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Effective pressure on senate dems now to not bring up a vote on iran sanctions– that’s key to prevent a veto override

Greg Sargent, Washington Post, 1/15 [“Push for Iran sanctions bill losing momentum?” http://www.washingtonpost.com/blogs/plum-line/wp/2014/01/15/push-for-iran-sanctions-bill-losing-momentum/]

Harry Reid and Senate Dem leadership aides have been telling reporters that there are no plans for a vote on a new bill to impose sanctions on Iran — a vote the White House fears could derail diplomacy and make war more likely.¶ Yet it may actually be even worse than this for proponents of the bill. **Even Senators who support the measure are no longer pushing for any vote, and have no plans to do so for the foreseeable future**, a Democratic Senator who favors the bill tells me.¶ “At the moment, there’s no rush to put the bill on the floor,” says this Senator, who asked for anonymity to be candid about the real state of play on the measure. “I’m not aware of any deadline in anyone’s head.”¶ It’s unclear whether any of the bill’s Democratic supporters are even privately pushing for a vote on it at this point, in the wake of the recent announcement that **the six month deal curbing Iran’s nukes is set to move forward.¶** One Senator who favors the bill — Richard Blumenthal — has publicly confirmed he’s having second thoughts in the wake of that announcement.¶ And there is clearly more movement behind the scenes. The Senator who spoke to me today allowed it could become “harder” for the pro-bill forces to demand a vote down the line, in the weeks and months ahead, if negotiations are proceeding with Iran.¶ The picture painted by this Senator is one in which the push for a vote on the bill is clearly on hold. In recent days those who favor the bill have boasted that they are gaining ground, and it’s true that some 58 Senators have signed on to the bill**, putting it within range of passing and even potentially of overriding a presidential veto.¶** But editorial boards and commentators have harshly condemned the push for a vote. Many Senate Democrats have continued to remain silent, which could well be a sign of an unwillingness to sign on to the bill. A couple Dem senators have come out against it in the last couple of days, joining 10 Dem committee chairs who have already done the same. Meanwhile, Obama is set to meet with Senate Democrats tonight, and may again make the case against the bill.¶ And in the middle of all of this, Harry Reid has not shown any signs of allowing a vote on the measure. **While** pressure could still intensify **on him to do so, particularly if circumstances change,** right now even Democrats who support the bill are holding off from pushing him. And if the talks produce progress, it could make it less likely over time that this bill gets a vote.¶ So those who oppose this vote should keep at it.

The plan’s authority restriction is a loss for Obama—causes defections

Dr. Andrew J. Loomis, Visiting Fellow at the Center for a New American Security, and Department of Government at Georgetown University, 3/2/2007, Leveraging legitimacy in the crafting of U.S. foreign policy, http://citation.allacademic.com//meta/p\_mla\_apa\_research\_citation/1/7/9/4/8/pages179487/p179487-36.php

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

Fights draw dems away from Obama – makes new sanctions and Iranian nuclearization inevitable

David Rhode, The Atlantic, 1/15 [“Democrats Could Wreck Obama's Biggest Foreign Policy Success,” http://www.theatlantic.com/international/archive/2014/01/democrats-could-wreck-obamas-biggest-foreign-policy-success/283103/]

By design or accident, it is increasingly clear that the centerpiece of President Barack Obama’s second-term foreign policy is a nuclear agreement with Iran. **Whether Obama can succeed**, however, now **depends on Congress staying out of the negotiations.¶** Over the last few weeks, 16 Democratic senators have supported a bill that would impose new sanctions on Iran over its nuclear program. They have defied the White House’s intense campaign to block Congress from adding new conditions to any deal.¶ In this way, Obama is the victim of an increasingly craven Washington—where **members of his own party are abandoning him out of political expedience**. At the same time, the White House is also a victim of its sometimes erratic responses to events in the Middle East.¶ For the last six years, the president has repeatedly declared that he does not want the United States entangled in another conflict in the Middle East. As a result, allies and enemies at home and abroad, from members of Congress to Israeli and Iranian hawks, question his commitment to use force against Iran if negotiations fail.¶ Experts warn that the stakes are enormous. Political opportunism, maximalist positions, and mixed messages could take on a life of their own, scuttle the talks, and inadvertently spark military action.¶ George Perkovich, director of the Nuclear Policy Program at the Carnegie Endowment for International Peace, lambasted the bill’s congressional sponsors in Foreign Affairs. He accused Senators Robert Menendez (D-N.J.), Charles Schumer (D-N.Y.) and Mark Kirk (R-Ill.) of reckless grandstanding. “**The Menendez-Kirk-Schumer bill** may be politically expedient,” Perkovich wrote, “but it **is** also entirely **unnecessary and dangerous**.”¶ Much of the Democrats’ maneuvering is old-fashioned political posturing. All the Democratic officeholders now supporting the sanctions bill, David Weigel noted in Slate Tuesday, face tough re-election battles. Rejecting calls from the American Israel Public Affairs Committee to support the new sanctions bill could make them vulnerable to attacks of capitulating to Iran. So far, Democrats from “safer, bluer” turf—including Senators Tim Kaine (D-Va.) and Chris Murphy (D-Conn.)—are not supporting the bill.¶ Ambition also plays a role here. Schumer, who is safe in New York, is looking to succeed Senator Harry Reid (D-Nev.) as majority leader. His chief rival for this job, Senator Dick Durbin (D-Ill.), who was the senior senator from Illinois when Obama was the junior senator, is backing the administration.¶ Democrats who support the new sanctions bill claim that their goal is to give Obama greater leverage in talks with Tehran. But Perkovich and other experts warn that the **proposed sanctions threaten to spark a tit-for-tat cycle of escalation**.¶ As American hard-liners saber rattle, Iranian hard-liners are saber rattling back. If Congress does pass the new sanctions bill, a senior member of the Iranian parliament has threatened, his nation would respond by beginning to enrich uranium to 60 percent—a level close to that needed for a nuclear bomb.¶ The major unresolved issue—and the biggest threat to a comprehensive deal—is whether Iran should be allowed any enrichment capability. The White House has signaled that it would accept a tightly monitored program in Iran—one that enriches uranium only to the level used for energy and research. Israeli Prime Minister Benjamin Netanyahu and hawkish members of Congress argue that increased sanctions will force the regime to give up enrichment or collapse.

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.

## off 2

Targeted killings are strikes carried about against pre-meditated, individually designated targets---signature strikes are distinct

Kenneth Anderson 11, Professor at Washington College of Law, American University, Hoover Institution visiting fellow, Non-Resident Visiting Fellow at Brookings, “Distinguishing High Value Targeted Killing and ‘Signature’ Attacks on Taliban Fighters,” August 29 2011, http://www.volokh.com/2011/08/29/distinguishing-high-value-targeted-killing-and-signature-attacks-on-taliban-fighters/

From the US standpoint, it is partly that it does not depend as much as it did on Pakistan’s intelligence. But it is also partly, as a couple of well-publicized incidents a few months ago made clear, that sharing targeting decisions with Pakistan’s military and ISI runs a very considerable possibility of having the targets tipped off (as even The Onion has observed). The article notes in this regard, the U.S. worries that “if they tell the Pakistanis that a drone strike is coming someone within Pakistani intelligence could tip off the intended target.” However, the Journal’s reporting goes from there to emphasize an aspect of targeted killing and drone warfare that is not sufficiently appreciated in public discussions trying to assess such issues as civilian collateral damage, strategic value and uses, and the uses of drones in counterterrorism and counterinsurgency as distinct activities. The article explains:¶ The CIA carries out two different types of drone strikes in the tribal areas of Pakistan—those against so-called high-value targets, including Mr. Rahman, and “signature” strikes targeting Taliban foot-soldiers who criss-cross the border with Afghanistan to fight U.S. forces there.¶ High-value targets are added to a classified list that the CIA maintains and updates. The agency often doesn’t know the names of the signature targets, but it tracks their movements and activities for hours or days before striking them, U.S. officials say.¶ Another way to put this is that, loosely speaking, the high value targets are part of a counterterrorism campaign – a worldwide one, reaching these days to Yemen and other places. It is targeted killing in its strict sense using drones – aimed at a distinct individual who has been identified by intelligence. The “signature” strikes, by contrast, are not strictly speaking “targeted killing,” because they are aimed at larger numbers of fighters who are targeted on the basis of being combatants, but not on the basis of individuated intelligence. They are fighting formations, being targeted on a mass basis as part of the counterinsurgency campaign in Afghanistan, as part of the basic CI doctrine of closing down cross-border safe havens and border interdiction of fighters. Both of these functions can be, and are, carried out by drones – though each strategic function could be carried out by other means, such as SEAL 6 or CIA human teams, in the case of targeted killing, or manned aircraft in the case of attacks on Taliban formations. The fundamental point is that they serve distinct strategic purposes. Targeted killing is not synonymous with drone warfare, just as counterterrorism is analytically distinct from counterinsurgency. (I discuss this in the opening sections of this draft chapter on SSRN.)¶ This analytic point affects how one sees the levels of drone attacks going up or down over the years. Neither the total numbers of fighters killed nor the total number of drone strikes – going up or down over months – tells the whole story. Total numbers do not distinguish between the high value targets, being targeted as part of the top down dismantling of Al Qaeda as a transnational terrorist organization, on the one hand, and ordinary Taliban being killed in much larger numbers as part of counterinsurgency activities essentially part of the ground war in Afghanistan, on the other. Yet the distinction is crucial insofar as the two activities are, at the level of truly grand strategy, in support of each other – the war in Afghanistan and the global counterterrorism war both in support of the AUMF and US national security broadly – but at the level of ordinary strategic concerns, quite distinct in their requirements and conduct. If targeted killing against AQ leadership goes well in Pakistan, those might diminish at some point in the future; what happens in the war against the Afghan Taliban is distinct and has its own rhythm, and in that effort, drones are simply another form of air weapon, an alternative to manned aircraft in an overt, conventional war. Rising or falling numbers of drone strikes in the aggregate will not tell one very much without knowing what mission is at issue.

Vote neg---signature strikes and targeted killings are distinct operations with entirely separate lit bases and advantages---they kill precision and limits---vote neg---otherwise the aff will just an untopical affirmative every debate

## off 3

The executive branch of the United States federal government should issue and enforce an executive order to ban signature strikes carried out by remotely-piloted vehicles and establish a bipartisan independent executive branch commission to oversee its implementation. The executive branch should establish ex ante transparency of targeted killing standards and procedures.

Solves the aff

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

The Madisonian system of oversight has not totally failed. Sometimes legislators overcome the temptation to free ride; sometimes they invest in protecting the separation of powers or legislative prerogatives. Sometimes judges review exercises of executive discretion, even during emergencies. But often enough, legislators and judges have no real alternative to letting executive officials exercise discretion unchecked. The Madisonian system is a partial failure; compensating mechanisms must be adopted to fill the area of slack, the institutional gap between executive discretion and the oversight capacities of other institutions. Again, the magnitude of this gap is unclear, but plausibly it is quite large; we will assume that it is. It is often assumed that this partial failure of the Madisonian system unshackles and therefore benefits ill-motivated executives. This is grievously incomplete. The failure of the Madisonian system harms the well-motivated executive as much as it benefits the ill-motivated one. Where Madisonian oversight fails, the well-motivated executive is a victim of his own power. Voters, legislators, and judges will be wary of granting further discretion to an executive whose motivations are uncertain and possibly nefarious. The partial failure of Madisonian oversight thus threatens a form of inefficiency, a kind of contracting failure that makes potentially everyone, including the voters, worse off. Our central question, then, is what the well-motivated executive can do to solve or at least ameliorate the problem. The solution is for the executive to complement his (well-motivated) first-order policy goals with second-order mechanisms for demonstrating credibility to other actors. We thus do not address the different question of what voters, legislators, judges, and other actors should do about an executive who is ill motivated and known to be so. That project involves shoring up or replacing the Madisonian system to block executive dictatorship. Our project is the converse of this, and involves finding new mechanisms to help the well-motivated executive credibly distinguish himself as such. IV. Executive Signaling: Law and Mechanisms We suggest that the executive's credibility problem can be solved by second-order mechanisms of executive signaling. In the general case, well-motivated executives send credible signals by taking actions that are more costly for ill-motivated actors than for well-motivated ones, thus distinguishing themselves from their ill-motivated mimics. Among the specific mechanisms we discuss, an important subset involves executive self-binding, whereby executives commit themselves to a course of action that would impose higher costs on ill-motivated actors. Commitments themselves have value as signals of benign motivations. This departs from the usual approach in legal scholarship. Legal theory has often discussed self-binding by "government" or government officials. In constitutional theory, it is often suggested that constitutions represent an attempt by "the people" to bind "themselves" against their own future decisionmaking pathologies, or relatedly, that constitutional prohibitions represent mechanisms by which governments commit themselves not to expropriate investments or to exploit their populations. n72 Whether or not this picture is coherent, n73 it is not the question we examine here, although some of the relevant considerations are similar. n74 We are not concerned with binding the president so that he cannot abuse his powers, but with how he might bind himself or take other actions that enhance his credibility, so that he can generate support from the public and other members of the government. [\*895] Furthermore, our question is subconstitutional: it is whether a well-motivated executive, acting within an established set of constitutional and statutory rules, can use signaling mechanisms to generate public trust. Accordingly, we proceed by assuming that no constitutional amendments or new statutes will be enacted. Within these constraints, what can a well-motivated executive do to bootstrap himself to credibility? The problem for the well-motivated executive is to credibly signal his benign motivations. In general, the solution is to engage in actions that are less costly for good types than for bad types. We begin with some relevant law, then examine a set of possible mechanisms -emphasizing both the conditions under which they might succeed and the conditions under which they might not -and conclude by examining the costs of credibility. A. A Preliminary Note on Law and Self-Binding Many of our mechanisms are unproblematic from a legal perspective, as they involve presidential actions that are clearly lawful. But a few raise legal questions; in particular, those that involve self-binding. n75 Can a president bind himself to respect particular first-order policies? With qualifications, the answer is yes, at least to the same extent that a legislature can. Formally, a duly promulgated executive rule or order binds even the executive unless and until it is validly abrogated, thereby establishing a new legal status quo. n76 The legal authority to establish a new status quo allows a president to create inertia or political constraints that will affect his own future choices. In a practical sense, presidents, like legislatures, have great de facto power to adopt policies that shape the legal landscape for the future. A president might commit himself to a long-term project of defense procurement or infrastructure or foreign policy, narrowing his own future choices and generating new political coalitions that will act to defend the new rules or policies. More schematically, we may speak of formal and informal means of self-binding: 1. The president might use formal means to bind himself. This is possible in the sense that an executive order, if otherwise valid, legally binds the president while it is in effect and may be enforced by the courts. It is not possible in the sense that the president can always repeal the executive order if he can bear the political and reputational costs of doing so. 2. The president might use informal means to bind himself. This is not only possible but frequent and important. Issuing an executive rule providing for the appointment of special prosecutors, as Nixon did, is not a formal self-binding. n77 However, there may be large political costs to repealing the order. This effect does not depend on the courts' willingness to enforce the order, even against Nixon himself. Court enforcement makes the order legally binding while it is in place, but only political and reputational enforcement can protect it from repeal. Just as a dessert addict might announce to his friends that he is going on a no-dessert diet in order to raise the reputational costs of backsliding and thus commit himself, so, too, the executive's issuance of a self-binding order can trigger reputational costs. In such cases, repeal of an executive order may be seen as a breach of faith even if no other institution ever enforces it.

Transparency independently solves the aff.

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

## off 4

Congressional control of targeted killing destroys war fighting and turns the case.

Issacharoff ‘13

Samuel Issacharoff, Reiss Professor of Constitutional Law, New York University School of Law. and Richard H. Pildes, Sudler Family Professor of Constitutional Law, New York University School of Law; CoDirector, NYU Program on Law and Security, “Drones and the Dilemma of Modern Warfare,” PUBLIC LAW & LEGAL THEORY RESEARCH PAPER SERIES WORKING PAPER NO. 13-34 Star Chamber=politicized secret court from 15th century England, symbol of abuse

Procedural Safeguards

As with all use of lethal force, there must be procedures in place to maximize the likelihood of correct identification and minimize risk to innocents. In the absence of formal legal processes, sophisticated institutional entities engaged in repeated, sensitive actions – including the military – will gravitate toward their own **internal analogues** to legal process, even without the compulsion or shadow of formal judicial review. This is the role of bureaucratic legalism63 in developing sustained institutional practices, even with the dim shadow of unclear legal commands. These forms of self-regulation are generated by programmatic needs to enable the entity’s own aims to be accomplished effectively; at times, that necessity will share an overlapping converge with humanitarian concerns to generate internal protocols or process-like protections that minimize the use of force and its collateral consequences, in contexts in which the use of force itself is otherwise justified. But because these process-oriented protections are not codified in statute or reflected in judicial decisions, they typically are too invisible **to draw the eye of constitutional law scholars** who survey these issues from much higher levels of generality. In theory, such review procedures could be fashioned alternatively as a matter of **judicial review** (perhaps following warrant requirements or the security sensitivities of the FISA court), or accountability **to legislative oversight** (using the processes of select committee reporting), or the institutionalization of friction points within the executive branch (as with review by multiple agencies). Each could serve as a check on the development of unilateral excesses by the executive. And, presumably, each could guarantee that internal processes were adhered to and that there be accountability for wanton error. The centrality of dynamic targeting in the active theaters such as the border areas between Afghanistan and Pakistan **make it** difficult **to** integrate **legislative or judicial review mechanisms**. Conceivably, the decision to place an individual on a list for targeting could be a moment for review outside the boundaries of the executive branch, but even this has its drawback. Any court engaged in the ex parte review of the decision to execute someone outside the formal mechanisms of crime and punishment risks appearing as a modern variant of the Star Chamber.64 Similarly, there are difficulties in forcing a polarized Congress as a whole to assume collective responsibility for decisions of life and death and the incentives have turned out to not to be well aligned to get a subset of Congress, such as the intelligence committees, to play this role effectively.65

It spills over to destabilize all presidential war powers.

Heder ’10

(Adam, J.D., magna cum laude , J. Reuben Clark Law School, Brigham Young University, “THE POWER TO END WAR: THE EXTENT AND LIMITS OF CONGRESSIONAL POWER,” St. Mary’s Law Journal Vol. 41 No. 3, http://www.stmaryslawjournal.org/pdfs/Hederreadytogo.pdf)

This constitutional silence invokes Justice Rehnquist’s oftquoted language from the landmark “political question” case, Goldwater v. Carter . 121 In Goldwater , a group of senators challenged President Carter’s termination, without Senate approval, of the United States ’ Mutual Defense Treaty with Taiwan. 122 A plurality of the Court held, 123 in an opinion authored by Justice Rehnquist, that this was a nonjusticiable political question. 124 He wrote: “In light of the absence of any constitutional provision governing the termination of a treaty, . . . the instant case in my view also ‘must surely be controlled by political standards.’” 125 Notably, Justice Rehnquist relied on the fact that there was no constitutional provision on point. Likewise, there is **no constitutional provision** on whether Congress has the legislative power to **limit, end, or otherwise redefine the scope of a war**. Though Justice Powell argues in Goldwater that the Treaty Clause and Article VI of the Constitution “add support to the view that the text of the Constitution does not unquestionably commit the power to terminate treaties to the President alone,” 126 **the same cannot be said about Congress’s legislative authority** to terminate or limit a war in a way that goes beyond its explicitly enumerated powers. There are no such similar provisions that would suggest Congress may decline to exercise its appropriation power but nonetheless legally order the President to cease all military operations. Thus, the case for deference to the political branches on this issue is even greater than it was in the Goldwater context. Finally, the Constitution does not imply any additional powers for Congress to end, limit, or redefine a war. The textual and historical evidence suggests the Framers purposefully **declined to grant Congress such powers**. And as this Article argues, granting Congress this power would be **inconsistent with the general war powers structure of the Constitution.** Such a reading of the Constitution would **unnecessarily empower Congress** and **tilt the scales heavily in its favor**. More over, it would strip the President of his Commander in Chief authority to direct the movement of troops at a time **when the Executive’s expertise is needed.** 127 And fears that the President will grow too powerful are unfounded, given the reasons noted above. 128 In short, the Constitution does not impliedly afford Congress any authority to prematurely terminate a war above what it explicitly grants. 129 Declaring these issues nonjusticiable political questions would be the most practical means of balancing the textual and historical demands, the structural demands, and the practical demands that complex modern warfare brings . Adjudicating these matters would only lead the courts to engage in impermissible line drawing — lines that would both confus e the issue and add layers to the text of the Constitution in an area where the Framers themselves declined to give such guidance.

That causes nuclear war and bioterror

**Li ‘9**

Zheyao, J.D. candidate, Georgetown University Law Center, 2009; B.A., political science and history, Yale University, 2006. This paper is the culmination of work begun in the "Constitutional Interpretation in the Legislative and Executive Branches" seminar, led by Judge Brett Kavanaugh, “War Powers for the Fourth Generation: Constitutional Interpretation in the Age of Asymmetric Warfare,” 7 Geo. J.L. & Pub. Pol'y 373 2009 WAR POWERS IN THE FOURTH GENERATION OF WARFARE

A. The Emergence of Non-State Actors

Even as the quantity of nation-states in the world has increased dramatically since the end of World War II, the institution of the nation-state has been in decline over the past few decades. Much of this decline is the direct result of the waning of major interstate war, which primarily resulted from the introduction of nuclear weapons.122 The proliferation of nuclear weapons, and their immense capacity for absolute destruction, has ensured that conventional wars remain limited in scope and duration. Hence, "both the size of the armed forces and the quantity of weapons at their disposal has declined quite sharply" since 1945.123 At the same time, concurrent with the decline of the nation-state in the second half of the twentieth century, non-state actors have increasingly been willing and able to use force to advance their causes. In contrast to nation-states, who adhere to the Clausewitzian distinction between the ends of policy and the means of war to achieve those ends, non-state actors do not necessarily fight as a mere means of advancing any coherent policy. Rather, they see their fight as a life-and-death struggle, wherein the ordinary terminology of war as an instrument of policy breaks down because of this blending of means and ends.124 It is the existential nature of this struggle and the disappearance of the Clausewitzian distinction between war and policy that has given rise to a new generation of warfare. The concept of fourth-generational warfare was first articulated in an influential article in the Marine Corps Gazette in 1989, which has proven highly prescient. In describing what they saw as the modem trend toward a new phase of warfighting, the authors argued that: In broad terms, fourth generation warfare seems likely to be widely dispersed and largely undefined; the distinction between war and peace will be blurred to the vanishing point. It will be nonlinear, possibly to the point of having no definable battlefields or fronts. The distinction between "civilian" and "military" may disappear. Actions will occur concurrently throughout all participants' depth, including their society as a cultural, not just a physical, entity. Major military facilities, such as airfields, fixed communications sites, and large headquarters will become rarities because of their vulnerability; the same may be true of civilian equivalents, such as seats of government, power plants, and industrial sites (including knowledge as well as manufacturing industries). 125 It is precisely this blurring of peace and war and the demise of traditionally definable battlefields that provides the impetus for the formulation of a new. theory of war powers. As evidenced by Part M, supra, the constitutional allocation of war powers, and the Framers' commitment of the war power to two co-equal branches, was not designed to cope with the current international system, one that is characterized by the persistent machinations of international terrorist organizations, the rise of multilateral alliances, the emergence of rogue states, and the potentially wide proliferation of easily deployable weapons of mass destruction, nuclear and otherwise. B. The Framers' World vs. Today's World The Framers crafted the Constitution, and the people ratified it, in a time when everyone understood that the state controlled both the raising of armies and their use. Today, however, the threat of terrorism is bringing an end to the era of the nation-state's legal monopoly on violence, and the kind of war that existed before-based on a clear division between government, armed forces, and the people-is on the decline. 126 As states are caught between their decreasing ability to fight each other due to the existence of nuclear weapons and the increasing threat from non-state actors, it is clear that the Westphalian system of nation-states that informed the Framers' allocation of war powers is no longer the order of the day. 127 As seen in Part III, supra, the rise of the modem nation-state occurred as a result of its military effectiveness and ability to defend its citizens. If nation-states such as the United States are unable to adapt to the changing circumstances of fourth-generational warfare-that is, if they are unable to adequately defend against low-intensity conflict conducted by non-state actors-"then clearly [the modem state] does not have a future in front of it.' 128 The challenge in formulating a new theory of war powers for fourthgenerational warfare that remains legally justifiable lies in the difficulty of adapting to changed circumstances while remaining faithful to the constitutional text and the original meaning. 29 To that end, it is crucial to remember that the Framers crafted the Constitution in the context of the Westphalian system of nation-states. The three centuries following the Peace of Westphalia of 1648 witnessed an international system characterized by wars, which, "through the efforts of governments, assumed a more regular, interconnected character."' 130 That period saw the rise of an independent military class and the stabilization of military institutions. Consequently, "warfare became more regular, better organized, and more attuned to the purpose of war-that is, to its political objective."' 1 3' That era is now over. Today, the stability of the long-existing Westphalian international order has been greatly eroded in recent years with the advent of international terrorist organizations, which care nothing for the traditional norms of the laws of war. This new global environment exposes the limitations inherent in the interpretational methods of originalism and textualism and necessitates the adoption of a new method of constitutional interpretation. While one must always be aware of the text of the Constitution and the original understanding of that text, that very awareness identifies the extent to which fourth-generational warfare epitomizes a phenomenon unforeseen by the Framers, a problem the constitutional resolution of which must rely on the good judgment of the present generation. 13 Now, to adapt the constitutional warmarking scheme to the new international order characterized by fourth-generational warfare, one must understand the threat it is being adapted to confront. C. The Jihadist Threat The erosion of the Westphalian and Clausewitzian model of warfare and the blurring of the distinction between the means of warfare and the ends of policy, which is one characteristic of fourth-generational warfare, apply to al-Qaeda and other adherents of jihadist ideology who view the United States as an enemy. An excellent analysis of jihadist ideology and its implications for the rest of the world are presented by Professor Mary Habeck. 133 Professor Habeck identifies the centrality of the Qur'an, specifically a particular reading of the Qur'an and hadith (traditions about the life of Muhammad), to the jihadist terrorists. 134 The jihadis believe that the scope of the Qur'an is universal, and "that their interpretation of Islam is also intended for the entire world, which must be brought to recognize this fact peacefully if possible and through violence if not."' 135 Along these lines, the jihadis view the United States and her allies as among the greatest enemies of Islam: they believe "that every element of modern Western liberalism is flawed, wrong, and evil" because the basis of liberalism is secularism. 136 The jihadis emphasize the superiority of Islam to all other religions, and they believe that "God does not want differing belief systems to coexist."' 37 For this reason, jihadist groups such as al-Qaeda "recognize that the West will not submit without a fight and believe in fact that the Christians, Jews, and liberals have united against Islam in a war that will end in the complete destruction of the unbelievers.' 138 Thus, the adherents of this jihadist ideology, be it al-Qaeda or other groups, will continue to target the United States until she is destroyed. Their ideology demands it. 139 To effectively combat terrorist groups such as al-Qaeda, it is necessary to understand not only how they think, but also how they operate. Al-Qaeda is a transnational organization capable of simultaneously managing multiple operations all over the world."14 It is both centralized and decentralized: al-Qaeda is centralized in the sense that Osama bin Laden is the unquestioned leader, but it is decentralized in that its operations are carried out locally, by distinct cells."4 AI-Qaeda benefits immensely from this arrangement because it can exercise direct control over high-probability operations, while maintaining a distance from low-probability attacks, only taking the credit for those that succeed. The local terrorist cells benefit by gaining access to al-Qaeda's "worldwide network of assets, people, and expertise."' 42 Post-September 11 events have highlighted al-Qaeda's resilience. Even as the United States and her allies fought back, inflicting heavy casualties on al-Qaeda in Afghanistan and destroying dozens of cells worldwide, "al-Qaeda's networked nature allowed it to absorb the damage and remain a threat." 14 3 This is a far cry from earlier generations of warfare, where the decimation of the enemy's military forces would generally bring an end to the conflict. D. The Need for Rapid Reaction and Expanded Presidential War Power By now it should be clear just how different this conflict against the extremist terrorists is from the type of warfare that occupied the minds of the Framers at the time of the Founding. Rather than maintaining the geographical and political isolation desired by the Framers for the new country, today's United States is an international power targeted by individuals and groups that will not rest until seeing her demise. The Global War on Terrorism is not truly a war within the Framers' eighteenth-century conception of the term, and the normal constitutional provisions regulating the division of war powers between Congress and the President do not apply. Instead, this "war" is a struggle for survival and dominance against forces that threaten to destroy the United States and her allies, and the fourth-generational nature of the conflict, highlighted by an indiscernible distinction between wartime and peacetime, necessitates an evolution of America's traditional constitutional warmaking scheme. As first illustrated by the military strategist Colonel John Boyd, constitutional decision-making in the realm of war powers in the fourth generation should consider the implications of the OODA Loop: Observe, Orient, Decide, and Act. 44 In the era of fourth-generational warfare, quick reactions, proceeding through the OODA Loop rapidly, and disrupting the enemy's OODA loop are the keys to victory. "In order to win," Colonel Boyd suggested, "we should operate at a faster tempo or rhythm than our adversaries." 145 In the words of Professor Creveld, "[b]oth organizationally and in terms of the equipment at their disposal, the armed forces of the world will have to adjust themselves to this situation by changing their doctrine, doing away with much of their heavy equipment and becoming more like police."1 46 Unfortunately, the existing constitutional understanding, which diffuses war power between two branches of government, necessarily (by the Framers' design) slows down decision- making. In circumstances where war is undesirable (which is, admittedly, most of the time, especially against other nation-states), the deliberativeness of the existing decision-making process is a positive attribute. In America's current situation, however, in the midst of the conflict with al-Qaeda and other international terrorist organizations, the existing process of constitutional decision-making in warfare may prove a fatal hindrance to achieving the initiative necessary for victory. As a slow-acting, deliberative body, Congress does not have the ability to adequately deal with fast-emerging situations in fourth-generational warfare. Thus, in order to combat transnational threats such as al-Qaeda, the executive branch must have the ability to operate by taking offensive military action even without congressional authorization, because only the executive branch is capable of the swift decision-making and action necessary to prevail in fourth-generational conflicts against fourthgenerational opponents.

Bioterror causes extinction

Mhyrvold ‘13

Nathan, Began college at age 14, BS and Masters from UCLA, Masters and PhD, Princeton “Strategic Terrorism: A Call to Action,” Working Draft, The Lawfare Research Paper Series

Research paper NO . 2 – 2013

As horrible as this would be, such a pandemic is by no means the worst attack one can imagine, for several reasons. First, most of the classic bioweapons are based on 1960s and 1970s technology because the 1972 treaty halted bioweapons development efforts in the United States and most other Western countries. Second, the Russians, although solidly committed to biological weapons long after the treaty deadline, were never on the cutting edge of biological research. Third and most important, the science and technology of molecular biology have made enormous advances, utterly transforming the field in the last few decades. High school biology students routinely perform molecular-biology manipulations that would have been impossible even for the best superpower-funded program back in the heyday of biological-weapons research. The biowarfare methods of the 1960s and 1970s are now as antiquated as the lumbering mainframe computers of that era. Tomorrow’s terrorists will have vastly more deadly bugs to choose from. Consider this sobering development: in 2001, Australian researchers working on mousepox, a nonlethal virus that infects mice (as chickenpox does in humans), accidentally discovered that a simple genetic modification transformed the virus.10, 11 Instead of producing mild symptoms, the new virus killed 60% of even those mice already immune to the naturally occurring strains of mousepox. The new virus, moreover, was unaffected by any existing vaccine or antiviral drug. A team of researchers at Saint Louis University led by Mark Buller picked up on that work and, by late 2003, found a way to improve on it: Buller’s variation on mousepox was 100% lethal, although his team of investigators also devised combination vaccine and antiviral therapies that were partially effective in protecting animals from the engineered strain.12, 13 Another saving grace is that the genetically altered virus is no longer contagious. Of course, it is quite possible that future tinkering with the virus will change that property, too. Strong reasons exist to believe that the genetic modifications Buller made to mousepox would work for other poxviruses and possibly for other classes of viruses as well. Might the same techniques allow chickenpox or another poxvirus that infects humans to be turned into a 100% lethal bioweapon, perhaps one that is resistant to any known antiviral therapy? I’ve asked this question of experts many times, and no one has yet replied that such a manipulation couldn’t be done. This case is just one example. Many more are pouring out of scientific journals and conferences every year. Just last year, the journal Nature published a controversial study done at the University of Wisconsin–Madison in which virologists enumerated the changes one would need to make to a highly lethal strain of bird flu to make it easily transmitted from one mammal to another.14 Biotechnology is advancing so rapidly that it is hard to keep track of all the new potential threats. Nor is it clear that anyone is even trying. In addition to lethality and drug resistance, many other parameters can be played with, given that the infectious power of an epidemic depends on many properties, including the length of the latency period during which a person is contagious but asymptomatic. Delaying the onset of serious symptoms allows each new case to spread to more people and thus makes the virus harder to stop. This dynamic is perhaps best illustrated by HIV , which is very difficult to transmit compared with smallpox and many other viruses. Intimate contact is needed, and even then, the infection rate is low. The balancing factor is that HIV can take years to progress to AIDS , which can then take many more years to kill the victim. What makes HIV so dangerous is that infected people have lots of opportunities to infect others. This property has allowed HIV to claim more than 30 million lives so far, and approximately 34 million people are now living with this virus and facing a highly uncertain future.15 A virus genetically engineered to infect its host quickly, to generate symptoms slowly—say, only after weeks or months—and to spread easily through the air or by casual contact would be vastly more devastating than HIV . It could silently penetrate the population to unleash its deadly effects suddenly. This type of epidemic would be almost impossible to combat because most of the infections would occur before the epidemic became obvious. A technologically sophisticated terrorist group could develop such a virus and kill a large part of humanity with it. Indeed, terrorists may not have to develop it themselves: some scientist may do so first and publish the details. Given the rate at which biologists are making discoveries about viruses and the immune system, at some point in the near future, someone may create artificial pathogens that could drive the human race to extinction. Indeed, a detailed species-elimination plan of this nature was openly proposed in a scientific journal. The ostensible purpose of that particular research was to suggest a way to extirpate the malaria mosquito, but similar techniques could be directed toward humans.16 When I’ve talked to molecular biologists about this method, they are quick to point out that it is slow and easily detectable and could be fought with biotech remedies. If you challenge them to come up with improvements to the suggested attack plan, however, they have plenty of ideas. Modern biotechnology will soon be capable, if it is not already, of bringing about the demise of the human race— or at least of killing a sufficient number of people to end high-tech civilization and set humanity back 1,000 years or more. That terrorist groups could achieve this level of technological sophistication may seem far-fetched, but keep in mind that it takes only a handful of individuals to accomplish these tasks. Never has lethal power of this potency been accessible to so few, so easily. Even more dramatically than nuclear proliferation, modern biological science has frighteningly undermined the correlation between the lethality of a weapon and its cost, a fundamentally stabilizing mechanism throughout history. Access to extremely lethal agents—lethal enough to exterminate Homo sapiens—will be available to anybody with a solid background in biology, terrorists included.

## 1NC---AT: Solvency

Targeted killing regulation is impossible

Alston, professor – NYU Law, ‘11

(Philip, 2 Harv. Nat'l Sec. J. 283)

Despite the existence of a multiplicity of techniques by which the CIA might be held to account at the domestic level, the foregoing survey demonstrates that there is no evidence to conclude that any of them has functioned effective-ly in relation to the expanding practices involving targeted killings. The CIA Inspector General's Office has been unable to exact accountability and proposals to expand or strengthen his role run counter to almost all official actions taken in relation to his work. The President's Intelligence Oversight Board and the President's Foreign Intelligence Advisory Board are lauded by some for their potential, but there is no indication that they scrutinize activities such as targeted killings policy or practice, and many indications that they view their role as being to support rather than monitor the intelligence community. The Privacy and Civil Liberties Oversight Board remains dormant. Congressional oversight has been seriously deficient and far from manifesting an appetite to scrutinize the CIA's targeted killings policies, a range of senior members of congress are on record as favoring a hands-off policy. And a combination of the political question doctrine, the state secrets privilege, and a reluctance to prosecute, ensure that the courts have indeed allowed the CIA to fall into a convenient legal **grey hole**. Finally, civil society has been largely stymied by the executive and the courts in their efforts to make effective use of freedom of information laws. All that remains is the media, and most of what they obtain through leaks come from government sources that are deliberately "spinning" the story in their own favor. Simi-lar conclusions have been reached in closely related contexts. Thus, for example, Kitrosser's survey of official responses to the warrantless wiretapping initiated after 9/11 led her to conclude that it was a shell [\*406] game, involving "an indefinite bi-partisan, cross-administration, cross-institutional pattern of accountability-avoidance." n450 In brief, at least in relation to targeted killings, the CIA enjoys almost complete impunity and is not subject to any form of meaningful internal or external accountability. Whether from the perspective of democratic theory or of interna-tional accountability for violations of the right to life, this is deeply problematic. One solution to this that has been sug-gested by some commentators is to follow the precedent set by Israel in its efforts to ensure legal oversight of its target killings programs. We turn now to examine the feasibility and desirability of pursuing such an option.

No sig strike overuse

O’Hanlon 13 (Michael -- external advisory member for the CIA and senior fellow with the Center for 21st Century Security and Intelligence and director of research for the Foreign Policy program at the Brookings Institution @ professor and lecturer at Johns Hopkins and Princeton“ Obama nails it on drones” May 23, 2013, CNN World)

But one section of his speech is worth particular focus – the use of armed unmanned combat vehicles or drones. Even though President Obama did not specify exactly how drone strikes would change in the future, and did not provide a great deal of new information about them, the modest amount of detail he did provide was welcome. That is because U.S. drone strikes are **badly misunderstood** around the world, a point underscored by a New York Times op-ed today contained the following statements: “...the C.I.A. has no idea who is actually being killed in most of the strikes. Despite this acknowledgment, the drone program in Pakistan still continues without any Congressional oversight or accountability.” Such statements are incorrect and inflammatory, causing problems for example in U.S.-Pakistani relations. Indeed, even so-called **“signature strikes”** have typically been conducted **only** after a great deal of surveillance of a given site, very robust establishment of the fact that such a site is an enemy headquarters or related facility, and considerable care in ensuring that noncombatants are not present (and as Obama said, Congress is “briefed on every strike that America takes”). To be sure, American methods have gotten more careful over the years – they were not originally as good as they are now. **But the suggestion that the U**nited **S**tates **has no idea whom it is targeting, or that large numbers of innocents are being harmed** in the process, **is incorrect.** For example, careful work by Peter Bergen and colleagues at the New America Foundation suggests that **over a decade**, **at most** several hundred innocents have died in such operations – perhaps 20 to 25 percent of all casualties from drone strikes. These numbers are modest by the standards of war. And other estimates with which I am familiar are much lower. The president said in his speech that “...before any strike is taken, there must be near-certainty that no civilians will be killed or injured – **the highest standard we can set.”** From briefings I have received, I believe that to be an accurate and fair explanation of American practices. There have been a couple of controversial strikes in the last two to three years, and that is, to be sure, a couple too many. But I believe that to be the extent of the serious problems of late. Indeed, innocent deaths from drones probably total in the dozens over the course of the Obama presidency. Of course, none of the noncombatant casualties are “acceptable’ or “reasonable” or even necessarily “inevitable.” But the widespread view that U.S. drone strikes outside Afghanistan have been cavalier or careless is incorrect and needed to be rebutted. Indeed, I would have preferred that the president be even more specific, and somewhat quantitative, in giving his estimates of innocent casualties.

Obama already solved the aff

Tabassum Zakaria, Reuters, 5/23/13, U.S. drone guidelines could reduce 'signature strikes', www.reuters.com/article/2013/05/24/us-usa-obama-speech-guidelines-idUSBRE94N03520130524

New U.S. guidelines for conducting armed drone operations overseas set a higher bar for attacking non-Americans and could reduce controversial "signature strikes" targeted at suspicious groups rather than individuals. But the drone guidelines announced by President Barack Obama on Thursday still include vague language and loopholes that officials could use to conduct more expansive operations. The new rules, part of Obama's attempts to pull back from what he called "perpetual war-footing" against terrorism, came in a "Presidential Policy Guidance" he signed this week. Obama "has clearly raised the bar significantly for the use of drone strikes with the very specific and restrictive criteria," said John Bellinger, former State Department legal adviser in President George W. Bush's administration. "The standard for targeting is now the same for Americans and non-Americans it must be a continuing and imminent threat of violence to Americans. And there must be a near certainty that no non-combatants will be killed," he said. "Signature" drone strikes, in which the United States targets suspicious-looking groups of people without knowing their specific identities were first authorized by Bush in 2008, causing a sharp jump in the number of drone attacks. During his first term in office, Obama stepped up the practice. People not confirmed as terrorist targets of the United States are attacked because they bear the "signature" of militant activity. Such strikes have provoked anti-American unrest in countries like Pakistan because of civilian deaths. Under Obama's new guidelines, signature attacks are expected to decline, especially after U.S. forces withdraw from Afghanistan in 2014, when the need for drone strikes to protect U.S. ground forces will be gone. The reason for signature strikes is often to help a country like Yemen fight well-organized groups of militants, and targets are frequently brought to the attention of the United States by the Yemeni government, said Kenneth Anderson, a law professor at American University. "That's the biggest thing that it appears that they have given up, that we won't be striking on behalf of allies fighting their own wars," he said.

## 1NC---AT: Pakistan Advantage

No risk of nuclear terror

**Mueller 10** (John, professor of political science at Ohio State, Calming Our Nuclear Jitters, Issues in Science and Technology, Winter, http://www.issues.org/26.2/mueller.html)

Politicians of all stripes preach to an anxious, appreciative, and very numerous choir when they, like President Obama, proclaim atomic terrorism to be “the most immediate and extreme threat to global security.” It is the problem that, according to Defense Secretary Robert Gates, currently keeps every senior leader awake at night. This is hardly a new anxiety. In 1946, atomic bomb maker J. Robert Oppenheimer ominously warned that if three or four men could smuggle in units for an atomic bomb, they could blow up New York. This was an early expression of a pattern of dramatic risk inflation that has persisted throughout the nuclear age. In fact, although expanding fires and fallout might increase the effective destructive radius, the blast of a Hiroshima-size device would “blow up” about 1% of the city’s area—a tragedy, of course, but not the same as one 100 times greater. In the early 1970s, nuclear physicist Theodore Taylor proclaimed the atomic terrorist problem to be “immediate,” explaining at length “how comparatively easy it would be to steal nuclear material and step by step make it into a bomb.” At the time he thought it was already too late to “prevent the making of a few bombs, here and there, now and then,” or “in another ten or fifteen years, it will be too late.” Three decades after Taylor, we continue to wait for terrorists to carry out their “easy” task. In contrast to these predictions, terrorist groups seem to have exhibited only limited desire and even less progress in going atomic. This may be because, after brief exploration of the possible routes, they, unlike generations of alarmists, have discovered that the tremendous effort required is scarcely likely to be successful. The most plausible route for terrorists, according to most experts, would be to manufacture an atomic device themselves from purloined fissile material (plutonium or, more likely, highly enriched uranium). This task, however, remains a daunting one, requiring that a considerable series of difficult hurdles be conquered and in sequence. Outright armed theft of fissile material is exceedingly unlikely not only because of the resistance of guards, but because chase would be immediate. A more promising approach would be to corrupt insiders to smuggle out the required substances. However, this requires the terrorists to pay off a host of greedy confederates, including brokers and money-transmitters, any one of whom could turn on them or, either out of guile or incompetence, furnish them with stuff that is useless. Insiders might also consider the possibility that once the heist was accomplished, the terrorists would, as analyst Brian Jenkins none too delicately puts it, “have every incentive to cover their trail, beginning with eliminating their confederates.” If terrorists were somehow successful at obtaining a sufficient mass of relevant material, they would then probably have to transport it a long distance over unfamiliar terrain and probably while being pursued by security forces. Crossing international borders would be facilitated by following established smuggling routes, but these are not as chaotic as they appear and are often under the watch of suspicious and careful criminal regulators. If border personnel became suspicious of the commodity being smuggled, some of them might find it in their interest to disrupt passage, perhaps to collect the bounteous reward money that would probably be offered by alarmed governments once the uranium theft had been discovered. Once outside the country with their precious booty, terrorists would need to set up a large and well-equipped machine shop to manufacture a bomb and then to populate it with a very select team of highly skilled scientists, technicians, machinists, and administrators. The group would have to be assembled and retained for the monumental task while no consequential suspicions were generated among friends, family, and police about their curious and sudden absence from normal pursuits back home. Members of the bomb-building team would also have to be utterly devoted to the cause, of course, and they would have to be willing to put their lives and certainly their careers at high risk, because after their bomb was discovered or exploded they would probably become the targets of an intense worldwide dragnet operation. Some observers have insisted that it would be easy for terrorists to assemble a crude bomb if they could get enough fissile material. But Christoph Wirz and Emmanuel Egger, two senior physicists in charge of nuclear issues at Switzerland‘s Spiez Laboratory, bluntly conclude that the task “could hardly be accomplished by a subnational group.” They point out that precise blueprints are required, not just sketches and general ideas, and that even with a good blueprint the terrorist group would most certainly be forced to redesign. They also stress that the work is difficult, dangerous, and extremely exacting, and that the technical requirements in several fields verge on the unfeasible. Stephen Younger, former director of nuclear weapons research at Los Alamos Laboratories, has made a similar argument, pointing out that uranium is “exceptionally difficult to machine” whereas “plutonium is one of the most complex metals ever discovered, a material whose basic properties are sensitive to exactly how it is processed.“ Stressing the “daunting problems associated with material purity, machining, and a host of other issues,” Younger concludes, “to think that a terrorist group, working in isolation with an unreliable supply of electricity and little access to tools and supplies” could fabricate a bomb “is farfetched at best.” Under the best circumstances, the process of making a bomb could take months or even a year or more, which would, of course, have to be carried out in utter secrecy. In addition, people in the area, including criminals, may observe with increasing curiosity and puzzlement the constant coming and going of technicians unlikely to be locals. If the effort to build a bomb was successful, the finished product, weighing a ton or more, would then have to be transported to and smuggled into the relevant target country where it would have to be received by collaborators who are at once totally dedicated and technically proficient at handling, maintaining, detonating, and perhaps assembling the weapon after it arrives. The financial costs of this extensive and extended operation could easily become monumental. There would be expensive equipment to buy, smuggle, and set up and people to pay or pay off. Some operatives might work for free out of utter dedication to the cause, but the vast conspiracy also requires the subversion of a considerable array of criminals and opportunists, each of whom has every incentive to push the price for cooperation as high as possible. Any criminals competent and capable enough to be effective allies are also likely to be both smart enough to see boundless opportunities for extortion and psychologically equipped by their profession to be willing to exploit them. Those who warn about the likelihood of a terrorist bomb contend that a terrorist group could, if with great difficulty, overcome each obstacle and that doing so in each case is “not impossible.” But although it may not be impossible to surmount each individual step, the likelihood that a group could surmount a series of them quickly becomes vanishingly small. Table 1 attempts to catalogue the barriers that must be overcome under the scenario considered most likely to be successful. In contemplating the task before them, would-be atomic terrorists would effectively be required to go though an exercise that looks much like this. If and when they do, they will undoubtedly conclude that their prospects are daunting and accordingly uninspiring or even terminally dispiriting. It is possible to calculate the chances for success. Adopting probability estimates that purposely and heavily bias the case in the terrorists’ favor—for example, assuming the terrorists have a 50% chance of overcoming each of the 20 obstacles—the chances that a concerted effort would be successful comes out to be less than one in a million. If one assumes, somewhat more realistically, that their chances at each barrier are one in three, the cumulative odds that they will be able to pull off the deed drop to one in well over three billion. Other routes would-be terrorists might take to acquire a bomb are even more problematic. They are unlikely to be given or sold a bomb by a generous like-minded nuclear state for delivery abroad because the risk would be high, even for a country led by extremists, that the bomb (and its source) would be discovered even before delivery or that it would be exploded in a manner and on a target the donor would not approve, including on the donor itself. Another concern would be that the terrorist group might be infiltrated by foreign intelligence. The terrorist group might also seek to steal or illicitly purchase a “loose nuke“ somewhere. However, it seems probable that none exist. All governments have an intense interest in controlling any weapons on their territory because of fears that they might become the primary target. Moreover, as technology has developed, finished bombs have been out-fitted with devices that trigger a non-nuclear explosion that destroys the bomb if it is tampered with. And there are other security techniques: Bombs can be kept disassembled with the component parts stored in separate high-security vaults, and a process can be set up in which two people and multiple codes are required not only to use the bomb but to store, maintain, and deploy it. As Younger points out, “only a few people in the world have the knowledge to cause an unauthorized detonation of a nuclear weapon.” There could be dangers in the chaos that would emerge if a nuclear state were to utterly collapse; Pakistan is frequently cited in this context and sometimes North Korea as well. However, even under such conditions, nuclear weapons would probably remain under heavy guard by people who know that a purloined bomb might be used in their own territory. They would still have locks and, in the case of Pakistan, the weapons would be disassembled. The al Qaeda factor The degree to which al Qaeda, the only terrorist group that seems to want to target the United States, has pursued or even has much interest in a nuclear weapon may have been exaggerated. The 9/11 Commission stated that “al Qaeda has tried to acquire or make nuclear weapons for at least ten years,” but the only substantial evidence it supplies comes from an episode that is supposed to have taken place about 1993 in Sudan, when al Qaeda members may have sought to purchase some uranium that turned out to be bogus. Information about this supposed venture apparently comes entirely from Jamal al Fadl, who defected from al Qaeda in 1996 after being caught stealing $110,000 from the organization. Others, including the man who allegedly purchased the uranium, assert that although there were various other scams taking place at the time that may have served as grist for Fadl, the uranium episode never happened. As a key indication of al Qaeda’s desire to obtain atomic weapons, many have focused on a set of conversations in Afghanistan in August 2001 that two Pakistani nuclear scientists reportedly had with Osama bin Laden and three other al Qaeda officials. Pakistani intelligence officers characterize the discussions as “academic” in nature. It seems that the discussion was wide-ranging and rudimentary and that the scientists provided no material or specific plans. Moreover, the scientists probably were incapable of providing truly helpful information because their expertise was not in bomb design but in the processing of fissile material, which is almost certainly beyond the capacities of a nonstate group. Kalid Sheikh Mohammed, the apparent planner of the 9/11 attacks, reportedly says that al Qaeda’s bomb efforts never went beyond searching the Internet. After the fall of the Taliban in 2001, technical experts from the CIA and the Department of Energy examined documents and other information that were uncovered by intelligence agencies and the media in Afghanistan. They uncovered no credible information that al Qaeda had obtained fissile material or acquired a nuclear weapon. Moreover, they found no evidence of any radioactive material suitable for weapons. They did uncover, however, a “nuclear-related” document discussing “openly available concepts about the nuclear fuel cycle and some weapons-related issues.” Just a day or two before al Qaeda was to flee from Afghanistan in 2001, bin Laden supposedly told a Pakistani journalist, “If the United States uses chemical or nuclear weapons against us, we might respond with chemical and nuclear weapons. We possess these weapons as a deterrent.” Given the military pressure that they were then under and taking into account the evidence of the primitive or more probably nonexistent nature of al Qaeda’s nuclear program, the reported assertions, although unsettling, appear at best to be a desperate bluff. Bin Laden has made statements about nuclear weapons a few other times. Some of these pronouncements can be seen to be threatening, but they are rather coy and indirect, indicating perhaps something of an interest, but not acknowledging a capability. And as terrorism specialist Louise Richardson observes, “Statements claiming a right to possess nuclear weapons have been misinterpreted as expressing a determination to use them. This in turn has fed the exaggeration of the threat we face.” Norwegian researcher Anne Stenersen concluded after an exhaustive study of available materials that, although “it is likely that al Qaeda central has considered the option of using non-conventional weapons,” there is “little evidence that such ideas ever developed into actual plans, or that they were given any kind of priority at the expense of more traditional types of terrorist attacks.” She also notes that information on an al Qaeda computer left behind in Afghanistan in 2001 indicates that only $2,000 to $4,000 was earmarked for weapons of mass destruction research and that the money was mainly for very crude work on chemical weapons. Today, the key portions of al Qaeda central may well total only a few hundred people, apparently assisting the Taliban’s distinctly separate, far larger, and very troublesome insurgency in Afghanistan. Beyond this tiny band, there are thousands of sympathizers and would-be jihadists spread around the globe. They mainly connect in Internet chat rooms, engage in radicalizing conversations, and variously dare each other to actually do something. Any “threat,” particularly to the West, appears, then, principally to derive from self-selected people, often isolated from each other, who fantasize about performing dire deeds. From time to time some of these people, or ones closer to al Qaeda central, actually manage to do some harm. And occasionally, they may even be able to pull off something large, such as 9/11. But in most cases, their capacities and schemes, or alleged schemes, seem to be far less dangerous than initial press reports vividly, even hysterically, suggest. Most important for present purposes, however, is that any notion that al Qaeda has the capacity to acquire nuclear weapons, even if it wanted to, looks farfetched in the extreme. It is also noteworthy that, although there have been plenty of terrorist attacks in the world since 2001, all have relied on conventional destructive methods. For the most part, terrorists seem to be heeding the advice found in a memo on an al Qaeda laptop seized in Pakistan in 2004: “Make use of that which is available … rather than waste valuable time becoming despondent over that which is not within your reach.” In fact, history consistently demonstrates that terrorists prefer weapons that they know and understand, not new, exotic ones. Glenn Carle, a 23-year CIA veteran and once its deputy intelligence officer for transnational threats, warns, “We must not take fright at the specter our leaders have exaggerated. In fact, we must see jihadists for the small, lethal, disjointed, and miserable opponents that they are.” al Qaeda, he says, has only a handful of individuals capable of planning, organizing, and leading a terrorist organization, and although the group has threatened attacks with nuclear weapons, “its capabilities are far inferior to its desires.” Policy alternatives The purpose here has not been to argue that policies designed to inconvenience the atomic terrorist are necessarily unneeded or unwise. Rather, in contrast with the many who insist that atomic terrorism under current conditions is rather likely— indeed, exceedingly likely—to come about, I have contended that it is hugely unlikely. However, it is important to consider not only the likelihood that an event will take place, but also its consequences. Therefore, one must be concerned about catastrophic events even if their probability is small, and efforts to reduce that likelihood even further may well be justified. At some point, however, probabilities become so low that, even for catastrophic events, it may make sense to ignore them or at least put them on the back burner; in short, the risk becomes acceptable. For example, the British could at any time attack the United States with their submarine-launched missiles and kill millions of Americans, far more than even the most monumentally gifted and lucky terrorist group. Yet the risk that this potential calamity might take place evokes little concern; essentially it is an acceptable risk. Meanwhile, Russia, with whom the United States has a rather strained relationship, could at any time do vastly more damage with its nuclear weapons, a fully imaginable calamity that is substantially ignored. In constructing what he calls “a case for fear,” Cass Sunstein, a scholar and current Obama administration official, has pointed out that if there is a yearly probability of 1 in 100,000 that terrorists could launch a nuclear or massive biological attack, the risk would cumulate to 1 in 10,000 over 10 years and to 1 in 5,000 over 20. These odds, he suggests, are “not the most comforting.” Comfort, of course, lies in the viscera of those to be comforted, and, as he suggests, many would probably have difficulty settling down with odds like that. But there must be some point at which the concerns even of these people would ease. Just perhaps it is at one of the levels suggested above: one in a million or one in three billion per attempt.

Terrorists won’t use WMD

Forest 12 (James, PhD and Director of Terrorism Studies and an associate professor at the United States Military Academy, “Framework for Analyzing the Future Threat of WMD Terrorism,” Journal of Strategic Security, Volume 5, Number 4, Article 9, Winter 2012, http://scholarcommons.usf.edu/cgi/viewcontent.cgi?article=1193&context=jss) \*\*NOTE---CBRN weapon = chemical, biological, radiological or nuclear weapon

The terrorist group would additionally need to consider whether a WMD attack would be counterproductive by generating, for example, condemnation among the group's potential supporters. This possible erosion in support, in turn, would degrade the group's political legitimacy among its constituencies, who are viewed as critical to the group's long-term survival. By crossing this WMD threshold, the group could feasibly undermine its popular support, encouraging a perception of the group as deranged mass murders, rather than righteous vanguards of a movement or warriors fighting for a legitimate cause.16 The importance of perception and popular support—or at least tolerance—gives a group reason to think twice before crossing the threshold of catastrophic terrorism. A negative perception can impact a broad range of critical necessities, including finances, safe haven, transportation logistics, and recruitment. Many terrorist groups throughout history have had to learn this lesson the hard way; the terrorist groups we worry about most today have learned from the failures and mistakes of the past, and take these into consideration in their strategic deliberations. Furthermore, a WMD attack could prove counterproductive by provoking a government (or possibly multiple governments) to significantly expand their efforts to destroy the terrorist group. Following a WMD attack in a democracy, there would surely be a great deal of domestic pressure on elected leaders to respond quickly and with a massive show of force. A recognition of his reality is surely a constraining factor on Hezbollah deliberations about attacking Israel, or the Chechen's deliberations about attacking Russia, with such a weapon.

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.

Signature strikes key to targeted killing effectiveness and preventing safe havens.

Philip Mudd, former senior official at the CIA and the FBI. He is now director of global risk at SouthernSun Asset Management, 5/24/13, Fear Factor: In defense of Obama's deadly signature strikes, www.foreignpolicy.com/articles/2013/05/24/fear\_factor\_signature\_strikes?page=full

The impact of armed drones during the decade-plus of this intense global counterterrorism campaign is hard to overestimate: Without operational commanders and visionary leaders, terror groups decay into locally focused threats, or disappear altogether. Targeted strikes against al Qaeda leaders and commanders in the years immediately after 9/11 deprived the group of the time and stability required to plot a major strike. But the London subway attacks in July 2005 illustrated the remaining potency of al Qaeda's core in the tribal areas of Pakistan. The threat was fading steadily. But not fast enough. So-called **signature strikes** -in which target selection is based not on identification of an individual but instead on patterns of behavior or unique characteristics that identify a group -**accelerated this decline for simple reasons**. Targeting leadership degrades a small percentage of a diffuse terror group, but **developing the tactical intelligence required to locate an individual precisely enough to stage a pinpoint strike, in a no-man's land half a world away, is time-consuming and difficult**. And it's not a perfect science; the leaders of groups learn over time how to operate more securely. Furthermore, these leaders represent only a fraction of the threat: Osama bin Laden might have been the public face of al Qaeda, but he was supported by a web of document-forgers, bombmakers, couriers, trainers, ideologues, and others. They made up the bulk of al Qaeda and propelled the apparatus that planned the murder of innocents. Bin Laden was the revolutionary leader, but it was the troops who executed his vision. Signature strikes have pulled out these lower-level threads of al Qaeda's apparatus -and that of its global affiliates -rapidly enough that the deaths of top leaders are now more than matched by the destruction of the complex support structure below them. **Western conceptions of how organizations work, with hierarchal structures driven by** top-level **managers, do not apply to al Qaeda and its affiliates**. These groups are instead conglomerations of militants, operating independently, with rough lines of communication and fuzzy networks that cross continents and groups. They are hard to map cleanly, in other words. Signature strikes take out whole swaths of these network sub-tiers rapidly -so rapidly that the groups cannot replicate lost players and their hard-won experience. **The tempo of the strikes**, in other words, **adds sand to the gears of terror organizations, destroying their operational capability faster than the groups can recover.** There are other rationales for these attacks, though. Part of the reason signature strikes have become so prominent in this global counterterror war is, simply put, geography. Local terrorist groups only become international threats if they have leadership that can execute a broad, globalist vision, and if that leadership has the time and space to plot without daily distractions from armies and security services -**as in safe havens** like Yemen, Somalia, the Sahel, and the tribal areas of Pakistan. These are exactly the places where the United States cannot apply conventional force and where local governments lack the capability or will to counter the threat. **Exactly the places where drones offer an option to eviscerate a growing terror threat** that has a dispersed, diffuse hierarchy. **The places where** signature strikes **have proven effective**. With more capable security partners, the brutal destruction from drones above might come from more conventional operations on the ground. But, by definition, safe havens aren't penetrable by capable security services. There is an intangible factor that reinforces the effectiveness of signature strikes: the fear factor, coupled with the suspicions and paranoia that result from organizations searching desperately among their ranks to find out who is providing the Americans information so detailed that we can wreak such havoc over such a long period of time. Time and again, intelligence has clearly told us that the adversary dreads these operations -lethal strikes that come anytime, anywhere, and that eliminate entire swaths of organizations. And these same organizations then turn around and further degrade their operational capability by engaging in savage hunts for leaks.

## 1NC---AT: Norms Advantage

No SCS conflict—China can’t afford to escalate—US deterrent irrelevant

Allen Carlson, Cornell University Associate Professor, 2/21/13, China Keeps the Peace at Sea, www.foreignaffairs.com/articles/139024/allen-carlson/china-keeps-the-peace-at-sea?page=show

At times in the past few months, China and Japan have appeared almost ready to do battle over the Senkaku (Diaoyu) Islands --which are administered by Tokyo but claimed by both countries -- and to ignite a war that could be bigger than any since World War II. Although Tokyo and Beijing have been shadowboxing over the territory for years, the standoff reached a new low in the fall, when the Japanese government nationalized some of the islands by purchasing them from a private owner. The decision set off a wave of violent anti-Japanese demonstrations across China.

In the wake of these events, the conflict quickly reached what political scientists call a state of equivalent retaliation -- a situation in which both countries believe that it is imperative to respond in kind to any and all perceived slights. As a result, it may have seemed that armed engagement was imminent. Yet, months later, nothing has happened. And despite their aggressive posturing in the disputed territory, both sides now show glimmers of willingness to dial down hostilities and to reestablish stability.

Some analysts have cited North Korea's recent nuclear test as a factor in the countries' reluctance to engage in military conflict. They argue that the detonation, and Kim Jong Un's belligerence, brought China and Japan together, unsettling them and placing their differences in a scarier context. Rory Medcalf, a senior fellow at the Brookings Institution, explained that "the nuclear test gives the leadership in both Beijing and Tokyo a chance to focus on a foreign and security policy challenge where their interests are not diametrically at odds."

The nuclear test, though, is a red herring in terms of the conflict over the disputed islands. In truth, the roots of the conflict -- and the reasons it has not yet exploded -- are much deeper. **Put simply,** China cannot afford military conflict with any of its Asian neighbors.

It is not that China believes it would lose such a spat; the country increasingly enjoys strategic superiority over the entire region, and it is difficult to imagine that its forces would be beaten in a direct engagement over the islands, in the South China Sea or in the disputed regions along the Sino-Indian border. However, Chinese officials see that even the most pronounced victory would be outweighed by the collateral damage that such a use of force would cause to Beijing's two most fundamental national interests -- economic growth and preventing the escalation of radical nationalist sentiment at home. These constraints, rather than any external deterrent, will keep Xi Jinping, China's new leader, from authorizing the use of deadly force in the Diaoyu Islands theater.

For over three decades, Beijing has promoted peace and stability in Asia to facilitate conditions amenable to China's economic development. The origins of the policy can be traced back to the late 1970s, when Deng Xiaoping repeatedly contended that to move beyond the economically debilitating Maoist period, China would have to seek a common ground with its neighbors. Promoting cooperation in the region would allow China to spend less on military preparedness, focus on making the country a more welcoming destination for foreign investment, and foster better trade relations. All of this would strengthen the Chinese economy. Deng was right. Today, China's economy is second only to that of the United States.

The fundamentals of Deng's grand economic strategy are still revered in Beijing. But any war in the region would erode the hard-won, and precariously held, political capital that China has gained in the last several decades. It would also disrupt trade relations, complicate efforts to promote the yuan as an international currency, and send shock waves through the country's economic system at a time when it can ill afford them. **There is thus little reason to think that China is readying for war** with Japan.

At the same time, the **specter of** rising Chinese nationalism, although often **seen as a promoter of conflict**, further limits the prospects for armed engagement. This is because Beijing will try to discourage nationalism if it fears it may lose control or be forced by popular sentiment to take an action it deems unwise. Ever since the Tiananmen Square massacre put questions about the Chinese Communist Party's right to govern before the population, successive generations of Chinese leaders have carefully negotiated a balance between promoting nationalist sentiment and preventing it from boiling over. In the process, they cemented the legitimacy of their rule. A war with Japan could easily upset that balance by inflaming nationalism that could blow back against China's leaders. Consider a hypothetical scenario in which a uniformed Chinese military member is killed during a firefight with Japanese soldiers. Regardless of the specific circumstances, the casualty would create a new martyr in China and, almost as quickly, catalyze popular protests against Japan.

Demonstrators would call for blood, and if the government (fearing economic instability) did not extract enough, citizens would agitate against Beijing itself. Those in Zhongnanhai, the Chinese leadership compound in Beijing, would find themselves between a rock and a hard place.

It is possible that Xi lost track of these basic facts during the fanfare of his rise to power and in the face of renewed Japanese assertiveness. It is also possible that the Chinese state is more rotten at the core than is understood. That is, party elites believe that a diversionary war is the only way to hold on to power -- damn the economic and social consequences.

But Xi does not seem blind to the principles that have served Beijing so well over the last few decades. Indeed, although he recently warned unnamed others about infringing upon China's "national core interests" during a foreign policy speech to members of the Politburo, he also underscored China's commitment to "never pursue development at the cost of sacrificing other country's interests" and to never "benefit ourselves at others' expense or do harm to any neighbor."

# 2NC

## 2NC---AT: Object Fiat

This is the key academic question

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.

## 2NC---AT: Rollback

And executive orders have the force of law:

Oxford Dictionary of English 2010

(Oxford Reference, Georgetown Library)

executive order

▶ noun US (Law) a rule or order issued by the President to an executive branch of the government and having the force of law.

Executive orders are permanent

Duncan, Associate Professor of Law at Florida A&M, Winter 2010

(John C., “A Critical Consideration of Executive Orders,” 35 Vt. L. Rev. 333, Lexis)

The trajectory of the evolution of the executive power in the United States, as seen through the prism of the growing edifice of executive orders have become increasingly formal and permanent. The evolution of executive power in the United States has shifted executive orders from mere legislative interpretation to ancillary legislation. **Executive orders continue to influence subsequent presidents**. The elaboration of executive order promulgation, as an autopoietic process was necessary to the very existence of presidential power. That is, the mechanisms for formalizing executive orders have always existed in the executive power in a government whose legitimacy lives in written pronouncements treated as delicate, sacred, and worth protecting at all cost. **Part of this formalization is** a consequence of **the reverence for precedent**. Thus, **prior presidents influence future presidents**, less because future presidents wish to mimic their predecessors, but more **because future presidents act within an edifice their predecessors have already erected**. Thus, the growth and elaboration of an ever more robust structure of executive orders resembles an autopoietic process. n561

## 2NC---AT: Pakistan Advantage---Solvency Run

Zenko says the practice is key AND that transparency solves—here’s a longer version of the 1ac to prove our point

Micah Zenko 13, CFR Douglas Dillon Fellow in the Center for Preventive Action, PhD in Political Science from Brandeis University, “Reforming U.S. Drone Strike Policies,” CFR Special Report 65, January 2013

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. Furthermore, norms can deter states from acquiring new technologies.72 Norms—sometimes but not always codified as legal regimes—have dissuaded states from deploying blinding lasers and landmines, as well as chemical, biological, and nuclear weapons. A well-articulated and internationally supported normative framework, bolstered by a strong U.S. example, can shape armed drone prolifera- tion and employment in the coming decades. Such norms would not hinder U.S. freedom of action; rather, they would internationalize already-necessary domestic policy reforms and, of course, they would be acceptable only insofar as the limitations placed reciprocally on U.S. drones furthered U.S. objectives. And even if hostile states do not accept norms regulating drone use, the existence of an international norma- tive framework, and U.S. compliance with that framework, would pre- serve Washington’s ability to apply diplomatic pressure. Models for developing such a framework would be based in existing international laws that emphasize the principles of necessity, proportionality, and distinction—to which the United States claims to adhere for its drone strikes—and should be informed by comparable efforts in the realms of cyber and space. In short, a world characterized by the proliferation of armed drones—used with little transparency or constraint—would under- mine core U.S. interests, such as preventing armed conflict, promoting human rights, and strengthening international legal regimes. It would be a world in which targeted killings occur with impunity against anyone deemed an “enemy” by states or nonstate actors, without accountability for legal justification, civilian casualties, and proportionality. Perhaps more troubling, it would be a world where such lethal force no longer heeds the borders of sovereign states. Because of drones’ inherent advantages over other weapons platforms, states and nonstate actors would be much more likely to use lethal force against the United States and its allies. Much like policies governing the use of nuclear weapons, offensive cyber capabilities, and space, developing rules and frameworks for innovative weapons systems, much less reaching a consensus within the U.S. government, is a long and arduous process. In its second term, the Obama administration has a narrow policy window of opportunity to pursue reforms of the targeted killings program. The Obama admin- istration can proactively shape U.S. and international use of armed drones in nonbattlefield settings through transparency, self-restraint, and engagement, or it can continue with its current policies and risk the consequences. To better secure the ability to conduct drone strikes, and potentially influence how others will use armed drones in the future, the United States should undertake the following specific policy recommendations. Executive Branch The president of the United States should ■■ limit targeted killings to individuals who U.S. officials claim are being targeted—the leadership of al-Qaeda and affiliated forces or individ- uals with a direct operational role in past or ongoing terrorist plots against the United States and its allies—and bring drone strike prac- tices in line with stated policies; ■■ either end the practice of signature strikes or provide a public account- ing of how it meets the principles of distinction and proportionality that the Obama administration claims; ■■ review its current policy whereby the executive authority for drone strikes is split between the CIA and JSOC, as each has vastly different legal authorities, degrees of permissible transparency, and oversight; ■■ provide information to the public, Congress, and UN special rappor- teurs—without disclosing classified information—on what proce- dures exist to prevent harm to civilians, including collateral damage mitigation, investigations into collateral damage, corrective actions based on those investigations, and amends for civilian losses; and ■■ never conduct nonbattlefield targeted killings without an account- able human being authorizing the strike (while retaining the poten- tial necessity of autonomous decisions to use lethal force in warfare in response to ground-based antiaircraft fire or aerial combat).

Rodriguez is about Obama’s commitment to scaling back RPV

Rodriguez 13 Alex Rodriguez is Los Angeles Times Staff, "Obama's drone limits may bolster ties with Pakistan," 5-24-13, articles.latimes.com/2013/may/24/world/la-fg-pakistan-drones-20130525, DOA: 7-22-13, y2k

President Obama's commitment to scaling back the use of unmanned aircraft to kill suspected terrorists could pave the way for improved relations between the United States and Pakistan, analysts and political leaders said Friday. But the Pakistani government maintained its insistence that the drone campaign does more harm than good and should be shut down. Obama's decision to continue using targeted killings abroad while imposing restrictions that could significantly reduce the frequency of drone strikes comes at a particularly sensitive time for Islamabad as it prepares for a new civilian government led by Nawaz Sharif, who served as prime minister in the 1990s. In the wake of their party's victory in national elections May 11, Sharif and his aides have been careful in their remarks, declaring opposition to the drone campaign — deeply unpopular in Pakistan — without appearing excessively confrontational to Washington, which Islamabad relies on for billions of dollars in military and economic aid. One of Sharif's advisors, Sen. Tariq Azeem, on Friday called the policy shift outlined by Obama in a speech a day earlier "a positive sign." "Apart from killing a few Al Qaeda terrorists, drones have caused immense damage to the image of the U.S.," said Azeem, a member of Sharif's Pakistan Muslim League-N Party. "If President Obama has had a rethink, I think it's a welcome step." The United States has relied heavily on its controversial drone campaign to take out Al Qaeda and Taliban leaders holed up in Pakistan's tribal regions, a swath of rugged territory along the Afghan border that Islamabad has never been able to fully control. Since Obama took office in January 2009, the United States has carried out 293 drone strikes in northwestern Pakistan, according to the Long War Journal website. Several top Al Qaeda leaders have been killed in such strikes in recent years, including the terrorist network's second in command, Abu Yahya al Libi, in June 2012. Privately, commanders in Pakistan's politically powerful military have acknowledged the utility of drone strikes in taking out top militant commanders and leaders. Under President Asif Ali Zardari's administration, Pakistan has maintained a policy of publicly condemning drone strikes while tacitly allowing them to occur. But the drone campaign has been one of the primary sources of friction in Washington's tenuous relationship with Islamabad. Pakistanis view it as a blatant violation of their country's sovereignty and say it has become a major recruiting tool for militants because of the number of civilians mistakenly killed in the strikes. Foreign Ministry spokesman Aizaz Ahmad Chaudhry, in a statement released Friday, said Pakistan appreciated Obama's remarks that "force alone cannot make us safer." The Pakistani government maintains that drone strikes "are counterproductive, entail loss of innocent civilian lives … and violate the principles of national sovereignty, territorial integrity and international law, " said Chaudhry, a member of a caretaker government serving as a transition between Zardari's administration and the incoming government led by Sharif, presumably as prime minister. Analysts said that if the U.S. followed through on scaling back the drone program, it would help shield Sharif from public pressure on the issue as he begins tackling the country's most pressing problems, including crippling power outages and a weak economy. "This is a welcome development, especially if there's great restraint applied during the initial months of the new government," said Talat Masood, a security analyst and retired Pakistani general. "It won't put the new government on the defensive." Reducing the frequency of strikes makes sense for Washington, which needs Pakistan's help in facilitating peace talks with Taliban leaders in Afghanistan and in using Pakistani territory as a transit route for the withdrawal of most U.S. troops from the Afghan conflict by the end of next year. Even before Obama's speech Thursday, the number of drone strikes had fallen steadily. There have been 13 drone strikes in Pakistan's tribal areas so far this year, compared with 64 in all of 2011 and 117 in 2010, according to the Long War Journal. Last year there were 46 U.S. drone strikes in the tribal belt. "It's a great opportunity for both countries to further improve their relations," Masood said. "And it's in the U.S. interests to be more sensitive about drones. Pakistan-U.S. relations are at a critical stage, and the upcoming withdrawal from Afghanistan makes it even more important." Vali Nasr, a former State Department senior advisor on Pakistan, said that while most Pakistanis would welcome new limits on drone use, Obama stopped far short of offering what Pakistanis really want, which is some control over the use of the weapons in their country. "He got the program out in the open, put limits on it and explained the U.S. view, and all that's positive," said Nasr, dean of the Johns Hopkins University School of Advanced International Studies. "But he didn't provide a role for the people in the countries where the drones are used."

## 2NC---Norms Advantage---Solvency Run

Bottom of the card says Obama example key

Eviatar 12 Daphne Eviatar is a senior counsel in the law and security program of Human Rights First, “Obama’s Drone Policy Misreading International Law,” 5-3-12, http://www.politico.com/news/stories/0512/75863.html, DOA: 9-15-13, y2k

The result is that the **Obama** administration is claiming the authority to target — and may well be targeting — individuals (and groups, in its “signature strikes,” which Brennan did not address) not legally targetable under international law. (“Signature strikes” target groups of men believed associated with terrorists, based on observed patterns of activity — even though their individual identities may be unknown.) This is not a mere legal technicality. True, a court may never force the U.S. government to change its policy. But by announcing a legal interpretation that stretches way beyond the accepted boundaries of international law, the Obama administration has essentially granted license to other countries to do the same. They can now declare members of groups they deem enemies to be targetable by drones, wherever they may be found — including in the United States.

That causes Congressional follow-on

Duncan, Associate Professor of Law at Florida A&M, Winter 2010

(John C., “A Critical Consideration of Executive Orders,” 35 Vt. L. Rev. 333, Lexis)

**Executive orders** can serve the purpose of allowing the President to generate favorable publicity, such as when President Clinton signed an executive order on ethics, n493 and when President George W. Bush signed the first of a series of executive orders to launch his Faith-Based and Community Initiatives. n494 While these orders pay off political debts and thus may seem trivial, they nevertheless **create both infrastructural and regulatory precedents for future administrations**. Hence, they create an avenue for key constituencies of each administration to influence the executive structure as a whole without necessarily permitting that influence to extend to arenas of reserved for Congress. That is, while the President can act more swiftly and precisely to satisfy political commitments, the impact of his action will fall considerably short of analogous congressional action. This in turn serves to satisfy selected constituencies without giving them undue power via the presidency. Executive orders have even served to create presidential commissions to investigate and research problems, and have been instrumental in solving remedial issues. n495 **Commission reports** that result from such orders can in [\*398] turn **put pressure on Congress to** enact legislation to respond to those problems. President Franklin Roosevelt pursued this process when he issued a report of the Committee on Economic Security studying financial insecurity due to "unemployment, old age, disability, and health." n496 This report led to the Social Security Act. n497

Cronogue is about a NEW AUMF and says restricting the president is bad…

Cronogue 12

Graham Cronogue, Duke University School of Law, J.D. expected 2013, “A New AUMF: Defining Combatants in the War on Terror,” Duke Journal of Comparative and International Law, Vol. 22:377, http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1294andcontext=djcil, DOA: 9-12-13, y2k

The original AUMF was **hastily passed** during a time of crisis to address America’s most pressing security threats and concerns. Over time these threats and concerns have changed and grown. Our law on conflict should evolve with these changes. **The best way to bring about this change is to update the AUMF.** **This update should reflect the present reality of the conflict by expanding the authorization to use force beyond simply those involved in 9/11**. This authorization should expand to include groups such as AQAP who work closely with and fight alongside al-Qaeda. However, we should not expand the scope of the statute as far as Congress has proposed. Representative McKeon’s legislation would effectively give the President a carte blanche to decide who and what to attack and detain. Such a broad grant of authority would effectively allow the President to use force whenever and wherever he wanted. Instead, the new legislation should balance the need for decisive presidential action against the very real concern of adding too much gloss to the Executive power. My proposal attempts to find such a balance by clearly defining the groups of combatants, ensuring that the President has clear and significant authority to act against those organizations. It also limits his discretion in deciding what groups fit this description and prevents him from starting a global and perpetual war on terror, while ensuring that he is not completely barred from responding to new threats as they arise. Undoubtedly, my proposal has flaws and loopholes and cannot be used to authorize force against all future threats, but it does a better job than Representative McKeon’s of heeding President Lincoln’s warning.

Maxwell says transparency solves the aff and is about self-defense authority questions, which is obviously not them anyway

Mark David Maxwell 12, Colonel, Judge Advocate with the U.S. Army, Winter 2012, TARGETED KILLING, THE LAW, AND TERRORISTS, Joint Force Quarterly, http://www.ndu.edu/press/targeted-killing.html

Enter Congress The weakness of this theory is that it is not codified in U.S. law; it is merely the extrapolation of international theorists and organizations. The only entity under the Constitution that can frame and settle Presidential power regarding the enforcement of international norms is Congress. As the check on executive power, Congress **must amend the AUMF** to give the executive a statutory roadmap that articulates when force is appropriate and under what circumstances the President can use targeted killing. This would be the needed endorsement from Congress, the other political branch of government, to clarify the U.S. position on its use of force regarding targeted killing. For example, it would spell out the limits of American lethality once an individual takes the status of being a member of an organized group. Additionally, statutory clarification will give other states a roadmap for the contours of what constitutes anticipatory self-defense and the proper conduct of the military under the law of war. Congress should also require that the President brief it on the decision matrix of articulated guidelines before a targeted killing mission is ordered. As Kenneth Anderson notes, “[t]he point about briefings to Congress is partly to allow it to exercise its democratic role as the people’s representative.”74

## 2NC---AT: Links to Politics

CP is executive action—obviously avoids Congressional fights

Fine 12

Jeffrey A. Fine, assistant professor of political science at Clemson University. He has published articles in the Journal of Politics, Political Research Quarterly, and Political Behavior. Adam L. Warber is an associate professor of political science at Clemson University. He is the author of Executive Orders and the Modern Presidency, Presidential Studies Quarterly, June 2012, " Circumventing Adversity: Executive Orders and Divided Government", Vol. 42, No. 2, Ebsco

We also should expect presidents to prioritize and be strategic in the types of executive orders that they create to maneuver around a hostile Congress. There are a variety of reasons that can drive a president’s decision. For example, presidents can use an executive order to move the status quo of a policy issue to a position that is closer to their ideal point. **By doing so, presidents are able to pressure Congress to respond**, perhaps by passing a new law that represents a compromise between the preferences of the president and Congress. Forcing Congress’s hand to enact legislation might be a preferred option for the president, if he perceives Congress to be unable or unwilling to pass meaningful legislation in the ﬁrst place. While it is possible that such unilateral actions might spur Congress to pass a law to modify or reverse a president’s order, such responses by Congress are rare (Howell 2003, 113-117; Warber 2006, 119). Enacting a major policy executive order allows the president to move the equilibrium toward his preferred outcomewithout having to spend time lining up votes or forming coalitions with legislators**.** As a result, and since reversal from Congress is unlikely, presidents have a greater incentive to issue major policy orders to overcome legislative hurdles.

## 2NC---Add-On

Dworkin concedes transparency solves and US isn’t key

Dworkin 7/17/13

Anthony Dworkin is a senior policy fellow at the European Council on Foreign Relations, CNN, July 17, 2013, "Actually, drones worry Europe more than spying", http://globalpublicsquare.blogs.cnn.com/2013/07/17/actually-drones-worry-europe-more-than-spying/

But if the United States is serious about working toward international standards on drone strikes, as Obama and his officials have sometimes suggested, then Europe is the obvious place to start. And there are a number of steps the administration could take to make an agreement with European countries more likely. For a start, it should cut back the number of drone strikes and be much more open about the reasons for the attacks it conducts and the process for reviewing them after the fact. It should also elaborate its criteria for determining who poses an imminent threat in a way that keeps attacks within tight limits. And, as U.S. forces prepare to withdraw from Afghanistan in 2014, it should keep in mind the possibility of declaring the war against al Qaeda to be over. All this said, Europe also has some tough decisions to make, and it is unclear whether European countries are ready to take a hard look at their views about drone strikes, addressing any weaknesses or inconsistencies in their own position. If they are, the next few years could offer a breakthrough in developing international standards for the use of this new kind of weapon, before the regular use of drones spreads across the globe.

Transparency on drones solves allies

Bellinger III, partner – Arnold & Porter LLP, adjunct senior fellow in international and national security law – CFR, 10/2/’11

(John B., http://articles.washingtonpost.com/2011-10-02/opinions/35279231\_1\_drone-strikes-anwar-al-awlaki-drone-program)

The killing of the U.S.-born al-Qaeda cleric Anwar Al-Awlaki on Friday along with another U.S. citizen and two other al-Qaeda operatives in Yemen is likely to fuel the international controversy over the legality and wisdom of the Obama administration’s dramatically increased use of drone attacks. For several years, U.S. allies have made no public comment even as U.S. drone strikes have killed twice as many suspected al-Qaeda and Taliban members than were ever imprisoned in Guantanamo Bay. But that acquiescence may change, as human rights groups and the media focus more attention on the legality and collateral damage of drone attacks. The U.S. drone program has been highly effective in killing senior al-Qaeda leaders, but the administration needs to work harder to explain and defend its use of drones as lawful and appropriate — to allies and critics — if it wants to avoid losing international support and potentially exposing administration officials to legal liability. The U.S. position, under the George W. Bush and Obama administrations, has been that drone strikes against al-Qaeda and Taliban leaders are lawful under U.S. and international law. They are permitted by the September 2001 Authorization to Use Military Force Act, which empowered the president to “all necessary and appropriate force” against nations, organizations or persons who planned, committed or aided the Sept. 11 attacks. The United States also believes that drone strikes are permitted under international law and the United Nations Charter as actions in self-defense, either with the consent of the country where the strike takes place or because that country is unwilling or unable to act against an imminent threat to the United States. U.S. officials have been understandably reluctant to confirm whether consent has been given by particular countries. Obama administration officials have explained in the past that strikes against particular militant leaders are permissible, either because the individuals are part of the overall U.S. conflict with al-Qaeda or because they pose imminent threats to the United States. President Obama emphasized Awlaki’s operational role on Friday, stating that he was the “leader of external operations for al-Qaeda in the Arabian Peninsula.” The killing of Awlaki raises additional legal concerns because U.S. citizens have certain constitutional rights wherever they are in the world. Some human rights groups have asserted that due process requires prior judicial review before killing an American, but it is unlikely that the Constitution requires judicial involvement in the case of a U.S. citizen engaged in terrorist activity outside this country. Administration lawyers undoubtedly reviewed the targeting of Awlaki even more carefully than of a non-American, and the Justice Department reportedly prepared an opinion concluding that his killing would comply with domestic and international law. This is likely to be considered sufficient due process under U.S. constitutional standards. But the U.S. legal position may not satisfy the rest of the world. No other government has said publicly that it agrees with the U.S. policy or legal rationale for drones. European allies, who vigorously criticized the Bush administration for asserting the unilateral right to use force against terrorists in countries outside Afghanistan, have neither supported nor criticized reported U.S. drone strikes in Pakistan, Yemen and Somalia. Instead, they have largely looked the other way, as they did with the killing of Osama bin Laden. Human rights advocates, on the other hand, while quiet for several years (perhaps to avoid criticizing the new administration), have grown increasingly uncomfortable with drone attacks. Last year, the U.N. rapporteur for summary executions and extrajudicial killings said that drone strikes may violate international humanitarian and human rights law and could constitute war crimes. U.S. human rights groups, which stirred up international opposition to Bush administration counterterrorism policies, have been quick to condemn the Awlaki killing. Even if Obama administration officials are satisfied that drone strikes comply with domestic and international law, they would still be wise to try to build a broader international consensus. The administration should provide more information about the strict limits it applies to targeting and about who has been targeted. One of the mistakes the Bush administration made in its first term was adopting novel counterterrorism policies without attempting to explain and secure international support for them. White House counterterrorism adviser John Brennan rightly acknowledged in a recent speech that “the effectiveness of our counterterrorism activities depends on the assistance and cooperation of our allies.” If the Obama administration wants to avoid losing the tacit support (and potentially the operational and intelligence assistance) of its allies for drone strikes and its other counterterrorism policies, it should try to ensure that they understand and agree with the U.S. policy and legal justification. Otherwise, the administration risks having its largely successful drone program become as internationally maligned as Guantanamo.

Self-interest overwhelms legal disputes

Kristin Archick, Congressional Research Service Specialist in European Affairs, 9/4/13, U.S.-EU Cooperation Against Terrorism, http://www.fas.org/sgp/crs/row/RS22030.pdf

The September 11, 2001, terrorist attacks on the United States and the subsequent revelation of Al Qaeda cells in Europe gave new momentum to European Union (EU) initiatives to combat terrorism and improve police, judicial, and intelligence cooperation among its member states. Other deadly incidents in Europe, such as the Madrid and London bombings in 2004 and 2005 respectively, injected further urgency into strengthening EU counterterrorism capabilities and reducing barriers among national law enforcement authorities so that information could be meaningfully shared and suspects apprehended expeditiously. Among other steps, the EU has established a common definition of terrorism and a common list of terrorist groups, an EU arrest warrant, enhanced tools to stem terrorist financing, and new measures to strengthen external EU border controls and improve aviation security.

As part of its drive to bolster its counterterrorism capabilities, the EU has also made promoting law enforcement and intelligence cooperation with the United States a top priority. Washington has largely welcomed these efforts, recognizing that they may help root out terrorist cells both in Europe and elsewhere, and prevent future attacks against the United States or its interests abroad. U.S.-EU cooperation against terrorism has led to a new dynamic in U.S.-EU relations by fostering dialogue on law enforcement and homeland security issues previously reserved for bilateral discussions. Contacts between U.S. and EU officials on police, judicial, and border control policy matters have increased substantially since 2001. A number of new U.S.-EU agreements have also been reached; these include information-sharing arrangements between the United States and EU police and judicial bodies, two new U.S.-EU treaties on extradition and mutual legal assistance, and accords on container security and airline passenger data. In addition, the United States and the EU have been working together to curb terrorist financing and to strengthen transport security.

## 2NC---O’Hanlon Extension

Assessments are long and independent

Anderson 13 (Kenneth Anderson is a professor of international law at American University and a member of the Task Force on National Security and Law at the Hoover Institution, June 2013, "The Case for Drones", https://www.commentarymagazine.com/articles/the-case-for-drones/)

It can be used for a different kind of targeting altogether: against groups of fighters with their weapons on trucks headed toward the Afghan border. But these so-called signature strikes are not, as sometimes represented, a relaxed form of targeted killing in which groups are crudely blown up because nothing is known about individual members. Intelligence assessments are made, including behavioral signatures such as organized groups of men carrying weapons, suggesting strongly that they are “hostile forces” (in the legal meaning of that term in the U.S. military’s Standing Rules of Engagement). **That is the norm in conventional war**. Targeted killing of high-value terrorist targets, by contrast, is the end result of a **long**, **independent intelligence process**. What the drone adds to that intelligence might be considerable, through its surveillance capabilities—but much of the drone’s contribution will be tactical, providing intelligence that assists in the planning and execution of the strike itself, in order to pick the moment when there might be the fewest civilian casualties. Nonetheless, in conjunction with high-quality intelligence, **drone warfare offers an unparalleled means to strike directly at terrorist organizations** without needing a conventional or counterinsurgency approach to reach terrorist groups in their safe havens. It offers an offensive capability, rather than simply defensive measures, such as homeland security alone**. Drone warfare offers a raiding strategy directly against the terrorists and their leadership**.

## 2NC---Obama Solved the Aff---Extension

More evidence

Dyer 13 (Geoff – Washington correspondent to FT, “Obama rewrites rules for drone strikes in terror war” May 23, 2013, Financial Times; US Politics & Policy)

President Barack Obama announced new restrictions on the use of drones against suspected terrorists on Thursday and tried to limit the scope of the more than decade-long fight against Islamic radicals that began with the 9/11 attacks. Pledging that the US needed to avoid “perpetual war” against terrorists, Mr Obama gave the most vigorous defence of drone strikes which he said were much less damaging that conventional bombing or deploying troops. However, in a high-profile speech at the National Defense University in Washington, Mr Obama also outlined elements of a new rule book that is likely to result in **a reduction** in numbers **of targeted killings** ordered by the White House. “This war, like all wars, must end,” he said. “That’s what history advises. That’s what our democracy demands.” The speech was an attempt to address the growing criticism of the extensive use of drone strikes against suspected terrorists, a programme inherited from the George W. Bush administration but significantly expanded during Mr Obama’s first four years in office. It was the first occasion he has discussed at length the legal, moral and political considerations behind drone strikes. While officials believe that targeted killings have dealt a decisive blow to the “core” of the al-Qaeda terror network in Afghanistan and Pakistan, critics allege that excessive use of drone strikes alienate friendly foreign governments, cause extensive civilian casualties and risk becoming the face of American foreign policy in many parts of the world. “Simply put, these strikes have saved lives,” said Mr Obama, in a speech that was twice interrupted by a heckler. “We are at war with an organisation that right now would kill as many Americans as they could if we did not stop them first.” As part of the shake-up of the drone programme, the Pentagon is to take the lead in conducting drone strikes, senior White House officials said, indicating a reduced role for the Central Intelligence Agency which has also carried out operations against terror suspects. However, officials would not say if the CIA, which has its own fleet of drones, will completely stop all its operations. Drone strikes in Pakistan have been conducted by the CIA, in part to allow both the US and Pakistani governments to maintain plausible deniability, former officials say. Mr Obama said he would also discuss with Congress the idea of a judicial review of each decision to approve targeted killings or the establishment of an independent body within the government to analyse new strikes – two proposals to provide some outside monitoring of the administration’s decision-making. Speaking the day after the administration acknowledged for the first time that four American citizens had been killed by drone strikes, Mr Obama defended the decision to kill Anwar al-Awlaki, a radical US Muslim cleric who died in Yemen in 2010. Given Mr al-Awlaki’s role in several terrorist plots against the US and the impossibility of detaining him, Mr Obama said “I would have been derelict in my duty had I not authorised the strike”. At the same time, Mr Obama said that the direct threat to the US from al-Qaeda had been diminished and that the US needed to find new ways to “continue to fight terrorists without keeping America on a perpetual wartime footing”. “Not every collection of thugs that labels themselves al-Qaeda will pose a credible threat to the United States,” said Mr Obama. “Unless we discipline our thinking and our actions, we may be drawn into more wars we do not need to fight.” The rate of drone strikes has dropped during the past few months, which officials said was a result both of a reduced threat from “core” al-Qaeda and the tighter criteria that were being introduced. The new guidelines for drone strikes insist that the individual must present a “continuing, imminent threat to US persons”. Although this is narrower than previous language about a “significant threat”, human rights groups point out that government lawyers have defined the idea of “imminent” in a broad manner. The rule book also says that the target must be a “senior operational leader” of a terrorist group and that capture must be “impossible”. One result is that the guidelines appear to indicate an end to so-called “signature strikes”, where drones are used against individuals who demonstrate the “signature” of militant activity – in some cases young men carrying heavy weapons in areas of Pakistan known to be controlled by militants. “Signature strikes” have never been formally acknowledged by the Obama administration but have been one of the most controversial aspects of the targeted killing programme and have generated strong resistance even from within the administration.

Solves Pakistan --- restrictions are codified and reduced strikes

Brown 13 (Hayes – writer @ ThinkProgress, “Report: U.S. Drops Signature Strikes In Pakistan” July 25, 2013, ThinkProgress; Security)

The United States has ended the use of so-called signature drone strikes in Pakistan**, and** the total number of **incidents involving armed unmanned** aerial **vehicles** there has **plummeted**, according to a new report from the Associated Press. In gathering hours upon hours of footage of a given location, drones allow analysts to piece together “pattern of life” data, which are then examined for clues that suspected terrorists are using the area for planning or staging purposes. The evidence used to justify strikes against these locations — “signature strikes” — doesn’t include the appearance of known terrorists, but rather often circumstantial proof such as large gatherings of men between the ages of 16-55, where they’ve traveled while under surveillance and whether or not they were in the vicinity of known targets when the strike occurred. According to the Obama administration, however, drone strikes carried out since the president took office have all been against high-level members of the Taliban and al-Qaeda, making these drones a valuable tool in the fight against terrorism. Despite that insistence, President Obama announced in May that the use of drone strikes and other applications of force in fighting terrorism will be streamlined to a more limited set of targets, with a higher level of scrutiny applied when determining them. That decision was codified in the administration’s new “playbook” on counterterrorism tactics around the same time. According to a letter from Attorney General Eric Holder **to Congress**, in future drone strikes “will impose the same standard for strikes on foreign enemies now used only for American citizens deemed to be terrorists.” **That** choice **has** apparently **resulted in a corresponding drop in strikes within Pakistan**, long the primary theater for Central Intelligence Agency-flown unmanned aerial vehicles. So far in 2013, there have been only 16 drone strikes carried out in Pakistan, compared to estimates of a peak of 122 in 2010 and 48 over the course of last year. Obama’s **pledge** and the drop in strikes suggests that the controversial — and until recently unacknowledged — method of targeting potential terrorists for execution **is winding down.** It’s the use of signature strikes that has been blamed for many of the civilian deaths attributed to drones — deaths that the Obama administration has so far yet to acknowledge outside of a few specific incidents. Despite that, according to the AP, the CIA “instructed to be more cautious with its attacks” **including** limiting signature strikes substantially. The Agency agreed to the curtailing, “feeling the drone program may be under threat from public scrutiny.” Pakistan is the one area where the CIA was determined to keep its control of the drones they fly, as reports surfaced that control of most drones would be transferred to the Pentagon.

## 2NC---No Impact to Terror---Extension

Focus on LeT should be sufficient to overwhelm other groups

Tankel 13 Stephen Tankel is an assistant professor at American University and a nonresident scholar at the Carnegie Endowment in the South Asia Program. “Lashkar-e-Taiba Capable of Threatening U.S. Homeland,” [http://carnegieendowment.org/2013/06/12/lashkar-e-taiba-capable-of-threatening-u.s.-homeland/g9z7#](http://carnegieendowment.org/2013/06/12/lashkar-e-taiba-capable-of-threatening-u.s.-homeland/g9z7)

First, barring a resurgent al-Qaeda, the drawdown of U.S. forces from Afghanistan could create space for Washington to focus more on LeT. Resource allocation should be realigned away from al-Qaeda Central and Afghan-centric militants, especially intelligence officers and analysts whose expertise will be essential for identifying emerging and evolving jihadist threats from LeT and other regional actors. This does not mean flooding Pakistan with clandestine officers focused on LeT. The Raymond Davis episode highlighted the dangers inherent in such activities. Rather, the U.S. could augment collection efforts in LeT’s near abroad as well as increase analytical capacity further for intelligence collected. This might include commissioning a reassessment of LeT’s historical involvement in international attacks in light of new information that has surely been gathered since the intelligence community enhanced its focus on the group post-Mumbai. Even this seemingly minor effort, could reveal important lessons about LeT’s calculus at critical times in its evolution. Additionally, LeT has had the same leaders since the group was founded and these men are not getting any younger. It would be worthwhile to explore the scenarios that might eventuate were a battle for succession to occur. Finally, the United States should develop a response plan in the event of a LeT-led attack against the homeland that includes a mix of inducements, rewards, retributive measures, and unilateral actions vis-à-vis Pakistan. The United States should be prepared for a phased escalation in the event of Pakistani reticence and should develop oversight mechanisms to ensure Pakistan keeps any commitments it makes.

Their scholarship is terrible

Greenwald 12

(Glenn, JD in Constitutional Law and recipient of the first annual I.F. Stone Award for Independent Journalism and winner of the 2010 Online Journalism Association Award and author of three New York Times Bestselling books and named as one of the 25 most influential political commentators in the nation, “The sham “terrorism expert” industry” Aug 15, 2012, Salon)

The key role played by this “terrorism expert” industry in sustaining highly damaging hysteria was highlighted in an excellent and still-relevant 2007 Washington Post Op-Ed by Zbigniew Brzezinski. In it, he described how the War on Terror has created an all-consuming Climate of Fear in the U.S. along with a systematic, multi-headed policy of discrimination against Muslim Americans based on these severely exaggerated threats, and described one of the key culprits this way:

 Such fear-mongering, reinforced by security entrepreneurs, the mass media and the entertainment industry, generates its own momentum.The terror entrepreneurs, usually described as experts on terrorism, are necessarily engaged in competition to justify their existence. Hence their task is to convince the public that it faces new threats. That puts a premium on the presentation of credible scenarios of ever-more-horrifying acts of violence, sometimes even with blueprints for their implementation.

It’s very similar to what Les Gelb, in expressing his regret for supporting the attack on Iraq, described as “the disposition and incentives [in America's Foreign Policy Community] to support wars to retain political and professional credibility.” When I interviewed Gelb in 2010 regarding that quote, he told me that D.C. experts know that they can retain relevance in and access to key government circles only if they lend theoretical support to U.S. militarism rather than oppose it.

## 2NC---No Impact to Pakistan---Extension

No Pakistan collapse - the military and political institutions are resilient and marginalize militant forces - thats Dasgupta - more ev

Shah 11

Aqil Shah is a post-doctoral fellow at the Society of Fellows, Harvard University. He is expert on Military Politics and Democratization in South Asia, especially Pakistan, PhD from Columbia, Rhodes scholar, Foreign Affairs, May/June 2011, "Getting the Military Out of Pakistani Politics", http://www.foreignaffairs.com/articles/67742/aqil-shah/getting-the-military-out-of-pakistani-politics

Pakistan is, of course, a weak state with serious political, economic, and security challenges. But it is not on the fast track to failure, ready to be overturned by warlords, militants, or militias. It has an incredibly resilient civil society, which has proved itself capable of resisting both state and nonstate repression. Its numerous universities, assertive professional associations, vocal human rights groups, and free (if often irresponsible and hypernationalist) media sharply distinguish Pakistan from the likes of Afghanistan or Somalia. And its bureaucratic, judicial, and coercive branches still have plenty of fight left in them. The country's political parties are popular, and parliamentary democracy is the default system of government. The Pakistani military, moreover, is a highly disciplined and cohesive force and is unlikely to let the country slide into chaos or let its prized nuclear weapons fall into the hands of Islamists.

Relations are structurally tanked

Haqqani 13

HUSAIN HAQQANI is Professor of International Relations at Boston University and a Senior Fellow at the Hudson Institute. He served as Pakistan's Ambassador to the United States in 2008-11, Foreign Affairs, March/April 2013, "Breaking Up Is Not Hard to Do", http://www.foreignaffairs.com/articles/138845/husain-haqqani/breaking-up-is-not-hard-to-do

Washington has not had an easy time managing the U.S.-Pakistani relationship, to put it mildly. For decades, the United States has sought to change Pakistan's strategic focus from competing with India and seeking more influence in Afghanistan to protecting its own internal stability and economic development. But even though Pakistan has continued to depend on U.S. military and economic support, it has not changed its behavior much. Each country accuses the other of being a terrible ally -- and perhaps both are right.

Pakistanis tend to think of the United States as a bully. In their view, Washington provides desperately needed aid intermittently, yanking it away whenever U.S. officials want to force policy changes. Pakistanis believe that Washington has never been grateful for the sacrifice of the thousands of Pakistani military and security officials who have died fighting terrorists in recent decades, nor mourned the tens of thousands of Pakistani civilians whom those terrorists have killed. Many in the country, including President Asif Ali Zardari and General Ashfaq Kayani, the army chief, recognize that Pakistan has at times gone off the American script, but they argue that the country would be a better ally if only the United States showed more sensitivity to Islamabad's regional concerns.

On the other side, Americans see Pakistan as the ungrateful recipient of almost $40 billion in economic and military assistance since 1947, $23 billion of it for fighting terrorism over the last decade alone. In their view, Pakistan has taken American dollars with a smile, even as it covertly developed nuclear weapons in the 1980s, passed nuclear secrets to others in the 1990s, and supported Islamist militant groups more recently. No matter what Washington does, according to a growing cadre of U.S. senators, members of Congress, and editorial writers, it can't count on Pakistan as a reliable ally. Meanwhile, large amounts of U.S. aid have simply failed to invigorate Pakistan's economy.

The May 2011 U.S. covert operation in Abbottabad that killed Osama bin Laden brought the relationship to an unusually low point, making it harder than ever to maintain the illusion of friendship. At this point, instead of continuing to fight so constantly for so little benefit -- money for Pakistan, limited intelligence cooperation for the United States, and a few tactical military gains for both sides -- the two countries should acknowledge that their interests simply do not converge enough to make them strong partners. By coming to terms with this reality, Washington would be freer to explore new ways of pressuring Pakistan and achieving its own goals in the region. Islamabad, meanwhile, could finally pursue its regional ambitions, which would either succeed once and for all or, more likely, teach Pakistani officials the limitations of their country's power.

No loose nukes

Cohen & Zenko 12 (Michael and Micah, Fellow at the Century Foundation AND Fellow in the Center for Preventive Action at the Council on Foreign Relations, “Clear and Present Safety,” Foreign Affairs, Vol. 91, Iss. 2, EBSCO)

Pakistan represents another potential source of loose nukes. The United States' military strategy in Afghanistan, with its reliance on drone strikes and cross-border raids, has actually contributed to instability in Pakistan, worsened U.S. relations with Islamabad, and potentially increased the possibility of a weapon falling into the wrong hands. Indeed, Pakistani fears of a U.S. raid on its nuclear arsenal have reportedly led Islamabad to disperse its weapons to multiple sites, transporting them in unsecured civilian vehicles. But even in Pakistan, the chances of a terrorist organization procuring a nuclear weapon are infinitesimally small. The U.S. Department of Energy has provided assistance to improve the security of Pakistan's nuclear arsenal, and successive senior U.S. government officials have repeated what former Secretary of Defense Robert Gates said in January 2010: that the United States is "very comfortable with the security of Pakistan's nuclear weapons."

More ev

Kumar 10

Radha Kumar, Program Director, Peace and Conflict, Delhi Policy Group at the Council on Foreign Relations, Council on Foreign Relations, May 13, 2010, “Summer Thaw in India-Pakistan Freeze?”, http://www.cfr.org/publication/22118/summer\_thaw\_in\_indiapakistan\_freeze.html

Many people have argued that the Mumbai attacks of 2008 created a sense of such frustration and helplessness within India, that if there is another Mumbai, India will have no option but to respond militarily. Within India, however, those who would argue that point would argue for a conventional military response, not for a nuclear response. When they say a conventional military response, they are not factoring in that Pakistan then might push it to the nuclear stage. But I feel fairly convinced that as far as the prime minister of India is concerned, or the leading decision-makers are concerned, that's one of the fears that would restrain even a military response. My own preference would be for Pakistanis not to say, "What would you do the next time this happens?" and to add, as they often do, "and we know it will happen," but for them to say, "What can we do to see that it doesn't happen again?" And how real are fears of a nuclear confrontation in such an event? When it comes to the question of nuclear confrontation, it's an interesting but little-mentioned fact that the Indian government has tended traditionally, right from the days of testing its first nuclear weapons in 1974, to see nuclear weapons as symbolic deterrents--not as actual offensive weapons. And there was a huge complacency within the Indian establishment that Pakistan's nuclearization would not lead to a real military confrontation. Some of that complacency was exploded in 2002, when India massed its troops on the Pakistani border in response to an attack on the Indian Parliament, and Pakistan responded in fact by arming some of its tanks with nuclear weapons and moving them to its border. But even then, the point didn't sink home in India, that the level of Pakistani alarm at Indian muscle-flexing is one that can go very rapidly from rhetoric to nuclear. Even today, there is possibly not a sufficient recognition in India of that will. That makes for a very dangerous situation.

## 2NC---No SCS Conflict---Extension

No miscalc impact

Trefor Moss, The Diplomat, 2/10/13, 7 Reasons China and Japan Won’t Go To War, thediplomat.com/2013/02/10/7-reasons-china-and-japan-wont-go-to-war/?all=true

But if Shinzo Abe is gambling with the region’s security, he is at least playing the odds. He is calculating that Japan can pursue a more muscular foreign policy without triggering a catastrophic backlash from China, based on the **numerous constraints that shape Chinese actions**, as well as the interlocking structure of the globalized environment which the two countries co-inhabit. Specifically, there are seven reasons to think that war is a very unlikely prospect, even with a more hawkish prime minister running Japan: 1. Beijing’s nightmare scenario. China might well win a war against Japan, but defeat would also be a very real possibility. As China closes the book on its “century of humiliation” and looks ahead to prouder times, the prospect of a new, avoidable humiliation at the hands of its most bitter enemy is enough to persuade Beijing to do everything it can to prevent that outcome (the surest way being not to have a war at all). Certainly, China’s new leader, Xi Jinping, does not want to go down in history as the man who led China into a disastrous conflict with the Japanese. In that scenario, Xi would be doomed politically, and, as China’s angry nationalism turned inward, the Communist Party probably wouldn’t survive either. 2. Economic interdependence. Win or lose, a Sino-Japanese war woud be disastrous for both participants. The flagging economy that Abe is trying to breathe life into with a $117 billion stimulus package would take a battering as the lucrative China market was closed off to Japanese business. China would suffer, too, as Japanese companies pulled out of a now-hostile market, depriving up to 5 million Chinese workers of their jobs, even as Xi Jinping looks to double per capita income by 2020. Panic in the globalized economy would further depress both economies, and potentially destroy the programs of both countries’ new leaders. 3. Question marks over the PLA’s operational effectiveness.The People’s Liberation Army is rapidly modernizing, but there are concerns about how effective it would prove if pressed into combat today – not least within China’s own military hierarchy. New Central Military Commission Vice-Chairman Xu Qiliang recently told the PLA Daily that too many PLA exercises are merely for show, and that new elite units had to be formed if China wanted to protect its interests. CMC Chairman Xi Jinping has also called on the PLA to improve its readiness for “real combat.” Other weaknesses within the PLA, such as endemic corruption, would similarly undermine the leadership’s confidence in committing it to a risky war with a peer adversary. 4. Unsettled politics. China’s civil and military leaderships remain in a state of flux, with the handover initiated in November not yet complete. **As the new leaders find their feet** and jockey for position amongst themselves, **they will want to avoid big foreign-policy distractions** – **war with** Japan and possibly **the U.S. being the biggest of them all**. 5. The unknown quantity of U.S. intervention. China has its hawks, such as Dai Xu, who think that the U.S. would never intervene in an Asian conflict on behalf of Japan or any other regional ally. But this view is far too casual. U.S. involvement is a real enough possibility to give China pause, should the chances of conflict increase. 6. China’s policy of avoiding military confrontation. China has always said that it favors peaceful solutions to disputes, and its actions have tended to bear this out. In particular, it continues to usually dispatch unarmed or only lightly armed law enforcement ships to maritime flashpoints, rather than naval ships.There have been calls for a more aggressive policy in the nationalist media, and from some military figures; but Beijing has not shown much sign of heeding them. The PLA Navy made a more active intervention in the dispute this week when one of its frigates trained its radar on a Japanese naval vessel. This was a dangerous and provocative act of escalation, but once again the Chinese action was kept within bounds that made violence unlikely (albeit, needlessly, more likely than before). 7. China’s socialization. China has spent too long telling the world that it poses no threat to peace to turn around and fulfill all the China-bashers’ prophecies. Already, China’s reputation in Southeast Asia has taken a hit over its handling of territorial disputes there. If it were cast as the guilty party in a conflict with Japan –which already has the sympathy of many East Asian countries where tensions China are concerned – China would see regional opinion harden against it further still. This is not what Beijing wants: It seeks to influence regional affairs diplomatically from within, and to realize “win-win” opportunities with its international partners. In light of these constraints, Abe should be able to push back against China – so long as he doesn’t go too far. He was of course dealt a rotten hand by his predecessor, Yoshihiko Noda, whose bungled nationalization of the Senkaku/Diaoyu islands triggered last year’s plunge in relations. Noda’s misjudgments raised the political temperature to the point where neither side feels able to make concessions, at least for now, in an attempt to repair relations. However, Abe can make the toxic Noda legacy work in his favor. Domestically, he can play the role of the man elected to untangle the wreckage, empowered by his democratic mandate to seek a new normal in Sino-Japanese relations. Chinese assertiveness would be met with a newfound Japanese assertiveness, restoring balance to the relationship. It is also timely for Japan to push back now, while its military is still a match for China’s. Five or ten years down the line this may no longer be the case, even if Abe finally grows the stagnant defense budget. Meanwhile, Abe is also pursuing diplomatic avenues. It was Abe who mended Japan’s ties with China after the Koizumi years, and he is now trying to reprise his role as peacemaker, having dispatched his coalition partner, Natsuo Yamaguchi, to Beijing reportedly to convey his desire for a new dialogue. It is hardly surprising, given his daunting domestic laundry list, that Xi Jinping should have responded encouragingly to the Japanese olive branch. In the end, Abe and Xi are balancing the same equation: They will not give ground on sovereignty issues, but they have no interest in a war – in fact, they must dread it. **Even if a small skirmish** between Chinese and Japanese ships or aircraft **occurs, the leaders will not order additional forces to join the battle** unless they are boxed in by a very specific set of circumstances that makes escalation the only face-saving option. The escalatory spiral into all-out war that some envisage once the first shot is fired is certainly not the likeliest outcome, as recurrent skirmishes elsewhere – such as in Kashmir, or along the Thai-Cambodian border – have demonstrated.

Ensures macro-stability even if risk of miscalc is high

Allen Carlson, Cornell University Associate Professor, 2/21/13, China Keeps the Peace at Sea, www.foreignaffairs.com/articles/139024/allen-carlson/china-keeps-the-peace-at-sea?page=show

However, understanding that war would be a no-win situation, China has avoided rushing over the brink. This relative restraint seems to have surprised everyone. But it shouldn't. Beijing will continue to disagree with Tokyo over the sovereign status of the islands, and will not budge in its negotiating position over disputed territory. However, it cannot take the risk of going to war over a few rocks in the sea. On the contrary, in the coming months it will quietly seek a way to shelve the dispute in return for securing regional stability, facilitating economic development, and keeping a lid on the Pandora's box of rising nationalist sentiment. **The ensuing peace**, **while unlikely to be deep**, or especially conducive to improving Sino-Japanese relations, **will be enduring**.

# 1nr

## 2nc impact ov

And it’s crisis magnifier – draws in great powers to small conflicts

Edelman, Fellow – Center of Strategic and Budgetary Assessments, ‘11

(Eric, “Edelman, Krepinevich, and Montgomery Reply,” *Foreign Affairs* Vol. 9 Iss. 2, March/April)

Ultimately, if Tehran does cross the nuclear threshold and Israel chooses to live with a nuclear-armed Iran, one of the principal objectives of U.S. policy should be convincing Israel to maintain its policy of nuclear opacity for as long as possible. The benefit of a slightly more credible Israeli deterrent would not outweigh the added difficulties the United States would confront in seeking to limit a nuclear Iran's influence, preserve regional stability, and prevent additional proliferation.

A second important issue Adamsky raises is that Iran's acquisition of nuclear weapons would increase the threat that Israel faced from Iranian proxies such as Hamas and Hezbollah, either because Tehran would provide increased assistance and encouragement to these groups or because they would become more reckless once they had a nuclear-armed patron. A premeditated attack by Iran against Israel is not the only scenario that could lead to a nuclear exchange, or even the most plausible one. Instead, a limited conflict in southern Lebanon or the Gaza Strip might spiral out of control. Iranian proxies could escalate their attacks against Israel, assuming that it would be deterred by its fear of a nuclear Iran. Israel could then defy their expectations and conduct major reprisals to demonstrate its resolve, prompting Iran to make nuclear threats in defense of its clients. The results would be unpredictable and potentially disastrous. Although debates over Iran's nuclear program often turn on the issue of Iranian "rationality," it is important to remember that there are many different paths to conflict, and the dynamics of Iranian-Israeli relations could be prone to miscalculation and escalation.

Perception of deal failure independently causes global conflict

PressTV 11/13“Global nuclear conflict between US, Russia, China likely if Iran talks fail,” http://www.presstv.ir/detail/2013/11/13/334544/global-nuclear-war-likely-if-iran-talks-fail/

A global conflict between the US, Russia, and China is likely in the coming months should the world powers fail to reach a nuclear deal with Iran, an American analyst says.

“If the talks fail, if the agreements being pursued are not successfully carried forward and implemented, then there would be enormous international pressure to drive towards a conflict with Iran before [US President Barack] Obama leaves office and that’s a very great danger that no one can underestimate the importance of,” senior editor at the Executive Intelligence Review Jeff Steinberg told Press TV on Wednesday.

“The United States could find itself on one side and Russia and China on the other and those are the kinds of conditions that can lead to miscalculation and general roar,” Steinberg said.

“So the danger in this situation is that if these talks don’t go forward, we could be facing a global conflict in the coming months and years and that’s got to be avoided at all costs when you’ve got countries like the United States, Russia, and China with” their arsenals of “nuclear weapons,” he warned.

**Turns norms**

**Daremblum 11** (Jaime, Hudson Institute senior fellow, 10/25/11, “Iran Dangerous Now, Imagine it Nuclear,” Real Clear World, accessed 10/3/13, http://www.hudson.org/index.cfm?fuseaction=publication\_details&id=8439, kns)

What would it mean if such a regime went nuclear? Let's assume, for the sake of argument, that a nuclear-armed Iran would never use its atomic weapons or give them to terrorists. Even under that optimistic scenario, Tehran's acquisition of nukes would make the world an infinitely more dangerous place. For one thing, it would surely spark a wave of proliferation throughout the Greater Middle East, with the likes of Turkey, Egypt, and Saudi Arabia - all Sunni-majority Muslim countries - going nuclear to counter the threat posed by Shiite Persian Iran. For another, it would gravely weaken the credibility of U.S. security guarantees. After all, Washington has repeatedly said that the Islamic Republic will not be permitted to get nukes. If Tehran demonstrated that these warnings were utterly hollow, rival governments and rogue regimes would conclude that America is a paper tiger. Once Tehran obtained nuclear weapons, it would have the ultimate trump card, the ultimate protection against outside attack. Feeling secure behind their nuclear shield, the Iranians would almost certainly increase their support for global terrorism and anti-American dictatorships. They would no longer have to fear a U.S. or Israeli military strike. Much like nuclear-armed North Korea today, Iran would be able to flout international law with virtual impunity. If America sought to curb Iranian misbehavior through economic sanctions, Tehran might well respond by flexing its muscles in the Strait of Hormuz. As political scientist Caitlin Talmadge explained in a 2008 analysis, "Iranian closure of the Strait of Hormuz tops the list of global energy security nightmares. Roughly 90 percent of all Persian Gulf oil leaves the region on tankers that must pass through this narrow waterway opposite the Iranian coast, and land pipelines do not provide sufficient alternative export routes. Extended closure of the strait would remove roughly a quarter of the world's oil from the market, causing a supply shock of the type not seen since the glory days of OPEC." Think about that: The world's leading state sponsor of terrorism has the ability to paralyze destabilize the global economy, and, if not stopped, it may soon have nuclear weapons. As a nuclear-armed Iran steadily expanded its international terror network, the Western Hemisphere would likely witness a significant jump in terrorist activity. Tehran has established a strategic alliance with Venezuelan leader Hugo Chávez, and it has also developed warm relations with Chávez acolytes in Bolivia, Ecuador, and Nicaragua while pursuing new arrangements with Argentina as an additional beachhead in Latin America Three years ago, the U.S. Treasury Department accused the Venezuelan government of "employing and providing safe harbor to Hezbollah facilitators and fundraisers." More recently, in July 2011, Peru's former military chief of staff, Gen. Francisco Contreras, told the Jerusalem Post that "Iranian organizations" are aiding and cooperating with other terrorist groups in South America. According to Israeli intelligence, the Islamic Republic has been getting uranium from both Venezuela and Bolivia. Remember: Tehran has engaged in this provocative behavior without nuclear weapons. Imagine how much more aggressive the Iranian dictatorship might be after crossing the nuclear Rubicon. It is an ideologically driven theocracy intent on spreading a radical Islamist revolution across the globe. As the Saudi plot demonstrates, no amount of conciliatory Western diplomacy can change the fundamental nature of a regime that is defined by anti-Western hatred and religious fanaticism.

Turns terror

Inbar, 6

[Efraim, Professor of Political Science at Bar-Ilan University and the Director of the Begin-Sadat (BESA) Center for Strategic Studies. “ THE NEED TO BLOCK A NUCLEAR IRAN,” Middle East Review of International Affairs, Vol. 10, No. 1 (March 2006)]

 Furthermore, as the nuclear taboo is eroding at the interstate level, Iran, or a faction, or even individual officials in the government may decide to pass a nuclear device to a terrorist organization, such as Hamas or Hizballah, to be used against Israel or a "heretic" (Muslim or Christian) regime.23 This possibility is intensified by the fact that the weapons are apparently institutionally under the control of hardliners even in the context of the Iranian government, such as the Islamic Revolutionary Guard Corps. The "crazy state" posture may be conducive toward Iranian nuclear largesse to other radical Islamic groups operating outside the Middle East. The Iranians have used proxies to carry out attacks against their enemies in the past. An indirect mode of operation would put many capitals in the world in danger and make Iran a somewhat less likely subject to retaliation. In any case, a nuclear Iran might provide emboldened global Jihadist terrorist groups a haven where they think they are immune to Western reach.

 A nuclear Iran would also enhance Iranian hegemony in the strategic energy sector, by its mere location along the oil-rich Persian Gulf area and the Caspian Basin. These two adjacent regions form the "energy ellipse," which holds over 70 percent of the world's proven oil and over 40 percent of natural gas reserves.24 Giving revolutionary Iran a better ability to intimidate the governments controlling parts of this huge energy reservoir would further strengthen Iran’s position in the region and world affairs. Such a position would also make Iran's containment even more difficult and would necessarily embolden Islamic radicals everywhere.

## --1nr UQ Wall

Obama is handling senate dems now – preventing a new sanctions bill

UPI 1/16 [“Senator: Obama makes 'powerful' case against more sanctions on Iran,” http://www.upi.com/Top\_News/US/2014/01/16/Senator-Obama-makes-powerful-case-against-more-sanctions-on-Iran/UPI-65461389879186/#ixzz2qbBeto3e]

WASHINGTON, Jan. 16 (UPI) -- President Obama urged U.S. Senate Democrats not to impose more sanctions against Iran, saying they could harm negotiations on the country's nuclear program.¶ One senator who attended the meeting Wednesday said Obama's case was "**one of the most powerful arguments" about the issue he had ever heard from the president,** CNN reported.¶ "They discussed Iran and the president made the case for why new sanctions legislation now would hurt us," a senior administration official told CNN.¶ A six-month interim agreement with Iran begins Monday. Under terms of the deal, Iran must dismantle or freeze some of its nuclear program and allow more international inspections in return for limited relief from international sanctions.¶ If all goes as planned, negotiators from Iran, the United States, France, Russia, China, Britain and Germany will seek a broader agreement to prevent Tehran from developing a nuclear weapon.¶ However, pro-Israel members of Congress want additional sanctions against Iran that would take effect if the talks break down.¶ "The president did speak passionately about a way to seize this opportunity that we have," said Sen. Jeff Merkley, D-Ore., after the meeting. "If Iran isn't willing in the end to make the decisions necessary to make it work, he'll be ready to sign a bill to tighten those sanctions. But we've got to give this six months."¶ **Merkley told Politico the mood generally was "quite supportive" of Obama's position**

Obama’s pressuring Dems effectively now to avoid sanctions

JOSH LEDERMAN, Associated Press, 1/16 [“Obama Urges Senate Dems to Put off Iran Sanctions,” http://abcnews.go.com/Politics/wireStory/obama-dems-act-congress-21550602?singlePage=true]

President Barack **Obama implored Democratic senators Wednesday to put off new sanctions against Iran that he warned could derail delicate nuclear talks**. Regrouping at the start of a busy election year, Obama also encouraged Democrats to coalesce behind a proposed minimum wage hike as a cornerstone of the party's economic message to voters.¶ An evening session in the East Room of the White House offered Obama an opportunity to deliver a message privately and in person that his administration has been making publicly for weeks: Give budding negotiations with Tehran time to play out before turning the screw further. A six-month deal between Iran and world powers takes effect next week, but prominent senators in both parties have balked at the deal and want even tougher sanctions.¶ "The president did speak passionately about how we have to seize this opportunity," Sen. Jeff Merkley, D-Ore., said. "If Iran isn't willing in the end to make the decisions that are necessary to make it work, he'll be ready to sign the bill to tighten those sanctions. But we've got to give this six months."¶ Two senators who attended the meeting said Democrats present seemed receptive to Obama's appeal — even some hawkish Democrats who have vocally advocated for moving ahead with new sanctions. That sentiment reflected a growing sense on Capitol Hill that lawmakers will likely take a wait-and-see approach before putting new sanctions into effect.¶ Wednesday's meeting came as Obama is seeking to set a positive tone for 2014, in which Senate Democrats will be fighting to retain their fragile majority despite concerns that Obama's low approval ratings and his health care law may weigh them down. Obama apologized that the calamitous roll-out of the HealthCare.gov website has inflicted political damage on Democrats, but urged senators to focus on the millions of Americans who are gaining health care under the law, senators said.¶ Later this month Obama will deliver his State of the Union address, in which he is expected to lay out an agenda focused on reducing income inequality that the president hopes will form a persuasive campaign theme — if fellow Democrats remain united. Republicans appear to have taken notice, with some GOP senators rolling out their own proposals to fight poverty.

Obama has won over hawkish dems

Burgess Everett, politico, 1/15 [“Obama talks Iran with senators,” http://www.politico.com/story/2014/01/obama-talks-iran-with-senators-102249.html?hp=l1]

President Barack Obama hosted Senate Democrats at White House on Wednesday in an effort to synchronize legislative and political strategies — and talk about the divisive issue of Iran sanctions.¶ ¶ The White House has notably split with more than a dozen Democratic senators including Chuck Schumer of New York and Robert Menendez of New Jersey on whether a new round of economic penalties are needed as the U.S. attempts to negotiate a long-term deal to wind down Iran’s nuclear ambitions.¶ ¶ On Wednesday evening, Obama delivered a “strong message” that the Senate must continue to hold off on new sanctions while negotiations continue and a six-month interim agreement is implemented, a source briefed on the meeting said. The source added that the back and forth on Iran was “not contentious.”¶ ¶ “The president did speak passionately about a way to seize this opportunity that we have,” said Sen. Jeff Merkley (D-Ore.) after the meeting. “If Iran isn’t willing in the end to make the decisions necessary to make it work, he’ll be ready to sign a bill to tighten those sanctions. But we’ve got to give this six months.”¶ ¶ **Merkley described the general mood as “quite supportive” of Obama’s position**, even with powerful Senate Democrats pressing for new sanctions in the room.¶ ¶ The meeting lasted for more than two hours, much of it in a question-and-answer format. In addition to taking questions on Iran, Obama discussed with the 55-member caucus the need to raise the minimum wage, improve education, immigration and maintain a Democratic-controlled Senate¶ ¶ President Barack Obama hosted Senate Democrats at the White House on Wednesday in an effort to **synchronize legislative and political strategies** — and talk about the divisive issue of Iran sanctions.¶ ¶ The White House has notably split with more than a dozen Democratic senators including Chuck Schumer of New York and Robert Menendez of New Jersey on whether a new round of economic penalties are needed as the U.S. attempts to negotiate a long-term deal to wind down Iran’s nuclear ambitions.

## --at: veto solves

The veto isn’t an absolute check – strong conservative voices threaten to make dems look soft before midterms

The Economist 1/16 [“Mr Obama’s Iran problem,” http://www.economist.com/news/united-states/21594295-congress-not-helping-president-deal-islamic-republic-mr-obamas-iran-problem]

Now Iran is again causing angst in Washington. Barack Obama faces acute, bipartisan scepticism in Congress, after his envoys joined other world powers in brokering an interim nuclear agreement with the Islamic Republic. This is due to take effect on January 20th, easing international sanctions in exchange for slowing Iran’s nuclear work, and buying time for a more comprehensive deal. At the time of writing 59 of 100 senators say they back a proposal to hold extra sanctions over Iran’s head, despite warnings from Mr Obama that if Congress votes for new sanctions Iran may abandon the talks. **That means Senate sceptics are not far from the two-thirds majority they need to override Mr Obama’s threat of a veto**. (The Republican-controlled House of Representatives strongly backs tougher sanctions, either because members think the Iranians are bluffing about walking out, or because their favoured Iran strategy involves regime change.) Team Obama has let rip, asserting that passing new sanctions—even ones whose bite is suspended—will wreck talks, shatter international unity over Iran and trigger a “march toward war”. A National Security Council staffer said that if some members of Congress want military action against Iran, “they should be upfront with the American public and say so.”¶ Some of the forces at work have changed little since 2007. Friends such as Israel and allies such as Saudi Arabia still believe that Iran is a rogue power that will always break nuclear promises. Many members of Congress sincerely loathe Iran’s regime, partly because it sponsors terrorism and tortures dissidents, but also, perhaps, because of a sense that Iran bested America in the battle for influence in post-Saddam Iraq. If the Iranian government of President Hassan Rohani presents a smiling face to the world, many American lawmakers see that as a trick or as a sign that existing tough sanctions have worked, making it imperative to keep a boot on the regime’s neck, while reminding Iran that fresh cheating will be punished.¶ Another constant is domestic politics, especially in a mid-term election year. An influential pro-Israel group, the American Israel Public Affairs Committee (AIPAC), has been lobbying members of Congress to keep the pressure on Iran. So have members of the People’s Mujahedeen of Iran (often known by the Persian acronym MEK), a group with a violent past whose opposition to the Iranian regime has nonetheless earned it allies in Congress. Lastly, cynicism remains a lodestar. Democratic leaders in the Senate are not rushing to put plans for extra sanctions to a vote, and insiders say that suits some senators very well. **For such opportunists, co-sponsoring a sanctions bill that goes nowhere is an ideal outcome**: it avoids hard foreign-policy trade-offs, while warding off attack ads that call them soft on Iran.

## --2NC Link Wall

Limiting drone authority causes a congressional-executive turf war.

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.

Obama will fight Congress on drones—empirically tied to the issue.

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.

There’s no constituency for the link turn.

## --a2: no prolif

A nuclear Iran makes an already volatile middle east even more conflict prone – diplomacy and pressure are key

Colin H. Kahl, Senior Fellow at the Center for a New American Security focusing on Middle East security and defense policy and Associate Professor at Georgetown SFS, 12 [Response to Iran and the Bomb, “One Step Too Far,” Foreign Affairs, Reviews and Responses, Septempber/October, pp 157-160]

Because Waltz is sanguine about the effects of Iranian nuclearization, he concludes that “the United States and its allies need not take such pains to prevent the Iranians from developing a nuclear weapon.” Waltz believes that the only utility of continued diplomacy is to maintain “open lines of communication,” which “will make the Western countries feel better able to live with a nuclear Iran,” and he argues that “the current sanctions on Iran can be dropped.”

Waltz is wrong. The threat from a nuclear-armed Iran might not be as grave as some suggest, but it would make an already volatile Middle East even more conflict-prone. Preventing Iran from crossing the nuclear threshold should therefore remain a top U.S. priority. Because a preventive military attack on Iran’s nuclear infrastructure could itself set off a series of unpredictable and destabilizing consequences, the best and most sustainable solution to Iran’s nuclear challenge is to seek a negotiated solution through a combination of economic pressure and diplomacy. It is possible to oppose a rush to war with Iran without arguing, as Waltz does, that a nuclear-armed Iran would make the world a better place.

## --a2: iran blocks

Iran won’t scuttle

Scott Peterson, 9/23/13, Will Iran's charm offensive to the US be blocked - by Iran?, www.csmonitor.com/World/Security-Watch/2013/0923/Will-Iran-s-charm-offensive-to-the-US-be-blocked-by-Iran

Could a spoiling action happen again? Not too effectively, some say, **because Khamenei himself has backed Rouhani’s outreach** strategy in ways that he never stood behind Khatami. That view is also a turnaround for Khamenei, who earlier this year berated the US and ruled out any direct talks.

“The extremists over here have lost their teeth,” says a source in Tehran who has observed Iranian politics for three decades. “An**y [spoiler] action anyone tries like that would be cut off at the knees right away.** Whoever would do that would be pretty much ending their own career.”

The new approach is already bearing initial fruit: In New York today, Iran’s Foreign Minister Mohammad Javad Zarif met with EU foreign policy chief Catherine Ashton. That prompted an invitation to meet in coming days with foreign ministers of world powers negotiating with Iran – including US Secretary of State John Kerry.

Ms. Ashton said today: “I was struck by the energy and determination on the part of the minister.”