## 1NC

#### Obama is pushing fast-track trade authority now – it’ll pass with bipartisan support.

Scott Flaherty 9/19/13 “'Fast-Track' Power Key To Finishing Trade Deals, Obama Says” http://www.law360.com/internationaltrade/articles/469554/-fast-track-power-key-to-finishing-trade-deals-obama-says

 President Barack Obama said Thursday that it's critical for Congress to pass legislation granting his administration “fast-track” trade authority as the U.S. aims to complete negotiations for the Trans-Pacific Partnership and a trade pact with the European Union. Speaking at a meeting of the President's Export Council — a panel comprised of federal agency officials, members of Congress, business leaders and state and local government officials — Obama stressed the need for Congress to grant trade promotion authority to support the White House 's trade negotiation efforts with the 11 countries involved in the TPP talks, as well as the proposed Transatlantic Trade and Investment Partnership with the 28-member EU. The president said he was hopeful that a bill granting trade promotion authority, sometimes referred to as “fast-track” authority, would pick up bipartisan backing. Trade promotion authority, which expired in 2007, would allow the executive branch to negotiate trade agreements, and limit Congress to a yes-or-no vote on the proposed agreements without amendments. “We're going to need trade promotion authority through Congress,” said Obama. “This is an area … where we may be able to get some good bipartisan support to get that done.” The president also touted some of the progress that, he said, has been made under the administration's National Export Initiative, which was unveiled in the 2010 State of the Union address and seeks to double U.S. exports to about $3 trillion by the end of 2014. Obama said exports have been one of the major “bright spots” in the U.S. economy as it has recovered from the recent recession brought on by the financial crisis. “We're really focused on how do we keep that momentum going,” Obama said, adding that the TPP and TTIP are part of that effort. The president also said the TPP negotiations have advanced to a large degree. The administration has been pushing to wrap up the TPP talks by the end of the year. “We are very far along in trying to get that deal done,” he said. Obama's remarks came after several others on the export council, including U.S. Trade Representative Michael Froman and Secretary of Commerce Penny Pritzker, provided updates on actions they have taken that affect U.S. exports. Pritzker, for one, said there has been a “seismic shift in exporting” since 2009. “Given these facts it's no surprise that supporting U.S. exports will remain a priority for the Department of Commerce and for me as secretary,” she said. Pritzker also noted that Commerce planned to complete an assessment of how the National Export Initiative has worked so far, saying that she hoped the export council would provide input. Shortly before Obama arrived at Thursday's meeting, the export council approved a set of policy recommendations on issues ranging from intellectual property protections in the TPP to domestic efforts to reform export controls. One of the recommendations also supported the White House's push for a trade promotion authority bill. “We believe that new [trade promotion authority] legislation is critical to renew America’s trade leadership in the world and to provide important tools to negotiate, secure congressional approval of and implement pending and future agreements,” the council said in a draft version of the policy recommendation to Obama. Froman, whose appointment to the USTR position was approved in June , also made a case for the fast-track legislation during Thursday's export council meeting. After running through a list of ongoing negotiations, including for the TPP, TTIP and an agreement on trade in services that the U.S. is negotiating with dozens of other countries, Froman said, “None of this can happen without trade promotion authority.”

#### B. Drone court is unpopular – public polls prove.

LaFranchi 13 (Howard, Staff Writer, “American public has few qualms with drone strikes, poll finds”, Christian Science Monitor, 6-3-13, http://www.csmonitor.com/USA/Military/2013/0603/American-public-has-few-qualms-with-drone-strikes-poll-finds, RSR)

Americans are by and large comfortable with drone strikes being ordered by the president, the CIA, or by the military, according to the Monitor poll. Less popular is the idea of creating a separate “drone court” – a panel that would presumably increase the accountability of the program.¶ Almost two-thirds of Americans (62 percent) say they approve of drone-strike authorization coming from the president, the Pentagon, or the CIA. About a quarter (26 percent) favor setting up a drone court to sign off on strikes.¶ The question of who should retain responsibility for authorizing drone strikes reveals something of a political divide: While 67 percent of Democrats approve of the president, the CIA, or the Pentagon deciding on the strikes, a lower percentage of Republicans (55 percent) approve of entrusting the decisionmaking to those three.¶ On the other hand, self-described “conservatives” were more likely than the general population to favor increasing drone strikes, with 28 percent supporting more strikes, compared with 11 percent of all Americans.¶ The Monitor poll also revealed what could be interpreted as little enthusiasm for Obama’s efforts to move away from the post-9/11 concept of a “war on terrorism.”

#### C. Internal Link - Obama’s capital is critical to passing Trade promotion authority.

Politi, 5/20/13 James. Financial Times [London (UK)] 20 May 2013 Financial Times US economics and trade correspondent “US business keen to promote 'fast track' trade deals: Political debate” Proquest

A campaign has been launched to 'educate' legislators on the benefits involved, writes, James Politi The first big political clash is looming over the US's planned trade deals with the EU and eleven Pacific nations, as lawmakers debate whether to grant President Barack Obama sweeping authority to pass the pacts swiftly through Congress. Members and staff of the Senate finance committee and the House ways and means committee have been discussing a bill that would for the first time since 2007 provide so-called "fast track" status to trade agreements reached by the White House. Such legislation, also known as Trade Promotion Authority (TPA) , prevents lawmakers from delaying or amending trade deals, setting them on course for an up-and-down vote in both the House and the Senate within a defined time period. This would be a particularly important win for Mr Obama as he presses ahead with his aggressive second-term trade agenda, which just this year has included launching talks with the EU and accepting Japan's entry into the Trans-Pacific Partnership negotiations. But securing TPA will not be easy - and the debate on Capitol Hill will be an early test of US political appetite for the EU-US and TPP deals themselves, as well as a sign of the popularity of Mr Obama's new push for trade liberalisation. One Senate aide familiar with the talks says staff and members have been meeting frequently on TPA recently and hope a bipartisan bill covering all trade deals "for as long as possible" can be introduced next month . "We haven't covered every single topic but we haven't come across too much that really divides us", the aide says. An aide to Max Baucus, chair of the Senate finance committee, says the talks have been "productive and cordial". But others are expecting a clash, as was the case when the last fast track bill was passed in the House with a very slim margin in 2002 under George W. Bush, allowing him to complete a slew of trade deals. US business groups which support "fast track" are preparing for a fight - and today will launch a new coalition to "educate" lawmakers and the US public about its benefits - most notably that it removes much of the uncertainty surrounding passage of trade deals through Congress. "We're gearing up for this," says Christopher Wenk, senior director of i nternational policy at the US Chamber of Commerce, the largest US business lobby group. "The reality is that there is a very ambitious trade agenda now taking shape but it will never be able to come to fruition if the president doesn't have this authority." David Thomas, vice-president of trade policy at the Business Roundtable , which represents the biggest US blue-chip companies, is another proponent. "It's not an end to itself but it's a tool to getting these trade deals done to support the US economy," he says. That view is shared by some on Capitol Hill. "I'm encouraged with the level of discussion that's going on", says Johnny Isakson of Georgia , the top Republican on the Senate finance trade subcommittee. "There are those who are more isolationists but there's a strong pro-trade element in both the House and the Senate and in the end they will prevail," he adds. But others, particularly members of Mr Obama's own Democratic party who are sceptical of further trade liberalisation, are likely to make demands that Republicans may find unpalatable, or that the White House worries would impose too many restrictions on its negotiators. Sherrod Brown, the Democratic senator from Ohio, says he has spoken to about half the members of the finance committee about the importance of attaching certain conditions to TPA to secure a "more balanced approach on trade", such as ways to protect the currency and workers. "We want to make sure that we practise trade according to our national interest, when in the past we've practised trade according to some economic textbook that is 20 years out of date," Mr Brown says. The big challenge in crafting TPA this year will be successfully reflecting the dramatic shift in the global economy since it was last passed in 2002. This means US lawmakers will have to decide how far they want to go in imposing "negotiating objectives" on Mr Obama with respect to the role of state-owned enterprises, cross-border data flows, intellectual property rights, and currency levels. "I would expect a lot of issues to get aired," says Scott Paul, president of the Alliance for American Manufacturing. "There is still general unhappiness with the administration's unwillingness to be aggressive with other countries on exchange rates," he says, which could affect the talks with Japan on the TPP. "It's going to take an extraordinary amount of political capital on the part of the administration to get this done. There are going to be a lot of battles," Mr Paul adds. Obama administration officials have so far said they are "ready to work" on TPA with Congress but have not presented their own legislation to jump-start the process, drawing criticism from Republicans who say it is a sign they are not fully committed to it. But others say the White House skittishness has been purely tactical - that officials simply want to wait for the most politically advantageous moment to step into the debate. The next clue on the administration's position is expected when Mike Froman, the nominee for US trade representative, appears before Congress for his confirmation hearing in the next few weeks. The more optimistic supporters of TPA in Washington argue that trade has actually bucked the trend of fierce political divisions and dysfunction in recent years, with the passage on a bipartisan basis of three trade agreements with Colombia, Panama and South Korea, as well as permanent normal trade relations with Russia. There also has not been a rush of opposition to the EU-US trade deal announcement, though TPP is more contentious especially after the announcement that Japan would accede.

#### D.

#### TPA is key to the economy, global free trade, checking major European wars, democracy promotion, and preventing terrorism

**Griswold 01** (Daniel, Director of Trade Policy and Immigration Studies at the Cato Institute, “Trade Authority Promotes America’s Economy and Security”, 11/29/01, [www.cato.org/dailys/11-29-01.html](http://www.cato.org/dailys/11-29-01.html))

**TPA**, also known as "fast track," **would give President Bush the authority to negotiate new market-opening trade agreements with other nations. TPA would allow the president to submit trade agreements to Congress for an up or down vote without amendments, so that foreign governments would not have to negotiate twice, first with the administration and then with Congress.** Every president since 1974 has been able to pursue trade agreements under those basic rules. Here are three compelling reasons why President Bush should be granted that same authority: One, trade expansion promotes American prosperity. Economic growth in the past decade was the most robust during those years when trade--both imports and exports--was growing the most rapidly. Trade stimulates competition, innovation, and efficiency, **making U.S. workers more productive and raising real family incomes. Imports keep prices down at the store, especially for low-income families. During the recent downturn, trade flows have fallen sharply along with employment and manufacturing output.** Promoting trade would help to stimulate the economy. TPA would open the door for regional and global trade agreements that would open markets for America's most competitive exports. At their just-completed meeting in Qatar, the 142 members of the World Trade Organization agreed to pursue a new round of negotiations to lower barriers to agricultural, industrial, and service exports, including a cut in Europe's huge farm export subsidies. A recent study by the University of Michigan estimates that even a one-third cut in tariffs on agriculture, industrial, and service trade would boost annual global production by $613 billion, including $177 billion in the United States--or about $1,700 per U.S. household. Two, **trade expansion promotes U.S. security. Nations that trade with one another tend to get along better than nations that shun trade. America's historic post-war shift away from Depression-era trade wars and toward open trade was driven as much by foreign policy and security concerns as by economic self-interest.** Trade with Europe, Japan and developing countries cemented the Western alliance against communism. Free trade within the European Community, an American condition of Marshall Plan aid, has made another major European war virtually unthinkable today. Nations open to trade are far more likely to enjoy full civil and political liberties than those closed to trade. Trade tills the soil for democracy by introducing new ideas, encouraging tolerance of other cultures, and creating hope for a better life through individual effort. **America's commercial ties with the rest of the world have encouraged diplomatic and military cooperation from other nations in the war against terrorism. In contrast, none of the nations most closely linked to terrorism--Afghanistan, Iran, Iraq, Syria, Libya, Sudan, and North Korea--belong to the WTO.**

## 1NC Shell

#### Text – the Office of Legal Counsel should issue an opinion that the Executive Branch of the United States should create a review process with jurisdiction over uninhabited aerial vehicle targeted killing.

#### OLC can create and eliminate executive war powers

McGinnis 1993 (John, “CONSTITUTIONAL REVIEW BY THE EXECUTIVE IN FOREIGN AFFAIRS AND WAR POWERS: A CONSEQUENCE OF RATIONAL CHOICE IN THE SEPARATION OF POWERS”, http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=4213&context=lcp)

This article proceeds in two parts. First, it offers a model of institutional rational choice to describe the actual practice of the separation of powers-a model in which governmental powers are often distributed by the branches themselves through bargains and accommodations that maximize their respective interests. Second, the article seeks to illuminate this model by examining the accommodation in the foreign policy and war powers area and the manner in which it reflects the balance of interests among the branches. Because this accommodation is derived from the interests of the branches rather than directly from the text of the Constitution, its legitimacy, like the legitimacy of any accommodation based on power, is always open to challenge or revision. This second part, therefore, also describes how the executive, acting through its constitutional lawyers, exercises its interpretative authority both to legitimize and entrench favorable accommodations and to trade its powers for other, higher- valued, concessions.

#### Solves better and avoids the net benefit

McGinnis 1993 (John, “CONSTITUTIONAL REVIEW BY THE EXECUTIVE IN FOREIGN AFFAIRS AND WAR POWERS: A CONSEQUENCE OF RATIONAL CHOICE IN THE SEPARATION OF POWERS”, http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=4213&context=lcp)

These rational choices may result in explicit bargains, as when the president permits Congress the right of legislative veto, see infra notes 141-50 and accompanying text; in implicit bargains or accommodations, as the decision by the judiciary to give the initiative of constitutional interpretation to the executive in foreign affairs, see infra notes 68-70 and accompanying text; in unilateral actions by a branch to improve its enjoyment of the rights of the governance, as the judiciary's creation of the incorporation doctrine, see infra note 19; or in actions by one branch to discard a right of governance that it would prefer not to exercise, as the Congress's attempt to give back to the judiciary the responsibility for ensuring that laws properly accommodate religion, see infra notes 40-41 and accompanying text.

##  1NC

#### Security is a psychological construct—the aff’s scenarios for conflict are products of paranoia that project our violent impulses onto the other

Mack 91 – Doctor of Psychiatry and a professor at Harvard University (John, “The Enemy System” http://www.johnemackinstitute.org/eJournal/article.asp?id=23 \*Gender modified)

The threat of nuclear annihilation has stimulated us to try to understand what it is about (hu)mankind that has led to such self-destroying behavior. Central to this inquiry is an exploration of the adversarial relationships between ethnic or national groups. It is out of such enmities that war, including nuclear war should it occur, has always arisen. Enmity between groups of people stems from the interaction of psychological, economic, and cultural elements. These include fear and hostility (which are often closely related), competition over perceived scarce resources,[3] the need for individuals to identify with a large group or cause,[4] a tendency to disclaim and assign elsewhere responsibility for unwelcome impulses and intentions, and a peculiar susceptibility to emotional manipulation by leaders who play upon our more savage inclinations in the name of national security or the national interest. A full understanding of the "enemy system"[3] requires insights from many specialities, including psychology, anthropology, history, political science, and the humanities. In their statement on violence[5] twenty social and behavioral scientists, who met in Seville, Spain, to examine the roots of war, declared that there was no scientific basis for regarding (hu)man(s) as an innately aggressive animal, inevitably committed to war. The Seville statement implies that we have real choices. It also points to a hopeful paradox of the nuclear age: threat of nuclear war may have provoked our capacity for fear-driven polarization but at the same time it has inspired unprecedented efforts towards cooperation and settlement of differences without violence. The Real and the Created Enemy Attempts to explore the psychological roots of enmity are frequently met with responses on the following lines: "I can accept psychological explanations of things, but my enemy is real. The Russians [or Germans, Arabs, Israelis, Americans] are armed, threaten us, and intend us harm. Furthermore, there are real differences between us and our national interests, such as competition over oil, land, or other scarce resources, and genuine conflicts of values between our two nations. It is essential that we be strong and maintain a balance or superiority of military and political power, lest the other side take advantage of our weakness". This argument does not address the distinction between the enemy threat and one's own contribution to that threat-**by distortions of perception**, provocative words, and actions. In short, the enemy is real, but we have not learned to understand how we have created that enemy, or how the threatening image we hold of the enemy relates to its actual intentions. "We never see our enemy's motives and we never labor to assess his will, with anything approaching objectivity".[6] Individuals may have little to do with the choice of national enemies. Most Americans, for example, know only what has been reported in the mass media about the Soviet Union. We are largely unaware of the forces that operate within our institutions, affecting the thinking of our leaders and ourselves, and which determine how the Soviet Union will be represented to us. Ill-will and a desire for revenge are transmitted from one generation to another, and we are not taught to think critically about how our assigned enemies are selected for us. In the relations between potential adversarial nations there will have been, inevitably, real grievances that are grounds for enmity. But the attitude of one people towards another is usually determined by leaders who manipulate the minds of citizens for domestic political reasons which are generally unknown to the public. As Israeli sociologist Alouph Haveran has said, in times of conflict between nations historical accuracy is the first victim.[8] The Image of the Enemy and How We Sustain It Vietnam veteran William Broyles wrote: "War begins in the mind, with the idea of the enemy."[9] But to sustain that idea in war and peacetime a nation's leaders must maintain public support for the massive expenditures that are required. Studies of enmity have revealed susceptibilities, though not necessarily recognized as such by the governing elites that provide raw material upon which the leaders may draw to sustain the image of an enemy.[7,10] Freud[11] in his examination of mass psychology identified the proclivity of individuals to surrender personal responsibility to the leaders of large groups. This surrender takes place in both totalitarian and democratic societies, and without coercion. Leaders can therefore designate outside enemies and take actions against them with little opposition. Much further research is needed to understand the psychological mechanisms that impel individuals to kill or allow killing in their name, often with little questioning of the morality or consequences of such actions. Philosopher and psychologist Sam Keen asks why it is that in virtually every war "The enemy is seen as less than human? He's faceless. He's an animal"." Keen tries to answer his question: "The image of the enemy is not only the soldier's most powerful weapon; it is society's most powerful weapon. It enables people en masse to participate in acts of violence they would never consider doing as individuals".[12] National leaders become skilled in presenting the adversary in dehumanized images. The mass media, taking their cues from the leadership, contribute powerfully to the process.

#### We advocate interrogating the epistemological failures of the 1ac---this is the only way to solve inevitable extinction

Ahmed 12 Dr. Nafeez Mosaddeq Ahmed is Executive Director of the Institute for Policy Research and Development (IPRD), an independent think tank focused on the study of violent conflict, he has taught at the Department of International Relations, University of Sussex "The international relations of crisis and the crisis of international relations: from the securitisation of scarcity to the militarisation of society" Global Change, Peace & Security Volume 23, Issue 3, 2011 Taylor Francis

While recommendations to shift our frame of orientation away from conventional state-centrism toward a 'human security' approach are valid, this cannot be achieved without confronting the deeper theoretical assumptions underlying conventional approaches to 'non-traditional' security issues.106 By occluding the structural origin and systemic dynamic of global ecological, energy and economic crises, orthodox approaches are incapable of transforming them. Coupled with their excessive state-centrism, this means they operate largely at the level of 'surface' impacts of global crises in terms of how they will affect quite traditional security issues relative to sustaining state integrity, such as international terrorism, violent conflict and population movements. Global crises end up fuelling the projection of risk onto social networks, groups and countries that cross the geopolitical fault-lines of these 'surface' impacts - which happen to intersect largely with Muslim communities. Hence, regions particularly vulnerable to climate change impacts, containing large repositories of hydrocarbon energy resources, or subject to demographic transformations in the context of rising population pressures, have become the focus of state security planning in the context of counter-terrorism operations abroad.

The intensifying problematisation and externalisation of Muslim-majority regions and populations by Western security agencies - as a discourse - is therefore not only interwoven with growing state perceptions of global crisis acceleration, but driven ultimately by an epistemological failure to interrogate the systemic causes of this acceleration in collective state policies (which themselves occur in the context of particular social, political and economic structures). This expansion of militarisation is thus coeval with the subliminal normative presumption that the social relations of the perpetrators, in this case Western states, must be protected and perpetuated at any cost - precisely because the efficacy of the prevailing geopolitical and economic order is ideologically beyond question.

As much as this analysis highlights a direct link between global systemic crises, social polarisation and state militarisation, it fundamentally undermines the idea of a symbiotic link between natural resources and conflict per se. Neither 'resource shortages' nor 'resource abundance' (in ecological, energy, food and monetary terms) necessitate conflict by themselves.

There are two key operative factors that determine whether either condition could lead to conflict. The first is the extent to which either condition can generate socio-political crises that challenge or undermine the prevailing order. The second is the way in which stakeholder actors choose to actually respond to the latter crises. To understand these factors accurately requires close attention to the political, economic and ideological strictures of resource exploitation, consumption and distribution between different social groups and classes. Overlooking the systematic causes of social crisis leads to a heightened tendency to problematise its symptoms, in the forms of challenges from particular social groups. This can lead to externalisation of those groups, and the legitimisation of violence towards them.

Ultimately, this systems approach to global crises strongly suggests that conventional policy 'reform' is woefully inadequate. Global warming and energy depletion are manifestations of a civilisation which is in overshoot. The current scale and organisation of human activities is breaching the limits of the wider environmental and natural resource systems in which industrial civilisation is embedded. This breach is now increasingly visible in the form of two interlinked crises in global food production and the global financial system. In short, industrial civilisation in its current form is unsustainable. This calls for a process of wholesale civilisational transition to adapt to the inevitable arrival of the post-carbon era through social, political and economic transformation.

Yet conventional theoretical and policy approaches fail to (1) fully engage with the gravity of research in the natural sciences and (2) translate the social science implications of this research in terms of the embeddedness of human social systems in natural systems. Hence, lacking capacity for epistemological self-reflection and inhibiting the transformative responses urgently required, they reify and normalise mass violence against diverse 'Others', newly constructed as traditional security threats enormously amplified by global crises - a process that guarantees the intensification and globalisation of insecurity on the road to ecological, energy and economic catastrophe. Such an outcome, of course, is not inevitable, but extensive new transdisciplinary research in IR and the wider social sciences - drawing on and integrating human and critical security studies, political ecology, historical sociology and historical materialism, while engaging directly with developments in the natural sciences - is urgently required to develop coherent conceptual frameworks which could inform more sober, effective, and joined-up policy-making on these issues.

## AT: Drone Prolif

#### **Prolif wouldn’t escalate conflicts or start new ones**

Blank 12, Director of the International Humanitarian Law Clinic (Laurie R. Blank, Emory University School of Law, “After ‘Top Gun’: How Drone Strikes Impact the Law of War”, University of Pennsylvania Journal of International Law, Spring ’12)

Drones are Lawful Weapons¶ ¶ As the United Nations Special Rapporteur on Extrajudicial, Arbitrary or Summary Executions stated in his recent report on targeted killings, "a missile fired from a drone is no different from any other commonly used weapon, including a gun fired by a soldier or a helicopter or gunship that fires missiles. The critical legal question is the same for each weapon: whether its specific use complies with IHL." n34 The first question, addressed in this Section, is whether a particular weapon is prohibited due to its inherent characteristics. Section 2 below will examine whether armed drones are used in accordance with international law principles of distinction, proportionality, and precautions.¶ International law prohibits two categories of weapons in armed conflict: indiscriminate weapons and weapons that cause unnecessary suffering. The first prohibition appears in Article 51(4) of Additional Protocol I, which defines indiscriminate attacks as (1) attacks "not directed at a specific military objective," (2) attacks "which employ a method or means of combat which cannot be directed at a military objective," or (3) attacks "which employ a method or means of combat the effects of which cannot be limited as required by this Protocol." n35 Means of combat generally refers to weapons or weapons systems. Thus, as the International Court of Justice declared in its advisory opinion in the Legality of the [\*684] Threat or Use of Nuclear Weapons, parties to a conflict may not "use weapons that are incapable of distinguishing between civilian and military targets." n36 There is little doubt that any weapon can be used in an indiscriminate way during conflict, such as spraying machine gun fire into a crowd with no regard for the presence of civilians or others who are hors de combat. Such illegal use does not make the machine gun an unlawful weapon, however. One example of inherently indiscriminate weapons is the rockets that Hamas and Hezbollah have fired into Israel for many years. n37¶ The ban on indiscriminate weapons focuses on those weapons that are, by design or other shortcoming, "incapable of being targeted at a military objective only, even if collateral harm occurs." n38 The ban on indiscriminate effects encompasses both these types of indiscriminate weapons and the use of otherwise lawful weapons in an indiscriminate manner. For example, the use of cluster munitions is highly disputed for this reason. n39 As the International Committee of the Red Cross has stated,¶ ¶ "these characteristics [of cluster munitions] raise serious questions as to whether such weapons can be used in populated areas in accordance with the rule of distinction and the prohibition of indiscriminate attacks. The wide area effects of these weapons and the large number of unguided submunitions released would appear to make it [\*685] difficult, if not impossible, to distinguish between military objectives and civilians in a populated target area." n40¶ ¶ Others argue that cluster munitions may well be a more discriminating weapon in certain circumstances because if they were banned, many more missions would be needed to achieve the same effect and cover the same amount of area. By increasing the number of missions, the attacking force consequently would expose more of its force and more civilians to a heightened risk. n41 Further, cluster munitions could reduce collateral damage because of their small detonating impact; otherwise, forces would have to use a more highly explosive weapon to accomplish the same military goal, thereby creating more damage. n42¶ Second, weapons that cause unnecessary suffering or superfluous injury are prohibited. The goal is to minimize harm that is not justified by military utility, either because of a lack of any utility at all or because the utility gained is considerably outweighed by the suffering caused. n43 The international community's first effort at regulating weapons was the St. Petersburg Declaration Renouncing the Use, in Time of War, of Explosive Projectiles Under 400 Grammes Weight of December 11, 1868, which sought to outlaw "the employment of arms which uselessly aggravate the sufferings of disabled men, or render their death inevitable." n44 Repeated in Article 23(e) of the Annex to the [\*686] 1907 Hague Convention IV, this prohibition is recognized as customary international law. n45 The International Court of Justice emphasized this norm as the second of two cardinal principles of international law, explaining that¶ ¶ it is prohibited to cause unnecessary suffering to combatants: it is accordingly prohibited to use weapons causing them such harm or uselessly aggravating their suffering. In application of that second principle, States do not have unlimited freedom of choice of means in the weapons they use. n46¶ ¶ The basic idea behind the prohibition on weapons that cause unnecessary suffering is that weapons that increase suffering - specifically that of combatants - without increasing military advantage in any way are unlawful. Expanding bullets and blinding lasers offer two examples. Certainly many weapons cause extensive - even horrible - suffering and injury, but that in and of itself is not the key issue. The analysis hinges on two primary factors: "(a) whether an alternative weapon is available, causing less injury or suffering; and ... (b) whether the effects produced by the alternative weapon are sufficiently effective in neutralizing enemy personnel." n47¶ By both measures - indiscriminate weapon or effects and unnecessary suffering - armed drones pass muster. Armed drones fire Hellfire missiles and other similar munitions, all of which are also carried by or are similar to the weapons carried by piloted [\*687] fighter aircraft. n48 These missiles are not banned by any international agreement and do not manifest any characteristics that cause superfluous injury as understood in international law. In fact, the precision-guided munitions that drones carry and their extensive surveillance capabilities make them particularly discriminate weapons. The ability to track a target for hours, even days, before launching an attack facilitates accurate targeting and enhances the protection of civilians by giving drone operators the ability to choose the time and place of attack with an eye towards minimizing civilian casualties or damage. Therefore, armed drones can easily be aimed at only military objectives and have effects that can be limited, as much as possible, to military objects, thus meeting the standards in Article 51(4) of Additional Protocol I. n49¶ The fact that armed drones could be used - and perhaps have been used - in indiscriminate attacks does not make them an inherently unlawful weapon or weapons system. Determinations of legality, such as those required in new weapons reviews under Article 36 of Additional Protocol I, n50 do not mean that states must anticipate any possible unlawful use of a weapon. Rather, as noted at the 1974-1977 Diplomatic Conference that produced the Additional Protocols, the question is "whether the employment of a weapon for its normal or expected use would be prohibited under some or all circumstances. A State is not required to foresee or analyze all possible misuses of a weapon, for almost any weapon can be misused in ways that would be prohibited." n51 The normal or expected use of armed drones falls clearly within the parameters of lawful weapons under international law.

**No impact —aggressors don’t have the intel or experience to be capable of attack**

Admiral Dennis **Blair**, Former Director of National Intelligence, “U.S. Drone Strike Policies: Speakers: Admiral Dennis Blair, Former Director of National Intelligence, and Micah Zenko, Douglas Dillon Fellow,” Conversation at CFR, January 22, **2013**.

OPERATOR: Our next question comes from KT McFarland with Fox News.¶ QUESTIONER: Hi. Thank you very much for doing this.¶ Has anybody, either you or others, given thought to what happens next? I mean, the United States owns the drone wars now, but technology tends to only trump temporarily. What happens down the road five years from now when other countries get drones, other countries have the ability to target American diplomats traveling around in cars in rural Yemen? Are we -- are we -- have we really thought through what kind of a world it's going to be when we have proliferating drone powers?¶ BLAIR: I think that --¶ MASTERS: (Micah, you want ?) --¶ BLAIR: This is Dennis Blair again.¶ QUESTIONER: Hi, Dennis.¶ BLAIR: I think we've partly thought that -- thought that through, but this is a -- this is a familiar syndrome in the sort of military technology cycle. When a new weapons program comes in, it's often introduced by the more advanced countries, the high-tech ones, and -- who take full advantage of that while they can and don't worry too much about what happens when others -- when others get it.¶ When you -- when you think about it, there are a couple of things that make me believe that this -- **when drones do proliferate, they will not be** as **effective weapons against us as we are able to use them against others right now.**¶ One is that they are -- that **they are very dependent** on a -- **on an intelligence system which is incredibly worldwide, complicated and expensive**. It uses the entire U.S. global intelligence system. **No other country can afford that**. It's not just the -- **it's not just the money; it's the years of practice** it takes to do that.¶ The second one is that -- what I do fear the most, though, is that a terrorist -- and let me say **I don't fear** too much **other nation- states that gain this capability**. It's very -- you know if another country has it and is using it against you and then you can use the full -- the full array of both **defensive systems and** of **retaliation** to keep it **from being used** against you **effectively**.¶ I do fear that -- and **if al-Qaida can develop a drone, its first thought will be to use it to kill** our president, **senior officials**, senior military officers. **And it's possible, without a great deal of intelligence, to be able to do something with a drone that you can't** do **with a** -- with a high-speed -- with a high-powered **rifle o**r with -- driving a **car full of explosives** or the other ways that terrorists now use to try to kill senior officials¶ And I think that there are ways to deal with that that -- but it -- and I also think that **whether we use them or not -- the way in which we use them or not won't affect the zeal of terrorists groups to be able to get them and to be able to kill senior officials** for all of the reasons that we are familiar with.¶ So I think **this is not opening up a huge Pandora's box** which will make us wish that we'd never invented the drone, but **it will cause us to have to take some more defensive measures in the future.**

**2. No prolif – no major prolif over next 10 years – too costly and not effective enough**

Micah **Zenko**, Douglas Dillon fellow in the Center for Preventive Action (CPA) at the Council on Foreign Relations (CFR). “Reforming U.S. Drone Strike Policies,” CPA at CFR, Council Special Report No. 65, January **2013**.

Based on current trends, **it is unlikely that most states will have, within ten years, the complete system architecture required to carry out** distant **drone strikes** that would be **harmful to U.S. national interests**. However, **those candidates** able to obtain this technology **will most likely be states with the financial resources to purchase** or the industrial base to manufacture tactical short-range armed drones with **limited firepower that lack** the **precision** of U.S. laser-guided munitions; the intelligence collection and military command-and-control capabilities needed to deploy drones via line-of-sight communications; and cross- border adversaries who currently face attacks or the threat of attacks by manned aircraft, such as Israel into Lebanon, Egypt, or Syria; Russia into Georgia or Azerbaijan; Turkey into Iraq; and Saudi Arabia into Yemen. When compared to distant U.S. drone strikes, these contingen- cies do not require system-wide infrastructure and host-state support. **Given** the **costs** to conduct manned-aircraft strikes with minimal threat to pilots, **it is questionable whether states will undertake the significant investment required for armed drones in the near term**.

#### Other countries aren’t threats – don’t have enough money or tech

Zenko 2013 (Micah Zenko, Douglas Dillon fellow in the Center for Preventive Action at CFR, previously worked at Harvard Kennedy School and State Department, January 2013, “Reforming U.S. Drone Strike Policies,” CFR Special Report No 56)

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#### Time frame is at least a decade

Zenko 2013 [Micah Zenko is the Douglas Dillon fellow in the Center for Preventive Action (CPA) at the Council on Foreign Relations (CFR). Previously, he worked for five years at the Harvard Kennedy School and in Wash- ington, DC, at the Brookings Institution, Congressional Research Ser- vice, and State Department’s Office of Policy Planning January 2013 Council on Foreign Relations Special Report no. 65 “Reforming U.S. Drone Strike Policies”]

Based on current trends, it is unlikely that most states will have, within ten years, the complete system architecture required to carry out distant drone strikes that would be harmful to U.S. national interests. However, those candidates able to obtain this technology will most likely be states with the financial resources to purchase or the industrial base to manufacture tactical short-range armed drones with limited firepower that lack the precision of U.S. laser-guided munitions; the intelligence collection and military command-and-control capabilities needed to deploy drones via line-of-sight communications; and cross- border adversaries who currently face attacks or the threat of attacks by manned aircraft, such as Israel into Lebanon, Egypt, or Syria; Russia into Georgia or Azerbaijan; Turkey into Iraq; and Saudi Arabia into Yemen. When compared to distant U.S. drone strikes, these contingen- cies do not require system-wide infrastructure and host-state support. Given the costs to conduct manned-aircraft strikes with minimal threat to pilots, it is questionable whether states will undertake the significant investment required for armed drones in the near term.

#### US isn’t the key model – regional threat perceptions are all that matters

Metz 2013 [Steven Metz is a defense analyst and the author of "Iraq and the Evolution of American Strategy." His weekly WPR column, Strategic Horizons, appears every Wednesday 27 Feb 2013 World Politics Review “Strategic Horizons: The Strategy Behind U.S. Drone Strikes” <http://www.worldpoliticsreview.com/articles/12747/strategic-horizons-the-strategy-behind-u-s-drone-strikes>]

Both of these arguments are shaky. There is little or no evidence that nations facing a serious enemy base their response on U.S. actions. States do what they feel they have to do. The implication that if the United States did not use drones against insurgents other nations would not simply defies common sense. On the second point, there is no doubt that drone strikes create anger. Unfortunately, this does tend to be directed at the United States rather than at the extremists who elected to use human shields in the first place. But again there is no evidence that a significant number of potential terrorists or terrorist supporters were motivated exclusively or primarily by American drone strikes.

#### Deterrence solves – drones aren’t different than nuclear weapons

Singh 4/13 Joseph Singh, researcher at the Center for a New American Security, reporter for Time, “Betting Against a Drone Arms Race”, August 13th, 2012, <http://nation.time.com/2012/08/13/betting-against-a-drone-arms-race/>

Bold predictions of a coming drones arms race are all the rage since the uptake in their deployment under the Obama Administration. Noel Sharkey, for example, argues in an August 3 op-ed for the Guardian that rapidly developing drone technology — coupled with minimal military risk — portends an era in which states will become increasingly aggressive in their use of drones.¶ As drones develop the ability to fly completely autonomously, Sharkey predicts a proliferation of their use that will set dangerous precedents, seemingly inviting hostile nations to use drones against one another. Yet, the narrow applications of current drone technology coupled with what we know about state behavior in the international system lend no credence to these ominous warnings.¶ Indeed, critics seem overly-focused on the domestic implications of drone use.¶ In a June piece for the Financial Times, Michael Ignatieff writes that “virtual technologies make it easier for democracies to wage war because they eliminate the risk of blood sacrifice that once forced democratic peoples to be prudent.”¶ Significant public support for the Obama Administration’s increasing deployment of drones would also seem to legitimate this claim. Yet, there remain equally serious diplomatic and political costs that emanate from beyond a fickle electorate, which will prevent the likes of the increased drone aggression predicted by both Ignatieff and Sharkey.¶ Most recently, the serious diplomatic scuffle instigated by Syria’s downing a Turkish reconnaissance plane in June illustrated the very serious risks of operating any aircraft in foreign territory.¶ States launching drones must still weigh the diplomatic and political costs of their actions, which make the calculation surrounding their use no fundamentally different to any other aerial engagement.¶ This recent bout also illustrated a salient point regarding drone technology: most states maintain at least minimal air defenses that can quickly detect and take down drones, as the U.S. discovered when it employed drones at the onset of the Iraq invasion, while Saddam Hussein’s surface-to-air missiles were still active.¶ What the U.S. also learned, however, was that drones constitute an effective military tool in an extremely narrow strategic context. They are well-suited either in direct support of a broader military campaign, or to conduct targeted killing operations against a technologically unsophisticated enemy.¶ In a nutshell, then, the very contexts in which we have seen drones deployed. Northern Pakistan, along with a few other regions in the world, remain conducive to drone usage given a lack of air defenses, poor media coverage, and difficulties in accessing the region.¶ Non-state actors, on the other hand, have even more reasons to steer clear of drones:¶ – First, they are wildly expensive. At $15 million, the average weaponized drone is less costly than an F-16 fighter jet, yet much pricier than the significantly cheaper, yet equally damaging options terrorist groups could pursue.¶ – Those alternatives would also be relatively more difficult to trace back to an organization than an unmanned aerial vehicle, with all the technical and logistical planning its operation would pose.¶ – Weaponized drones are not easily deployable. Most require runways in order to be launched, which means that any non-state actor would likely require state sponsorship to operate a drone. Such sponsorship is unlikely given the political and diplomatic consequences the sponsoring state would certainly face.¶ – Finally, drones require an extensive team of on-the-ground experts to ensure their successful operation. According to the U.S. Air Force, 168 individuals are needed to operate a Predator drone, including a pilot, maintenance personnel and surveillance analysts.¶ In short, the doomsday drone scenario Ignatieff and Sharkey predict results from an excessive focus on rapidly-evolving military technology.¶ Instead, we must return to what we know about state behavior in an anarchistic international order. Nations will confront the same principles of deterrence, for example, when deciding to launch a targeted killing operation regardless of whether they conduct it through a drone or a covert amphibious assault team.¶ Drones may make waging war more domestically palatable, but they don’t change the very serious risks of retaliation for an attacking state. Any state otherwise deterred from using force abroad will not significantly increase its power projection on account of acquiring drones.¶ What’s more, the very states whose use of drones could threaten U.S. security – countries like China – are not democratic, which means that the possible political ramifications of the low risk of casualties resulting from drone use are irrelevant. For all their military benefits, putting drones into play requires an ability to meet the political and security risks associated with their use.¶ Despite these realities, there remain a host of defensible arguments one could employ to discredit the Obama drone strategy. The legal justification for targeted killings in areas not internationally recognized as war zones is uncertain at best.¶ Further, the short-term gains yielded by targeted killing operations in Pakistan, Somalia and Yemen, while debilitating to Al Qaeda leadership in the short-term, may serve to destroy already tenacious bilateral relations in the region and radicalize local populations.¶ Yet, the past decade’s experience with drones bears no evidence of impending instability in the global strategic landscape. Conflict may not be any less likely in the era of drones, but the nature of 21st Century warfare remains fundamentally unaltered despite their arrival in large numbers.

#### **U.S. drone use doesn’t cause prolif – no international precedent.**

Etzioni 13, Professor of International Relations @ George Washington University

(Aimtai Etzioni, adviser to the Carter administration, “The Great Drone Debate”, Military Review, 4/2013, http://usacac.army.mil/CAC2/MilitaryReview/Archives/English/MilitaryReview\_20130430\_art004.pdf)

Other critics contend that by the United States ¶ using drones, it leads other countries into making and ¶ using them. For example, Medea Benjamin, the cofounder of the anti-war activist group CODEPINK ¶ and author of a book about drones argues that, “The ¶ proliferation of drones should evoke reﬂection on the ¶ precedent that the United States is setting by killing ¶ anyone it wants, anywhere it wants, on the basis of ¶ secret information. Other nations and non-state entities are watching—and are bound to start acting in ¶ a similar fashion.”60 Indeed scores of countries are ¶ now manufacturing or purchasing drones. There can ¶ be little doubt that the fact that drones have served ¶ the United States well has helped to popularize them. ¶ However, it does not follow that United States ¶ should not have employed drones in the hope that such a show of restraint would deter others. First ¶ of all, this would have meant that either the United ¶ States would have had to allow terrorists in hard-to-reach places, say North Waziristan, to either ¶ roam and rest freely—or it would have had to use ¶ bombs that would have caused much greater collateral damage. ¶ Further, the record shows that even when the ¶ United States did not develop a particular weapon, ¶ others did. Thus, China has taken the lead in the ¶ development of anti-ship missiles and seemingly ¶ cyber weapons as well. One must keep in mind ¶ that the international environment is a hostile ¶ one. Countries—and especially non-state actors—¶ most of the time do not play by some set of selfconstraining rules. Rather, they tend to employ ¶ whatever weapons they can obtain that will further ¶ their interests. The United States correctly does ¶ not assume that it can rely on some non-existent ¶ implicit gentleman’s agreements that call for the ¶ avoidance of new military technology by nation X ¶ or terrorist group Y—if the United States refrains ¶ from employing that technology. I am not arguing that there are no natural norms ¶ that restrain behavior. There are certainly some ¶ that exist, particularly in situations where all parties beneﬁt from the norms (e.g., the granting of ¶ diplomatic immunity) or where particularly horrifying weapons are involved (e.g., weapons of ¶ mass destruction). However drones are but one ¶ step—following bombers and missiles—in the ¶ development of distant battleﬁeld technologies. ¶ (Robotic soldiers—or future ﬁghting machines—¶ are next in line). In such circumstances, the role ¶ of norms is much more limited.

#### Drones don’t lower the threshold for conflict or escalation – the aff impact is an illogical myth

Carpenter and Shaikhouni 2011 [Charli Carpenter is associate professor of international relations at the University of Massachusetts, Amherst, and blogs about human security at the Duck of Minerva. Lina Shaikhouni is completing a degree in political science at the University of Massachusetts, Amherst, with an emphasis on human rights and humanitarian law. June 7 2011 Foreign Policy “Don’t Fear the Reaper” <http://www.foreignpolicy.com/articles/2011/06/07/dont_fear_the_reaper?page=0,1>]

Misconception No. 2: Drones Make War Easy and Game-Like, and Therefore Likelier. Remote-controlled violence even with a human in the loop also has people concerned: Nearly 40 percent of the op-eds we studied say that remote-control killing makes war too much like a video game. Many argue this increases the likelihood of armed conflict.¶ It's a variation on an old argument: Other revolutions in military technology -- the longbow, gunpowder, the airplane -- have also progressively removed the weapons-bearer from hand-to-hand combat with his foe. Many of these advances, too, were initially criticized for degrading the professional art of war or taking it away from military elites. For example, European aristocrats originally considered the longbow and firearms unchivalrous for a combination of these reasons.¶ It's true that all killing requires emotional distancing, and militaries throughout time have worked hard to devise ways to ease the psychological impact on soldiers of killing for the state in the national interest. Yet it's not so clear whether the so-called Nintendo effect of drones increases social distance or makes killing easier. Some anecdotal evidence suggests the opposite: Drone pilots say they suffer mental stress precisely because they have detailed, real-time images of their targets, and because they go home to their families afterward rather than debriefing with their units in the field. Studies haven't yet confirmed which view is accurate or whether it's somehow both.¶ Even if some variant of the Nintendo effect turns out to be real, there is little evidence that distancing soldiers from the battlefield or the act of killing makes war itself more likely rather than less. If that were true, the world would be awash in conflict. As former Lt. Col. Dave Grossman has documented, at no time in history has the combination of technology and military training strategies made killing so easy -- a trend that began after World War I. Yet as political scientist Joshua Goldstein demonstrates in a forthcoming book, the incidence of international war -- wars between two or more states -- has been declining for 70 years.¶ The political debate over drones should move away from the fear that military advancements mean war is inevitable and instead focus on whether certain weapons and platforms are more or less useful for preventing conflict at a greater or lesser cost to innocent civilian lives. Activists should keep pressure on elected officials, military personnel, and other public institutions to make armed conflict, where it occurs, as bloodless as possible. For example, some human rights groups say the Nintendo effect itself could be harnessed to serve humanitarian outcomes -- by embedding war law programming into game designs.

## Solvency

#### Federal courts fail – no jurisdiction, kills SOP, and no due process.

Robertson 13, ex-judge for District Court of D.C. (James Robertson, “Judges shouldn’t decide about drone strikes”, Washington Post, 2/15/13, <http://articles.washingtonpost.com/2013-02-15/opinions/37117878_1_drone-strikes-justice-department-white-paper-federal-courts>)

In the wake of the recent confirmation hearing on John Brennan’s nomination as CIA director, and the probably related “leak” of a Justice Department white paper on targeted killings, **some politicians, pundits and professors have suggested that “kill lists,” drone strikes and targeting protocols be submitted for “independent judicial review”** — essentially, **that federal judges ought to be assigned the task of monitoring, mediating and approving** the killer instincts of our government. **This is a very bad idea**.¶ **U.S. judges have been hard-wired against rendering “advisory opinions”** since 1793, when the first chief justice, John Jay, declined to answer George Washington’s legal questions about the status of a British ship that had been captured by the French and brought to an American port. **To answer the president’s questions, Jay wrote, would violate “the lines of separation drawn by the Constitution between the three departments of the government.” Jay’s letter referred to Article II, Section 2 of the Constitution**, which provides that the president “may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices” — a provision, Jay wrote, that “seems to have been purposely as well as expressly united to the executive departments.”¶ **From that letter** — itself an advisory opinion — **has grown a complex but well-established and understood set of constraints on the federal courts: They are to decide only “cases” or “controversies” that are “justiciable” and “ripe” for decision. Federal courts rule on specific disputes between adversary parties. They do not make or approve policy; that job is reserved to Congress and the executive.**¶ **Nor do federal courts act ex parte** — hearing one side only — or sit in a Star Chamber, like the co-opted judges of 16th-century England. **The targets of a drone strike make no appearance before a judge; they have no notice of the charges against them; no lawyer; no chance to call witnesses or confront the evidence against them; no due process rights. Their case is necessarily considered in absentia and in secret. An American judge cannot do American justice in such a case**. If he did, his independence would be severely compromised.¶ But — say the politicians, pundits and professors — courts routinely rule on government requests for search warrants and, in the national security context, on requests for foreign intelligence surveillance. Why not requests for drone strikes? The answer is simple: **A search warrant is not a death warrant.**

#### Courts fail – can’t micromanage tactical decisions.

Rittgers 10, Legal Policy Analyst @ CATO (David Rittgers, reserve judge advocate, served in Afghanistan as a special forces officer, Cato Institute, “Both Left and Right Are Wrong about Drones”, 2/25/10, <http://www.cato.org/publications/commentary/both-left-right-are-wrong-about-drones>)

Liberal **critics should refrain from erroneously labeling drone strikes as "nonjudicial killings." Even the most controversial drone strikes**—those that kill American citizens who have joined al Qaeda affiliates overseas—**are permissible under the laws of war. Neither Congress nor the courts should micromanage tactical decisions** such as whether the president can order soldiers to seize a particular hill or employ a certain weapon. **Referring to drone strikes as "nonjudicial" implies that the courts should be given the ability to rule out specific drone attacks. Vetting these targets for accuracy of intelligence and minimization of collateral damage is essential, and the record continues to improve on that front.**

#### The FISA model fails – no oversight and secrecy compromises.

Opderbeck 13, Director of Gibbons Institute of Law, Science, and Technology (David W. Opderbeck, Professor of Law @ Seton Hall University, “Drone Courts”, Seton Hall Public Law, 8/2/13, <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2305315>)

Indeed, some commentators have suggested that a special¶ drone court should be established along the lines of the FISC. **The**¶ **FISC**, however, **is highly controversial because of the secrecy of its**¶ **decisions, the limitations on its scrutiny of government requests for**¶ **information, and the breadth of the permissions it has given for**¶ **government surveillance.**283¶ **FISA requires a showing of probable cause for an order**¶ **authorizing electronic surveillance, but that showing is limited to**¶ **whether “the target of the electronic surveillance is a foreign power**¶ or an agent of a foreign power.”284 As noted in Part IV.C.2., **the**¶ **purpose of the surveillance can be quite broad, since the government**¶ **need only certify that “a significant purpose of the surveillance is to**¶ **obtain foreign intelligence information**,” and that “minimization¶ procedures” will be adopted to limit disclosure of communications¶ solely between U.S. persons.285¶ The “significant purpose” language reflects a change made¶ after the September 11 attacks under the Patriot Act.286 Previously¶ the government was required to show that obtaining foreign¶ intelligence information was the purpose of the proposed¶ surveillance.287 In one of its few publicly released opinions, the FISA Court of Review held that this “significant purpose” language¶ allows information sharing between governmental intelligence and¶ criminal functions.288 It appears that **there have been additional**¶ **FISC rulings, still kept secret, which have significantly affected, and**¶ **perhaps significantly broadened, the scope of information available**¶ **to the government under FISA**.289¶ The breadth and flexibility of these requirements is borne out¶ by a review of statistics reported to Congress pursuant to FISA’s¶ reporting requirement.290 **Since 1979, the FISC has approved 33,731**¶ **FISA Orders and has denied only 12, which is less than 1% of those**¶ **approved**.291 During that same period, 26 applications for FISA¶ Orders were withdrawn by the government and 497 were modified¶ at the FISC’s request, just over 1% of the total approved.292 The¶ following chart shows this data over time: **Because the FISC is a secret court, it is impossible to know**¶ **the contents of the orders reflected in these statistics.** Perhaps the¶ overwhelming majority of proposed Orders are approved because¶ the requests are narrow and specific. Based on recent leaked¶ information, however, this does not appear to be the case. On June¶ 5, 2013, a U.K. newspaper reported that the Obama Administration¶ had obtained a FISA Order requiring the telecommunications¶ company Verizon to supply all of its call detail records on a daily¶ basis to the National Security Administration.294 This was followed¶ by the revelation of a top-secret program called “Prism” that¶ allegedly permits the government to tap directly into user data from¶ Google, Microsoft, Yahoo, Facebook, and other sites.295 These¶ revelations produced a press firestorm that resulted in a rare public defense of the FISA program and the FISC by President Obama.296¶ **The problems with the FISC show why the FISC is at best a**¶ **lukewarm model for a “drone court.” It does not appear that the**¶ **FISC has provided the sort of oversight that we ordinarily expect of**¶ **independent judicial review**. **There does not seem to be any**¶ **procedure for an adversarial hearing before the FISC**.297 **Neither the**¶ **FISC’s nor the FISA Court of Review’s opinions are published,**¶ **except in very rare and opaque circumstances, even with respect to**¶ **rulings on broad legal issues**. Although two published FISA Court¶ of Review opinions suggest that ISPs and amici may participate in¶ some appeals, it is unclear how or when this might happen.298 At¶ least from the information available to the public, **the FISC appears**¶ **to function as a “rubber stamp” for surveillance requests.**

Federal drone courts would be a mess – multiple factors

Katyal 13 (Neal K. [former acting solicitor general, prof of national security law @ Georgetown; Feb 21; www.nytimes.com/2013/02/21/opinion/an-executive-branch-drone-court.html)

There are many reasons a drone court composed of generalist federal judges will not work. They lack national security expertise, they are not accustomed to ruling on lightning-fast timetables, they are used to being in absolute control, their primary work is on domestic matters and they usually rule on matters after the fact, not beforehand.¶ Even the questions placed before the FISA Court aren’t comparable to what a drone court would face; they involve more traditional constitutional issues — not rapidly developing questions about whether to target an individual for assassination by a drone strike.

**Drone courts ineffective—ill-suited to weigh all necessary factors in a timely manner, must address fundament questions, and is insufficient to appease detractors**

**Groves 13**

[Groves, Stephen: Bernard and Barbara Lomas Senior Research Fellow. "Drone Strikes: The Legality of U.S. Targeting Terrorists Abroad." *Heritage Foundation*. Heritage Foundation, 10 Apr 2013. Web. 31 Aug 2013. <http://www.heritage.org/research/reports/2013/04/drone-strikes-the-legality-of-us-targeting-terrorists-abroad>. //Wyo-BF]

In sum, no evidence indicates that U.S. targeted drone strikes violate the law of war principles of necessity, distinction, or proportionality, much less in any intentional, systematic, or chronic manner. To the contrary, the use of drones, which can loiter over a target for hours waiting for the optimal moment to strike, is a particularly effective method of eliminating individual terrorist threats while adhering to the law of war. The publicly available evidence indicates that the U.S. government chooses its targets carefully and regularly reassesses the threats posed by those targets. While there is no guarantee that all civilian casualties can be eliminated, the use of drone strikes, as opposed to an armed invasion or use of large munitions, vastly minimizes the exposure of civilians. A Drone Court? Certain former Obama Administration officials, the editorial board of The New York Times, and at least one U.S. Senator have called for the establishment of a special oversight panel or court to review the Administration’s targeting determinations, particularly in instances in which a U.S. citizen is targeted.[49] Essentially, such a court would scrutinize the Administration’s targeting decisions, presumably including its decisions to place individuals on the “disposition matrix.” The court would apparently have the authority to overrule and nullify targeting decisions. The creation of such a court is ill advised and of doubtful constitutionality. **The proponents of a drone court apparently do not appreciate the potential unintended consequences of establishing such an authority. The idea is wrongheaded and raises more questions than it answers.** For instance, **could the drone court decide as a matter of law that a targeted strike is not justified because the United States is not engaged in an armed conflict with al-Qaeda**? **Could the drone court rule that members of a force associated with al-Qaeda** (e.g., AQAP) **may not be targeted because AQAP was not directly involved in the September 11 attacks and therefore the strike is not authorized under the AUMF**? **The proposed drone court cannot avoid these fundamental questions since the justification for the targeted strikes is dependent on the answers to these questions**. **Even if the proposed drone court attempts to eschew intervention into foundational questions such as the existence of an armed conflict, it still would not be in a position to rule on the “easy” questions involved in each and every drone strike**. Does the target constitute an “imminent threat” to the United States? When civilian casualties may occur as a result of the strike, does the drone court have the authority to overrule the targeting decision as a violation of the principle of proportionality? Is the target an innocent civilian or a civilian “directly participating in hostilities”? Should U.S. forces attempt to capture the target before resorting to a drone strike? Is capture feasible? **Any drone court, even if constituted with former military and intelligence officials, is ill suited to weigh all of the competing factors that go into a decision to target an al-Qaeda operative and make a timely decision, particularly when there is often only a short window of time to order a strike. Regardless, creating a judicial or quasi-judicial review process will not ameliorate, much less resolve, objections to U.S. targeted killing practices. Critics will continue to demand more judicial process, including appeals from the proposed drone court, and additional transparency no matter what kind of forum is established to oversee targeting decisions.**

#### E. Insert Trade impact of choice.