieved, Aipac is ready to mount an aggressive campaign to stop it, according to one person familiar with its thinking. Senator Tim Johnson, Democrat of South Dakota, the chairman of the Banking Committee, has said he will not move forward with sanctions legislation until he has consulted with committee members after the Wednesday briefing from Mr. Kerry. But Republicans are threatening to move on their own, possibly by attaching the sanctions to a defense policy bill that will reach the Senate floor **this week**. “I understand the problem that this creates at the negotiating table,” said Senator Bob Corker of Tennessee, the top Republican on the Foreign Relations Committee and a member of the Banking Committee, which has jurisdiction over economic sanctions. But, he added, the administration’s fears are misplaced: “New sanctions wouldn’t kick in for three to six months. The important period of time for this country, candidly for the world community, on this issue is over the next two to three weeks.” Sanctions legislation would require the president’s signature, **but even its introduction** could upset the talks. Administration officials fear that congressional action would raise questions in Tehran about the value of Western promises while potentially angering some negotiating team members, especially China and Russia, whose companies would be hit especially hard by the tightening economic noose.

Obama popularity collapse kills the agenda

Jonathan Bernstein, 11/8/13, What matters, and what doesn’t, with Obama’s sliding approval numbers, www.washingtonpost.com/blogs/plum-line/wp/2013/11/08/what-matters-and-what-doesnt-with-obamas-sliding-approval-numbers/

Everyone is talking about Barack Obama’s falling numbers this week, with a new Pew Poll out today showing him at 41 percent approval, and a slide in Gallup to a post-election low earlier this week. Any careful look should go to the aggregators; the latest HuffPollster average has Obama’s approval at 43%, with a steady slide since a post-election peak back in late December. Of course, Obama is never going to appear on a ballot again. But **his popularity still matters**. In some ways, and not in others. What’s hurting the president? A week of high-coverage negative publicity on the Obamacare rollout can’t help, and in fact his approval rating from Pew on health care is down to 37 percent. On the other hand, that’s only down eight points since January, compared with an 11 point overall drop. It’s not likely Obama is getting dragged down just by health care. It’s probably a combination of things — a large part of it likely from the dramatic drop in Gallup’s economic confidence index since May, which is about when sequestration started kicking in and the deficit started shrinking rapidly. Here’s where Obama’s approval numbers do not matter: The future of the health law. There will be a lot of talk that Dems are running away from the health law because of his drop. But on health care, Democrats pretty much are all in the same boat: They want the law to work. After all, what other choice is there? Dems are not going to support repeal — they voted for the bill. So they’re stuck hoping the administration can get everything running as painlessly as possible. Democrats probably are open to small fixes to immediate problems, but even there it’s not clear how much can be done legislatively — and no fixes that would help Obamacare run better can pass the GOP-controlled House. Here’s where Obama’s approval does matter. Presidential approval has real effects on midterm elections. Right now, what matters is perceptions among elites, and potential candidates, about those elections. There’s some evidence Dems benefited from the shutdown, with a small wave of successful recruitment. If the conventional wisdom shifts to a sense that Obama (and Democrats) are doomed, it’s unlikely Democrats could build on those successes. We might see some Republican recruiting coups. Separate from that is the direct effect of presidential popularity; the better Obama is doing in November 2014, the better Dems can expect to do. **The other reason presidential approval matters is that it should**, on the margins, help or **hurt his ability to influence people**, whether Members of **Congress** or people in executive branch **agencies** **or** any of those **Washingtonians** (in Richard Neustadt’s language) **a president seeks to influence.** Low presidential approval now could also matter to Obama’s long term success. If he remains unpopular, he might have more trouble getting judges confirmed, perhaps leading to more court decisions against his programs. Another area: the more popular Obama is, the more pressure there would probably be on states to join the Medicaid expansion.

Even if Obama had any political capital – it would be less than useless

Reid Epstein, Politico, 11/10/13, White House seeks Republican immigration help, www.politico.com/story/2013/11/white-house-seeks-gop-immigration-help-99640.html

The government shutdown fight and Obama’s failure to establish relationships with Republicans haven’t helped either. “This whole fight we had in the … past few weeks over Obamacare and the government shutdown and everything really affected relationships with members and the White House,” Valadao said. “That, I think, had a huge impact on members who were on the fence on immigration.” Meanwhile, the conservative groups working to pass immigration reform are happy working without substantial coordination from the White House. Being seen as too close to Obama would sap their credibility with House Republicans, even as they parrot the White House talking points. “We’re keeping the White House at arms length and the White House is not really engaging with folks directly and they’re really paying heed to the reality that this has to be owned lock, stock and barrel by the House Republicans,” said Ali Noorani, executive director of the National Immigration Forum. Tamar Jacoby, president and CEO of the pro-reform business group ImmigrationWorks USA, said the biggest current obstacle of immigration reform in the House is that Republicans “don’t want to do Obama any favors” after the toxic shutdown and debt limit battles. “When Obama’s out there saying, ‘I just won a big battle … and I’m demanding you do this,’ no one’s going to want to do it on those terms,” Jacoby said. “My fear is that Obama’s not really helping [reform] when he’s sort of scolding them about it all the time.”

Democratic infighting blocks

Jonathan Allen, Politico, 11/14/13, Trust frays between Obama, Democrats, www.politico.com/story/2013/11/trust-frayed-between-obama-dems-99897.html?hp=t1\_3

President Barack Obama’s credibility may have taken a big hit with voters, but he’s also in serious danger of permanently losing the trust of Democrats in Congress. The Obamacare debacle has been bad enough that it’s tough for Democrats to take on faith that the president can fix the problems. **His one-time allies are no longer sure that it’s wise to follow him into battle, leaving Obama and his law not only vulnerable to existing critics, but open to new attacks from his own party**.

“I don’t know how he f—-ed this up so badly,” said one House Democrat who has been very supportive of Obama in the past.

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## No Iran Impact

Iran prolif doesn’t cause extinction

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Iran has also shown exceptional rationality in working through proxies and in building up alliances far and wide to compensate for its shortcomings internationally. The Islamic Republic has, of course, transformed Lebanon's Hizbollah into a powerful military force on Israel's border; it has bolstered Muqtada Al Sadr in Iraq, and even rival groups to his; and it has extended its reach to Latin America and Africa. These patient endeavours are hardly those of a rabid regime hell bent on provoking Armageddon in the Middle East. A second argument is that, while Iran may not deploy nuclear weapons against Israeli directly, it might encourage proxies or terrorist groups to do so. But as Mr Waltz writes, two things work against this: it would be easy to discover Iranian responsibility, and countries that develop nuclear weapons generally retain tight control over their arsenals. "After all, building a bomb is costly and dangerous. It would make little sense to transfer the product of that investment to parties that cannot be trusted or managed," he believes. Iran's intention to closely monitor its weapons was plain during the Lebanon war of 2006, when the Iranians apparently gave final approval for use of, or even operated, Hizbollah's most advanced systems. But that begs another question, namely whether an entirely trusted Hizbollah might receive nuclear weapons from Iran. Such an alternative cannot be discounted, but it is improbable. First, Israel would not hesitate to engage in a ferocious pre-emptive strike against Lebanon, perhaps even initiating a ground war to prevent such an outcome. And Lebanese society, with many Shia among them, recognising the potentially disastrous consequences of a nuclear-armed Hizbollah, would angrily challenge the party, undermining the national unity required to give a nuclear deterrent its value. 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Jonathan Allen, Politico, 11/14/13, Trust frays between Obama, Democrats, www.politico.com/story/2013/11/trust-frayed-between-obama-dems-99897.html?hp=t1\_3

President Barack Obama’s credibility may have taken a big hit with voters, but he’s also in serious danger of permanently losing the trust of Democrats in Congress. The Obamacare debacle has been bad enough that it’s tough for Democrats to take on faith that the president can fix the problems. **His one-time allies are no longer sure that it’s wise to follow him into battle, leaving Obama and his law not only vulnerable to existing critics, but open to new attacks from his own party**.

“I don’t know how he f—-ed this up so badly,” said one House Democrat who has been very supportive of Obama in the past.