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## DA 1

Sanctions push has run aground, but GOP is strategizing to revive the push

Greg Sargent, WaPo, 2/3/14, Another big blow to the Iran sanctions bill, www.washingtonpost.com/blogs/plum-line/wp/2014/02/03/another-big-blow-to-the-iran-sanctions-bill/

**The push for a new Iran sanctions bill may have stalled in the Senate, but it’s still alive and kicking** in the House, where **leaders are telling members such a measure could still be considered** this year. Indeed, proponents of more sanctions appear to be clinging to the hope that if something passes the House with broad bipartisan support, it could pressure the Senate to act. But here’s something that could help block that from happening — in the process delivering yet another big blow to the prospects of a new Iran sanctions measure. I’m told more than 70 House Dems — from a diverse ideological background — have now signed a new letter coming out against any new sanctions measure and calling for diplomacy to be given a chance. This represents the first public statement from House Dems **en masse** against the measure and for diplomacy, matching what we’ve been seeing in the Senate. Here’s the text, which hasn’t yet been released but was sent over by a source: Dear Mr. President: As Members of Congress — and as Americans — we are united in our unequivocal commitment to prevent Iran from obtaining a nuclear weapon. The proliferation of nuclear weapons in the Middle East would threaten the security of the United States and our allies in the region, particularly Israel. The ongoing implementation of the Joint Plan of Action agreed to by Iran and the “P5+1 nations last November increases the possibility of a comprehensive and verifiable international agreement. We understand that there is no assurance of success and that, if talks break down or Iran reneges on pledges it made in the interim agreement, Congress may be compelled to act as it has in the past by enacting additional sanctions legislation. At present, however, we believe that Congress must give diplomacy a chance. A bill or resolution that risks fracturing our international coalition or, worse yet, undermining our credibility in future negotiations and jeopardizing hard-won progress toward a verifiable final agreement, must be avoided. We remain wary of the Iranian regime. But we believe that robust diplomacy remains our best possible strategic option, and we commend you and your designees for the developments in Geneva. Should negotiations fail or falter, nothing precludes a change in strategy. But we must not imperil the possibility of a diplomatic success before we even have a chance to pursue it. Dem Rep. Lloyd Doggett — a senior member of the House Ways and Means Committee who spearheaded this letter along with Dem Rep. David Price – tells me in a statement: “Iranian hard liners may ultimately obstruct a meaningful permanent agreement, but Congress should not give them a pretext for doing so. The support for this letter from a broad and growing coalition of more than 70 Members sends a strong signal that Democrats stand for peace and diplomacy.” Aides who have seen the letter tell me it’s been signed by some prominent Jewish Democrats and at least one member of the Dem leadership (James Clyburn). This comes after former Secretary of State Hillary Clinton (belatedly) weighed in against the sanctions bill, another blow to its prospects. While it does appear that the push for a sanctions vote has run aground, **it’s worth reiterating** that if something goes wrong in the talks, those who want a vote — including **Republicans** who **appear to be using this as a way to divide Dems**, **and** Democrats who refuse to be swayed by the administration’s insistence that a vote could derail diplomacy — **could have a hook to** revive their push. Eric Cantor is still said to want to move an Iran sanctions bill, and Dems have been wary of the possibility that Steny Hoyer — the number two Dem in the House — could join Cantor’s effort, thus giving it bipartisan legitimacy and perhaps leading more Dems to support it. The new letter from around six dozen House Dems opposing such a move could make that outcome that much less likely — particularly if it continues to pick up more signatures.

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.

The GOP will exploit this to flip Democratic votes on Iran—causes sanctions

Josh Rogin, Daily Beast, 2/5/14, GOP Will Force Reid to Save Obama’s Iran Policy—Over and Over Again, www.thedailybeast.com/articles/2014/02/05/gop-will-force-reid-to-save-obama-s-iran-policy-over-and-over-again.html

Dozens of Republican senators joined Wednesday to demand that Harry Reid allow a floor vote on a new Iran sanctions bill. If he doesn’t, they are planning to make his life miserable.

The Republican Senate caucus is planning to use every parliamentary trick in the book to push Senate Majority Leader Harry Reid to allow a floor vote on a new Iran sanctions bill that the Obama administration strenuously opposes. The Obama White House has succeeded in keeping most Democrats in line against supporting quick passage of the “Nuclear Weapon Free Iran Act,” which currently has 59 co-sponsors, including 13 Democrats. Reid has faithfully shelved the bill, pending the outcome of negotiations between Iran and the world’s major powers—the so-called “P5+1.” But tomorrow, Republicans plan to respond by using an array of floor tactics—including bringing up the bill and forcing Reid to publicly oppose it—as a means of putting public pressure on Reid and Democrats who may be on the fence. “Now we have come to a crossroads. Will the Senate allow Iran to keep its illicit nuclear infrastructure in place, rebuild its teetering economy and ultimately develop nuclear weapons at some point in the future?” 42 GOP senators wrote in a letter sent to Reid late Wednesday and obtained by The Daily Beast. “The answer to this question will be determined by whether you allow a vote on S. 1881, the bipartisan Nuclear Weapon Free Iran Act, which is cosponsored by more than half of the Senate.” The GOP letter calls on Reid to allow a vote on the bill during the current Senate work period—in other words, before the chamber’s next recess. Senate GOP aides said that until they get a vote, **GOP senators are planning to** use a number of procedural tools at their disposal to **keep this issue** front and center **for Democrats**. Since the legislation is already on the Senate’s legislative calendar, any senator can bring up the bill for a vote at any time and force Democrats to publicly object. Senators can also try attaching the bill as an amendment to future bills under consideration. Senate Minority Leader Mitch McConnell has been a harsh critic of Reid’s shelving of the bill, so he could demand a vote on it as a condition of moving any other legislation. If those amendments are blocked by Reid, Senators can then go to the floor and make speech after speech calling out Reid for ignoring a bill supported by 59 senators—and calling on fence-sitting Democrats to declare their position on the bill. “This letter is a final warning to Harry Reid that if Democrats want to block this bipartisan legislation, they will own the results of this foreign policy disaster,” one senior GOP senate aide said. The Republican senators believe, based on recent polls, that the majority of Americans support moving forward with the Iran sanctions bill now. They also believe that if Reid did allow a vote, the bill would garner more than the 59 votes of its co-sponsors and that Democrats vulnerable in 2014 races would support it, **pushing the vote total past a veto-proof two-thirds supermajority**.

New sanctions cause negotiation collapse and Middle East War

Rachel Kleinfeld, Carnegie Endowment For International Peace, 1/31/14, Sanctions Could Disrupt Negotiations With Iran, carnegieendowment.org/2014/02/03/sanctions-could-disrupt-negotiations-with-iran/h02v

Facing skyrocketing inflation, a collapsing currency and a sudden loss of imported goods, Iranians voted last year to kick out Mahmoud Ahmadinejad and elected a government they thought might jump-start their economy.

The new government of President Hassan Rouhani is not "moderate" - but it is practical**. It would like a nuclear weapon, but it wants economic relief more**. Rouhani knows his only bargaining chip to end sanctions is to stop the nuclear weapons program.

But the Rouhani government is on a short leash. Iran's supreme leader, Ali Khamenei, holds the ultimate power - and he is skeptical that a deal can be struck. Hardliners in Iran who benefit from sanctions are against it, as are many in the U.S. Congress. Khamenei needs to walk a careful line: If he looks like he's capitulating too much, then he'll face domestic backlash. He knows he has only a few months to deliver.

That is why the congressional threat of more sanctions - even if they take effect only if the deal fails - is so dire. Hardliners and Khamenei will take such legislation as proof that the United States wants regime change, not an end to Iran's nuclear program. Rouhani himself has said that if sanctions legislation passes, negotiations are off.

So why have more than 50 senators signed up as co-sponsors of new sanctions? Some do want regime change. So would we all - Iran is a noxious, terrorist-supporting, human-rights-destroying government. But regime change wouldn't end the security threat. Even the "Green Movement" that marched for democracy a few years ago wanted to obtain a nuclear weapon.

Others think that sanctions got Iran to the negotiating table, so more sanctions will push them even harder. This is a miscalculation. Negotiations have begun. Iran has allowed nuclear inspectors to seal up their nuclear plants. More sanctions will simply seem like bad faith on our part. They also could provide the excuse other countries are looking for to break with the sanctions regime. Bans on oil imports are causing real economic hardship to allies such as Japan who depended on Iran for much of their energy, and export bans are hurting European companies desperate to restart growth. If the United States looks like the bad guy, these governments are likely to give in to domestic pressure and reduce their sanctions against Iran.

Finally, the American Israel Public Affairs Committee is lobbying Congress hard with the message that a vote against sanctions is a vote against Israel. To me, as a Jew and a Zionist, this is not only hogwash: It is allowing an unelected American nongovernmental organization to wrap itself in the Israeli flag while suggesting actions that threaten Israel.

**If we cannot end Iran's nuclear program with diplomacy, we will end it through war**. Two years ago, the national security organization I founded worked with Pentagon planners on a simulation game to look at what would happen after the United States bombed Iran. In all the possible scenarios, Iran was likely to do one thing: attack Israel to open up a two-front war and further drag America into conflict in the Middle East. A vote for sanctions at this point is a vote for war - and for Iranian missile attacks on Israel.

Nuclear war

James A. **Russell,** Senior Lecturer, National Security Affairs, Naval Postgraduate School, ‘9 (Spring) “Strategic Stability Reconsidered: Prospects for Escalation and Nuclear War in the Middle East” IFRI, Proliferation Papers, #26, http://www.ifri.org/downloads/PP26\_Russell\_2009.pdf

Strategic stability in the region is thus undermined by various factors: (1) asymmetric interests in the bargaining framework that can introduce unpredictable behavior from actors; (2) the presence of non-state actors that introduce unpredictability into relationships between the antagonists; (3) incompatible assumptions about the structure of the deterrent relationship that makes the bargaining framework strategically unstable; (4) perceptions by Israel and the United States that its window of opportunity for military action is closing, which could prompt a preventive attack; (5) the prospect that Iran’s response to pre-emptive attacks could involve unconventional weapons, which could prompt escalation by Israel and/or the United States; (6) the lack of a communications framework to build trust and cooperation among framework participants. These systemic weaknesses in the coercive bargaining framework all suggest that escalation by any the parties could happen either on purpose or as a result of miscalculation or the pressures of wartime circumstance. Given these factors, it is disturbingly easy to imagine scenarios under which a conflict could quickly escalate in which the regional antagonists would consider the use of chemical, biological, or nuclear weapons. It would be a mistake to believe the nuclear taboo can somehow magically keep nuclear weapons from being used in the context of an unstable strategic framework. Systemic asymmetries between actors in fact suggest a certain increase in the probability of war – a war in which escalation could happen quickly and from a variety of participants. Once such a war starts, events would likely develop a momentum all their own and decision-making would consequently be shaped in unpredictable ways. The international community must take this possibility seriously, and muster every tool at its disposal to prevent such an outcome, which would be an unprecedented disaster for the peoples of the region, with substantial risk for the entire world.

## T

The aff must specify statutory or judicial restrictions—

“And/or” means one or the other or both

CED ‘9

(http://dictionary.reference.com/browse/and%2For)

and/or

— conj

( coordinating ) used to join terms when **either one or the other or both** is indicated: passports and/or other means of identification

Vote neg—plan text clarity key to specific negative ground and tests the core question of the resolution—where the authority is located—

Presumption

CMS ‘3

(http://www.chicagomanualofstyle.org/CMS\_FAQ/CapitalizationTitles/CapitalizationTitles32.html, accessed 10/16/07, re-accessed at http://www.chicagomanualofstyle.org/qanda/data/faq/topics/CapitalizationTitles/faq0015.html, 8/19/2013)

Q. When I refer to the government of the United States in text, should it be US Federal Government or US federal government? A. **The government of the** United States **is not a single official entity**. Nor is it when it is referred to as the federal government or the U.S. government or the U.S. federal government. It’s just a government, which, like those in all countries, has some official bodies that act and operate in the name of government: the Congress, the Senate, the Department of State, etc.

Aff conditionality – violates “Resolved”

Random House Unabridged Dictionary, 1997

(http://www.infoplease.com/dictionary/resolved)

firm in purpose or intent; determined

## DA 2

Drone court wrecks ops and creates perverse incentives for bad decisions

James Oliphant, deputy editor for National Journal, 13 [“Vetting the Kill List,” April 4, http://www.nationaljournal.com/magazine/vetting-the-kill-list-20130404]

To many following President Obama’s targeted-killing program, the idea of some formal oversight over the use of drones, some legal authority checking the administration’s conduct, seems prudent, even desirable. Americans are fundamentally suspicious people. Power unrestrained makes us edgy. It’s why we vote for divided government and gridlock, even though we like to complain about it. It’s why we don’t let police officers search our homes without a warrant.¶ To that mix, add some old-fashioned hysteria, courtesy of senators such as Rand Paul and Ted Cruz—who, in a matter of days last month, seemed to have convinced half the nation that Skynet was real, that malevolent drones were about to start cutting down U.S. citizens in line at Panera Bread—and it’s easy to see why some sort of outside monitor, a “drone court” if you will, might make sense.¶ The administration has inadvertently helped that argument by its **stubborn refusal to reveal even the smallest, most benign details of the counterterrorism program**. The stonewalling has fueled speculation that the process by which authorities select and kill targets is suspect, that the whole endeavor has an ad hoc quality about it. And even as administration officials have refuted this suspicion—reporters such as Newsweek’s Daniel Klaidman have pulled back the curtain on careful White House deliberations—a gnawing sense of unease lingers.¶ Civil libertarians and even hawks such as former Rep. Jane Harman of California, who served on the House Intelligence Committee, have suggested creating a court modeled on the one that signs off on federal wiretaps of suspected foreign agents. The Foreign Intelligence Surveillance Court in Washington operates in secret and requires the government to make a case before approving a tap. Harman and other proponents say such a body could review names on the “kill list” and weigh in on whether they merit inclusion based on the White House’s criteria for targeting potential threats. Robert Gates, the former Defense secretary, also favors such an approach.¶ But even among supporters, no consensus exists on what questions a drone court would actually review or even whether its scrutiny would come before or after a strike. The most problematic scenario involves any sort of preoperational clearance. Possible windows for action open and shut in a matter of hours. The kill lists are constantly being revised and updated. Even many of those who argue for some sort of oversight mechanism, such as University of Texas law professor Robert Chesney, **don’t believe a judge should be involved when it comes to “pulling the trigger**.”¶ Still, Chesney says such a court could still vet the names on the list in advance to ensure the administration is following its own guidelines for a strike: the target is connected to al-Qaida; he poses some threat of “imminent” harm; and the government is operating within its legal authority. “Whether and when to fire is a totally separate question,” Chesney says. (He notes that there’s a range of disagreement over how the administration classifies an “imminent” threat and whether a judge would be qualified to make that determination.)¶ But even that small degree of oversight, warns Gregory McNeal, a counterterrorism expert at Pepperdine University, risks throwing sand in the gears by extending the timeline of an op. And to McNeal, this point leads directly to the larger issue of accountability—or, to use the Washington synonym, blame. **Judges,** he says, **simply aren’t ever going to be equipped to identify and navigate the variables involved in a drone strike**.¶ Jeh Johnson, formerly the Obama administration’s top lawyer at the Pentagon, expressed his discomfort with court-based oversight in a speech last month at Fordham University. Questions of feasibility and imminence, he said, “are up-to-the-minute, real-time assessments.” More important, Johnson emphasized, “we want military and national security officials to continually assess and reassess these two questions up until the last minute of the operation.” Given that reality, shifting the responsibility of a sign-off to a set of federal judges, who are unelected and serve for life, would allow the White House to escape the consequences of its actions, or more crucially, perhaps its failure to act if a target slips out of harm’s way and then masterminds an attack. Military decisions are, at heart, political ones, McNeal says, and they are rightly made by the branch of government whose top official, the president, faces voters. (A case in point: Republicans suffered at the ballot box in 2006 and 2008 as a result of the public’s displeasure with the Iraq war.) “If you’re a politician,” McNeal says of a drone court, “this is great. Because you aren’t on the hook for anything.”¶ By and large, federal judges don’t want to be in this position. They worry about damaging the integrity of the bench. Retired Judge James Robertson, who served on the U.S. Appeals Court in Washington, argued in The Washington Post that the Constitution forbids the judiciary from issuing advisory opinions. “Federal courts rule on specific disputes between adversary parties,” he wrote. “They do not make or approve policy; that job is reserved to Congress and the executive.” The FISA court is a different animal, because approving surveillance is related to Fourth Amendment protections on search warrants.¶ Still, Americans don’t have to grant the White House complete latitude to operate its targeted-killing program. Another idea that has marshaled some support is an inspector general empowered to **review operations after the fact**. If administration officials know that someone else ultimately will be auditing their decisions, Chesney says, that may be enough of a check on their conduct. Or as Ronald Reagan once put it: “Trust, but verify.”

Drone-based decapitation strategy key to prevent terrorist attacks

Johnston 12 (Patrick B. Johnston is an associate political scientist at the RAND Corporation, a nonprofit, nonpartisan research institution. He is the author of "Does Decapitation Work? Assessing the Effectiveness of Leadership Targeting in Counterinsurgency Campaigns," published in International Security (Spring 2012)., 8/22/2012, "Drone Strikes Keep Pressure on al-Qaida", www.rand.org/blog/2012/08/drone-strikes-keep-pressure-on-al-qaida.html)

Should the U.S. continue to strike at al-Qaida's leadership with drone attacks? A recent poll shows that while most Americans approve of drone strikes, in 17 out of 20 countries, more than half of those surveyed disapprove of them.

My study of leadership decapitation in 90 counter-insurgencies since the 1970s shows that when militant leaders are captured or killed militant attacks decrease, terrorist campaigns end sooner, and their outcomes tend to favor the government or third-party country, not the militants.

Those opposed to drone strikes often cite the June 2009 one that targeted Pakistani Taliban leader Baitullah Mehsud at a funeral in the Tribal Areas. That strike reportedly killed 60 civilians attending the funeral, but not Mehsud. He was killed later by another drone strike in August 2009. His successor, Hakimullah Mehsud, developed a relationship with the foiled Times Square bomber Faisal Shahzad, who cited drone strikes as a key motivation for his May 2010 attempted attack.

Compared to manned aircraft, drones have some advantages as counter-insurgency tools, such as lower costs, longer endurance and the lack of a pilot to place in harm's way and risk of capture. These characteristics can enable a more deliberative targeting process that serves to minimize unintentional casualties. But the weapons employed by drones are usually identical to those used via manned aircraft and can still kill civilians—creating enmity that breeds more terrorists.

Yet many insurgents and terrorists have been taken off the battlefield by U.S. drones and special-operations forces. Besides Mehsud, the list includes Anwar al-Awlaki of al-Qaida in the Arabian Peninsula; al-Qaida deputy leader Abu Yahya al-Li-bi; and, of course, al-Qaida leader Osama bin Laden. Given that list, it is possible that the drone program has prevented numerous attacks by their potential followers, like Shazad.

What does the removal of al-Qaida leadership mean for U.S. national security? Though many in al-Qaida's senior leadership cadre remain, the historical record suggests that "decapitation" will likely weaken the organization and could cripple its ability to conduct major attacks on the U.S. homeland.

Killing terrorist leaders is not necessarily a knockout blow, but can make it harder for terrorists to attack the U.S. Members of al-Qaida's central leadership, once safely amassed in northwestern Pakistan while America shifted its focus to Iraq, have been killed, captured, forced underground or scattered to various locations with little ability to communicate or move securely.

Recently declassified correspondence seized in the bin Laden raid shows that the relentless pressure from the drone campaign on al-Qaida in Pakistan led bin Laden to advise al-Qaida operatives to leave Pakistan's Tribal Areas as no longer safe. Bin Laden's letters show that U.S. counterterrorism actions, which had forced him into self-imposed exile, had made running the organization not only more risky, but also more difficult.

As al-Qaida members trickle out of Pakistan and seek sanctuary elsewhere, the U.S. military is ramping up its counterterrorism operations in Somalia and Yemen, while continuing its drone campaign in Pakistan. Despite its controversial nature, the U.S. counter-terrorism strategy has demonstrated a degree of effectiveness.

The Obama administration is committed to reducing the size of the U.S. military's footprint overseas by relying on drones, special operations forces, and other intelligence capabilities. These methods have made it more difficult for al-Qaida remnants to reconstitute a new safe haven, as Osama bin Laden did in Afghanistan in 1996, after his ouster from Sudan.

Extinction

Hellman 8 (Martin E. Hellman, emeritus prof of engineering @ Stanford, “Risk Analysis of Nuclear Deterrence” SPRING 2008 THE BENT OF TAU BETA PI, http://www.nuclearrisk.org/paper.pdf)

The threat of nuclear terrorism looms much larger in the public’s mind than the threat of a full-scale nuclear war, yet this article focuses primarily on the latter. An explanation is therefore in order before proceeding. A terrorist attack involving a nuclear weapon would be a catastrophe of immense proportions: “A 10-kiloton bomb detonated at Grand Central Station on a typical work day would likely kill some half a million people, and inflict over a trillion dollars in direct economic damage. America and its way of life would be changed forever.” [Bunn 2003, pages viii-ix]. The likelihood of such an attack is also significant. Former Secretary of Defense William Perry has estimated the chance of a nuclear terrorist incident within the next decade to be roughly 50 percent [Bunn 2007, page 15]. David Albright, a former weapons inspector in Iraq, estimates those odds at less than one percent, but notes, “We would never accept a situation where the chance of a major nuclear accident like Chernobyl would be anywhere near 1% .... A nuclear terrorism attack is a low-probability event, but we can’t live in a world where it’s anything but extremely low-probability.” [Hegland 2005]. In a survey of 85 national security experts, Senator Richard Lugar found a median estimate of 20 percent for the “probability of an attack involving a nuclear explosion occurring somewhere in the world in the next 10 years,” with 79 percent of the respondents believing “it more likely to be carried out by terrorists” than by a government [Lugar 2005, pp. 14-15]. I support increased efforts to reduce the threat of nuclear terrorism, but that is not inconsistent with the approach of this article. Because terrorism is one of the potential trigger mechanisms for a full-scale nuclear war, the risk analyses proposed herein will include estimating the risk of nuclear terrorism as one component of the overall risk. If that risk, the overall risk, or both are found to be unacceptable, then the proposed remedies would be directed to reduce which- ever risk(s) warrant attention. Similar remarks apply to a number of other threats (e.g., nuclear war between the U.S. and China over Taiwan). his article would be incomplete if it only dealt with the threat of nuclear terrorism and neglected the threat of full- scale nuclear war. If both risks are unacceptable, an effort to reduce only the terrorist component would leave humanity in great peril. In fact, society’s almost total neglect of the threat of full-scale nuclear war makes studying that risk all the more important. The cosT of World War iii The danger associated with nuclear deterrence depends on both the cost of a failure and the failure rate.3 This section explores the cost of a failure of nuclear deterrence, and the next section is concerned with the failure rate. While other definitions are possible, this article defines a failure of deterrence to mean a full-scale exchange of all nuclear weapons available to the U.S. and Russia, an event that will be termed World War III. Approximately 20 million people died as a result of the first World War. World War II’s fatalities were double or triple that number—chaos prevented a more precise deter- mination. In both cases humanity recovered, and the world today bears few scars that attest to the horror of those two wars. Many people therefore implicitly believe that a third World War would be horrible but survivable, an extrapola- tion of the effects of the first two global wars. In that view, World War III, while horrible, is something that humanity may just have to face and from which it will then have to recover. In contrast, some of those most qualified to assess the situation hold a very different view. In a 1961 speech to a joint session of the Philippine Con- gress, General Douglas MacArthur, stated, “Global war has become a Frankenstein to destroy both sides. … If you lose, you are annihilated. If you win, you stand only to lose. No longer does it possess even the chance of the winner of a duel. It contains now only the germs of double suicide.” Former Secretary of Defense Robert McNamara ex- pressed a similar view: “If deterrence fails and conflict develops, the present U.S. and NATO strategy carries with it a high risk that Western civilization will be destroyed” [McNamara 1986, page 6]. More recently, George Shultz, William Perry, Henry Kissinger, and Sam Nunn4 echoed those concerns when they quoted President Reagan’s belief that nuclear weapons were “totally irrational, totally inhu- mane, good for nothing but killing, possibly destructive of life on earth and civilization.” [Shultz 2007] Official studies, while couched in less emotional terms, still convey the horrendous toll that World War III would exact: “The resulting deaths would be far beyond any precedent. Executive branch calculations show a range of U.S. deaths from 35 to 77 percent (i.e., 79-160 million dead) … a change in targeting could kill somewhere between 20 million and 30 million additional people on each side .... These calculations reflect only deaths during the first 30 days. Additional millions would be injured, and many would eventually die from lack of adequate medical care … millions of people might starve or freeze during the follow- ing winter, but it is not possible to estimate how many. … further millions … might eventually die of latent radiation effects.” [OTA 1979, page 8] This OTA report also noted the possibility of serious ecological damage [OTA 1979, page 9], a concern that as- sumed a new potentiality when the TTAPS report [TTAPS 1983] proposed that the ash and dust from so many nearly simultaneous nuclear explosions and their resultant fire- storms could usher in a nuclear winter that might erase homo sapiens from the face of the earth, much as many scientists now believe the K-T Extinction that wiped out the dinosaurs resulted from an impact winter caused by ash and dust from a large asteroid or comet striking Earth. The TTAPS report produced a heated debate, and there is still no scientific consensus on whether a nuclear winter would follow a full-scale nuclear war. Recent work [Robock 2007, Toon 2007] suggests that even a limited nuclear exchange or one between newer nuclear-weapon states, such as India and Pakistan, could have devastating long-lasting climatic consequences due to the large volumes of smoke that would be generated by fires in modern megacities. While it is uncertain how destructive World War III would be, prudence dictates that we apply the same engi- neering conservatism that saved the Golden Gate Bridge from collapsing on its 50th anniversary and assume that preventing World War III is a necessity—not an option.

## k

Legal restraints motivated by conflict narratives naturalize exceptional violence—the impact is endless intervention and WMD warfare

John Morrissey, Lecturer in Political and Cultural Geography, National University of Ireland, Galway; has held visiting research fellowships at University College Cork, City University of New York, Virginia Tech and the University of Cambridge. 2011, “Liberal Lawfare and Biopolitics: US Juridical Warfare in the War on Terror,” Geopolitics, Volume 16, Issue 2, 2011

In the ‘biopolitical nomos’ of camps and prisons in the Middle East and elsewhere, managing detainees is an important element of the US military project. As CENTCOM Commander General John Abizaid made clear to the Senate Armed Services Committee in 2006, “an essential part of our combat operations in both Iraq and Afghanistan entails the need to detain enemy combatants and terrorists”.115 However, it is a mistake to characterize as ‘exceptional’ the US military’s broader biopolitical project in the war on terror. Both Minca’s and Agamben’s emphasis on the notion of ‘exception’ is most convincing when elucidating how the US military has dealt with the ‘threat’ of enemy combatants, rather than how it has planned for, legally securitized and enacted, its ‘own’ aggression against them. It does not account for the proactive juridical warfare of the US military in its forward deployment throughout the globe, which rigorously secures classified SOFAs with host nations and protects its armed personnel from transfer to the International Criminal Court. Far from designating a ‘space of exception’, the US does this to establish normative parameters in its exercise of legally sanctioned military violence and to maximize its ‘operational capacities of securitization’.

A bigger question, of course, is what the US military practices of lawfare and juridical securitization say about our contemporary moment. Are they essentially ‘exceptional’ in character, prompted by the so-called exceptional character of global terrorism today? Are they therefore enacted in ‘spaces of exceptions’ or are they, in fact, simply contemporary examples of Foucault’s ‘spaces of security’ that are neither exceptional nor indeed a departure from, or perversion of, liberal democracy? As Mark Neocleous so aptly puts it, has the “liberal project of ‘liberty’” not always been, in fact, a “project of security”?116 This ‘project of security’ has long invoked a powerful political dispositif of ‘executive powers’, typically registered as ‘emergency powers’, but, as Neocleous makes clear, of the permanent kind.117 For Neocleous, the pursuit of ‘security’ – and more specifically ‘capitalist security’ – marked the very emergence of liberal democracies, and continues to frame our contemporary world. In the West at least, that world may be endlessly registered as a liberal democracy defined by the ‘rule of law’, but, as Neocleous reminds us, the assumption that the law, decoupled from politics, acts as the ultimate safeguard of democracy is simply false – a key point affirmed by considering the US military’s extensive waging of liberal lawfare. As David Kennedy observes, the military lawyer who “carries the briefcase of rules and restrictions” has long been replaced by the lawyer who “participate[s] in discussions of strategy and tactics”.118

The US military’s liberal lawfare reveals how **the rule of law is simply another securitization tactic in liberalism’s ‘pursuit of security’;** a pursuit that paradoxically eliminates fundamental rights and freedoms in the ‘name of security’.119 This is a ‘liberalism’ defined by what Michael Dillon and Julian Reid see as a commitment to waging ‘biopolitical war’ for the securitization of life – ‘killing to make live’.120 And for Mark Neocleous, (neo)liberalism’s fetishization of ‘security’ **– as both a discourse and a technique of government** – has resulted in a world defined by anti-democratic technologies of power.121 In the case of the US military’s forward deployment on the frontiers of the war on terror – and its juridical tactics to secure biopolitical power thereat – this has been **made possible by constant reference to a neoliberal ‘project of security’** registered in a language of ‘endless emergency’ to ‘secure’ the geopolitical and geoeconomic goals of US foreign policy.122 The US military’s continuous and indeed growing military footprint in the Middle East and elsewhere can be read as a ‘permanent emergency’,123 the new ‘normal’ in which geopolitical military interventionism and its concomitant biopolitical technologies of power are necessitated by the perennial political economic ‘need’ to securitize volatility and threat.

Conclusion: enabling biopolitical power in the age of securitization

“Law and force flow into one another. We make war in the shadow of law, and law in the shadow of force” – David Kennedy, Of War and Law 124

Can a focus on lawfare and biopolitics help us to **critique our contemporary moment’s proliferation of practices of securitization** – practices that appear to be primarily concerned with coding, quantifying, governing and anticipating life itself? In the context of US military’s war on terror, I have argued above that it can. If, as David Kennedy points out, the “emergence of a global economic and commercial order has amplified the role of background legal regulations as the strategic terrain for transnational activities of all sorts”, this also includes, of course, ‘warfare’; and for some time, the US military has recognized the “opportunities for creative strategy” made possible by proactively waging lawfare beyond the battlefield.125 As Walter Benjamin observed nearly a century ago, at the very heart of military violence is a “lawmaking character”.126 And it is this ‘lawmaking character’ that is integral to the biopolitical technologies of power that secure US geopolitics in our contemporary moment. US lawfare **focuses “the attention of the world on this or that excess**” whilst simultaneously arming “the most heinous human suffering **in legal privilege”,** redefining horrific violence as “collateral damage, self-defense, proportionality, or necessity”.127 It involves a mobilization of the law that is precisely channelled towards “**evasion**”, securing 23 classified Status of Forces Agreements and “offering at once the experience of safe ethical distance and careful pragmatic assessment, while **parcelling out responsibility, attributing it, denying it – even sometimes embracing it – as a tactic of statecraft and war”.128**

Since the inception of the war on terror, the US military has waged incessant lawfare to legally securitize, regulate and empower its ‘operational capacities’ in its multiples ‘spaces of security’ across the globe – whether that be at a US base in the Kyrgyz Republic or in combat in Iraq. I have sought to highlight here these tactics by demonstrating how the execution of US geopolitics relies upon a proactive legal-biopolitical securitization of US troops at the frontiers of the American ‘leasehold empire’. For the US military, legal-biopolitical apparatuses of security enable its geopolitical and geoeconomic projects of security on the ground; they plan for and **legally condition the ‘milieux’ of military commanders**; and in so doing they **render operational** **the pivotal spaces of overseas intervention of contemporary US national security conceived** in terms of ‘**global governmentality’**.129 In the US global war on terror, it is lawfare that facilitates what Foucault calls the “biopolitics of security” – when life itself becomes the “object of security”.130 For the US military, this involves the eliminating of threats to ‘life’, the creating of operational capabilities to ‘make live’ and the anticipating and management of life’s uncertain ‘future’.

Some of the most key contributions across the social sciences and humanities in recent years have divulged how discourses of ‘security’, ‘precarity’ and ‘risk’ function centrally in the governing dispositifs of our contemporary world.131 In a society of (in)security, such discourses have a profound power to invoke danger as “requiring extraordinary action”.132 In the ongoing war on terror, registers of emergency play pivotal roles in the justification of military securitization strategies, where ‘risk’, it seems, has become permanently binded to ‘securitization’. As Claudia Aradau and Rens Van Munster point out, the “perspective **of risk management”** seductively effects practices of military securitization to be seen as necessary, legitimate and indeed therapeutic.133 US tactics of liberal lawfare in the long war – the conditioning of the battlefield, the sanctioning of the privilege of violence, the regulating of the conduct of troops, the interpreting, negating and utilizing 24 of international law, and the securing of SOFAs – are vital security dispositifs of a broader ‘risk- securitization’ strategy involving the deployment of liberal technologies of biopower to “manage dangerous irruptions in the future”.134 It may well be fought beyond the battlefield in “a war of the pentagon rather than a war of the spear”,135 but it is lawfare that ultimately enables the ‘toxic combination’ **of US geopolitics and biopolitics defining the current age of securitization.**

Vote neg to debase the aff’s reliance securitized law in favor of democratic restraints on the President

Stephanie A. Levin 92, law prof at Hampshire College, Grassroots Voices: Local Action and National Military Policy, 40 Buff. L. Rev. 372

In this sense, what is important about federalism is not that it locates power "here" or "there" — not that some things are assigned irretrievably to the federal government or others to the states — but that it creates a tension about power, so that there are competing sources of authority rather than one unitary sovereign. Hannah Arendt has written that "perhaps the greatest American innovation in politics as such was the consistent abolition of sovereignty within the body politic of the republic, the insight that in the realm of human affairs sovereignty and tyranny are the same."194 Akhil Amar has expressed what is actually the same basic insight in a very different formulation, writing that the American innovation was to place sovereignty "in the People themselves. "I9S Whether one views unitary sovereignty as abolished or relocated to the people, the key point is that it is no longer considered to be in any unitary government. Governmental institutions are divided and kept in tension. At the federal level, this is the familiar doctrine of separation of powers. The same principle animates federalism. The tension is valued because it creates space for the expression of suppressed viewpoints and helps to prevent any one orthodoxy from achieving complete hegemony. Amar sums up the contribution that this governmental innovation makes to the liberty of the people by writing: "As with separation of powers, federalism enabled the American People to conquer government power by dividing it. Each government agency, state and national, would have incentives to win the principal's affections by monitoring and challenging the other's misdeeds."196 This is a compelling insight, but the way Professor Amar has framed it presents two difficulties for present purposes. First, by naming only the "state" and "national" governments, it ignores the field of local government action, a field particularly accessible to the direct involvement of the very citizens who constitute Amar's sovereign "People."197 Second, by making the subject of the verb the "government agency," the sentence makes it sound as if it were the "government agency" which acts, rather than recognizing that it is people who act though the agencies of government. Since the focus here is on federalism as a means of fostering civic participation, both of these qualifications are crucial. While state government will sometimes be an excellent locus for citizen action, often local government will provide the best forum for ordinary citizens to find their voices in civic conversation. And because the value of federalism for our purposes is in the enhanced opportunities it provides for citizen participation in policy development, the focus must be not on government institutions acting, but on people acting through them. In summary, three key attributes of participatory federalism must be highlighted. The first is that what is most important is not where government power is assigned — to the federal government, the states, or the localities — but the very fact that there are shared and overlapping powers. This dispersion of power means that the citizen is better protected from the dangers that are inherent in being subject to any one unitary sovereign.198 A second key attribute is that the value of this federalism lies not in the empowerment of government, but in the empowerment of people. Its animating purpose is not to add to or detract from the powers of any particular level of government, but to provide the most fruitful arrangements for enhancing the possibility of genuine citizen control over government. Third, the only meaningful measure of the success or failure of this type of federalism is the extent to which it contributes to increased opportunities for citizens to have a voice in government. This must be not at the level of deceptive abstraction — "the People speak" — but at the very concrete level of actual people with actual voices. The goal is for more people to be able to speak up in settings more empowering than their living rooms — and certainly state and local governments, while not the only possible settings, provide such an opportunity. In conclusion, these general principles of participatory federalism must be linked to the specific case of federalism in connection with military policy. The constitutional arrangements concerning military power which were described in Section II fit with these three attributes of participatory federalism quite well. The first attribute calls for dispersing power by sharing it. As has already been suggested, the military arrangements in the Constitution were designed to achieve exactly this sort of liberating tension between the national government's military powers and the decentralized state and locally-controlled institutions by which these powers were to be carried out. The second attribute calls for empowering people rather than governmental institutions. Here, too, the constitutional arrangements seem to fit. The purpose of the grants of power in the relevant constitutional clauses was not to endow any unit of government with the prerogatives of military power for its own sake. The reason for creating these powers was not to strengthen government but to protect the citizenry — to "provide for the common defense." Given this, it seems anomalous for the federal government — or any branch of the American government — to claim a right to control or use military violence as an inherent attribute of sovereignty.'99 The only justification for this power is in whether it contributes to the security of the citizens. Finally, the idea that federalism should serve the purpose of enhancing citizen voice can also be linked to decentralized arrangements for the control of military power. In the eighteenth century, as I have suggested earlier, the mechanism for expressing "voice" was physical: the militiamember showed up at muster, rifle on shoulder, to participate bodily in a "conversation" about military force.200 Today, it can be hoped that our civic conversation can be more verbal. However, we should translate the underlying meaning of the eighteenth century mechanism — a meaning of citizen participation and consent — into a modality more appropriate to contemporary life rather than relinquish it altogether. I would argue that such a translation leads to three central conclusions. The first is theoretical: we must challenge those mental preconceptions which favor totally centralized power in the military policy arena. We must stop seeing control over military power as belonging "naturally" to the federal government and even more narrowly to the executive branch within it. Instead, we must reconceptualize our understanding of the national arrangements to envision a dynamic and uncertain balance among different sources of power, not only among the three branches of the federal government, but between centralized and decentralized institutions of government as well.201 While the role of the federal government is, of course, crucial, the roles of the states and localities are more than interstitial and should not be allowed to atrophy. Only in this dynamic tension does the best protection for the citizenry lie.

## CP

The executive branch should establish ex ante transparency of targeted killing standards and procedures.

The United States federal government should maintain its current targeted killing program.

The status quo is always an option – proving the CP worse does not justify the plan. Logical decision-making is the most portable skill.

And, presumption remains negative—the counterplan is less change and a tie goes to the runner.

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

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

4. Procedural Requirements

Currently, officials in the executive branch carry out all such ex ante review of out-of-battlefield targeting and detention decisions, reportedly with the involvement of the President, but without any binding and publicly articulated standards governing the exercise of these authorities. n163 All ex post review of targeting is also done internally within the executive branch. There is no public accounting, or even acknowledgment, of most strikes, their success and error rates, or the extent of any collateral damage. Whereas the Department of Defense provides solatia or condolence payments to Afghan civilians who are killed or injured as a result of military actions in Afghanistan (and formerly did so in Iraq), there is no equivalent effort in areas outside the active conflict zone. n164

Meanwhile, the degree of ex post review of detention decisions depends on the location of detention as opposed to the location of capture. Thus, [\*1219] Guantanamo detainees are entitled to habeas review, but detainees held in Afghanistan are not, even if they were captured far away and brought to Afghanistan to be detained. n165

Enhanced ex ante and ex post procedural protections for both detention and targeting, coupled with transparency as to the standards and processes employed, serve several important functions: they can minimize error and abuse by creating time for advance reflection, correct erroneous deprivations of liberty, create endogenous incentives to avoid mistake or abuse, and increase the legitimacy of state action.

a. Ex Ante Procedures

Three key considerations should guide the development of ex ante procedures. First, any procedural requirements must reasonably respond to the need for secrecy in certain operations. Secrecy concerns cannot, for example, justify the lack of transparency as to the substantive targeting standards being employed. There is, however, a legitimate need for the state to protect its sources and methods and to maintain an element of surprise in an attack or capture operation. Second, contrary to oft-repeated rhetoric about the ticking time bomb, few, if any, capture or kill operations outside a zone of active conflict occur in situations of true exigency. n166 Rather, there is often the time and need for advance planning. In fact, advance planning is often necessary to minimize damage to one's own troops and nearby civilians. n167 Third, the procedures and standards employed must be transparent and sufficiently credible to achieve the desired legitimacy gains.

These considerations suggest the value of an independent, formalized, ex ante review system. Possible models include the Foreign Intelligence [\*1220] Surveillance Court (FISC), n168 or a FISC-like entity composed of military and intelligence officials and military lawyers, in the mode of an executive branch review board. n169

Created by the Foreign Intelligence Surveillance Act (FISA) in 1978, n170 the FISC grants ex parte orders for electronic surveillance and physical searches, among other actions, based on a finding that a "significant purpose" of the surveillance is to collect "foreign intelligence information." n171 The Attorney General can grant emergency authorizations without court approval, subject to a requirement that he notify the court of the emergency authorization and seek subsequent judicial authorization within seven days. n172 The FISC also approves procedures related to the use and dissemination of collected information. By statute, heightened restrictions apply to the use and dissemination of information concerning U.S. persons. n173 Notably, the process has been extraordinarily successful in protecting extremely sensitive sources and methods. To date, there has never been an unauthorized disclosure of an application to or order from the FISC court.

An ex parte review system for targeting and detention outside zones of active hostility could operate in a similar way. Judges or the review board would approve selected targets and general procedures and standards, while still giving operators wide rein to implement the orders according to the approved standards. Specifically, the court or review board would determine whether the targets meet the substantive requirements and would [\*1221] evaluate the overarching procedures for making least harmful means-determinations, but would leave target identification and time-sensitive decisionmaking to the operators. n174

Moreover, there should be a mechanism for emergency authorizations at the behest of the Secretary of Defense or the Director of National Intelligence. Such a mechanism already exists for electronic surveillance conducted pursuant to FISA. n175 These authorizations would respond to situations in which there is reason to believe that the targeted individual poses an imminent, specific threat, and in which there is insufficient time to seek and obtain approval by a court or review panel as will likely be the case in instances of true imminence justifying the targeting of persons who do not meet the standards applicable to operational leaders. As required under FISA, the reviewing court or executive branch review board should be notified that such an emergency authorization has been issued; it should be time-limited; and the operational decisionmakers should have to seek court or review board approval (or review, if the strike has already taken place) as soon as practicable but at most within seven days. n176

Finally, and critically, given the stakes in any application namely, the deprivation of life someone should be appointed to represent the potential target's interests and put together the most compelling case that the individual is not who he is assumed to be or does not meet the targeting criteria.

The objections to such a proposal are many. In the context of proposed courts to review the targeting of U.S. citizens, for example, some have argued that such review would serve merely to institutionalize, legitimize, and expand the use of targeted drone strikes. n177 But this ignores the reality of their continued use and expansion and imagines a world in which targeted [\*1222] killings of operational leaders of an enemy organization outside a zone of active conflict is categorically prohibited (an approach I reject n178). If states are going to use this extraordinary power (and they will), there ought to be a clear and transparent set of applicable standards and mechanisms in place to ensure thorough and careful review of targeted-killing decisions. The formalization of review procedures along with clear, binding standards will help to avoid ad hoc decisionmaking and will ensure consistency across administrations and time.

Some also condemn the ex parte nature of such reviews. n179 But again, this critique fails to consider the likely alternative: an equally secret process in which targeting decisions are made without any formalized or institutionalized review process and no clarity as to the standards being employed. Institutionalizing a court or review board will not solve the secrecy issue, but it will lead to enhanced scrutiny of decisionmaking, particularly if a quasi-adversarial model is adopted, in which an official is obligated to act as advocate for the potential target.

That said, there is a reasonable fear that any such court or review board will simply defer. In this vein, FISC's high approval rate is cited as evidence that reviewing courts or review boards will do little more than rubber-stamp the Executive's targeting decisions. n180 But the high approval rates only tell part of the story. In many cases, the mere requirement of justifying an application before a court or other independent review board can serve as an internal check, creating endogenous incentives to comply with the statutory requirements and limit the breadth of executive action. n181 Even if this system does little more than increase the attention paid to the stated requirements and expand the circle of persons reviewing the factual basis for the application, those features in and of themselves can lead to increased reflection and restraint.

Additional accountability mechanisms, such as civil or criminal sanctions in the event of material misrepresentations or omissions, the granting of far-reaching authority to the relevant Inspectors General, and meaningful ex post review by Article III courts, n182 are also needed to help further minimize abuse.

Conversely, some object to the use of courts or court-like review as stymying executive power in wartime, and interfering with the President's Article II powers. n183 According to this view, it is dangerous and potentially unconstitutional to require the President's wartime targeting decisions to be subject to additional reviews. These concerns, however, can be dealt with through emergency authorization mechanisms, the possibility of a presidential override, and design details that protect against ex ante review of operational decisionmaking. The adoption of an Article II review board, rather than an Article III-FISC model, further addresses some of the constitutional concerns.

Some also have warned that there may be no "case or controversy" for an Article III, FISC-like court to review, further suggesting a preference for an Article II review board. n184 That said, similar concerns have been raised with respect to FISA and rejected. n185 Drawing heavily on an analogy to courts' roles in issuing ordinary warrants, the Justice Department's Office of Legal Counsel concluded at the time of enactment that a case and controversy existed, even though the FISA applications are made ex parte. n186 [\*1224] Here, the judges would be issuing a warrant to kill rather than surveil. While this is significant, it should not fundamentally alter the legal analysis. n187 As the Supreme Court has ruled, killing is a type of seizure. n188 The judges would be issuing a warrant for the most extreme type of seizure. n189

It is also important to emphasize that a reviewing court or review board would not be "selecting" targets, but determining whether the targets chosen by executive branch officials met substantive requirements much as courts do all the time when applying the law to the facts. Press accounts indicate that the United States maintains lists of persons subject to capture or kill operations lists created in advance of specific targeting operations and reportedly subject to significant internal deliberation, including by the President himself. n190 A court or review board could be incorporated into the existing ex ante decisionmaking process in a manner that would avoid interference with the conduct of specific operations reviewing the target lists but leaving the operational details to the operators. As suggested above, emergency approval mechanisms could and should be available to deal with exceptional cases where ex ante approval is not possible.

Additional details will need to be addressed, including the temporal limits of the court's or review board's authorizations. For some high-level operatives, inclusion on a target list would presumably be valid for some set period of [\*1225] time, subject to specific renewal requirements. Authorizations based on a specific, imminent threat, by comparison, would need to be strictly time-limited, and tailored to the specifics of the threat, consistent with what courts regularly do when they issue warrants.

In the absence of such a system, the President ought to, at a minimum, issue an executive order establishing a transparent set of standards and procedures for identifying targets of lethal killing and detention operations outside a zone of active hostilities. n192 To enhance legitimacy, the procedures should include target list reviews and disposition plans by the top official in each of the agencies with a stake in the outcome the Secretary of Defense, the Director of the CIA, the Secretary of State, the Director of Homeland Security, and the Director of National Intelligence, with either the Secretary of Defense, Director of National Intelligence, or President himself, responsible for final sign-off. n193 In all cases, decisions should be unanimous, or, in the absence of consensus, elevated to the President of the United States. n194 Additional details will need to be worked out, including critical questions about the standard of proof that applies. Given the stakes, a clear and convincing evidentiary standard is warranted. n195

While this proposal is obviously geared toward the United States, the same principles should apply for all states engaged in targeting operations. n196 States would ideally subject such determinations to independent review or, alternatively, clearly articulate the standards and procedures for their decisionmaking, thus enhancing accountability.

b. Ex Post Review

For targeted-killing operations, ex post reviews serve only limited purposes. They obviously cannot restore the target's life. But retrospective review either by a FISC-like court or review board can serve to identify errors or overreaching and thereby help avoid future mistakes. This can, and ideally would, be supplemented by the adoption of an additional Article III damages mechanism. n197 At a minimum, the relevant Inspectors General should engage in regular and extensive reviews of targeted-killing operations. Such post hoc analysis helps to set standards and controls that then get incorporated into ex ante decisionmaking. In fact, post hoc review can often serve as a more meaningful and often more searching inquiry into the legitimacy of targeting decisions. Even the mere knowledge that an ex post review will occur can help to protect against rash ex ante decisionmaking, thereby providing a self-correcting mechanism.

Ex post review should also be accompanied by the establishment of a solatia and condolence payment system for activities that occur outside the active zone of hostilities. Extension of such a system beyond Afghanistan and Iraq would help mitigate resentment caused by civilian deaths or injuries and would promote better accounting of the civilian costs of targeting operations. n198

## Case

## solvency

Drone court is unworkable—doesn’t solve legitimacy

Vladeck, professor of law – American University Washington College of Law, 2/27/’13

(Stephen I., “Statement of Stephen I. Vladeck Professor of Law and Associate Dean for Scholarship American University Washington College of Law,” TARGETING AMERICAN TERRORISTS OVERSEAS; HOUSE JUDICIARY COMMITTEE, CQ)

This ties together with the related point of just how difficult it would be to actually have meaningful ex ante review in a context in which time is so often of the essence. If, as I have to think is true, many of the opportunities for these kinds of operations are fleeting and often open and close within a short window then a requirement of judicial review in all cases might actually prevent the government from otherwise carrying out authority that, in at least some cases, most would agree it has. This possibility is exactly why FISA itself was enacted with a pair of emergency provisions (one for specific emergencies;18 one for the beginning of a declared war19), and comparable emergency exceptions in this context would almost necessarily swallow the rule. Indeed, the narrower a definition of imminence that we accept, the more this becomes a problem, since the time frame in which the government could simultaneously demonstrate that a target (1) poses such a threat to the United States; and (2) cannot be captured through less lethal measures will necessarily be a vanishing one. Even if judicial review were possible in that context, it's hard to imagine that it would produce wise, just, or remotely reliable decisions. That brings me to perhaps the biggest problem we should all have with a "drone court"-the extent to which, even if one could design a legally and practically workable regime in which such a tribunals could operate, its existence would put irresistible pressure on federal judges to sign off even on those cases in which they have doubts. As a purely practical matter, it would be next to impossible meaningfully to assess imminence, the existence of less lethal alternatives, or the true nature of a threat that an individual suspect poses in advance of a targeted killing operation. Indeed, it would be akin to asking law enforcement officers to obtain judicial review before they use lethal force in defense of themselves or third persons when the entire legal question turns on what was actually true in the moment, as opposed to what might have been predicted to be true ex ante. At its core, this is why the analogy to search warrants utterly breaks down and why it would hardly be surprising if judges in those circumstances approved a far greater percentage of applications than they might have on a complete after-the-fact record. Judges, after all, are humans. In the process, the result would be that such ex ante review would do little other than to add the vestiges of legitimacy to operations the legality of which might have otherwise been questioned ex post. Put another way, ex ante review in this context would most likely lead to a more expansive legal framework within which the targeted killing program could operate, one sanctioned by judges asked to decide these cases behind closed doors; without the benefit of adversary parties, briefing, or presentation of the facts; and with the very real possibility that the wrong decision could directly lead to the deaths of countless Americans. Thus, even if it were legally and practically possible, a drone court would be a very dangerous idea.

**Drone court fails—empirics prove rubber stamping and circumvention.**

Greenwald 13 (Glenn, The Gaurdian, 3 May 2013, “The bad joke called 'the FISA court' shows how a 'drone court' would work”, http://www.theguardian.com/commentisfree/2013/may/03/fisa-court-rubber-stamp-drones, ZBurdette)

From the start, the Fisa court was a radical perversion of the judicial process. It convened in total secrecy and its rulings were classified. The standard the government had to meet was not the traditional "probable cause" burden imposed by the Fourth Amendment but a significantly diluted standard. There was nothing adversarial about the proceeding: only the Justice Department (DOJ) was permitted to be present, but not any lawyers for the targets of the eavesdropping request, who were not notified. Reflecting its utter lack of real independence, the court itself was housed in the DOJ.

And, and was totally predictable, the court barely ever rejected a government request for eavesdropping. From its inception, it was the ultimate rubber-stamp court, having rejected a total of zero government applications - zero - in its first 24 years of existence, while approving many thousands. In its total 34 year history - from 1978 through 2012 - the Fisa court has rejected a grand total of 11 government applications, while approving more than 20,000.

Despite how obedient and compliant this court always was, the Bush administration decided in late 2001 that it would have its National Security Agency (NSA) intercept the calls and emails of Americans without bothering to obtain the Fisa court approval required by the criminal law, claiming - with a straight face - that complying with the law was "too cumbersome" in the age of Terrorism. Once this lawbreaking was revealed by the New York Times in late 2005, the response from the DC political class was not to punish the responsible government officials for their lawbreaking, but rather to enact a new law (called the Fisa Amendments Act of 2008) that, in essence, simply legalized the warrantless eavesdropping scheme of the Bush administration.

That new Fisa law vested vast new surveillance powers in the US government to spy on the communications of Americans without the annoyance of obtaining permission from the Fisa court. It requires warrants from the Fisa court only in the narrowest of circumstances: the ones most susceptible to abuse. Although candidate Obama pretended to have serious concerns about the law (when he voted for it) and vowed to rein in its excesses, his administration last year demanded the renewal of this law with no reforms, and Congress, on a fully bipartisan basis, complied.

One of the provisions of the new Fisa law requires the DOJ annually to disclose to Congress the number of eavesdropping applications it files and the number approved and rejected by the Fisa court. Earlier this week, that disclosure was provided to Senate Majority Leader Harry Reid for the year 2012, and this is what it reported:

Let's repeat that: "of 1,789 applications, the FISA court did not deny any applications in whole or in part." What fantastic oversight (1789 is, ironically, the year the Constitution was ratified). The court did "modify" 40 of those applications - less than 3% - but it approved every single one. The same was true of 2011, when the DOJ submitted 1,676 applications and the Fisa court, while modifying 30, "did not deny any applications in whole, or in part".

What makes all of this worse is just how extreme the US government is "interpreting" - i.e. distorting - its eavesdropping powers under the law. Two Democratic Senators, Ron Wyden and Mark Udall, have been warning for years that the Obama administration is exploiting these laws in ways far beyond what the public knows or what a reasonable reading of the laws would permit. One of the nation's most knowledgeable surveillance experts, Julian Sanchez, has documented - citing the writing of a former Obama lawyer - documented that the law is used to target even "an American citizen located within the United States, and no court or judge is required to approve or review the choice of which individuals to tap": exactly the type of warrantless surveillance we were all told this law would prohibit. And yet, the Fisa court - even for those narrow set of cases where a warrant is required - continues as it always has: rubber-stamping virtually anything and everything the government wants to do.

There are many reasons that explain this judicial obeisance. Part of it is fear and abdication of duty: no federal judge wants to be the one who rejects a surveillance request from the government only to have the target perpetrate an attack, **even though federal judges are immunized with life tenure from such political pressures** so that they can apply the law and provide a real check on government conduct. Part of it is nationalistic delirium: federal courts in general have been disgracefully subservient to the Executive Branch every time they utter the word "Terrorism" since 9/11. And part of it is just the nature of persuasion: even the most mediocre lawyers can convince someone of almost anything if they have no opposition and can unilaterally select and depict all facts without challenge. The entire process, though depicted as some kind of check on Executive Branch behavior, is virtually designed to do the opposite: ensure the Government's surveillance desires are unimpeded. These shockingly lopsided statistics attest to the success of this design.

This is significant not only because it means there is no real check on the government's surveillance power, even as they exercise those powers in much broader ways than most people suspect. It's also significant in light of recent calls that a "drone court" be created that would provide for a similar process for the president's desire to target for execution people who have been charged with no crime. The New York Times Editorial Page has been advocating this for years.

The rationale offered is the same as what was used to justify the Fisa court: the President needs some check on who he targets, but requiring that he charge the person he wants to kill with a crime and convict them in a real court is too cumbersome. Therefore, this reasoning goes, a "drone court" modeled on the Fisa court is the happy medium: he'll have some constraints on his power to kill whomever he wants, but its secretive, one-sided process and lowered levels of required proof will ensure the necessary agility and flexibility he needs as Commander-in-Chief. As the NYT Editors put it: the drone court "would be an analogue" to the Fisa court whereby: "If the administration has evidence that a suspect is a terrorist threat to the United States, it would have to present that evidence in secret to a court before the suspect is placed on a kill list."

But does anyone believe that a "drone court" would be any less of a mindless rubber-stamp than the Fisa court already is? Except for a handful of brave judges who take seriously their constitutionally assigned role of independence, the vast majority of federal judges are far too craven to tell the president that he has not submitted sufficient proof that would allow him to kill someone he claims is a Terrorist. The fact that it would all take place in secret, with only the DOJ present, further ensures that the results would mirror the embarrassing subservience of the Fisa court. As former Pentagon chief counsel Jeh Johnson put it in a speech last month discussing this proposal:

"Its proceedings would necessarily be ex parte and in secret, and, like a FISA court, I suspect almost all of the government's applications would be granted, because, like a FISA application, the government would be sure to present a compelling case. So, at the same time the New York Times editorial page promotes a FISA-like court for targeted lethal force, it derides the FISA court as a 'rubber stamp' because it almost never rejects an application. How long before a 'drone court' operating in secret is criticized in the same way?"

No groupthink

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

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

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

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

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

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

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

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

## accountability

Existing norms solve and precedent isn’t key

Anderson, professor of international law – American University, ‘13

(Kenneth, "The Case for Drones", https://www.commentarymagazine.com/articles/the-case-for-drones/)

The objection to civilian deaths draws out a related criticism: Why should the United States be able to conduct these drone strikes in Pakistan or in Yemen, countries that are not at war with America? What gives the United States the moral right to take its troubles to other places and inflict damage by waging war? Why should innocent Pakistanis suffer because the United States has trouble with terrorists? The answer is simply that like it or not, the terrorists are in these parts of Pakistan, and it is the terrorists that have brought trouble to the country. The U.S. has adopted a moral and legal standard with regard to where it will conduct drone strikes against terrorist groups. It will seek consent of the government, as it has long done with Pakistan, even if that is contested and much less certain than it once was. But there will be no safe havens. If al-Qaeda or its affiliated groups take haven somewhere and the government is unwilling or unable to address that threat, America’s very long-standing view of international law permits it to take forcible action against the threat, sovereignty and territorial integrity notwithstanding. This is not to say that the United States could or would use drones anywhere it wished. Places that have the rule of law and the ability to respond to terrorists on their territory are different from weakly governed or ungoverned places. There won’t be drones over Paris or London—this canard is popular among campaigners and the media but ought to be put to rest. But the vast, weakly governed spaces, where states are often threatened by Islamist insurgency, such as Mali or Yemen, are a different case altogether. This critique often leads, however, to the further objection that the American use of drones is essentially laying the groundwork for others to do the same. Steve Coll wrote in the New Yorker: “America’s drone campaign is also creating an ominous global precedent. Ten years or less from now, China will likely be able to field armed drones. How might its Politburo apply Obama’s doctrines to Tibetan activists holding meetings in Nepal?” The United States, it is claimed, is arrogantly exerting its momentary technological advantage to do what it likes. It will be sorry when other states follow suit. But the United States does not use drones in this fashion and has claimed no special status for drones. The U.S. government uses drone warfare in a far more limited way, legally and morally, and entirely within the bounds of international law. The problem with China (or Russia) using drones is that they might not use them in the same way as the United States. The drone itself is a tool. How it is used and against whom—these are moral questions. If China behaves malignantly, drones will not be responsible. Its leaders will be.

China won’t use drones offensively

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

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

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

No SCS conflict—China can’t afford to escalate

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."

This is a bad joke—territorial dispute makes the conflict inevitable, Americais not involved so the norm wouldn’t apply, the issue is surveillance drones, AND THERE’S NO IMPACT

Auslin, resident scholar at the American Enterprise Institute, 11-5-13

(Michael, “Tensions Are Escalating in The East China Sea,” http://online.wsj.com/news/articles/SB10001424052702303482504579178850122997242, accessed 11-9-13, CMM)

The East China Sea may see the world's first war started by aerial drones. Unless China and Japan quickly find some way to **settle their territorial dispute**, they are moving toward a military clash. And with Barack Obama wounded abroad and at home by everything from NSA spying to ObamaCare implementation, **America is playing no role in this dangerous affair.** The result is an Asia more prone to conflict than at any time in recent memory. The Japanese-Chinese territorial dispute over the Senkaku/Diaoyu Islands was botched last year by Tokyo, led at the time by the now-discredited Democratic Party of Japan. Reacting to China's increasingly intrusive presence in the waters around the Japanese-administered islands, and fearing that maverick former Tokyo Governor Shintaro Ishihara would carry through his threat to purchase the islands, then-Prime Minister Yoshihiko Noda nationalized several of the islands after buying them from their private owners in September 2012. China responded instantly with anti-Japanese riots and a freezing of diplomatic relations. Chinese patrol vessels and fishing boats began tense face-offs with Japan's Coast Guard. Within months, both nations' air forces began more active aerial patrols. Two months ago, China upped the ante by flying **surveillance drones** in such contested airspace. Japan responded by saying it would shoot down any drone that refused to leave the skies above the islands. Beijing says that any attack on its drones would be an act of war. This conflict is accelerated partly by technology. By sending naval flotillas through international waters that pass between Japanese islands, flying early-warning airborne-control planes near strategic choke points, and ramping up its use of drones, China is flexing the military might it has developed (and stolen from the U.S.) over the past two decades. Japan's military is also modernizing after years of stagnation, and now it has to come up with rules of engagement for unmanned military systems, something few other countries have had to do. China's rise is challenging traditional military doctrine in this way and others, from its cyber aggression to its capabilities in space (such as anti-satellite weapons). The United States, Russia, India and others are watching the East China Sea confrontation for clues about China's operational capabilities, military doctrine and confidence to confront advanced nations. The drone scare has highlighted the lack of any diplomatic relationship between Tokyo and Beijing. Japanese Prime Minister Shinzo Abe is again subordinating necessary economic reforms to his desire to restore Japan's standing in the world. Chinese President Xi Jinping has shown no desire to ease tensions with Japan since taking full power earlier this year. And with Beijing's Central Committee plenum this weekend, no Chinese leader will want to appear to be backing down in the face of Mr. Abe's apparent nationalism. Across Asia, the Chinese-Japanese dynamic raises concerns that regional disputes will be settled only by might. That makes smaller countries nervous—especially those facing their own territorial disputes with China—and it makes it more difficult to develop any meaningful regional political mechanisms. China's use of drones and advanced aircraft is also certain to drive Asia's arms spending even higher.

[UMW’s card ends]

Washington may want to avoid endorsing the territorial claims of either Tokyo or Beijing, but war is in no one's interest—especially when America's treaty alliance with Japan puts U.S. troops (let alone U.S. credibility) on the line. One way or another, this crisis will change the balance of power in East Asia: Either Japan will surrender territory it has controlled for a generation, **or China will back down**, becoming more resentful of today's international system than before. At a minimum, it is time for Secretary of State John Kerry to bring his penchant for negotiations to Asia. Given all the outstanding problems in Sino-Japanese relations, a spell of crisis diplomacy might just shock the two countries into understanding how much is at stake. Beyond that, the U.S.-Japanese alliance means that Washington needs to make clear that its military support will be immediately forthcoming should China cross the line or goad Japan into using force to protect its territory. Privately, the two allies need to have clear discussions on what exactly would trigger the treaty's mutual-defense provisions, so that Tokyo doesn't overreach in its response to China. The laissez-faire approach has failed in all three capitals. With technology outstripping experience, it is time for some old-fashioned diplomacy to keep the East China Sea from boiling over.

## saudi

Economic collapse doesn’t cause war

Jervis, professor of political science – Columbia University, ‘11

(Robert, Force in Our Times,” Survival, Vol. 25, No. 4, p. 403-425)

Even if war is still seen as evil, the security community could be dissolved if severe conflicts of interest were to arise. Could the more peaceful world generate new interests that would bring the members of the community into sharp disputes? 45 A zero-sum sense of status would be one example, perhaps linked to a steep rise in nationalism. More likely would be a worsening of the current economic difficulties, which could itself produce greater nationalism, undermine democracy and bring back old-fashioned beggar-my-neighbor economic policies. While these dangers are real, it is hard to believe that the conflicts could be great enough to lead the members of the community to contemplate fighting each other. It is not so much that economic interdependence has proceeded to the point where it could not be reversed – states that were more internally interdependent than anything seen internationally have fought bloody civil wars. Rather it is that even if the more extreme versions of free trade and economic liberalism become discredited, it is hard to see how without building on a preexisting high level of political conflict leaders and mass opinion would come to believe that their countries could prosper by impoverishing or even attacking others. Is it possible that problems will not only become severe, but that people will entertain the thought that they have to be solved by war? While a pessimist could note that this argument does not appear as outlandish as it did before the financial crisis, an optimist could reply (correctly, in my view) that the very fact that we have seen such a sharp economic down-turn without anyone suggesting that force of arms is the solution shows that even if bad times bring about greater economic conflict, it will not make war thinkable.

Data disproves hegemony impacts

Fettweis, 11

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

It is perhaps worth noting that there is no evidence to support a direct relationship between the relative level of U.S. activism and international stability. In fact, the limited data we do have suggest the opposite may be true. During the 1990s, the United States cut back on its defense spending fairly substantially. By 1998, the United States was spending $100 billion less on defense in real terms than it had in 1990.51 To internationalists, defense hawks and believers in hegemonic stability, this irresponsible “peace dividend” endangered both national and global security. “No serious analyst of American military capabilities,” argued Kristol and Kagan, “doubts that the defense budget has been cut much too far to meet America’s responsibilities to itself and to world peace.”52 On the other hand, if the pacific trends were not based upon U.S. hegemony but a strengthening norm against interstate war, one would not have expected an increase in global instability and violence.

The verdict from the past two decades is fairly plain: The world grew more peaceful while the United States cut its forces. No state seemed to believe that its security was endangered by a less-capable United States military, or at least none took any action that would suggest such a belief. No militaries were enhanced to address power vacuums, no security dilemmas drove insecurity or arms races, and no regional balancing occurred once the stabilizing presence of the U.S. military was diminished. The rest of the world acted as if the threat of international war was not a pressing concern, despite the reduction in U.S. capabilities. Most of all, the United States and its allies were no less safe. The incidence and magnitude of global conflict declined while the United States cut its military spending under President Clinton, and kept declining as the Bush Administration ramped the spending back up. No complex statistical analysis should be necessary to reach the conclusion that the two are unrelated.

Military spending figures by themselves are insufficient to disprove a connection between overall U.S. actions and international stability. Once again, one could presumably argue that spending is not the only or even the best indication of hegemony, and that it is instead U.S. foreign political and security commitments that maintain stability. Since neither was significantly altered during this period, instability should not have been expected. Alternately, advocates of hegemonic stability could believe that relative rather than absolute spending is decisive in bringing peace. Although the United States cut back on its spending during the 1990s, its relative advantage never wavered.

However, even if it is true that either U.S. commitments or relative spending account for global pacific trends, then at the very least stability can evidently be maintained at drastically lower levels of both. In other words, even if one can be allowed to argue in the alternative for a moment and suppose that there is in fact a level of engagement below which the United States cannot drop without increasing international disorder, a rational grand strategist would still recommend cutting back on engagement and spending until that level is determined. Grand strategic decisions are never final; continual adjustments can and must be made as time goes on. Basic logic suggests that the United States ought to spend the minimum amount of its blood and treasure while seeking the maximum return on its investment. And if the current era of stability is as stable as many believe it to be, no increase in conflict would ever occur irrespective of U.S. spending, which would save untold trillions for an increasingly debt-ridden nation.

It is also perhaps worth noting that if opposite trends had unfolded, if other states had reacted to news of cuts in U.S. defense spending with more aggressive or insecure behavior, then internationalists would surely argue that their expectations had been fulfilled. If increases in conflict would have been interpreted as proof of the wisdom of internationalist strategies, then logical consistency demands that the lack thereof should at least pose a problem. As it stands, the only evidence we have regarding the likely systemic reaction to a more restrained United States suggests that the current peaceful trends are unrelated to U.S. military spending. Evidently the rest of the world can operate quite effectively without the presence of a global policeman. Those who think otherwise base their view on faith alone.

Alt causalities, relations resilient, and the US doesn’t care—their author

HENDERSON, Baker fellow and director of the Gulf and Energy Policy Program at the Washington Institute for Near East Policy, 11-1-13

(Simon, “The U.S.-Saudi Royal Rumble,” http://www.foreignpolicy.com/articles/2013/11/01/the\_us\_saudi\_royal\_rumble?page=full, accessed 11-2-13, CMM)

What is happening to the U.S. relationship with Saudi Arabia? Even after loud complaints from top Saudi officials that the longtime alliance was on the rocks, **the response of official Washington**, outside the punditocracy, was an almost audible yawn. President Barack Obama's administration should not be so quick to dismiss the trouble the Saudis could cause for the United States in the Middle East -- or the Saudi royals' determination to cause a shift in U.S. policy. Two articles last month quoted unidentified "European diplomats" who had been briefed by Saudi intelligence maestro Prince Bandar bin Sultan that Riyadh was so upset with Washington that it was undertaking a "major shift" in relations. Saudi Arabia **has a litany of complaints** about U.S. policy in the Middle East. It faults Washington for pursuing a **rapprochement with Iran,** for **not pushing Israel**

**harder** in peace talks with the Palestinians, **and for not more forcefully backing efforts to topple Syrian President Bashar al-Assad**. Saudi royals are also angry that the United States did not stand behind Saudi support for Bahrain when it crushed an anti-government uprising in 2011, and that Washington has criticized the new Egyptian government, another Saudi ally, for its crackdown on Muslim Brotherhood protesters. Saudi royals have evidently decided that public comments and policy shifts are the only way to convince Washington to alter what they see as its errant path. Bandar's declaration came a few days after the kingdom abruptly decided to reject its election to the U.N. Security Council, claiming it could not tolerate that body's "double standards." As Bandar helpfully pointed out, the incident was "a message for the U.S., not the U.N." According to an official in Washington, Bandar's "briefing" was actually a several hour conversation with French Ambassador to Saudi Arabia Bertrand Besancenot, who then shared his notes with his European colleagues. Whether Bandar intended to leak his remarks to the media is unclear but the Saudis haven't done anything to wind back his message. Last week, former intelligence chief Prince Turki al-Faisal made many of the same points in an address to the annual Arab-U.S. Policymakers Conference in Washington. It is hard to judge the significance of Prince Turki's remarks, because he was essentially fired as ambassador to Washington in 2007 after falling out with King Abdullah. With a nod toward candor, he made it clear he doesn't have a role in the Saudi government and claimed not to be privy to its official deliberations. However, given his apparent place on the kingdom's limited bench of officials that can explain its stances to the world, Prince Turki's remarks can't be ignored. As he put it, Saudi Arabia "is a peninsula, not an island." **This is far from the first crisis the U.S.-Saudi alliance has experienced**. In early 1939, a Saudi delegation went to Nazi Germany to negotiate an arms agreement, part of which would have been diverted to Palestinian Arabs fighting Jewish immigrants in the British mandate of Palestine. At least some of the Saudi group met Adolf Hitler at his mountain top hideaway at Berchtesgaden. German arms never reached the kingdom -- or Palestine - as the Saudis could not afford to consummate the deal (that was in the days before the oil revenues started flowing in). However, King Abdullah still treasures a dagger given as a gift from the Fuhrer himself, and occasionally shows it off to guests. Visiting U.S. officials are briefed in advance so they can display appropriate diplomatic sang-froid if Abdullah points out the memento. But despite the multitude of crises -- from the 9/11 hijackers to Saudi pay-offs to Osama bin Laden -- past difficulties have been quietly repaired. The operative word here is "quietly" -- usually, the general public has not even known of the crisis. The difference now is that, through Saudi Arabia's move at the United Nations and Bandar's briefing, the kingdom is all but trumpeting its displeasure.

[UMW’s card begins]

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

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

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

# 2NC

## at: caucuses

Peace accords being negotiated now over armed forces reductions - that deescalates conflict and proves drones aren’t key

Radio Free Europe 11/22/13 [“Are Armenia, Azerbaijan Closer To Signing Basic Principles Of Karabakh Peace Agreement?” http://www.rferl.org/content/armenia-azerbaijan-karabakh-agreement/25177111.html]

During their two-hour talks in Vienna on November 19, the presidents of Armenia and Azerbaijan reportedly "agreed to advance negotiations on a peaceful settlement of the Nagorno-Karabakh conflict" and to meet again in the next few months. ¶ Armenian President Serzh Sarkisian has described the talks -- the first between himself and Azerbaijani counterpart Ilham Aliyev since January 2012 -- as "positive" and as heralding "in all likelihood, the start of a new phase of negotiations." ¶ There has been no comparable statement from President Aliyev. But just days before the Vienna meeting, Azerbaijan's delegation to the Organization for Security and Cooperation in Europe (OSCE) told a session of that body's Permanent Council that **Azerbaijan was ready to endorse the current blueprint for resolving the conflict.**¶ The peace process has to all intents and purposes been deadlocked since June 2011, when hopes that Aliyev and Sarkisian would sign a formal peace agreement during a summit in Kazan proved misplaced. In an apparent bid to break that deadlock, in October 2012 the co-chairmen of the OSCE's Minsk Group presented to the Armenian and Azerbaijani foreign ministers unspecified "ideas of a working proposal to advance the peace process." ¶ While some observers in Azerbaijan remain skeptical about the prospects for reviving the negotiating process, **Armenian political scientists are more upbeat**. The U.S. government, the Ukrainian chairman-in-office of the OSCE, and the European Union also hailed the resumption of face-to-face talks between the two presidents.¶ The Minsk Group has sought since 1992 to mediate a political solution to the conflict. In June 2006 it unveiled so-called Basic Principles for doing so, which were revised at the OSCE Ministerial Council in Madrid the following year. A revamped version was incorporated in a statement issued by the French, Russian, and U.S. presidents on the sidelines of the G8 summit in L'Aquila, Italy, in July 2009. ¶ Those most important of those principles are:¶ -- **The withdrawal of Armenian troops** from Azerbaijani districts bordering on Nagorno-Karabakh that they have occupied since 1992-1993 (this point fails to differentiate between the strategically crucial districts of Lachin and Kelbacar and the other five);¶ -- "interim status" for the unrecognized Nagorno-Karabakh Republic providing guarantees for security and self-governance, pending¶ -- full determination of the region's future status through a "legally binding expression of will" (whether or not this entails a referendum, and if yes, who would be eligible to cast ballots, is not specified);¶ -- a land corridor linking Nagorno-Karabakh with the Republic of Armenia;¶ -- the right of all internally displaced persons and refugees to return to their former places of residence; and¶ -- international security guarantees that would include a peacekeeping operation.¶ According to the L'Aquila statement, "The Basic Principles reflect a reasonable compromise based on the Helsinki Final Act principles of Non-Use of Force, Territorial Integrity, and the Equal Rights and Self-Determination of Peoples.... The endorsement of these Basic Principles by Armenia and Azerbaijan will allow the drafting of a comprehensive settlement to ensure a future of peace, stability, and prosperity for Armenia and Azerbaijan and the broader region."¶ At every subsequent meeting of the G8, the three presidents have reaffirmed their support for the Basic Principles and urged the conflict parties to formally endorse them as the basis for a full-fledged peace agreement. In May 2011, just weeks before the ill-fated Kazan summit, they noted unspecified "significant progress" and urged the two presidents to "finalize the Basic Principles" as "a way for all sides to move beyond the unacceptable status quo."¶ The peace process appears nonetheless to have lost momentum as of 2010. Aliyev and Sarkisian met three times in 2008 and six times in 2009, but only twice in 2010 and twice in 2011. The precise reasons for that trend remain unclear. In their joint statements released at the G20 summit in Los Cabos, Mexico, in 2012 and the G8 summit in Enniskillen, Northern Ireland, in 2013, the presidents of France, Russia, and the United States noted that "rather than trying to find a solution based on mutual interests, the parties have continued to seek one-sided advantage in the negotiation process."¶ Shortly before the Kazan summit, President Aliyev publicly argued that the way to change the "unacceptable status quo" was for Armenia to withdraw its forces from the Azerbaijani territory they occupy.¶ Writing in "The Wall Street Journal" in December 2012, veteran Azerbaijani Foreign Minister Elmar Mammadyarov similarly argued that "the Armenian military withdrawal must be comprehensive, and it needs to take place now." Neither Aliyev nor Mammadyarov explained what the Armenian side would gain in return for surrendering its sole bargaining chip and withdrawing its forces before all the minutiae of a formal peace settlement had been hammered out.¶ Armenia's ambassador to the OSCE, Arman Kirakossian, may have been referring to Baku's insistence on an immediate withdrawal from the occupied districts when he recalled last week that the Enniskillen G8 statement stressed that "these elements [meaning the Basic Principles] should be seen as an integrated whole, as any attempt to select some elements over others would make it impossible to achieve a balanced solution."

ICG makes these escalation predictions yearly. It’s just fear-mongering.

Marina Ananikyan, 9/27/2013. “Who pays ICG for forecasting new war in Karabakh?” PanArmenian, http://www.panarmenian.net/eng/news/170539/Who\_pays\_ICG\_for\_forecasting\_new\_war\_in\_Karabakh.

A well known International Crisis Group issued yet another analysis on the Karabakh conflict. As usual, the pessimistic ICG forecasts resumption of a war, escalation of tensions, however, being untruthful in an attempt to preserve the appearance of objectivity.

In its overview titled Armenia and Azerbaijan: A Season of Risks, the group predicts that “should a full-scale conflict between Armenia and Azerbaijan break out again, some or all of the regional powers – Russia, Turkey and Iran – could be drawn in, directly.”

“Vigorous international engagement is needed to lessen chances of violent escalation during coming weeks and months,” the Group believes, setting hopes on Russia: “Russia, which is highly influential in all aspects of the conflict and would be the most directly affected of the Minsk co-chairs by a new war, should act more decisively to broker an agreement. It could advance this by announcing a suspension of arms supplies to both sides.”

Now, about being untruthful. In its analysis, the Group says. “Peace talks on Nagorno-Karabakh bogged down in 2011, accelerating an arms race and intensifying strident rhetoric. Terms like “Blitzkrieg’’, “pre-emptive strike’’ and ‘‘total war” have gained currency with both sides’ planners.”

The truth is, Armenian side does not engage in military rhetoric, the latter being Azerbaijan’s “privilege,” with the country’s leadership missing no chance to express their aggressive moods. Armenia’s “strident rhetoric” is limited to mere expressions of readiness to resist Azeri attacks.

Same with “accelerating an arms race.” Baku is the one overtly purchasing and manufacturing inordinate amounts of weaponry, in violation of all international quotas to compensate for lack of expertise in its army, which has already been defeated once.

But back to the analysis. “An immediate concern is military miscalculation, with implications that could far exceed those of a localized post-Soviet frozen conflict, as the South Caucasus, a region where big powers meet and compete, is now also a major energy corridor. Clashes increasingly occur along the Azerbaijani-Armenian frontier far from Nagorno Karabakh, the conflict’s original focus,” the analysis says.

Now what the analysis dubs as “clashes” are incessant Azeri-staged provocations, with Baku sinking as low as shelling Armenian villages or preventing a doctor from aiding a person blown up on a mine who later bled to death, as they did only recently.

As the analysis notes, “the possibility of internal political unrest in both countries increases the uncertainty. Unrest at home might tempt leaders to deflect attention by raising military tensions or to embark on risky attempts to capitalize on their adversary’s troubles.”

Last year, Sabine Freizer, Director of the European Programs in the International Crisis Group gave yet another prediction of an oncoming war in Karabakh.

“Armenian -Azerbaijani clashes may grow into a war in the region, where BP Company and its partners invested USD 35 billion in energy projects. Both parties to the conflict maintain weak control of the line of contact. Large-scale hostilities may soon erupt by accident, as a consequence of retaliatory measures taken,” she said.

Probably reluctant to seem Cassandra-like and be slammed by Yerevan or Baku, Sabine Freizer hurried to add, “Neither Azerbaijan, nor Armenia intend to wage large-scale offensive in short terms. In case of renewal of hostilities, the war will by protracted due to militarily parity of the sides. Besides, the security guarantees issued by Russia and Turkey may get them involved,” she said, adding that Russia’s military base in Gyumri may extend Armenia assistance, with both countries being CSTO member-states and Azerbaijan having close ethnic, political and economic ties with Turkey.

Luckily, Freizer’s predictions failed to come true, similarly to previous analysis-based forecasts of the ICG. The question is, who pays the Group to issue somber predictions and escalate the tension over the issue? Because the only thing the ICG managed to achieve throughout the years is become resented - both in Armenia and Azerbaijan.

Always saber-rattling. Never war.

Joshua Kucera, 12/28/2011. Freelance journalist specializing in Central Asia and the Caucasus. “Predicting Conflict in 2012: Karabakh? Tajikistan? Uzbekistan? Iran?” EurasiaNet, http://www.eurasianet.org/node/64765.

In Nagorno Karabakh, Jackson sees a continuation of tension, but no escalation:

Along the Line of Contact in Karabakh, the grim litany of skirmishes and deaths by sniper fire will rumble along. Both Armenia and Azerbaijan are now deploying drones along the LoC, so expect the conflict to gain a new, aerial dimension (we’ve seen the first signs already). Sabre-rattling, military exercises and soaring defence budgets will all continue, **but - as previously –** don’t expect a new shooting war.

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## 2nc rubber stamp

The aff is a rubberstamp—means it doesn’t solve drone accountability which makes all of their impacts inevitable—even though judges have life tenure, they are afraid to turn down government requests—they haven’t rejected one in 24 years—that’s Greenwald.

It’s a structural issue that the aff can’t solve—drones would be even worse than FISA.

Vladeck 13 (Steve, professor of law and the associate dean for scholarship at American University Washington College of Law, Lawfare, “Why a “Drone Court” Won’t Work–But (Nominal) Damages Might…”, <http://www.lawfareblog.com/2013/02/why-a-drone-court-wont-work/>, February 10, ZBurdette)

III. Drone Courts and the Legitimacy Problem

That brings me to perhaps the biggest problem we should all have with a “drone court”–the extent to which, even if one could design a legally and practically workable regime in which such a tribunals could operate, its existence would put irresistible pressure on federal judges **to sign off even on those cases in which they have doubts.**

As a purely practical matter, it would be next to impossible meaningfully to assess imminence, the existence of less lethal alternatives, or the true nature of a threat that an individual suspect poses ex ante. Indeed, it would be akin to asking law enforcement officers to obtain judicial review before they use lethal force in defense of themselves or third persons–when the entire legal question turns on what was actually true in the moment, as opposed to what might have been predicted to be true in advance. At its core, that’s why **the analogy to search warrants** utterly breaks down–and why it would hardly be surprising if judges in those circumstances **approved a far greater percentage of applications** than they might have on a complete after-the-fact record. Judges, after all, are humans.

Plan is perceived as a rubber stamp, even if it’s not—turns international credibility.

Barnes 13 (Julian, Wall Street Journal, “'Drone Court' Idea Called Into Question”, March 18, 2013, <http://online.wsj.com/article/SB10001424127887324323904578368340635025254.html>, ZBurdette)

The Pentagon's former top lawyer questioned proposals for a so-called drone court to review the Obama administration's targeted-killing campaign, arguing that such oversight likely would be viewed as a rubber stamp.

Instead, Jeh Johnson, who was general counsel of the Defense Department until the end of last year, said the government should consider shifting more of the program to the military from the intelligence services.

Moving control away from the Central Intelligence Agency, Mr. Johnson said, would allow for more transparency and boost public confidence, avoiding the need for a new court.

Criticism of drone strikes and targeted killings—especially involving American citizens—has fueled interest in Congress and elsewhere in the creation of a special court to oversee the lethal operations.

In a speech Monday at Fordham University School of Law in New York, Mr. Johnson said the government should be more transparent about its counterterrorism operations. As it stands, Mr. Johnson said, the government doesn't disclose classified CIA counterterrorism successes and cannot "confirm, deny or clarify" accusations of errant strikes or civilian casualties.

He also argued the military would give a stronger legal basis for counterterrorism operations. The military currently conducts some of the U.S. drone strikes in Yemen and all of the strikes in Somalia and Afghanistan.

Mr. Johnson's speech came as questions mount about drone use, both from liberal human-rights groups as well as conservatives such as Sen. Rand Paul, the Kentucky Republican who recently waged a nearly 13-hour filibuster on the subject.

The growing suspicion has spurred proposals for a national-security court to approve the addition of terror suspects to an administration kill list.

Sen. Angus King (I., Maine) said it was critical for there to be some check on the government's power when it comes to targeting American citizens. "This isn't an insertion of a court…into a war-fighting situation," Sen. King said. "We are talking about targeting Americans in situations where there is time for an intermediate step."

The drone program has also been debated within the military. Leon Panetta, former defense secretary and onetime CIA director, favors greater military control. But some senior officers have said moving the program away from the agency likely would lead to more restrictions, making it harder to target militants. The officers also say increasing strikes' transparency would give the public more information but could allow militants to learn more, possibly enough to avoid being targeted.

Under the Foreign Intelligence Surveillance Act, Congress has set up court oversight of national-security surveillance inside the U.S.

Voicing doubts about establishment of a similar court to oversee drone strikes, Mr. Johnson said its proceedings would be secret and judges likely would reject few of the government's requests. That would lead the media and the public to take a skeptical view of it, he said.

Mr. Johnson added that such a court may be unconstitutional, by infringing on the president's role as commander in chief.

Congress wants a rubber stamp—ensures implementation is marred, even if theoretical backing for the plan is sound.

Ditz 13 (Jason, “Lawmakers Push Plans to Advance Drone Strikes”, <http://news.antiwar.com/2013/02/10/lawmakers-push-plans-to-advance-drone-strikes/>, ZBurdette)

With the multi-year drone assassination campaign of President Obama suddenly getting some attention in Congress, a number of Representatives and Senators are laying out their personal views on the program and ideas for improving it.

The views are varied in exact position but not so much in substance, as virtually to a man the lawmakers are endorsing drone assassinations in some form **more or less unchanged from what it is now, and are** **just debating the best way to get some formal legal system** around the practice of summary, worldwide execution-by-robot.

Sen. John McCain (R – AZ) was critical of the idea of the CIA assassinating people with drones in the first place, mysteriously an issue that he hasn’t discussed much in the past four-plus years of them doing so.

His proposal isn’t to stop assassinating people or to take President Obama’s power to unilaterally do so away, of course. Instead McCain simply believes the drones should be under the Pentagon’s control, saying that it wasn’t a “spy agency” thing to do.

Sen. Rand Paul (R – KY) called it “very unseemly” that the president can kill people without any review, though he added that he was “probably for executing” Americans abroad with drones and simply wanted to see the evidence first.

Rep. Mike Rogers (R – MI), the Intelligence Committee Chair, says things are fine the way they are, claiming to have personally overseen every single air strike in the war on terror, whether it was launched by the Pentagon or the CIA. The lack of legal structure which has so confounded his Senate counterparts appeared totally irrelevant to him, leaving him accusing them of exaggerating the problem.

Perhaps the least comfortable with the program was Rep. Keith Ellison (D – MN), who says that it is time for Congressional hearings on the practice and the creation of some sort of legal framework surrounding the killings.

Nominee for CIA Director John Brennan has opposed changes to the program, including calls from some Senators to create a secret court to examine evidence against potential victims, saying that the drones were not for retaliatory killings, but rather killing people for what they will do in the future, something which would be difficult to build a court around.

As with Congress, the concern for killing people simply on the basis that they might do something didn’t bother Brennan, and the only thing that seems to be on the table is whether or not a court to rubber-stamp it is a good idea, with Brennan being of the belief that it is simply too much of a bother. Since the administration has gotten away with such killings with nary a peep from Congress for over four years, the interest must seem quaint to them.

## 2nc rubber stamp—at: congress enforces

Structural limitations on Congressional drone oversight prevent effective challenges.

Ross 13 (Alice, Salon, “Is congressional drone oversight working?”, AUG 1, 2013, <http://www.salon.com/2013/08/01/is_congressional_drone_oversight_working_partne/>, ZBurdette)

The challenges of oversight

The Bureau has previously questioned the effectiveness of the intelligence committees’ oversight of drone strikes. In February 2013. Feinstein used opening remarks at John Brennan’s nomination hearings to claim her committee had done its ‘utmost to confirm’ low civilian casualties in CIA drone strikes.

The Bureau contacted four fellow independent organisations which had carried out field investigations looking at civilian casualties in Pakistan. Each had published evidence of civilian casualties – yet none had ever been contacted by committee members or their staff in response to their findings, raising concerns the committee is too dependent on the intelligence community’s assessments.

Current committee members have complained about being blocked from robust scrutiny. At Brennan’s nomination hearings, Senator Barbara Mikulski said: ‘I’ve been on this Committee for more than 10 years, and with the exception of Mr. Panetta, I feel I’ve been jerked around by every CIA Director. I’ve either been misled, misrepresented, had to pull information out – often at the most minimal kind of way… And quite frankly, during those questions, they were evaded; they were distorted, et cetera.’

Such evasions are not limited to CIA directors. In June the director of national intelligence, James Clapper, admitted he had given the SSCI a ‘clearly erroneous’ response earlier in the year when he told an open hearing that the National Security Agency (NSA) did not ‘wittingly’ collect data on millions of Americans. The public retraction came only after former intelligence contractor Edward Snowden leaked documents indicating that such mass surveillance programmes were in operation.

Even where members can access information, Feinstein has said the committee can be blocked from acting on it. Following Brennan’s hearing, Feinstein told political blog The Hill: ‘Right now it is very hard [to oversee the drone programme] because it is regarded as a covert activity, so when you see something that is wrong and you ask to be able to address it, you are told no.’

The present scrutiny system evolved in the wake of the Watergate affair. A series of controversial intelligence practices emerged, including attempted assassinations of overseas political leaders and illegal intelligence-gathering on US citizens.

Amid a growing sense that the intelligence services had been allowed to run amok, a series of inquiries – the most well-known of which was the Church Commission, headed by Senator Frank Church – combed through the activities of the CIA, FBI and NSA, identifying multiple abuses and overreachings. The Senate and House intelligence committees were established to provide the kind of scrutiny that might prevent such abuses happening again.

A source with knowledge of the intelligence committees under previous administrations pointed the Bureau to the significant challenges of overseeing operations that are by their very nature secret.

They pointed out that the committee has the power to request access to any information it requires. But this requires members or staffers to know such information exists. ‘It’s a serious question as to how much any elected official could possibly understand about what’s going on inside,’ the source said. Politicians had to ask themselves:

‘Do I know enough to ask the right questions, and how can I count on really being given the full picture?,’ they added.

‘If you wanted to find out what’s really going on, you had to get really tough – you had to talk to people and say, cut the crap. If you lie to me, I will have your head on a plate,’ the source told the Bureau.

Regarding the current committee’s oversight of the drone programme, they said, ‘Did somebody really do a tough job there and put the necessary pressure on people to get a result?’

While elected members might struggle to find the time to delve into complex matters of national security, the close links between committee staffers and the intelligence community can further hamper scrutiny, the source added.

‘You can’t get a job on one of these committees if you don’t have high-level security clearance – so you can’t get a job without being part of the system. This automatically puts you inside a circle of people who all can talk to each other, but in the knowledge that if they step out of line when the job’s finished, they will be finished.

‘There’s a huge risk for any staff member who crosses people inside the system,’ they said.

‘This is the problem of the netherworld and its interaction with democratic institutions… It really is a very difficult problem and the solution that Frank Church came up with wasn’t enough,’ said the source.

## 1nc at: limiting drones good adv

Turn—drone court would legitimize and expand drone use.

Vladeck 13 (Steve, professor of law and the associate dean for scholarship at American University Washington College of Law, Lawfare, “Why a “Drone Court” Won’t Work–But (Nominal) Damages Might…”, <http://www.lawfareblog.com/2013/02/why-a-drone-court-wont-work/>, February 10, ZBurdette)

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As a purely practical matter, it would be next to impossible meaningfully to assess imminence, the existence of less lethal alternatives, or the true nature of a threat that an individual suspect poses ex ante. Indeed, it would be akin to asking law enforcement officers to obtain judicial review before they use lethal force in defense of themselves or third persons–when the entire legal question turns on what was actually true in the moment, as opposed to what might have been predicted to be true in advance. At its core, that’s why **the analogy to search warrants** utterly breaks down–and why it would hardly be surprising if judges in those circumstances **approved a far greater percentage of applications** than they might have on a complete after-the-fact record. Judges, after all, are humans.

In the process, the result would be that such ex ante review would do little other than to add legitimacy to operations the legality of which might have otherwise been questioned ex post. Put another way, ex ante revew in this context would most likely lead to a more expansive legal framework within which the targeted killing program could operate, one sanctioned by judges asked to decide these cases behind closed doors; without the benefit of adversary parties, briefing, or presentation of the facts; and with the very real possibility that the wrong decision could directly lead to the deaths of countless Americans. Thus, **even if it were legally and practically possible, a drone court would be a very dangerous idea.**

## 1nc at: i-law / program cred adv

Drone court doesn’t solve credibility

Hosenball 13 (Mark, Reuters, “Support grows for U.S. "drone court" to review lethal strikes”, Feb 8, 2013, <http://www.reuters.com/article/2013/02/09/us-usa-drones-idUSBRE91800B20130209>¸ZBurdette)

If the United States did set up a drone target court, human rights advocates would still likely have problems with it.

Geoffrey Robertson, one of Britain's most prominent human rights lawyers, described the current U.S. drone-strike policy as "execution without trial" and "international killing (which) ... violates the right to life."

Robertson said that in his interpretation of international law, any court set up to review candidates for possible drone attacks would have to publish target lists, so that those listed would have an opportunity either to give themselves up or be able to have friends or relatives petition for their removal from the lists.

## 1NC---AT: Congress Aff [Generic]

Obama will circumvent the plan---past five years prove

Cohen 12—Fellow, Century Foundation (Michael, 28 March 2012, “Power Grab,” http://www.foreignpolicy.com/articles/2012/03/28/power\_grab?page=full)

This month marks the one-year anniversary of the onset of U.S. military engagement in the Libyan civil war. While the verdict is still out on the long-term effects of the conflict for U.S. interests in the region, it's closer to home where one can point to the war's greater lasting impact -- namely in further increasing the power of the executive branch to wage war without congressional authorization. But don't expect to hear much about that issue on the campaign trail this election year. Rather the erosion of congressional oversight of the executive branch's war-making responsibilities has been something of a bipartisan endeavor -- and one that is unlikely to end any time soon.¶ It might seem like a bit of ancient history now, but one of the more creative arguments to come out of the U.S. military intervention in Libya was the Obama administration's assertion that the war did not actually represent "hostilities." Indeed, according to the president's argument to Congress, U.S. operations in Libya "do not involve sustained fighting or active exchanges of fire with hostile forces, nor do they involve U.S. ground troops" -- thus making them something less than war. On the surface this appears patently absurd. The United States was flying planes over Libyan air space and dropping bombs. Missiles were being fired from off-shore. An American military officer (Adm. James Stavridis) commanded the NATO effort. There were reports of forward air controllers on the ground spotting targets for U.S. bombers. In all, NATO planes flew more than 26,000 sorties in Libya, nearly 10,000 of which were strike missions. By what possible definition is this not considered "hostilities"?¶ As it turns out the ambiguity over whether the war represented "hostilities" is one codified in U.S. law -- namely the War Powers Resolution (WPR). Under the provisions of the WPR the President was required to notify Congress within 48 hours of the beginning of U.S. military involvement. He then had 60 days to receive authorization from Congress and if he failed to do he would have 30 days to end the fighting. (Of course, if U.S. military actions do not rise to the level of "hostilities," then the president does not have to go through this rigmarole and receive congressional approval.)¶ Now on the surface, such an elastic view of what the word hostilities means is hardly unusual. Indeed, it is rather par for the course in discussions of the War Powers Resolution. In 1975, the Ford administration claimed that "hostilities" only refers to a scenario in which U.S. forces are "actively engaged in exchanges of fire with opposing units." Similar efforts at defining down hostilities were attempted by the Carter, Reagan, and Clinton administrations when they sought to use military force. Still, these generally were in reference to peacekeeping missions like in Lebanon and Bosnia -- not offensive operations like those waged in Libya.¶ In a political vacuum, Obama's stance on "hostilities" in Libya might represent the traditional push and pull of executive-legislative branch disagreements about presidential war-fighting prerogatives.¶ But of course, on this issue we are far from being in a political vacuum. Obama's broadening of executive power comes with the backdrop of the George W. Bush administration's efforts to expand the president's ability to wage war. Indeed, the position taken by the Obama administration bears uncomfortable similarities to the one taken by John Yoo when he served at the Justice Department and argued -- in the wake of 9/11 -- that the Constitution granted the president practically unquestioned executive power to wage war. Yet, even Bush sought congressional approval for military actions in Afghanistan and Iraq; Obama didn't bother to do the same for Libya. In addition, Obama also overruled the opinion of his own Office of Legal Counsel (OLC) on the question of whether the president must abide by the War Powers Resolution in regard to the Libyan intervention. The OLC said he did; the White House assembled legal opinions that said he didn't -- and the latter view won out. As Bruce Ackerman, a law professor at Yale University, noted at the time, "Mr. Obama's decision to disregard that office's opinion [the OLC] and embrace the White House counsel's view is undermining a key legal check on arbitrary presidential power."¶ So at a time when the door has been opened rather wide on unaccountable war-waging by the executive branch -- with minimal legislative checks and balances -- the Obama administration has opened it even further. What is perhaps most surprising is that it is being promulgated by a president who pledged as a candidate to put an end to such practices.¶ As Ackerman said to me, Obama came into office with a golden opportunity to reestablish some modicum of restraint over the actions of the executive branch in the pursuit of national security. Ironically, in a Boston Globe questionnaire in December 2007, Obama specifically rejected the argument that he used, in part, to justify going around Congress on Libya. "The President," wrote candidate Obama, "does not have power under the Constitution to unilaterally authorize a military attack in a situation that does not involve stopping an actual or imminent threat to the nation ... History has shown us time and again, however, that military action is most successful when it is authorized and supported by the Legislative branch."¶ While Obama has hardly gone as far down the road on expanding executive power as Bush did, it is also true that he "consolidated many of the principles of executive power that were first described in the Bush administration," says Ackerman. In effect, "Obama has done nothing to stop the return of another John Yoo." Indeed, with his actions on Libya, Obama has done more than consolidate Bush administration positions -- he has expanded them.¶ These are negative developments, but it gets worse. In the president's initial letter to Congress, the airstrikes in Libya, "will be limited in their nature, duration, and scope. Their purpose is to support an international coalition as it takes all necessary measures to enforce the terms of U.N. Security Council Resolution 1973." The U.N. resolution specifically did not call for regime change and yet in July 2011, Secretary of Defense Leon Panetta made clear that the U.S. "objective" in Libya "is to do what we can to bring down the regime of Qaddafi." Moreover, as Micah Zenko, a fellow at the Council on Foreign Relations, said to me, NATO forces looked the other way at flights by the French government, among others, that re-supplied the Libyan rebels (in violation of the arms embargo mandated under Section 9 of Resolution 1970); sought to kill Qaddafi via airstrikes (eventually indirectly succeeding); helped to plan the operations that allowed the insurgents to capture Tripoli, and provided sensitive and secret satellite imagery to the rebels. In short, the United States went far beyond the mandate established by the Security Council and in effect lied when claiming that the operations in Libya were simply about protecting civilians. Putting aside the international law implications, the administration adopted a position of regime change of a foreign leader without any approval from Congress.¶ What is most surprising about the Obama administration's position is that it likely would not have been a heavy lift to get congressional backing for the operations in Libya in the early stages of the air campaign. But by disregarding Congress's role on Libya -- and shifting the intent of the U.S. mission without any congressional input into the decision -- the president has set a new and potentially troubling precedent. In contrast, by seeking congressional authorization Obama would have, ironically, restored some of the balance between the legislative and executive branch on issues of use of American military force.¶ Running roughshod over Congress has becoming something of a norm w

ithin the Obama administration. As one foreign-policy analyst close to the White House said to me "they generally don't do a good job of keeping people in the Hill in the loop on what they are doing. They see congressional oversight as a nuisance -- even within their own party." Another analyst I spoke to had a one-word response to the question of the administration's attitude toward Congress's role in foreign policy: "Dismissive." Whether the lack of proper consultation over the closing of the detainee facility at Guantanamo Bay, the refusal to share with intelligence committees the rationale for targeted killings, or even brief Hill staffers on changes in missile defense deployment, this sort of ignoring of congressional prerogatives has often been the rule, not the exception.¶ What has been Congress's response to this disregarding of its role in foreign policy decision-making? The usual hemming and hawing, but little in the way of concrete action. During the Bush years, Republicans were more than happy to let the president expand his executive powers when it came to Iraq, Afghanistan, and the global war on terrorism. When Democrats took back the House and Senate from Republicans in 2006, they placed greater scrutiny on the Bush administration's conduct of the war in Iraq -- but still continued to fund the conflict. Even in Washington's highly partisan current environment, little has changed; it's mostly sound and fury signifying nothing.¶ Republicans eschewed a constitutional confrontation with the White House over Libya, though the House GOP did make a rather partisan effort to defund the Libya operations (a measure that failed) and still today House and Senate members raise their frustrations in committee hearings over their heavy-handed treatment by the White House.¶ But the actions of some Republicans point in a different direction. Last year, House Armed Services Committee Chairman Buck McKeon actually tried to expand the original Authorization for Use of Military Force that granted U.S. kinetic actions just three days after 9/11 -- which would have actually increased executive war-making power. While some on the Hill have long suspected the constitutionality of the War Powers Resolution, it was one of the few checks that Congress maintained over the president (aside from ability to defund operations, which in itself is a difficult tool to wield effectively). Now they have been complicit in its further watering down.¶ Aside from Ron Paul, there's been little mention of the president's overreach in Libya by the GOP's presidential aspirants. And why should there be? If any of them become president they too would want to enjoy the expanded executive power that Obama has helped provide for them. Quite simply, in a closely divided country in which each party has a fair shot to win the White House every four years, there is little political incentive for either Democrats or Republicans to say enough is enough.¶ And with a former constitutional law professor punting on the issue (along with the much abused and maligned Congress), we're now even further from chipping away at the vast power the executive branch has been husbanded on national security issues. In the end, that may be the greatest legacy of the U.S. intervention in Libya.

## 1NC---Signing Statements

Obama will signing statement the aff—hollows the restriction out

Jeffrey Crouch, assistant professor of American politics at American University, Mark J. Rozell, acting dean and a professor of public policy at George Mason University, and Mitchel A. Sollenberger, associate professor of political science at the University of Michigan-Dearborn, December 2013, The Law: President Obama's Signing Statements and the Expansion of Executive Power, Presidential Studies Quarterly 43.4

In a January 2013 signing statement, President Barack Obama stated that his constitutional powers as president limited him to signing or vetoing a law outright and that he lacked the authority to reject legislative provisions “one by one.” Yet he then proceeded in a nearly 1,200 word statement to pick the law apart, section by section, and to effectively challenge many provisions by declaring that they violated his constitutional powers as commander in chief.

According to his signing statement, a provision restricting the president's authority to transfer detainees to foreign countries “hinders the Executive's ability to carry out its military, national security, and foreign relations activities and would, under certain circumstances, violate constitutional separation of powers principles” (Obama 2013). Obama did not mention, however, that Congress specifically authorized transfers to foreign countries as long as the secretary of defense, with the concurrence of the secretary of state and in consultation with the director of national intelligence, certified that the foreign government receiving the detainees was not a designated state sponsor of terrorism and possessed control over the facility the individual would be housed (P.L. 112-239; see Fisher 2013).

Obama also objected to a number of provisions that he claimed would violate his “constitutional duty to supervise the executive branch” and several others that he said could encroach upon his “constitutional authority to recommend such measures to the Congress as I ‘judge necessary and expedient.’ My Administration will interpret and implement these provisions in a manner that does not interfere with my constitutional authority” (Obama 2013).

What the president could not block or modify through concessions or veto threats during budget negotiations with members of Congress, he decided he could **unilaterally strip from a signed bill.** Similar to his predecessor, George W. Bush, Obama suggested that he was the ultimate “decider” on what is constitutional and proper. **Few** acts by **occupants of the White House so completely embody the unchecked presidency.**

Candidate Obama on Signing Statements President Obama's actions have been surprising given that he proclaimed while first running for his office that he would not issue signing statements that modify or nullify acts of Congress (YouTube 2013 2013). In a December 2007 response to the Boston Globe, presidential candidate Obama provided a detailed explanation for his thinking: “I will not use signing statements to nullify or undermine congressional instructions as enacted into law. The problem with [the George W. Bush] administration is that it has attached signing statements to legislation in an effort to change the meaning of the legislation, to avoid enforcing certain provisions of the legislation that the President does not like, and to raise implausible or dubious constitutional objections to the legislation” (Savage 2007a). Candidate Obama's objection to President Bush's actions centered on one of the three varieties of signing statement, in this case, a “constitutional” signing statement. In a “constitutional” signing statement, a president not only points out flaws in a bill, but also declares—in often vague language—his intent not to enforce certain provisions. Such statements may be different than ones that are “political” in nature. In “political” signing statements, a president gives executive branch agencies guidance on how to apply the law.1 Finally, the most common type of signing statements are “rhetorical,” whereby the intent of the president is to focus attention on one or more provisions for political gain (Kelley 2003, 45-50). President Obama's Policy on Signing Statements At the start of his term, it seemed that President Obama would honor his campaign commitments and break with his predecessor when he issued a memorandum to heads of executive branch departments and agencies regarding his policy on signing statements. In this memorandum, he wrote, “there is no doubt that the practice of issuing [signing] statements can be abused.” He objected to the use of signing statements where a president disregards “statutory requirements on the basis of policy disagreements.” Only when signing statements are “based on well-founded constitutional objections” do they become legitimate. Therefore, “in appropriately limited circumstances, they represent an exercise of the President's constitutional obligation to take care that the laws be faithfully executed, and they promote a healthy dialogue between the executive branch and the Congress.” President Obama proceeded to list four key principles he would follow when issuing signing statements: (1) Congress shall be informed, “whenever practicable,” of the president's constitutional objections; (2) the president “will act with caution and restraint” when issuing statements that are based on “well-founded” constitutional interpretations; (3) there will be “sufficient specificity” in each statement “to make clear the nature and basis of the constitutional objection”; and finally, (4) the president would “construe a statutory provision in a manner that avoids a constitutional problem only if that construction is a legitimate one” (Obama 2009a). Media coverage praised President Obama's action. The Boston Globe declared, “Obama reins in signing statements” (Editorial 2009). David Jackson of USA Today reported, “Obama tried to overturn his predecessor again on Monday, saying he will not use bill signing statements to tell his aides to ignore provisions of laws passed by Congress that he doesn't like” (Jackson 2009). Another reporter noted, President Obama “signaled that, unlike Bush, he would not use signing statements to do end runs around Congress” (James 2009).

Any expectations for a shift in the exercise of signing statements ultimately were misplaced, as President **Obama**, like his predecessor, **has used signing statements in ways that attempt to increase presidential power**. In this article, we first describe and analyze the continuity of policy and action between Barack Obama and George W. Bush. Second, we address why signing statements—at least one type of them—can not only be unconstitutional abuses of presidential power, but may also be unproductive tools for promoting interbranch dialogue and cooperation. Third, we show that signing statements are a natural result of expanding power in the modern presidency and that they have come to be used as a means of unilateral executive action. Finally, we provide a possible corrective to some of the more aggressive forms of constitutional signing statements that impact appropriations.

## 2NC---No Groupthink Extension

And, Chehab concedes there are too many alt causes

Chehab, Georgetown Law Center, 2012

[Ahmad, 3-30-12, “Retrieving the Role of Accountability in the Targeted Killings Context: A Proposal for Judicial Review” http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2031572, p.30-3, accessed 9-15-13, TAP]

The practical, pragmatic justification for the COAACC derives largely from considering social psychological findings regarding the skewed potential associated with limiting unchecked decision-making in a group of individuals. As an initial point, psychologists have long pointed out how individuals frequently fall prey to cognitive illusions that produce systematic errors in judgment.137 People simply do not make decisions by choosing the optimal outcome from available alternatives, but instead employ shortcuts (i.e., heuristics) for convenience.138 Cognitive biases like groupthink can hamper effective policy deliberations and formulations.139 Groupthink largely arises when a group of decision-makers seek conformity and agreement, thereby avoiding alternative points of view that are critical of the consensus position.140 This theory suggests that some groups—particularly those characterized by a strong leader, considerable internal cohesion, internal loyalty, overconfidence, and a shared world view or value system—suffer from a deterioration in their capacity to engage in critical analysis.141 Many factors can affect such judgment, including a lack of crucial information, insufficient timing for decision-making, poor judgment, pure luck, and/or unexpected actions by adversaries.142 Moreover, decision-makers inevitably tend to become influenced by irrelevant information,143 seek out data and assessments that confirm their beliefs and personal hypotheses notwithstanding contradictory evidence,144 and “[i]rrationally avoid choices that represent extremes when a decision involves a trade-off between two incommensurable values.”145 Self-serving biases can also hamper judgment given as it has been shown to induce well-intentioned people to rationalize virtually any behavior, judgment or action after the fact.146 The confirmation and overconfidence bias, both conceptually related to groupthink, also result in large part from neglecting to consider contradictory evidence coupled with an irrational persistence in pursuing ideological positions divorced from concern of alternative viewpoints.147 Professor Cass Sunstein has described situations in which groupthink produced poor results precisely because consensus resulted from the failure to consider alternative sources of information.148 The failures of past presidents to consider alternative sources of information, critically question risk assessments, ensure neutral-free ideological sentiment among those deliberating,149 and/or generally ensure properly deliberated national security policy has produced prominent and devastating blunders,150 including the Iraq War of 2003,151 the Bay of Pigs debacle in the 1960’s,152 and the controversial decision to wage war against Vietnam.153 Professor Sunstein also has described the related phenomenon of “group polarization,” which includes the tendency to push group members toward a “more extreme position.”154 Given that both groupthink and group polarization can lead to erroneous and ideologically tainted policy positions, the notion of giving the President unchecked authority in determining who is eligible for assassination can only serve to increase the likelihood for committing significant errors.155 The reality is that psychological mistakes, organizational ineptitude, lack of structural coherence and other associated deficiencies are inevitable features in Executive Branch decision-making.

This administration doesn’t link

Pillar, 13 -- Brookings Foreign Policy Senior Fellow

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

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

## norms

## 2nc squo solves

Double bind:

a) Existing norms solve

Michael Lewis, Professor of Law at Ohio Northern University Pettit College of Law, and Emily Crawford, Post-Doctoral Research Fellow, University of Sydney, 5/3/13, DRONES AND DISTINCTION: HOW IHL ENCOURAGED THE RISE OF DRONES, http://www.law.georgetown.edu/academics/law-journals/gjil/recent/upload/zsx00313001127.PDF

But the misconceptions concerning drones are not limited to the practical effects of U.S. drone policy. Legally, the United States’ position is not one of “ever-expanding entitlement for itself to target individuals across the globe.”162 The “entitlement” to use drones, just like the entitlement to engage in any other action on the sovereign territory of another state, is largely based upon the consent of the nation in which drones are being used. **It is clear that Yemen consented to the strikes undertaken on its territory**.163 This is supported by the WikiLeaks release of cables indicating Yemeni government consent for the actions taken there.164 Likewise, there is evidence that the Pakistani government has privately consented to most of the strikes that the United States had conducted on its territory.165 **To the extent that the norm being shaped by U.S. behavior is limited to cases of consent, it is hard to see how the United States will one day be disadvantaged by that norm.** Outside of situations in which the host state consents to the strike, the United States has only asserted an “entitlement” to target al Qaeda in situations where the host state has proven itself to be unable or unwilling to incapacitate or expel al Qaeda from its territory.166 It has long been established that states not involved in armed conflicts have a responsibility not to aid either belligerent.167 The United States’ position that the law of armed conflict allows it to conduct proportional strikes against al Qaeda targets within states that have proven themselves to be unable or unwilling to incapacitate or expel those targets cannot be fairly characterized as creating an “ever-expanding entitlement for itself to target individuals across the globe.”168

b) US precedent is locked in and it’s too late

NYT, 5/29/’12

(“Secret ‘Kill List’ Proves a Test of Obama’s Principles and Will”)

Justly or not, drones have become a provocative symbol of American power, running roughshod over national sovereignty and killing innocents. With China and Russia watching, the United States has set an international precedent for sending drones over borders to kill enemies.

Takes out the impact—other nations probably won’t model a restrictive drone policy, but they’re also not about to go nuts—international pressure solves

Hajjar, Institute for Public Policy and International Affairs @ ETH Zurich, ‘13

(Lisa, “Lawfare and US and Israeli Targeted Killings Policies,” ETH Zurich, April)

I refer to these as “attempts” to reinterpret international law because **targeted killing has not gained international credibility.** Were they to succeed, however, targeted killing would become an option for any government. Recall Daniel Reisner’s words: “If you do something for long enough, the world will accept it ...International law progresses through violations.” Lawfare has been a means of defending international consensus-based interpretations of IHL. In countries other than Israel or the US where lawsuits have been mounted, even when those cases have been dismissed—and even when national laws have been narrowed to impede such cases in the future—there has been no foreign governmental endorsement of the legal justifications for targeted killing. Rather, those judicial outcomes are the result of political pressure, diplomatic arm-twisting, or the desire not to offend allied governments. Lawfare has not (yet) succeeded to achieve accountability for extra-judicial executions and civilian deaths, nor forced a decisive return to international consensus-based behavior by either the Israeli or the US government. Lawfare has, however, been a means of exposing the contents and rationales of these states’ positions. This exposure, in turn, has contributed to making their targeted killing policies an issue of increasing international concern and activity. Thus, the value of lawfare should not be judged solely on the basis of judicial outcomes, but rather on the long-term significance of challenging law violations. Without such challenges, powerful states would be unhindered in their state lawfare efforts to rewrite the laws of war to make international consensus-defying policies they wish to employ appear legal. The law has not been rewritten.

## 2nc at china impact

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

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

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

Unmanned systems have become the legal and ethical problem child of the global defense industry and the governments they supply, rewriting the rules of military engagement in ways that many find disturbing. And this sense of unease about where we’re headed is hardly unfamiliar. Much like the emergence of drone technology, the rise of China and its reshaping of the geopolitical landscape has stirred up a sometimes understandable, sometimes irrational, fear of the unknown. It’s safe to say, then, that Chinese drones conjure up a particularly intense sense of alarm that the media has begun to embrace as a license to panic. China is indeed developing a range of unmanned aerial vehicles/systems (UAVs/UASs) at a time when relations with Japan are tense, and when those with the U.S. are delicate. But that **hardly justifies claims** that “drones have taken center stage in an escalating arms race between China and Japan,” or that the “China drone threat highlights [a] new global arms race,” as some observers would have it. This hyperbole was perhaps fed by a 2012 U.S. Department of Defense report

which described China’s development of UAVs as "alarming." That’s quite unreasonable. All of the world’s advanced militaries are adopting drones, not just the PLA. That isn’t an arms race, or a reason to fear China, it’s just the direction in which defense technology is naturally progressing. Secondly, while China may be demonstrating impressive advances, Israel and the U.S. retain a substantial lead in the UAV field, with China—alongside Europe, India and Russia— still in the second tier. And thirdly, China is modernizing in all areas of military technology – unmanned systems being no exception.

Pivot makes it inevitable but no impact

Zhouin 12 (Dillon, graduate of the International Relations Program at the University of Massachusetts Boston, PolicyMic, “China Drones Prompt Fears of a Drone Race With the US”, <http://www.policymic.com/articles/19753/china-drones-prompt-fears-of-a-drone-race-with-the-us>, ZBurdette)

During China’s twice-a-year show, visitors got to see an impressive and, to some, alarming fleet of drones developed by Chinese companies, including many models resembling U.S. drones with their body shape, flight specs, and their missile and surveillance capabilities. It’s evident that China intends to take full advantage of using unmanned aerial vehicles (UAVs) to achieve its national interests – including their territorial disputes over the Senkaku Islands and South China Sea. The U.S. and the World should, therefore, be concerned with this development given that this may lead to a drone race between the top two producers of drones – the U.S. and China. In a world whose militaries and governments are buzzing about the potential of the drones, it is no surprise that China is working to bring their drone program up to speed to compete with America just as President Obama is executing his "Asia Pivot" through strengthening U.S. military, political and economic presence in Asia. China is rising – as evident in its growing economic and military power – but the U.S. should not treat the Chinese drone program as a cause for panic. If the U.S. works towards countermeasures against drones from rival states – like China – the risk posed by the development of competing drone programs can be minimized allowing the U.S. to implement its "Asia Pivot" with one less impediment. The Rise of the Drones Drones are the strategic tools of the future, especially when it comes to the political contests between the major players in global affairs. The Department of Defense’s Defense Science Board (DSB) released a report on the future of drones as a potent tool of great powers like the U.S. and China. The report notes that drones are fast becoming a “tipping point” in global affairs because: “Armed forces in the United States and around the world have actively embraced unmanned systems. The advantages of these systems in terms of persistence, endurance and generally lower costs and deployment footprint have been highlighted in recent conflicts ... Unmanned systems have become an established part of military operations and will play an increasing role in the modern military machine.” The value of the drone lies in its capacity to radically expand a military’s ability to gather intelligence and expand its ability to project its power beyond limits faced by frontline personnel. It can also carry out the unpleasant business of neutralizing enemies, including Anwar al-Awlaki and Abu Yahya al-Libi, Al Qaeda’s last number two leaders, with some civilian casualties. However, the drone is not as precise or accurate as described by the defense industry – as shown by a joint study published by Stanford Law School and NYU School of Law, which detailed the considerable toll taken on civilians in Pakistan – and causes unintended consequences in its search and kill operations in multiple areas of U.S. intelligence operations. The U.S. remains the leading market for drones, but other powers like China, Russia, Europe and the Middle East are also working to develop their own drone capabilities. Unlike the other powers, China is the most prolific developer of a rival drone program to America's program. The DSB report said “[i]n a worrisome trend, China has ramped up research in recent years faster than any other country.” China’s New “Dragons” in the Sky Like the U.S., China has given its new fleet of UAVs unique code names – which often include the character for “dragon” or "long" – and designed them with comparable capabilities as their U.S. counterparts. Many of its newer models – including the CH-4, the Wing Loong and Xianglong – appears to be copies of the U.S. Reaper, Predator and Global Hawk designs. The drone program has had a profound effect on China’s defense industry. The DSB report notes that “[China] displayed its first unmanned system model at the Zhuhai air show five years ago, and now every major manufacturer for the Chinese military has a research center devoted to unmanned systems.” One unique aspect of the Chinese drone program is that the cost of the drones are significantly cheaper than those made by the U.S. and Israel. For example, according to Wired, "[t]he Wing Loong [the Chinese equivalent of the U.S. Reaper] reportedly comes at a rather incredible bargain price of $1 million (£625,000), compared to the Reaper's varying price tags in the $30 million (£18.7 million) range." For China, their nascent drone program provides a valuable tool for projecting its power in Asia, especially in a time when it’s engaged in territorial disputes with its neighbors. More importantly, China feels a need to meet the threat in perceives in President Obama’s so-called “Asia Pivot.” The drones could act as the ideal surveillance tool in tracking U.S. and its Asian allies' military movements in the event of a crisis or international spat and act as a proxy weapon to deter assertive behavior over the South China Sea and Senkaku Islands. At the same time, the cheaper Chinese drones are a hot export product line for the Chinese defense industry. Many African and Asian states have placed orders for the economic Chinese drones. "We've been contacting many countries, especially from Africa and Asia," Guo Qian, a director at a division of the state-owned China Aerospace Science and Technology Corporation. The geostrategic impact of the advent of these new "dragons" is to stoke fears of a drone race between the U.S. and China, which have already manifested at the Pentagon. Worried About the Dragons’ Reach The U.S. is deeply concerned with the speed of the Chinese drone program and the growing resources being devoted to the program. The main concern, according to the DSB report, is as follows: “The military significance of China’s move into unmanned systems is alarming. [China] has a great deal of technology, seemingly unlimited resources and clearly is leveraging all available information on Western unmanned systems development. China might easily match or outpace U.S. spending on unmanned systems, rapidly close the technology gaps and become a formidable global competitor in unmanned systems.” Basically, the U.S. is afraid that it won't be able to keep up with a China that has invested itself in a intensive government-sponsored effort to compete with the U.S. drone program in terms of technical quality, quantity, and as a export product to clients in the developing world. On a strategic level, the Chinese drones could be the "tipping point" for giving the Chinese the edge in possible future disputes in Asia with the U.S. as it attempts to create regional security as part of its "Asia Pivot." There are several facts that provide some solace to the U.S. as China's drones are far from being a real challenge to the American drone program. First, the Chinese drones are nowhere as sophisticated as U.S. drones in their range and proper hardware for optic systems and motors to power the "dragons." The DSB report notes that the U.S. technical systems are almost unrivaled at present. Second, China lacks the manpower to properly support their new fleet of drones. Whereas the U.S. has been training and honing a large force of UAV pilots, technicians and operation managers for 15 years. Finally, the U.S. drone program is about 20 years ahead of the Chinese program. The current models on show are considered to be prototypes and not finished products. The Chinese also have not had a chance to gain real experience with their drones during real operation. The U.S. shouldn't be alarmed given these facts. Nor should it be overly critical of the Chinese drone program. Scott Shane of The New York Times observes that the U.S. has set the "international norms" for using drones: "If China, for instance, sends killer drones into Kazakhstan to hunt minority Uighur Muslims it accuses of plotting terrorism, what will the United States say? What if India uses remotely controlled craft to hit terrorism suspects in Kashmir, or Russia sends drones after militants in the Caucasus? American officials who protest will likely find their own example thrown back at them." The U.S. needs to take countermeasures against future risks from Chinese drones, but it needs not be overly alarmed or antsy. Clearly, President Obama and the U.S. has a need to work hard to keep the U.S. ahead of the competition from the "dragons" in order to implement the "Asia Pivot" and pursue U.S. interest in a balance of power in the region.

## 2NC No Miscalc

China constrained from SCS conflict—miscalc won’t escalate

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 Jap

anese 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.

Miscalc args are wrong

Walt 13 (Stephen M. Walt is the Robert and Renée Belfer professor of international relations at Harvard University., 2/8/2013, "Good news: World War I is over and will not happen again", walt.foreignpolicy.com/posts/2013/02/08/good\_news\_world\_war\_i\_is\_over\_and\_will\_not\_happen\_again)

It therefore pains me to have to take issue with Rachman's recent column warning of rising tensions in East Asia, and all the more so because he quotes two respected colleagues, Joe Nye and Graham Allison. His concern is the possibility of some sort of clash between China and Japan, precipitated by the territorial dispute over the Diaoyu/Senkaku islands exacerbated by rising nationalism in both countries and concerns over shifting balances of power. These are all legitimate worries, although it's hard to know just how serious or volatile the situation really is. The problem lies in Rachman's use of the World War I analogy -- specifically, the July Crisis that led to the war -- to illustrate the dangers we might be facing in East Asia. The 1914 analogy has been invoked by many experts over the years, of course, in part because World War I is correctly seen as an exceptionally foolhardy and destructive war that left virtually all of the participants far worse off. Moreover, popular histories like Barbara Tuchman's The Guns of August (which is said to have influenced John F. Kennedy's handling of the Cuban Missile Crisis), and A.J.P. Taylor's War by Timetable have reinforced an image of World War I as a tragic accident, a war that nobody really intended. In this version of history, the European great powers stumbled into a war that nobody wanted, due to miscalculations, rigid mobilization plans, extended alliance commitments, and poor communications. This interpretation of 1914 has been especially popular during the nuclear age, as it seemed to provide a bright warning sign for how great powers could blunder into disaster through misplaced military policies or poor crisis management. And given Rachman's concerns about the possibility of a Sino-Japanese military clash over the disputed islands, and the obvious costs that any serious clash of arms would entail, it's not hard to see why he's drawn to the 1914 case. The problem, however, is that this interpretation of the origins of 1914 is wrong. World War I was not an accident, and the European great powers didn't stumble into it by mistake. On the contrary, the war resulted from a deliberate German decision to go to war, based primarily on their concerns about the long-term balance of power and their hope that they could win a quick victory that would ensure their predominance for many years to come. As Dale Copeland lays out in the fourth chapter of his masterful book, The Origins of Major Wars, German Chancellor Theobald von Bethman-Hollweg used the assassination of Archduke Franz Ferdinand of Austria as a pretext to launch a preventive war -- something Germany's leaders had been contemplating for some time -- and he cleverly manipulated the July Crisis in an attempt to pin the blame for the war on others. Not only did Germany's leaders give Austria-Hungary a "blank check" to go after Serbia (which had backed the terrorist group that had assassinated the Archduke), they egged the reluctant Austrians on at every turn. German leaders also knew that a Balkan war was likely to trigger Russian military mobilization -- as it eventually did -- and that this step would give them the pretext for war that they were looking for. The war, in short, was not an accident, at least not in the sense that Rachman means. This is not to say that errors and miscalculations were not at play in 1914. Russia and Great Britain failed to figure out what Germany was planning in a sufficiently timely fashion, and Germany's leaders almost certainly exaggerated the long-term threat posed by Russian power (which was their main motivation for going to war). German military planners were also less confident of securing the rapid victory that the infamous Schlieffen plan assumed, yet they chose to roll the iron dice of war anyway. But the key point is that the **European powers did not go to war in 1914 because a minor incident suddenly and uncontrollably escalated into a hegemonic war.** The real lesson of 1914 for the present day, therefore, is to ask whether any Asian powers are interested in deliberately launching a preventive war intended to establish regional hegemony, as Germany sought to do a century ago. The good news is that this seems most unlikely. Japan is no position to do so, and China's military capabilities are still too weak to take on its various neighbors (and the United States) in this fashion. And in the nuclear age, it is not even clear that this sort of hegemony can be established by military means. If China does hope to become the dominant power in Asia (and there are good realist reasons why it should), it will do so in part by building up its military power over time -- to increase the costs and risks to the United States of staying there -- and by using its economic clout to encourage America's current Asian allies to distance themselves from Washington. It is not yet clear if this will happen, however, because China's future economic and political trajectory remains highly uncertain. But deliberately launching a great power war to achieve this goal doesn't seem likely, and especially not at the present time.

## 2nc no war

Best studies prove

Brandt and Ulfelder 11—\*Patrick T. Brandt, Ph.D. in Political Science from Indiana University, is an Assistant Professor of Political Science in the School of Social Science at the University of Texas at Dallas. \*\*Jay Ulfelder, Ph.D. in political science from Stanford University, is an American political scientist whose research interests include democratization, civil unrest, and violent conflict. [April, 2011, “Economic Growth and Political Instability,” Social Science Research Network]

These statements anticipating political fallout from the global economic crisis of 2008–2010 reflect a widely held view that economic growth has rapid and profound effects on countries’ political stability. When economies grow at a healthy clip, citizens are presumed to be too busy and too content to engage in protest or rebellion, and governments are thought to be flush with revenues they can use to enhance their own stability by producing public goods or rewarding cronies, depending on the type of regime they inhabit. When growth slows, however, citizens and cronies alike are presumed to grow frustrated with their governments, and the leaders at the receiving end of that frustration are thought to lack the financial resources to respond effectively. The expected result is an increase in the risks of social unrest, civil war, coup attempts, and regime breakdown. Although it is pervasive, the assumption that countries’ economic growth rates strongly affect their political stability has not been subjected to a great deal of careful empirical analysis, and evidence from social science research to date does not unambiguously support it. Theoretical models of civil wars, coups d’etat, and transitions to and from democracy often specify slow economic growth as an important cause or catalyst of those events, but empirical studies on the effects of economic growth on these phenomena have produced mixed results. Meanwhile, the effects of economic growth on the occurrence or incidence of social unrest seem to have hardly been studied in recent years, as empirical analysis of contentious collective action has concentrated on political opportunity structures and dynamics of protest and repression. This paper helps fill that gap by rigorously re-examining the effects of short-term variations in economic growth on the occurrence of several forms of political instability in countries worldwide over the past few decades. In this paper, we do not seek to develop and test new theories of political instability. Instead, we aim to subject a hypothesis common to many prior theories of political instability to more careful empirical scrutiny. The goal is to provide a detailed empirical characterization of the relationship between economic growth and political instability in a broad sense. In effect, we describe the conventional wisdom as seen in the data. We do so with statistical models that use smoothing splines and multiple lags to allow for nonlinear and dynamic effects from economic growth on political stability. We also do so with an instrumented measure of growth that explicitly accounts for endogeneity in the relationship between political instability and economic growth. To our knowledge, ours is the first statistical study of this relationship to simultaneously address the possibility of nonlinearity and problems of endogeneity. As such, we believe this paper offers what is probably the most rigorous general evaluation of this argument to date. As the results show, some of our findings are surprising. Consistent with conventional assumptions, we find that social unrest and civil violence are more likely to occur and democratic regimes are more susceptible to coup attempts around periods of slow economic growth. At the same time, our analysis shows no significant relationship between variation in growth and the risk of civil-war onset, and results from our analysis of regime changes contradict the widely accepted claim that economic crises cause transitions from autocracy to democracy. While we would hardly pretend to have the last word on any of these relationships, our findings do suggest that the relationship between economic growth and political stability is neither as uniform nor as strong as the conventional wisdom(s) presume(s). We think these findings also help explain why the global recession of 2008–2010 has failed thus far to produce the wave of coups and regime failures that some observers had anticipated, in spite of the expected and apparent uptick in social unrest associated with the crisis.

Overwhelming statistical support

Morris Miller, Professor of Administration @ the University of Ottawa, ‘2K

(Interdisciplinary Science Review, v 25 n4 2000 p ingenta connect)

The question may be reformulated. Do wars spring from a popular reaction to a sudden economic crisis that exacerbates poverty and growing disparities in wealth and incomes? Perhaps one could argue, as some scholars do, that it is some dramatic event or sequence of such events leading to the exacerbation of poverty that, in turn, leads to this deplorable denouement. This exogenous factor might act as a catalyst for a violent reaction on the part of the people or on the part of the political leadership who would then possibly be tempted to seek a diversion by finding or, if need be, fabricating an enemy and setting in train the process leading to war. According to a study under- taken by Minxin Pei and Ariel Adesnik of the Carnegie Endowment for International Peace, there would not appear to be any merit in this hypothesis. After studying ninety-three episodes of economic crisis in twenty-two countries in Latin America and Asia in the years since the Second World War they concluded that:19 Much of the conventional wisdom about the political impact of economic crises may be wrong ... The severity of economic crisis – as measured in terms of inflation and negative growth – bore no relationship to the collapse of regimes ... (or, in democratic states, rarely) to an outbreak of violence ... In the cases of dictatorships and semi-democracies, the ruling elites responded to crises by increasing repression (thereby using one form of violence to abort another).

## 2nc no impact

Their laundry list of vague impacts is academic junk – conflicts can’t just emerge

Fettweis, 11

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

Assertions that without the combination of U.S. capabilities, presence and commitments instability would return to Europe and the Pacific Rim are usually rendered in rather vague language. If the United States were to decrease its commitments abroad, argued Robert Art, “the world will become a more dangerous place and, sooner or later, that will redound to America’s detriment.”53 From where would this danger arise? Who precisely would do the fighting, and over what issues? Without the United States, would Europe really descend into Hobbesian anarchy? Would the Japanese attack mainland China again, to see if they could fare better this time around? Would the Germans and French have another go at it? In other words, where exactly is hegemony is keeping the peace? With one exception, these questions are rarely addressed.

That exception is in the Pacific Rim. Some analysts fear that a de facto surrender of U.S. hegemony would lead to a rise of Chinese influence. Bradley Thayer worries that Chinese would become “the language of diplomacy, trade and commerce, transportation and navigation, the internet, world sport, and global culture,” and that Beijing would come to “dominate science and technology, in all its forms” to the extent that soon the world would witness a Chinese astronaut who not only travels to the Moon, but “plants the communist flag on Mars, and perhaps other planets in the future.”54 Indeed China is the only other major power that has increased its military spending since the end of the Cold War, even if it still is only about 2 percent of its GDP. Such levels of effort do not suggest a desire to compete with, much less supplant, the United States. The much-ballyhooed, decade-long military buildup has brought Chinese spending up to somewhere between one-tenth and one-fifth of the U.S. level. It is hardly clear that a restrained United States would invite Chinese regional, must less global, political expansion. Fortunately one need not ponder for too long the horrible specter of a red flag on Venus, since on the planet Earth, where war is no longer the dominant form of conflict resolution, the threats posed by even a rising China would not be terribly dire. The dangers contained in the terrestrial security environment are less severe than ever before.

Believers in the pacifying power of hegemony ought to keep in mind a rather basic tenet: When it comes to policymaking, specific threats are more significant than vague, unnamed dangers. Without specific risks, it is just as plausible to interpret U.S. presence as redundant, as overseeing a peace that has already arrived. Strategy should not be based upon vague images emerging from the dark reaches of the neoconservative imagination.

Overestimating Our Importance

One of the most basic insights of cognitive psychology provides the final reason to doubt the power of hegemonic stability: Rarely are our actions as consequential upon their behavior as we perceive them to be. A great deal of experimental evidence exists to support the notion that people (and therefore states) tend to overrate the degree to which their behavior is responsible for the actions of others. Robert Jervis has argued that two processes account for this overestimation, both of which would seem to be especially relevant in the U.S. case.55 First, believing that we are responsible for their actions gratifies our national ego (which is not small to begin with; the United States is exceptional in its exceptionalism). The hubris of the United States, long appreciated and noted, has only grown with the collapse of the Soviet Union.56 U.S. policymakers famously have comparatively little knowledge of—or interest in—events that occur outside of their own borders. If there is any state vulnerable to the overestimation of its importance due to the fundamental misunderstanding of the motivation of others, it would have to be the United States. Second, policymakers in the United States are far more familiar with our actions than they are with the decision-making processes of our allies. Try as we might, it is not possible to fully understand the threats, challenges, and opportunities that our allies see from their perspective. The European great powers have domestic politics as complex as ours, and they also have competent, capable strategists to chart their way forward. They react to many international forces, of which U.S. behavior is only one. Therefore, for any actor trying to make sense of the action of others, Jervis notes, “in the absence of strong evidence to the contrary, the most obvious and parsimonious explanation is that he was responsible.”57

It is natural, therefore, for U.S. policymakers and strategists to believe that the behavior of our allies (and rivals) is shaped largely by what Washington does. Presumably Americans are at least as susceptible to the overestimation of their ability as any other people, and perhaps more so. At the very least, political psychologists tell us, we are probably not as important to them as we think. The importance of U.S. hegemony in contributing to international stability is therefore almost certainly overrated.

In the end, one can never be sure why our major allies have not gone to, and do not even plan for, war. Like deterrence, the hegemonic stability theory rests on faith; it can only be falsified, never proven. It does not seem likely, however, that hegemony could fully account for twenty years of strategic decisions made in allied capitals if the international system were not already a remarkably peaceful place. Perhaps these states have no intention of fighting one another to begin with, and our commitments are redundant. European great powers may well have chosen strategic restraint because they feel that their security is all but assured, with or without the United States.

# 1NR

Iran prolif outweighs –

Quick regional prolif ensures accidents and miscalc – that’s Edelman

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.

**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 China**

**PressTV, 11/13/13** (“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.

The warning came one day after the White House told Congress not to impose new sanctions against Tehran because failure in talks with Iran could lead to war.

defections overwhelm Obama—results in new sanctions that collapse negotiations and cause war

William Davnie, Former State Dept Officer, Chief of State at Iraq provincial office, 1/5/14, Iran sanctions bill threatens progress; pressure is on Franken, Klobuchar, http://www.startribune.com/opinion/commentaries/238660021.html

The historic Geneva deal to limit Iran’s nuclear program is scheduled to go into effect later this month. Once it does, the world will be farther away from a devastating war and a nuclear-armed Iran. As U.S. Rep. Betty McCollum, D-Minn., rightly pointed out, “this initial deal is a triumph for engagement and tough diplomacy.” However, **the U.S. Senate could reverse that progress through a vote on new sanctions as early as this week,** putting the United States and Iran on a collision course toward war.

For the first time in a decade, the Geneva deal presses pause on Iran’s nuclear program, and presses the rewind button on some of the most urgent proliferation concerns. In exchange, the United States has committed to pause the expansion of its sanctions regime, and in fact rewind it slightly with limited sanctions relief. **Imposing new sanctions now would be just as clear a violation of the Geneva agreement as it would be for Iran to expand its nuclear program.**

That’s why the Obama administration has committed to vetoing any such measures and has warned that torpedoing the talks underway could put our country on a march toward war. A recent, unclassified intelligence assessment concurred with the White House’s caution, asserting that new sanctions “would undermine the prospects for a successful comprehensive nuclear agreement with Iran.”

However, in an open rebuke of the White House, the intelligence community and the 10 Senate committee chairs who cautioned against new sanctions, Sens. Robert Menendez, D-N.J.; Chuck Schumer, D-N.Y., and Mark Kirk, R-Ill., have introduced a bill (S. 1881) to impose new oil and financial sanctions on Iran.

Supporters of this measure stress that new sanctions would take effect only if Iran violates the Geneva agreement or fails to move toward a final deal at the end of the six-month negotiation period. And some dismiss this congressional threat as toothless, given President Obama’s vow to veto any sanctions legislation. But **simply passing these sanctions would dangerously escalate tensions with Iran**. U.S. Rep. Keith Ellison, D-Minn., put it best: “**New sanctions stand to kill any hope for diplomacy.”**

Already, anti-Geneva-deal counterparts in Iran’s parliament have responded with their own provocation, introducing legislation to require Iran to enrich near weapons grade if the United States imposes new sanctions.

Like the Senate sanctions bill, the Iranian parliament’s legislation would have a delayed trigger. Like the Senate bill, the mere introduction of this reckless legislation isn’t a violation of the letter of the Geneva agreement per se. But **both bills risk** restarting the vicious cycle of confrontation **that has defined the U.S.-Iran relationship for decades.**

Without a significant public outcry, **support for this sanctions bill could potentially reach a veto-proof majority** of 67 senators and 290 representatives in the House.

Minnesota could play an important role in this showdown between supporters of using hard-nosed diplomacy to avoid military action and reduce nuclear risk, and those who would upend sensitive negotiations and make war likely. About half of the senators have staked out their positions, but neither Sen. Amy Klobuchar nor Sen. Al Franken have yet taken a public stance.

Minnesota is one of just 10 states where neither senator has taken a public position on whether or not to sign onto **sanctions** that **would sink the deal — and** risk another war in the Middle East.

While some new-sanctions proponents are banking on partisan politics to earn support from Republicans, it would still take seven of the remaining 23 undecided Democrats, along with all Republicans, to reach a veto-proof majority. All eyes will be on those 23 undecided Democrats — including Klobuchar and Franken.

Heg doesn’t solve Mid East war

Potter, Adjunct Associate Professor of International and Public Affairs – Columbia University, March ‘11

(Lawrence, “Persian Gulf Security: Patterns and Prospects,” in “Iran and the West,” eds. Rouzbeh Parsi and John Rydqvist)

The security of the Persian Gulf has been a concern of outside powers for the past 500 years, and the situation today resembles that which has long prevailed: an imperial hegemon—now the United States—tries to maintain stability thanks to naval superiority and an alliance with key regional states.17 However, this situation will not continue indefinitely. The United States has never been able to exert complete control over regional states nor prevent local rivalries. The Obama Administration is determined to wind down its involvement in Iraq and Afghanistan and its regional allies are nervous at being seen as too closely identified with US policies. The littoral states, especially the triangle of interests represented by Iran, Iraq and the Gulf Cooperation Council (GCC),18 will inevitably and increasingly determine the course of events. It is necessary to think about a future security regime in the Gulf in which outsiders play a much smaller role, over the horizon, and the Gulf states themselves take on more responsibility for their own security.

No US influence in the Mid east – hypocrisy, wars and Israel

**Mohammed 12** (Arshad Mohammed, cover U.S. foreign policy for Reuters from a base at the State Department. I joined Reuters in 1988 and have worked as a correspondent in New York, Paris, Algiers and Washington, where I have covered the White House (1996-2002) and the State Department (2002-2005, 2006-present)., "U.S. may have less Mideast clout, uses it with care", 6/17/2012, www.reuters.com/article/2012/06/17/us-usa-mideast-clout-idUSBRE85G02L20120617)

(Reuters) - Events in Egypt, Bahrain and Syria illustrate the limits of U.S. influence in the Middle East following the Arab Spring and a U.S. reluctance, at times, to exercise such clout as it has. Court rulings in Egypt and in Bahrain this week, analysts say, show the ruling authorities' desire to maintain their grip on power and the United States' limited ability to shape events despite its general support for democracy. After decades in which Washington has been the region's dominant outside player, deploying its military to guarantee the flow of oil and its diplomatic muscle to advance peace between Israel and its Arab neighbors, the pro-democracy demonstrations of the Arab Spring appear to have changed the equation. President Barack Obama's early hopes of brokering an Israeli-Palestinian peace deal have foundered. And U.S. blunders in Iraq, where violence persists nine years after a U.S.-led invasion toppled Saddam Hussein, have also eroded U.S. credibility, Middle East analysts said. "When questions become ones of life and death, people are less interested in what the United States has to say," said Jon Alterman, director of the Middle East program at the Center for Strategic and International Studies think tank in Washington. "We have had a long relationship with the Egyptian military and when it comes to existential issues, they will listen politely but they strongly believe that they understand both their population and their national interest better than well-meaning Americans," Alterman added.

#### Negotiations likely to succeed and be durable

Colin Kahl, 1/7/14, Still Not Time to Attack Iran, www.foreignaffairs.com/articles/140633/colin-h-kahl/still-not-time-to-attack-iran

In my article “Not Time to Attack Iran” (March/April 2012), I made the case for pursuing a diplomatic solution to the Iranian nuclear challenge, arguing that, because of the risks and costs associated with military action, “force is, and should remain, a last resort, not a first choice.” Key developments in 2013 -- namely, the election of Hassan Rouhani, a moderate, as Iran’s new president and the signing of an interim nuclear deal by Iran and the United States and its negotiating partners -- reinforce this conclusion. Whatever hawks such as Reuel Marc Gerecht or Matthew Kroenig might argue, it is still not time to attack Iran. Indeed, the prospects for reaching a comprehensive agreement to resolve the nuclear impasse peacefully, while far from guaranteed, have never been brighter. A LIGHT AT THE END OF THE TUNNEL After decades of isolation, the Iranian regime may finally be willing to place meaningful limits on its nuclear program in exchange for relief from punishing economic sanctions. In Iran’s June 2013 presidential election, Rouhani handily defeated a slate of conservative opponents, including the hard-line nuclear negotiator Saeed Jalili, who had campaigned on continuing Iran’s strategy of “nuclear resistance.” Rouhani, in contrast, pledged to reach a nuclear accommodation with the West and free Iran from the economic burden imposed by sanctions. Rouhani, also a former nuclear negotiator, believes he has the support of the Iranian people and a green light from Supreme Leader Ayatollah Ali Khamenei to reach a comprehensive nuclear accord with the United States and the other members of the P5+1 (Britain, China, France, Germany, and Russia). The first step on the road to a comprehensive deal came in November 2013 with an interim agreement in Geneva, in which Tehran agreed to freeze and modestly roll back its nuclear program in exchange for a pause in new international sanctions and a suspension of some existing penalties. The deal represents the most meaningful move toward a denuclearized Iran in more than a decade. It neutralizes Iran’s stockpile of 20 percent uranium and therefore modestly lengthens Iran’s “breakout” timeline -- the time required to enrich uranium to weapons grade -- by one or two months. A new inspections regime also means any breakout attempt would be detected soon enough for the international community to react, and expanded International Atomic Energy Agency (IAEA) access to Iran’s nuclear infrastructure will make it more difficult for Iran to divert critical technology and materials to new secret sites. The terms also preclude the new plutonium reactor at Arak from becoming operational, halting the risk that Iran could soon use plutonium to build a bomb. For all its good points, the interim agreement does not by itself resolve the Iranian nuclear challenge. Rather, the accord is designed to create at least a six-month diplomatic window (the initial period of the agreement), or longer if the agreement is extended, to negotiate a final, comprehensive solution. At the very least, U.S. officials have suggested that the ultimate deal must permanently cap Iran’s enrichment at five percent; substantially reduce Iran’s low-enriched uranium stockpile; place significant limits on the number of Iranian centrifuges and enrichment facilities; dismantle Arak or convert it to a proliferation-resistant light-water reactor; allow much more intrusive inspections of both declared and undeclared facilities; and account for the “past military dimensions” of Iran’s nuclear research. In exchange, Iran would receive comprehensive relief from multilateral and national nuclear- and proliferation-related sanctions. GOING FOR BROKE Some analysts argue that U.S. negotiators should use the leverage created by crippling economic sanctions and Iran’s apparent willingness to negotiate to insist on a total dismantling of Iran’s fuel-cycle activities. The maximalist approach is reflected in Israeli Prime Minister Benjamin Netanyahu’s stated requirements for a final deal: no uranium enrichment at any level, no stockpile of enriched uranium, no centrifuges or centrifuge facilities, and no Arak heavy-water reactor or plutonium reprocessing facilities. Attempting to keep Iran as far away from nuclear weapons as possible seems prudent and reasonable. It is imperative that any final deal prohibits Iran from possessing facilities that would allow it to produce weapons-grade plutonium, for example. But in reality, the quest for an optimal deal that requires a permanent end to Iranian enrichment at any level would likely doom diplomacy, making the far worse outcomes of unconstrained nuclearization or a military showdown over Tehran's nuclear program much more probable. Regardless of pressure from the United States, its allies, and the wider international community, the Iranian regime is unlikely to agree to end all enrichment permanently. Khamenei, the ultimate decider on the nuclear file, has invested far too much political capital and money (more than $100 billion over the years) in mastering enrichment technology and defending Iran's nuclear rights (defined as domestic enrichment). The nuclear program and “resistance to arrogant powers” are firmly imbedded in the regime’s ideological raison d’être. So, even in the face of withering economic sanctions, Khamenei and hard-liners within the Revolutionary Guard are unlikely to sustain support for further negotiations -- let alone acquiesce to a final nuclear deal -- if the end result reflects a total surrender for the regime. As Alireza Nader, an Iran analyst at the RAND Corporation, observes, “[S]anctions are a danger to their rule, but weakness in the face of pressure might be no less a threat.” Nor are Rouhani and his negotiating team likely to agree to halt enrichment or advocate for such a policy, since doing so would be political suicide. In 2003, during Rouhani’s previous role as Iran's chief nuclear negotiator, he convinced Khamenei to accept a temporary suspension of enrichment. But further talks with the international community stalled in early 2005 over a failure to agree on Iran’s asserted right to enrichment, and Tehran ended its suspension shortly thereafter. Rouhani is unlikely to let that happen again.

PLAYING CHICKEN Given the certainty that Iran will reject maximalist demands from the United States, the United States should only make such demands if it is willing to go to the brink of the abyss with Iran, escalating economic and military threats to the point at which the regime’s survival is acutely and imminently in danger. Yet pursuing such a high-risk strategy is unlikely to succeed, and the consequences of failure would be profound. First, it is unclear whether any escalation of sanctions could bring the regime to its knees in time to prevent Iran from achieving a breakout capability. Iran’s apparent willingness to negotiate under pressure is not, in and of itself, evidence that more pressure will produce total surrender. Iran’s economy is in dire straits, but the country does not appear to be facing imminent economic collapse. Khamenei and the Revolutionary Guard also seem to believe that the Islamic Republic weathered far worse during the Iran-Iraq War, an eight-year conflict that killed hundreds of thousands of Iranians and produced over half a trillion dollars in economic losses before Iran agreed to a cease-fire. Even if Washington goes forward with additional sanctions, economic conditions are not likely to produce enough existential angst among Iranian leaders, generate mass unrest, or otherwise implode the regime before Iran achieves a nuclear breakout capability. And even if they did lead to regime change, it still might not prove sufficient to force a nuclear surrender. After all, the imprisoned leaders of the Green Movement and Iranian secularists opposed to the Islamic Republic, as well as a significant majority of the Iranian people, also support Iran’s declared right to enrichment. Second, and somewhat paradoxically, ramping up sanctions to force regime capitulation now could end up weakening international pressure on Iran. For better or worse, Rouhani has already succeeded in shifting international perceptions of Iran. If the United States, rather than Iran, comes across as intransigent, it will become much more difficult to maintain the international coalition currently isolating Tehran, particularly on the parts of China, Russia, and numerous other European and Asian nations. Some fence sitters in Europe and Asia will start to flirt with Iran again, leaving the United States in the untenable position of choosing between imposing extraterritorial sanctions on banks and companies in China, India, Japan, South Korea, Turkey, and elsewhere, or acquiescing to the erosion of the international sanctions architecture. Third, issuing more explicit military threats (through public warning by U.S. President Barack Obama or congressional passage of a resolution authorizing the use of military force, for example) is also unlikely to achieve a maximalist diplomatic outcome. There is little doubt that maintaining a credible military option affects the Iranian regime’s calculations, raising the potential costs associated with nuclearization. And if diplomacy fails, the United States should reserve the option of using force as a last resort. But threats to strike Iranian nuclear sites surgically, no matter how credible, would not create a sufficient threat to the survival of the regime to compel it to dismantle its nuclear program completely. Finally, attempting to generate an existential crisis for the Islamic Republic could backfire by increasing the regime’s incentives to acquire nuclear weapons. If the United States escalates economic or military pressure at the very moment when Iran has finally begun to negotiate in earnest, Khamenei will likely conclude that the real and irrevocable goal of U.S. policy is regime change. Solidifying this perception would enhance, rather than lessen, Tehran’s motivation to develop a nuclear deterrent. In short, playing chicken with Iran will not work and is likely to result in a dangerous crash. Gambling everything by insisting on an optimal deal could result in no deal at all, leaving Iran freer and potentially more motivated to build atomic arms and making a military confrontation more likely. STILL TIME FOR DIPLOMACY During a December 2013 forum hosted by the Brookings Institution, Obama said, “It is in America’s national security interests . . . to prevent Iran from getting a nuclear weapon. . . . But what I’ve consistently said is, even as I don’t take any options off the table, what we do have to test is the possibility that we can resolve this issue diplomatically.” When asked by a former Israeli general in the audience what he would do if diplomacy with Iran breaks down, Obama said, “The options that I’ve made clear I can avail myself of, including a military option, is one that we would consider and prepare for.”

Given the dangers associated with a nuclear-armed Iran, Obama is right to keep the military option alive. But he is also right to strongly prefer a diplomatic outcome. **Leadership changes in Tehran and the diplomatic momentum created by the Geneva interim accord mean that there is a real chance that the Iranian nuclear crisis** -- a challenge that has haunted the international community for decades -- **could finally be resolved peacefully**. No one can say for sure how high the odds of success are. But given the enormous dangers associated with both an Iranian bomb and the bombing of Iran, it is imperative to give diplomacy every chance to succeed.

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Given the dangers associated with a nuclear-armed Iran, Obama is right to keep the military option alive. But he is also right to strongly prefer a diplomatic outcome. **Leadership changes in Tehran and the diplomatic momentum created by the Geneva interim accord mean that there is a real chance that the Iranian nuclear crisis** -- a challenge that has haunted the international community for decades -- **could finally be resolved peacefully**. No one can say for sure how high the odds of success are. But given the enormous dangers associated with both an Iranian bomb and the bombing of Iran, it is imperative to give diplomacy every chance to succeed.

#### Iran is behind the agreement—squo disproves scuttling

Reuters, 2/1/14, Iran's top clergy back Rouhani's nuclear approach, mobile.reuters.com/article/idUSBREA100FP20140201?irpc=932

President Hassan **Rouhani has secured the backing of senior conservative clerics against hardliners opposed to a nuclear deal** reached with major powers, Iran's official news agency IRNA said on Saturday.

His first vice president, Eshaq Jahangiri, visited clerics in the Shi'ite Muslim holy city of Qom to explain the deal and seek their blessing over "complex foreign policy issues" ahead of talks next month on a long-term accord, IRNA said.

An interim deal between Iran and the five permanent members of the U.N. Security Council plus Germany was reached in November in Geneva, aimed at persuading Iran to curb parts of its nuclear work, in return for a limited easing of sanctions.

Hardline clerics close to Iranian Supreme Leader Ali Khamenei, Revolutionary Guards commanders and the intelligence services have attacked the temporary concessions Rouhani has made, although Khamenei has so far backed the president.

Khamenei has the final say on all state matters, including the nuclear issue.

The talks on February 18 will seek a comprehensive agreement defining the permissible scope of Iran's nuclear activity. Western powers fear the nuclear program is aimed at creating atomic weapons capabilities. Iran denies this.

IRNA said **the response of from the clerics** in Qom, in central Iran, **was unanimously positive**.

Support from Qom, whose clerics traditionally have influence among core supporters of the establishment, is likely to boost Rouhani's government's position in the next round of talks in Vienna, having already won over more reform-minded clerics.

The backing of the clergy is essential as they have direct access to ordinary Iranians in their sermons when they can mobilize people to display their support for the deal, under which Tehran seeks to end painful economic sanctions that have severely damaged its oil-dependent economy.

"This government has inspired hope in our society. Its way of communicating has put us in line with other cultures," said Grand Ayatollah Lotfollah Safi Golpaygani, referring to Rouhani's tone compared to his hardline predecessor, Mahmoud Ahmadinejad, since his landslide election win.

Demonstrating their support for Rouhani, some clerics blamed Ahmadinejad's government for the struggling economy as well as Iran's political isolation.

"Poor leadership by the previous government is at the root of much of our problems today," IRNA quoted conservative Ayatollah Abdollah Javadi-Amoli as saying.

Rouhani, whose election led to a thaw in ties with the West after years of confrontation and hostile rhetoric, has promised to pursue a consistent foreign policy of "prudence and moderation" to revive the economy.

#### The deal is good enough and that’s all that matters

Kenneth Pollack, 11/15/13, An Iran nuclear deal doesn’t have to be perfect — just better than the alternatives, www.washingtonpost.com/opinions/an-iran-nuclear-deal-doesnt-have-to-be-perfect--just-better-than-the-alternatives/2013/11/15/2b8d1292-4c85-11e3-be6b-d3d28122e6d4\_story.html

We are still a long way from a formal international agreement restraining Iran’s nuclear program, but the contours of a deal — both an interim accord and the final agreement — are slowly coming together. It won’t be perfect, but our worst mistake would be to make an impossible ideal the enemy of a tangible, “good enough” agreement. When negotiations resume this week in Geneva between the United States, Britain, France, China, Germany and Russia on one side, and Iran on the other, the two parties will concentrate first on sealing an interim deal that would freeze Iran’s nuclear progress in return for some modest relief from sanctions; if that happens, negotiators would turn to hammering out details of the final, critical agreement. That final agreement is expected to cap Iran’s uranium enrichment and halt its construction of a reactor to harvest plutonium. Moreover, it would bind Iran with far more intrusive inspections than those currently in place (or ever imposed on Iran), and it should carry the threat that sanctions could be quickly reimposed if Iran were ever caught cheating. Thus, Tehran could not manufacture even a crude nuclear weapon quickly, and it would be highly likely that the world would know about it long before such a weapon were ready. If we can get it, such a final deal should be more than adequate to remove the Iranian nuclear program as a source of fear and instability in the Middle East. Of course, it still wouldn’t be perfect. It would not eliminate Iran’s nuclear program. It would probably allow Tehran to continue some enrichment. In theory, this residual capability could become the foundation of a new Iranian drive for nuclear weapons, possibly even a secret one. That’s why the Israeli government has been denouncing the proposed deal as a sell-out to Iran and why the Persian Gulf states have been saying the same in private. For them, even a theoretical possibility is too great a risk. In international politics, however, a deal such as this one cannot be measured against some theoretical ideal; it can be assessed only relative to its real-world alternatives. There are three possible alternatives to accepting the deal currently under discussion with Iran, and unfortunately, all are worse courses. The first alternative is to hold out for a better deal, even a perfect one, in which Iran would give up every vestige of its nuclear program. Those who seem to be advocating this approach, such as Israeli Prime Minister Benjamin Netanyahu, assume that if the world rejected Iran’s current overture, we could ratchet up the pressure even more and, at some point, Iran would cave and agree to whatever we wanted. Is that possible? Sure. And if it happened, it would indeed be a better outcome. But it is highly unlikely. Iran has insisted for more than a decade that it will not give up its nuclear program completely. Even the Iranian moderates who support the current proposal demand that the world recognize the country’s right to a peaceful nuclear program. Iran has suffered under severe economic sanctions for at least seven years, and its leaders contend that they will bear them for much longer if they are not granted this minimum concession. Moreover, it is critical to recognize how the international environment would probably change if the United States and its allies rejected the deal now being debated. The current sanctions against Iran work only because they rest on an international consensus that Iran has been the recalcitrant party in the nuclear impasse. Russia, China, India, Brazil and other key nations have supported and abided by the sanctions because they have seen Iran as the country refusing to negotiate. If Washington — rather than Tehran — rejects the deal under consideration, the United States will suddenly become the problem, and that could prove disastrous. It would embolden Tehran to hold out, rather than give in. Instead of increasing the pressure on Iran, over time, we would probably see an erosion of the sanctions. Here it is worth remembering Iraq. Once international opinion turned against the Iraq sanctions in the mid-1990s, they unraveled quickly. By 2000, Saddam Hussein was smuggling billions of dollars in oil, goods and cash while countries such as France, Russia, China, Egypt and Turkey ignored U.N. Security Council resolutions — resolutions that France, Russia and China had voted for. What we found then, and as we would probably find now with Iran, is that once international opinion turns against sanctions, trying to enforce them means fighting with your allies and trade partners, rather than the targeted country. That makes sanctions virtually impossible to sustain. The second alternative would be to give up on any deal with Iran and simply continue to contain it as we have for 34 years, to prevent it from creating problems beyond its borders. That would involve keeping military forces in the gulf to prevent any Iranian military moves, maintaining sanctions to keep the regime isolated and continuing to employ covert and cyber-operations. It is a sensible policy and more feasible than most of Washington has been willing to consider. Still, there are two important caveats. The first is that it would be easier to contain a nonnuclear Iran than a nuclear one, and getting a deal now is the best way to ensure that. Second, containment would suffer significantly if international support turned against the sanctions and other measures designed to pressure Iran. And again, by turning down a deal that most of the world considers reasonable, the United States would probably shift international opinion from our side to the Iranians. The final alternative to the current proposal is to go to war with Iran — to destroy its nuclear facilities, overturn the regime or both. This, too, is a real alternative. However, it is strategically problematic and politically unpalatable, perhaps even impossible. Most of the evidence available indicates that a “limited” military operation to destroy Iran’s nuclear program would be unlikely to remain limited. Iran would probably rebuild and retaliate, and we in turn would escalate. We could easily find ourselves in a much larger and longer war than we wanted. Here, as well, the loss of international support we would suffer from turning down the deal would undermine our military effort. And given the public uproar over the Obama administration’s plans for a limited strike against Syria — a much smaller and weaker adversary — it seems hard to imagine that Americans would be ready to sign up for a costlier and riskier conflict with Iran. We don’t know if Iran will accept the deal being discussed, and we should not agree to anything just because the Iranians consider it acceptable. But if Tehran is willing to give up all but a minimal enrichment capability, if it accepts comprehensive and intrusive inspections, and if we can be confident that the sanctions would be reimposed if Iran were ever caught cheating, such an agreement would meet our strategic needs and those of our allies. It may not be perfect, but it would be better than our other options. And that is the only real test.

Obama has won the Iran fight now, but faces continued opposition

Michael Crittenden, WSJ, 2/4/14, Congress Eases Standoff With White House Over Iran Sanctions, online.wsj.com/news/articles/SB10001424052702304851104579363372176271460

The Obama administration appeared to be prevailing in its effort to persuade lawmakers to give U.S. diplomacy with Iran a chance, **but faced** continued skepticism **from senators** at a hearing Tuesday.

Senior aides said pressure on Senate leaders to allow a vote on new sanctions has eased in recent weeks, as lawmakers gauge the effectiveness of an interim deal reached in November between Iran and world powers.

But while many lawmakers said they were willing to give diplomacy time to work, Democrats and Republicans alike said the stakes were high if talks fail.

"If these negotiations fail, there are two grim alternatives, a nuclear Iran, or war, or perhaps both," said Sen. Richard Durbin (D., Ill.), a Senate Foreign Relations Committee member.

The White House and lawmakers have wrestled over the issue for months. Many in Congress support new sanctions, while the administration insists such a step would disrupt high-level negotiations with Tehran. A six-month deal provides Iran with relief from international sanctions in exchange for enhanced inspections and Tehran's agreement to halt or roll back parts of its nuclear program.

Sen. Robert Menendez (D., N.J.), chairman of the Senate Foreign Relations Committee, argued the agreement provides Iran with economic benefits that outpace what Western governments have received in return. He said he remained concerned Iran would never agree to fully put aside its nuclear ambitions.

"I am convinced that we should only relieve pressure on Iran in return for verifiable concessions that will fundamentally dismantle Iran's nuclear program," Mr. Menendez said.

A top State Department official argued that **any move by the U.S. to impose new sanctions would risk unraveling the international talks**. "It is crucial we give diplomacy a chance to succeed," Wendy Sherman, the State Department undersecretary of political affairs, told the Foreign Relations panel.

President Barack Obama and his administration have urged lawmakers to hold off on additional actions. Mr. Obama vowed in his State of the Union address to veto any bill "that threatens to derail these talks."

Lawmakers have bristled at some of the White House criticism, particularly the suggestion that those seeking more sanctions were in favor of war. Sen. Timothy Kaine (D., Va.), addressing those complaints Tuesday, said that those who support new sanctions "are not pro-war and those that oppose it are not soft on Iran or anti-Israel."

Iran sanctions have stalled now—insufficient Dem defections to override his veto

JTA, staff writer, 2/6/14, GOP senators press Reid on Iran sanctions vote, www.jta.org/2014/02/06/news-opinion/politics/gop-senators-press-reid-on-iran-sanctions-vote

Forty-two Republican senators urged the Democratic-led Senate’s majority leader, Sen. Harry Reid (D-Nev.), to bring to a vote a bill on new Iran sanctions.

“It’s time for the elected representatives of the American people to have a say in the future of Iran’s nuclear weapons program,” said the Feb. 4 letter, first revealed by the Daily Beast and initiated by Sen. Mark Kirk (R-Ill.), a lead sponsor of the bill. “It’s time to vote.”

President Obama has said that he would veto any new sanctions, which he says could scuttle talks aimed at keeping Iran from obtaining a nuclear weapon. Democratic support for the new bill, introduced in December, has waned considerably.

A number of top Democrats, including several who originally sponsored the bill, now say they do not want it to advance while talks are underway.

A sizable portion of the Democratic caucus in the U.S. House of Representatives is also now opposed to new sanctions, although that body overwhelmingly approved a similar bill last summer, months before the new talks between Iran and the major powers, including the United States, were launched.

**The Senate bill has 59 co-sponsors, eight short of the 67 it would need to override an Obama veto.**

**Reid has so far resisted bringing the bill to the floor**. Proponents of the new sanctions say they would strengthen the West’s hand in Iran negotiations, adding that without new sanctions, the momentum in the talks is moving in Iran’s favor.

Sanctions push is decisively stalled, but that can still flip

David Weigel, Slate, 1/29/14, How Hubris (and J Street) Stalled the Iran Sanctions Bill, www.slate.com/blogs/weigel/2014/01/29/how\_hubris\_and\_j\_street\_stalled\_the\_iran\_sanctions\_bill.html

This morning, after the State of the Union, Delaware Sen. Chris Coons sat down for a live interview with Politico's Manu Raju. Coons, who's facing re-election this year but lacks a serious opponent, had been an early co-sponsor of the new Iran sanctions bill. His support, added to that of other progressives up for re-election, had created a sense of momentum from sanctions backers. So Raju asked him about it. RAJU: You co-sponsored this Iran sanctions bill. Do you think this needs a vote before the negotiation period ends? COONS: Now is not the time for a vote on the Iran Sanctions Bill. I think that sanctions have so far been bearing fruit. Sanctions have brought Iran to the table and the sanctions that were passed by Congress during the Bush administration, during the Obama administration -- this administration has finally delivered on bringing together a multinational coalition of our allies and our partners to make those sanctions work, to really cripple the Iranian economy and bring them to the table. Coons wasn't the first co-sponsor to suggest that the train be slowed down, but he was the first of the 26 original co-sponsors to be this explicit. This wasn't where supporters of the bill, chiefly New Jersey Sen. Bob Menendez and Illinois Sen. Mark Kirk, expected to be at the end of the month. **Nineteen days ago, "aides**" told CNN and BuzzFeed that the bill **had broken a two-thirds majority, strong enough to beat a presidential veto**. **They'd come a long way, from apparent collapse to an apparent majority. But the bill is now,** in one of Washington's more universal bits of jargon, **stalled**. **How'd that happen**? A combination of hubris from the bill's supporters and lobbying by its opponents**.** When the bill dropped, on Dec. 19, J Street's director of government relations, Dylan Williams, was headed home (to Hawaii) for vacation. Over the holidays and until the Senate returned for 2014, the bill gained 21 additional co-sponsors. "Jan. 6 was when the counter-push began," said Williams. "Since that morning J Street has, along with other groups, played a very active, senators, members of Congress, but we made especially prodigious use of our grass tops activists. These are people who have longstanding relationships with members of Congress to express two things. One: The bill is bad policy. Two: There was no political reason that these senators should feel they need to support the bill. There is deep political support in communities for members of Congress and senators who want to reserve this peaceably. The extent of that grass-tops push really surprised a lot of senators and some members of Congress." J Street and company reached out to senators who were on the fence and senators who'd co-sponsored on day one. The message was the same: Have you guys read this thing? "It became quite clear that original sponsors had been told sanctions only would only come into effect if Iran was determined not to be negotiating in good faith," said Williams. "They learned that was untrue. The bill would implement sanctions 90 days after passage unless president could certify a a laundry list of claims, and some he couldn't certify if he tried." This brings us to the second cause of the impasse: hubris. The Jan. 10 news that the bill was unbeatable was based not on the public count of co-sponsors but on the low number of senators who'd denounced. A good example of this theory: A Jan. 10 (hey, busy day) piece by Adam Kredo that quoted an aide to Rand Paul who said the Kentucky libertarian would "keep an open mind." The scooplet was used to portray Arizona Sen. Jeff Flake as "the lone Republican who has publicly refused to take a stand on the bill." The pressure didn't work; the fightback was on. Both Flake and Paul maintained neutrality, as more Democrats were quoted opposing the sanctions bill, if only for reasons of timing, wanting to let negotiations play out. Democrats like Coons and New Jersey Sen. Cory Booker were pressured from the left on social media. There still aren't 34 confirmed "no" votes on the legislation, but the campaign to make Harry Reid hold a vote on a winning resolution is over. For the moment.

#### Iran sanctions is an ongoing showdown

Jennifer Rubin, 2/7/14, Menendez’s blasts Obama’s Iran policy, www.washingtonpost.com/blogs/right-turn/wp/2014/02/07/menendezs-blasts-obamas-iran-policy/

The administration has a big problem on Iran. It has for now successfully fended off sanctions, but in doing so it helped forge consensus about the flaws in its approach and set the scene for a major showdown with Congress when, as everyone but Secretary of State John Kerry expects, Iran refuses to agree to even minimal steps to dismantle its nuclear weapons program. In other words, it has set itself up for failure with no back-up plan. Thursday, Sen. Robert Menendez (D-N.J.), denied by his majority leader a vote on a sanctions bill that would pass with more than 70 votes, explained in detail the administration’s gross mishandling of negotiations. It is worth reading in full, but some portions deserve emphasis. After describing in detail the requirements the administration, the United Nations and former administration official Dennis Ross have confirmed are needed to prevent a nuclear-capable Iran, the New Jersey Democrat summed up the flaws in the interim deal:

Obama will intervene to fight Congress on a drone court.

Ruppert 13 (Madison, “Support and opposition arises for FISA-style secret court to oversee drone assassinations”, http://endthelie.com/2013/02/09/support-and-opposition-arises-for-fisa-style-secret-court-to-oversee-drone-assassinations/#axzz2bx3jQR6b, ZBurdette)

The response to what the New York Times calls “the hidden bureaucracy directing lethal drone strikes” appears to be even more hidden bureaucracy in the style of the secret Foreign Intelligence Surveillance Court (FISC), built upon the Foreign Intelligence Surveillance Act (FISA).

While it is claimed that having a court approve the adding of names to a kill list, at least for American citizens, “is no longer beyond the realm of political possibility,” according to Robert Chesney, a law professor at the University of Texas, this proposal is still problematic.

The idea has been promoted by legislators like Senator Dianne Feinstein, according to the Washington Post, and yet it faces significant obstacles like the “almost-certain opposition from the executive branch to a dilution of the president’s authority to protect the country against looming threats.”

OR

**Obama would have to invest PC to get Congress to pass a drone court.**

Schwartz 13 (Yaron, Fulbright Scholar, LSE/Yale graduate, Huffington Post, “Act Two of US Drone Policy Reform”, 06/04/2013, http://www.huffingtonpost.com/yaron-schwartz/act-two-of-us-drone-polic\_b\_3381280.html, ZBurdette)

The Obama administration recently lifted its veil of secrecy about its drone usage by providing a substantial amount of information for the first time to a public audience about the program. In a major national security speech on May 23, President Obama outlined new counterterrorism policies with the hope of "redefining what has been a global war into a more targeted assault on terrorist groups threatening the United States." Obama presented a number of steps that his administration has already taken to realize this vision, including setting up guidelines for drone strike usage, briefing appropriate Congressional committees about every drone strike, lifting the moratorium on the transfer of Guantanamo detainees to Yemen, and appointing a new envoy to help facilitate the transfer of detainees to third countries.

While Obama was able to take those actions using his executive powers, the reality is that he needs Congressional support in order to achieve his broader national security goals. Many of the more substantial initiatives that Obama presented in his speech, including additional funding for embassy security and international development, a repeal of the Authorization for Use of Military Force and the "establishment of a special court to evaluate and authorize lethal action," require Congressional legislation to be implemented.

Congressional support for Obama's new national security policies will be difficult to achieve given the current dysfunctional partisanship in Washington. Many Republicans with hawkish national security beliefs expressed their discontent with Obama's desire to scale back the war on terror. Senator Saxby Chambliss, the senior Republican on the Senate Intelligence Committee, claimed that Obama's speech will be "viewed by terrorists as a victory." In a similar light, Senator John McCain noted that "To somehow argue that al Qaeda is quote 'on the run,' comes from a degree of unreality that to me is really incredible. Al Qaeda is expanding all over the Middle East from Mali to Yemen and all the places in between."

The Obama administration recognizes that its current counterterrorism policies, particularly regarding drone strikes, are not sustainable in the long run. Extensive use of drone strikes, which have already killed between 3,000 and 4,000 people according to NGO reporting, have damaged U.S. relations with other countries and caused growing domestic concern about human rights violations and abuse of presidential war power. For the administration to realize its goal of making U.S. drone usage more effective and sustainable, it needs to garner Republican support for reforms to national security policies. Potential Republican support could come from Tea Party activists who seek to limit Presidential power. Only a couple of weeks ago, Tea Party favorite Senator Rand Paul launched a 13-hour filibuster denouncing the administration's drone usage and promoting restrictions on presidential war power. In an Alice in Wonderland-like situation, a human rights-Tea Party coalition could emerge to support Obama's push for reforms to U.S. counterterrorism policies. Now that would be fun to watch.

The plan’s restriction on Obama’s authority independently scuttles negotiations—Rouhani won’t see executive commitments as credible

Jon Alterman, CSIS Global Security Chair and Middle East Program Director, 9/4/13, US-Iran Nuclear Deal Hinges On Syria Vote, www.al-monitor.com/pulse/originals/2013/09/us-iran-nuclear-deal-hinges-on-syria-vote.html

**Focusing** solely **on** events in **Syria**, **however, misses a large part of the Iranian calculus, if not the largest**. What really matters to Iran is how successful Obama is in winning congressional support for his Syria policy. If he fails, it will deal a double blow to the president. Not only will the Iranian government dismiss the possibility of negotiations with his administration, it will also **conclude that Obama can be defied with impunity**. The international cost of domestic political failure would be profound.

To start, it is worth noting the extent to which foreign governments are sophisticated consumers of American political information. Decades of international cable news broadcasts and newspaper websites have brought intimate details of US politics into global capitals. Foreign ministers in the Middle East and beyond are US news junkies, and they seem increasingly distrustful of their embassies. For key US allies, the foreign minister often seems to have made him- or herself the US desk officer. Most can have a quite sophisticated discussion on congressional politics and their impact on US foreign relations.

The Iranian government is no exception. While former president Mahmoud Ahmedinejad was emotional and shrill in his opposition to the United States, there remains in Iran a cadre of Western-trained technocrats, fluent in English and nuanced in their understanding of the world. President Hassan **Rouhani has surrounded himself with such people**, and Supreme Leader Ayatollah Ali Khamenei has charged them with investigating a different relationship between Iran and the United States.

As they do so, they cannot help but be aware that on the eve of Rouhani’s inauguration, the US House of Representatives voted 400–20 to impose stiff additional sanctions on Iran. The House saw Rouhani’s electoral victory as a call for toughness, not potential compromise.

If Iran were to make concessions in a negotiation with the United States, they would surely seek sanctions relief and other actions **requiring congressional approval**. To make such concessions to Obama, they would need some confidence that he can deliver. **A president who cannot bring around** a hostile **Congress is not a president with whom it is worth negotiating**.

#### Plan passage enables Iran sanction passage—only potential bill for amendment

JTA, staff writer, 2/6/14, GOP senators press Reid on Iran sanctions vote, www.jta.org/2014/02/06/news-opinion/politics/gop-senators-press-reid-on-iran-sanctions-vote

**Reid has so far resisted bringing the bill to the floor**. Proponents of the new sanctions say they would strengthen the West’s hand in Iran negotiations, adding that without new sanctions, the momentum in the talks is moving in Iran’s favor.

According to the Daily Beast, **Republicans may attempt to** attach the bill to must-pass legislation **as an amendment, and could refuse cooperation on other bills in order to force Reid to call a vote**.

Your author clarifies there is zero Congressional debate on TKs—its just a liberal NYTimes blog post patting McCain on the back for a random statement

David Firestone, NYTimes, 1/22/14, On Drones, Keeping the Public in the Dark, takingnote.blogs.nytimes.com/2014/01/22/on-drones-keeping-the-public-in-the-dark/

We don’t get to say this very often on The Times editorial page, but Senator John McCain was absolutely right last week to decry a secret deal in the 2014 spending bill. He pointed out that the bill contained a classified section that prohibited the Pentagon from taking over the C.I.A.’s role in carrying out drone strikes, as President Obama has proposed.

Only a few lawmakers — apparently, not including Mr. McCain — knew about the secret ban until The Washington Post revealed it. As Mr. McCain pointed out, it shouldn’t have been secret, and it shouldn’t have been in an appropriations bill.

“The Appropriations Committee is supposed to appropriate,” he said. “The Appropriations Committee has no business making this decision. How many of my colleagues knew that this provision was in this mammoth appropriations bill? I bet a handful.”

There were no hearings on the matter, neither in Appropriations nor in any of the committees that are actually supposed to debate these things, like Armed Services or Intelligence.

Whether lawmakers back the Pentagon or the C.I.A. reflects, to some degree, their proprietary interest in protecting their fiefdoms. The Intelligence Committee oversees the undisclosed drone strikes conducted by the C.I.A. in Pakistan and Yemen, while Armed Services does the same for the Pentagon’s strikes in the official war zones of Afghanistan and Iraq. (Mr. McCain is on Armed Services, and has made a career of criticizing the work of Congressional appropriators.) Senator Dianne Feinstein, chairwoman of the Intelligence Committee, has been openly skeptical about whether the Pentagon can effectively conduct the drone strikes as well as the C.I.A.

But what’s really at issue in this dispute isn’t military competence; it’s the competing goals of secrecy and accountability. The Obama administration wanted to shift control of the strikes to the Pentagon as part of a plan for greater transparency. At the moment, it officially acknowledges the Pentagon program, but won’t discuss or even admit the fact that the C.I.A. fires bombs at terror targets in Pakistan.

Many people in Congress like it that way. As long as the drone strikes are never discussed outside the sealed hearing room of the Intelligence Committee, the country doesn’t have to be accountable for the success or failure of the program, and neither do the lawmakers who authorize it. If the Pentagon takes over, the legal scrutiny of the strikes will grow, and that could limit the scope of the program. There’s a strong faction on Capitol Hill that prefers keeping the public in the dark about the country’s endless secret war against terrorists, and this time it won.