# 1AC Round 2

### Hegemony

#### Domestic and international support for the US drone program is collapsing, threatening to shut it down entirely. Reform is key.

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In his Nobel Peace Prize acceptance speech, President Obama declared: “Where force is necessary, we have a moral and strategic interest in binding ourselves to certain rules of conduct. Even as we confront a vicious adversary that abides by no rules, I believe the United States of America must remain a standard bearer in the conduct of war.”63 Under President Obama drone strikes have expanded and intensified, and they will remain a central component of U.S. counterterrorism operations for at least another decade, according to U.S. officials.64 But much as the Bush administration was compelled to reform its controversial counterterrorism practices, it is likely that the United States will ultimately be forced by domestic and international pressure to scale back its drone strike policies. The Obama administration can preempt this pressure by clearly articulating that the rules that govern its drone strikes, like all uses of military force, are based in the laws of armed conflict and international humanitarian law; by engaging with emerging drone powers; and, most important, by matching practice with its stated policy by limiting drone strikes to those individuals it claims are being targeted (which would reduce the likelihood of civilian casualties since the total number of strikes would significantly decrease). The choice the United States faces is not between unfettered drone use and sacrificing freedom of action, but between drone policy reforms by design or drone policy reforms by default. Recent history demonstrates that domestic political pressure could severely limit drone strikes in ways that the CIA or JSOC have not anticipated. In support of its counterterrorism strategy, the Bush administration engaged in the extraordinary rendition of terrorist suspects to third countries, the use of enhanced interrogation techniques, and warrantless wiretapping. Although the Bush administration defended its policies as critical to protecting the U.S. homeland against terrorist attacks, unprecedented domestic political pressure led to significant reforms or termination. Compared to Bush-era counterterrorism policies, drone strikes are vulnerable to similar—albeit still largely untapped—moral outrage, and they are even more susceptible to political constraints because they occur in plain sight. Indeed, a negative trend in U.S. public opinion on drones is already apparent. Between February and June 2012, U.S. support for drone strikes against suspected terrorists fell from 83 percent to 62 percent—which represents less U.S. support than enhanced interrogation techniques maintained in the mid-2000s.65 Finally, U.S. drone strikes are also widely opposed by the citizens of important allies, emerging powers, and the local populations in states where strikes occur.66 States polled reveal overwhelming opposition to U.S. drone strikes: Greece (90 percent), Egypt (89 percent), Turkey (81 percent), Spain (76 percent), Brazil (76 percent), Japan (75 percent), and Pakistan (83 percent).67 This is significant because the United States cannot conduct drone strikes in the most critical corners of the world by itself. Drone strikes require the tacit or overt support of host states or neighbors. If such states decided not to cooperate—or to actively resist—U.S. drone strikes, their effectiveness would be immediately and sharply reduced, and the likelihood of civilian casualties would increase. This danger is not hypothetical. In 2007, the Ethiopian government terminated its U.S. military presence after public revelations that U.S. AC-130 gunships were launching attacks from Ethiopia into Somalia. Similarly, in late 2011, Pakistan evicted all U.S. military and intelligence drones, forcing the United States to completely rely on Afghanistan to serve as a staging ground for drone strikes in Pakistan. The United States could attempt to lessen the need for tacit host-state support by making significant investments in armed drones that can be flown off U.S. Navy ships, conducting electronic warfare or missile attacks on air defenses, allowing downed drones to not be recovered and potentially transferred to China or Russia, and losing access to the human intelligence networks on the ground that are critical for identifying targets. According to U.S. diplomats and military officials, active resistance— such as the Pakistani army shooting down U.S. armed drones— is a legitimate concern. In this case, the United States would need to either end drone sorties or escalate U.S. military involvement by attacking Pakistani radar and antiaircraft sites, thus increasing the likelihood of civilian casualties.68 Beyond where drone strikes currently take place, political pressure could severely limit options for new U.S. drone bases. For example, the Obama administration is debating deploying armed drones to attack al-Qaeda in the Islamic Maghreb (AQIM) in North Africa, which would likely require access to a new airbase in the region. To some extent, anger at U.S. sovereignty violations is an inevitable and necessary trade-off when conducting drone strikes. Nevertheless, in each of these cases, domestic anger would partially or fully abate if the United States modified its drone policy in the ways suggested below.

#### And, Drones are critical to resolve U.S. military overreach and prevent reductions in power projection capacity

Rushforth 12 (Elinor June, J.D. candidate, University of Arizona, James E. Rogers College of Law, “THERE'S AN APP FOR THAT: IMPLICATIONS OF ARMED DRONE ATTACKS AND PERSONALITY STRIKES BY THE UNITED STATES AGAINST NON-CITIZENS, 2004-2012” Arizona Journal of International and Comparative Law 29 Ariz. J. Int'l & Comp. Law 623, Lexis)

G. Arguments Made by Proponents of the Drone Program The drone program is a fixture in the Obama administration's fight against terror n163 and the moral and legal defense the administration offers serves as an indication that these attacks will continue. n164 Further, proponents of the drone program argue their use reduces risk to U.S. service members, decreases American weariness at foreign intervention, and minimizes civilian casualties during attacks and missions. First, because asymmetric warfare has increased, the United States has sought out creative ways to fight terrorists, insurgents, and asymmetric wars more generally. n165 Despite controversy surrounding the drone program, it allows surveillance and lethal missions without putting U.S. troops in harm's way. n166 This is an almost incontrovertible positive factor when considering American public support for a new and technologically incredible program. n167 Due to the lingering Overseas Contingency Operations, Americans are eager for some good news, and this program can deliver. Drone operators are on the front lines of a new and more sophisticated type of war and the information their surveillance missions provide can prove invaluable to service members on the ground. n168 This dual benefit weighs heavily in favor of drone proliferation. Drones can be [\*649] deployed to survey and attack where it would otherwise be impractical for troops, and a single pilot, to venture. n169 However, the analysis of this benefit must be separated between the two organizations employing drones: the military and the CIA. n170 Drones are used for surveillance and killing by both organizations but usually with different purposes in mind. n171 The military has focused its drones primarily on tactical support of ground forces, n172 either by providing information about enemy tactics or eliminating combatants entrenched in defended positions. n173 The CIA uses drones to eliminate specific targets in remote areas in which conventional U.S. military action would be impossible. n174 During Operation Southern Watch, the military used drones to police no-fly zones in Iraq and they were eventually used to target Iraqi radar systems during the second Iraq War. n175 In Operation Enduring Freedom, the military has expanded its use of armed drones to provide air support to ground operations and to act as "killer scouts." n176 By providing immediate battle damage assessment, drones enable commanders to determine if further action is necessary, and provide a new perspective on the field. n177 In Operation Iraqi Freedom, the armed drone retained and expanded its roles targeting anti-aircraft vehicles, performing as a decoy revealing enemy positions, and aiding in a rescue mission. n178 Based on these successes, military leaders maintain the value of drones. n179 The CIA's use [\*650] of drones facilitates U.S. attacks in environments where it is deemed too dangerous for ground troops to have a physical presence. n180 The ability to protect American lives, keep military costs down, and damage terrorist infrastructure and leadership is central to proponents' view of this program. Second, the American public has grown tired of drawn-out conflicts and foreign intervention, and the drone program offers a more palatable form of foreign involvement. n181 President Obama claims that "it is time to focus on nation-building here at home" and, presumably, the drone program allows the government to operate without deployment of ground troops to areas in which intervention is deemed necessary, be it for humanitarian or military purposes. n182 Lethal operations, surveillance for U.S. military operations, and less costly intervention all become possible when robots are the actual tools. With a weary electorate, the Executive can maintain a presence abroad militarily, while remaining able to argue that its full focus is on protecting and growing our nation at home.

#### And, overreach collapses hegemony through increased isolationism, risking challengers and nuclear war.

Florig, prof International Studies, 10 (Dennis, Professor- Division of International Studies- Hankuk (Korean) University of Foreign Studies, Review of International Studies, vol 36, issue 4, October, 2010, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=1548783)

IV. Potential Sources of Hegemonic Breakdown and Future Challenges to Hegemony Despite the belief of some in the U.S. in the divine sanction of U.S. hegemony, hegemons do not stand forever any more than the houses of absolute monarchs of earlier ages who claimed celestial legitimation. Theory of hegemonic cycles focuses on the macro-historical process of the rise and decline of hegemonic powers. However, within any one of the long cycles, there are lesser periods of hegemonic weakening and regeneration. The loss of the Vietnam War followed by the oil shock induced recessions of the 1970s and the early 1980s led some to predict the imminent breakdown of U.S. hegemony. The decisive victory in the first Iraq war and the revival of the U.S. economy in the 1990s led others to talk of a second American century. Both were premature. Similarly, the short term outcome of the war in Iraq, whether it is the stabilization of a pro-American regime, the coming to power of a government unfriendly to the U.S. or on-going civil war will almost certainly lead either to new euphoric pronouncements about the 21st century belonging to the U.S. or claims that the end of U.S. hegemony are nigh. Again, either conclusion will most likely be premature. However, the outcome on the main battlefield so far in the Terrorism Wars will indicate much about the future direction of the global system. Hegemonic states and even hegemonic systems do have life spans, however hard it is to gauge them. On the home front, the Iraq War, like the Vietnam War before it, has laid bare one of the key problems of U.S. missionary hegemony—the fervor of elites is not always matched by the willingness of the population to sacrifice. The expansive, messianic conception of the U.S. role in the world predominates in American thinking, but it is not without challenge. The image of the U.S. as a “shining city on a hill” is rarely disputed, but the need for the U.S. to engage in military conflict abroad to spread its principles does come into question when the costs become too high and the benefits are not apparent.24 After World War I the ideology of American mission was not strong enough to overcome the resistance of ordinary citizens at being conscripted to fight in distant conflicts overseas and political elites not yet accommodated to the multilateralism hegemony entails. Thus there was a period of renunciation of hegemonic ambitions. Certainly since World War II the missionary ideology has held sway among policymaking elites. However, the political unpopularity of the long Vietnam War and the second Iraq War show that the average American citizen does not share the elite’s taste for battle overseas if the sacrifice in blood and treasure becomes steep. There is a cycle of hegemonic overreach, political reaction to the costs of failed policies, and then rebuilding of the ideology of messianic intervention. American sense of exceptionalism does not disappear at any time during this process. However, in the reactive part of the cycle the “city on the hill” tends to try to turn inward, wanting more to avoid contamination from the impure world outside than to take on new challenges. But since that conception of America is not adequate to sustain U.S. hegemony, the sense of America’s world historic mission must be painstaking rebuilt through political rhetoric, spoon feeding the mass media the right pictures of the world, and infusing civil society with political messianism. Someday either the overreach may be too costly and/or the public resistance may be too great to effectively rebuild the American missionary ideology. But that day does not seem just around the corner. There is an even larger question than whether the U.S. will remain the hegemonic state within a western dominated system. How long will the West remain hegemonic in the global system?25 Since Spengler the issue of the decline of the West has been debated. It would be hard to question current western dominance of virtually every global economic, political, military, or ideological system today. In some ways the domination of the West seems even more firm than it was in the past because the West is no longer a group of fiercely competing states but a much more cohesive force. In the era of western domination, breakdown of the rule of each hegemonic state has come because of competition from powerful rival western states at the core of the system leading to system-wide war. The unique characteristic of the Cold War and particularly the post-Cold War system is that the core capitalist states are now to a large degree politically united and increasingly economically integrated. In the 21st century, two factors taking place outside the West seem more of a threat to the reproduction of the hegemony of the American state and the western system than conflict between western states: 1. resistance to western hegemony in the Muslim world and other parts of the subordinated South, and 2. the rise of newly powerful or reformed super states. Relations between the core and periphery have already undergone one massive transformation in the 20th century—decolonization. The historical significance of decolonization was overshadowed somewhat by the emergence of the Cold War and the nuclear age. Recognition of its impact was dampened somewhat by the subsequent relative lack of change of fundamental economic relations between core and periphery. But one of the historical legacies of decolonization is that ideological legitimation has become more crucial in operating the global system. The manufacture of some level of consent, particularly among the elite in the periphery has to some degree replaced brute domination. Less raw force is necessary but in return a greater burden of ideological and cultural legitimation is required. Now it is no longer enough for colonials to obey, willing participants must believe. Therefore, cultural and ideological challenges to the foundations of the liberal capitalist world view assume much greater significance. Thus the resurgence of Islamic fundamentalism, ethnic nationalism, and even social democracy in Latin America as ideologies of opposition have increasing significance in a system dependent on greater levels of willing consent. As Ayoob suggests, the sustained resistance within the Islamic world to western hegemony may have a “demonstration effect” on other southern states with similar grievances against the West.26 The other new dynamic is the re-emergence of great states that at one time or another have been brought low by the western hegemonic system. China, in recent centuries low on the international division of labor, was in some ways a classic case of a peripheral state, or today a semi-peripheral state. But its sheer size, its rapid growth, its currency reserves, its actual and potential markets, etc. make it a major power and a potential future counter hegemon. India lags behind China, but has similar aspirations. Russia has fallen from great power to semi-peripheral status since the collapse of the Soviet empire, but its energy resources and the technological skills of its people make recovery of its former greatness possible. No one knows exactly what the resurgence of Asia portends for the future. However, just as half a century ago global decolonization was a blow to western domination, so the shift in economic production to Asia will redefine global power relations throughout the 21st century. Classical theory of hegemonic cycle is useful if not articulated in too rigid a form. Hegemonic systems do not last forever; they do have a life span. The hegemonic state cannot maintain itself as the fastest growing major economy forever and thus eventually will face relative decline against some major power or powers. The hegemon faces recurrent challenges both on the periphery and from other major powers who feel constrained by the hegemon’s power or are ambitious to usurp its place. Techniques of the application of military force and ideological control may become more sophisticated over time, but so too do techniques of guerilla warfare and ideological forms of resistance such as religious fundamentalism, nationalism, and politicization of ethnic identity. World war may not be imminent, but wars on the periphery have become quite deadly, and the threat of the use of nuclear weapons or other WMD by the rising number of powers who possess them looms.

#### And, power projection solves every scenario for extinction

Brzezinski, John Hopkins American Foreign Policy professor, 2012

(Zbigniew, Strategic Vision: America and the Crisis of Global Power, google books, ldg)

An American decline would impact the nuclear domain most profoundly by inciting a crisis of confidence in the credibility of the American nuclear umbrella. Countries like South Korea, Taiwan, Japan, Turkey, and even Israel, among others, rely on the United States’ extended nuclear deterrence for security. If they were to see the United States slowly retreat from certain regions, forced by circumstances to pull back its guarantees, or even if they were to lose confidence in standing US guarantees, because of the financial, political, military, and diplomatic consequences of an American decline, then they will have to seek security elsewhere. That “elsewhere” security could originate from only two sources: from nuclear weapons of one’s own or from the extended deterrence of another power—most likely Russia, China, or India. It is possible that countries that feel threatened by the ambition of existing nuclear weapon states, the addition of new nuclear weapon states, or the decline in the reliability of American power would develop their own nuclear capabilities. For crypto-nuclear powers like Germany and Japan, the path to nuclear weapons would be easy and fairly quick, given their extensive civilian nuclear industry, their financial success, and their technological acumen. Furthermore, the continued existence of nuclear weapons in North Korea and the potentiality of a nuclear-capable Iran could prompt American allies in the Persian Gulf or East Asia to build their own nuclear deterrents. Given North Korea’s increasingly aggressive and erratic behavior, the failure of the six-party talks, and the widely held distrust of Iran’s megalomaniacal leadership, the guarantees offered by a declining America’s nuclear umbrella might not stave off a regional nuclear arms race among smaller powers. Last but not least, even though China and India today maintain a responsible nuclear posture of minimal deterrence and “no first use,” the uncertainty of an increasingly nuclear world could force both states to reevaluate and escalate their nuclear posture. Indeed, they as well as Russia might even become inclined to extend nuclear assurances to their respective client states. Not only could this signal a renewed regional nuclear arms race between these three aspiring powers but it could also create new and antagonistic spheres of influence in Eurasia driven by competitive nuclear deterrence. The decline of the United States would thus precipitate drastic changes to the nuclear domain. An increase in proliferation among insecure American allies and/or an arms race between the emerging Asian powers are among the more likely outcomes. This ripple effect of proliferation would undermine the transparent management of the nuclear domain and increase the likelihood of interstate rivalry, miscalculation, and eventually even perhaps of international nuclear terror. In addition to the foregoing, in the course of this century the world will face a series of novel geopolitical challenges brought about by significant changes in the physical environment. The management of those changing environmental commons—the growing scarcity of fresh water, the opening of the Arctic, and global warming—will require global consensus and mutual sacrifice. American leadership alone is not enough to secure cooperation on all these issues, but a decline in American influence would reduce the likelihood of achieving cooperative agreements on environmental and resource management. America’s retirement from its role of global policeman could create greater opportunities for emerging powers to further exploit the environmental commons for their own economic gain, increasing the chances of resource-driven conflict, particularly in Asia. The latter is likely to be the case especially in regard to the increasingly scarce water resources in many countries. According to the United States Agency for International Development (USAID), by 2025 more than 2.8 billion people will be living in either water-scarce or water-stressed regions, as global demand for water will double every twenty years.9 While much of the Southern Hemisphere is threatened by potential water scarcity, interstate conflicts—the geopolitical consequences of cross-border water scarcity—are most likely to occur in Central and South Asia, the Middle East, and northeastern Africa, regions where limited water resources are shared across borders and political stability is transient. The combination of political insecurity and resource scarcity is a menacing geopolitical combination. The threat of water conflicts is likely to intensify as the economic growth and increasing demand for water in emerging powers like Turkey and India collides with instability and resource scarcity in rival countries like Iraq and Pakistan. Water scarcity will also test China’s internal stability as its burgeoning population and growing industrial complex combine to increase demand for and decrease supply of usable water. In South Asia, the never-ending political tension between India and Pakistan combined with overcrowding and Pakistan’s heightening internal crises may put the Indus Water Treaty at risk, especially because the river basin originates in the long-disputed territory of Jammu and Kashmir, an area of ever-increasing political and military volatility. The lingering dispute between India and China over the status of Northeast India, an area through which the vital Brahmaputra River flows, also remains a serious concern. As American hegemony disappears and **regional competition intensifies**, disputes over natural resources like water have the potential to develop into full-scale conflicts. The slow thawing of the Arctic will also change the face of the international competition for important resources. With the Arctic becoming increasingly accessible to human endeavor, the five Arctic littoral states—the United States, Canada, Russia, Denmark, and Norway—may rush to lay claim to its bounty of oil, gas, and metals. This run on the Arctic has the potential to cause severe shifts in the geopolitical landscape, particularly to Russia’s advantage. As Vladimir Radyuhin points out in his article entitled “The Arctic’s Strategic Value for Russia,” Russia has the most to gain from access to the Arctic while simultaneously being the target of far north containment by the other four Arctic states, all of which are members of NATO. In many respects this new great game will be determined by who moves first with the most legitimacy, since very few agreements on the Arctic exist. The first Russian supertanker sailed from Europe to Asia via the North Sea in the summer of 2010.10 Russia has an immense amount of land and resource potential in the Arctic. Its territory within the Arctic Circle is 3.1 million square kilometers—around the size of India—and the Arctic accounts for 91% of Russia’s natural gas production, 80% of its explored natural gas reserves, 90% of its offshore hydrocarbon reserves, and a large store of metals.11 Russia is also attempting to increase its claim on the territory by asserting that its continental shelf continues deeper into the Arctic, which could qualify Russia for a 150-mile extension of its Exclusive Economic Zone and add another 1.2 million square kilometers of resource-rich territory. Its first attempt at this extension was denied by the UN Commission on the Continental Shelf, but it is planning to reapply in 2013. Russia considers the Arctic a true extension of its northern border and in a 2008 strategy paper President Medvedev stated that the Arctic would become Russia’s “main strategic resource base” by 2020.12 Despite recent conciliatory summits between Europe and Russia over European security architecture, a large amount of uncertainty and distrust stains the West’s relationship with Russia. The United States itself has always maintained a strong claim on the Arctic and has continued patrolling the area since the end of the Cold War. This was reinforced during the last month of President Bush’s second term when he released a national security directive stipulating that America should “preserve the global mobility of the United States military and civilian vessels and aircraft throughout the Arctic region.” The potentiality of an American decline could embolden Russia to more forcefully assert its control of the Arctic and over Europe via energy politics; though much depends on Russia’s political orientation after the 2012 presidential elections. All five Arctic littoral states will benefit from a peaceful and cooperative agreement on the Arctic—similar to Norway’s and Russia’s 2010 agreement over the Barents Strait—and the geopolitical stability it would provide. Nevertheless, political circumstances could rapidly change in an environment where control over energy remains Russia’s single greatest priority. Global climate change is the final component of the environmental commons and the one with the greatest potential geopolitical impact. Scientists and policy makers alike have projected catastrophic consequences for mankind and the planet if the world average temperature rises by more than two degrees over the next century. Plant and animal species could grow extinct at a rapid pace, large-scale ecosystems could collapse, human migration could increase to untenable levels, and global economic development could be categorically reversed. Changes in geography, forced migration, and global economic contraction layered on top of the perennial regional security challenges could create a geopolitical reality of unmanageable complexity and conflict, especially in the densely populated and politically unstable areas of Asia such as the Northeast and South. Furthermore, any legitimate action inhibiting global climate change will require unprecedented levels of self-sacrifice and international cooperation. The United States does consider climate change a serious concern, but its lack of both long-term strategy and political commitment, evidenced in its refusal to ratify the Kyoto Protocol of 1997 and the repeated defeat of climate-change legislation in Congress, deters other countries from participating in a global agreement. The United States is the second-largest global emitter of carbon dioxide, after China, with 20% of the world’s share. The United States is the number one per capita emitter of carbon dioxide and the global leader in per capita energy demand. Therefore, US leadership is essential in not only getting other countries to cooperate, but also in actually inhibiting climate change. Others around the world, including the European Union and Brazil, have attempted their own domestic reforms on carbon emissions and energy use, and committed themselves to pursuing renewable energy. Even China has made reducing emissions a goal, a fact it refuses to let the United States ignore. But none of those nations currently has the ability to lead a global initiative. President Obama committed the United States to energy and carbon reform at the Copenhagen Summit in 2009, but the increasingly polarized domestic political environment and the truculent American economic recovery are unlikely to inspire progress on costly energy issues. China is also critically important to any discussion of the management of climate change as it produces 21% of the world’s total carbon emissions, a percentage that will only increase as China develops the western regions of its territory and as its citizens experience a growth in their standard of living. China, however, has refused to take on a leadership role in climate change, as it has also done in the maritime, space, and cyberspace domains. China uses its designation as a developing country to shield itself from the demands of global stewardship. China’s tough stance at the 2009 Copenhagen Summit underscores the potential dangers of an American decline: no other country has the capacity and the desire to accept global stewardship over the environmental commons. Only a vigorous Unites States could lead on climate change, given Russia’s dependence on carbon-based energies for economic growth, India’s relatively low emissions rate, and China’s current reluctance to assume global responsibility. The protection and good faith management of the global commons—sea, space, cyberspace, nuclear proliferation, water security, the Arctic, and the environment itself—**are imperative to** the long-term growth of the global economy and **the continuation of** basic geopolitical **stability**. But in almost every case, the potential absence of constructive and influential US leadership would fatally undermine the essential communality of the global commons.     The argument that America’s decline would generate global insecurity, endanger some vulnerable states, produce a more troubled North American neighborhood, and make cooperative management of the global commons more difficult is not an argument for US global supremacy. In fact, the strategic complexities of the world in the twenty-first century—resulting from the rise of a politically self-assertive global population and from the dispersal of global power—make such supremacy unattainable. But in this increasingly complicated geopolitical environment, an America in pursuit of a new, timely strategic vision is crucial to helping the world avoid a dangerous slide into international turmoil.

#### Legitimacy of the drone program is critical internal link to drone operations-- key to allied and public support of US leadership.

Kennedy, Foreign Policy prof-Kings College, 13 (Greg, Professor of Strategic Foreign Policy at the Defence Studies Department, King's College London, Drones: Legitimacy and Anti-Americanism, http://www.strategicstudiesinstitute.army.mil/pubs/parameters/Issues/WinterSpring\_2013/3\_Article\_Kennedy.pdf)

The current debate over the legitimacy of America’s use of drones to deliver deadly force is taking place in both public and official domains in the United States and many other countries.5 The four key features at the heart of the debate revolve around: who is controlling the weapon system; does the system of control and oversight violate international law governing the use of force; are the drone strikes proportionate acts that provide military effectiveness given the circumstances of the conflict they are being used in; and does their use violate the sovereignty of other nations and allow the United States to disregard formal national boundaries? Unless these four questions are dealt with in the near future the impact of the unresolved legitimacy issues will have a number of repercussions for American foreign and military policies: “Without a new doctrine for the use of drones that is understandable to friends and foes, the United States risks achieving near-term tactical benefits in killing terrorists while incurring potentially significant longer-term costs to its alliances, global public opinion, the war on terrorism and international stability.”6 This article will address only the first three critical questions. The question of who controls the drones during their missions is attracting a great deal of attention. The use of drones by the Central Intelligence Agency (CIA) to conduct “signature strikes” is the most problematic factor in this matter. Between 2004 and 2013, CIA drone attacks in Pakistan killed up to 3,461—up to 891 of them civilians.7 Not only is the use of drones by the CIA the issue, but subcontracting operational control of drones to other civilian agencies is also causing great concern.8 Questions remain as to whether subcontractors were controlling drones during actual strike missions, as opposed to surveillance and reconnaissance activities. Nevertheless, the intense questioning of John O. Brennan, President Obama’s nominee for director of the CIA in February 2013, over drone usage, the secrecy of their controllers and orders, and the legality of their missions confirmed the level of concern America’s elected officials have regarding the legitimacy of drone use. Furthermore, perceptions and suspicions of illegal clandestine intelligence agency operations, already a part of the public and official psyche due to experiences from Vietnam, Iran-Contra, and Iraq II and the weapons of mass destruction debacle, have been reinforced by CIA management of drone capability. Recent revelations about the use of secret Saudi Arabian facilities for staging American drone strikes into Yemen did nothing to dissipate such suspicions of the CIA’s lack of legitimacy in its use of drones.9 The fact that the secret facility was the launching site for drones used to kill American citizens Anwar al-Awlaki and his son in September 2011, both classified by the CIA as al-Qaedalinked threats to US security, only deepened such suspicions. Despite the fact that Gulf State observers and officials knew about American drones operating from the Arabian peninsula for years, the existence of the CIA base was not openly admitted in case such knowledge should “ . . . damage counter-terrorism collaboration with Saudi Arabia.”10 The fallout from CIA involvement and management of drone strikes prompted Senator Dianne Feinstein, Chairwoman of the Senate Intelligence Committee, to suggest the need for a court to oversee targeted killings. Such a body, she said, would replicate the Foreign Intelligence Surveillance Court, which oversees eavesdropping on American soil.11 Most importantly, such oversight would go a long way towards allaying fears of the drone usage lacking true political accountability and legitimacy. In addition, as with any use of force, drone strikes in overseas contingency operations can lead to increased attacks on already weak governments partnered with the United States. They can lead to retaliatory attacks on local governments and may contribute to local instability. Those actions occur as a result of desires for revenge and frustrations caused by the strikes. Feelings of hostility are often visited on the most immediate structures of authority—local government officials, government buildings, police, and the military.12 It can thus be argued that, at the strategic level, drone strikes are fuelling anti-American resentment among enemies and allies alike. Those reactions are often based on questions regarding the legality, ethicality, and operational legitimacy of those acts to deter opponents. Therefore, specifically related to the reaction of allies, the military legitimacy question arises if the use of drones endangers vital strategic relationships.13 One of the strategic relationships being affected by the drone legitimacy issue is that of the United States and the United Kingdom. Targeted killing, by drone strike or otherwise, is not the sole preserve of the United States. Those actions, however, attract more negative attention to the United States due to its prominence on the world’s stage, its declarations of support for human rights and democratic freedoms, and rule-of-law issues, all which appear violated by such strikes. This complexity and visibility make such targeted killings important for Anglo-American strategic relations because of the closeness of that relationship and the perception that Great Britain, therefore, condones such American activities. Because the intelligence used in such operations is seen by other nations as a shared Anglo-American asset, the use of such intelligence to identify and conduct such killings, in the opinion of many, makes Great Britain culpable in the illegality and immorality of those operations.14 Finally, the apparent gap between stated core policies and values and the ability to practice targeted killings appears to be a starkly hypocritical and deceitful position internationally, a condition that once again makes British policymakers uncomfortable with being tarred by such a brush.15 The divide between US policy and action is exacerbated by drone technology, which makes the once covert practice of targeted killing commonplace and undeniable. It may also cause deep-rooted distrust due to a spectrum of legitimacy issues. Such questions will, therefore, undermine the US desire to export liberal democratic principles. Indeed, it may be beneficial for Western democracies to achieve adequate rather than decisive victories, thereby setting an example of restraint for the international order.16 The United States must be willing to engage and deal with drone-legitimacy issues across the entire spectrum of tactical, operational, strategic, and political levels to ensure its strategic aims are not derailed by operational and tactical expediency.

### Terrorism

#### Scenario 2- Terrorism:

#### US counter-terrorism efforts are failing. Overreliance on drones results in civilian deaths that cause blowback- terrorist groups use civilian deaths for recruitment and fundraising, their key strategies for resurgence.

Cronin, prof-GMU, 13 (Audrey Kurth, Professor of Public Policy at George Mason University and the author of How Terrorism Ends: Understanding the Decline and Demise of Terrorist Campaigns, “Why Drones Fail,” Foreign Affairs, Jul/Aug2013, Vol. 92, Issue 4)

Like any other weapon, armed drones can be tactically useful. But are they helping advance the strategic goals of U.S. counterterrorism? Although terrorism is a tactic, it can succeed only on the strategic level, by leveraging a shocking event for political gain. To be effective, counterterrorism must itself respond with a coherent strategy. The problem for Washington today is that its drone program has taken on a life of its own, to the point where tactics are driving strategy rather than the other way around. The main goals of U.S. counterterrorism are threefold: the strategic defeat of al Qaeda and groups affiliated with it, the containment of local conflicts so that they do not breed new enemies, and the preservation of the security of the American people. Drones do not serve all these goals. Although they can protect the American people from attacks in the short term, they are not helping to defeat al Qaeda, and they may be creating sworn enemies out of a sea of local insurgents. It would be a mistake to embrace killer drones as the centerpiece of U.S. counterterrorism. AL QAEDA'S RESILIENCE At least since 9/11, the United States has sought the end of al Qaeda -- not just to set it back tactically, as drones have surely done, but also to defeat the group completely. Terrorist organizations can meet their demise in a variety of ways, and the killing of their leaders is certainly one of them. Abu Sayyaf, an Islamist separatist group in the Philippines, lost its political focus, split into factions, and became a petty criminal organization after the army killed its leaders in 2006 and 2007. In other cases, however, including those of the Shining Path in Peru and Action Directe in France, the humiliating arrest of a leader has been more effective. By capturing a terrorist leader, countries can avoid creating a martyr, win access to a storehouse of intelligence, and discredit a popular cause. Despite the Obama administration's recent calls for limits on drone strikes, Washington is still using them to try to defeat al Qaeda by killing off its leadership. But the terrorist groups that have been destroyed through decapitation looked nothing like al Qaeda: they were hierarchically structured, characterized by a cult of personality, and less than ten years old, and they lacked a clear succession plan. Al Qaeda, by contrast, is a resilient, 25-year-old organization with a broad network of outposts. The group was never singularly dependent on Osama bin Laden's leadership, and it has proved adept at replacing dead operatives. Drones have inflicted real damage on the organization, of course. In Pakistan, the approximately 350 strikes since 2004 have cut the number of core al Qaeda members in the tribal areas by about 75 percent, to roughly 50-100, a powerful answer to the 2001 attacks they planned and orchestrated nearby. As al Qaeda's center of gravity has shifted away from Pakistan to Yemen and North Africa, drone strikes have followed the terrorists. In September 2011, Michael Vickers, the U.S. undersecretary of defense for intelligence, estimated that there were maybe four key al Qaeda leaders remaining in Pakistan and about ten or 20 leaders overall in Pakistan, Somalia, and Yemen. Drones have also driven down the overall level of violence in the areas they have hit. The political scientists Patrick Johnston and Anoop Sarbahi recently found that drone strikes in northwestern Pakistan from 2007 to 2011 resulted in a decrease in the number and lethality of militant attacks in the tribal areas where they were conducted. Such strikes often lead militants simply to go somewhere else, but that can have value in and of itself. Indeed, the drone threat has forced al Qaeda operatives and their associates to change their behavior, keeping them preoccupied with survival and hindering their ability to move, plan operations, and carry them out. The fighters have proved remarkably adaptable: a document found left behind in February 2013 by Islamist fighters fleeing Mali detailed 22 tips for avoiding drone attacks, including using trees as cover, placing dolls and statues outside to mislead aerial intelligence, and covering vehicles with straw mats. Nonetheless, the prospect of living under the threat of instant death from above has made recruitment more difficult and kept operatives from establishing close ties to local civilians, who fear they might also be killed. But the benefits end there, and there are many reasons to believe that drone strikes are undermining Washington's goal of destroying al Qaeda. Targeted killings have not thwarted the group's ability to replace dead leaders with new ones. Nor have they undermined its propaganda efforts or recruitment. Even if al Qaeda has become less lethal and efficient, its public relations campaigns still allow it to reach potential supporters, threaten potential victims, and project strength. If al Qaeda's ability to perpetuate its message continues, then the killing of its members will not further the long-term goal of ending the group. Not only has al Qaeda's propaganda continued uninterrupted by the drone strikes; it has been significantly enhanced by them. As Sahab (The Clouds), the propaganda branch of al Qaeda, has been able to attract recruits and resources by broadcasting footage of drone strikes, portraying them as indiscriminate violence against Muslims. Al Qaeda uses the strikes that result in civilian deaths, and even those that don't, to frame Americans as immoral bullies who care less about ordinary people than al Qaeda does. And As Sahab regularly casts the leaders who are killed by drones as martyrs. It is easy enough to kill an individual terrorist with a drone strike, but the organization's Internet presence lives on. A more effective way of defeating al Qaeda would be to publicly discredit it with a political strategy aimed at dividing its followers. Al Qaeda and its various affiliates do not together make up a strong, unified organization. Different factions within the movement disagree about both long-term objectives and short-term tactics, including whether it is acceptable to carry out suicide attacks or kill other Muslims. And it is in Muslim-majority countries where jihadist violence has taken its worst toll. Around 85 percent of those killed by al Qaeda's attacks have been Muslims, a fact that breeds revulsion among its potential followers. The United States should be capitalizing on this backlash. In reality, there is no equivalence between al Qaeda's violence and U.S. drone strikes -- under the Obama administration, drones have avoided civilians about 86 percent of the time, whereas al Qaeda purposefully targets them. But the foolish secrecy of Washington's drone program lets critics allege that the strikes are deadlier and less discriminating than they really are. Whatever the truth is, the United States is losing the war of perceptions, a key part of any counterterrorism campaign. Since 2010, moreover, U.S. drone strikes have progressed well beyond decapitation, now targeting al Qaeda leaders and followers alike, as well as a range of Taliban members and Yemeni insurgents. With its so-called signature strikes, Washington often goes after people whose identity it does not know but who appear to be behaving like militants in insurgent-controlled areas. The strikes end up killing enemies of the Pakistani, Somali, and Yemeni militaries who may not threaten the United States at all. Worse, because the targets of such strikes are so loosely defined, it seems inevitable that they will kill some civilians. The June 2011 claim by John Brennan, President Barack Obama's top counterterrorism adviser at the time, that there had not been a single collateral death from drone attacks in the previous year strained credulity -- and badly undermined U.S. credibility. The drone campaign has morphed, in effect, into remote-control repression: the direct application of brute force by a state, rather than an attempt to deal a pivotal blow to a movement. Repression wiped out terrorist groups in Argentina, Brazil, Peru, and tsarist Russia, but in each case, it sharply eroded the government's legitimacy. Repression is costly, not just to the victims, and difficult for democracies to sustain over time. It works best in places where group members can be easily separated from the general population, which is not the case for most targets of U.S. drone strikes. Military repression also often results in violence spreading to neighboring countries or regions, which partially explains the expanding al Qaeda footprint in the Middle East and North Africa, not to mention the Caucasus. KEEPING LOCAL CONFLICTS LOCAL Short of defeating al Qaeda altogether, a top strategic objective of U.S. counterterrorism should be to prevent fighters in local conflicts abroad from aligning with the movement and targeting the United States and its allies. Military strategists refer to this goal as "the conservation of enemies," the attempt to keep the number of adversaries to a minimum. Violent jihadism existed long before 9/11 and will endure long after the U.S. war on terrorism finally ends. The best way for the United States to prevent future acts of international terrorism on its soil is to make sure that local insurgencies remain local, to shore up its allies' capacities, and to use short-term interventions such as drones rarely, selectively, transparently, and only against those who can realistically target the United States. The problem is that the United States can conceivably justify an attack on any individual or group with some plausible link to al Qaeda. Washington would like to disrupt any potentially powerful militant network, but it risks turning relatively harmless local jihadist groups into stronger organizations with eager new recruits. If al Qaeda is indeed becoming a vast collective of local and regional insurgents, the United States should let those directly involved in the conflicts determine the outcome, keep itself out, provide resources only to offset funds provided to radical factions, and concentrate on protecting the homeland. Following 9/11, the U.S. war on terrorism was framed in the congressional authorization to use force as a response to "those nations, organizations, or persons" responsible for the attacks. The name "al Qaeda," which does not appear in the authorization, has since become an ill-defined shorthand, loosely employed by terrorist leaders, counterterrorism officials, and Western pundits alike to describe a shifting movement. The vagueness of the U.S. terminology at the time was partly deliberate: the authorization was worded to sidestep the long-standing problem of terrorist groups' changing their names to evade U.S. sanctions. But Washington now finds itself in a permanent battle with an amorphous and geographically dispersed foe, one with an increasingly marginal connection to the original 9/11 plotters. In this endless contest, the United States risks multiplying its enemies and heightening their incentives to attack the country.

#### And, lack of transparency to the drone program collapses allied cooperation on terrorism, which is critical to intelligence sharing.

Human Rights First 13 (How to Ensure that the U.S. Drone Program does not Undermine Human Rights BLUEPRINT FOR THE NEXT ADMINISTRATION, Updated April 13, http://www.humanrightsfirst.org/wp-content/uploads/pdf/blueprints2012/HRF\_Targeted\_Killing\_blueprint.pdf)

The Obama Administration has dramatically escalated targeted killing by drones as a central feature of its counterterrorism response. Over the past two years, the administration has begun to reveal more about the targeted killing program, including in a leaked Department of Justice White paper on targeted killing1 and in public remarks by several senior officials.2 While this information is welcome, it does not fully address our concerns. Experts and other governments have continued to raise serious concerns about:  The precedent that the U.S. targeted killing policy is setting for the rest of the world, including countries that have acquired or are in the process of acquiring drones, yet have long failed to adhere to the rule of law and protect human rights;  The impact of the drone program on other U.S. counterterrorism efforts, including whether U.S. allies and other security partners have reduced intelligence-sharing and other forms of counterterrorism cooperation because of the operational and legal concerns expressed by these countries;  The impact of drone operations on other aspects of U.S. counterterrorism strategy, especially diplomatic and foreign assistance efforts designed to counter extremism, promote stability and provide economic aid;  The number of civilian casualties, including a lack of clarity on who the United States considers a civilian in these situations; and  Whether the legal framework for the program that has been publicly asserted so far by the administration comports with international legal requirements. The totality of these concerns, heightened by the lack of public information surrounding the program, require the administration to better explain the program and its legal basis, and to carefully review the policy in light of the global precedent it is setting and serious questions about the effectiveness of the program on the full range of U.S. counterterrorism efforts. While it is expected that elements of the U.S. government’s strategy for targeted killing will be classified, it is in the national interest that the government be more transparent about policy considerations governing its use as well as its legal justification, and that the program be subject to regular oversight. Furthermore, it is in U.S. national security interests to ensure that the rules of engagement are clear and that the program minimizes any unintended negative consequences. How the U.S. operates and publicly explains its targeted killing program will have far-reaching consequences. The manufacture and sale of unmanned aerial vehicles (UAVs) is an increasingly global industry and drone technology is not prohibitively complicated. Some 70 countries already possess UAVs3 —including Russia, Syria and Libya4 —and others are in the process of acquiring them. As White House counterterrorism chief John Brennan stated: the United States is "establishing precedents that other nations may follow, and not all of them will be nations that share our interests or the premium we put on protecting human life, including innocent civilians."5 By declaring that it is in an armed conflict with al Qaeda’s “associated forces” (a term it has not defined) without articulating limits to that armed conflict, the United States is inviting other countries to similarly declare armed conflicts against groups they consider to be security threats for purposes of assuming lethal targeting authority. Moreover, by announcing that all “members” of such groups are legally targetable, the United States is establishing exceedingly broad precedent for who can be targeted, even if it is not utilizing the full scope of this claimed authority.6 As an alternative to armed conflict-based targeting, U.S. officials have claimed targeted killings are justified as self-defense responding to an imminent threat, but have referred to a “flexible” or “elongated” concept of imminence,7 without adequately explaining what that means or how that complies with the requirements of international law. In a white paper leaked to NBC news in February 2013, for example, the Department of Justice adopts what it calls a “broader concept of imminence” that has no basis in law. According to the white paper, an imminent threat need be neither immediate nor specific. This is a dangerous, unprecedented and unwarranted expansion of widely-accepted understandings of international law.8 It is also not clear that the current broad targeted killing policy serves U.S. long-term strategic interests in combating international terrorism. Although it has been reported that some high-level operational leaders of al Qaeda have been killed in drone attacks, studies show that the vast majority of victims are not high-level terrorist leaders.9 National security analysts and former U.S. military officials increasingly argue that such tactical gains are outweighed by the substantial costs of the targeted killing program, including growing antiAmerican sentiment and recruiting support for al Qaeda. 10 General Stanley McChrystal has said: “What scares me about drone strikes is how they are perceived around the world. The resentment created by American use of unmanned strikes ... is much greater than the average American appreciates.”11 The broad targeted killing program has already strained U.S. relations with its allies and thereby impeded the flow of critical intelligence about terrorist operations.12

#### Allied cooperation on intelligence is critical to effective counterterrorism

McGill and Gray 12 (Anna-Katherine Staser McGill, David H. Gray, “Challenges to International Counterterrorism Intelligence Sharing,” Global Security Studies, Summer 2012, Volume 3, Issue 3, http://globalsecuritystudies.com/McGill%20Intel%20Share.pdf)

In his article “Old Allies and New Friends: Intelligence-Sharing in the War on Terror”, Derek Reveron states “the war on terror requires high levels of intelligence to identify a threat relative to the amount of force required to neutralize it” as opposed to the Cold War where the opposite was true (455). As a result, intelligence is the cornerstone of effective counterterrorism operations in the post 9/11 world. Though the United States has the most robust intelligence community in the world with immense capability, skills, and technology, its efficiency in counterterrorism issues depends on coalitions of both traditional allies and new allies. Traditional allies offer a certain degree of dependability through a tried and tested relationship based on similar values; however, newly cultivated allies in the war on terrorism offer invaluable insight into groups operating in their own back yard. The US can not act unilaterally in the global fight against terrorism. It doesn’t have the resources to monitor every potential terrorist hide-out nor does it have the time or capability to cultivate the cultural, linguistic, and CT knowledge that its new allies have readily available. The Department of Defense’s 2005 Quadrennial Review clearly states that the United States "cannot meet today's complex challenges alone. Success requires unified statecraft: the ability of the U.S. government to bring to, bear all elements of national power at home and to work in close cooperation with allies and partners abroad" (qtd in Reveron, 467). The importance of coalition building for the war on terrorism is not lost on US decision-makers as seen by efforts made in the post 9/11 climate to strengthen old relationships and build new ones; however, as seen in the following sections, the possible hindrances to effective, long term CT alliances must also be addressed in order to sustain current operations.

#### And, they’ll use nuclear and biological weapons

Allison, IR Director @ Harvard, 12 (Graham, Director, Belfer Center for Science and International Affairs; Douglas Dillon Professor of Government, Harvard Kennedy School, "Living in the Era of Megaterror", Sept 7, http://belfercenter.ksg.harvard.edu/publication/22302/living\_in\_the\_era\_of\_megaterror.html)

Forty years ago this week at the Munich Olympics of 1972, Palestinian terrorists conducted one of the most dramatic terrorist attacks of the 20th century. The kidnapping and massacre of 11 Israeli athletes attracted days of around-the-clock global news coverage of Black September’s anti-Israel message. Three decades later, on 9/11, Al Qaeda killed nearly 3,000 individuals at the World Trade Center and the Pentagon, announcing a new era of megaterror. In an act that killed more people than Japan’s attack on Pearl Harbor, a band of terrorists headquartered in ungoverned Afghanistan demonstrated that individuals and small groups can kill on a scale previously the exclusive preserve of states. Today, how many people can a small group of terrorists kill in a single blow? Had Bruce Ivins, the U.S. government microbiologist responsible for the 2001 anthrax attacks, distributed his deadly agent with sprayers he could have purchased off the shelf, tens of thousands of Americans would have died. Had the 2001 “Dragonfire” report that Al Qaeda had a small nuclear weapon (from the former Soviet arsenal) in New York City proved correct, and not a false alarm, detonation of that bomb in Times Square could have incinerated a half million Americans. In this electoral season, President Obama is claiming credit, rightly, for actions he and U.S. Special Forces took in killing Osama bin Laden. Similarly, at last week’s Republican convention in Tampa, Jeb Bush praised his brother for making the United States safer after 9/11. There can be no doubt that the thousands of actions taken at federal, state and local levels have made people safer from terrorist attacks. Many are therefore attracted to the chorus of officials and experts claiming that the “strategic defeat” of Al Qaeda means the end of this chapter of history. But we should remember a deeper and more profound truth. While applauding actions that have made us safer from future terrorist attacks, we must recognize that they have not reversed an inescapable reality: The relentless advance of science and technology is making it possible for smaller and smaller groups to kill larger and larger numbers of people. If a Qaeda affiliate, or some terrorist group in Pakistan whose name readers have never heard, acquires highly enriched uranium or plutonium made by a state, they can construct an elementary nuclear bomb capable of killing hundreds of thousands of people. At biotech labs across the United States and around the world, research scientists making medicines that advance human well-being are also capable of making pathogens, like anthrax, that can produce massive casualties. What to do? Sherlock Holmes examined crime scenes using a method he called M.M.O.: motive, means and opportunity. In a society where citizens gather in unprotected movie theaters, churches, shopping centers and stadiums, opportunities for attack abound. Free societies are inherently “target rich.” Motive to commit such atrocities poses a more difficult challenge. In all societies, a percentage of the population will be homicidal. No one can examine the mounting number of cases of mass murder in schools, movie theaters and elsewhere without worrying about a society’s mental health. Additionally, actions we take abroad unquestionably impact others’ motivation to attack us. As Faisal Shahzad, the 2010 would-be “Times Square bomber,” testified at his trial: “Until the hour the U.S. ... stops the occupation of Muslim lands, and stops killing the Muslims ... we will be attacking U.S., and I plead guilty to that.” Fortunately, it is more difficult for a terrorist to acquire the “means” to cause mass casualties. Producing highly enriched uranium or plutonium requires expensive industrial-scale investments that only states will make. If all fissile material can be secured to a gold standard beyond the reach of thieves or terrorists, aspirations to become the world’s first nuclear terrorist can be thwarted. Capabilities for producing bioterrorist agents are not so easily secured or policed. While more has been done, and much more could be done to further raise the technological barrier, as knowledge advances and technological capabilities to make pathogens become more accessible, the means for bioterrorism will come within the reach of terrorists. One of the hardest truths about modern life is that the same advances in science and technology that enrich our lives also empower potential killers to achieve their deadliest ambitions. To imagine that we can escape this reality and return to a world in which we are invulnerable to future 9/11s or worse is an illusion. For as far as the eye can see, we will live in an era of megaterror.

#### And, Nuclear terrorism attacks escalate and cause extinction.

**Morgan, Hankuk University of Foreign Studies, 2009**

(Dennis, World on fire: two scenarios of the destruction of human civilization and possible extinction of the human race Futures, Volume 41, Issue 10, December, ldg)

In a remarkable website on nuclear war, Carol Moore asks the question “Is Nuclear War Inevitable??” In Section , Moore points out what most terrorists obviously already know about the nuclear tensions between powerful countries. No doubt, they’ve figured out that the best way to escalate these tensions into nuclear war is to set off a nuclear exchange. As Moore points out, all that militant terrorists would have to do is get their hands on one small nuclear bomb and explode it on either Moscow or Israel. Because of the Russian “dead hand” system, “where regional nuclear commanders would be given full powers should Moscow be destroyed,” it is likely that any attack would be blamed on the United States” Israeli leaders and Zionist supporters have, likewise, stated for years that if Israel were to suffer a nuclear attack, whether from terrorists or a nation state, it would retaliate with the suicidal “Samson option” against all major Muslim cities in the Middle East. Furthermore, the Israeli Samson option would also include attacks on Russia and even “anti-Semitic” European cities In that case, of course, Russia would retaliate, and the U.S. would then retaliate against Russia. China would probably be involved as well, as thousands, if not tens of thousands, of nuclear warheads, many of them much more powerful than those used at Hiroshima and Nagasaki, would rain upon most of the major cities in the Northern Hemisphere. Afterwards, for years to come, massive radioactive clouds would drift throughout the Earth in the nuclear fallout, bringing death or else radiation disease that would be genetically transmitted to future generations in a nuclear winter that could last as long as a 100 years, taking a savage toll upon the environment and fragile ecosphere as well. And what many people fail to realize is what a precarious, hair-trigger basis the nuclear web rests on. Any accident, mistaken communication, false signal or “lone wolf’ act of sabotage or treason could, in a matter of a few minutes, unleash the use of nuclear weapons, and once a weapon is used, then the likelihood of a rapid escalation of nuclear attacks is quite high while the likelihood of a limited nuclear war is actually less probable since each country would act under the “use them or lose them” strategy and psychology; restraint by one power would be interpreted as a weakness by the other, which could be exploited as a window of opportunity to “win” the war. In other words, once Pandora's Box is opened, it will spread quickly, as it will be the signal for permission for anyone to use them. Moore compares swift nuclear escalation to a room full of people embarrassed to cough. Once one does, however, “everyone else feels free to do so. The bottom line is that as long as large nation states use internal and external war to keep their disparate factions glued together and to satisfy elites’ needs for power and plunder, these nations will attempt to obtain, keep, and inevitably use nuclear weapons. And as long as large nations oppress groups who seek self-determination, some of those groups will look for any means to fight their oppressors” In other words, as long as war and aggression are backed up by the implicit threat of nuclear arms, it is only a matter of time before the escalation of violent conflict leads to the actual use of nuclear weapons, and once even just one is used, it is very likely that many, if not all, will be used, leading to horrific scenarios of global death and the destruction of much of human civilization while condemning a mutant human remnant, if there is such a remnant, to a life of unimaginable misery and suffering in a nuclear winter. In “Scenarios,” Moore summarizes the various ways a nuclear war could begin: Such a war could start through a reaction to terrorist attacks, or through the need to protect against overwhelming military opposition, or through the use of small battle field tactical nuclear weapons meant to destroy hardened targets. It might quickly move on to the use of strategic nuclear weapons delivered by short-range or inter-continental missiles or long-range bombers. These could deliver high altitude bursts whose electromagnetic pulse knocks out electrical circuits for hundreds of square miles. Or they could deliver nuclear bombs to destroy nuclear and/or non-nuclear military facilities, nuclear power plants, important industrial sites and cities. Or it could skip all those steps and start through the accidental or reckless use of strategic weapons

#### And, Bioterror leads to extinction

Anders Sandberg 8, is a James Martin Research Fellow at the Future of Humanity Institute at Oxford University; Jason G. Matheny, PhD candidate in Health Policy and Management at Johns Hopkins Bloomberg School of Public Health and special consultant to the Center for Biosecurity at the University of Pittsburgh Medical Center; Milan M. Ćirković, senior research associate at the Astronomical Observatory of Belgrade and assistant professor of physics at the University of Novi Sad in Serbia and Montenegro, 9/8/8, “How can we reduce the risk of human extinction?,” Bulletin of the Atomic Scientists,<http://www.thebulletin.org/web-edition/features/how-can-we-reduce-the-risk-of-human-extinction>

The risks from anthropogenic hazards appear at present larger than those from natural ones. Although great progress has been made in reducing the number of nuclear weapons in the world, humanity is still threatened by the possibility of a global thermonuclear war and a resulting nuclear winter. We may face even greater risks from emerging technologies. Advances in synthetic biology might make it possible to engineer pathogens capable of extinction-level pandemics. The knowledge, equipment, and materials needed to engineer pathogens are more accessible than those needed to build nuclear weapons. And unlike other weapons, pathogens are self-replicating, allowing a small arsenal to become exponentially destructive. Pathogens have been implicated in the extinctions of many wild species. Although most pandemics "fade out" by reducing the density of susceptible populations, pathogens with wide host ranges in multiple species can reach even isolated individuals. The intentional or unintentional release of engineered pathogens with high transmissibility, latency, and lethality might be capable of causing human extinction. While such an event seems unlikely today, the likelihood may increase as biotechnologies continue to improve at a rate rivaling Moore's Law.

### Modeling

#### Current overreliance on drones sets an international model for targeted killing without legal restraint- only external checks on the executive’s use of drones can create international norms of accountability and transparency

Brooks, Ph.D in Law @ Georgetown 4/23/13 (Rosa, Professor of Law, Georgetown University Law Center, “The Constitutional and Counterterrorism Implications of Targeted Killing Testimony Before the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights” <http://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=1114&context=cong>)

Defenders of administration targeted killing policy acknowledge that the criteria for determining how to answer these many questions have not been made public, but insist that this should not be cause for concern. The Administration has reportedly developed a detailed “playbook” outlining the targeting criteria and procedures,40, and insiders insist that executive branch officials go through an elaborate process in which they carefully consider every possible issue before determining that a drone strike is lawful.41 No doubt they do, but this is somewhat cold comfort. Formal processes tend to further normalize once-exceptional activities -- and "trust us" is a rather shaky foundation for the rule of law. Indeed, the whole point of the rule of law is that individual lives and freedom should not depend solely on the good faith and benevolence of government officials. As with law of war arguments, stating that US targeted killings are clearly legal under traditional self-defense principles requires some significant cognitive dissonance. Law exists to restrain untrammeled power. It is no doubt possible to make a plausible legal argument justifying each and every U.S. drone strike -- but this merely suggests that we are working with a legal framework that has begun to outlive its usefulness. The real question isn't whether U.S. drone strikes are "legal." The real question is this: Do we really want to live in a world in which the U.S. government's justification for killing is so malleable? Setting Troubling International Precedents Here is an additional reason to worry about the U.S. overreliance on drone strikes: Other states will follow America's example, and the results are not likely to be pretty. Consider once again the Letelier murder, which was an international scandal in 1976: If the Letelier assassination took place today, the Chilean authorities would presumably insist on their national right to engage in “targeted killings” of individuals deemed to pose imminent threats to Chilean national security -- and they would justify such killings using precisely the same legal theories the US currently uses to justify targeted killings in Yemen or Somalia. We should assume that governments around the world—including those with less than stellar human rights records, such as Russia and China—are taking notice. Right now, the United States has a decided technological advantage when it comes to armed drones, but that will not last long. We should use this window to advance a robust legal and normative framework that will help protect against abuses by those states whose leaders can rarely be trusted. Unfortunately, we are doing the exact opposite: Instead of articulating norms about transparency and accountability, the United States is effectively handing China, Russia, and every other repressive state a playbook for how to foment instability and –literally -- get away with murder. Take the issue of sovereignty. Sovereignty has long been a core concept of the Westphalian international legal order.42 In the international arena, all sovereign states are formally considered equal and possessed of the right to control their own internal affairs free of interference from other states. That's what we call the principle of non-intervention -- and it means, among other things, that it is generally prohibited for one state to use force inside the borders of another sovereign state. There are some well-established exceptions, but they are few in number. A state can lawfully use force inside another sovereign state with that state's invitation or consent, or when force is authorized by the U.N. Security Council, pursuant to the U.N. Charter,43 or in self-defense "in the event of an armed attack." The 2011 Justice Department White Paper asserts that targeted killings carried out by the United States don't violate another state's sovereignty as long as that state either consents or is "unwilling or unable to suppress the threat posed by the individual being targeted." That sounds superficially plausible, but since the United States views itself as the sole arbiter of whether a state is "unwilling or unable" to suppress that threat, the logic is in fact circular. It goes like this: The United States -- using its own malleable definition of "imminent" -- decides that Person X, residing in sovereign State Y, poses a threat to the United States and requires killing. Once the United States decides that Person X can be targeted, the principle of sovereignty presents no barriers, because either 1) State Y will consent to the U.S. use of force inside its borders, in which case the use of force presents no sovereignty problems or 2) State Y will not consent to the U.S. use of force inside its borders, in which case, by definition, the United States will deem State Y to be "unwilling or unable to suppress the threat" posed by Person X and the use of force again presents no problem. This is a legal theory that more or less eviscerates traditional notions of sovereignty, and has the potential to significantly destabilize the already shaky collective security regime created by the U.N. Charter.44 If the US is the sole arbiter of whether and when it can use force inside the borders of another state, any other state strong enough to get away with it is likely to claim similar prerogatives. And, of course, if the US executive branch is the sole arbiter of what constitutes an imminent threat and who constitutes a targetable enemy combatant in an illdefined war, why shouldn’t other states make identical arguments—and use them to justify the killing of dissidents, rivals, or unwanted minorities?

#### Drone proliferation risks miscalculation and collapse of nuclear deterrence

Boyle, Ph.D. Polisci, 13 (Michael J, Assistant Professor of Political Science at La Salle University, Research Fellow at the Centre for the Study of Terrorism and Political Violence, “The costs and consequences of drone warfare”, http://www.chathamhouse.org/sites/default/files/public/International%20Affairs/2013/89\_1/89\_1Boyle.pdf)

A second consequence of the spread of drones is that many of the traditional concepts which have underwritten stability in the international system will be radically reshaped by drone technology. For example, much of the stability among the Great Powers in the international system is driven by deterrence, specifically nuclear deterrence. Deterrence operates with informal rules of the game and tacit bargains that govern what states, particularly those holding nuclear weapons, may and may not do to one another. While it is widely understood that nuclear-capable states will conduct aerial surveillance and spy on one another, overt military confrontations between nuclear powers are rare because they are assumed to be costly and prone to escalation. One open question is whether these states will exercise the same level of restraint with drone surveillance, which is unmanned, low cost, and possibly deniable. **States may be more willing to engage in drone overflights** which test the resolve of their rivals, or engage in ‘salami tactics’ to see what kind of drone-led incursion, if any, will motivate a response. This may have been Hezbollah’s logic in sending a drone into Israeli airspace in October 2012, possibly to relay information on Israel’s nuclear capabilities. After the incursion, both Hezbollah and Iran boasted that the drone incident demonstrated their military capabilities. One could imagine two rival states—for example, India and Pakistan—deploying drones to test each other’s capability and resolve, **with** untold consequences if such a probe were misinterpreted by the other as an attack. As drones get physically smaller and more precise, and as they develop a greater flying range, the temptation to use them to spy on a rival’s nuclear programme or military installations might prove too strong to resist. If this were to happen, drones might gradually erode the deterrent relationships that exist between nuclear powers, thus magnifying the risks of a spiral of conflict between them.

#### Turkey is modeling our drone program now – causes attacks against the Kurds, collapses relations with Iraq and prevents anti-prolif efforts in the Middle East

Stein, Nonproliferation Program Manager at EDAM, 13 (Nonproliferation Program Manager at EDAM, a Istanbul-based think tank with a focus on Turkey’s foreign and security policy, Associate Fellow at RUSI, Professional Forum in the UK for those concerned with National and International Defence and Security, PhD candidate at Kings Cross College, “The First Rule of Drone Club”, http://www.foreignpolicy.com/articles/2013/02/25/the\_first\_rule\_of\_drone\_club?page=full)

As the United States continues to grapple with the legal ramifications of using armed unmanned aerial vehicles to strike individuals, a slew of countries are eager to develop their own drones and mimic American tactics. Turkey is an avid supporter of drones and argues that it needs an indigenously-built UAV to combat the Kurdistan Workers Party (PKK), the Kurdish insurgents it has been fighting since the 1980s. The problem is that the Turkish republic seems to have adopted the principles currently guiding the U.S. use of drones: Say nothing about how you employ them and ignore the potential consequences. The PKK has come to dominate the country's security planning, but for years the Turkish Army's large conscript force and emphasis on heavy equipment left it ill-equipped to effectively fight an insurgency, particularly during the winter months. So, in addition to professionalizing its forces, it focused on improving its intelligence, surveillance, and reconnaissance capabilities. Ankara, therefore, purchased off-the-shelf drone systems from the United States, partnered with Israel for sale of Heron UAVs, and launched an effort to build one of its own -- an effort that has apparently come to fruition. Turkey now claims that the country's first domestically produced UAV -- a reconnaissance drone dubbed the "Anka" -- is set for serial production. While the Anka was beset with problems during testing, the drone is reported to be able to operate for 24 hours at an altitude up to 30,000 feet in adverse weather conditions during the day or at night. The Anka will primarily be used to surveil Turkey's Kurdish majority southeast and the PKK camps in the Kandil Mountains in Northern Iraq. Ankara hopes to develop an armed version of the Anka so that it can decrease the time needed to launch airstrikes against Kurdish targets. To help augment Turkey's drone capabilities in the interim, Ankara has requested unarmed and armed Predator and Reaper drones from the United States. Despite Turkey's repeated requests, U.S. export control law and congressional opposition will likely prevent the sale, but the Obama administration has sought to appease its Turkish counterparts and has agreed to station four unarmed Predator drones at Incirlik Air Force Base. The drones are flown by an American contractor from a joint operations center near Ankara. Turkish Air Force officers are in the room with their American counterparts and reportedly have the authority to direct the drones' movements. In 2011, Turkish officers in the Ankara operations center directed an American drone to surveil a known smuggling route near the Kurdish majority town of Uludere.\* After a group of men were spotted crossing the border illegally, the Turks reportedly ordered the Predator to fly away. A Turkish Heron then picked up the surveillance, and the Turkish Air Force bombed the smugglers. \*Correction: This sentence originally misstated the year of the surveilance as 2007. It was later revealed that the group of men were not members of the PKK, but 34 Kurdish citizens attempting to eke out a living by smuggling subsidized Iraqi gasoline to Turkey for resale. The subsequent uproar has led to a parliamentary investigation, though the report has been repeatedly delayed, and no minister has resigned. Most believe that the government is conspiring to prevent the authorities from carrying out their investigation in order to protect the person responsible for issuing the kill order. Turkey's pursuit of armed drones reflects, in part, the new consensus, driven by the United States, that they are useful, even critical, for counterterrorism. But there is little acknowledgment of the difficulties and dangers that drones pose. For example, few Turkish officials have made clear to the electorate that drones rely heavily on human operators and pre-existing intelligence. Nor have they acknowledged that the total cost of operating armed drones is reported to be higher than 240 F-16s in the Turkish Air Force. Most significantly, few in Turkey have grappled with the moral and legal implications of a country -- one hoping to join the European Union -- using drones to assassinate its own citizens. Turkey hasn't addressed the regional implications of increased drone use either. Unlike the United States, it has not received overflight rights from the countries where it would likely use its drones. Given Turkey's tense relationship with Iraqi Prime Minister Nouri al-Maliki, it is unlikely to secure drone overflight rights similar to those used by the United States in Yemen, Somalia, and Afghanistan. It is also unlikely that Turkish ally Masoud Barzani, the president of the Kurdistan Regional Government (KRG), would turn a blind eye to the Turkish military operating and using armed drones to kill Iraqi Kurds. True, it is widely believed that Turkey is using its fleet of Herons to violate Iraqi airspace to monitor PKK bases in Kandil. However, if Iraqi territory were repeatedly targeted with drone-fired missiles, relations with Baghdad would sour and Turkey's close alliance with the KRG would flag. Turkey's desire to export the Anka could also undermine its recent efforts to stem proliferation in the region. Turkish President Abdullah Gul told the opening session of Turkey's parliament in October 2012 that the threats posed by WMD in the region reinforced the need to make progress towards a Middle East WMD-free zone. But Egypt, which is not a signatory to the Chemical Weapons Convention (CWC), has agreed to purchase ten Anka drones from Turkey's Turkish Aersopace Industries. If the sale is finalized, Ankara will have agreed to export a dual-use item to a non-signatory of the CWC that has a history of chemical weapons use (in North Yemen in the 1960s). While it is unlikely that Egypt would arm the Anka with chemical weapons, the sale would nevertheless send conflicting messages about Turkey's commitment to regional disarmament and nonproliferation. So, just like the United States, Turkey faces a series of unresolved political, legal, and strategic issues as it moves forward with its drone program. It may well conclude that armed drones -- and even the assassination of Turkish citizens -- are vital for Turkish security. But whatever debate the government is having is a mystery. Turkey, therefore, appears to have adopted almost all of the American established norms associated with drones. The problem is those norms are to keep all of the details secret and to prevent the public from weighing in.

#### Scenario \_\_\_ is Iran nuclearization –

#### Turkey’s soft power is critical to engaging Iran diplomatically and diffusing the threat of Iran going nuclear

Ben-Meir, 09 (Alon Ben-Meir, Senior Fellow at the Center for Global Affairs in New York University and teaches courses on the Middle East and international negotiations, Spring 2009, The Whitehead Journal of Diplomacy and International Relations, Nuclear Iran is Not an Option: A New Negotiating Strategy to Prevent Iran from Developing Nuclear Weapons)

The presence of a third party acting as mediator between the United States and Iran may prove to be necessary, particularly if this party represents a major Muslim state with the stature of Turkey. Apart from Turkish Prime Minister Erdogan’s recent claims that “[Turkey is] ready to be the mediator” between the United States and Iran, due to its recent diplomatic achievements between Israel and Syria, there are many reasons why Turkey may succeed in mediating a peaceful solution to the nuclear impasse. To begin with, Turkey has a vested interest in the success of the negotiations. Many Turkish officials and academics have expressed grave concerns about the growing danger of yet another avoidable and potentially devastating war in the Middle East. For the Turks, finding a diplomatic solution is not one of many options but the only sane option to prevent a horrific outcome. Other than being directly affected by regional events, Turkey generally enjoys good relations with all states in the region; it has not been tainted with the war in Iraq; and it is a predominantly Muslim state, Middle Eastern as well as European. Turkey shares the longest border with Iran, and has maintained good neighborly relations with Tehran for centuries, with expanding trade relations. Moreover, Turkey and Iran have collaborated recently on the Kurdish issue, and both have a shared interest in this regard for the emergence of a stable Iraq. Turkey, as a fellow Muslim state, stands a much better chance to convey to Iran Israel’s sentiments to prevent a terrible miscalculation. Because of Turkey’s standing in the region, and as a credible bridge between East and West, it has the potential to succeed where others have failed. Turkey is a close ally and a reliable friend of the United States; it is an important member of NATO; it has worked fervently to maintain the democratic nature of the state; and it has received due praise for its recent diplomatic mediating efforts. Turkey can better understand the nature of Iran’s threats, specifically in connection with the United States, which has made no secret of its efforts to support Ahmadinejad’s opponents. Turkey may also be in a better position than the EU representatives to bypass Ahmadinejad and reach out directly to Iran’s supreme leader Ayatollah Khamenei. Khamenei, whose power goes practically unchecked in the Iranian government and institutions, has refused to speak to any American representatives. Turkey plays a strategic role in this sense because it can appeal to Khamenei, who will ultimately be responsible for any course of action the Iranian government decides to make on the nuclear issue. In addition, Turkey may offer an alternative where Iran can be persuaded to enrich uranium on Turkish soil under strict IAEA monitoring. Turkey, in short, can change the dynamics by offering a new venue for Americans and Iranians to meet and by generating a new momentum for serious dialogue. Finally, Turkey can provide Iran with a dignified disengagement plan, because if Iran is to make any concessions it will more likely make them to a fellow Muslim-majority state with which it has long and friendly relations.

#### Iran has the capabilities to build a bomb now - creation of advanced centrifuges and a plutonium reactor provides two paths to the weapon

WSJ 9/5/2013 (Jay Solomon, WSJ foreign affairs and national security writer, “Iran Seen Trying New Path to a Bomb”, http://online.wsj.com/article/SB10001424127887323997004578644140963633244.html)

nWASHINGTON—Iran could begin producing weapons-grade plutonium by next summer, U.S. and European officials believe, using a different nuclear technology that would be easier for foreign countries to attack. The second path to potentially producing a nuclear weapon could complicate international efforts to negotiate with Iran's new president, Hasan Rouhani, who was sworn in Sunday in Tehran. It also heightens the possibility of an Israeli strike, said U.S. and European officials. Hassan Rouhani has been sworn in as the new leader of Iran but the U.S. and its allies are waiting anxiously to see whether the new regime will mean a more moderate Iran. WSJ's Foreign Affairs Correspondent Jay Solomon analyzes the chances. Until now, U.S. and Western governments had been focused primarily on Iran's vast program to enrich uranium, one path to creating the fissile materials needed for nuclear weapons. Now, the West is increasingly concerned Iran also could use the development of a heavy water nuclear reactor to produce plutonium for a bomb. A heavy-water reactor is an easier target to hit than the underground facilities that house Iran's uranium-enrichment facilities. Some Iranians and foreign diplomats hope that Mr. Rouhani, a former top nuclear negotiator, will try to negotiate an end to the sanctions that have crippled the Iranian economy. After being sworn in, Mr. Rouhani called on the West to drop the sanctions. "If you seek a suitable answer, speak to Iran through the language of respect, not through the language of sanctions," he said. In Washington, White House spokesman Jay Carney said Mr. Rouhani's inauguration represented "an opportunity for Iran to act quickly to resolve the international community's deep concerns over Iran's nuclear program." "Should this new government choose to engage substantively and seriously to meet its international obligations and find a peaceful solution to this issue, it will find a willing partner in the United States," Mr. Carney said. In recent months, U.S. and European officials say, the Tehran regime has made significant advances on the construction of a heavy water reactor in the northwestern city of Arak. A reactor like the one under construction is capable of using the uranium fuel to produce 40 megawatts of power. Spent fuel from it contains plutonium—which, like enriched uranium, can serve as the raw material for an explosive device. India and Pakistan have built plutonium-based bombs, as has North Korea. The Arak facility, when completed, will be capable of producing two nuclear bombs' worth of plutonium a year, said U.S. and U.N. officials. Iran has notified the International Atomic Energy Agency, the U.N.'s nuclear watchdog, that it plans to make the reactor operational by the second half of 2014 and could begin testing it later this year. The IAEA has been monitoring Arak since its construction began. But following Iran's latest timeline, the site's importance has vastly shot up for Washington and Brussels, said U.S. and European officials. "It really crept up on us," said an official based at the IAEA's Vienna headquarters. Iran denies it is seeking to develop nuclear weapons. It has told the IAEA it is building Arak to produce isotopes used in medical treatments, said U.N. officials. The development is of deep concern to Israel, which fears it could become the target of any Iranian nuclear attack. It presents a new challenge to the Obama administration's efforts to engage with Mr. Rouhani, a Scottish-educated cleric who has pledged to negotiate with the U.S. and other world powers over Tehran's nuclear program. U.S. and European officials said in recent interviews that they are hoping to start negotiations with Mr. Rouhani's new government in September. "At this stage, our most pressing concern is dealing with the enrichment of uranium. But we are increasingly concerned about activity…at Arak," said a senior European official involved in the Iran diplomacy. Israeli Prime Minister Benjamin Netanyahu has repeatedly threatened to attack Iran's nuclear facilities if international diplomacy stalls. He publicly warned Iran in July not to move forward with the commissioning of the Arak reactor, or risk facing military action. "They're pursuing an alternate route of plutonium…to build a nuclear bomb," the Israeli leader said on CBS's "Face the Nation" on July 14. "They haven't yet reached it, but they're getting closer to it. And they have to be stopped." Israel has twice destroyed reactors in neighboring Middle East countries before they could produce plutonium, believing they were part of covert nuclear-weapons programs. The Arak plant is viewed as a much easier facility for the Israeli military to strike than Iran's enrichment facilities in the cities of Natanz and Qom. "There's no question that the reactor and its heavy water are more vulnerable targets than the enrichment plants," said Gary Samore, who served as President Barack Obama's top adviser on nuclear issues during his first term. "This could be another factor in Netanyahu's calculations in deciding how long to wait before launching military operations." Any Israeli strike on the reactor complex, said current and former U.S. officials, would likely have to take place before Tehran introduces nuclear materials into the facility, because of the potential for a vast environmental disaster a strike could cause. Iran started building the Arak facility in 2004 based on designs provided by Russia, according to former U.N. officials. Two years later, the U.N. Security Council passed a resolution requiring Tehran to cease construction because of the IAEA's concerns Iran might have a covert nuclear-weapons program. Tehran has refused to comply, one of the reasons the U.N. has enacted four rounds of sanctions on Iran. It has also significantly restricted the IAEA's ability to inspect the reactor and its development plans, according to U.N. officials. In June, Tehran announced it installed the reactor's vessel, which houses the facility's nuclear fuel load. Tehran also has been mass producing "pellets," comprised of natural uranium, to make up the fuel rods to run the plant. In March, Iran told the IAEA it would produce 55 bundles of fuel rods to power Arak by August. Iran's plans to start running Arak by next summer might be ambitious, said current and former IAEA officials. Iran has missed a number of self-announced deadlines in the past to finish building parts of its uranium-enrichment program. The IAEA also says that it has no indications yet that Tehran has built a reprocessing facility at Arak, which would be needed to harvest the plutonium from the reactor's spent fuel. Still, nuclear experts who have studied Arak said it was likely Iran could start running Arak by the end of next year. "There is a good possibility that [the reactor] can reach its first nuclear criticality by the end of 2014," said Olli Heinonen, a former head of the IAEA's inspections unit, who is now at Harvard's Belfer Center, which focuses on the studies of nuclear-arms reduction. "However…no significant quantity of plutonium should be available for actual extraction before 2016." U.S. and European officials are closely monitoring the formation of Mr. Rouhani's new government to gauge what policies the president might pursue in future nuclear negotiations. On Sunday, Mr. Rouhani nominated U.S.-educated diplomat Mohammad Javad Zarif as foreign minister. Mr. Zarif, Iran's former U.N. ambassador, has been a strong proponent of engagement with the U.S. He closely cooperated with the George W. Bush administration after the U.S. invasion of Afghanistan to put in place the government in Kabul now headed by President Hamid Karzai. U.S. and European officials, who said Mr. Zarif's nomination is a promising sign, are closely watching who Mr. Rouhani will name as his chief nuclear negotiator.

#### Two impacts – first is Israeli strikes

#### Israeli perception of a nuclear armed Iran makes a strike against Iran inevitable – that causes a regional war which escalates

Malin, Executive Director of the Project on Managing the Atom Harvard, and Eiran, asst prof international relations at the Haifa University in Israel, 7/1/13 (Martin, and Ehud, affiliate of the middle east negotiation initiative at the program on negotiation, Harvard Law School, former assistant to the Foreign Policy Advisor to Israel’s Prime Minister, “The Sum of all Fears: Israel’s Perception of a Nuclear-Armed Iran”, http://live.belfercenter.org/files/thesumofallfears.pdf)

Thucydides’ ancient logic still governs: uncertainty (over Iran’s nuclear intentions) and the fear this inspires (in Israel) increases the risk of another war (in the Middle East). Even if Israel’s response to the Iranian nuclear program does not lead the region into a war, Israel’s fears will be crucial in shaping Middle Eastern politics and will help to determine the stability of the region in the years ahead. The U.S. public has been hearing about Israeli fears of a nuclear Iran for several years. It is understandable if most Americans discount this drama as part of the background noise of international affairsa constant feature of international reporting in which the story remains the same, and the dire predictions never pan out. But it is important to pay attention to Israeli concerns about Iran for several reasons. First, Israel not only has a particular view of the threat posed by the military dimension of the Iranian nuclear program, it also has an independent means of taking action to alleviate its fears. Although Israel is less capable than the United States, if Israel were to launch strikes on Iran to set back the nuclear program, the effects would ripple across the region and beyond. Meir Dagan, former head of Israel’s external intelligence agency, the Mossad, warned a number of times that an Israeli attack on Iran would ‘‘ignite a regional war.’’1 Second, Israel’s anxieties over Iran could produce a series of defensive moves and escalating responses which spiral out of control in a manner that neither side intends. As the history of war and conflict in the Middle East from the June 1967 Six-Day War to the November 2012 round of violence between Israel and the Gaza-based Hamas reminds us, the Middle East is a tinderbox where a few sparks could all too easily ignite a major conflagration. Finally, as President Obama’s March 2013 visit to Israel demonstrated, Israel’s fears of Iran have become an inescapable and urgent concern for U.S. policy in the Middle East. Given the U.S.—Israeli friendship, President Obama will need to pay close attention to these sensitivities toward Iran. A clear understanding of Israeli perceptions of Iran will remain essential to U.S. policy toward Tehran. Israel’s fear of an Iran armed with a nuclear weapon takes at least four distinct forms, with a diverse set of sources: fear of annihilation, fear of a more difficult security environment, socioeconomic fears, and fear of a challenge to Israel’s founding ideological principles. Israelis generally frame these distinct fears as cumulative, not separate. The four layers of threat perception explain why most Israelis are willing to support their leaders’ harsh line towards Iran. However, as we show below, the various fears also hold contradictions that explain internal Israeli divisions over the required response to Iran, such as the tension between Prime Minister Netanyahu and his security establishment. Any attempt to unpack Israel’s framing of, and response to, the Iranian nuclear challenge should therefore begin with an analysis of these different fears.

#### Israel strikes on Iran cause multiple scenarios for nuclear war, CBW use and terrorist attacks.

Russell 09 (James A. Russell, managing editor of Strategic Insights, the quarterly ejournal published by the Center for Contemporary Conflict at the Naval Postgraduate School, Spring 2009, Strategic Stability Reconsidered: Prospects for Escalation and Nuclear War in the Middle East, Security Studies Center)

Iran’s response to what would initially start as a sustained stand-off bombardment (Desert Fox Heavy) could take a number of different forms that might lead to escalation by the United States and Israel, surrounding states, and non-state actors. Once the strikes commenced, it is difficult to imagine Iran remaining in a Saddam-like quiescent mode and hunkering down to wait out the attacks. Iranian leaders have unequivocally stated that any attack on its nuclear sites will result in a wider war81 – a war that could involve regional states on both sides as well as non-state actors like Hamas and Hezbollah. While a wider regional war need not lead to escalation and nuclear use by either Israel or the United States, wartime circumstances and domestic political pressures could combine to shape decision-making in ways that present nuclear use as an option to achieve military and political objectives. For both the United States and Israel, Iranian or proxy use of chemical, biological or radiological weapons represent the most serious potential escalation triggers. For Israel, a sustained conventional bombardment of its urban centers by Hezbollah rockets in Southern Lebanon could also trigger an escalation spiral. Assessing relative probability of these scenarios is very difficult and beyond the scope of this article. Some scenarios for Iranian responses that could lead to escalation by the United States and Israel are: Terrorist-type asymmetric attacks on either the U.S. or Israeli homelands by Iran or its proxies using either conventional or unconventional (chemical, biological, or radiological) weapons. Escalation is more likely in response to the use of unconventional weapons in populated urban centers. The potential for use of nuclear retaliation against terrorist type attacks is problematic, unless of course the sponsoring country takes official responsibility for them, which seems highly unlikely. Asymmetric attacks by Iran or its proxies using unconventional weapons against U.S. military facilities in Iraq and the Gulf States (Kuwait, Bahrain, UAE, Qatar); • Long-range missile strikes by Iran attacking Israel and/or U.S. facilities in Iraq and the Gulf States: • Conventional missile strikes in and around the Israeli reactor at Dimona • Airbursts of chemical or radiological agents in Israeli urban areas; • Missile strikes using non-conventional weapons against US Gulf facilities such as Al Udeid in Qatar, Al Dhafra Air Base in the UAE, and the 5th Fleet Headquarters in Manama, Bahrain. Under all scenarios involving chemical/biological attacks on its forces, the United States has historically retained the right to respond with all means at its disposal even if the attacks come from a non-nuclear weapons state.82 • The involvement of non-state actors as part of ongoing hostilities between Iran, the United States, and Israel in which Hezbollah and/or Hamas became engaged presents an added dimension for conflict escalation. While tactically allied with Iran and each other, these groups have divergent interests and objectives that could affect their involvement (or non-involvement in a wider regional war) – particularly in ways that might prompt escalation by Israel and the United States. Hezbollah is widely believed to have stored thousands of short range Iranian-supplied rockets in southern Lebanon. Attacking Israel in successive fusillades of missiles over time could lead to domestic political demands on the Israeli military to immediately stop these external attacks – a mission that might require a wide area-denial capability provided by nuclear weapons and their associated PSI overpressures, particularly if its conventional ground operations in Gaza prove in the mid- to longterms as indecisive or strategic ambiguous as its 2006 operations in Lebanon. • Another source of uncertainty is the Iran Revolutionary Guard Corps (IRGC) – referred to here as “quasi-state” actor. The IRGC manages the regime’s nuclear, chemical and missile programs and is responsible for “extraterritorial” operations outside Iran. The IRGC is considered as instrument of the state and reports directly to Supreme Leader Ayatollah Khamenei. So far, the IRGC has apparently refrained from providing unconventional weapons to its surrogates. The IRGC also, however arms and funds various Shiite paramilitary groups in Iraq and Lebanon that have interests and objectives that may or may not directly reflect those of the Iranian supreme leader. Actions of these groups in a wartime environment are another source of strategic uncertainty that could shape crisis decision-making in unhelpful ways. • The most likely regional state to be drawn into a conflict on Iran’s side in a wider regional war is Syria, which is widely reported to have well developed missile and chemical warfare programs. Direct Syrian military involvement in an Israeli-U.S./Iranian war taking the form of missile strikes or chemical attacks on Israel could serve as another escalation trigger in a nuclear-use scenario, in particular if chemical or bio-chem weapons are used by the Syrians, technically crossing the WMD-chasm and triggering a retaliatory strike using any category of WMD including nuclear weapons. • The last – and perhaps most disturbing – of these near-term scenarios is the possible use by Iran of nuclear weapons in the event of conventional strikes by the United States and Israel. This scenario is built on the assumption of a U.S. and/or Israeli intelligence failure to detect Iranian possession of a nuclear device that had either been covertly built or acquired from another source. It is possible to foresee an Iranian “demonstration” use of a nuclear weapon in such a scenario in an attempt to stop an Israeli/U.S. conventional bombardment. A darker scenario would be a direct nuclear attack by Iran on Israel, also precipitated by conventional strikes, inducing a “use them or lose them” response. In turn, such a nuclear strike would almost certainly prompt an Israeli and U.S. massive response – a potential “Armageddon” scenario.

#### And, second- Iranian nuclearization makes nuclear war inevitable in the Middle East- even small conflicts could escalate to all out war.

Kahl 12 (Colin, Senior Fellow at the Center for a New American Security, Not Time to Attack Iran, Foreign Affairs, 00157120, Mar/Apr2012, Vol. 91, Issue 2)

Waltz writes that "policymakers and citizens in the Arab world, Europe, Israel, and the United States should take comfort from the fact that history has shown that where nuclear capabilities emerge, so, too, does stability." In fact, the historical record suggests that competition between a nuclear-armed Iran and its principal adversaries would likely follow the pattern known as "the stability-instability paradox," in which the supposed stability created by mutually assured destruction generates greater instability by making provocations, disputes, and conflict below the nuclear threshold seem safe. During the Cold War, for example, nuclear deterrence prevented large-scale conventional or nuclear war between the United States and the Soviet Union. At the same time, however, the superpowers experienced several direct crises and faced off in a series of bloody proxy wars in Korea, Vietnam, Afghanistan, Angola, Nicaragua, El Salvador, and elsewhere. A recent statistical analysis by the political scientist Michael Horowitz demonstrated that inexperienced nuclear powers tend to be more crisis-prone than other types of states, and research by another political scientist, Robert Rauchhaus, has found that nuclear states are more likely to engage in low-level militarized disputes with one another, even if they are less likely to engage in full-scale war. If deterrence operates the way Waltz expects it to, a nuclear-armed Iran might reduce the risk of a major conventional war among Middle Eastern states. But history suggests that Tehran's development of nuclear weapons would encourage Iranian adventurism, leading to more frequent and intense crises in the Middle East. Such crises would entail some inherent risk of a nuclear exchange resulting from a miscalculation, an accident, or an unauthorized use -- a risk that currently does not exist at all. The threat would be particularly high in the initial period after Iran joined the nuclear club. Once the superpowers reached rough nuclear parity during the Cold War, for example, the number of direct crises decreased, and the associated risks of nuclear escalation abated. But during the early years of the Cold War, the superpowers were involved in several crises, and on at least one occasion -- the 1962 Cuban missile crisis -- they came perilously close to nuclear war. Similarly, a stable deterrent relationship between Iran, on the one hand, and the United States and Israel, on the other, would likely emerge over time, but the initial crisis-prone years would be hair-raising. Although all sides would have a profound interest in not allowing events to spiral out of control, the residual risk of inadvertent escalation stemming from decades of distrust and hostility, the absence of direct lines of communication, and organizational mistakes would be nontrivial -- and the consequences of even a low-probability outcome could be devastating.

#### Turkey is the critical mediator between US and Iran – negotiations and diplomacy are the only options

Nguyen 13 (Mai Lan Thanh, “Does Turkey’s Stance on Iran’s Nuclear Program Reflect an Axis-Shift in Turkish Foreign Policy?”, http://eprints.ibu.edu.ba/1599/8/Nguyen%20Mai%20Lan%20Thanh-1.pdf)

It is believed that hard power means waging war or attacking Iran coercively is very costly affair while the world is now under an economic fragile zone. By contrast, soft power as economic sanctions and diplomacy has been employed so far to counteract to Iranian nuclear program. It is realized that economic sanctions applied by the U.S and the European Union have indirectly led to Iran‟s recent crisis. However, this method only suffered the civilians inside the country, but did not discourage Iran‟s ambition to go nuclear. Diplomatic negotiations, hence, are more desired. Turkey is, therefore, in favor of this way of resolving the problem. In short, Turkey‟s decision of no sanctions on Iran does not indicate that Turkish foreign policy is anti-Western. Rather, it illustrates Turkey’s growing independence as a regional power and flexibility in decision-making process with regard to her own interests, such as gaining image in the Middle East with the new foreign policy doctrine, less independence on Russian energy imports in place of Iranian one, and prioritizing domestic solutions, while not upsetting the West‟s mutual interests. Turkey’s stance on Iran reflects her neutral stance and mediating effort. Although it is a fact that Turkey does not apply unilaterally sanctions by the U.S on Iran, it does not mean that Turkey has deviated from the West. Instead, Turkey is actively playing her mediating role in resolving the conflict as a bridge between East and West, while preserving her own internal security and multilateral interests.

### Plan

#### Plan: The United States Federal Judiciary should conduct judicial ex post review of United States’ targeted killing operations.

### Solvency

#### Only judicial review provides the due process necessary to solve public confidence in targeting—key to viability of the program

Corey, Army Colonel, 12 (Colonel Ian G. Corey, “Citizens in the Crosshairs: Ready, Aim, Hold Your Fire?,” http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA561582)

Alternatively, targeted killing decisions could be subjected to judicial review. 103 Attorney General Holder rejected ex ante judicial review out of hand, citing the Constitution’s allocation of national security operations to the executive branch and the need for timely action.104 Courts are indeed reluctant to stray into the realm of political questions, as evidenced by the district court’s dismissal of the ACLU and CCR lawsuit. On the other hand, a model for a special court that operates in secret already exists: the Foreign Intelligence Surveillance Court (FISC) that oversees requests for surveillance warrants for suspected foreign agents. While ex ante judicial review would provide the most robust form of oversight, ex post review by a court like the FISC would nonetheless serve as a significant check on executive power.105 Regardless of the type of oversight implemented, some form of independent review is necessary to demonstrate accountability and bolster confidence in the targeted killing process. Conclusion The United States has increasingly relied on targeted killing as an important tactic in its war on terror and will continue to do so for the foreseeable future.106 This is entirely reasonable given current budgetary constraints and the appeal of targeted killing, especially UAS strikes, as an alternative to the use of conventional forces. Moreover, the United States will likely again seek to employ the tactic against U.S. citizens assessed to be operational leaders of AQAM. As demonstrated above, one can make a good faith argument that doing so is entirely permissible under both international and domestic law as the Obama Administration claims, the opinions of some prominent legal scholars notwithstanding. The viability of future lethal targeting of U.S. citizens is questionable, however, if the government fails to address legitimate issues of transparency and accountability. While the administration has recently made progress on the transparency front, much more remains to be done, including the release in some form of the legal analysis contained in OLC’s 2010 opinion. Moreover, the administration must be able to articulate to the American people how it selects U.S. citizens for targeted killing and the safeguards in place to mitigate the risk of error and abuse. Finally, these targeting decisions must be subject to some form of independent review that will both satisfy due process and boost public confidence.

#### Court action is key—using the legal process to protect constitutional rights is critical to counter-terrorism credibility and US soft power.

Sidhu, J.D, 11 (Dawinder S., J.D., The George Washington University; M.A., Johns Hopkins University; B.A., University of Pennsylvania. Mr. Sidhu is an attorney whose primary intellectual focus is the relationship between individual rights and heightened national security concerns, “JUDICIAL REVIEW AS SOFT POWER: HOW THE COURTS CAN HELP US WIN THE POST-9/11 CONFLICT,” NATIONAL SECURITY LAW BRIEF Vol 1, No 1, <http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1003&context=nslb>)

The legal principles established by the Framers and enshrined in the Constitution are a source of attraction only if we have meaningfully adhered to them in practice. Part II will posit that the Supreme Court’s robust evaluation of cases in the wartime context suggests that the nation has been faithful to the rule of law even in times of national stress. As support, this part will provide exam- ples of cases involving challenges to the American response to wars both before and after 9/11, the discussion of which will exhibit American respect for the rule of law. While the substantive results of some of these cases may be particularly pleasing to Muslims, for instance the extension of habeas protections to detainees in Guantánamo, 30 this part will make clear that it is the legal process—not substantive victories for one side or against the government—which is the true source of American legal soft power. If it is the case that the law may be an element of soft power conceptually and that the use of the legal process has refl ected this principle in practice, the conclusion argues that it would benefit American national security for others in the world to be made aware of the American constitutional framework and the judiciary’s activities related to the war. Such information would make it more likely that other nations and peoples, especially moderate Muslims, will be attracted to American interests. This Article thus reaches a conclusion that may seem counterintuitive—that the judicial branch, in the performance of its constitutional duty of judicial review, furthers American national security and foreign policy objectives even when it may happen to strike down executive or legislative arguments for expanded war powers to prosecute the current war on terror and even though the executive and legislature constitute the foreign policy branches of the federal government. In other words, a “loss” for the executive or legislature, may be considered, in truth, a reaffirmation of our constitutional system and therefore a victory for the entire nation in the neglected but necessary post-9/11 war of ideas. 31 As such, it is the central contention of this Article that the judicial branch is a repository of American soft power and thus a useful tool in the post-9/11 conflict

#### Judicial review is the only mechanism for creating transparency and reducing collateral damage – the executive alone can’t solve

Adelsberg 12 (Samuel S., \* J.D. Candidate 2013, Yale Law School, “Bouncing the Executive's Blank Check: Judicial Review and the Targeting of Citizens” Harvard Law & Policy Review 6 Harv. L. & Pol'y Rev. 437, Lexis)

 [\*445] Rather, as recognized by the Founders in the Fourth Amendment, balancing the needs of security against the imperatives of liberty is a traditional role for judges to play. Two scholars of national security law recently highlighted the value of judicial inclusion in targeting decisions: "Judicial control of targeted killing could increase the accuracy of target selection, reducing the danger of mistaken or illegal destruction of lives, limbs, and property. Independent judges who double-check targeting decisions could catch errors and cause executive officials to avoid making them in the first place." n47 Judges are both knowledgeable in the law and accustomed to dealing with sensitive security considerations. These qualifications make them ideal candidates to ensure that the executive exercises constitutional restraint when targeting citizens. Reforming the decision-making process for executing American citizens to allow for judicial oversight would restore the separation of powers framework envisioned by the Founders and increase democratic legitimacy by placing these determinations on steadier constitutional ground. For those fearful of judicial encroachment on executive war-making powers, there is a strong argument that this will actually strengthen the President and empower him to take decisive action without worrying about the judicial consequences. As Justice Kennedy put it, "the exercise of [executive] powers is vindicated, not eroded, when confirmed by the Judicial Branch." n48 Now, we will turn to what this judicial involvement would look like.

# 2AC Round 2

### Solvency

### 2AC Restriction

---Judicial review over targeted killing is an on face restriction of executive authority

McKelvey-JD Candidate Vandy-11 44 Vand. J. Transnat'l L. 1353

NOTE: Due Process Rights and the Targeted Killing of Suspected Terrorists: The Unconstitutional Scope of Executive Killing Power

B. The Aulaqi Case in Federal Court In August 2010, Nasser al-Aulaqi, Anwar's father, filed suit in the District Court for the District of Columbia requesting an injunction against the targeted killing of his son. 36 Represented by the American Civil Liberties Union (ACLU), Nasser al-Aulaqi claimed that outside of the zone of armed conflict, the targeted killing of an American citizen represents an extrajudicial killing without due process of law. 37 The claim stated that under customary international law, the only circumstances allowing an exception to this general rule are those presenting a "concrete, specific, and imminent threat of death or serious physical injury." 38 The targeted killing of an American citizen outside of these circumstances is a violation of the Fourth and Fifth Amendments. 39 The complaint asserted three constitutional challenges to the targeted killing program. 40 By targeting an American for an extrajudicial killing outside of circumstances that present concrete, specific, and imminent threats of harm, the government had violated Aulaqi's Fourth Amendment right to be free from unreasonable seizure and his Fifth Amendment right not to be deprived of life without due process of law. 41 In addition, by refusing to disclose the standards used in determining that Aulaqi should be targeted for extrajudicial killing, the government violated the Fifth Amendment's notice requirement. 42 The complaint further asserted that by claiming this broad and unreviewable power, the Executive Branch permitted itself to conduct at-will extrajudicial killings of Americans, in secret, without any notice. 43 In the suit - filed against President Obama, then-Defense Secretary Robert Gates, and then-Director of the CIA Leon Panetta 44 - Nasser al-Aulaqi requested several forms of relief to [\*1360] prevent the targeted killing of his son. 45 He requested a preliminary injunction against the order to pursue Anwar al-Aulaqi with lethal force, and declaratory relief requiring the government to disclose the standards used for placing people on the targeted killing list. 46 In its brief in response, the DOJ moved for summary judgment on several alternative grounds, with emphasis on standing, the political question doctrine, and the state secrets privilege. 47 The DOJ argued that Nasser al-Aulaqi did not meet the requirements for next-friend standing for two reasons. 48 First, Aulaqi was not denied access to the courts. 49 Rather, Aulaqi seemed to be hiding in Yemen of his own accord. 50 Second, there was no evidence that Aulaqi desired to raise these claims in court to challenge the government's authority to conduct an extrajudicial killing against him. 51 Therefore, Nasser al-Aulaqi did not demonstrate that he was representing his son's interests or purpose. 52 The DOJ also challenged Nasser al-Aulaqi's complaint on grounds of executive authority, arguing that litigating this matter would violate established boundaries in the separation of judicial and executive power. 53 First, the government asserted that the decision to target Anwar al-Aulaqi was a nonjusticiable political question, and that conducting judicial review of this decision would require an infringement on textually committed executive authority. 54 Second, the government invoked the state secrets privilege, a rarely used but mostly successfully employed doctrine claiming that certain issues cannot be litigated because litigating them would require the disclosure of classified intelligence. 55 According to the state secrets doctrine, classified information cannot be disclosed through discovery and public trial because it would threaten national security and disrupt the Executive's ability to discharge its constitutional obligations. 56 The district court granted the defendant's motion to dismiss in December 2010. 57 The court held that Nasser al-Aulaqi did not have [\*1361] standing to raise these constitutional claims on his son's behalf. 58 By ruling on standing grounds the court focused on a narrow legal doctrine and avoided confrontation with the larger, more controversial issues in the suit. 59 However, the court also expressed discomfort with the outcome and its potential implications on due process rights and executive power. 60

#### ---We meet-Due process rights are judicial restrictions on executive authority

Al-Aulaqi Motion to Dismiss Memo 2013 (PLAINTIFFS’ OPPOSITION TO DEFENDANTS’ MOTION TO DISMISS, files February 5, 2013)

Despite Defendants’ attempt to distinguish the habeas cases, Defs. Br. 12, claims alleging

unlawful deprivation of life under the Fifth Amendment’s Due Process Clause are as textually

committed to the courts as claims brought under the Suspension Clause. Both are fundamental

judicial checks on executive authority. Cf. Boumediene v. Bush, 476 F.3d 981, 993 (D.C. Cir.

1997) (rejecting distinction between the Suspension Clause and Bill of Rights amendments

because both are “restrictions on governmental power”), rev’d on other grounds by Boumediene,

553 U.S. 723.

#### ---C/I-Authority is distinct from policy---Authority is a question of jurisdiction-the plan restricts executive jurisdiction over targeted killing by applying judicial due process.

Dictionary.com

http://dictionary.reference.com/browse/authority

au·thor·i·ty [uh-thawr-i-tee, uh-thor-] Show IPA

noun, plural au·thor·i·ties.

1.

the power to determine, adjudicate, or otherwise settle issues or disputes; jurisdiction; the right to control, command, or determine.

2.

a power or right delegated or given; authorization: Who has the authority to grant permission?

### 2AC Executive CP

#### No solvency – Public doesn’t trust the executive’s mandates will be transparent and public – secret evidence

Roach 13 (Kent, eds. Cole, D. Fabbrini, F. Vedaschi, A., David Cole, Federico Fabbrini, Arianna Vedaschi, “Managing Secrecy and its Migration in a Post-9/11 World,” Secrecy, National Security and the Vindication of Constitutional Law, google books pg 118-119)

At the same time, the taint of prior uses of secret evidence as well as public suspicion that secrecy will be used to cover up torture and other misconduct lingers. Although Congress decided at the end of 2011 to create a rebuttable presumption in favor of military detention and trial of alien terrorists suspected of involvement in al Qaeda, President Obama has indicated that he will waive this option when it might prevent other countries from extraditing or transferring terrorist suspects to the United States. Secret evidence as it was previously used at Guantanamo stands a potent and easily understood symbol of unfair counter-terrorism. The unfairness of secret evidence towards those targeted may have strategic as well as normative costs. Many believe that al Qaeda has morphed into an ideology that builds on grievances and a sense that Muslims are under attack throughout the world. In such a context, the public relations costs of using secret evidence should be taken seriously because it may promote a sense that innocent people have been unfairly detained, convicted or targeted as terrorists. Secret evidence is used by the US military and the CIA in decisions about targeted killing. Attorney General Holder has stressed that the evidence supporting such decisions is carefully reviewed within the government and has argued that the process satisfies due process because due process need not be judicial process." The problem with this approach is that it requires people to trust the government that the secret evidence has been thoroughly tested and vetted even though the executive has an incentive to err on the side of security. In contrast to the Israeli courts, American courts have taken a hands-off approach to review of targeted killing.12 The Israeli courts have in one prominent case reviewed targeted killings and have stressed the importance of both ex ante and ex post review within the military and involving the courts.0 To be sure. Israel has not gone as far as the United Kingdom in giving security cleared special advocates access to secret information, but it has provided a process that goes beyond the executive simply reviewing itself. The Obama administration does not seem to think that anyone could seriously challenge the legitimacy of their attempts to keep strategic military information behind targeted killings secret. In a sense, this is a return to a Cold War strategy where the need to preserve secrets from the other side was widely accepted. What has changed since 9/11, however, is that terrorism as opposed to invasion or nuclear war is widely accepted as the prime threat to national security. Terrorism is seen by many as a crime and the use of war-like secrecy is much more problematic in responding to a crime than to a threat of invasion or nuclear war. Hence, the legitimacy of the US's use of secrets to kill people in its controversial war against al Qaeda has been challenged. It may become a liability in the US's dealings with the Muslim world.

#### Counterplan doesn’t solve legitimacy or warfighting – the international community doesn’t trust it

Shane 11/24/12 (SCOTT, staffwriter, “Election Spurred a Move to Codify U.S. Drone Policy” http://www.nytimes.com/2012/11/25/world/white-house-presses-for-drone-rule-book.html?pagewanted=all&\_r=0)

WASHINGTON — Facing the possibility that President Obama might not win a second term, his administration accelerated work in the weeks before the election to develop explicit rules for the targeted killing of terrorists by unmanned drones, so that a new president would inherit clear standards and procedures, according to two administration officials. The matter may have lost some urgency after Nov. 6. But with more than 300 drone strikes and some 2,500 people killed by the Central Intelligence Agency and the military since Mr. Obama first took office, the administration is still pushing to make the rules formal and resolve internal uncertainty and disagreement about exactly when lethal action is justified. Mr. Obama and his advisers are still debating whether remote-control killing should be a measure of last resort against imminent threats to the United States, or a more flexible tool, available to help allied governments attack their enemies or to prevent militants from controlling territory. Though publicly the administration presents a united front on the use of drones, behind the scenes there is longstanding tension. The Defense Department and the C.I.A. continue to press for greater latitude to carry out strikes; Justice Department and State Department officials, and the president’s counterterrorism adviser, John O. Brennan, have argued for restraint, officials involved in the discussions say. More broadly, the administration’s legal reasoning has not persuaded many other countries that the strikes are acceptable under international law. For years before the Sept. 11, 2001, attacks, the United States routinely condemned targeted killings of suspected terrorists by Israel, and most countries still object to such measures. But since the first targeted killing by the United States in 2002, two administrations have taken the position that the United States is at war with Al Qaeda and its allies and can legally defend itself by striking its enemies wherever they are found. Partly because United Nations officials know that the United States is setting a legal and ethical precedent for other countries developing armed drones, the U.N. plans to open a unit in Geneva early next year to investigate American drone strikes.

#### No solvency – XO isn’t binding – can be modified in secret

Dreyfuss 12 (Mike Dreyfuss is a Candidate for Doctor of Jurisprudence, “My Fellow Americans, We Are Going to Kill You: The Legality of Targeting and Killing U.S. Citizens Abroad,” http://www.vanderbiltlawreview.org/content/articles/2012/01/Dreyfuss\_65\_Vand\_L\_Rev\_249.pdf)

Notwithstanding any of the above, the President can revoke or modify Executive Order 12,333 by issuing a new executive order. Executive orders do not bind executive practice any more than the President wants them to, and the President can keep executive orders secret if he so chooses.40 Typically, new executive orders have to be published in the Federal Register. 41 However, when the President determines that as a result of an attack or a threatened attack on the United States, publication would be impracticable or would not “give appropriate notice to the public,” the President can suspend this filing requirement.42 So while targeted killing is distinct from assassination and, under currently published laws, must be distinct to be legal, the distinction matters little. Even classifying all targeted killings as assassinations within the meaning of Executive Order 12,333 would be of little practical importance, as any President who wished to continue the programs could secretly modify the order to carve out an exception for whatever activities he wished to conduct.

### 2AC OLC CP

#### The Executive cannot create remedies on its own- has to be passed as legislation by Congress

Bernstein, Law Prof-Chicago, 12 (ANYA BERNSTEIN, Bigelow Teaching Fellow and Lecturer in Law, The Universityof Chicago Law School, CONGRESSIONAL WILL AND THE ROLE OF THE EXECUTIVE IN BIVENS ACTIONS: WHAT IS SPECIAL ABOUT SPECIAL FACTORS, http://mckinneylaw.iu.edu/ilr/pdf/vol45p719.pdf)

Of course, the judiciary and the legislature are not the only branches that have a hand in crafting remedies. The modern executive branch, with its administrative remedial schemes and its prominent role in the process of legislation, also plays a part. However, as the Bivens case discussed throughout this Article indicates, the Executive’s role in remedy-creation is still subordinate to that of Congress. Administrative remedial schemes must be authorized through a delegation of congressional power to the Executive and are subject to legislative strictures and specifications. Although the President often plays a significant role in the crafting of legislation and must sign a bill into law, it is still Congress that debates and passes it. Responding to these realities, case law 16 regarding constitutional damages consistently looks to congressional will to ensure that judge-made remedies do not disturb the balance of authority between the judiciary and the legislature.

#### Executive already carries out ex post review, but its non-binding and secret—lacks accountability.

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

Currently, officials in the executive branch carry out all such ex ante review of out-of-battlefield targeting and detention decisions, reportedly with the involvement of the President, but without any binding and publicly articulated standards governing the exercise of these authorities. 163 All ex post review of targeting is also done internally within the executive branch. There is no public accounting, or even acknowledgment, of most strikes, their success and error rates, or the extent of any collateral damage. Whereas the Department of Defense provides solatia or condolence payments to Afghan civilians who are killed or injured as a result of military actions in Afghanistan (and formerly did so in Iraq), there is no equivalent effort in areas outside the active conflict zone. 164

#### Judicial review of the military is critical to balanced civil-military relations- Congress and the Executive cannot check themselves

Gilbert, Lieutenant Colonel, 98 (Michael, Lieutenant Colonel Michael H. Gilbert, B.S., USAF Academy; MSBA, Boston University; J.D., McGeorge School of Law; LL.M., Harvard Law School. He is a member of the State Bars of Nebraska and California. “ARTICLE: The Military and the Federal Judiciary: an Unexplored Part of the Civil-Military Relations Triangle,” 8 USAFA J. Leg. Stud. 197, lexis)

The legislative, executive, and judicial branches of the federal government comprise and form a triangle surrounding the military, each branch occupying one side of the civil-military triangle. Commentators have written countless pages discussing, analyzing, and describing the civil-military relationship that the Congress and the President have with the armed forces they respectively regulate and command. Most commentators, however, have neglected to consider the crucial position and role of the federal judiciary. This article examines the relationship between the judiciary and the military in the interest of identifying the role that the judiciary, specifically the United States Supreme Court, plays in civil-military relations. Without an actual, meaningful presence of the judiciary as a leg of the civil-military triangle, the triangle is incomplete and collapses. In its current structure, the judiciary has adopted a non-role by deferring its responsibility to oversee the lawfulness of the other two branches to those branches themselves. This dereliction, which arguably is created by the malfeasance of the United States Supreme Court, has resulted in inherent inequities to the nation, in general, and to service members, in particular, as the federal courts are reluctant to protect even basic civil rights of military members. Judicial oversight is one form of civilian control over the military; abrogating this responsibility is to return power to the military hierarchy that is not meant to be theirs. [\*198] Under the United States Constitution, Congress has plenary authority over the maintenance and regulation of the armed forces, and the President is expressly made the Commander-in-Chief of the armed forces. The unwillingness of the Court to provide a check and balance on these two equal branches of the federal government creates an area virtually unchallengeable by the public. As a result, a large group of people, members of the military services, lack recourse to address wrongs perpetrated against them by their military and civilian superiors. Ironically, the very men and women dedicating their lives to protect the U.S. Constitution lack many of the basic protections the Constitution affords everyone else in this nation. The weakness in the present system is that the Supreme Court has taken a detour from the Constitution with regard to reviewing military issues under the normally recognized requirements of the Constitution. The federal judiciary, following the lead of the Supreme Court, has created de facto immunity from judicial interference by those who seek to challenge policy or procedure established by the other two branches and the military itself. When the "Thou Shalt Nots" of the Amendments to the Constitution compete with the necessities of the military, the conflict is resolved in favor of the military because it is seen as a separate society based upon the constitutionally granted authority of Congress to maintain and regulate the armed forces. 1 Essentially, the Court permits a separate world to be created for the military because of this regulation, distinguishing and separating the military from society. 2 The Court needs to reexamine their almost complete deference on military matters, which is tantamount to an exception to the Bill of Rights for matters concerning members of the military. Unless the Court begins to provide the oversight that is normally dedicated to many other areas of law fraught with complexity and national importance, judicial review of the military will continue to be relegated to a footnote in the annals of law. Combined with the downsizing and further consequent decline of interaction between the military and general society, 3 this exile from the protection of the Constitution could breed great injustices within the military. Perhaps even more importantly, the military might actually begin to believe that they are indeed second-class citizens, separate from the general [\*199] population, which could create dire problems with civil-military relations that are already the subject of concern by many observers. 4

#### Lack of civil control lets the military causes pandemics, piracy and failure to adapt to climate

Owens 12 (Dr. Owens is professor of national security affairs in the National Security Affairs Department of the Naval War College “WHAT MILITARY OFFICERS NEED TO KNOW ABOUT CIVIL-MILITARY RELATIONS,” Naval War College Review, Spring 2012, Vol. 65, No. 2 http://www.usnwc.edu/getattachment/1ef74daf-ebff-4aa4-866e-e1dd201d780e/What-Military-Officers-Need-to-Know-about-Civil-Mi.aspx)

The combination of civil-military relations patterns and service doctrines affect military effectiveness. In essence, the ultimate test of a civil-military relations pattern is how well it contributes to the effectiveness of a state’s military, especially at the level of strategic assessment and strategy making.50 However, Richard Kohn has explicitly called into question the effectiveness of the American military in this realm, especially with regard to the planning and conduct of operations other than those associated with large-scale conventional war. “Nearly twenty years after the end of the Cold War, the American military, financed by more money than the entire rest of the world spends on its armed forces, failed to defeat insurgencies or fully suppress sectarian civil wars in two crucial countries, each with less than a tenth of the U.S. population, after overthrowing those nations’ governments in a matter of weeks.”51 He attributes this lack of effectiveness to a decline in the military’s professional competence with regard to strategic planning. “In effect, in the most important area of professional expertise—the connecting of war to policy, of operations to achieving the objectives of the nation—the American military has been found wanting. The excellence of the American military in operations, logistics, tactics, weaponry, and battle has been manifest for a generation or more. Not so with strategy.”52 This phenomenon manifests itself, he argues, in recent failure to adapt to a changing security environment in which the challenges to global stability are “less from massed armies than from terrorism; economic and particularly financial instability; failed states; resource scarcity (particularly oil and potable water); pandemic disease; climate change; and international crime in the form of piracy, smuggling, narcotics trafficking, and other forms of organized lawlessness.” He observes that this decline in strategic competence has occurred during a time in which the U.S. military exercises enormous influence in the making of foreign and national security policies. He echoes the claim of Colin Gray: “All too often, there is a black hole where American strategy ought to reside.”53 Is there something inherent in current U.S. civil-military affairs that accounts for this failure of strategy? The failure of American <<CMR>> civil-military relations to generate strategy can be attributed to the confluence of three factors. The first of these is the continued dominance within the American system of what Eliot Cohen has called the “normal” theory of civil-military relations, the belief that there is a clear line of demarcation between civilians who determine the goals of the war and the uniformed military who then conduct the actual fighting. Until President George W. Bush abandoned it when he overruled his commanders and embraced the “surge” in Iraq, the normal theory has been the default position of most presidents since the Vietnam War. Its longevity is based on the idea that the failure of Lyndon Johnson and Robert McNamara to defer to an autonomous military realm was the cause of American defeat in Vietnam.

### 2AC Debt Ceiling

#### C. Court action shields Obama from controversy

Pacelle, Prof-Political Science-Georgia Southern, 2002 (Richard L., Prof of Poli Sci @ Georgia Southern University, The Role of the Supreme Court in American Politics: The Least Dangerous Branch? 2002 p 175-6)

The limitations on the Court are not as significant as they once seemed. They constrain the Court, but the boundaries of those constraints are very broad. Justiciability is self-imposed and seems to be a function of the composition of the Court, rather than a philosophical position. Checks and balances are seldom successfully invoked against the judiciary, in part because the Court has positive institutional resources to justify its decisions. The Supreme Court has a relatively high level of diffuse support that comes, in part, from a general lack of knowledge by the public and that contributes to its legitimacy.[6] The cloak of the Constitution and the symbolism attendant to the marble palace and the law contribute as well. As a result, presidents and Congress should pause before striking at the Court or refusing to follow its directives. Indeed, presidents and members of Congress can often use unpopular Court decisions as political cover. They cite the need to enforce or support such decisions even though they disagree with them. In the end, the institutional limitations do not mandate judicial restraint, but turn the focus to judicial capacity, the subject of the next chapter.

#### More evidence – Obama doesn’t get the blame from court action

Sanger-Katz 12 (Margot, healthcare correspondent for the National Journal, Poll: No Blame if Court Nixes Health Care Law, June 5, http://www.nationaljournal.com/daily/poll-no-blame-if-court-nixes-health-care-law-20120605)

Even though President Obama fought for passage of the landmark 2010 health care law, very small minorities say their attitudes about him would change one way or the other should the Supreme Court strike down the law that is so often referred to as “Obamacare.” Two-thirds of those surveyed in a new public-opinion poll said that their respect for Obama would be unchanged if the Supreme Court struck down his signature legislative achievement. Fourteen percent said they would respect Obama more under such a scenario, while 15 percent said they would respect him less. That trend was consistent across the political spectrum—similar proportions of Republicans, Democrats, and independents said they would be unmoved, despite the pundits’ speculation that a Court decision declaring the Affordable Care Act unconstitutional in part or in its entirety might alter public opinion toward the president. The nonplussed attitude also held across nearly all age, income, regional, and racial categories, with at least 60 percent of each surveyed group saying that the ruling would have no impact on their view of the president.

#### Syria and executive incompetence triggers the link even if it’s not on top of the docket

Hunt 9/15/13 (Albert, staffwriter, “Obama’s Syria Meanderings Border on Incompetence” <http://www.bloomberg.com/news/2013-09-15/obama-s-syria-meanderings-border-on-incompetence.html>)

President Barack Obama risks getting stuck with a rap as toxic as an unpopular war or a troubled economy: incompetence. The president may escape collateral damage if the ambitious deal reached Sept. 14 between the U.S. and Russia holds and Syria relinquishes its chemical weapons. Despite the conventional wisdom, Obama did a pretty good job last week of threading the needle between the imperative to respond to the gassing of civilians by President Bashar al-Assad’s regime and the overwhelming desire of Americans not to get bogged down in another fight. The White House says that what matters is the outcome, not the process. Yet the administration’s overall handing of the Syrian situation, particularly in the last two weeks, has friends and foes shaking their heads. The U.S. government’s response has been anything but measured, coherent and purposeful. It’s hard to argue with Republican Senator John McCain of Arizona that this performance “makes you a little queasy.” This criticism follows earlier complaints, often from Democrats, about the White House’s miscalculations in dealing with irrational Republican demands on debt and deficit issues, and the unwillingness of the president to seek counsel beyond his small comfort zone.

#### A. No deal – lack of compromise

Allen 9/19/13 (Jonathan, staffwriter, “GOP battles boost Obama” <http://www.politico.com/story/2013/09/republicans-budget-obama-97093_Page2.html>)

Still, aides to the president and Boehner have said there’s no back-channeling going on between the two leaders, and White House officials say that while they expect Obama to talk with congressional leaders soon, there’s nothing on the schedule at the moment. There’s also reason to think that the GOP establishment is afraid the brinksmen among House Democrats are right about who will win the political aftermath of a government shutdown or a default. Republican strategists outside the crowded conservative corners of the House Republican Conference are reacting along a spectrum that ranges from scratching their heads to tearing their hair out. Nicolle Wallace, a former communications aide to President George W. Bush, had told MSNBC’s “Morning Joe” on Wednesday that Obama erred by giving a partisan speech on the budget fights on the heels of a massacre in Washington. “It really speaks to me about a White House with no more controls. There are no internal controls anymore. There’s no process by which that staff can get to him and make something stop,” she said. “Once a train has been pushed out of the station, no matter how ill-advised its course, nothing and no one can stop it.” By Thursday, the transportation metaphors cut in the other direction. “We are going to let our party run into moving traffic against a red light,” she said on the same program. “It’s idiotic.” The Wall Street Journal editorial page and Karl Rove, Bush’s chief strategist, have also taken fellow Republicans to task in recent days for letting Obama get the upper hand with their obsessive — and sure to fail — effort to kill Obamacare at any potential political cost. There are potential pitfalls for Democrats, too. They risk getting caught up in a blame game if there’s a shutdown and they vote against a GOP-written bill that would extend government funding while blocking Obamacare funds. Even without the Obamacare provision — which could, conceivably, be stripped out by the Senate — many of them don’t want to lock in current spending levels because they say the sequestration deal struck at the end of a similar showdown in August 2011 has robbed their communities of needed funding. That makes it hard to swallow a so-called clean extension of government funding for a few months. Democratic Rep. Gerry Connolly, who represents thousands of government workers and contractors in northern Virginia, is against both a shutdown and the maintenance of current spending levels. He would vote for a clean CR to keep the government funded rather than letting it shut down but would prefer to see the president strike a deal that increases funding for some priorities. In any event, he said, he won’t vote for legislation that defunds Obamacare — like the version of the CR that the House is set to vote on Friday. But Connolly and other Democrats seem willing to follow Obama, who is vowing not to cut Obamacare or negotiate over whether to raise the debt limit next month, all without getting into the details of a possible deal. At least for now. “He has not really given much away,” Connolly said. “I think his Sphinx-like position with respect to the Republicans makes it harder for them to exact unacceptable concessions, and therefore it’s probably a wise posture at this time.”

#### Ex post review is popular

Somin 4/23/13 (Illya, Professor of Law at George Mason University School of Law, “Oral Testimony on Drones and Targeted Killing Before the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights” <http://www.volokh.com/2013/04/23/oral-testimony-on-drones-and-targeted-killing-before-the-senate-judiciary-subcommittee-on-the-constitution-civil-rights-and-human-rights/>)

A video of my and other witnesses’ oral testimony on the use of drones for targeted killing in the War Terror, before the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights is now available here (just click on “webcast”). It was interesting for me to see that there was a broad consensus among the academic and ex-military witnesses on two key points: that the use of drones for targeted killing of terrorists is not inherently illegal or immoral, and that we need stronger safeguards to ensure that we are limiting drone strikes to legitimate military targets. It seems to me that many of the senators who asked questions – both Democrats and Republicans – were also sympathetic on these points. Whether this will lead to appropriate reforms remains to be seen. I will try to post my written testimony by tomorrow. UPDATE: You can also watch the hearing at the C-SPAN site here, though there are a few technical problems in that video that I noticed. UPDATE #2: I do want to clarify one unfortunately ambiguous aspect of an answer I gave to a question by Sen. Michael Lee around 2:07:00 of the video at the Subcommittee website. I mentioned there that the Israeli government government has a judicial review mechanism for considering the legality of targeted killing decisions. I should have made clear that the Israeli system, as outlined in the Israeli High Court of Justice’s 2006 decision on the legality of targeted killing, establishes after-the-fact judicial review rather than judicial review in advance, of the kind contemplated in proposals to create a FISA-like court to review targeting decisions aimed at US citizens in advance. Both Sen. Lee’s question and the part of my answer that mentions Israel were ambiguous on the issue of the timing of judicial review. So I wanted to clarify that point here. As I noted later in my testimony, we cannot and should not simply copy all aspects of Israeli policy in this area, since their strategic situation and political system differ from ours. But we nonetheless should try to learn from their experience.

# 1AR Round 2

### Drone war

#### And, the US can create norms for legitimate drone use-- the plan creates a legal normative framework that would allow the US to apply political pressure against hostile states

Zenko, Council on Foreign Relations, 13 (Micah, Douglas Dillon fellow in the Center for Preventive Action (CPA) at the Council on Foreign Relations (CFR), previously worked at: Harvard Kennedy School and in Washington, DC, at the Brookings Institution, Congressional Research Service, and State Department’s Office of Policy Planning, “Reforming US Drone Strike Policies”, Council on Foreign Relations Special Report No. 65, January 2013, pg. 24-25)

History shows that how states adopt and use new military capabilities is often influenced by how other states have—or have not—used them in the past. Furthermore, norms can deter states from acquiring new technologies.72 Norms—sometimes but not always codified as legal regimes—have dissuaded states from deploying blinding lasers and landmines, as well as chemical, biological, and nuclear weapons. A well-articulated and internationally supported normative framework, bolstered by a strong U.S. example, can shape armed drone proliferation and employment in the coming decades. Such norms would not hinder U.S. freedom of action; rather, they would internationalize already-necessary domestic policy reforms and, of course, they would be acceptable only insofar as the limitations placed reciprocally on U.S. drones furthered U.S. objectives. And even if hostile states do not accept norms regulating drone use, the existence of an international normative framework, and U.S. compliance with that framework, would preserve Washington’s ability to apply diplomatic pressure. Models for developing such a framework would be based in existing international laws that emphasize the principles of necessity, proportionality, and distinction—to which the United States claims to adhere for its drone strikes—and should be informed by comparable efforts in the realms of cyber and space. In short, a world characterized by the proliferation of armed drones—used with little transparency or constraint—would undermine core U.S. interests, such as preventing armed conflict, promoting human rights, and strengthening international legal regimes. It would be a world in which targeted killings occur with impunity against anyone deemed an “enemy” by states or nonstate actors, without accountability for legal justification, civilian casualties, and proportionality. Perhaps more troubling, it would be a world where such lethal force no longer heeds the borders of sovereign states. Because of drones’ inherent advantages over other weapons platforms, states and nonstate actors would be much more likely to use lethal force against the United States and its allies. Much like policies governing the use of nuclear weapons, offensive cyber capabilities, and space, developing rules and frameworks for innovative weapons systems, much less reaching a consensus within the U.S. government, is a long and arduous process. In its second term, the Obama administration has a narrow policy window of opportunity to pursue reforms of the targeted killings program. The Obama administration can proactively shape U.S. and international use of armed drones in nonbattlefield settings through transparency, self-restraint, and engagement, or it can continue with its current policies and risk the consequences. To better secure the ability to conduct drone strikes, and potentially influence how others will use armed drones in the future, the United States should undertake the following specific policy recommendations.

### Israel

#### ISRAEL THINKS WE SHOULD DO THE AFF. THEY HAVE JUDICIAL REVIEW OF TARGETED KILLING.

Kaufman 2013

Eileen, Professor of Law, Touro College, DEFERENCE OR ABDICATION: A COMPARISON OF THE SUPREME COURTS OF ISRAEL AND THE UNITED STATES IN CASES INVOLVING REAL OR PERCEIVED THREATS TO NATIONAL SECURITY, 12 Wash. U. Global Stud. L. Rev. 95 2013

Whichever side is right, it seems clear that a system that encompasses judicial review of practices alleged to violate human rights is far more likely to stem abuses by the political branches. In Israel, security forces and military commanders know that their every action can and likely will be scrutinized by the Israeli Supreme Court. This stands in sharp contrast to the United States where the greater likelihood is that cases regarding practices such as torture and targeted killing will never be heard by the Supreme Court. V. CONCLUSION A study of the Supreme Courts of Israel and the United States offers a fascinating contrast when it comes to how they handle "war on terrorism" cases. The Israeli High Court of Justice will permit an NGO to bring a case, will hear the case in real time while the conflict is ongoing, and will consider it justiciable even if it raises a sensitive issue of national security. In the United States, comparable cases are often treated as non-justiciable, based on doctrines including standing, the political question doctrine, and the state secrets privilege. The experience in Israel, while far from perfect, demonstrates that the judicial branch has the institutional capability to resolve challenges to national security policies, and that the availability of judicial review has an actual effect on governmental policy and military practice and thus plays a major role in reining in governmental excesses in times of war. The norm that has developed in Israel in even the most sensitive cases is that there is always a legal framework for the courts to use. This has reinforced the rule of law as a bedrock principle in Israeli society, which is due in large measure to the phenomenon of legal oversight by the Israeli Supreme Court. In the aftermath of 9/11, when the US executive branch asserted unbridled power and argued that the courts had no role to play, the Israeli approach-an approach that says that there is always a legal framework to apply-might have played a moderating role. In this author's opinion, failing to treat these cases as justiciable amounts to an abdication of the judicial role, as envisioned by Marbury v. Madison. 37 0

### 1AR – T: We Meet

#### Constitutional rights are restrictions

Boumediene Appellete Brief 2005 (Boumediene v. Bush 476 F.3d 981, 993, 375 U.S.App.D.C. 48, 60 (C.A.D.C.,2007)- Appellate brief)

\*993 \*\*60 As against this line of authority, the dissent offers the distinction that the Suspension Clause is a limitation on congressional power rather than a constitutional right. But this is no distinction at all. Constitutional rights are rights against the gov-ernment and, as such, are restrictions on governmental power. See H.P. Hood & Sons, Inc. v. Du Mond, 336 U.S. 525, 534, 69 S.Ct. 657, 93 L.Ed. 865 (1949) (“Even the Bill of Rights amendments were framed only as a limitation upon the powers of Congress.”). FN12 Consider the First Amendment. (In contrasting the Suspension Clause with provisions in the Bill of Rights, see Dissent at 995-96, the dissent is careful to ignore the First Amendment.) Like the Suspension Clause, the First Amendment is framed as a limitation on Congress: “Congress shall make no law ....” Yet no one would deny that the First Amendment protects the rights to free speech and religion and assembly.

#### Enforcement still restricts

Steele 76 (Sr. Dist. Judge Steel, Kovach v. Middendorf 424 F.Supp. 72, 76 -77 (D.C.Del. 1976)), from a 1976 case from a federal trial court in Delaware)

Defendants argue that in both its two year and four year aspects this case presents a political and not a judicial question within the constitutional power of the Court to decide. Defendants point out that Congress alone has the power under the Constitution “(T)o provide and maintain a Navy”, Art. I, s 8, Cl. 13 and “(T)o make \*77 Rules for the Government and Regulation of the . . . naval Forces”. Art. I, s 8, Cl. 14. Defendants argue that the Constitution has placed the power exclusively in Congress to legislate and in the President to execute in all areas relating to the conduct of the Navy, and that decisional responsibilities in those areas are beyond the constitutional limits of judicial power. Defendants rely primarily upon Orloff v. Willoughby, 345 U.S. 83, 93-94, 73 S.Ct. 534, 97 L.Ed. 842 (1953) and Gilligan v. Morgan, 413 U.S. 1, 93 S.Ct. 2440, 37 L.Ed.2d 407 (1973) to support this view. Neither of these cases nor the others referred to by plaintiffdiscuss the issue whether courts, under the power constitutionally conferred upon them, may impose restrictions upon legislative or executive decisions made in the exercise of their war powers if those decisions infringe upon constitutionally protected rights. That courts have the power to do so is settled. Kennedy v. Mendoza-Martinez, 372 U.S. 144, 164-165, 83 S.Ct. 554, 9 L.Ed.2d 644 (1963). See United States v. MacIntosh, 283 U.S. 605, 622, 51 S.Ct. 570, 75 L.Ed. 1302 (1931)

### olc

#### OLC is overly deferential to the executive and the counterplan links to CMR

Scheuerman, professor of political science, 12 (William E., BA from Yale, Ph.D. from Harvard, professor and graduate director in the department of political science at Indiana University, “Emergencies, Executive Power, and the Uncertain Future of US Presidential Democracy”)

In addition, the president's control over the massive administrative apparatus provides the executive with a daunting array of institutional weapons, while the Office of Legal Counsel (OLC) and Office of Counsel to the President offer hyperpoliticized sites from which distinctly executive-centered legal and constitutional views now are rapidly disseminated. Ackerman raises some tough questions for those who deem the OLC and related executive organs fundamentally sound institutions that somehow went haywire under David Addington and John Yoo. In his view, their excesses represent a logical result of basic structural trends currently transforming both the executive and political system as whole. OLC's partisan and sometimes quasi-authoritarian legal pronouncements are now being eagerly studied by law students and cited by federal courts (2010, 93). Notwithstanding an admirable tradition of executive deference to the Supreme Court, presidents are better positioned than ever to claim higher political legitimacy and neutralize political rivals. Backed by eager partisan followers, adept at the media game, and well armed with clever legal arguments constructed by some of the best lawyers in the country, prospective presidents may conceivably stop deferring to the Court (2010, 89). Ackerman's most unsettling amendment to his previous views is probably his discussion of the increasingly politicized character of the military--an administrative realm, by the way, ignored by other writers here, despite its huge role in modern US politics. Here again, the basic enigma is that the traditional eighteenth-century tripartite separation of powers meshes poorly with twenty-first-century trends: powerful military leaders can now regularly play different branches of government against one another in ways that undermine meaningful civilian oversight. Top officers possess far-reaching opportunities "to become an independent political force--allowing them to tip the balance of political support in one direction, then another," as the competing branches struggle for power (2010, 49). For Ackerman, the emergence of nationally prominent and media-savvy figures such as Colin Powell and David Petraeus, who at crucial junctures have communicated controversial policy positions to a broader public, 19 suggests that this long-standing structural flaw has recently gotten worse. The Gold water-Nichols Act of 1996, for example, transformed the chair of the Joint Chiefs of Staff from a mediator for the competing services into the military's principal--and hugely influential--spokesperson within the National Security Council (2010, 50). Not only does the military constitute a hugely significant segment of the administrative machinery, but it is now embodied--both in government and the public eye--in a single leader whose views carry tremendous weight. The fact that opinion surveys show [\*763] that the officer corps is increasingly conservative in its partisan orientation, Ackerman notes, only adds to the dangers. Americans need not fear an imminent military putsch, along the lines that destroyed other presidential regimes elsewhere. Nonetheless, we would do well not to be "lulled into a false sense of security" (2010, 87).