## 1nc

#### War powers authority are derived from domestic sources – has to be congress or the constitution

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(R Andrew, “SYMPOSIUM ON ELECTRONIC PRIVACY IN THE INFORMATION AGE: BREAKING THE STALEMATE: THE JUDICIARY'S CONSTITUTIONAL ROLE IN DISPUTES OVER THE WAR POWERS,” 41 Val. U.L. Rev. 1517)

In the Steel Seizure case, the Supreme Court determined that the president lacked constitutional authority to seize control of the nation's steel mills to ensure continued steel production during World War II. 119 In analyzing the breadth of presidential authority under the war power, the Court determined that any exercise of this authority must stem either from an act of Congress or the Constitution. 120 Justice Jackson's concurrence elaborated on this analysis by stating three classifications for determining presidential authority. 121 The first classification provides the president with the most authority because he acts with the permission of Congress, buttressing the president's own constitutional powers with all the authority Congress can delegate. 122 The second classification contemplates situations where the legislative and executive branches share power, but Congress has failed to act. 123 In this classification, the president has independent authority. 124 The final classification illustrates that the president's power is at its lowest when he acts contrary to an act of Congress. 125

#### Self defense is an international authority – comes from the UN – only domestic sources are Commander in Chef, AUMF and the NSA

-Commander in chief

-AUMF

-NSA

McNeal 13

Gregory, “Targeted Killing and Accountability” [http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=1819583] March//mtc¶

When addressing the legal basis for targeted killings conducted by the U.S. government, it is necessary to focus on two distinct sources of law: domestic legal authority and international legal authority. Domestically, targeted killings are based on a presidential decision that killing terrorists is one way to achieve America’s national security objectives. The domestic legal authority enabling the president to make these determinations are his constitutional authority as commander in chief,20 the Authorization for the Use of Military Force passed after the September 11th attacks,21 and the National Security Act of 1947 which in part empowers the president to authorize covert action.22 As a matter of international law, targeted killings are justifiable under jus ad bellum principles of self-defense with the consent of the host state, or where consent is lacking the unwillingness or inability of the host state to control non-state actors within its borders. Targeted killings are also justifiable, according to the U.S. when they are conducted in locations where the host state considers itself involved in a non-international armed conflict (NIAC), and the U.S. government’s targeted killing operations are conducted as part of that NIAC at the invitation of the host state (a so called “internationalized NIAC”). In all operations, the U.S. government argues that it complies with “the law of armed conflict.”23

#### Vote neg:

#### 1. Limits—by allowing non US-based authority the topic becomes unhinged—there are tons of international authorities—affs could use Israeli Supreme Court decisions, Pakistans interpretations of authority, and much more.

#### 2. Ground—the aff shifts the debate from questions of domestic legal authority to one of international legal authority—skews neg ground which is all about US authority like WPR, AUMF, etc.

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#### Text: The United States Executive should issue an executive order clarifying that only targeted killings outside an armed conflict are done in self-defense.

#### Self-restraint is as binding as legislation, affects future presidents, and avoids politics

Posner and Vermeule ’10

Eric A. Posner is the Kirkland and Ellis Professor of Law @ the University of Chicago School of Law and Editor of the Journal of Legal Studies, Adrian Vermeule is a legal scholar, Oxford University Press, “The Executive Unbound: After the Madisonian Republic”, Google Books

A Preliminary Note on Law and Self-Binding Many of our mechanisms are unproblematic from a legal perspective, as they ¶ involve presidential actions that are clearly lawful. But a few raise legal questions; in ¶ particular, those that involve self-binding.74 Can a president bind himself to respect ¶particular first-order policies? With qualifications, the answer is “yes, at least to the same extent that a legislature can.” Formally, a duly promulgated executive rule or order binds ¶ even the executive unless and until it is validly abrogated, thereby establishing a new ¶ legal status quo.75 The legal authority to establish a new status quo allows a president to ¶ create inertia or political constraints that will affect his own future choices. In a practical ¶ sense, presidents, like legislatures, have great de facto power to adopt policies that shape the legal landscape for the future. A president might commit himself to a long-term ¶ project of defense procurement or infrastructure or foreign policy, narrowing his own ¶future choices and generating new political coalitions that will act to defend the new rules ¶or policies.

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#### The National Defense Panel should include a recommendation in the Quadrennial Defense Review that the United States federal government limit the war power authority of the president for self-defense targeted killings to outside an armed conflict.

#### The counterplan competes – it’s not topical and only fiats the executive branch.

#### The panel shapes DoD policy and leads to Congressional action

Brimley 13 - Vice President and Director of Studies at the Center for a New American Security, served as Special Advisor to the Under Secretary of Defense for Policy at the Pentagon from 2009 to 2011

(Shawn, “The Next QDR Is the Last Chance for Sanity,” http://www.defenseone.com/ideas/2013/07/next-qdr-last-chance-sanity/66629/)

Enter the congressionally appointed National Defense Panel, charged with providing an outside assessment of the QDR. The panel, co-chaired by former Defense Secretary William Perry and former U.S. Central Command chief General John Abizaid, is tasked with not only reviewing the final product, but offering assessments along the way. Staffed and resourced appropriately, the panel stands a decent chance of having a major influence—acting as the Simpson-Bowles Commission for DOD, speaking hard truths to both Congress and the Pentagon, and providing useful top cover for leaders to make tough decisions. ¶ Many defense analysts and reporters dismiss QDRs as irrelevant exercises that rarely prove decisive in changing the course of U.S. defense strategy. They are partially correct -- no defense review is automatically influential. But if the right factors come into alignment at the right time, change can happen. With wars ending, budgets declining, technology proliferating, and other powers rising, a real window of opportunity to reshape U.S. defense strategy has opened for the first time since the end of the Cold War. It will close within a year. Time to get moving.

#### Sequencing avoids politics – starting with the brass shapes Congressional and Presidential policy

---2010 QDR was the foundation of the Asia Pivot

Eaglen 12 - M.A., School of Foreign Service, Georgetown University

(Mackenzie, “America needs a permanent independent panel to stress test the Pentagon's QDR strategy,” http://www.aei.org/article/foreign-and-defense-policy/defense/america-needs-a-permanent-independent-panel-to-stress-test-the-pentagons-qdr-strategy/)

But Congress has not forgotten its original intent, even if the Pentagon has, and it’s make-or-break time for the Quadrennial Defense Review process. QDR 2014 will be the Pentagon’s last chance to get it right, with buy-in from Capitol Hill, before Congress throws out the process altogether.¶ For Pentagon planners, it’s time for an intellectually honest approach. It is no longer enough to assert that the forces and budgets will shrink while restoring the world-class edge and long-standing military capabilities that made our military a global power.¶ QDR Independent Panel¶ In 1996, Congress directed the Secretary of Defense to undertake the first QDR. The Act called for the QDR to include “a comprehensive examination of defense strategy, the force structure of the active, guard, and reserve components, force modernization plans, infrastructure, and other elements of the defense program and policies in order to determine and express the defense strategy of the United States and establish a revised defense program through the year 2005.” The legislation specified that the report should discuss a number of areas, including:¶ •Defense strategy and the optimum force structure to implement it;¶ • National security threats and scenarios;¶ • The effects of preparations for and participation in peace operations and non-war military operations on force structure;¶ • Technological development impact on force structure;¶ • Manpower and sustainment policies under the defense strategy to support engagement in conflicts lasting more than 120 days;¶ • Airlift and sealift capabilities required;¶ • Forward presence, pre-positioning, and other anticipatory deployments necessary under the defense strategy for conflict deterrence and adequate military response to anticipated conflicts; and¶ • The extent to which resources must be shifted among two or more theaters under the defense strategy.¶ The 1996 legislation also created an outside National Defense Panel (NDP) to perform an independent review and critique of the Pentagon’s findings, and it called for an additional assessment by the Chairman of the Joint Chiefs of Staff.¶ And in 2010, the Congress stood up the QDR Independent Panel. Its remit was to review the Secretary of Defense’s terms of reference; conduct an assessment of the assumptions, strategy, findings and risks in the QDR; provide an analysis of a variety of possible force structures for the U.S. Armed Forces; and compare the cost of alternative forces with the cost of the defense program recommended by the QDR. The independent panel was told to include “analyses of the trends, asymmetries, and concepts of operations that characterize the military balance with potential adversaries, focusing on the strategic approaches of possible opposing forces.”¶ The bipartisan report was successful in meeting its charge. The group of experts essentially called for a genuine “pivot” to Asia before it became the en vogue answer to budget cuts. The 2010 Quadrennial Defense Review Independent Panel, led by William J. Perry, Bill Clinton’s secretary of defense, and Stephen Hadley, George W. Bush’s national security adviser, found:¶ The force structure in the Asia-Pacific area needs to be increased. In order to preserve U.S. interests, the United States will need to retain the ability to transit freely the areas of the Western Pacific for security and economic reasons. The United States must be fully present in the Asia-Pacific region to protect American lives and territory, ensure the free flow of commerce, maintain stability, and defend our allies in the region.¶ However, the credible projection of effective and sustainable power requires more than rhetoric. It also requires investments in capabilities and capacity to protect America’s interests in the region. The panel stated unequivocally that “the force structure in the Asia-Pacific area needs to be increased,” including a larger Navy and more robust, technologically-advanced Air Force than today’s.¶ Since the Panel Report was released, the government has moved in the opposite direction, cutting defense budgets by more than 500 billion dollars and passing the “sequester,” which will mandate almost another 500 billion dollars in spending reductions. The Panel recommended that the size of the Navy be increased. Instead, the rate of naval shipbuilding has been reduced, and the number of ships in the Navy continues to go down. The Panel recommended reforming the acquisition system by establishing clear lines of accountability for new programs. No progress has been made in that area.¶ Some pointers for the team about to undertake the next strategy review follow:¶ Provide a 20-Year Defense Road Map. Congress intended the QDR to be a comprehensive, farsighted, and strategy-based assessment of future military requirements. Current law outlines the 15 primary tasks the QDR is supposed to achieve. Chief among these guidelines is for Pentagon leaders to examine the “effect on force structure of the use by the armed forces of technologies anticipated to be available for the ensuing 20 years.” By proposing to only study various future challenges and focusing largely on present operations, the last QDR fell short of its mandate.¶ Stop Increasing Demand While Shrinking Supply, and Stop Altering Strategy to Fit Budgets. While the 2010 QDR retained the crucial two-war construct on paper, it subsequently threw in the “kitchen sink” of every other conceivable mission without proposing a larger force. It also proposed retaining and institutionalizing critical counterinsurgency capabilities. Two years later, the Pentagon issued guidance that formally abandoned the two-war construct and deemphasized stability operations, counterinsurgency campaigns and forces. Wild swings in strategy and dishonesty about the impact of budgets on force structure weaken the services’ ability to build stable long-term plans. As the QDR Independent Panel noted: “The absence of a clear force-planning construct in the 2010 QDR represents a missed opportunity.”¶ No More Sugar Coating the Ever-Growing Assumptions of Risk. The last QDR tried to bridge the strategy-resource mismatch by assuming that U.S. military forces could manage additional risk. But current law describes the primary task of the QDR as recommending a force structure best suited to implement the national defense strategy at a “low-to-moderate level of risk.” The last QDR did not specify:¶ ¶ QDR Independent Panel Recommendation¶ HASC-Proposed National Defense Panel Recommendation¶ QDR IP Enabling Legislation¶ PURPOSE¶ • Few nonseniors receive government benefits.¶ • Review strategic environment of next twenty years.¶ • Conduct an assessment of "assumptions, strategy, findings, and risks of the report on the QDR." ¶ • Conduct an independent assessment of force structure, and compare the resource requirements of both theirs and the QDRs.¶ • Conduct an assessment of the review, including recommendations, stated and implied assumptions, and vulnerabilities of the strategy and force structure underlying the review. ¶ • Conduct an analysis of "the trends, asymmetries, and concepts of operations that characterize the military balance with potential adversaries."¶ • Conduct an independent assessment of a variety of possible force structures for the Armed Forces, including the force structure identified in the report of the Secretary of Defense on the 2009 QDR.¶ WHEN¶ • Every four years.¶ • Six months after new President enters office.¶ • After that, whenever President wants.¶ • Within 3 months of a QDR submission¶ • Six months in advance of QDR submission.¶ • Final report due within three months of QDR submission.¶ MEMBERS¶ • Up to 18 members.¶ • 'Senior and experienced expert' panel.¶ • Ten members appointed by President, including co-chairs from different parties. ¶ • Two selected by house majority.¶ • Two by house minority.¶ • Two by senate majority.¶ • Two by senate minority.¶ • 10 members from "private civilian life" who are "recognized experts" on national security.¶ • Two selected by HASC chairman.¶ • Two by SASC chairman. ¶ • Two by HASC ranking member.¶ • Two by SASC ranking member.¶ • Two as co-chairs selected by Secretary of Defense.¶ • 8 members.¶ • Two selected by HASC chairman.¶ • Two selected by SASC chairman.¶ • Two selected by HASC ranking member.¶ • Two selected by SASC ranking member¶ OTHER¶ • 10 staff members and $1 million budget.¶ ¶ • The Panel shall terminate 45 days after the date on which the Panel submits its final report¶ ¶ The time has come to again “stress test” the Pentagon’s strategy and provide a fresh look at DoD plans, assumptions, threats and policies. In keeping with the original intention of the National Defense Panel, no one individual or group should be able to direct major future defense planning decisions absent a separate mechanism to test their analytical assumptions. As in the past, this panel should consist of an array of defense analysts with a broad range of views. It should be convened during the QDR process and scheduled to be released after the Quadrennial Defense Review so that it may address the major findings of the strategy.¶ Reality¶ Above all else, it’s time for defense planners to be forthright about what our military can and cannot do, and about the increased risk that the Department, and America, is running as a result of our declining power. America is operating with a force structure that is substantially smaller than that established by the first QDR at the beginning of the Clinton Administration; before the global war on terror, before the rise of Chinese power, and before the resurgence of Russian ambitions. Twenty years ago the “platforms” of the military -- its ships, aircraft, tanks, and vehicles -- were relatively new and by and large contained the most modern technology. Today that equipment is aging, difficult to maintain, and increasingly unreliable. As an example, half of the Navy’s deployed aircraft is not ready for combat. The force is stressed, tired, and demoralized. The acquisition system is broken, and it cannot be fixed without a stable funding plan that is impossible if budgets swing wildly every time Washington has a fiscal crisis.¶ All of this is reality. In an unstable world, it is a reality that will have negative consequences sooner rather than later. The Department cannot fix its problems on its own; that will require determined guidance from the highest levels of civilian leadership. What military leaders can do is tell the President and Congress what they need to hear rather than what they want to hear. The next QDR would be a good place to start. Otherwise, it may be the last.

## 1nc

#### Obama push for TPA now

Boyer 2/3

Dave, The Washington Times, Obama reaches out to Democratic leaders, 2/3/14, http://www.washingtontimes.com/news/2014/feb/3/obama-reaches-out-to-democratic-leaders/

The White House is eager for passage of a trade bill written by Sen. Max Baucus, Montana Democrat, that Mr. Reid and his liberal allies are reluctant to bring to the floor for a vote. White House press secretary Jay Carney said Mr. Obama will “push hard” for trade-promotion authority (TPA) because the pacts would create high-paying jobs in the U.S.¶ “Securing these trade agreements and increasing exports is key to promoting our economic recovery,” Mr. Carney said.¶ But three-fourths of House Democrats oppose TPA on the grounds that the free-trade deals would drain jobs from the U.S. and wouldn’t require adequate environmental protections among the other nations joining the agreements. Republican lawmakers who favor free trade say Mr. Obama must show more leadership with his own party if he wants to achieve the deals.¶ It’s another example of the election-year challenge Mr. Obama is facing. Frustrated by congressional stalemate, the president is promising to take executive action whenever he can toward goals such as reviving the economy and improving education. But on big-picture initiatives such as free trade, comprehensive immigration reform and universal preschool services, he still needs Congress.¶ The president’s schedule this week in fact resembles a full-court press on Democratic lawmakers. In addition to Monday’s meeting with Mr. Reid, the president is hosting House Democrats at the White House on Tuesday night for a roundtable discussion and a reception. Vice President Joseph R. Biden Jr., who enjoys schmoozing with lawmakers more than the president does, also will attend.¶ And on Wednesday, Mr. Obama will deliver a speech at a Senate Democrats’ issues conference in Washington.¶ “There’s an important amount of business that can and should be done with and through Congress,” Mr. Carney said. “This is part of a process in which the president and Senate Democrats and House Democrats discuss a way to move forward on an agenda that is focused on expanding opportunity, rewarding hard work and responsibility and the ways that we can do that.¶ During his State of the Union address last week, Mr. Obama urged lawmakers to give him the needed leverage to close the trade deals.

#### That creates a bipartisan coalition for passage – key to US leadership and economic growth

Business Times Singapore 1/23

Chance for Obama to push trade agenda, 1/23/14, Lexis.

AS US President Barack Obama prepares to deliver his sixth State of the Union address next Tuesday evening, he may already be regarded by his adversaries as a lame-duck president whose dwindling power discourages other political players from cooperating and making deals with him. While Mr Obama is expected to serve three more years in office, there is a sense among Washington insiders that his ability to continue pursuing his policy agenda has been considerably curtailed after his performance during the first year of his second term.¶ Indeed, despite his impressive re-election victory, a determined Republican-controlled House of Representatives continued rejecting all of Mr Obama's major initiatives, ranging from new gun control legislation to immigration reform and new environmental rules, not to mention resistance to a bipartisan deal to put America's fiscal house in order.¶ At the same time, even the White House's most ardent supporters agree that the Obama administration has botched the rollout of the Affordable Care Act (ACA), aka "Obamacare", which was considered to be Mr Obama's signature legislative achievement. And while Mr Obama has resisted pressure to entangle the United States in new military conflicts, his handling of several crucial foreign policy challenges has been less than effective.¶ No surprise then that he has been experiencing a plummeting in his popularity in recent months. There is a growing perception that he may lack the skills or the resolve to get things done according to his wishes.¶ But starting with his prime-time State of the Union address, Mr Obama has an opportunity to launch a course correction and push forward new policy initiatives. In a way, the perception that he is a lame duck gives him a political advantage. Since he won't be running for another term, he is now in a stronger position to advance policies and even make unpopular decisions.¶ In this context, he may have a unique strategic advantage if he decides to use some of his remaining political capital to pursue his ambitious global trade agenda, which includes negotiating historic free trade deals with the Pacific Rim economies and the European Union. These ideas are backed by a coalition of pro-free trade members of Congress, including the majority of Republicans, but have been resisted by a large number of Democratic lawmakers.¶ The president could highlight during his address next week the contribution that growing trade would make in strengthening the American economy. His first step in that direction should be to call on Congress to extend his trade promotion authority. That could help recreate a bipartisan pro-free trade coalition and mobilise support for policies that would not only revitalise the Obama presidency, but also strengthen US global leadership and boost the world economy.

#### Plan drains Obama’s PC and prevents party coalitions

Loomis 7

Dr. Andrew J. Loomis is a Visiting Fellow at the Center for a New American Security, and Department of Government at Georgetown University, “Leveraging legitimacy in the crafting of U.S. foreign policy”, March 2, 2007, pg 36-37, 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.

#### Nuclear war

Friedberg and Schoenfeld 8

Aaron, Prof. Politics. And IR @ Princeton’s Woodrow Wilson School and Visiting Scholar @ Witherspoon Institute, and Gabriel, Senior Editor of Commentary and Wall Street Journal, “The Dangers of a Diminished America” <http://online.wsj.com/article/SB122455074012352571.html>

Then there are the dolorous consequences of a potential collapse of the world's financial architecture. For decades now, Americans have enjoyed the advantages of being at the center of that system. The worldwide use of the dollar, and the stability of our economy, among other things, made it easier for us to run huge budget deficits, as we counted on foreigners to pick up the tab by buying dollar-denominated assets as a safe haven. Will this be possible in the future? Meanwhile, traditional foreign-policy challenges are multiplying. The threat from al Qaeda and Islamic terrorist affiliates has not been extinguished. Iran and North Korea are continuing on their bellicose paths, while Pakistan and Afghanistan are progressing smartly down the road to chaos. Russia's new militancy and China's seemingly relentless rise also give cause for concern. If America now tries to pull back from the world stage, it will leave a dangerous power vacuum. The stabilizing effects of our presence in Asia, our continuing commitment to Europe, and our position as defender of last resort for Middle East energy sources and supply lines could all be placed at risk. In such a scenario there are shades of the 1930s, when global trade and finance ground nearly to a halt, the peaceful democracies failed to cooperate, and aggressive powers led by the remorseless fanatics who rose up on the crest of economic disaster exploited their divisions. Today we run the risk that rogue states may choose to become ever more reckless with their nuclear toys, just at our moment of maximum vulnerability. The aftershocks of the financial crisis will almost certainly rock our principal strategic competitors even harder than they will rock us. The dramatic free fall of the Russian stock market has demonstrated the fragility of a state whose economic performance hinges on high oil prices, now driven down by the global slowdown. China is perhaps even more fragile, its economic growth depending heavily on foreign investment and access to foreign markets. Both will now be constricted, inflicting economic pain and perhaps even sparking unrest in a country where political legitimacy rests on progress in the long march to prosperity. None of this is good news if the authoritarian leaders of these countries seek to divert attention from internal travails with external adventures.

## Drones

### Drones I/L

#### Drones fail

Michael J Boyle 13, Assistant Professor of Political Science at La Salle University, former Lecturer in International Relations and Research Fellow at the Centre for the Study of Terrorism and Political Violence at the University of St Andrews, PhD from Cambridge University, January 2013, “The costs and consequences of drone warfare,” International Affairs 89: 1 (2013) 1–29, <http://www.chathamhouse.org/sites/default/files/public/International%20Affairs/2013/89_1/89_1Boyle.pdf>

Yet the evidence that drones inhibit the operational latitude of terrorist groups and push them towards collapse is more ambiguous than these accounts suggest. 57 In Pakistan, the ranks of Al-Qaeda have been weakened significantly by drone strikes, but its members have hardly given up the fight. Hundreds of Al-Qaeda members have fled to battlefields in Yemen, Somalia, Iraq, Syria and elsewhere. 58 These operatives bring with them the skills, experience and weapons needed to turn these wars into fiercer, and perhaps longer-lasting, conflicts. 59 In other words, pressure from drone strikes may have scattered Al-Qaeda militants, but it does not neutralize them. Many Al-Qaeda members have joined forces with local insur - gent groups in Syria, Mali and elsewhere, thus deepening the conflicts in these states. 60 In other cases, drones have fuelled militant movements and reordered the alliances and positions of local combatants. Following the escalation of drone strikes in Yemen, the desire for revenge drove hundreds, if not thousands, of Yemeni tribesmen to join Al-Qaeda in the Arabian Peninsula (AQAP), as well as smaller, indigenous militant networks. 61 Even in Pakistan, where the drone strikes have weakened Al-Qaeda and some of its affiliated movements, they have not cleared the battlefield. In Pakistan, other Islamist groups have moved into the vacuum left by the absence of Al-Qaeda, and some of these groups, particularly the cluster of groups arrayed under the name Tehrik-i-Taliban Pakistan (TTP), now pose a greater threat to the Pakistani government than Al-Qaeda ever did. 62 Drone strikes have distinct political effects on the ecology of militant networks in these countries, leaving some armed groups in a better position while crippling others. It is this dynamic that has accounted for the US decision gradually to expand the list of groups targeted by drone strikes, often at the behest of Pakistan. Far from concentrating exclusively on Al-Qaeda, the US has begun to use drone strikes against Pakistan’s enemies, including the TTP, the Mullah Nazir group, the Haqqani network and other smaller Islamist groups. 63 The result is that the US has weakened its principal enemy, Al-Qaeda, but only at the cost of earning a new set of enemies, some of whom may find a way to strike back. 64 The cost of this expansion of targets came into view when the TTP inspired and trained Faisal Shahzad to launch his attack on Times Square. 65 Similarly, the TTP claimed to be involved, possibly with Al-Qaeda, in attacking a CIA outpost at Camp Chapman in the Khost region of Afghanistan on 30 December 2009.66

### Terror D

#### No nuke terror

John J. Mearsheimer 14, R. Wendell Harrison Distinguished Service Professor of Political Science at the University of Chicago, “America Unhinged”, January 2, nationalinterest.org/article/america-unhinged-9639?page=show

Am I overlooking the obvious threat that strikes fear into the hearts of so many Americans, which is terrorism? Not at all. Sure, the United States has a terrorism problem. But it is a minor threat. There is no question we fell victim to a spectacular attack on September 11, but it did not cripple the United States in any meaningful way and another attack of that magnitude is highly unlikely in the foreseeable future. Indeed, there has not been a single instance over the past twelve years of a terrorist organization exploding a primitive bomb on American soil, much less striking a major blow. Terrorism—most of it arising from domestic groups—was a much bigger problem in the United States during the 1970s than it has been since the Twin Towers were toppled.¶ What about the possibility that a terrorist group might obtain a nuclear weapon? Such an occurrence would be a game changer, but the chances of that happening are virtually nil. No nuclear-armed state is going to supply terrorists with a nuclear weapon because it would have no control over how the recipients might use that weapon. Political turmoil in a nuclear-armed state could in theory allow terrorists to grab a loose nuclear weapon, but the United States already has detailed plans to deal with that highly unlikely contingency.¶ Terrorists might also try to acquire fissile material and build their own bomb. But that scenario is extremely unlikely as well: there are significant obstacles to getting enough material and even bigger obstacles to building a bomb and then delivering it. More generally, virtually every country has a profound interest in making sure no terrorist group acquires a nuclear weapon, because they cannot be sure they will not be the target of a nuclear attack, either by the terrorists or another country the terrorists strike. Nuclear terrorism, in short, is not a serious threat. And to the extent that we should worry about it, the main remedy is to encourage and help other states to place nuclear materials in highly secure custody.

#### The risk of nuclear terrorism is exceedingly low – their authors are all trumpeting inflated threats.

Mueller ‘11

John Mueller is Professor of Political Science at Ohio State University. He is the author of Atomic Obsession. “The truth about al Qaeda”. August 5, 2011. CNN’s Global Public Square. http://globalpublicsquare.blogs.cnn.com/2011/08/05/the-truth-about-al-qaeda/

The chief lesson of 9/11 should have been that small bands of terrorists, using simple methods, can exploit loopholes in existing security systems. But instead, many preferred to engage in massive extrapolation: If 19 men could hijack four airplanes simultaneously, the thinking went, then surely al Qaeda would soon make an atomic bomb. As a misguided Turkish proverb holds, "If your enemy be an ant, imagine him to be an elephant." The new information unearthed in Osama bin Laden's hideout in Abbottabad, Pakistan, suggests that the United States has been doing so for a full decade. Whatever al Qaeda's threatening rhetoric and occasional nuclear fantasies, its potential as a menace, particularly as an atomic one, has been much inflated. The public has now endured a decade of dire warnings about the imminence of a terrorist atomic attack. In 2004, the former CIA spook Michael Scheuer proclaimed on television's 60 Minutes that it was "probably a near thing," and in 2007, the physicist Richard Garwin assessed the likelihood of a nuclear explosion in an American or a European city by terrorism or other means in the next ten years to be 87 percent. By 2008, Defense Secretary Robert Gates mused that what keeps every senior government leader awake at night is "the thought of a terrorist ending up with a weapon of mass destruction, especially nuclear." Few, it seems, found much solace in the fact that an al Qaeda computer seized in Afghanistan in 2001 indicated that the group's budget for research on weapons of mass destruction (almost all of it focused on primitive chemical weapons work) was some $2,000 to $4,000. In the wake of the killing of Osama bin Laden, officials now have more al Qaeda computers, which reportedly contain a wealth of information about the workings of the organization in the intervening decade. A multi-agency task force has completed its assessment, and according to first reports, it has found that al Qaeda members have primarily been engaged in dodging drone strikes and complaining about how cash-strapped they are. Some reports suggest they've also been looking at quite a bit of pornography. The full story is not out yet, but it seems breathtakingly unlikely that the miserable little group has had the time or inclination, let alone the money, to set up and staff a uranium-seizing operation, as well as a fancy, super-high-tech facility to fabricate a bomb. It is a process that requires trusting corrupted foreign collaborators and other criminals, obtaining and transporting highly guarded material, setting up a machine shop staffed with top scientists and technicians, and rolling the heavy, cumbersome, and untested finished product into position to be detonated by a skilled crew, all the while attracting no attention from outsiders. The documents also reveal that after fleeing Afghanistan, bin Laden maintained what one member of the task force calls an "obsession" with attacking the United States again, even though 9/11 was in many ways a disaster for the group. It led to a worldwide loss of support, a major attack on it and on its Taliban hosts, and a decade of furious and dedicated harassment. And indeed, bin Laden did repeatedly and publicly threaten an attack on the United States. He assured Americans in 2002 that "the youth of Islam are preparing things that will fill your hearts with fear"; and in 2006, he declared that his group had been able "to breach your security measures" and that "operations are under preparation, and you will see them on your own ground once they are finished." Al Qaeda's animated spokesman, Adam Gadahn, proclaimed in 2004 that "the streets of America shall run red with blood" and that "the next wave of attacks may come at any moment." The obsessive desire notwithstanding, such fulminations have clearly lacked substance. Although hundreds of millions of people enter the United States legally every year, and countless others illegally, no true al Qaeda cell has been found in the country since 9/11 and exceedingly few people have been uncovered who even have any sort of "link" to the organization. The closest effort at an al Qaeda operation within the country was a decidedly nonnuclear one by an Afghan-American, Najibullah Zazi, in 2009. Outraged at the U.S.-led war on his home country, Zazi attempted to join the Taliban but was persuaded by al Qaeda operatives in Pakistan to set off some bombs in the United States instead. Under surveillance from the start, he was soon arrested, and, however "radicalized," he has been talking to investigators ever since, turning traitor to his former colleagues. Whatever training Zazi received was inadequate; he repeatedly and desperately sought further instruction from his overseas instructors by phone. At one point, he purchased bomb material with a stolen credit card, guaranteeing that the purchase would attract attention and that security video recordings would be scrutinized. Apparently, his handlers were so strapped that they could not even advance him a bit of cash to purchase some hydrogen peroxide for making a bomb. For al Qaeda, then, the operation was a failure in every way - except for the ego boost it got by inspiring the usual dire litany about the group's supposedly existential challenge to the United States, to the civilized world, to the modern state system. Indeed, no Muslim extremist has succeeded in detonating even a simple bomb in the United States in the last ten years, and except for the attacks on the London Underground in 2005, neither has any in the United Kingdom. It seems wildly unlikely that al Qaeda is remotely ready to go nuclear.

#### Terrorists have had limited incentive to go nuclear – no ability to build their own couldn’t steal fissile material, or buy from corrupt insiders.

Mueller ‘10

John Mueller, professor of political science at Ohio State University. “Calming Our Nuclear Jitters”. Issues in Science and Technology. 1/1/2010. Vol.26,Iss.2;p.58-66. Academic Search Premiere.

In contrast to these predictions, terrorist groups seem to have exhibited only limited desire and even less progress in going atomic. This may be because, after brief exploration of the possible routes, they, unlike generations of alarmists, have discovered that the tremendous effort required is scarcely likely to be successful. The most plausible route for terrorists, according to most experts, would be to manufacture an atomic device themselves from purloined fissile material (plutonium or, more likely, highly enriched uranium). This task, however, remains a daunting one, requiring that a considerable series of difficult hurdles be conquered and in sequence. Outright armed theft of fissile material is exceedingly unlikely not only because of the resistance of guards, but because chase would be immediate. A more promising approach would be to corrupt insiders to smuggle out the required substances. However, this requires the terrorists to pay off a host of greedy confederates, including brokers and money-transmitters, any one of whom could turn on them or, either out of guile or incompetence, furnish them with stuff that is useless. Insiders might also consider the possibility that once the heist was accomplished, the terrorists would, as analyst Brian Jenkins none too delicately puts it, “have every incentive to cover their trail, beginning with eliminating their confederates.”

#### Low risk of terrorism and no extinction

-too hard to get plan/get materials

-threat is hype

-9/11 was a fluke

Schneier 13 – internationally renowned security technologist and author; described by The Economist as a "security guru"

Bruce, 4-15-13, “The Boston Marathon Bombing: Keep Calm and Carry On” http://www.theatlantic.com/national/archive/2013/04/the-boston-marathon-bombing-keep-calm-and-carry-on/275014/

Remember after 9/11 when people predicted we'd see these sorts of attacks every few months? That never happened, and it wasn't because the TSA confiscated knives and snow globes at airports. Give the FBI credit for rolling up terrorist networks and interdicting terrorist funding, but we also exaggerated the threat. We get our ideas about how easy it is to blow things up from television and the movies. It turns out that terrorism is much harder than most people think. It's hard to find willing terrorists, it's hard to put a plot together, it's hard to get materials, and it's hard to execute a workable plan. As a collective group, terrorists are dumb, and they make dumb mistakes; criminal masterminds are another myth from movies and comic books. ¶ Even the 9/11 terrorists got lucky. ¶ If it's hard for us to keep this in perspective, it will be even harder for our leaders. They'll be afraid that by speaking honestly about the impossibility of attaining absolute security or the inevitability of terrorism -- or that some American ideals are worth maintaining even in the face of adversity -- they will be branded as "soft on terror." And they'll be afraid that Americans might vote them out of office. Perhaps they're right, but where are the leaders who aren't afraid? What has happened to "the only thing we have to fear is fear itself"? ¶ Terrorism, even the terrorism of radical Islamists and right-wing extremists and lone actors all put together, is not an "existential threat" against our nation. Even the events of 9/11, as horrific as they were, didn't do existential damage to our nation. Our society is more robust than it might seem from watching the news. We need to start acting that way.

### Russia D

#### No Russian War

Weitz ‘11 (Richard, senior fellow at the Hudson Institute and a World Politics Review senior editor, “Global Insights: Putin not a Game-Changer for U.S.-Russia Ties,” <http://www.scribd.com/doc/66579517/Global-Insights-Putin-not-a-Game-Changer-for-U-S-Russia-Ties>, September 27, 2011)

Fifth, there will inevitably be areas of conflict between Russia and the United States regardless of who is in the Kremlin. Putin and his entourage can never be happy with having NATO be Europe's most powerful security institution, since Moscow is not a member and cannot become one. Similarly, the Russians will always object to NATO's missile defense efforts since they can neither match them nor join them in any meaningful way. In the case of Iran, Russian officials genuinely perceive less of a threat from Tehran than do most Americans, and Russia has more to lose from a cessation of economic ties with Iran -- as well as from an Iranian-Western reconciliation. On the other hand, these conflicts can be managed, since they will likely remain limited and compartmentalized. Russia and the West do not have fundamentally conflicting vital interests of the kind countries would go to war over. And as the Cold War demonstrated, nuclear weapons are a great pacifier under such conditions. Another novel development is that Russia is much more integrated into the international economy and global society than the Soviet Union was, and Putin's popularity depends heavily on his economic track record. Beyond that, there are objective criteria, such as the smaller size of the Russian population and economy as well as the difficulty of controlling modern means of social communication, that will constrain whoever is in charge of Russia.

## Legal Regimes

### AT: Conflation

#### Conflation is a norm and is inevitable – multiple alt causes disprove the impact

Benvenisti 9 (Eyal, Professor of Law, Tel Aviv University, “Rethinking the Divide Between Jus ad Bellum and Jus in Bello in Warfare Against Nonstate Actors,” Yale Journal of International Law, Vol. 34, <http://law.bepress.com/cgi/viewcontent.cgi?article=1114&context=taulwps>)

A. Observing State Practice

The reasons for maintaining the “total separation” between jus ad bellum and jus in bello, which are generally valid, are both moral and pragmatic. Yet they become strained in the context of warfare against nonstate actors. As a result, it is possible to observe a shift in the attitude of different actors, who inject ad bellum considerations into their assessment of the legality of certain military measures. In this Part, I first articulate the observation concerning the changing practice and then discuss its normative basis.

**Even the adherents** of the separation between ad bellum and in bello admit that “conflicts continue to be viewed in terms of ‘good’ and ‘evil’ . . . [and that] the reality is that such differences, real or perceived, matter.”15 For example, during the Gulf War of 1991 both the coalition forces and the international community took into consideration the illegality of the Iraqi invasion of Kuwait when assessing the proportionality of the military tactics adopted by the coalition forces. As Gardam noted, “[i]n the assessment of proportionality, civilians, and to a lesser extent combatants, of the aggressor state were accorded less weight in the balancing process than combatants of the ‘just side.’”16 Reactions during the military conflict in Lebanon in the summer of 2006 conflated ad bellum with in bello obligations.17 Similarly, in reaction to the Israeli attack in the Gaza Strip in December 2008 and January 2009, key observers linked ad bellum and in bello considerations. When asked whether Israel’s attacks were disproportionate, the U.S. ambassador to the United Nations responded: “Israel has the right to defend itself against these rocket attacks and we understand also that Israel needs to do all that it can to make sure that the impact of its exercise of right of self defense against rockets is as minimal and no affect [sic] on the civilian population.”18

#### Conflation between jus ad bellum and jus in bello is globally inevitable

Robert Sloane 9, Associate Professor of Law, Boston University School of Law, 2009, “The Cost of Conflation: Preserving the Dualism of Jus ad Bellum and Jus in Bello in the Contemporary Law of War,” Yale Journal of International law, http://www.yale.edu/yjil/files\_PDFs/vol34/Sloane

This case reflects, in microcosm, a pressing issue in the contemporary law of war. After 9/11, countless scholars and statesmen have called for changes in the jus ad bellum, the law governing resort to force, or the jus in bello, the law governing the conduct of hostilities.10 These invitations to reform, whatever their merit, raise an equally vital but distinct legal issue that has been largely neglected in recent legal scholarship: the relationship between the traditional branches of the law of war.11 Since the U.N. Charter introduced a positive jus ad bellum into international law, the reigning dogma has been that reflected in the SCSL Appeals Chamber’s opinion: the jus ad bellum and the jus in bello are, and must remain, analytically distinct. In bello rules and principles apply equally to all combatants, whatever each belligerent’s avowed ad bellum rationale for resorting to force: self-defense, the restoration of democratic government, territorial conquest, or the destruction of a national, ethnic, racial, or religious group, as such.12 It is immaterial, on this view, whether the ad bellum intent of the militia leaders indicted by the SCSL had been to restore a democratic government or to topple that government and install a brutal regime in its stead: they must adhere to and be judged by the same in bello rules and principles. ¶ Postwar international law regards this analytic independence as axiomatic,13 as do most just war theorists. They insist that “[i]t is perfectly possible for a just war to be fought unjustly and for an unjust war to be fought in strict accordance with the rules.”14 In theory, then, any use of force may be simultaneously lawful and unlawful: unlawful, because its author had no right to resort to force under the jus ad bellum; lawful, if and to the extent that its author observes “the rules,” that is, the jus in bello. 15 I will refer to this particular rule, which insists on the analytic independence of ad bellum and in bello, as the dualistic axiom. Despite its widespread acceptance,16 the axiom, as we will see, is logically questionable, 17 undertheorized, and at times disregarded or misapplied in practice—with troubling consequences for the policies that underwrite these components of the contemporary law of war. Consider briefly a few examples, which, among others, will be explored in greater detail below: ¶ • In 1999, the North Atlantic Treaty Organization (NATO) carried out a four-month air campaign against Serbia. At the outset, NATO’s leaders made an in bello decision: its pilots would fly at a minimum height of 15,000 feet to reduce their risk from anti-aircraft fire essentially to zero, even though that would increase the risk to Serbian civilians because it often prevented visual confirmation of legitimate military targets. Many would argue that the in bello principle of proportionality obliges combatants to take some risk in an effort to reduce the risk to enemy civilians.18 If so, the perceived legitimacy of NATO’s avowed ad bellum goal, i.e., to halt the incipient ethnic cleansing of ethnic Albanian Kosovars, influenced the international ex post appraisal of NATO’s in bello conduct in the conflict.19 ¶ • After 9/11, the Bush administration launched and prosecuted what it described as a “Global War on Terror.” In this war, if it is a war,20 political elites and their lawyers invoked ad bellum factors—for example, the novel nature of the conflict or the enemy and the imperative to avoid at any cost another catastrophic terrorist attack— to justify or excuse in bello violations.21 Both treaties and custom, for example, categorically prohibit the in bello tactic of torture. It is difficult to dispute that the United States deliberately tortured some detainees in its custody. Alberto R. Gonzales also wrote in what has become an infamous memorandum that “the war against terrorism is a new kind of war,” which “renders obsolete Geneva’s strict limitations on questioning of enemy prisoners and renders quaint some of its provisions.” 22 One might recharacterize this assertion in the framework of this Article as a suggestion that ad bellum considerationsmay justifiably relax, or even vitiate, what some see as anachronistic in bello constraints.23 ¶ • In 1996, the International Court of Justice (ICJ) considered the legality of the threat or use of nuclear weapons.24 This required it to analyze both the jus ad bellum and the jus in bello. The Court concluded that the jus in bello generally prohibits nuclear weapons— with a curious qualification. It could not say “whether the threat or use of nuclear weapons would be lawful or unlawful in an extreme circumstance of self-defence, in which the very survival of a State would be at stake.”25 Again, to recharacterize this statement in the framework of this Article: if the ad bellum consequences for one party to a conflict become bad enough, a weapon otherwise categorically prohibited by the jus in bello might become legal for that party, although presumably it would remain illegal for the other—unless that other party, too, “a State,” faced an “extreme circumstance of self-defence.” ¶ The logic in each of these examples is contrary to the dualistic axiom, which insists that in bello constraints apply equally to all parties to a conflict. They do not vary based on ad bellum appraisals of the justice, legitimacy, or even urgency of one side’s asserted casus belli (cause or justification for resort to force). 26 Yet these examples reflect a trend in contemporary international law to relax or disregard the dualistic axiom, that is, to allow ad bellum considerations to influence and, at times, even to vitiate the jus in bello—an outcome that degrades the efficacy of both components of the law of war. Recent state practice and some jurisprudence also suggest a related, and equally misguided, tendency to collapse the distinct ad bellum and in bello proportionality constraints imposed by the law of war. As explained in greater detail below, today, in contrast to the pre-U.N. Charter era, all force must be doubly proportionate: that is, proportionate relative to both the jus ad bellum and the jus in bello. 27 Yet, at times, the ICJ has confused, neglected, or misapplied the two principles, as have belligerents—again to the detriment of the key values and policies that underwrite the contemporary law of war.

### LOAC Fails

#### LOAC fails—no enforcement mechanism

Blank, 12 **-** Director, International Humanitarian Law Clinic, Emory Law School (Laurie, “TARGETED STRIKES: THE CONSEQUENCES OF BLURRING THE ARMED CONFLICT AND SELF-DEFENSE JUSTIFICATIONS,” 1656 WILLIAM MITCHELL LAW REVIEW [Vol.38:5, <http://www.wmitchell.edu/lawreview/Volume38/documents/11.BlankFINAL.pdf>)

Finally, effective implementation of and compliance with the law, whether the LOAC, the law of self-defense, or human rights law, depends on regular and respected mechanisms for enforcement. In the arena of international law, both formal (courts and tribunals) and informal (public opinion, response from other states) enforcement have value and effect. Any judicial body determining the lawfulness of state action or the criminal responsibility of individuals must first determine the applicable law in order to reach an appropriate result. n141 When the legal regimes become blurred through repeated conflation, application of the law and thus enforcement will be hampered. The resulting consequence, of course, is that a lack of effective enforcement then undermines effective implementation of the law and protection of persons in the future. These problems often are highlighted in the more informal enforcement arena of media reporting, public opinion, advocacy reports, and other responses, where disputes over applicable law and appropriate analyses abound. When international or nongovernmental organization reports produce primarily disputes over which law is applied - rather than how the law is applied to the facts on the ground - the debate becomes centered on the law and legal disputes rather than on the victims, the perpetrators, and how to prevent legal violations in the future. The blurring of lines between armed conflict and self-defense takes these challenges to another level as well, however, creating a situation in which independent analysts may have difficulty identifying the key pieces of information necessary to an effective examination of the legality of the state's policies and actions.

### AT: Self-Defense

#### Plan does nothing – it ends the use of self-defense justifications in armed conflict. The greatest risk is the opposite – the use of jus in bello justifications in self-defense targeting.

Blank, 12 **-** Director, International Humanitarian Law Clinic, Emory Law School (Laurie, “TARGETED STRIKES: THE CONSEQUENCES OF BLURRING THE ARMED CONFLICT AND SELF-DEFENSE JUSTIFICATIONS,” 1656 WILLIAM MITCHELL LAW REVIEW [Vol.38:5, <http://www.wmitchell.edu/lawreview/Volume38/documents/11.BlankFINAL.pdf>)

When no differentiation is made between the armed conflict and self-defense justifications and the two paradigms are potentially conflated, serious concerns regarding the legal parameters for targeting may arise. The greatest risk is that the status-based targeting regime relevant to armed conflict could bleed over into self-defense targeting. Suddenly, imminence and individualized [\*1695] threat determinations begin to give way to more amorphous and seemingly simplistic designations of membership and affiliation or association. In fact, even beyond that danger, one might argue that it is easier to group more groups or individuals within the category of "enemy" because of the greater ease in reaching them with the superior capability and decreased riskiness of drones. n129 The use of so-called "signature strikes" n130 outside of Afghanistan and Pakistan - the "hot battlefields" - surely raises the prospect of status-based targeting in areas where the existence of an armed conflict is uncertain. The category of persons who can be targeted outside of armed conflict thus becomes significantly broader than that contemplated by international law and that normally demonstrated through state practice in situations in which self-defense is not conflated with armed conflict.

#### There’s no such thing as ‘self-defense targeted killings’ – jus ad bellum only allows the use of self-defense against states that facilitate non-state actors’ attacks. The plan codifies an expansive notion of jus ad bellum that increases the risk of armed conflict

**Martin, 11 -** Associate Professor of Law at Washburn University School of Law (Craig, “GOING MEDIEVAL: TARGETED KILLING, SELFDEFENSE AND THE JUS AD BELLUM REGIME” SSRN) **NSA = Non State Actors**

In sum, the proposition that states can use force against NSAs as such, and thereby against states with little responsibility for the NSAs actions, is not consistent with the current jus ad bellum system, and moreover there are good reasons why this is so. It will be objected that this tends to create something of an asymmetry, as well as to give rise to something of a paradox—for while under the current law a terrorist attack may constitute an armed attack in jus ad bellum terms, a response to the attack is not permissible if there was not sufficient state complicity in the NSAs operation. Thus, so the objection would go, the jus ad bellum regime recognizes that NSAs can mount armed attacks, but then it insulates them from the responding use of force in self-defense.75 There is thereby a recognition of a wrong, but the denial of a remedy. Of course, in response to this it must be pointed out that the current law exists precisely because the remedy sought would be inflicted on states that are not themselves guilty of the kind of wrong that legitimates the use of force against them. But even to this the detractors would argue that from a philosophical and moral perspective it might be entirely defensible to inflict a remedy on a not entirely blameless state. As between Utopia, the innocent victim of terrorist attacks, and Oceania, which while not sufficiently responsible for the attacks to justify a response in selfdefense is not blameless, surely we should permit harm to the latter.76 However, in response to this entire line of argument it has to be emphasized that the modern jus ad bellum regime is not primarily grounded in such moral balancing, or even in a sense of justice, but rather is founded on the profound need to prevent war among states. Permitting the use of force against states that have not assisted terrorists acting from within their territory would create a different and far more serious asymmetry, which would distort and undermine the integrity of the jus ad bellum regime, and increase the risk of armed conflict among nations.

Such risk is not mere idle speculation. In Columbian raids against NSAs in Ecuador in 2006, and Turkish attacks on Kurds in Iraq in 2007–08, there was a serious risk of escalation. Consider the ramifications if India had characterized the Mumbai attack of 2008 as an “armed attack” justifying the use of force in selfdefense against Lashkar-e-Taiba, quite independent of whether there was sufficient evidence to establish that its operations could be attributed to Pakistan. The use of force against the group within the territory of Pakistan would have nonetheless been viewed as an act of war by Pakistan, and there would have been a real risk of a full-blown armed confl ict between nuclear powers.77

### LOAC A/C

#### PMC’s jack the LOAC

Daniel P. Ridlon, A.F. Captain, JD Harvard, 2008, “CONTRACTORS OR ILLEGAL COMBATANTS? THE STATUS OF ARMED CONTRACTORS IN IRAQ,” 62 A.F. L. Rev. 199, ln

In addition to legal liability, the United States' employment of PMF personnel in future conflicts has potential negative policy ramifications. Employing PMF personnel who are potentially viewed as illegal combatants may undermine the public image that the United States conducts its military operations in accordance with the laws of war. This would not only serve as a public relations problem for the United States, but it could also be used as justification for other nations or non-state actors to violate the laws of war, especially if those states or groups are engaged in a conflict against the United States. In the end, the employment of illegal combatants could reduce prisoner of war [\*253] protections afforded to United States military personnel if they are captured.

#### Goldstone report destroys the LOAC

Michael A. Newton 10, Law Prof @ Vanderbilt, “LAWFARE AND THE ISRAELI-PALESTINE PREDICAMENT: Illustrating Illegitimate Lawfare,” 43 Case W. Res. J. Int'l L. 255, ln

After detailing the content of the leaflet and radio broadcast warnings, the Report concluded that the warnings did not comply with the obligations of Protocol I because Israeli forces were presumed to have had the capability to issue more effective warnings, civilians in Gaza were uncertain about whether and where to go for safety, and some places of shelter were [\*277] struck after the warnings were issued. n91 Thus, despite giving more extensive warnings to the civilian population than in any other conflict in the long history of war, the efforts of the Israeli attackers were equated with attacks intentionally directed against the civilian population. This approach eviscerates the appropriate margin of appreciation that commanders who respect the law and endeavor to enforce its constraints should be entitled to rely upon--and which the law itself provides. There is simply no legal precedent for taking the position that the civilians actually respond to such warnings, particularly in circumstances such as Gaza where the civilian population is intimidated and often abused by an enemy that seeks to protect itself by deliberately intermingling with the innocent civilian population. The newly minted Goldstone standard for warning the civilian population would displace operational initiative from the commander in the attack to the defender who it must be remembered commits a war crime by intentionally commingling military objectives with protected civilians. This aspect of the report would itself serve to amend the entire fabric of the textual rules that currently regulate offensive uses of force in the midst of armed conflict.¶ This, then, is the essence of illegitimate lawfare. Words matter--particularly when they are charged with legal significance and purport to convey legal rights and obligations. When purported legal "developments" actually undermine the ends of the law, they are illegitimate and inappropriate. Legal movements that foreseeably serve to discredit the law of armed conflict even further in the eyes of a cynical world actually undermine its utility. Lawfare that creates uncertainty over the application of previously clear rules must be opposed vigorously because it does perhaps irrevocable harm to the fabric of the laws and customs of war. Illegitimate lawfare will marginalize the precepts of humanitarian law if left unchecked, and may serve to create strong disincentives to its application and enforcement. Knowledge of the law and an accompanying professional awareness that the law is binding remains central to the professional ethos of military forces around our planet irrespective of the reality that incomplete compliance with the jus in bello remains the regrettable norm. Hence, it logically follows that any efforts to distort and politicize fundamental principles of international law cannot be meekly accepted as inevitable developments.

### Norms

#### No causal link between U.S. drone doctrine and other’ countries choices---means can’t set a precedent

Kenneth Anderson 11, Professor of International Law at American University, 10/9/11, “What Kind of Drones Arms Race Is Coming?,” <http://www.volokh.com/2011/10/09/what-kind-of-drones-arms-race-is-coming/#more-51516>

New York Times national security correspondent Scott Shane has an opinion piece in today’s Sunday Times predicting an “arms race” in military drones. The methodology essentially looks at the US as the leader, followed by Israel – countries that have built, deployed and used drones in both surveillance and as weapons platforms. It then looks at the list of other countries that are following fast in US footsteps to both build and deploy, as well as purchase or sell the technology – noting, correctly, that the list is a long one, starting with China. The predicament is put this way: ¶ Eventually, the United States will face a military adversary or terrorist group armed with drones, military analysts say. But what the short-run hazard experts foresee is not an attack on the United States, which faces no enemies with significant combat drone capabilities, but the political and legal challenges posed when another country follows the American example. The Bush administration, and even more aggressively the Obama administration, embraced an extraordinary principle: that the United States can send this robotic weapon over borders to kill perceived enemies, even American citizens, who are viewed as a threat. ¶ “Is this the world we want to live in?” asks Micah Zenko, a fellow at the Council on Foreign Relations. “Because we’re creating it.” ¶ By asserting that “we’re” creating it, this is a claim that there is an arms race among states over military drones, and that it is a consequence of the US creating the technology and deploying it – and then, beyond the technology, changing the normative legal and moral rules in the international community about using it across borders. In effect, the combination of those two, technological and normative, forces other countries in strategic competition with the US to follow suit. (The other unstated premise underlying the whole opinion piece is a studiously neutral moral relativism signaled by that otherwise unexamined phrase “perceived enemies.” Does it matter if they are not merely our “perceived” but are our actual enemies? Irrespective of what one might be entitled to do to them, is it so very difficult to conclude, even in the New York Times, that Anwar al-Awlaki was, in objective terms, our enemy?) ¶ It sounds like it must be true. But is it? There are a number of reasons to doubt that moves by other countries are an arms race in the sense that the US “created” it or could have stopped it, or that something different would have happened had the US not pursued the technology or not used it in the ways it has against non-state terrorist actors. Here are a couple of quick reasons why I don’t find this thesis very persuasive, and what I think the real “arms race” surrounding drones will be. ¶ Unmanned aerial vehicles have clearly got a big push from the US military in the way of research, development, and deployment. But the reality today is that the technology will transform civil aviation, in many of the same ways and for the same reasons that another robotic technology, driverless cars (which Google is busily plying up and down the streets of San Francisco, but which started as a DARPA project). UAVs will eventually move into many roles in ordinary aviation, because it is cheaper, relatively safer, more reliable – and it will eventually include cargo planes, crop dusting, border patrol, forest fire patrols, and many other tasks. There is a reason for this – the avionics involved are simply not so complicated as to be beyond the abilities of many, many states. Military applications will carry drones many different directions, from next-generation unmanned fighter aircraft able to operate against other craft at much higher G stresses to tiny surveillance drones. But the flying-around technology for aircraft that are generally sizes flown today is not that difficult, and any substantial state that feels like developing them will be able to do so. ¶ But the point is that this was happening anyway, and the technology was already available. The US might have been first, but it hasn’t sparked an arms race in any sense that absent the US push, no one would have done this. That’s just a fantasy reading of where the technology in general aviation was already going; Zenko’s ‘original sin’ attribution of this to the US opening Pandora’s box is not a credible understanding of the development and applications of the technology. Had the US not moved on this, the result would have been a US playing catch-up to someone else. For that matter, the off-the-shelf technology for small, hobbyist UAVs is simple enough and available enough that terrorists will eventually try to do their own amateur version, putting some kind of bomb on it.¶ Moving on from the avionics, weaponizing the craft is also not difficult. The US stuck an anti-tank missile on a Predator; this is also not rocket science. Many states can build drones, many states can operate them, and crudely weaponizing them is also not rocket science. The US didn’t spark an arms race; this would occur to any state with a drone. To the extent that there is real development here, it lies in the development of specialized weapons that enable vastly more discriminating targeting. The details are sketchy, but there are indications from DangerRoom and other observers (including some comments from military officials off the record) that US military budgets include amounts for much smaller missiles designed not as anti-tank weapons, but to penetrate and kill persons inside a car without blowing it to bits, for example. This is genuinely harder to do – but still not all that difficult for a major state, whether leading NATO states, China, Russia, or India. The question is whether it would be a bad thing to have states competing to come up with weapons technologies that are … more discriminating.

### AT: Deterrence

#### Nukes aren’t key to extended deterrence, other factors protect our allies and prevent prolif

[Hans M. Kristensen and Ivan Oelrich](http://www.armscontrol.org/act/2009_6/KristensenOelrich#bio) Lots of Hedging, Little Leading: An Analysis of the Congressional Strategic Posture Commission Report, Arms Control Association, June 2009 http://www.armscontrol.org/act/2009\_6/KristensenOelrich

Nevertheless, the report, in our estimation, seriously understates the complexity of arriving at arrangements for allied reassurance. During the Cold War, the United States and European allies engaged in complex back-and-forth negotiations about plans for nuclear deployments. In fact, the United States has significant leeway in promoting or downplaying the role of nuclear weapons in reassurance. Assurance of allies involves a wide range of capabilities and measures, most of which have nothing to do with nuclear weapons, yet the commission report portrays assurance as essentially a nuclear matter. The report further recommends existing and future nuclear capabilities with little analysis of the validity of these claims. Indeed, "the requirement to extend assurance and deterrence to others may well impose on the United States an obligation to retain numbers and types of nuclear weapons that it might not otherwise deem essential to its own defense.”

### AT: Autonomous Weapons

#### No impact to autonomous weapons spread

McGinnis, senior professor – Northwestern Law, ‘10

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

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

# 2nc

## QDR CP

### AT: Perm Do Counterplan

#### statutory restriction – the counterplan is a guidance document which is non-binding

University of New Hampshire Law School No Date

“Using Statutes” [http://library.law.unh.edu/Statutes] //mtc

Statutes are laws enacted by a legislative body. They are binding on persons located within the jurisdictional authority of the legislative body. Statutes are what most people call "laws." While statutes are presumed to be clear as to their meaning, it is usually necessary to consult court decisions to determine how a particular statute is applied within the jurisdiction.

### AT: Perm Do Both

#### Sequencing is key – the plan generates controversy because there is immediate backlash and people have staked their territory in the fight – NDP acting first generates political will for key military policy changes

Thomason 98 – PhD, Project leader @ Washington Headquarter Services

(James, “The Quadrennial Defense Review Process: Lessons Learned from the 1997 Review and Options for the Future,” http://www.comw.org/qdr/thomason.pdf)

Improper Timing of National Defense Panel—Several people have argued that if it preceded¶ the next QDR, an NDP would be able to provide “cover” for the QDR. On many controversial¶ issues (e.g., force structure or modernization alternatives), the argument is that it is often difficult¶ for the Department to even develop a set of alternatives for evaluation, because they immediately¶ generate controversy and political opposition. As an outside group commissioned by Congress, the¶ NDP could develop a set of alternatives that DoD would then be “obligated” to evaluate, thus¶ providing bureaucratic and political cover. Most who offered an opinion believe that having the¶ NDP follow the QDR is not likely to be very productive.

### Drone Norms

#### The QDR shapes norms and restricts drones

Miller 13 - studies Political Science at the University of Pennsylvania, recently interned for the Transnational Threats Project at the Center for Strategic and International Studies (CSIS) in Washington, D.C.

(Jack, “Defining the Strategic Utility of Unmanned Aerial Vehicles,” Fletcher Forum, http://www.fletcherforum.org/2013/09/02/miller-2/)

A hot topic of discussion in the upcoming Quadrennial Defense Review (QDR)—the legislatively mandated review of Department of Defense (DoD) strategies and priorities set to begin this fall—will be the future role of unmanned aerial vehicles (UAVs). Representing an increasingly viable alternative for maintaining American military capabilities at cost-effective levels, UAVs have the potential to reshape how the world conceptualizes war. As such, the discussion on the future deployment of unmanned aircraft will not simply occur from a military-technological perspective, but in a social context as well. Because international norms have yet to solidify around UAVs, it is vital that the U.S. seize upon the QDR—which is chaired by the Secretary of Defense, and includes Pentagon leaders, representatives from each of the military branches, and civilian subject experts—to define the social construct of drones and set international precedent on their use before these norms are set for us. There are several key areas U.S. officials and military leaders in the QDR need to consider in order to do so.¶ First, the QDR must define what scenarios—ranging from attacks against non-state actors to border security or surveillance of civilian populations—are acceptable for the deployment of UAVs. The aggregate result of the increased use of UAVs, global communications, and the diffusion of military threats is that the nature of military engagement is changing. This necessitates a new understanding of the use of force as it relates to UAVs. As such, QDR representatives have an opportunity to create a new social construct surrounding drone deployments, one that is more conducive to national policy than the negative connotation that has surrounded drones for the past several years. By defining the means and ends of drone use within the U.S. force structure, the QDR will be able to build an international consensus on the future of drone use.¶ Second, the QDR must make clear who is an acceptable target for drone strikes. The rise of low intensity insurgencies and international criminal organizations has blurred the lines between combatants, criminals, and noncombatants. Members of the QDR must take the first step in restricting UAV targeting to enemy combatants in order to avoid a situation where nations are left to their own discretion in selecting targets. Without international norms in place, it would be possible for political dissidents or visiting foreign officials to be targeted by host nations. Defining acceptable drone targets would protect international norms and prevent nations from using armed drones for non-military purposes.¶ Finally, officials should formulate a plan for the oversight of drone systems in order to assuage both public and international fears of the abuse of such systems. In order to understand the military significance and potential of drones, there is a need to separate the platform from the public backlash and credibility gap the Obama Administration has faced due to the opaqueness of drone deployments in countries like Pakistan and Yemen. This would reconcile the growing rift between members of the “anti-drone” community whose sometimes baseless and uninformed criticism impedes the successful implementation of national policy and thus the achievement of strategic objectives. Thus the QDR presents an opportunity for the formulation of a new drone policy and social construction that will support the platform rather than hinder its utility.¶ UAV procurement is poised to grow dramatically as foreign nations seek to take advantage of the platform. Failing to capitalize on the QDR as outlined above would allow global competitors such as China and possibly Russia to develop their own drone policies. This could conflict with American interests and result in nations exercising less restraint in utilizing this weapon. For example, due to the relatively low cost of drones and the absence of risk to a human operator, nations may become quick to deploy UAVs to conflict zones or flashpoint areas. This could lead to a proliferation in the indiscriminant application of force while wreaking havoc on international humanitarian laws.¶ For a decade, the dimensions of the drone war have been driven by short-term objectives: the degradation of al-Qaeda and the prevention of a follow-on, large-scale attack on American soil. Given the rapid advancement of UAV technology and its global accessibility, it is time to define the future application of the platform. We are on terra incognita in terms of UAV usage and desperately need a new strategic framework for warfare that is characterized by rapidly advancing automated technological systems. This begins with using the upcoming QDR to outline a comprehensive strategic framework for the role of unmanned systems for the next several years. Doing so will have a stabilizing effect on the international use of UAVs as well as provide NGOs, lawmakers, and civilians with a shared understanding for a weapon system that will likely become a platform of choice in future warfare.

### 2nc Solvency

#### QDR solves – shapes future military policy

---prefer our evidence because it is about the 2014 QDR

Kwast 13 - Major General, the director of the United States Air Force’s Quadrennial Defense Review Office

(Steven, “The QDR — an Opportunity for Reinvention,” http://www.nationalreview.com/article/347790/qdr-%E2%80%94-opportunity-reinvention)

A prediction of failure might play out, but it is not a foregone conclusion. I am convinced that the present confluence of events — an evolving national-security strategy that rebalances toward the Pacific; a 2014 redeployment from Afghanistan; a forecast that includes continuing acts of terrorism, unstable states, and nuclear posturing; and a prolonged international economic downturn — combine to make this period a strategic inflection point. The dynamics are so pronounced that I see this QDR and these next few years as an opportunity for reinvention on a scale that only comes around once or twice in a century. This is a great time to answer the call.¶ I must respectfully disagree with the notion that each QDR office is said to be “charged with protecting as much of that service’s equities and budget as possible.” Most organizations in many sectors do behave this way, so it’s an easy and common charge to make, but it isn’t always so. As the Air Force’s QDR representative, one of my mandates is to explain the value that our service offers to America and our national leadership. I expect my peers and all the service chiefs to vigorously articulate the value that their services offer as well. I further expect that there will be issues on which we can’t agree. But I also believe that we can collaborate with one another and with our Office of the Secretary of Defense (OSD) leadership to make some decisions to start the turn to where we think we need to be in a couple of decades. And we should be held accountable for the results.¶ There are plenty of ways to review the broad array of DOD capabilities, and I can’t imagine going through 2013 without doing so — end strength, capabilities, modernization programs, mission overlaps . . . readers are familiar with the list. Those conversations best serve the taxpayer and our leadership when they use accurate figures to describe capability, cost, and purchase size and relevance. In my experience, one cannot enter a serious conversation on these issues without analysis to support his or her position, but that only gets the conversation started. We are committed to providing accurate, complete analysis to identify the capabilities best suited for the strategy the nation is pursuing.¶ Finally, I agree that the QDR work is a job for a dozen or so strategic thinkers, rather than for the hundreds of people who are prepared to help with analysis and staffing. Perhaps that’s what will unfold. After all, significant efforts such as the Defense Strategic Guidance of 2012 used just such a tightly controlled process. Whatever the size of the effort, we owe it to the American citizens to provide a useful and relevant document.¶ I am grateful to Mr. Lacey for starting this conversation. I hope others will join. When two people observe the same thing, it’s common for them to agree on what they saw while disagreeing on what it means. That’s how I feel about Mr. Lacey’s article: I’ve seen first-hand the process he has chronicled, from a variety of viewpoints. But I draw different conclusions. Even in a sometimes perplexing environment, there are still smart, motivated, and well-intentioned people trying to do the right thing for their service and more broadly, for the nation. I’ve met them in each service, on the Joint Staff, and in OSD. If this team comes together with a dose of strong leadership and the courage to make some tough choices, then real change — maybe even a step toward reinvention — is possible. I’m not ready to give up on this opportunity for OSD, the Joint Staff, and the Services to think deeply about the strategy, capabilities, and force structure best suited to meeting our national leadership’s needs. If there’s going to be a new way to meet the nation’s needs with all the changes in strategy and requirements of the security environment in 20 years, then why not leverage the QDR team to start the turn in that direction? Let’s give it a shot.

#### The counterplan becomes policy and shapes doctrine

Galrahn 10

(“2010 QDR Terms of Reference Fact Sheet,” http://www.informationdissemination.net/2009/04/2010-qdr-terms-of-reference-fact-sheet.html)

The 2010 Quadrennial Defense Review (QDR) is a legislatively-mandated (USC 10, Sec. 118 (a)) review of Department of Defense (DoD) strategy and priorities. DoD is preparing now to conduct this review, which takes place every four years and will be provided to Congress in early 2010.¶ The QDR will assess the threats and challenges the nation faces and re-balance DoD’s strategies, capabilities and forces to address today’s conflicts and tomorrow’s threats.¶ The QDR is one of the principal means by which the tenets of the National Defense Strategy are translated into potentially new policies, capabilities and initiatives.¶ The QDR will set a long-term course for DoD to follow and will provide a strategic framework for DoD’s annual program, force development, force management, and corporate support mechanisms.¶ Other strategic reviews, as well as day-to-day decisions will be carried out while the QDR is underway and will inform its deliberations.

#### Leads to codification

Correll 6 - After 20 years of service in the US Air Force, John T. Correll joined the staff of Air Force Magazine, journal of the Air Force Association, in 1982. He was editor in chief from 1984 to 2002. He continues to study and write about national defense and air and space power.

(John, “In the wake of the QDR,” p. 14)

Barry M. Blechman offered a more positive evaluation. The QDR, he said, should be regard-ed as "a statement of intent" and that "critics who charge that the QDR offers nothing new are usually looking first for radical changes in modernization or force structure planning. While the latter constitutes an impor-tant consideration, it risks put-ting the cart before the horse. The first task of the QDR is to set strategic priorities in response to evolving national security circumstances. Accordingly, the QDR is a highly relevant document that codifies a number of shifts in strategic thinking."41

#### Even if it doesn’t immediately solve, it shapes the debate and percolates into future policy decisions

Tedstrom 99 – Former Defense Analyst @ RAND, President and CEO of the Global Business Coalition on HIV/AIDS

(John, “Planning American’s Security,” http://www.comw.org/qdr/thomason.pdf)

In his analysis of the effectiveness of advisory commissions, Scott Harris argues that this type of response is not surprising. Harris contends that the "success" of an advisory commission cannot necessarily be gauged at a single point in time.1 For example, a commission could have an educational effect within a certain policy community that will lead to adoption of the original recommendations at a later time. Thus, the lack of immediate impact did not surprise the panelists. Philip Odeen noted, for instance, that the QDR and the NDP were unlikely to create real change in the Pentagon until after the turn of the century because of the difficulty in reversing the course of DoD bureaucracy. "The real impact is going to be seen in 2001," he said, when the Pentagon is required to conduct another strategy review.2¶ Nevertheless, over time, the NDP ideas have begun to percolate up in discussions throughout the defense community. The idea of joint experimentation, for example, has been seized by the Pentagon and made a responsibility of the Atlantic Command. Furthermore, the language and ideas of the final report continue to appear in policy discussions and articles in the defense community. It is likely that these and other issues raised by NDP-I will continue to help shape the defense debate, if not defense policy, for several years to come.

#### Becomes policy

Henry 5

Ryan, Principal Deputy Under Secretary of Defense for Policy under Bush, Defense transformation and the 2005 Quadrennial Defense Review, Parameter, Winter 2005

At the end of the Cold War, America entered a new and unfamiliar global security environment. As the Department of Defense began to alter strategies and plans, it quickly became apparent that changes might have to be made across the defense establishment. This led in 1993 to the Bottom-Up Review, and, starting in 1997, to the Quadrennial Defense Review (QDR) process. As the Department of Defense enters its third QDR this year, it is important to understand how central the QDR has become to the work of the department--and how different this QDR is, compared to its predecessors.¶ With a yearly budget in excess of $400 billion, the Department of Defense is perhaps the largest single bureaucracy in the world. Sheer size, as well as vested interests and old ways of thinking, tend to give large bureaucracies an inertial resistance to change.¶ One of the tasks in the department this year is to ensure that the QDR can instead be an engine of continued transformation. The need to transform our military has elevated the role of the QDR from a tool of periodic refinement to a fulcrum of transition to a post-9/11 world. This article will explore what the QDR has become, how it is being processed, and what the Defense Department hopes it will achieve.¶ The Modern History of US Defense Transformations¶ It is rare in history for institutions at the height of their success to transform themselves in anticipation of new challenges, but the armed forces of the United States have done it before. Looking back at major defense transformations through our history, we can see that periods of concerted national effort to transform the military have tracked a cyclical pattern: New challenges lead the defense establishment to develop new strategies, which in turn leads to investments in capabilities appropriate to that strategy.¶ In the 1930s, faced with the rise of aggressively expansionist regimes in Japan and Europe, the United States needed to prepare for the possibility of a new kind of conflict, and on a huge scale. We devised a strategy of both mass and speed, one that emphasized destroying the enemy's industrial capacity as much as its forces in the field. Accordingly, the United States invested heavily in amphibious warfare, carrier-based air power, a strategic bombing force, and an industrial base to support mechanized warfare. In the nuclear age, faced with a global threat from the Soviet Union, we had to transform the military to integrate nuclear and conventional forces, dramatically increasing its power and scope to maintain a strategy of containment and the capability for massive retaliation. In the 1980s, America embarked on a series of competitive strategies meant to expose fissures in the military establishment and strategic posture of the Soviet Union, in the hopes--successfully as it turned out--of stressing them beyond their breaking point in their competition with the United States. In each of these cases, a new set of strategic problems led to new strategic thinking and then to sweeping transformation in the structure, posture, weapon systems, and tactical doctrines of our military.¶ Since 9/11, the Defense Department has gained sufficient insight into the new problem-set we face that the time is again ripe for new strategic thinking and for transforming the force. The QDR provides a unique lever with which to translate these insights into action.

### Solvency – Fast

#### Solves quickly

Desai 13 - retired US Marine who served as a strategist for the Marine Corps during the 2010 QDR and US Strategic Command during the 2006 QDR

(Sunil, “2014 QDR Must Follow Congressional Guidance,” http://www.defensenews.com/article/20130714/DEFFEAT05/307140008/2014-QDR-Must-Follow-Congressional-Guidance)

As with military operational plans, the QDR process itself is more important than the product.¶ This is because upon implementing a plan, enemy decisions and other unexpected factors change the situation, requiring adjustments. Having insights gained through a rigorous and disciplined planning process allows such adjustments to be made much more quickly and easily.

#### Happens this month

USNI 13

(“Hagel Orders New Defense Review,” http://news.usni.org/2013/03/19/hagel-orders-new-defense-review)

Secretary of Defense Chuck Hagel is tasking the Pentagon with reexamining the U.S. military’s strategic assumptions in a more fiscally austere budget environment, the Pentagon announced on Monday.¶ “This Strategic Choices and Management Review will define the major decisions that must be made in the decade ahead to preserve and adapt our defense strategy, our force and our institutions under a range of future budgetary scenarios,” Pentagon spokesman George Little told reporters. “The results of this review will frame the secretary’s guidance for the fiscal 2015 budget and will ultimately be the foundation for the Quadrennial Defense Review due to Congress in February 2014.”

## Drones

### Drones bad – Terror

#### Drones create more terrorists than they kill

The Guardian 12 (Cites Robert Grenier, Former head of the CIA counter-terrorism center, “Drone attacks create terrorist safe havens, warns former CIA official”, 6/5/12, [www.guardian.co.uk/world/2012/jun/05/al-qaida-drone-attacks-too-broad](http://www.guardian.co.uk/world/2012/jun/05/al-qaida-drone-attacks-too-broad))

A former top terrorism official at the CIA has warned that President Barack Obama's controversial drone programme is far too indiscriminate in hitting targets and could lead to such political instability that it creates terrorist safe havens. Obama's increased use of drones to attack suspected Islamic militants in Pakistan, Afghanistan, Somalia and Yemen has become one of the most controversial aspects of his national security policy. He has launched at least 275 strikes in Pakistan alone; a rate of attack that is far higher than his predecessor George W Bush. Defenders of the policy say it provides a way of hitting high-profile targets, such as al-Qaida number two, Abu Yahya al-Libi. But critics say the definition of militant is used far too broadly and there are too many civilian casualties. The London-based Bureau of Investigative Journalism estimates up to 830 civilians, including many women and children, might have been killed by drone attacks in Pakistan, 138 in Yemen and 57 in Somalia. Hundreds more have been injured. Now Robert Grenier, who headed the CIA's counter-terrorism center from 2004 to 2006 and was previously a CIA station chief in Pakistan, has told the Guardian that the drone programme is targeted too broadly. "It [the drone program] needs to be targeted much more finely. We have been seduced by them and the unintended consequences of our actions are going to outweigh the intended consequences," Grenier said in an interview. Grenier emphasised that the use of drones was a valuable tool in tackling terrorism but only when used against specific identified targets, who have been tracked and monitored to a place where a strike is feasible. However, recent media revelations about Obama's programme have revealed a more widespread use of the strike capability, including the categorising of all military-age males in a strike zone of a target as militants. That sort of broad definition and the greater use of drones has outraged human rights organisations. The BIJ has reported that drone strikes in Pakistan over the weekend hit a funeral gathering for a militant slain in a previous strike and also may have accidentally hit a mosque. That sort of action adds credence to the claims that the drone campaign is likely to cause more damage by creating anger at the US than it does in eliminating terrorist threats. "We have gone a long way down the road of creating a situation where we are creating more enemies than we are removing from the battlefield. We are already there with regards to Pakistan and Afghanistan," he said. Grenier said he had particular concerns about Yemen, where al-Qaida linked groups have launched an insurgency and captured swathes of territory from the over-stretched local army. US drones have been active in the country, striking at targets that have included killing US-born cleric Anwar al-Awlaki and his 16-year-old son. The BIJ estimates that there have been up to 41 confirmed US drone strikes in Yemen since 2002 and possibly up a 55 unconfirmed ones. Grenier said the strikes were too indiscriminate and causing outrage among the civilian population in the country, lending support to Islamists and seeing a growth in anti-US sentiment. "That brings you to a place where young men, who are typically armed, are in the same area and may hold these militants in a certain form of high regard. If you strike them indiscriminately you are running the risk of creating a terrific amount of popular anger. They have tribes and clans and large families. Now all of a sudden you have a big problem … I am very concerned about the creation of a larger terrorist safe haven in Yemen," Grenier said.

#### Safe haven theory is wrong

Zenko 13 (Douglas Dillon Fellow, Center for Preventive Action, Council on Foreign Relations, “Assessing U.S. Drone Strike Policies”, 3/1/13, <http://www.cfr.org/counterterrorism/assessing-us-drone-strike-policies/p30144>)

Well, the question is whether or not you -- what the objective is, right, and the objectives of how these tool is used is different in different countries, right? The objective of drone strikes in Pakistan, because the individuals we're killing are not imminent threats to the U.S. homeland -- I mean, most of them wake up every day, they want to impose some degree of Sharia law where they live; they want to fight defensive jihad against the Pakistani army; they want to kill U.S. service members in southern Afghanistan. That's what they -- that's what motivates them. To some extent, it's been successful, but it hasn't really limited the extremist threat from the region at all. And that is only done through non-military tools. But it does dampen it. It makes it much harder to conduct operational plots. I mean, you read the -- bin Laden's writings and you saw the al-Qaida tip sheet about how to avoid drone strikes. It makes planning and conducting operations significantly harder. So it's very successful if that's strategic objective. If it's to protect the U.S. homeland, it's quite interesting how everyone has forgot why -- how and why 9/11 has happened. There's this notion that if a safe haven emerges anywhere in the world for a couple of hours, individuals there can then plot and attack against the U.S. homeland. I mean, the reason 9/11 happened was because poor homeland security, poor flight security, lack of cooperation, sharing, all the other things that protect the U.S. homeland that have been fixed, thankfully, keep the U.S. homeland from getting struck.

#### Drones destroy key evidence

Cronin 13 (Audrey, Professor of Public Policy at George Mason University, “Why Drones Fai”, Foreign Affairs, July/ August 2013)

Another main problem with Washington's overreliance on drones is that it destroys valuable evidence that could make U.S. counter-terrorism smarter and more effective. Whenever the United States kills a suspected terrorist, it loses the chance to find out what he was planning, how, and with whom -- or whether he was even a terrorist to begin with. Drone attacks eliminate the possibility of arresting and interrogating those whom they target, precluding one of the most effective means of undermining a terrorist group. It is worth noting that the most dramatic recent decapitation of a terrorist organization -- the killing of bin Laden -- was performed by humans, not drones. As a result, the most important outcome of the operation was not the death of bin Laden himself but the treasure trove of intelligence it yielded. Drones do not capture hard drives, organizational charts, strategic plans, or secret correspondence, and their tactical effectiveness is entirely dependent on the caliber of human intelligence on the ground. And if the unpopularity of drones makes it harder to persuade locals to work with U.S. intelligence services, then Washington will have less access to the kind of intelligence it needs for effective targeting. Yes, killing would-be terrorists saves American lives. But so does interrogating them, and drone strikes make that impossible.

### AT – Kill Leaders

#### Killing leaders fails – Hydra effect

Blum and Heymann ‘10 (Gabriella Blum\* and Philip Heymann\*\*, \*Assistant Professor of Law, Harvard Law School, \*\* James Barr Ames Professor of Law, Harvard Law School, “ Law and Policy of Targeted killing” ebsco, 2010)

An immediate consequence of eliminating leaders of terrorist organizations will sometimes be what may be called the Hydra effect, the rise of more—and more resolute—leaders to replace them. The decapitating of the organization may also invite retaliation by the other members and followers of the organization. Thus, when Israel assassinated Abbas Mussawi, Hezbollah‘s leader in Lebanon, in 1992, a more charismatic and successful leader, Hassan Nassrallah, succeeded Mussawi. The armed group then avenged the assassination of its former leader in two separate attacks, blowing up Israeli and Jewish targets in Buenos Aires, killing over a hundred people and injuring hundreds more.

#### Drones don’t kill high-value targets

Boyle 13 [Michael J. Boyle, PhD, is an Assistant Professor of Political Science at La Salle University in Philadelphia. He was previously a Lecturer in International Relations and Research Fellow at the Centre for the Study of Terrorism and Political Violence at the University of St. Andrews. He is also an alumnus of the Political Science Department at La Salle, research interests are on terrorism and political violence, with particular reference to the strategic use of violence in insurgencies and civil wars, “The costs and consequences of drone warfare,” International Affairs 89: 1 (2013) 1–29, <http://www.chathamhouse.org/sites/default/files/public/International%20Affairs/2013/89_1/89_1Boyle.pdf>, 2013]

The second major claim for the effectiveness of drone strikes is based on their ability to kill HVTs, defined as key operational and political leaders of Al-Qaeda and related groups. From the campaign trail to his time in office, President Obama has consistently maintained that he would not hesitate to use lethal force to remove leading figures in Al-Qaeda.44 Yet the actual record of drone strikes suggests that forces under his command have killed far more lower-ranked operatives associated with other Islamist movements and civilians than HVTs from Al-Qaeda. Peter Bergen has estimated that the drone strikes have killed 49 high-ranking ‘militant’ leaders since 2004, only 2 per cent of the total number of deaths from drone strikes.45 The remaining 98 per cent of drone strikes have been directed against lower-ranking operatives, only some of whom are engaged in direct hostilities against the United States, and civilians. Many of these actors pose no direct or imminent threats, but rather speculative ones, such as individuals who might some day attack the US or its interests abroad.46 Even as President Obama has increased the number of drone strikes, the number of HVTs killed has ‘slipped or barely increased’.47 In 2010, a mid-ranking Haqqani network fighter concluded that ‘it seems they really want to kill everyone, not just the leaders’.48 The decision to expand targeted killing to this scale and take aim at even low-ranking ‘foot soldiers’ is unprecedented and sets the Obama administration’s drone programme apart in both scale and character from targeted killing operations elsewhere.49

## Legal Regimes

#### Humanitarian interventions inevitably crush the separation principle

Goodman 10

Ryan Goodman 10, “CONTROLLING THE RECOURSE TO WAR BY MODIFYING JUS IN BELLO”, http://ssrn.com/abstract=1666198

3.1 Type I erosion: Humanitarian interventions and other wars of choice 3.1.1 Taxing humanitarian intervention: should higher standards apply? Historically, the greatest challenge to the separation principle has been rooted in a normative proposition that parties fighting for a just cause should benefit from a relaxed application of jus in bello rules that might hinder their ability to win the war or repel an attack.10 A new challenge to the separation principle emerges from a different ambition. It suggests in some circumstances heightening jus in bello rules for states fighting for certain just causes. Notably, an erosion of the line in the former case helped set the stage for the latter. That is, the source of a major challenge to the separation of jus ad bellum and jus in bello was, quite surprisingly, the International Court of Justice. And the Court’s position lent support to other threats to the regime.¶ In the Nuclear Weapons Advisory Opinion, the ICJ cast doubt on the separation principle. The Court concluded that the threat or use of nuclear weapons ‘would generally be contrary to the rules of international law applicable in armed conflict, and in particular the principles and rules of humanitarian law’.11 The Court then stated that it ‘cannot conclude definitively whether the threat or use of nuclear weapons would be lawful or unlawful in an extreme circumstance of self-defence, in which the very survival of a State would be at stake’.12 In other words, the Court left open the possibility that jus in bello rules would be relaxed when a state acts to defend itself from an existential military threat – to protect sovereign interests that the international community accepts as a core foundation of the global legal order. When a state resorts to force for other – less privileged or less valued – purposes, a higher level of jus in bello applies.13

#### Goldstone report destroys the LOAC

Michael A. Newton 10, Law Prof @ Vanderbilt, “LAWFARE AND THE ISRAELI-PALESTINE PREDICAMENT: Illustrating Illegitimate Lawfare,” 43 Case W. Res. J. Int'l L. 255, ln

After detailing the content of the leaflet and radio broadcast warnings, the Report concluded that the warnings did not comply with the obligations of Protocol I because Israeli forces were presumed to have had the capability to issue more effective warnings, civilians in Gaza were uncertain about whether and where to go for safety, and some places of shelter were [\*277] struck after the warnings were issued. n91 Thus, despite giving more extensive warnings to the civilian population than in any other conflict in the long history of war, the efforts of the Israeli attackers were equated with attacks intentionally directed against the civilian population. This approach eviscerates the appropriate margin of appreciation that commanders who respect the law and endeavor to enforce its constraints should be entitled to rely upon--and which the law itself provides. There is simply no legal precedent for taking the position that the civilians actually respond to such warnings, particularly in circumstances such as Gaza where the civilian population is intimidated and often abused by an enemy that seeks to protect itself by deliberately intermingling with the innocent civilian population. The newly minted Goldstone standard for warning the civilian population would displace operational initiative from the commander in the attack to the defender who it must be remembered commits a war crime by intentionally commingling military objectives with protected civilians. This aspect of the report would itself serve to amend the entire fabric of the textual rules that currently regulate offensive uses of force in the midst of armed conflict.¶ This, then, is the essence of illegitimate lawfare. Words matter--particularly when they are charged with legal significance and purport to convey legal rights and obligations. When purported legal "developments" actually undermine the ends of the law, they are illegitimate and inappropriate. Legal movements that foreseeably serve to discredit the law of armed conflict even further in the eyes of a cynical world actually undermine its utility. Lawfare that creates uncertainty over the application of previously clear rules must be opposed vigorously because it does perhaps irrevocable harm to the fabric of the laws and customs of war. Illegitimate lawfare will marginalize the precepts of humanitarian law if left unchecked, and may serve to create strong disincentives to its application and enforcement. Knowledge of the law and an accompanying professional awareness that the law is binding remains central to the professional ethos of military forces around our planet irrespective of the reality that incomplete compliance with the jus in bello remains the regrettable norm. Hence, it logically follows that any efforts to distort and politicize fundamental principles of international law cannot be meekly accepted as inevitable developments.

#### UN peace operations undermine the LOAC

Matthew E. Dunham 13, JD Dickinson, “SACRIFICING THE LAW OF ARMED CONFLICT IN THE NAME OF PEACE: A PROBLEM OF POLITICS,” 69 A.F. L. Rev. 155, ln

Peace operations are the United Nation's (UN's) core business and its most visible activity. n3 Between 1948 and 2012, the UN Department of Peacekeeping Operations (DPKO) conducted sixty-seven peace operations with the general purpose of ending violence. n4 The worldwide presence of peace operation forces is even larger when one adds operations carried out by states under unified command. n5 [\*157] When conducting peace operations, the DPKO maintains that successful operations are based in the rule of law. n6 This principle clearly follows from one of the major purposes of the UN to "maintain international peace and security . . . in conformity with the principles of justice and international law." n7 Nevertheless, to sustain political support for some peace operations, the UN and its member states intentionally ignore the applicability of the law of armed conflict (LOAC) n8 by refusing to classify hostilities as an armed conflict and by wrongly denying that peace operation forces have become belligerents in armed conflict. If the international community wishes to conduct high-intensity peace operations without causing the LOAC to be cast aside in future conflicts, it must promote the rule of law by ceasing to pretend that such operations are passive and impartial. This paper provides three examples where the UN and its member states improperly circumvented the LOAC. The first two examples concern intervention of peace operation forces in East Timor by Australia and then the UN between 1999 and 2000. Both Australia and the UN determined the LOAC did not apply to hostilities even though the facts on the ground required its application. n9 The third example examines the UN's intervention in the Ivory Coast in 2011, where the UN conducted air assaults against one party to a non-international armed conflict (NIAC). After the offensive, the UN Secretary-General implausibly denied the UN had become a party to the conflict, thereby denying the application of the LOAC as a matter of law to those UN actions. n10 The UN and its member states sacrifice the LOAC in peace operations because of conflicting concepts of sovereignty and an unsustainable adherence to traditional peacekeeping doctrine. Under traditional peacekeeping doctrine, a peace operation force must gain consent from the parties, remain impartial to the conflict, and only use force in self-defense. n11 Traditional peacekeeping is based on a Westphalian concept of sovereignty, which absolutely prohibits interference in the [\*158] internal affairs of another state. n12 More recently, however, peace operations have become more robust and aggressive. n13 Particularly since the mid-1990s, the UN Security Council has typically authorized peace operations under Chapter VII of the UN Charter to not only use force for individual and unit self-defense, but also to further the mission's mandate and protect civilians. n14 These more aggressive peace operations are based on a post-Westphalian view that a sovereign's inability or unwillingness to protect its citizens could result in involuntary forfeiture of sovereignty. n15 Further obscuring the application of the LOAC in peace operations is the fact that the international community lacks accepted definitions for peace operations and its different forms, such as "peacekeeping" and "peace enforcement." n16 While the DPKO distinguishes five types of peace operations (conflict prevention, peacekeeping, peace enforcement, peacemaking, and peace building), it only generically describes the activities. n17 The lack of clear definitions makes it difficult [\*159] to consistently apply the terms. While Part II of this paper generally distinguishes between peacekeeping and peace enforcement, the majority of the paper uses the generic term "peace operation" when feasible to emphasize the importance of consistency in the application of terms. n18 The international community is forcing a square peg into a round hole by trying to apply traditional Westphalian principles of consent, impartiality, and the use of force in self-defense to robust peace operations justified under a post-Westphalian concept of sovereignty. To fit the peg into the Westphalian idea of a valid peace operation, the UN and its member states avoid objective classification of hostilities and proper characterization of participants in hostilities. Unfortunately, such political maneuvering sacrifices the LOAC--represented by the pieces shaved off the square peg as it breaks down to fit the round hole. Instead of avoiding the LOAC, peace operation forces should promote and respect the LOAC by objectively identifying their role and the nature hostilities. Otherwise, states may use examples of peace operations to justify unlawful actions in armed conflict. The next section of this paper, Part II, focuses on the evolution of peace operations as background for considering why the UN and states conducting peace operations sacrifice the LOAC in the name of peace. It discusses the origin of peace operations under a Westphalian concept of sovereignty and shows how such operations have expanded with a shifting view of sovereignty. This section also examines the evolution of the application of the LOAC to peace operations--from an initial perspective that the LOAC never applies to peacekeepers, to a view that the LOAC will apply if peacekeepers become a party to a conflict. Despite theoretical progression on the application of the LOAC to peace operations, Part III analyzes hostilities in East Timor between 1999 and 2000, and the Ivory Coast in early 2011, to illustrate intentional avoidance of the LOAC in peace operations. Within these contexts, Part IV shows how peace operation forces in East Timor and the Ivory Coast applied traditional Westphalian peacekeeping principles to post-Westphalian peace operations for political purposes. Further, this section shows [\*160] why such political calculations undermine the LOAC. Finally, Part V argues the error in sacrificing the LOAC to justify humanitarian intervention. This section contends that intentional avoidance of the LOAC in peace operations creates a model for states to ignore the LOAC in other conflicts. It also shows that the apparent success in one peace operation undertaken by political maneuver may, in fact, be detrimental to the next humanitarian crisis. Accordingly, the UN and its member states must properly categorize hostilities and the participant's status if they wish to use military force in peace operations. II. THE EVOLUTION OF PEACE OPERATIONS AND THE APPLICABILITY OF THE LAW OF ARMED CONFLICT Peace operations are a core activity of the UN, which is charged with maintaining international peace and security in accordance with the rule of law. When conducting such operations, however, traditional notions of sovereignty undermine the ability of the UN and its member states to effectively adhere to the LOAC. To explore this problem, this section examines the origin of peace operations in light of the Westphalian concept of sovereignty in which they were developed, n19 and it shows how the purpose of peace operations has expanded with a shifting concept of sovereignty. The section then discusses the types of circumstances that trigger the LOAC. Finally, it addresses the evolving application of the LOAC to peace operations and identifies the political dilemma of applying the LOAC to certain types of peace operations.

#### There’s no such thing as ‘self-defense targeted killings’ – jus ad bellum only allows the use of self-defense against states that facilitate non-state actors’ attacks. The plan codifies an expansive notion of jus ad bellum that increases the risk of armed conflict

Martin, 11 **-** Associate Professor of Law at Washburn University School of Law (Craig, “GOING MEDIEVAL: TARGETED KILLING, SELFDEFENSE AND THE JUS AD BELLUM REGIME” SSRN) **NSA = Non State Actors**

In sum, the proposition that states can use force against NSAs as such, and thereby against states with little responsibility for the NSAs actions, is not consistent with the current jus ad bellum system, and moreover there are good reasons why this is so. It will be objected that this tends to create something of an asymmetry, as well as to give rise to something of a paradox—for while under the current law a terrorist attack may constitute an armed attack in jus ad bellum terms, a response to the attack is not permissible if there was not sufficient state complicity in the NSAs operation. Thus, so the objection would go, the jus ad bellum regime recognizes that NSAs can mount armed attacks, but then it insulates them from the responding use of force in self-defense.75 There is thereby a recognition of a wrong, but the denial of a remedy. Of course, in response to this it must be pointed out that the current law exists precisely because the remedy sought would be inflicted on states that are not themselves guilty of the kind of wrong that legitimates the use of force against them. But even to this the detractors would argue that from a philosophical and moral perspective it might be entirely defensible to inflict a remedy on a not entirely blameless state. As between Utopia, the innocent victim of terrorist attacks, and Oceania, which while not sufficiently responsible for the attacks to justify a response in selfdefense is not blameless, surely we should permit harm to the latter.76 However, in response to this entire line of argument it has to be emphasized that the modern jus ad bellum regime is not primarily grounded in such moral balancing, or even in a sense of justice, but rather is founded on the profound need to prevent war among states. Permitting the use of force against states that have not assisted terrorists acting from within their territory would create a different and far more serious asymmetry, which would distort and undermine the integrity of the jus ad bellum regime, and increase the risk of armed conflict among nations.

Such risk is not mere idle speculation. In Columbian raids against NSAs in Ecuador in 2006, and Turkish attacks on Kurds in Iraq in 2007–08, there was a serious risk of escalation. Consider the ramifications if India had characterized the Mumbai attack of 2008 as an “armed attack” justifying the use of force in selfdefense against Lashkar-e-Taiba, quite independent of whether there was sufficient evidence to establish that its operations could be attributed to Pakistan. The use of force against the group within the territory of Pakistan would have nonetheless been viewed as an act of war by Pakistan, and there would have been a real risk of a full-blown armed confl ict between nuclear powers.77

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### 2nc Impact Overview

#### Growth controls conflict escalation – solves aff impacts

Griswold 7 Griswold, Trade Policy Studies @ Cato, 4/20/’7,

(Daniel, Trade, Democracy and Peace, http://www.freetrade.org/node/681

A second and even more potent way that trade has promoted peace is by promoting more economic integration. As national economies become more intertwined with each other, those nations have more to lose should war break out. War in a globalized world not only means human casualties and bigger government, but also ruptured trade and investment ties that impose lasting damage on the economy. In short, globalization has dramatically raised the economic cost of war.

#### TPA solidifies collapsing US global leadership—impact is nuclear war—turns modeling claims and deterrence impact

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This does not necessarily mean that the US is in systemic decline, but it encompasses a trend that appears to be negative and perhaps alarming. Although the US still possesses incomparable military prowess and its economy remains the world’s largest, the once seemingly indomitable chasm that separated America from anyone else is narrowing. Thus, the global distribution of power is shifting, and the inevitable result will be a world that is less peaceful, liberal and prosperous, burdened by a dearth of effective conflict regulation. Over the past two decades, no other state has had the ability to seriously challenge the US military. Under these circumstances, motivated by both opportunity and fear, many actors have bandwagoned with US hegemony and accepted a subordinate role. Canada, most of Western Europe, India, Japan, South Korea, Australia, Singapore and the Philippines have all joined the US, creating a status quo that has tended to mute great power conflicts. However, as the hegemony that drew these powers together withers, so will the pulling power behind the US alliance. The result will be an international order where power is more diffuse, American interests and influence can be more readily challenged, and conflicts or wars may be harder to avoid. As history attests, power decline and redistribution result in military confrontation. For example, in the late 19th century America’s emergence as a regional power saw it launch its first overseas war of conquest towards Spain. By the turn of the 20th century, accompanying the increase in US power and waning of British power, the American Navy had begun to challenge the notion that Britain ‘rules the waves.’ Such a notion would eventually see the US attain the status of sole guardians of the Western Hemisphere’s security to become the order-creating Leviathan shaping the international system with democracy and rule of law. Defining this US-centred system are three key characteristics: enforcement of property rights, constraints on the actions of powerful individuals and groups and some degree of equal opportunities for broad segments of society. As a result of such political stability, free markets, liberal trade and flexible financial mechanisms have appeared. And, with this, many countries have sought opportunities to enter this system, proliferating stable and cooperative relations. However, what will happen to these advances as America’s influence declines? Given that America’s authority, although sullied at times, has benefited people across much of Latin America, Central and Eastern Europe, the Balkans, as well as parts of Africa and, quite extensively, Asia, the answer to this question could affect global society in a profoundly detrimental way. Public imagination and academia have anticipated that a post-hegemonic world would return to the problems of the 1930s: regional blocs, trade conflicts and strategic rivalry. Furthermore, multilateral institutions such as the IMF, the World Bank or the WTO might give way to regional organisations. For example, Europe and East Asia would each step forward to fill the vacuum left by Washington’s withering leadership to pursue their own visions of regional political and economic orders. Free markets would become more politicised — and, well, less free — and major powers would compete for supremacy. Additionally, such power plays have historically possessed a zero-sum element. In the late 1960s and 1970s, US economic power declined relative to the rise of the Japanese and Western European economies, with the US dollar also becoming less attractive. And, as American power eroded, so did international regimes (such as the Bretton Woods System in 1973). A world without American hegemony is one where great power wars re-emerge, the liberal international system is supplanted by an authoritarian one, and trade protectionism devolves into restrictive, anti-globalisation barriers. This, at least, is one possibility we can forecast in a future that will inevitably be devoid of unrivalled US primacy.

### 2nc Will Pass

#### TPA will pass – revised negotiations

Economist 2/8

When Harry mugged Barry, 2/8/14, http://www.economist.com/news/united-states/21595958-harry-reid-threatens-impoverish-world-least-600-billion-year-when-harry

IN HIS state-of-the-union address Barack Obama asked Congress to give him “fast-track” authority to negotiate trade deals. Shortly afterwards his most important ally on Capitol Hill hinted that he might block it. As Senate majority leader, Harry Reid can do just that: no bill gets a vote without his say-so. But would he really stiff Mr Obama? Much depends on the answer.¶ Studies suggest that proposed deals with Asia and Europe could generate global gains of $600 billion a year, with $200 billion of that going to America. And that understates the benefits, since the deals would spur competition in the market for services, which make up most of rich countries’ output but are seldom traded across borders. Opening industries like finance and transport to greater competition could bring great savings to consumers.¶ Mr Obama has never been an ardent free-trader, yet his second term got off to a promising start. The Trans-Pacific Partnership, a deal with large Pacific-rim economies, is close to completion; America and Japan are hammering out the rules for farm goods. European and American trade wonks continue to meet regularly, hoping to wrap up a “next-generation” trade agreement as early as next year.¶ To make all this happen Mr Obama needs “trade promotion authority” (usually known as “fast-track”), which would let him negotiate deals and then present them to Congress for a simple yes-or-no vote, with no chance for lawmakers to rewrite the details. Without such authority, America’s trading partners cannot take the White House seriously as a negotiator. Fast-track was last granted to George W. Bush in 2002 and expired in 2007. Since Republicans are generally pro-trade and Democrats are generally loyal to Mr Obama, most people in Washington at first assumed that Congress would give it to him without a fuss.¶ But with elections looming and lawmakers in a populist mood, that is far from certain. Late last year roughly half the members of the House wrote to Mr Obama declaring their opposition to fast-track; most were from his own party. In early January a bipartisan group of senators introduced a fast-track bill. Mr Obama spoke up for it in his state-of-the-union address, but only in passing and in mercantilist terms. The aim is “to protect our workers, protect our environment and open new markets to new goods stamped ‘Made in the USA’,” he said; without mentioning that cheap imports raise living standards.¶ Barely had he left the podium when Mr Reid mugged him. Answering questions from reporters, he reiterated his opposition to fast-track and advised its backers “not [to] push this right now”. Insiders doubt that Mr Reid would kill the bill outright. Haggling in the Senate may yield a new version with enough about labour standards and the environment to satisfy the protectionists. If so, Mr Reid will probably allow a vote, and the bill should pass. The White House remains publicly optimistic.

#### A compromise bill is coming – Obama’s push will get Reid on board

Reuters 1/31

White House hopes for fast-track trade hit political tangle, 1/31/14, http://economictimes.indiatimes.com/news/international/business/white-house-hopes-for-fast-track-trade-hit-political-tangle/articleshow/29638231.cms

President Barack Obama's push for authority to fast-track trade deals has hit a big setback in the form of opposition from his top fellow Democrat in Congress, but it is far from dead. ¶ Senate Majority Leader Harry Reid's warning to policymakers on Wednesday "just to not push this right now" reflects concern about the domestic political agenda ahead of November's congressional elections, when free trade could be a damaging issue for many Democrats. The unusually blunt public opposition came less than 24 hours after Obama noted the need for fast-track power in his State of the Union address, albeit less forcefully than business lobbyists and pro-trade Republicans would have liked. ¶ The White House called Reid's office shortly after his comments to voice displeasure, a top Democratic party aide said. "They were really upset," the aide said. But the aide said the White House did not try to get Reid to shift his position. ¶ A bill before the House and Senate would grant the White House power to submit free trade deals to Congress for an up-or-down vote without amendments, something that would give trading partners peace of mind but that raises hackles among some lawmakers. Add to that the genuine mistrust among some Democrats about the impact of trade deals on local jobs and industry and environmental standards, and it's a volatile mix.¶ With two major free trade deals hanging in the balance, the US administration now faces even more pressure to win over skeptics on both sides of politics to pass trade promotion authority (TPA) as the electoral clock ticks down. "Reid's put a strait-jacket on TPA for now," said Welles Orr, trade adviser for law firm Miller Chevalier and former congressional relations expert at the US Trade Representative. ¶ Aides insist that Reid, who controls what comes up on the Senate floor, has not decided to kill the bill but is not ready to embrace it either and has let the White House know he will not be an easy sell. That leaves the White House with a tough decision on how much political capital to expend lining up support on a politically contentious measure ahead of the elections. ¶ US Trade Representative Michael Froman and his staff are lobbying lawmakers about the benefits of TPA and proposed trade pacts with Pacific Rim countries and the European Union, which would cover nearly two-thirds of global trade. But he clearly has further to go."I'm with Harry on this," said Democratic Senator Sheldon Whitehouse of Rhode Island. "There is all sorts of mischief that gets snuck into these trade agreements. We have seen real damage to our manufacturing sector as a result of them," Whitehouse said. "Allowing fast-track lets them get through Congress without proper scrutiny." ¶ Reid's stance also struck a chord among some Republicans, who are generally more aligned with free trade than Democrats. "I seldom agree with Harry, but this may be one time," said Republican Senator Lindsey Graham of South Carolina. "I've got concerns about it."¶ Under pressure ¶ For trading partners, especially in Asia where negotiators had hoped to get agreement on the Trans-Pacific Partnership by the time Obama makes a trip to the region in April, the political uncertainty complicates an already-tight timeline. ¶ Tacticians now have the option of pushing ahead with the TPA bill in the House, although it is currently lacking a Democrat co-sponsor; waiting for amendments to toughen up the negotiating objectives and make it more palatable to critics, or waiting for the administration to make greater effort to lobbying skeptics. "They (the White House) have an opportunity to make its case. They should do that," another Senate Democratic leadership aide said, noting that fast track should not be considered dead in the Senate. ¶ Despite differences on trade - the second aide said Reid "hasn't seen a trade deal that he has liked in a long time, if ever" - the Nevada senator has been perhaps the White House's most important ally in Congress. In the past year alone, he has changed Senate rules to win confirmation of stalled Obama nominees and taken a lead in trying to ease Democratic outrage over the White House's botched rollout of its key healthcare law. ¶ Part of the push-back may be a tactic to gain distance from a president whose popularity suffered in the wake of Obamacare, according to CNN/ORC and Gallup polls. Matthew Green, associate professor of politics at the Catholic University of America, said Reid would not want to make his members take a difficult vote on a bill that subsequently would die in the House, risking their support for nothing. ¶ "The control of the Senate is very much up for grabs. So I'm sure Reid is thinking, how might trade legislation help or hurt his most vulnerable members who are running for re-election?" he said. Even if the bill does not pass in its current form, several leading Democrats, including the likely next chair of the Senate Finance Committee, Ron Wyden, have suggested they may back tweaks that could boost its chances of success - something Reid might have in mind as well. ¶ "He's strengthening the hand of his colleagues who want a more protectionist version of the bill," said Daniel Ikenson, director of the Herbert A. Stiefel Center for Trade Policy Studies at the Cato Institute. "I'd expect a competing bill to surface soon and then, hopefully, eventually, a compromise," he said.

#### Obama is pushing for fast track – has Republican and Democratic support

Mauldin 1/28

William, Wall Street Journal Washington Wire, In Speech, Obama Requests New Trade Powers, 1/28/14, http://blogs.wsj.com/washwire/2014/01/28/in-speech-obama-requests-new-trade-powers/

President Obama provided a measure of relief to backers of free trade and international business by using Tuesday’s State of the Union address to ask for powers that would smooth the passage of free-trade agreements.¶ Legislation conveying the powers, known as fast-track or trade-promotion authority, was introduced this month in Congress but has faced opposition from many Democrats, as well as some conservative Republicans.¶ Specifically, fast track allows a presidential administration to clinch an overseas trade agreement, giving Congress the opportunity to vote yes or no but without offering amendments or putting up procedural hurdles. Trade experts say without fast track it would be difficult to win passage of the two mammoth trade pacts under negotiation with Asia-Pacific countries and the European Union. The previous fast-track legislation expired in 2007.¶ Fast track touches on two delicate themes of this year’s State of the Union–executive power and income inequality.¶ Many liberals argue that trade agreements can result in some job losses, exacerbating income inequality. On Monday, more than 500 organizations, including many unions and environmental groups, wrote to Congress to say Mr. Obama’s support for fast track risks alienating his political base.¶ Backers of free trade, including the administration, say quicker economic growth and high-paying jobs are the most significant result of the trade deals.¶ Meanwhile, some conservative Republicans and tea party leaders on Tuesday criticized fast track for boosting the power of the executive, including a president they don’t trust, at the expense of Congress. Some invoked isolationist rhetoric, with others dubbing the president’s policy “Obamatrade.”¶ While Mr. Obama has expressed support for fast track before, including at the WSJ CEO Council in November, many Republicans have said he isn’t doing enough to support the legislation in Congress and within his own party. Meanwhile, some Democrats had pushed the White House to keep the trade bill out of the address.¶ “We need to work together on tools like bipartisan trade promotion authority to protect our workers, protect our environment and open new markets,” Mr. Obama said Tuesday. “Listen, China and Europe aren’t standing on the sidelines. Neither should we.”¶ U.S. Trade Representative Mike Froman, who is leading the administration’s efforts with Congress, has pointed out that fast-track powers set the rules of the road for Congress to influence and keep abreast of overseas trade negotiations. The majority of Republicans in Congress and many Democrats support the administration’s trade goals, although many want to play a bigger role.

### 2nc Obama Pushing

#### Obama pushing – will get a vote

Sanchez 2/3

Humberto, Roll Call, The Hill, Reid, DSCC Chair Meet with Obama, 2/3/14, http://blogs.rollcall.com/wgdb/reid-on-obama-we-are-on-the-same-page-on-everything/

White House Spokesman Jay Carney said Monday that Obama would continue to advocate for the measure.¶ “The president believes we need to move forward on trade agreements that expand exports, that create jobs here for Americans that pay better than other jobs,” Carney said before the meeting with Reid. “Trade promotion authority is a means to getting those trade agreements done. And therefore, he believes it’s important to pursue it in order to get the best possible deal and to play the leadership role that should be playing around the world.”¶ “Now, he’s going to work with members of Congress of both parties, members of the Senate of both parties in pressing for his view that we need to move forward on these trade agreements and expanding trade for the American economy and American workers,” Carney said.¶ Sen. Rob Portman, R-Ohio, who supports trade promotion said he too believes the measure will get a vote on the Senate floor despite Reid’s opposition, given the White House’s backing.¶ “Oh yeah, the president wants one,” Portman said of a vote.

### 2nc Control Uniqueness

#### Capital key and controls uniqueness

Miller and Hiebert 1/23

Scott Miller, William M. Scholl Chair in International Business, and Murray Hiebert, Senior Fellow and Deputy Director, Sumitro Chair for Southeast Asia Studies, Southeast Asia from Scott Circle: Achieving Trade Promotion Authority Will Require a Heavy Lift from the President, 1/23/14, https://csis.org/publication/southeast-asia-scott-circle-achieving-trade-promotion-authority-will-require-heavy-lift-

That is why President Barack Obama needs Trade Promotion Authority (TPA) to achieve the key economic plank of the U.S. rebalance to Asia. Congressional leaders have introduced bipartisan legislation in both the House of Representatives and the Senate to renew TPA, but to get it past the post will require a hefty dose of leadership, patience, and all-around goodwill.¶ Congress will only manage to pass TPA with effective, consistent, and high-profile leadership from the president. While many members of Congress say that every president deserves TPA, no House member or senator believes advancing TPA will bolster his or her chances for reelection in November, when the full House and a third of the Senate will be up for grabs. In fact, many members of Congress would prefer never to cast a vote relating to the TPP to avoid criticism from voters who fear that free trade agreements export jobs overseas.¶ TPA will become a priority in Congress only if the president makes it one. He must begin to make a strong public case for his trade agenda, the TPP, and its role in boosting the U.S. economy and U.S. ties with the most dynamic region of the world, beginning with next week’s State of the Union address. And he will have to keep repeating this call for TPA in speeches, including in the heartland of the country, until the bill is passed and he hosts a signing ceremony.¶ The president must convince Congress that the TPP is a critical component of his strategy of engaging Asia. He needs to spell out the economic benefits of more open trade and investment and updated rules of commercial engagement with this high-growth region because it will tie the United States to a part of the world that is critical to both U.S. economic growth and security. The TPP’s potential is attracting attention from others, like China, Korea, the Philippines, and Thailand, who want to make sure they are not left out of moves in the region toward greater economic integration.¶ The president must make clear to Congress that delaying moves to ratify TPA and complete the TPP could hurt Washington’s economic strategy and objectives in Asia. The drive toward regional economic integration is charging ahead in the Asia Pacific with or without the United States through vehicles like ASEAN+3, which includes China, Japan, and Korea, and the Regional Comprehensive Economic Partnership, an arrangement composed of the 10 ASEAN countries as well as Australia, China, India, Japan, Korea, and New Zealand. U.S. economic and strategic interests in the Asia Pacific are too important for TPA, and thus the TPP, to get delayed by squabbling in Washington.¶ Obama’s arguments must address the free trade skeptics in his own Democratic Party. The president needs to articulate why the Republicans, who will supply the lion’s share of votes for TPA, should work with him on trade. And this message needs to be reinforced by speeches and congressional testimony by U.S. Trade Representative Michael Froman, Secretary of State John Kerry, Treasury Secretary Jack Lew, Commerce Secretary Penny Pritzer, and other cabinet members. Any hesitation or lack of consistent messaging from the president and his team will strengthen the opposition and communicate a lack of seriousness to allies who wonder why they should put serious market access offers on the table before the president has the authority from Congress to complete the agreement.¶ The last time TPA was enacted, in 2002, the congressional legislative process took 10 months to complete. This time may be different, but advocates need to work patiently to address concerns and build support. U.S. trade policy has a much larger effect on the lives of Americans today than it did in 1974, 1988, or even 2002.¶ Voting on TPA is made more complicated today because most current members of Congress were not serving the last time TPA legislation was debated. Members of Congress will have much to say about issues like consultation beyond the committees of jurisdiction, and a winning coalition will not be formed overnight. Support for the legislation will need to be built one member at a time.¶ Partisan rivalry has reached a new high in Washington and will only increase as elections in November draw closer. But trade policy finds majority support in the political center. So far, the legislative process for TPA has been careful and centrist. It will need an outsized dose of goodwill to stay that way. TPA is essentially an agreement that cements cooperation between Congress and the administration. Members of Congress will need to take the long view to get past suspicions and concerns, and the president will need to choose cooperation over confrontation and pursue high-level, consistent engagement and prodding if the efforts to achieve TPA are to succeed.

#### PC controls uniqueness

Litvan 1/16

Laura, Bloomberg, Senate Republicans Say Obama’s Silence Risks Trade Agenda, 1/16/14, http://www.bloomberg.com/news/2014-01-16/senate-republicans-say-obama-s-silence-risks-trade-agenda.html

Senate Republicans stepped up calls for President Barack Obama to get more directly involved in pushing Congress to enable speedy approval of trade deals, saying that he is endangering his second-term trade agenda.¶ Senate Minority Leader Mitch McConnell, a Kentucky Republican, said on the Senate floor that a bipartisan measure that would give Obama the ability to win passage of trade deals without amendment may not get enough support if Obama doesn’t start talking more on the issue.¶ “We need the president to get involved,” McConnell said today. “We need him to step up for American workers and increased exports by bringing his party on board with the trade promotion bill that was introduced just last week.”¶ At a Senate Finance Committee hearing on the measure today, the top Republican on the panel, Orrin Hatch of Utah, also said Obama’s efforts are falling short.¶ “This is not a case where the president can lead from behind,” said Hatch. He and McConnell said Obama must give the issue priority in his annual State of the Union speech Jan. 28.¶ The Obama administration is seeking authority to smooth congressional passage of trade deals, including one being negotiated with a group of 11 other Pacific-region nations and another with the 28-nation European Union. Those pacts, to create the world’s largest free-trade zones, would link regions with about $44 trillion in annual economic output.

### 2nc PC Key

#### Capital key for trade – Obama’s top priority

Wall Street Journal 1/28

Obama's Trade Test, 1/18/14, http://online.wsj.com/news/articles/SB10001424052702304347904579312942307977408

President Obama says free-trade deals with Asia and Europe are a top priority in his second term. Sounds good, but the test of his sincerity will be whether he'll spend the political capital to persuade a skeptical Congress.¶ Ways and Means Chairman Dave Camp and Senate Finance powers Max Baucus and Orrin Hatch recently introduced Trade Promotion Authority legislation, also known as fast-track, which would let Congress approve trade agreements by up-or-down vote without amendment. The President needs this to negotiate accords with 11 Pacific Rim countries and the European Union, which won't consent to deals that 535 Members of Congress can later rewrite.¶ The accords would provide a major economic stimulus at no cost to taxpayers and especially to U.S. manufacturers that have become more competitive amid the surge in domestic natural gas and oil production.¶ The proposed fast-track legislation isn't perfect but it ought to be good enough for sincere free traders. One useful provision directs the Obama Administration to negotiate labor and environmental provisions similar to those that were included in recent accords with Panama, Colombia, Peru and South Korea. That ought to allay GOP concerns that Mr. Obama could use the trade deals to override U.S. domestic law.¶ More problematic is a directive that U.S. trade partners avoid manipulating exchange rates. This is a sop to unions and auto makers that blame currency shifts for their competitive woes, but the good news is that the legislative language is general and shouldn't poison negotiations with Japan and South Korea. The bill also targets state-owned enterprises, which unions complain unfairly benefit from government aid. Presumably they don't mean GM and the U.S. renewables industry.¶ Silicon Valley is cheering the legislation's new trade goals to protect intellectual property and digital trade (e.g., e-books, mp3s). U.S. farmers would also benefit from a directive aimed at eliminating regulatory barriers to American products like the EU's bans on certain genetically-modified products and hormone-treated beef.¶ One potential trouble spot is the proposal's larger opening for Congressional involvement in trade talks. Members have always been able to view the negotiating texts of trade agreements upon request, but this language would enshrine their access in statute. The danger is if Members become de facto co-negotiators with executive-branch officials, who would never be able to close a deal with 535 kibitzers in the hallway.¶ Even with these concessions, House Democrats remain unsatisfied. "Congress will not be a rubber stamp for another flawed trade deal that will hang the middle class out to dry," Democratic Reps. Rosa DeLauro, Louise Slaughter and George Miller said in a statement.¶ Ways and Means Ranking Member Sander Levin plans to introduce a rival bill to establish a special Congressional committee to determine whether a particular agreement would be eligible for fast-track. Mr. Levin is also demanding legislation that bars currency manipulation (as if the U.S. can push around foreign central banks) and "provides direct relief to U.S. industries materially injured by imports." These are all protectionist poison pills from the AFL-CIO, and free-traders are right to reject them.¶ GOP leaders are supportive and will produce a majority of Republicans, but they want Mr. Obama to deliver some Democratic votes too. If Republicans are going to help Mr. Obama, he ought to be able to provide some political cover against union protectionists. George W. Bush personally made the fast-track case to Members in 2002, but Mr. Obama has so far outsourced the job to U.S. Trade Representative Michael Froman.¶ The President could also make it harder to pass fast-track by insisting that Republicans extend Trade Adjustment Assistance (i.e., another form of jobless insurance), which expires at the end of the year. The last line of a White House December press release on trade commits to working with Congress to "protect and strengthen Trade Adjustment Assistance for America's workers."¶ The White House and Harry Reid might also demand an extension of unemployment benefits as part of the deal, but they shouldn't treat fast-track as a vehicle for the rest of their liberal agenda. Expanded trade is its own reward. Mr. Obama can get a bipartisan victory that would help the economy and his legacy, but he's going to have to work for it.

### 2nc AT Thumpers

#### Thumpers don’t apply – Obama needs to get Democrats on board for TPA

Raum 1/25

Tom, The Times and Democrat, Foes of Obama trade pacts mostly fellow Democrats, 1/25/14, http://thetandd.com/news/national/government-and-politics/foes-of-obama-trade-pacts-mostly-fellow-democrats/article\_5fa63adb-c60c-5113-97f7-bfe92c9f653b.html

Debates on lowering trade barriers can turn Congress upside down for Democratic presidents promoting such legislation. Business-minded Republicans suddenly turn into allies and Democrats aligned with organized labor can become outspoken foes.¶ It's a reversal of the usual order of things, where a Democratic president can generally count on plenty of support from fellow Democrats in Congress along with varying levels of resistance from Republicans.¶ Now it is President Barack Obama's turn to experience such a role reversal. Already, he is encountering pockets of Democratic resistance, especially from those representing manufacturing states, to his efforts to win congressional approval for renewal of "fast track" negotiating authority.

### Link

#### Limitations on war powers sap political capital

Kriner ‘10

Douglas L., assistant professor of political science at Boston University, “After the Rubicon: Congress, Presidents, and the Politics of Waging War”, University of Chicago Press, Dec 1, pages 68-69

While congressional support leaves the president’s reserve of political capital intact, congressional criticism saps energy from other initiatives on the home front by forcing the¶ president to expend energy and effort defending his international agenda. Political capital¶ spent shoring up support for a president’s foreign policies is capital that is unavailable for his¶ future policy initiatives.¶ . Moreover, any weakening in the president’s political clout may have¶ immediate ramifications for his reelection prospects, as well as indirect consequences for congressional races.59 Indeed, Democratic efforts to tie congressional Republican incumbents to President George W. Bush and his war policies paid immediate political dividends in the 2006 midterms, particularly in states, districts, and counties that had suffered the highest¶ casualty rates in the Iraq War. 60 In addition to boding ill for the president’s perceived political capital¶ and reputation, such partisan losses in Congress only further imperil his programmatic¶ agenda, both international and domestic. Scholars have long noted¶ that President Lyndon¶ Johnson’s dream of a Great Society also perished in the rice paddies of Vietnam. Lacking the requisite funds in a war-depleted treasury and the political capital needed to sustain his legislative vision, Johnson gradually let his domestic goals slip away as he hunkered down in an effort first to win and then to end the Vietnam War. In the same way, many of President Bush’s highest second-term domestic proprieties, such as Social Security and immigration reform, failed perhaps in large part because the administration had to expend so much energy and effort waging a rear-guard action against congressional critics of the war in Iraq.61 When making their cost-benefit calculations, presidents surely consider these wider political costs of congressional opposition to their military policies. If congressional opposition in the military arena stands to derail other elements of his agenda, all else being equal, the president will be more likely to judge the benefits of military action insufficient to its costs than if Congress stood behind him in the international arena.

#### Defending presidential war powers wastes political capital and spills over to the domestic agenda – Bush proves

Kriner ‘10

Douglas L., assistant professor of political science at Boston University, “After the Rubicon: Congress, Presidents, and the Politics of Waging War”, University of Chicago Press, Dec 1, pages 282-283

The Costs of Congressional Wartime Opposition to the Bush Agenda¶ There is also considerable circumstantial evidence suggesting that the intense congressional opposition to Bush's Iraq War policies imposed an additional, significant political cost on the president: it brought action on virtually every other issue on his domestic and international agendas to a grinding halt. With an approval rating mired in the low thirties throughout his final year in office and with more than twice that figure disapproving of his job performance. Bush devoted every bit of his politcal capital to insuring continued funding for the war in Iraq.¶ Measuring the costs that congressional wartime opposition exacts on other presidential agenda items is perhaps even more difficult than conclusively showing its influence on public opinion. However, on several metrics the data strongly suggests that Bush failed to achieve almost all of his non-Iraq legislative priorities in his final two years in office. One commonly used measure of legislative productivity is Mayhew’s class of “sweep one" significant enactments. In raw numerical terms, the emergence of sustained, significant congressional challenges to the war in Iraq did not dampen legislative productivity. The 110th Congress enacted thirteen pieces of landmark legislation, versus fourteen in the 109th Congress, although this total was boosted significantly by three bills responding to the financial crisis. However, a simple comparison of numbers obscures precisely whose agenda items comprised these lists of significant enactments. Landmark initiatives passed in the 109th Congress included a major reform of bankruptcy laws that favored lenders over consumers; the Class Action Fairness Act. which made it more difficult for individuals to bring such suits against businesses: billions of dollars of tax breaks to increase energy production: the Central American Free Trade Agreement: and the opening of more than eight million acres of the Gulf of Mexico to offshore drilling. These and most other items on the list clearly reflected Bush's legislative priorities. By contrast, many of the landmark initiatives enacted by the 110th Congress clearly reflected the priorities of the Democratic majority: an increase in the minimum wage: ethics and lobbying reform: an overhaul of the student loan program that cut subsidies to private lenders and increased federal aid to low-income families: an energy bill raising automobile gas mileage standards and encouraging conservation: and a bill requiring insurance companies to provide equal coverage for mental and physical illnesses.19¶ All second-term presidents at some point grapple with the reality of becoming a lame duck, and all presidents in periods of divided government must grapple with legislatures possessing their own programmatic agendas. By almost any standard, however. Bush succeeded in achieving even fewer of his legislative priorities in the final two years of his presidency than his immediate predecessors. The reasons for this are undoubtedly multifaceted. However, an important piece of the puzzle may well be that Bush, who in 2001 had been the most popular president in the history of the Gallup poll, was forced to expend every remaining bit of political energy in waging a rearguard action against Congress to preserve his policies in Iraq. The animus that his intransigence in Iraq had generated among the American people and many in Congress, even among some in his own party, left him stripped of the political capital needed to advance the remainder of his policy agenda.

### AT: Obama Pushes the Plan

#### Even if Obama agrees with the substance of the plan, he’ll fight the restriction

--this is meaningless in the world of the CP because he can’t use veto threats or signing statements as opposition

Scheuerman 13 – Professor of Political Science at Indiana University, PhD from Harvard

(William, “Barack Obama's "war on terror",” Eurozine, http://www.eurozine.com/pdf/2013-03-07-scheuerman-en.pdf)

Given dual democratic legitimacy, holders of executive power face deeply¶ rooted institutional incentives to retain whatever power or authority has landed¶ in their laps. Fundamentally, their political fate is separate from that of the¶ legislature's. They have to prove −− on their own −− that they deserve the trust¶ placed in them by the electorate. Unlike prime ministers in parliamentary¶ regimes, they also face strict term limits. As astute observers have noted, this¶ provides political life in presidential regimes with a particular sense of urgency¶ since the executive will only have a short span of time in which to advance his¶ or her program. Presidentialism's strict separation of powers means that the¶ executive will soon likely face potentially hostile opponents who have gained a¶ foothold in the legislature. In the US, for example, even presidents recently¶ elected with large majorities immediately need to worry about looming¶ midterm congressional elections. To be sure, even prime ministers in¶ parliamentary systems will want to get things done. But incentives to do so in a¶ high−speed fashion remain more deeply ingrained in presidential systems.¶ These familiar facts about presidentialism allow us to help make sense of¶ Obama's disappointing record. Without doubt, Obama has been personally as¶ well as ideologically committed to reining in Bush−era executive prerogative.¶ Yet he now occupies an institutional position which necessarily makes him¶ averse to far−reaching attempts to limit his own room for effective political¶ and administrative action, especially when the stakes are high, as is manifestly¶ the case in counterterrorism. Understandably, he needs to worry that the¶ electorate will punish him −− and not the Congress or Supreme Court −− for¶ mistakes which might result in deadly terrorist attacks on US citizens. Given¶ the institutional dynamics of a presidential system characterized by¶ more−or−less permanent rivalry, it is hardly surprising that he has held onto so¶ much of the prerogative power successfully claimed for the executive branch¶ by his right−wing predecessor. As Obama's own political advisors have been¶ vocally telling him since 2009, it might indeed prove politically perilous if he¶ were to go too far in abandoning the substantial discretionary powers he enjoys¶ in the war on terror. Unfortunately, their "sound" political advice −− which¶ indeed may have helped Obama get reelected −− simultaneously has had¶ deeply troublesome humanitarian and legal consequences.