## 1AC

### 1AC Allied Coop Adv

#### Adv 1- Allied terror cooperation:

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

Zenko, CFR Fellow, 13 (Micah, is the Douglas Dillon fellow in the Center for Preventive Action (CPA) at the Council on Foreign Relations (CFR)., “Reforming U.S. Drone Strike Policies,” http://www.cfr.org/wars-and-warfare/reforming-us-drone-strike-policies/p29736)

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.

#### Lack of legal oversight on targeted killing 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

#### Drone policy is more important than the spying and data scandal to European partners-threatens allied intelligence cooperation.

Dworkin 7/17/13 (Anthony, Senior Policy Fellow at the European Council on Foreign Relations, “Actually, drones worry Europe more than spying” <http://globalpublicsquare.blogs.cnn.com/2013/07/17/actually-drones-worry-europe-more-than-spying/>)

Relations between the United States and Europe hit a low point following revelations that Washington was spying on European Union buildings and harvesting foreign email messages. Behind the scenes, though, it is not data protection and surveillance that produces the most complications for the transatlantic intelligence relationship, but rather America's use of armed drones to kill terrorist suspects away from the battlefield. Incidents such as the recent killing of at least 17 people in Pakistan are therefore only likely to heighten European unease. In public, European governments have displayed a curiously passive approach to American drone strikes, even as their number has escalated under Barack Obama’s presidency. Many Europeans believe that the majority of these strikes are unlawful, but their governments have maintained an uneasy silence on the issue. This is partly because of the uncomfortable fact that information provided by European intelligence services may have been used to identify some targets. It is also because of a reluctance to accuse a close ally of having violated international law. And it is partly because European countries have not worked out exactly what they think about the use of drones and how far they agree within the European Union on the question. Now, however, Europe’s muted stance on drone strikes looks likely to change. Why? For one thing, many European countries are now trying to acquire armed drones themselves, and this gives them an incentive to spell out clearer rules for their use. More importantly, perhaps, Europeans have noticed that drones are proliferating rapidly, and that countries like China, Russia and Saudi Arabia are soon likely to possess them. There is a clear European interest in trying to establish some restrictive standards on drone use before it is too late. For all these reasons, many European countries are now conducting internal reviews of their policy on drones, and discussions are also likely to start at a pan-European level. But as Europeans begin to articulate their policy on the use of drones, a bigger question looms. Can Europe and the United States come together to agree on when drone strikes are permissible? Until now, that would have seemed impossible. Since the September 11 attacks, the United States has based its counterterrorism operations on the claim that it is engaged in a worldwide armed conflict with al Qaeda and associated forces — an idea that President Obama inherited from President George W. Bush and has been kept as the basis for an expanded drone strike campaign. European countries have generally rejected this claim. However, the changes to American policy that President Obama announced in May could open the way to at least the possibility of a dialogue. Obama suggested that he anticipated a time in the not-too-distant future when the armed conflict against al Qaeda might come to an end. More substantially, he made clear that his administration was in the process of switching its policy so that, outside zones of hostilities, it would only use drone strikes against individuals who posed a continuing and imminent threat to the U.S. That is a more restrictive standard than the claim that any member of al Qaeda or an associated force could lawfully be killed with a drone strike at any time. European countries might be more willing to accept an approach based on this kind of “self-defense” idea. However, there remain some big stumbling blocks. First, a good deal about Obama’s new standards is still unclear. How does he define a “zone of hostilities,” where the new rules will not apply? And what is his understanding of an “imminent” threat? European countries are likely to interpret these key terms in a much narrower way than the United States. Second, Obama’s new approach only applies as a policy choice. His more expansive legal claims remain in the background so that he is free to return to them if he wishes. But if the United States is serious about working toward international standards on drone strikes, as Obama and his officials have sometimes suggested, then Europe is the obvious place to start. And there are a number of steps the administration could take to make an agreement with European countries more likely. For a start, it should cut back the number of drone strikes and be much more open about the reasons for the attacks it conducts and the process for reviewing them after the fact. It should also elaborate its criteria for determining who poses an imminent threat in a way that keeps attacks within tight limits. And, as U.S. forces prepare to withdraw from Afghanistan in 2014, it should keep in mind the possibility of declaring the war against al Qaeda to be over. All this said, Europe also has some tough decisions to make, and it is unclear whether European countries are ready to take a hard look at their views about drone strikes, addressing any weaknesses or inconsistencies in their own position. If they are, the next few years could offer a breakthrough in developing international standards for the use of this new kind of weapon, before the regular use of drones spreads across the globe.

#### 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.

#### Terrorists have means and motive for nuclear attacks, now-expertise and materials are widespread and multiple attempts prove.

**Jaspal, Quaid-i-Azam University IR professor, 2012**

(Zafar, “Nuclear/Radiological Terrorism: Myth or Reality?”, Journal of Political Studies, <http://pu.edu.pk/images/journal/pols/pdf-files/Nuclear%20Radiological%20terrorism%20Jaspa_Vol_19_Issue_1_2012.pdf>, ldg)

The misperception, miscalculation and above all ignorance of the ruling elite about security puzzles are perilous for the national security of a state. Indeed, in an age of transnational terrorism and unprecedented dissemination of dual-use nuclear technology, ignoring nuclear terrorism threat is an imprudent policy choice. The incapability of terrorist organizations to engineer fissile material does not eliminate completely the possibility of nuclear terrorism. At the same time, the absence of an example or precedent of a nuclear/ radiological terrorism does not qualify the assertion that the nuclear/radiological terrorism ought to be remained a myth.x Farsighted rationality obligates that one should not miscalculate transnational terrorist groups — whose behavior suggests that they have a death wish — of acquiring nuclear, radiological, chemical and biological material producing capabilities. In addition, one could be sensible about the published information that huge amount of nuclear material is spread around the globe. According to estimate it is enough to build more than 120,000 Hiroshima-sized nuclear bombs (Fissile Material Working Group, 2010, April 1). The alarming fact is that a few storage sites of nuclear/radiological materials are inadequately secured and continue to be accumulated in unstable regions (Sambaiew, 2010, February). Attempts at stealing fissile material had already been discovered (Din & Zhiwei, 2003: 18). Numerous evidences confirm that terrorist groups had aspired to acquire fissile material for their terrorist acts. Late Osama bin Laden, the founder of al Qaeda stated that acquiring nuclear weapons was a“religious duty” (Yusufzai, 1999, January 11). The IAEA also reported that “al-Qaeda was actively seeking an atomic bomb.” Jamal Ahmad al-Fadl, a dissenter of Al Qaeda, in his trial testimony had “revealed his extensive but unsuccessful efforts to acquire enriched uranium for al-Qaeda” (Allison, 2010, January: 11). On November 9, 2001, Osama bin Laden claimed that “we have chemical and nuclear weapons as a deterrent and if America used them against us we reserve the right to use them (Mir, 2001, November 10).” On May 28, 2010, Sultan Bashiruddin Mahmood, a Pakistani nuclear scientist confessed that he met Osama bin Laden. He claimed that “I met Osama bin Laden before 9/11 not to give him nuclear know-how, but to seek funds for establishing a technical college in Kabul (Syed, 2010, May 29).” He was arrested in 2003 and after extensive interrogation by American and Pakistani intelligence agencies he was released (Syed, 2010, May 29). Agreed, Mr. Mahmood did not share nuclear know-how with Al Qaeda, but his meeting with Osama establishes the fact that the terrorist organization was in contact with nuclear scientists. Second, the terrorist group has sympathizers in the nuclear scientific bureaucracies. It also authenticates bin Laden’s Deputy Ayman Zawahiri’s claim which he made in December 2001: “If you have $30 million, go to the black market in the central Asia, contact any disgruntled Soviet scientist and a lot of dozens of smart briefcase bombs are available (Allison, 2010, January: 2).” The covert meetings between nuclear scientists and al Qaeda members could not be interpreted as idle threats and thereby the threat of nuclear/radiological terrorism is real. The 33Defense Secretary Robert Gates admitted in 2008 that “what keeps every senior government leader awake at night is the thought of a terrorist ending up with a weapon of mass destruction, especially nuclear (Mueller, 2011, August 2).” Indeed, the nuclear deterrence strategy cannot deter the transnational terrorist syndicate from nuclear/radiological terrorist attacks. Daniel Whiteneck pointed out: “Evidence suggests, for example, that al Qaeda might not only use WMD simply to demonstrate the magnitude of its capability but that it might actually welcome the escalation of a strong U.S. response, especially if it included catalytic effects on governments and societies in the Muslim world. An adversary that prefers escalation regardless of the consequences cannot be deterred” (Whiteneck, 2005, Summer: 187)

#### 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

#### Only judicial ex post review provides the accountability necessary to solve 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.

#### Accountability is impossible from executive internal measures- no one trusts Obama on drones—Court action is key.

Goldsmith 13 (Jack Goldsmith teaches at Harvard Law School and is a member of the Hoover Institution Task Force on National Security and Law, “How Obama Undermined the War on Terror,” http://www.newrepublic.com/article/112964/obamas-secrecy-destroying-american-support-counterterrorism)

For official secrecy abroad to work, the secrets must be kept at home as well. In speeches, interviews, and leaks, Obama's team has tried to explain why its operations abroad are lawful and prudent. But to comply with rules of classified information and covert action, the explanations are conveyed in limited, abstract, and often awkward terms. They usually raise more questions than they answer—and secrecy rules often preclude the administration from responding to follow-up questions, criticisms, and charges. ¶ As a result, much of what the administration says about its secret war—about civilian casualties, or the validity of its legal analysis, or the quality of its internal deliberations—seems incomplete, self-serving, and ultimately non-credible. These trust-destroying tendencies are exacerbated by its persistent resistance to transparency demands from Congress, from the press, and from organizations such as the aclu that have sought to know more about the way of the knife through Freedom of Information Act requests.¶ A related sin is the Obama administration's surprising failure to secure formal congressional support. Nearly every element of Obama's secret war rests on laws—especially the congressional authorization of force (2001) and the covert action statute (1991)—designed for different tasks. The administration could have worked with Congress to update these laws, thereby forcing members of Congress to accept responsibility and take a stand, and putting the secret war on a firmer political and legal foundation. But doing so would have required extended political efforts, public argument, and the possibility that Congress might not give the president precisely what he wants.¶ The administration that embraced the way of the knife in order to lower the political costs of counterterrorism abroad found it easier to avoid political costs at home as well. But this choice deprived it of the many benefits of public argumentation and congressional support. What Donald Rumsfeld said self-critically of Bush-era unilateralism applies to Obama's unilateralism as well: it fails to "take fully into account the broader picture—the complete set of strategic considerations of a president fighting a protracted, unprecedented and unfamiliar war for which he would need sustained domestic and international support." ¶ Instead of seeking contemporary congressional support, the administration has relied mostly on government lawyers' secret interpretive extensions of the old laws to authorize new operations against new enemies in more and more countries. The administration has great self-confidence in the quality of its stealth legal judgments. But as the Bush administration learned, secret legal interpretations are invariably more persuasive within the dark circle of executive branch secrecy than when exposed to public sunlight. On issues ranging from proper targeting standards, to the legality of killing American citizens, to what counts as an "imminent" attack warranting self-defensive measures, these secret legal interpretations—so reminiscent of the Bushian sin of unilateral legalism—have been less convincing in public, further contributing to presidential mistrust.¶ Feeling the heat from these developments, President Obama promised in his recent State of the Union address "to engage with Congress to ensure not only that our targeting, detention, and prosecution of terrorists remains consistent with our laws and system of checks and balances, but that our efforts are even more transparent to the American people and to the world." So far, this promise, like similar previous ones, remains unfulfilled. ¶ The administration has floated the idea of "[shifting] the CIA's lethal targeting program to the Defense Department," as The Daily Beast reported last month. Among other potential virtues, this move might allow greater public transparency about the way of the knife to the extent that it would eliminate the covert action bar to public discussion. But JSOC's non-covert targeted killing program is no less secretive than the CIA's, and its congressional oversight is, if anything, less robust. ¶ A bigger problem with this proposed fix is that it contemplates executive branch reorganization followed, in a best-case scenario, by more executive branch speeches and testimony about what it is doing in its stealth war. The proposal fails to grapple altogether with the growing mistrust of the administration's oblique representations about secret war. The president cannot establish trust in the way of the knife through internal moves and more words. Rather, he must take advantage of the separation of powers. Military detention, military commissions, and warrantless surveillance became more legitimate and less controversial during the Bush era because adversarial branches of government assessed the president's policies before altering and then approving them. President Obama should ask Congress to do the same with the way of the knife, even if it means that secret war abroad is harder to conduct.

### 1AC Imminence Adv

#### Advantage 2- Imminence:

#### The executive’s current definition of imminence is so vague and broad it makes overuse and abuse of the drone program inevitable.

Greenwald 13 (Glenn, J.D. from NYU, award-winning journalist, February 5th, 2013, "Chilling legal memo from Obama DOJ justifies assassination of US citizens," www.theguardian.com/commentisfree/2013/feb/05/obama-kill-list-doj-memo)

4. Expanding the concept of "imminence" beyond recognition The memo claims that the president's assassination power applies to a senior al-Qaida member who "poses an imminent threat of violent attack against the United States". That is designed to convince citizens to accept this power by leading them to believe it's similar to common and familiar domestic uses of lethal force on US soil: if, for instance, an armed criminal is in the process of robbing a bank or is about to shoot hostages, then the "imminence" of the threat he poses justifies the use of lethal force against him by the police. But this rhetorical tactic is totally misleading. The memo is authorizing assassinations against citizens in circumstances far beyond this understanding of "imminence". Indeed, the memo expressly states that it is inventing "a broader concept of imminence" than is typically used in domestic law. Specifically, the president's assassination power "does not require that the US have clear evidence that a specific attack . . . will take place in the immediate future". The US routinely assassinates its targets not when they are engaged in or plotting attacks but when they are at home, with family members, riding in a car, at work, at funerals, rescuing other drone victims, etc. Many of the early objections to this new memo have focused on this warped and incredibly broad definition of "imminence". The ACLU's Jameel Jaffer told Isikoff that the memo "redefines the word imminence in a way that deprives the word of its ordinary meaning". Law Professor Kevin Jon Heller called Jaffer's objection "an understatement", noting that the memo's understanding of "imminence" is "wildly overbroad" under international law. Crucially, Heller points out what I noted above: once you accept the memo's reasoning - that the US is engaged in a global war, that the world is a battlefield, and the president has the power to assassinate any member of al-Qaida or associated forces - then there is no way coherent way to limit this power to places where capture is infeasible or to persons posing an "imminent" threat. The legal framework adopted by the memo means the president can kill anyone he claims is a member of al-Qaida regardless of where they are found or what they are doing. The only reason to add these limitations of "imminence" and "feasibility of capture" is, as Heller said, purely political: to make the theories more politically palatable. But the definitions for these terms are so vague and broad that they provide no real limits on the president's assassination power. As the ACLU's Jaffer says: "This is a chilling document" because "it argues that the government has the right to carry out the extrajudicial killing of an American citizen" and the purported limits "are elastic and vaguely defined, and it's easy to see how they could be manipulated."

#### 2 Impacts- first, Pakistan

#### This broad definition of imminence has increased the frequency of attacks and the scope of who can be targeted, which decreases the program’s effectiveness because it reduces the ratio of high-value decapitations to accidental kills

Hudson 11 (Leila Hudson is associate professor of anthropology and history in the School of Middle Eastern & North African Studies at the University of Arizona and director of the Southwest Initiative for the Study of Middle East Conflicts, “Drone Warfare: Blowback From the New American Way of War,” Middle East Policy, <http://www.mepc.org/journal/middle-east-policy-archives/drone-warfare-blowback-new-american-way-war>)

The Bush administration's increased reliance on the program started in 2008; however, it is with the Obama administration that we see the most rapid proliferation of attacks. The final phase of the drone program is characterized by an even greater increase in attack frequency and an expansion of the target list to include targets of opportunity and unidentified militants of dubious rank — and funerals.12 As of May 2011, the CIA under the Obama administration has conducted nearly 200 drone strikes. This suggests that the drone target list now includes targets of opportunity, likely including some selected in consultation with the Pakistani authorities in order to facilitate the increasingly unpopular program. This development, in turn, has now decreased the effectiveness of the program when assessed in terms of the ratio of high-value to accidental kills. As Figure 2 shows, the steady increase in drone attacks conducted in Pakistan between 2004 and 2010 has resulted in a far higher number of deaths overall, but a lower rate of successful killings of high-value militant leaders who command, control and inspire organizations. If we define a high-value target as an organizational leader known to intelligence sources and the international media prior to attack and not someone whose death is justified with a posthumous militant status, we see fewer and fewer such hits — the alleged killing of al-Qaeda commander Ilyas al-Kashmiri in 2009 and again in June 2011 notwithstanding.13 Data analysis shows that at the beginning of the drone program (2002-04), five or six people were killed for each defined high-value target. As part of that high-value target's immediate entourage, they were much more likely to be militants than civilians. By 2010, one high-value target was killed per 147 total deaths. The increased lethality of each attack is due to larger payloads, broader target sets such as funeral processions, and probable new targeting guidelines (including targets of opportunity).14 Over time, these more deadly drone attacks have failed to effectively decapitate the leadership of anti-U.S. organizations but have killed hundreds of other people subsequently alleged to be militants; many were civilians.15 The rapidly growing population of survivors and witnesses of these brutal attacks have emotional and social needs and incentives to join the ranks of groups that access and attack U.S. targets in Afghanistan across the porous border. Drone attacks themselves deliver a politically satisfying short-term "bang for the buck" for U.S. constituencies ignorant of and indifferent to those affected by drone warfare or the phenomenon of blowback. In the Pakistani and Afghan contexts, they inflame the populations and destabilize the institutions that drive regional development. In addition to taking on an unacceptable and extrajudicial toll in human life, the drone strikes in unintended ways complicate the U.S. strategic mission in Afghanistan, as well as the fragile relationship with Pakistan. As a result, the U.S. military's counterinsurgency project in Afghanistan becomes a victim of the first two forms of blowback.

#### Overuse of drones in Pakistan empowers militants and destabilizes the government

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

The escalation of drone strikes in Pakistan to its current tempo—one every few days—directly contradicts the long-term American strategic goal of boosting the capacity and legitimacy of the government in Islamabad. Drone attacks are more than just temporary incidents that erase all traces of an enemy. They have lasting political effects that can weaken existing governments, undermine their legitimacy and add to the ranks of their enemies. These political effects come about because drones provide a powerful signal to the population of a targeted state that the perpetrator considers the sovereignty of their government to be negligible. The popular perception that a government is powerless to stop drone attacks on its territory can be crippling to the incumbent regime, and can embolden its domestic rivals to challenge it through violence. Such continual violations of the territorial integrity of a state also have direct consequences for the legitimacy of its government. Following a meeting with General David Petraeus, Pakistani President Asif Ali Zardari described the political costs of drones succinctly, saying that ‘continuing drone attacks on our country, which result in loss of precious lives or property, are counterproductive and difficult to explain by a democratically elected government. It is creating a credibility gap.’75 Similarly, the Pakistani High Commissioner to London Wajid Shamsul Hasan said in August 2012 that¶ what has been the whole outcome of these drone attacks is that you have directly or indirectly contributed to destabilizing or undermining the democratic government. Because people really make fun of the democratic government—when you pass a resolution against drone attacks in the parliament and nothing happens. The Americans don’t listen to you, and they continue to violate your territory.76¶ The appearance of powerlessness in the face of drones is corrosive to the appearance of competence and legitimacy of the Pakistani government. The growing perception that the Pakistani civilian government is unable to stop drone attacks is particularly dangerous in a context where 87 per cent of all Pakistanis are dissatisfied with the direction of the country and where the military, which has launched coups before, remains a popular force.77

#### Pakistan collapse risks war with India and loose nukes

Twining 13 (Daniel Twining is Senior Fellow for Asia at the German Marshall Fund, Pakistan and the Nuclear Nightmare, Sept 4, http://shadow.foreignpolicy.com/posts/2013/09/04/pakistan\_and\_the\_nuclear\_nightmare)

The Washington Post has revealed the intense concern of the U.S. intelligence community about Pakistan's nuclear weapons program. In addition to gaps in U.S. information about nuclear weapons storage and safeguards, American analysts are worried about the risk of terrorist attacks against nuclear facilities in Pakistan as well as the risk that individual Pakistani nuclear weapons handlers could go rogue in ways that endanger unified national control over these weapons of mass destruction. These concerns raise a wider question for a U.S. national security establishment whose worst nightmares include the collapse of the Pakistani state -- with all its implications for empowerment of terrorists, a regional explosion of violent extremism, war with India, and loss of control over the country's nuclear weapons. That larger question is: Does Pakistan's nuclear arsenal promote the country's unity or its disaggregation? This is a complicated puzzle, in part because nuclear war in South Asia may be more likely as long as nuclear weapons help hold Pakistan together and embolden its military leaders to pursue foreign adventures under the nuclear umbrella. So if we argue that nuclear weapons help maintain Pakistan's integrity as a state -- by empowering and cohering the Pakistani Army -- they may at the same time undermine regional stability and security by making regional war more likely. As South Asia scholar Christine Fair of Georgetown University has argued, the Pakistani military's sponsorship of "jihad under the nuclear umbrella" has gravely undermined the security of Pakistan's neighborhood -- making possible war with India over Kargil in 1999, the terrorist attack on the Indian Parliament in 2001, the terrorist attack on Mumbai in 2008, and Pakistan's ongoing support for the Afghan Taliban, the Haqqani network, Lashkar-e-Taiba, and other violent extremists. Moreover, Pakistan's proliferation of nuclear technologies has seeded extra-regional instability by boosting "rogue state" nuclear weapons programs as far afield as North Korea, Libya, Iran, and Syria. Worryingly, rather than pursuing a policy of minimal deterrence along Indian lines, Pakistan's military leaders are banking on the future benefits of nuclear weapons by overseeing the proportionately biggest nuclear buildup of any power, developing tactical (battlefield) nuclear weapons, and dispersing the nuclear arsenal to ensure its survivability in the event of attack by either the United States or India. (Note that most Pakistanis identify the United States, not India, as their country's primary adversary, despite an alliance dating to 1954 and nearly $30 billion in American assistance since 2001.) The nuclear arsenal sustains Pakistan's unbalanced internal power structure, underwriting Army dominance over elected politicians and neutering civilian control of national security policy; civilian leaders have no practical authority over Pakistan's nuclear weapons program. Whether one believes the arsenal's governance implications generate stability or instability within Pakistan depends on whether one believes that Army domination of the country is a stabilizing or destabilizing factor. A similarly split opinion derives from whether one deems the Pakistan Army the country's most competent institution and therefore the best steward of weapons whose fall into the wrong hands could lead to global crisis -- or whether one views the Army's history of reckless risk-taking, from sponsoring terrorist attacks against the United States and India to launching multiple wars against India that it had no hope of winning, as a flashing "DANGER" sign suggesting that nuclear weapons are far more likely to be used "rationally" by the armed forces in pursuit of Pakistan's traditional policies of keeping its neighbors off balance. There is no question that the seizure of power by a radicalized group of generals with a revolutionary anti-Indian, anti-American, and social-transformation agenda within Pakistan becomes a far more dangerous scenario in the context of nuclear weapons. Similarly, the geographical dispersal of the country's nuclear arsenal and the relatively low level of authority a battlefield commander would require to employ tactical nuclear weapons raise the risk of their use outside the chain of command. This also raises the risk that the Pakistani Taliban, even if it cannot seize the commanding heights of state institutions, could seize either by force or through infiltration a nuclear warhead at an individual installation and use it to hold the country -- and the world -- to ransom. American intelligence analysts covering Pakistan will continue to lose sleep for a long time to come.

#### Miscalculation means this could escalate to nuclear winter and extinction

Hundley 12 (TOM HUNDLEY, Senior Editor-Pulitzer Center, “Pakistan and India: Race to the End,” http://pulitzercenter.org/reporting/pakistan-nuclear-weapons-battlefield-india-arms-race-energy-cold-war)

Nevertheless, military analysts from both countries still say that a nuclear exchange triggered by miscalculation, miscommunication, or panic is far more likely than terrorists stealing a weapon -- and, significantly, that the odds of such an exchange increase with the deployment of battlefield nukes. As these ready-to-use weapons are maneuvered closer to enemy lines, the chain of command and control would be stretched and more authority necessarily delegated to field officers. And, if they have weapons designed to repel a conventional attack, there is obviously a reasonable chance they will use them for that purpose. "It lowers the threshold," said Hoodbhoy. "The idea that tactical nukes could be used against Indian tanks on Pakistan's territory creates the kind of atmosphere that greatly shortens the distance to apocalypse." Both sides speak of the possibility of a limited nuclear war. But even those who speak in these terms seem to understand that this is fantasy -- that once started, a nuclear exchange would be almost impossible to limit or contain. "The only move that you have control over is your first move; you have no control over the nth move in a nuclear exchange," said Carnegie's Tellis. The first launch would create hysteria; communication lines would break down, and events would rapidly cascade out of control. Some of the world's most densely populated cities could find themselves under nuclear attack, and an estimated 20 million people could die almost immediately. What's more, the resulting firestorms would put 5 million to 7 million metric tons of smoke into the upper atmosphere, according to a new model developed by climate scientists at Rutgers University and the University of Colorado. Within weeks, skies around the world would be permanently overcast, and the condition vividly described by Carl Sagan as "nuclear winter" would be upon us. The darkness would likely last about a decade. The Earth's temperature would drop, agriculture around the globe would collapse, and a billion or more humans who already live on the margins of subsistence could starve. This is the real nuclear threat that is festering in South Asia. It is a threat to all countries, including the United States, not just India and Pakistan. Both sides acknowledge it, but neither seems able to slow their dangerous race to annihilation.

#### Scenario 2- Yemen and Somalia:

#### Drone overuse wrecks stability in Yemen—errors and collateral damage are high now.

Greenfield and Kramer 13 (DANYA GREENFIELD & DAVID J KRAMER, Time to curb American drones, April 5,

http://www.nation.com.pk/pakistan-news-newspaper-daily-english-online/international/05-Apr-2013/time-to-curb-american-drones)

The US has played a significant role in Yemen’s transition, which ensured the exit of former president Ali Abdullah Saleh, in exchange for immunity, and inaugurated a unity government and consensus president overseeing a national dialogue launched last month. The US has pledged support for the dialogue, which will lead to a constitutional referendum and new elections. To many Yemenis, however, Washington is narrowly focused on the short-term security concerns and the fight against terrorism. The US, they think, cares little about real political change. As Yemen’s transition enters a critical stage, Washington has an opportunity to change this image by redirecting its policy to greater emphasis on stability, prosperity and democracy, which will advance both US and Yemeni interests. Despite considerable US humanitarian aid and development support to their government, most Yemenis associate US engagement with the ongoing drone campaign to destroy Al-Qaeda in the Arabian Peninsula (AQAP) and they see it as having little regard for its effect on civilians. A number of former US military and intelligence officials argue that the drone programme’s costs may exceed its benefits. Retired General Stanley McChrystal has articulated the hazards of overreliance on drones, and General James E Cartwright, former vice-chairman of the Joint Chiefs-of-Staff, cautioned last month against unintended consequences, arguing that no matter how precise drone strikes may be, they breed animosity among targeted communities and threaten US efforts to curb extremism. With drone attacks breeding discontent and anti-American sentiment, the Barack Obama administration must rethink how the US can advance its objectives without letting tactics dictate strategy. Washington seeks to balance multiple priorities in Yemen: Supporting stability in the Arabian Peninsula, disrupting terrorist networks, securing waterways and aiding Yemen’s transition to democracy. By focusing primarily on acute, short-term threats, the US risks the long-term security that benefits both nations and can be achieved only through a sustained investment in the humanitarian, economic and political development of the Yemeni people. Thirty-one foreign policy experts and former diplomats sent a letter to President Obama last week that said the administration’s expansive use of unmanned drones in Yemen is proving counterproductive to US security objectives: As faulty intelligence leads to collateral damage, extremist groups ultimately win more support. The lack of transparency and accountability behind the drone policy set a dangerous global precedent and damage Washington’s ability to influence positive change in Yemen and the region. Drone strikes heighten animosity towards the US and Yemen President Abd Rabbo Mansour Hadi’s government for compromising Yemeni sovereignty. The US, the letter counselled, should reduce its reliance on drone strikes and instead invest in a long-term security agenda. This will include strengthening institutions that enhance the capacity and professionalism of Yemen’s security forces - not only counterterrorism units - to address threats to internal security. Washington already supports the restructuring of Yemen’s military, a step mandated by the transition agreement, but the Defence and State departments should ensure that America’s military assistance does not repeat the mistakes made during Saleh’s tenure - such as ignoring power concentrated in the hands of elites or not prosecuting human rights abuses. And building a capable police force recruited from residents in partnership with local communities is essential to securing this territory. Americans and Yemenis have a strong shared interest in combating extremism, as Al-Qaeda and its local affiliate, Ansar Al Sharia, spread out in the south and pledge acts of terrorism against both Yemeni and US targets. The US should not ignore this threat, but beyond the security portfolio, Yemenis need to feel that Washington is committed to supporting democratic institutions and the prosperity of the Yemeni people. Although the State Department and the US Agency for International Development are engaging Hadi’s government on development and humanitarian issues, most Yemenis feel only the negative effects of US counterterrorism policy. Rather than the steady stream of military delegations, a more robust economic assistance programme and public diplomacy strategy - including a visit by Secretary of State John Kerry and other high-level diplomats - will signal support for Yemen’s transition and its democratic aspirations. Yemen’s national dialogue is an ideal opportunity to break with a legacy of corrupt leaders who sought personal gain at the nation’s expense. The Obama administration can encourage this process by providing international cover for the difficult decisions delegates must make to craft a new political system based on equitable power-sharing, active citizenship and tolerance. This requires the administration to examine its own policies and shift course where the status quo undermines America’s shared interests. Despite negative attitudes towards US policy, Yemenis are eager to have an authentic partnership with the US - built on transparency, accountability and a demonstrated commitment to their future.

#### Executive overreliance causes blowback and instability in Yemen and Somalia- risks violent escalation.

Hudson 11 (Leila Hudson is associate professor of anthropology and history in the School of Middle Eastern & North African Studies at the University of Arizona and director of the Southwest Initiative for the Study of Middle East Conflicts, “Drone Warfare: Blowback From the New American Way of War,” Middle East Policy, <http://www.mepc.org/journal/middle-east-policy-archives/drone-warfare-blowback-new-american-way-war>)

It is possible that the exchange of personnel among the military, the intelligence community and the Department of Defense will clear up the confusion over command and targeting, though this is far from given. The more serious forms of blowback stemming directly from the effects of extrajudicial killing, however, do not seem to have been addressed. If the Pakistani campaign spawned purposeful vengeance, like the Khost bombing, and opportunities for recruitment of noncombatants for retaliatory attacks, then the same purposeful and accidental escalation will most likely occur in the Arabian Peninsula and the Horn of Africa, compounding Yemen's and Somalia's volatility. In many ways, Yemen resembles both Afghanistan and Pakistan, and the undeclared drone war there will share the most dysfunctional characteristics of both sides of the Af/Pak theatre. Like Afghanistan, Yemen is a fragmented tribal society ideally suited for harboring pockets of militancy in a de-centered system with strong social ties.33 Like Pakistan, Yemen's military and the other institutions of a failing state may still function well enough to both channel counterterror funds from the United States and apply them according to its own interests and criteria.34 Another whisky-swilling military steeped in hypocrisy and addicted to counterterror as a way to make a living is hardly the ideal local spotter for U.S. attacks from the skies.35 Drone warfare as it has evolved in the Af/Pak theatre is not the answer to Yemen's unrest. The lessons of drone warfare in Pakistan are clear. First, if extrajudicial dispatching of high-value targets is a goal, such targets are best dealt with as Osama bin Laden was — through face-to-face assaults by crack JSOC troops based on reliable intelligence. Second, chronic testing of national sovereignty through an undeclared war of drone attacks puts fragile governing structures in the target country under enormous pressure while exacerbating social volatility, a recipe for unpredictable outcomes.36 Third, the complacency engendered in the American public, which is largely blind to the costs and consequences of, and anesthetized to, the legal and moral issues of drone warfare, precludes recognition, let alone discussion of this new form of warfare. Finally, a trend in increasing "collateral damage" ­— in which thousands of noncombatants may be extrajudicially killed, traumatized and materially damaged — fuels instability and escalates violent retaliation against convenient targets. With Yemen and Somalia as the east-west axis of a maritime system that unites South Asia with the Horn of Africa through one of the world's most sensitive and pirate-infested shipping channels, counterterror measures must be both precise and well-reasoned. The Pakistani model is neither. Drone strikes leave little scope for the civic reform that the Arab Spring in Yemen demands.37

#### Instability in Yemen and Somalia makes maritime terrorism in critical chokepoints around the Horn of Africa inevitable.

Ulrichsen 11 (Kristian Coates, The Geopolitics of Insecurity in the Horn of Africa and the Arabian Peninsula, Middle East Policy Council, http://www.mepc.org/journal/middle-east-policy-archives/geopolitics-insecurity-horn-africa-and-arabian-peninsula?print)

Multiple fault lines have thus opened up, facilitated by (and accelerating) processes of state weakness and the relative empowerment of non-state actors. The result is more political violence and endemic criminality in and off the coast of Somalia and the Horn. Nevertheless, the new dimension to this nexus of terrorism, piracy, gun-running and people-smuggling is its growing transregional dimension. This defines the core challenge facing the regional and global security agenda, in addition to attempts at diplomatic mediation and conflict resolution throughout the area. Intensifying illicit networks and rent-seeking criminality are part of a broader pressure on fragile state structures. They are already struggling to control and adapt to pressures arising from the accelerated flows of information, communication and migration in a rapidly globalizing environment. The coincidence of these processes in Somalia and Yemen is changing the geopolitics of insecurity in the Horn of Africa and the Arabian Peninsula, as the following sections detail. MARITIME AND ENERGY SECURITY The problem of fragile and collapsed states on both sides of the Bab al-Mandab introduces potent new elements of maritime and energy security into the regional — and global — equation. The incidence of maritime piracy in the Gulf of Aden and the Red Sea more than doubled in 2008-09, and their operational reach steadily increased. Much of the piracy was launched from the semi-autonomous region of Puntland, on Somalia's tip of the Horn, where patterns of rent-seeking and gangsterism converge with the absence of effective state authority and licit sources of income. Moreover, at least one of the seven different groups of pirates operating off the Somali coast is believed to be based in the Socotra archipelago in Yemen, while at least some of the financial proceeds are believed to pass through money-laundering channels in Dubai and Kenya.44 This underlines the growing regional and international risk from both maritime piracy and maritime terrorism. Incidents such as the seizure of the Sirius Star by Somali-based pirates in November 2008 and the attack on the Japanese supertanker M Star in the Strait of Hormuz in July 2010 illustrate both phenomena. Maritime commerce and international shipping that link the oil-exporting Gulf states to Western economies must navigate two regional chokepoints, the Strait of Hormuz and the Bab el-Mandab, in addition to the hazardous waters of the Gulf of Aden and the Red Sea. Pirates' growing aggressiveness has centered on this geostrategically and commercially vital region. It reflects the interlocking dangers stemming from a crisis of governance and spreading conflicts. In 2009, the International Maritime Board recorded a total of 406 actual and attempted attacks, the majority of which occurred in the Gulf of Aden and off the Somali coast.45 However, due to underreporting, often for fear of higher insurance premiums, the figures may be much higher. Numerous factors underlie the rise in maritime piracy off the Somali coast. These include opportunistic motivations, which are among the principal drivers of pirate groups, as well as the ready availability of targets (through high volumes of trade passing by) and means (including inadequate law enforcement and ready access to weaponry). It is contextualized by the impact of conflict, poverty and weak state capacity.46 Indeed, in the Somali case, state collapse is a major determinant of piracy. Piracy declined sharply during the short-lived projection of power and authority by the UIC in 2006 and subsequently resurged following their removal through the reappearance of pirate groups operating under warlord protection.47 With the TFG unable to control its territory, let alone its coastline and territorial waters, increased naval patrolling activity by external actors (including the EU, NATO, China, Russia, India and Iran) may offer a degree of protection to shipping but leaves untouched the root causes of piracy as a symptom of state collapse and lack of legitimate economic opportunities. Maritime terrorism presents the second major threat to international security at sea. It has similar causal facilitators to maritime piracy; the erosion of governance in littoral regions creates security gaps that may be exploited by terrorist organizations. The threat from maritime terrorism is low-level yet potentially high-impact. It encompasses subthreats ranging from maritime criminality to better-organized groupings of insurgents or militants who take advantage of the pressure on littoral states to exploit their maritime resources and the fuzzy margins between domestic and international governance of international waterways and shipping lanes. Although the number of maritime terrorist incidents has been relatively small, it does present a challenge to a global supply chain and logistical system increasingly predicated on "just-in-time" deliveries. It also encompasses the role of non-state actors with access to sophisticated weaponry operating in international waters where jurisdiction is unclear and the "seams of globalization" become vulnerable to exploitation.48

#### These attacks risk global economic collapse

Neubauer 13 (Sigurd, Defense and foreign affairs specialist, member of the International Institute for Strategic Studies, Somalia: A Terrorist-Piracy Nexus?, May 22, http://www.huffingtonpost.com/sigurd-neubauer/somalia-piracy\_b\_3320406.html)

Piracy, like terrorism has been a scourge of mankind for centuries and, though its practitioners, real (Blackbeard, Anne Bonny and Henry Morgan) and mythical (Captain Jack Sparrow in the Pirates of the Caribean movie stories) have achieved heroic stature in popular culture, its contemporary manifestations represent a major threat to the global economy and to national security. Significant strides have been made in recent years towards combating piracy, especially off the coast of Somalia, but a robust international grand strategy is urgently needed in order to forestall an ever more dangerous global threat as pirates develop ever more sophisticated organizational structures, many of which are already linked to criminal gangs and even, in some cases to terrorist groups. Their activities already impose heavy financial and human costs not only on the maritime industry but also on the countries from which they operate. Heretofore, the area around Somalia has been the most dangerous area but significant progress has been made in reducing piracy there. Last year, pirates succeeded in capturing 13 vessels, compared to 49 in 2010 and 28 in 2011, according to the International Maritime Organization (IMO). Part of that success can at least be partially explained by the European Union's heavy naval presence around the Horn of Africa, in the Gulf of Aden while improving intelligence sharing with NATO, the Combined Maritime Forces (CMF), the UK Maritime Trade Operations (UKMTO), and the International Maritime Bureau (IMB) Piracy Reporting Center. Additional measures implemented by shipping companies such as providing more armed security aboard merchant vessels while securing the ship's perimeter with razor or barbed wire have also led to the significant decrease in the number of piracy attacks. Equally important, however, was the 2009 implementation of the Djibouti Code of Conduct, a code concerning the repression of piracy and armed robbery against ships. Under the code, aside from committing themselves to abiding by various counter-piracy United Nations Security Council Resolutions, the signatories also pledged to overhaul their domestic counter-piracy legislation. As a result, a record number of pirates were sentenced by local courts around the world last year. The significance of these developments should not, however, be overstated. First, the cost remains enormous -- in 2011, it is estimated that Somali piracy cost the global economy an estimated 7 billion USD through higher insurance premiums, security enhancements, and business disruption and earned the pirates some 160 million USD in ransoms. These figures do not include the psychological burdens borne by the captives or the costs imposed on Somalia. And, the actual costs are probably even higher due to widespread underreporting. Second, while piracy off the coast of Somalia has decreased, pirates are gradually focusing their efforts where patrols are not available for protection, now operating in the wider Indian Ocean. As pirates are extending their reach from Oman to the Maldives, they have also proven to be excellent entrepreneurs, building large well-financed organizations that are able to execute ever more sophisticated attacks such as hijacking oil tankers off the coast of Nigeria and stealing the valuable cargo. Moreover, pirate groups are becoming increasingly international and are extending their reach from national bases to neighbors -- from Nigeria, for example to Benin and the Ivory Coast, usually in cooperation with powerful local elements. Economically speaking, piracy already presents an enormous challenge and it is conceivable that as pirates face stiffer resistance on the high seas by an increasingly stronger international naval presence, their political and ideological motivations could radicalize over time. Currently, terrorist groups already cooperate with criminal gangs to raise funds and piracy could potentially become a lucrative source of income for radical groups. A second plausible scenario is that as pirates struggle to capture more ships, pirates could resort to attacking shipping directly as criminal motivations could subside to radical ideology propagated by al Qaeda and its splinter groups. Hence, it is easy to envision a nightmare scenario wherein terrorists, supported by a pirate group, hijack an oil tanker not just to steal the oil or collect the ransom but to blow it up in a major port with devastating economic consequences across the globe. A separate threat scenario that should not be underestimated entails terrorists capturing a liqueﬁed natural gas carrier that can be used as a ﬂoating bomb, which can either be detonated at a major port or near a flotilla of ships in the open seas. Piracy and terrorism can also be used as means to exert economic warfare against the United States and the international community as maritime attacks oﬀer terrorists an alternate means of causing mass economic destabilization. After all, terrorists have already attacked ships -- al Qaeda, the USS Cole (2000), Abu Sayyaf a ferryboat in the Philippines (2004) and the Mumbai attacks (2008).

#### Nuclear war

Merlini, Senior Fellow – Brookings, 11

 [Cesare Merlini, nonresident senior fellow at the Center on the United States and Europe and chairman of the Board of Trustees of the Italian Institute for International Affairs (IAI) in Rome. He served as IAI president from 1979 to 2001. Until 2009, he also occupied the position of executive vice chairman of the Council for the United States and Italy, which he co-founded in 1983. His areas of expertise include transatlantic relations, European integration and nuclear non-proliferation, with particular focus on nuclear science and technology. A Post-Secular World? DOI: 10.1080/00396338.2011.571015 Article Requests: Order Reprints : Request Permissions Published in: journal Survival, Volume 53, Issue 2 April 2011 , pages 117 - 130 Publication Frequency: 6 issues per year Download PDF Download PDF (~357 KB) View Related Articles To cite this Article: Merlini, Cesare 'A Post-Secular World?', Survival, 53:2, 117 – 130]

Two neatly opposed scenarios for the future of the world order illustrate the range of possibilities, albeit at the risk of oversimplification. The first scenario entails the premature crumbling of the post-Westphalian system. One or more of the acute tensions apparent today evolves into an open and traditional conflict between states, perhaps even involving the use of nuclear weapons. The crisis might be triggered by a collapse of the global economic and financial system, the vulnerability of which we have just experienced, and the prospect of a second Great Depression, with consequences for peace and democracy similar to those of the first. Whatever the trigger, the unlimited exercise of national sovereignty, exclusive self-interest and rejection of outside interference would likely be amplified, emptying, perhaps entirely, the half-full glass of multilateralism, including the UN and the European Union. Many of the more likely conflicts, such as between Israel and Iran or India and Pakistan, have potential religious dimensions. Short of war, tensions such as those related to immigration might become unbearable. Familiar issues of creed and identity could be exacerbated. One way or another, the secular rational approach would be sidestepped by a return to theocratic absolutes, competing or converging with secular absolutes such as unbridled nationalism.

#### The plan is key- Ex post review resolves the broad definition of imminence- redress key to check the errors which cause blowback.

Hafetz, former ACLU National Security Project attorney, 13 (Jonathan Hafetz, former senior attorney at the ACLU’s National Security Project, a litigation director at NYU’s Brennan Center for Justice, and a John J. Gibbons Fellow in Public Interest and Constitutional Law at Gibbons, P.C, Reviewing Drones, March 8, http://www.huffingtonpost.com/jonathan-hafetz/reviewing-drones\_b\_2815671.html)

The better course is to ensure meaningful review after the fact. To this end, Congress should authorize federal damages suits by the immediate family members of individuals killed in drone strikes. Such ex post review would serve two main functions: providing judicial scrutiny of the underlying legal basis for targeted killings and affording victims a remedy. It would also give judges more leeway to evaluate the facts without fear that an error on their part might leave a dangerous terrorist at large. For review to be meaningful, judges must not be restricted to deciding whether there is enough evidence in a particular case, as they would likely be under a FISA model. They must also be able to examine the government's legal arguments and, to paraphrase the great Supreme Court chief justice John Marshall, "to say what the law is" on targeted killings. Judicial review through a civil action can achieve that goal. It can thus help resolve the difficult questions raised by the Justice Department white paper, including the permissible scope of the armed conflict with al Qaeda and the legality of the government's broad definition of an "imminent" threat. Judges must also be able to afford a remedy to victims. Mistakes happen and, as a recent report by Columbia Law School and the Center for Civilians in Conflict suggests, they happen more than the U.S. government wants to acknowledge. Errors are not merely devastating for family members and their communities. They also increase radicalization in the affected region and beyond. Drone strikes -- if unchecked -- could ultimately create more terrorists than they eliminate.

#### The plan would result in a balanced definition of imminence. The court would apply a standard that still allows decapitation of high value targets and out-of-battlefield operations– Hamdi proves

Kwoka 11 (Lindsay, J.D. UPenn, “TRIAL BY SNIPER: THE LEGALITY OF TARGETED KILLING IN THE WAR ON TERROR” Accessed at HeinOnline)

But this is not the end of the inquiry. Even if a targeted individual is not located on a field of battle, he may still be a threat, and tar- geted killing may potentially be necessary and appropriate in some circumstances. Applying the reasoning of" Hamdi here, a court would likely find that the use of targeted killing is only "necessary and ap- propriate" if it is the only way to prevent someone like Al-Awlaki from engaging in terrorist activity or otherwise harming the United States. The Hamdi Court was concerned with assuring that the executive used the least intrusive means in achieving its objective of preventing the enemy combatant from returning to battle. The Court made clear that the means used to achieve this objective should be no more intrusive than necessary.7\* It is consistent with the Court's concern to allow targeted killing only when it is the only means available to pre- vent harm to the United States. If the executive can demonstrate that an individual outside of a warzone will harm the United States unless he is killed, targeted kill- ing may be authorized. This is consistent with Hamdi, in which the main concern was preventing future harm to the United States while using the least intrusive means available. This is also consistent with U.S. criminal law, in which the executive branch is permitted to kill an individual if there is no peaceful means left to apprehend him. Such an approach is also consistent with the approach of the Su- preme Court. Even the most stalwart protectors of constitutional rights of alleged terrorists recognize that immediate action by the executive is at times necessary to prevent attacks.7'' An approach that al- lows the executive to use deadly force when it is the only available means of preventing harm effectively balances the need to protect citizen's constitutional rights while affording sufficient deference to the executive.

### Wake Plan

#### The United States Federal Judiciary should subject United States’ targeted killing operations to judicial ex post review by allowing a cause of action against the government for damages arising directly out of the constitutional provision allegedly offended.

### 1AC Solvency

#### Ex post review makes our drone operations better—incentivizes better intel gathering and it doesn’t chill battlefield ops

Taylor, Senior Fellow-Center for Policy & Research, 13 (Paul, Senior Fellow at the Center for Policy & Research and an alumnus of Seton Hall Law School and the Whitehead School of Diplomacy and International Relations, and is veteran of the Army’s 82nd Airborne Division, with deployments to both Afghanistan and to Iraq, “Former DOD Lawyer Frowns on Drone Court,” March, http://transparentpolicy.org/2013/03/former-dod-lawyer-frowns-on-drone-court/)

Lastly, there is the concern of creating perverse incentives: whether a person’s name or identity is known has never been a factor in determining the legality of targeting an otherwise-lawful military target. But by creating a separate legal regime for known targets, we could create a disincentive to collect information about a target. We do not want a military or intelligence agency that keeps itself intentionally uninformed. Nor do we want to halt a military operation in progress simply because one of the targets is recognized late. Conducting the review ex post would not eliminate these issues, but it would substantially mitigate them. The military (or CIA, if it keeps its program), would not fear an interruption of its operations, and could even have an incentive to collect more information in order to later please a court that has plenty of time to look back at the past operations and question whether an individual was in fact targeted.

#### Courts don’t leak intel methods or classified information—this fear has been repeatedly dispelled by hundreds of successfully tried terrorism cases

Jaffer-director ACLU’s National Security Project-12/9/08 <http://www.salon.com/2008/12/09/guantanamo_3/> Don’t replace the old Guantánamo with a new one

The contention that the federal courts are incapable of protecting classified information — “intelligence sources and methods,” in the jargon of national security experts — is another canard. When classified information is at issue in federal criminal prosecutions, a federal statute — the Classified Information Procedures Act (CIPA) — generally permits the government to substitute classified information at trial with an unclassified summary of that information. It is true that CIPA empowers the court to impose sanctions on the government if the substitution of the unclassified summary for the classified information is found to prejudice the defendant, and in theory such sanctions can include the dismissal of the indictment. In practice, however, sanctions are exceedingly rare, and of the hundreds of terrorism cases that have been prosecuted over the last decade, none has been dismissed for reasons relating to classified information. Proponents of new detention authority, including Waxman and Wittes, invoke the threat of exposing “intelligence sources and methods” as a danger inherent to terrorism prosecutions in U.S. courts, but the record of successful prosecutions provides the most effective rebuttal.

#### No over-deterrence of military operations- government liability is rooted in the FTCA and it avoids the chilling associated with individual liability.

Kent, Constitutional Law prof, 13 (Andrew, Faculty Advisor-Center on National Security at

Fordham Law School, prof @ Fordham University School of Law- constitutional law, foreign relations law, national security law, federal courts and procedure, “ARE DAMAGES DIFFERENT?: BIVENS AND NATIONAL SECURITY,” October 8, <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2330476>) \*\* Evidence is gender paraphrased

Because of sovereign immunity, federal officials are sued under Bivens in their so-called personal rather than official capacities.43 In theory, persons injured by actions of a federal official could also seek compensation by suing the agent’s employer, the United States Government for damages, but the sovereign immunity of the federal government blocks this route.44 The Federal Tort Claims Act (FTCA), originally enacted in 1946 and frequently amended since,45 effects a partial waiver of sovereign immunity by allowing suits directly against the federal government instead of officers (who might be judgment proof) and making the United States liable for injuries caused by the negligent or wrongful act or omission of any federal employee acting within the scope of ~~his~~ employment, in accordance with the law of the state where the act or omission occurred.46 Under the Westfall Act of 1988, the FTCA is the exclusive remedy for torts committed by federal officials within the scope of their employment, except for suits brought for violations of the Constitution.47 In other words, state law tort claims against individual official defendants are now generally barred. The Supreme Court takes the prospect of individual liability in damages for officials very seriously and has crafted immunity doctrines to soften the blow. The Court’s rulings provide the President of the United States and certain classes of officials defined functionally—prosecutors doing prosecutorial work, legislators legislating, judges doing judicial work and certain persons performing “quasijudicial” functions—with absolute immunity from money damages suits, generally for the reason that such suits would be likely to be frequent, frequently meritless, and uniquely capable of disrupting job performance.48 All other government officials are entitled to only “qualified immunity” from money damages suits. Under the qualified immunity doctrine, officials are liable only when they violate “clearly established” federal rights, that is, when “[t]he contours of [a] right [are] sufficiently clear that every reasonable official would have understood that what ~~he is~~ [they are] doing violates that right.”49 Because qualified immunity is not just a defense to liability but also “a limited entitlement not to stand trial or face the other burdens of litigation,”50 the Court’s doctrine encourages speedy resolution of immunity questions by judges. The policy reasons for the Court’s active protection of federal officials through a robust immunity doctrine, including fear of dampening the zeal with which officials perform their jobs because of fear of personal liability, are discussed below in Section V.A.

#### Judicial review of targeted killing operations increases the quality of executive decision-making-- electoral bias makes unilateral executive action prone to error

Dragu 13 (Tiberiu Dragu, prof of politics at NYU, and Oliver Board, On Judicial Review in a Separation of Powers System, https://files.nyu.edu/tcd224/public/papers/judicial.pdf)

In this section, we illustrate the applicability of our theory, and its policy implications, in the context of drone strikes and counterterrorism policy more generally. The public debate about the use of unmanned drones to kill suspected terrorists highlights the contending views on the appropriateness of (non-expert) judicial review as a means of checking the contours of (expert) counterterrorism policy.27 Perhaps more than any other counterterrorism pol- icy, targeted killings illustrate the presumed tension between dispensing policy-making to those institutions with superior expertise and the rule-of-law ideal of checking the legality of executive action, or at least one important aspect of it: judicially-enforced due process of law. Since 9/11, the CIA and the military have used unmanned drones to kill individuals sus- pected of terrorist activity in places far from any battlefield, without being charged, without a trial, and without any form of judicial approval. The president makes the determination of who should be targeted and can order the killings of non-citizens and citizens alike without any judicial oversight.28 Lower-level executive officials, working for the intelligence agencies in charge of terrorism prevention, recommend to the president who should be the next to die on the basis of available intelligence. These nominations go to the White House, where the president approves the names on the kill list. The president also decides if (and when) to undertake a drone strike that can result in civilian casualties and makes the final call on "signature strikes," which target suspicious behavior rather than specific terrorist suspects.29 In short, under the current regime, the president is "the prosecutor, the judge, the jury and the executioner, all rolled into one."30 The policy of targeted killings, as implemented, raises important legal questions, even if one accepts that drone strikes are not inherently illegal.31 Because the task of identifying terrorist suspects is inherently riddled with errors, it is impossible to know with certainty whether potential targets are dangerous terrorists or just people with the wrong association. As a result, innocent people can mistakenly be targeted even if lower-level executive officials make their recommendations for the kill list in good faith. And when those targeted to be killed have not been convicted in a court of law, the use of lethal force against non-citizens and citizens might infringe upon their due process rights.32 A drone strike aimed at an American citizen without adequate evidence to show that he or she is a terrorist posing an imminent danger can raise serious constitutional problems.33 Because of the risk of inadvertently killing innocent people by executive fiat and because abuses of power are likely when the executive carries unilaterally such a campaign of deaths, drone policy, some argue, should be subjected to some form of judicial review. A growing number of lawmakers, scholars, and public officials have embraced this idea and proposed an independent court to oversee drone strikes on the account that it would improve the existing status-quo, at least from a legal accountability perspective.31 One of the strongest criticisms against such institutional development is the argument that judicial oversight of drone strikes jeopardizes the effectiveness of the policy because judges lack the necessary expertise to review targeted killing decisions. Former solicitor general, Neal Katyal, has forcefully articulated this expertise rationale against judicial review of drone strikes. Katyal argues that "[t]he drone court idea is a mistake" because "(experts, not generalists" ought to decide on drone strikes.35 In this view, the harm to counterterrorism policy caused by potentially erroneous judicial decisions outweighs the rule-of-law benefits of judicial oversight. Simply put, asymmetric institutional competence makes it desirable, on balance, for the executive to undertake drone strikes without independent judicial oversight. These contending per- spectives on the appropriateness of judicial review are not unique to drone policy but are emblematic of public and scholarly discussions about how to devise counterterrorism policy more generally (Cole 2003, Posner 2006). Our analysis has relevance for existing debates on the scope of judicial review in the con- text of terrorism prevention. The polemic whether drone strikes and other counterterrorism policies should be subjected to judicial oversight is framed as a tradeoff between the legal accountability benefits of judicial oversight and the public policy harms of reviewing expert counterterrorism policy by non-expert judges. But starting the debate on these terms already assumes that (non-expert) judicial review can only have a negative effect on (expert) govern- mental policy. As such, it glosses over the prior question of what is the effect of legal review on the information available for counterterrorism policy-making. To answer this question one needs to assess the counterfactual of how informed counterterrorism policy decisions are in the absence of judicial review as compared to the scenario in which a court can review the legality of those policies. Our game-theoretical analysis provides this counterfactual analysis, an otherwise difficult task to effect, and thus contributes to the current debates regarding the appropriateness of judicial review in the context of terrorism prevention. It suggests that judicial checks can lead to more informed counterterrorism policy-making if one considers the internal structure of the executive and the electoral incentives of the president, conditions which we discuss in more detail below. First, the argument that judicial review of drone strikes, and counterterrorism policy more generally, has a detrimental effect on expert policy-making overlooks the internal ecology of the executive branch. When asserting the superior expertise of the executive branch, scholars and commentators treat the executive as a unitary actor, or perhaps consider its internal structure to be incidental to the expertise rationale for limiting judicial review. However, as the description of the drone policy suggests, there is a separation between expertise and policy-making: the president (and his closest advisers) decides on counterterrorism policy, while lower-level bureaucrats provide the expertise and intelligence to make informed decisions. This separation of expertise from policy-making is not unique to counterterrorism. Rather this is a general fact of modern-day government, and scholars of bureaucratic politics, going back to Max Weber, have attempted to unravel its myriad implications for democratic governance (Rourke 1976; Wilson 1991). Second, the president, like all elected representatives, is a politician making choices un-der the pressure of re-election and public opinion, and such incentives are going to shape his counterterrorism choices. When it comes to the electoral incentives of public officials, scholars have noted that the political costs of not reacting aggressively enough in matters of terrorism prevention and national security are going to be higher than the costs of overre- action (Cole 2008; Fox and Stephenson 2011; Ignatieff 2004; Richardson 2006: Swire 2004). This observation implies that the president and other elected officials have an electoral bias to engage in counterterrorism policies that are more aggressive than what would be neces- sary on the basis of available information regarding the terrorist threat.36 Inside accounts of the decision-making process within executive branch (Goldsmith 2007), empirical analyses (Merolla and Zechmeister 2009), and newspaper reports,37 they all document such electoral incentives to appear tough on terrorism. The former Vice-President Dick Cheney forcefully depicts this electoral bias in his articulation of the so-called one percent doctrine, which states that if there was even a one percent chance of terrorists getting a weapon of mass destruction, then the executive must act as if it were a certainty (Suskind 2007). In Cheney's view, "it is not about analysis; it's about our response... making suspicion, not evidence, the new threshold for action."38 The run-up to the invasion in Iraq provides a stark illus- tration of the one percent doctrine in action, the conflict between intelligence officials and policy-makers, and the issue of politicized expertise in the context of national security (Pillar 2011). Our results suggest that (non-expert) judicial review has the potential to induce more informed counterterrorism decisions when the president makes security policy under the veil of public expectations to respond forcefully to terrorist threats. Courts are not immune to public opinion, of course, but precisely because judges are not elected, they are more insu- lated from public opinion than elected officials. This implies that, all else equal, the courts are less likely to prefer counterterrorism measures that respond to public expectations to be tough on terrorism. Under these conditions,39 our theory suggests a mechanism by which counterterrorism policy-making with judicial oversight can be superior to counterterrorism policy-making without it, even if courts are relatively ill-equipped to review executive deci-sions. Judicial review can serve as a commitment device to better align the preferences of policymakers with their experts, with the effect of inducing more information for countert- errorism decisions. This observation is missing from current public and scholarly discussions about the role of judicial review in the context of drone strikes and other counterterrorism policies. As such, our analysis has policy implications for ongoing debates on how to de- sign the institutional structure of liberal governments when the social objective is terrorism prevention. This expertise rationale for judicial review does not depend on whether the court approves or not a particular counterterrorism action. Critics of judicial review of drone strikes, for example, point to the record of the FISA court -it approves almost all warrants requests- as evidence that a drone court designed on a similar template would be ineffective. That judicial review can have a positive expertise effect is not predicated upon how intensely the court turns down counterterrorism policies, or upon how the court would assess a specific counterterrorism policy on its legal merits. It is based on analyzing the counterfactual of how much information is available for counterterrorism decision-making by comparing the scenario in which a court reviews counterterrorism policy with a scenario in which that policy- making process is free of judicial oversight. It may very well be unnecessary for the court to reject the choices of executive officials because those choices are adjusted in anticipation that drone strikes need to pass the muster of judicial review. What our theory suggests is that, on average, counterterrorism policy-making can be more rigorous on expertise grounds with judicial oversight that in its absence.

#### Courts often restrict the executive’s terrorism authority- deference and military operations links are hopelessly non-unique

Kent, Constitutional Law prof, 13 (Andrew, Faculty Advisor-Center on National Security at

Fordham Law School, prof @ Fordham University School of Law- constitutional law, foreign relations law, national security law, federal courts and procedure, “ARE DAMAGES DIFFERENT?: BIVENS AND NATIONAL SECURITY,” October 8, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2330476)

But the refusal to allow Bivens damages remedies in these national security cases is exceptional in another sense: the Supreme Court has never been more assertive in adjudicating national security and foreign relations issues than it has in recent years. The last decade saw the executive lose (or have its legal arguments offered as amicus curiae rejected) time after time in Supreme Court cases concerning questions judicial power and justiciability in foreign relations and national security.11 In the most high profile of these cases, the ones concerning the post-9/11 war on terror, the Court emphatically asserted its authority and rejected or ignored the notion that deference to the executive was appropriate because of the national security or foreign affairs dimensions of the disputes.12 In these war-on-terror cases as well as in other national security or foreign relations contexts, the Supreme Court has ruled repeatedly against the executive and, in so doing, approved judicial review of the executive’s national security actions, in suits where plaintiffs sought prospective, injunctive-type remedies against the government.13 Remedies of that type are typically thought to involve much more judicial intrusion into executive functioning than would a retrospective award of money damages,14 and in some instances injunctive-type remedies were implied by the courts from a jurisdictional statute or said to be required by the Constitution itself, rather than being expressly created by Congress. In addition, the war-on-terror decisions in Rasul, Hamdi, Hamdan and Boumediene were intended by the Court to have, and did in fact have, enormously significant practical effects—restructuring the worldwide interrogation, detention and military commission policies of the executive branch.15 The many critics who think the judiciary has not done enough to remedy perceived excesses in the war-on-terror are missing the larger picture of unprecedented judicial assertiveness and effectiveness.16

## 2AC

### 2AC – Allies

#### --no link—the plan does not ban all targeted killing, it just submits for review so they are limited to legal strikes- 1ac Kennedy and Corey cards say we maintain the program by giving it legitimacy

#### --no link--The plan should also be interpreted as banning signature strikes- targeted killing should definitionally include signature strikes

Guardian 13 [Jan, translator at the International Monetary Fund, Resident Representative Office in Belarus, “TARGETED KILLINGS: A SUMMARY,” <http://acontrarioicl.com/2013/02/27/targeted-killings-a-summary/>]

Currently there is no legal definition of targeted killings in either international or domestic law.[1] ‘Targeted killing’ is rather a descriptive notion frequently used by international actors in order to refer to a specific action undertaken in respect to certain individuals.¶ Various scholars propose different definitions. Machon, for example, refers to ‘targeted killing’ as an “intentional slaying of a specific individual or group of individuals undertaken with explicit governmental approval,”[2] whereas Solis suggests that for there to be a targeted killing (i) there must be an armed conflict, either international or non-international in character; (ii) the victim must be specifically targeted; (iii) he must be beyond a reasonable possibility of arrest; (iv) the killing must be authorized by senior military commanders or the head of government; (v) and the target must be either a combatant or someone directly participating in the hostilities.[3] But whereas some scholars seek to use a human rights-based definition, [4] others propose those which do not entail the applicability of international humanitarian law. [5]¶ However, such definitions are incorrect for several reasons. First of all, the definition of a ‘targeted killing’ has to be broad enough as to cover a wide range of practices and flexible enough as to encompass situations within and outside the scope of an armed conflict, thus, being subject to the application of both international human rights law and international humanitarian law, as opposed to the definition provided by some scholars and even states themselves.[6] Secondly, one should bear in mind that defining an act as an instance of ‘targeted killing’ should not automatically render the illegality of such an act at stake.[7] Moreover, the definition also has to cover situations where such an act is carried out by other subjects of international law, rather than only by states.¶ Therefore, maintaining an element-based approach and synthesizing common characteristics of multiple definitions, it is more advisable to use the one employed by Alston and Melzer, which refers to targeted killings as a use of lethal force by a subject of international law (encompassing non-state actors) that is directed against an individually selected person who is not in custody and that is intentional (rather than negligent or reckless), premeditated (rather than merely voluntary), and deliberate (meaning that ‘the death of the targeted person [is] the actual aim of the operation, as opposed to deprivations of life which, although intentional and premeditated, remain the incidental result of an operation pursuing other aims).[8]

#### --the plan’s precedent would solve—judicial review would spillover to other national security issues

Pildes 13 (Rick, Sudler Family Professor of Constitutional Law and Co-Faculty Director for the Program on Law and Security at NYU School of Law, Does Judicial Review of National-Security Policies Constrain or Enable the Government?, August 5, 2013, <http://www.lawfareblog.com/2013/08/does-judicial-review-of-national-security-policies-constrain-or-enable-the-government/>)

More broadly than any one particular issue or case, one of the most remarkable features of our political and legal system since 9/11 is how few of the central issues the courts have addressed on the merits — despite the novelty of many of the legal questions and the high stakes involved. Considerable uncertainty still remains about the proper scope of the Authorization for the Use of Military Force. No court has addressed the circumstances under which targeted killings are lawful. Many issues about the proper procedures to be used for trials before military commissions, and what charges can validly be brought there, remain unanswered. And as Clapper illustrates, courts have had nothing to say about the scope of various surveillance programs. Typically, divisions over judicial review in this area have a characteristic ideological orientation. Civil libertarians, hoping the courts will invalidate programs in the name of individual rights, press courts to reach the merits. More “conservative” national-security proponents, including the government, argue against a judicial role. It is no surprise that Clapper, and cases like it, generate 5-4 decisions that put the conventionally-labelled “conservative” Justices against the “liberal” ones. To those who resist judicial review, the fear is that once courts get into the business of resolving national-security issues on the merits, they are too likely to impose rights-constraints on otherwise effective national-security programs.

#### --Uniqueness overwhelms—Obama’s rationale for ending signature strikes is because they know blowback undermines their mission—no reason the plan flips this calculation

Herb 13 Jeremy, "Fewer drone strikes likely result of new Obama policy, analysts say" ~http://thehill.com/blogs/defcon-hill/policy-and-strategy/301965-fewer-drone-strikes-the-likely-result-of-new-obama-policy-analysts-say~~ May 27

[Kansas’s card]

President Obama’s new guidelines on drone strikes abroad are likely to curtail the number of attacks the United States carries out, according to defense experts. The White House’s codified policy signed by the president this week requires a “continuing, imminent” threat before terrorists are targeted. The directive also requires “near-certainty” that civilians will not be harmed in the strike. Defense analysts say that the emphasis on avoiding civilian casualties will reduce — or perhaps eliminate altogether — the use of “signature” strikes, where unidentified people are targeted on the basis of suspicious activities. “The announcement that they’ll avoid civilian casualties to the greatest extent possible — what that says is no more signature attacks,” said James Lewis, an analyst at the Center for Strategic and International Studies. “The signature attacks are probably the source of a lot of the civilian casualties.”

[Kansas card ends]

In his national security speech on Thursday, Obama defended U.S. drone strikes abroad, saying that they were legal and necessary in the fight against terrorists. But he also expressed caution about using drone strikes, as he discussed the importance of seeing the U.S. war on terror come to a close. “To say a military tactic is legal, or even effective, is not to say it is wise or moral in every instance,” Obama said in his speech at National Defense University. “For the same human progress that gives us the technology to strike half a world away also demands the discipline to constrain that power — or risk abusing it.” Loren Thompson, a defense analyst at the Lexington Institute, said that the president’s comments reflect a sense that drone attacks can now be subject to the same rules surrounding the use of force for more traditional military power. “The sense of the emergency that surrounded the global war on terror is gradually dissipating, so the way in which weapons like drones are used will be subject to more normal standards,” Thompson said. Republicans, however, have pushed back at Obama’s notion that the war on terror is drawing to a close. “I believe we are still in a long, drawn-out conflict with al Qaeda, and to somehow argue that al-Qaeda is ‘on the run’ comes from a degree of unreality that to me is really incredible,” said Sen. John McCain (R-Ariz.). “Al Qaeda will be with us for a long time.” Some military experts are skeptical that the president’s speech reflects a major pivot point in the U.S. drone war. Michael O’Hanlon, an analyst at the Brookings Institution, said the use of drones in the Middle East is already on the decline, thanks to earlier administration policy decisions, a lowered threat and the damage the strikes have caused to relations with Pakistan. The withdrawal of U.S. forces from Afghanistan in 2014 will only further reduce the need for drone attacks against those posing an “imminent” threat to the U.S. and its forces, he said. “We were already on a downward trajectory,” O’Hanlon said. “I’m dubious things are going to change that much.” The use of drones in Pakistan and Yemen, which began under the George W. Bush administration, has ramped up during Obama’s presidency. Drone strikes in Pakistan peaked at 122 in 2010. There were 48 attacks last year and there have been 12 so far in 2013. Controversy has surrounded the number of civilian casualties that occur in the attacks, with differing estimates about how many have been killed at the hands of U.S. drones. The New America Foundation, which is viewed as an authority tracking drone strikes, estimates there have been between 258 and 307 civilians killed in Pakistan. Critics of drone use warn that the attacks have become the most effective recruiting tool for militants aiming to stir-up anti-U.S. sentiment. Thompson said that the stricter guidelines on drone strikes could give officials pause before a strike is authorized.

### 2AC – G-Spec

#### --no resolutional basis—all the rez says is that the plan must restrict authority and saying “do judicial review” is sufficient to meet that burden

#### --plan is sufficient for neg ground- they get multiple agent CPs, targeting advantage CPs, any court DA, kritiks, ect

#### ---C/I-Literature. Questions of grounds should be based in evidence. They can read links about the likely grounds and disads to those. It solves their offense and is superior because it encourages legal research skills.

#### --alternate ground CPs are bad:

#### a. no predictive literature on them--courts render their decisions based on the arguments presented by the parties to the suit, so there is no literature telling the court on what grounds they should decide

#### b. justifies even worse CPs like the 9-0 CP or a CP to exclude specific justices to manufacture court politics link arguments

#### --infinitely regressive—this is equivalent to saying a Congress aff should have to specify its rational in the plan text so they could CP to have congress do it for a different reason

#### --reasonability—hard debate is good, they should have to win we literally shut off all debate to vote neg on this

### 2AC – Drone Techno-Strategy

#### That’s critical – political engagement in debate is critical for creating effective forms of public deliberation necessary to challenge illegitimate national security policy

Kurr-Ph.D. student Communication, Penn State-9/5/13

Bridging Competitive Debate and Public Deliberation on Presidential War Powers

http://public.cedadebate.org/node/14

The second major function concerns the specific nature of deliberation over war powers. Given the connectedness between presidential war powers and the preservation of national security, deliberation is often difficult. Mark Neocleous describes that when political issues become securitized; it “helps consolidate the power of the existing forms of social domination and justifies the short-circuiting of even the most democratic forms.” (2008, p. 71). Collegiate debaters, through research and competitive debate, serve as a bulwark against this “short-circuiting” and help preserve democratic deliberation. This is especially true when considering national security issues. Eric English contends, “The success … in challenging the dominant dialogue on homeland security politics points to efficacy of academic debate as a training ground.” Part of this training requires a “robust understanding of the switch-side technique” which “helps prevent misappropriation of the technique to bolster suspect homeland security policies” (English et. al, 2007, p. 224). Hence, competitive debate training provides foundation for interrogating these policies in public. Alarmism on the issues of war powers is easily demonstrated by Obama’s repeated attempts to transfer detainees from Guantanamo Bay. Republicans were able to launch a campaign featuring the slogan, “not in my backyard” (Schor, 2009). By locating the nexus of insecurity as close as geographically possible, the GOP were able to instill a fear of national insecurity that made deliberation in the public sphere not possible. When collegiate debaters translate their knowledge of the policy wonkery on such issues into public deliberation, it serves to cut against the alarmist rhetoric purported by opponents. In addition to combating misperceptions concerning detainee transfers, the investigative capacity of collegiate debate provides a constant check on governmental policies. A new trend concerning national security policies has been for the government to provide “status updates” to the public. On March 28, 2011, Obama gave a speech concerning Operation Odyssey Dawn in Libya and the purpose of the bombings. Jeremy Engels and William Saas describe this “post facto discourse” as a “new norm” where “Americans are called to acquiesce to decisions already made” (2013, p. 230). Contra to the alarmist strategy that made policy deliberation impossible, this rhetorical strategy posits that deliberation is not necessary. Collegiate debaters researching war powers are able to interrogate whether deliberation is actually needed. Given the technical knowledge base needed to comprehend the mechanism of how war powers operate, debate programs serve as a constant investigation into whether deliberation is necessary not only for prior action but also future action. By raising public awareness, there is a greater potential that “the public’s inquiry into potential illegal action abroad” could “create real incentives to enforce the WPR” (Druck, 2010, p. 236). While this line of interrogation could be fulfilled by another organization, collegiate debaters who translate their competitive knowledge into public awareness create a “space for talk” where the public has “previously been content to remain silent” (Engels & Saas, 2013, p. 231). Given the importance of presidential war powers and the strategies used by both sides of the aisle to stifle deliberation, the import of competitive debate research into the public realm should provide an additional check of being subdued by alarmism or acquiescent rhetorics. After creating that space for deliberation, debaters are apt to influence the policies themselves. Mitchell furthers, “Intercollegiate debaters can play key roles in retrieving and amplifying positions that might otherwise remain sedimented in the policy process” (2010, p. 107). With the timeliness of the war powers controversy and the need for competitive debate to reorient publicly, the CEDA/Miller Center series represents a symbiotic relationship that ought to continue into the future. Not only will collegiate debaters become better public advocates by shifting from competition to collaboration, the public becomes more informed on a technical issue where deliberation was being stifled. As a result, debaters reinvigorate debate.

#### Dismissing our reforms as tokenism creates a precedent that will be used by future presidents to implement more violent policies---creating norms within the rule of law is good.

Cole 10 (David Cole is a professor at Georgetown University Law Center, “Breaking Away,” http://www.newrepublic.com/article/magazine/politics/79752/breaking-away-obama-bush-aclu-guantanamo-war-on-terror)

To dismiss the changes Obama has introduced as merely rhetorical, however, as Goldsmith and others have done, is to miss the critical difference between lawless and law-abiding exercises of state power. The Constitution, domestic law, and international law permit democracies to take aggressive action to defend themselves against attacks like the ones we suffered on September 11. But they insist that when the state employs coercion to achieve security, it must abide by rules designed to forestall government abuse and respect human rights. Bush blatantly disregarded this principle; Obama has embraced it. It is true that, by the end of his term, Bush had been compelled to curtail his most aggressive assertions of power. Waterboarding was out, many of the disappeared prisoners had been transferred to Guantánamo and identified, the military commissions had been improved, and courts were reviewing Guantánamo detentions. But Bush adopted these changes grudgingly, after losing before the courts, Congress, and public opinion. And as the declassified torture memos illustrate, his administration continued to obstinately reinterpret the laws against torture and cruel, inhuman, and degrading treatment in order to permit the CIA to do precisely what Congress, the courts, and international law had forbade. By contrast, Obama has willingly accepted the limits of law. Critics on all sides undermine their credibility if they fail to acknowledge the significant differences between Obama and Bush. Liberals risk sounding as if no national security policy short of ordinary criminal law enforcement will suffice, while conservatives and moderates appear tone-deaf to the difference that the rule of law makes to the legitimacy of state power. For both advocates of civil liberties and defenders of Bush, it is tempting to accuse the Obama administration of being no better than its predecessor. But if we fail to recognize the changes he has instituted, we run the risk of contributing to a misleading historical narrative that will support future presidents who might choose to repeat Bush’s errors. On issues of executive power, history can play an important role. Even if Obama himself is unlikely to unleash the tactics of the previous administration, a future president might justify doing so by pointing to the fact that observers from across the political spectrum agreed that both Bush and Obama had embraced the same policy. There are, however, two areas in which Obama has come up painfully short, and that is on issues of transparency and accountability. These failures threaten to undermine the good that Obama has otherwise done, because if U.S. counterterrorism policy is to succeed, it is critical to restore the trust that Bush’s policies so recklessly squandered.

#### Exec power has increased because of perceived public indifference and lack of comprehension about security issues

Aziz Rana 12, Assistant Professor of Law, Cornell University Law School; A.B., Harvard College; J.D., Yale Law School; PhD., Harvard University, Connecticut Law Review July, 2012, 44 Conn. L. Rev. 1417, “COMMENTARY: NATIONAL SECURITY: LEAD ARTICLE: Who Decides on Security?” lexis nexis

Despite over six decades of reform initiatives, the overwhelming drift of security arrangements in the United States has been toward greater-not less-executive centralization and discretion. This Article explores why efforts to curb presidential prerogative have failed so consistently. It argues that while constitutional scholars have overwhelmingly focused their attention on procedural solutions, the underlying reason for the growth of emergency powers is ultimately political rather than purely legal. In particular, scholars have ignored how the basic meaning of "security" has itself shifted dramatically since World War II and the beginning of the Cold War in line with changing ideas about popular competence. Paying special attention to the decisive role of actors such as Supreme Court Justice Felix Frankfurter and Pendleton Herring, co-author of 1947's National Security Act, this Article details how emerging judgments about the limits of popular knowledge and mass deliberation fundamentally altered the basic structure of security practices. Countering the pervasive wisdom at the founding and throughout the nineteenth century, this contemporary shift has recast war and external threat as matters too complex and specialized for ordinary Americans to comprehend. Today, the dominant conceptual approach to security presumes that insulated decision-makers in the executive branch (armed with the military's professional expertise) are best equipped to make sense of complicated and often conflicting information about safety and self- defense. The result is that the other branches-let alone the public writ large-face a profound legitimacy deficit whenever they call for transparency or seek to challenge coercive security programs. Not surprisingly, the tendency of legalistic reform efforts has been to place greater decision-making power in the other branches and then to watch those branches delegate such power back to the executive.

### 2AC – K

#### The role of the ballot is to simulate a debate about the enactment of the plan versus the status quo or a competitive policy option; discussing the implications of applying the law to drones is key to predictability and a norms that restrict violence

Leahy 10 (Mary-Kate Leahy, Colonel, US military, “KEEPING UP WITH THE DRONES: IS JUST WAR THEORY OBSOLETE?,” http://www.dtic.mil/dtic/tr/fulltext/u2/a526187.pdf)

Failure to examine whether the laws of war remain relevant or should be modified is dangerous. If we delay or indefinitely defer this discussion the risks associated with this procrastination will continue to accumulate. Without broad agreement on the fundamental issue of who is a legal combatant, ordinary civilians who develop this technology and elected leaders who approve its employment potentially become targets at home and abroad. As the operators of weapon systems become more distant from the physical battlefield, the killing process is “sanitized”; UAS operators‟ exemption from physical danger creates a scenario in which “virtueless” war becomes the norm. In such an environment, the warrior ethos is potentially forever altered – and not for the good. Another risk we face if employment of this technology proceeds unchecked and its moral implications unexamined, is the arrival of the day when a “human in the loop” in UAS employment becomes unnecessary. If that day arrives, the principle of proportionality is irrelevant – because human assessment of the cost versus benefit decision regarding a military strike will have been eliminated. These are just a few of the eventualities which await us if we fail to adequately address how UAS changes the conduct of modern warfare. The seriousness of these issues makes this an issue of strategic importance for the United States, as well as both our friends and our adversaries around the globe.

#### Vote aff despite prior questions—impact timeframe means you gotta act on the best info available

Kratochwil, professor of international relations – European University Institute, 2008 (Friedrich, “The Puzzles of Politics,” pg. 200-213)

The lesson seems clear. Even at the danger of “fuzzy boundaries”, when we deal with “practice” ( just as with the “pragmatic turn”), we would be well advised to rely on the use of the term rather than on its reference (pointing to some property of the object under study), in order to draw the bounds of sense and understand the meaning of the concept. My argument for the fruitful character of a pragmatic approach in IR, therefore, does not depend on a comprehensive mapping of the varieties of research in this area, nor on an arbitrary appropriation or exegesis of any specific and self-absorbed theoretical orientation. For this reason, in what follows, I will not provide a rigidly specified definition, nor will I refer exclusively to some prepackaged theoretical approach. Instead, I will sketch out the reasons for which a pragmatic orientation in social analysis seems to hold particular promise. These reasons pertain both to the more general area of knowledge appropriate for praxis and to the more specific types of investigation in the field. The follow- ing ten points are – without a claim to completeness – intended to engender some critical reflection on both areas. Firstly, a pragmatic approach does not begin with objects or “things” (ontology), or with reason and method (epistemology), but with “acting” (prattein), thereby preventing some false starts. Since, **as historical beings placed in a** specific situations**, we do not have the luxury** of deferring decisions **until we have** found the “truth”, **we have to act and must do so always under time pressures and in the face of incomplete information.** Pre- cisely because the social world is characterised by strategic interactions, what a situation “is”, is hardly ever clear ex ante, because it is being “produced” by the actors and their interactions, and the multiple possibilities are rife with incentives for (dis)information. This puts a premium on quick diagnostic and cognitive shortcuts informing actors about the relevant features of the situ- ation, and on leaving an alternative open (“plan B”) in case of unexpected difficulties. Instead of relying on certainty and universal validity gained through abstraction and controlled experiments, we know that completeness and attentiveness to detail, rather than to generality, matter. To that extent, likening practical choices to simple “discoveries” of an already independently existing “reality” which discloses itself to an “observer” – or relying on optimal strategies – is somewhat heroic. These points have been made vividly by “realists” such as Clausewitz in his controversy with von Bülow, in which he criticised the latter’s obsession with a strategic “science” (Paret et al. 1986). While Clausewitz has become an icon for realists, only a few of them (usually dubbed “old” realists) have taken seriously his warnings against the misplaced belief in the reliability and use- fulness of a “scientific” study of strategy. Instead, most of them, especially “neorealists” of various stripes, have embraced the “theory”-building based on the epistemological project as the via regia to the creation of knowledge. A pragmatist orientation would most certainly not endorse such a position. Secondly, since acting in the social world often involves acting “for” someone, special responsibilities arise that aggravate both the incompleteness of knowledge as well as its generality problem. Since we owe special care to those entrusted to us, for example, as teachers, doctors or lawyers, we cannot just rely on what is generally true, but have to pay special attention to the particular case. Aside from avoiding the foreclosure of options, we cannot refuse to act on the basis of incomplete information or insufficient know- ledge, and the necessary diagnostic will involve typification and comparison, reasoning by analogy rather than generalization or deduction. Leaving out the particularities of a case, be it a legal or medical one, in a mistaken effort to become “scientific” would be a fatal flaw. Moreover, **there still remains the crucial element of “timing” –** of knowing when to act. Students of crises have always pointed out the importance of this factor but, in attempts at building a general “theory” of international politics analogously to the natural sci- ences, such elements are neglected on the basis of the “continuity of nature” and the “large number” assumptions. Besides, “timing” seems to be quite recalcitrant to analytical treatment.

#### Terrorists think they have a religious duty to destroy us—force is the only option

Jones 8—religion, psychology and terrorism, Rutgers. Snr Research Fellow, Center on Terrorism, John Jay College. ThD, Uppasala U. Psy.D, dept of clinical psychology, Rutgers. PhD in religious studies, Brown. (James, Blood That Cries Out From the Earth, 42-3, AMiles)

One of the most widespread beliefs of violent religious movements is their apocalyptic vision of a cosmic struggle of the forces of the all-good against the forces of the all-evil ( Juergensmeyer, 2000; Kimball, 2002; Wessinger, 2000). Osama bin Laden says it clearly: there are “two adversaries; the Islamic nation, on the one hand, and the United States and its allies on the other. It is either victory and glory or defeat and humiliation” (quoted in Moghadam, 2006: 717). Virtually all religious terrorists agree that they are locked in an apocalyptic battle with demonic forces, that is, usually with the forces of secularism. We have seen how Sayyid Qutb denoted secularism and the concomitant values of individual rights and the separation of religion and law as demonic and the source of most of the misery of the modern world and demanded a jihad against it (Berman, 2003). Continuing Qutb’s diatribe, the founder of Hamas told a reporter, “There’s a war going on” not just against Israeli occupation but against all secular governments including the Palestinian authority because there “is no such thing as a secular state in Islam” ( Juergensmeyer, 2000: 76). Hamas’s arch enemy, Rabbi Meir Kahane, whose Jewish Defense League was responsible for numerous attacks on Muslims in the United States and Israel, said bluntly “secular government is the enemy” ( Juergensmeyer, 2000: 55). Asahara, the founder of the Aum Shinrikyo, is reported to have shouted again and again at his followers, “Don’t you realize that this is war” (Lifton, 2000: 56) and to have insisted that his group existed “on a war footing” (Lifton, 2000: 60). The Reverend Paul Hill, who shot and killed a physician in front of a family planning clinic in the United States, wrote “The battle over abortion is primarily spiritual. The confl ict is between God’s will and kingdom and Satan’s opposing will and kingdom” (Hill, 2003: 8). Hill’s actions were justifi ed to an interviewer by his brother-in-arms, the Reverend Michael Bray, who wrote the bible of the violent anti-choice movement, entitled tellingly A Time to Kill, as the product of a Christian subculture in America that considers itself at war with the larger society, and to some extent victimized by it. . . . This subculture sees itself justifi ed in its violent responses to a vast and violent repression waged by secular . . . agents of a satanic force . . . a great defensive Christian struggle against the secular state, a contest between the forces of spiritual truth and heathen darkness, in which the moral character of America as a righteous nation hangs in the balance.( Juergensmeyer, 2000: 36) Juergensmeyer concludes in his investigation of religiously sponsored terrorism around the globe, Terror in the Mind of God, that “what is strikingly similar about the cultures of which they [religious terrorists] are a part is their view of the contemporary world at war” ( Juergensmeyer, 2000: 151). Qutb and the jihadists are not alone in declaring war on the secular state.

### 2AC – Executive

#### 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.

#### Least harmful means requires training which causes hesitancy and collapses military effectiveness

**Jenks et al., SMU law and criminal justice professor and retired lieutenant colonel, 2013**

(Chris, “Belligerent Targeting and the Invalidity of a Least Harmful Means Rule”, 5-28, <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2271152>, ldg)

If a least harmful means rule did exist within the LOAC, or if such a rule were to be imposed, it would present significant and potentially crippling impediments in the implementation of that obligation. From training, to execution of operations, to investigation and accountability for violations of the law, no aspect of the intersection between law and military opera-tions would be untouched or unhindered by the rule’s consequences. Fur-thermore, although proponents of a least harmful means rule argue that it fulfills the LOAC’s core humanitarian purpose, such a rule has an equally opposite effect of undermining the LOAC’s role in protecting soldiers from the corrosive psychological and moral effects of combat. 1. Training The first and most obvious of these challenges is translating the rule into training and the ROE applicable to a declared hostile force. Proponents of the least harmful means rule cite the practice of including such a restriction in ROE to rebut any assertion that such a challenge is in any way significant.230 These proponents fail to appreciate, however, two significant factors that undermine this argument. First, even if it is operationally feasible to implement such a restriction in one tactical environment, this does not mean it is feasible in all tactical environments. Relying on the counterinsurgency context as a touchstone of feasibility therefore lacks credibility. What is necessary, rather, is to consider implementation of such a rule in every tactical context associated with the full range of operations that occur in armed conflict. Second, ROE are never effectively implemented simply by enunciating the relevant restriction on the use of force in an order, di-rective, or ROE card. Rather, these restrictions are only as effective as the training that prepares soldiers to implement them. Accordingly, training for a combat environment is indelibly linked to the effectiveness of any ROE or other imposition of battlefield regulation. In considering this latter impediment, it is essential to note that if a least harmful means obligation were recognized, the obligation would not be context-specific, like ROE for a particular conflict or mission, but would require adherence in all conflict situations. As a result, this least harmful means rule would have to become an element of the baseline train-ing for all members of the armed forces. From the inception of all combat training, an effective method would have to be developed to incorporate compliance with this obligation into the combat instincts that military train-ing seeks to instill in the soldier. Certainly, the LOAC’s protection for individuals rendered hors de combat means that limitations on the legality of using force in combat are already an aspect of such training. The symmetry between the clarity provided by the rules of presumption associated with status-based targeting authority and such training is essential, however. The explicit indicia that trigger hors de combat status discussed above, coupled with the requirement that the non-disabled belligerent operative bears the burden to affirmatively mani-fest surrender, facilitates a baseline standard of training and development that is effective for all soldiers, from the newly-minted private to the senior attack aircraft pilot. Injecting a least harmful means rule into this equation would compromise the efficacy of this warrior development process. By demanding the exercise of case-by-case judgment when engaged in hostili-ties with a declared hostile opponent, it would significantly increase the burden on the attacking force to assess when the enemy belligerent oppo-nent fell within the protections afforded to those considered hors de combat. In contrast, leaving any least harmful means limitation within the policy realm provides the military commander the flexibility to tailor it to the mission, enemy, terrain, troops available, time and civilian considerations231 applicable during a given operation. Training armed forces for armed conflict is thus in no way analogous to the training provided for peace officers or even for armed forces fo-cused on a peacekeeping or stability support mission precisely because in armed conflict there is no expectation that responding to enemy threats will be graduated. Instead, unlike hostile actors encountered during peace operations, enemy combatants are presumed to always represent a threat of death or grievous bodily harm. Furthermore, the organizations they belong to also pose such a threat. It might be tempting to assume that shifting from one use of force paradigm to another is a simple task, but those familiar with the relationship between training and operational effectiveness know this is a highly complex process.232 As a result, effective training must be mission-driven, which means that preparation for armed conflict must focus primarily on developing a warrior ethos derived from the armed con-flict use of force paradigm.233 Therefore, soldiers are trained to employ deadly force against such targets, irrespective of the conduct they encoun-ter. The inclusion of a least harmful means rule in contemporary counterin-surgency ROE indicates that this challenge is not insurmountable, of course. Indeed, soldiers can be trained to even more restrictive ROE standards, such as when they are engaged in peace-support or occupation operations. However, imposition of this type of policy-based constraint, as noted above, reflects a conscious command judgment that the increased risk imposed on friendly forces is offset by the tactical, operational, and strategic value of the constraint. This might make sense in the context of counterinsurgency (COIN) operations, where the cost of perceived use of force over-breadth produced by status-based presumptions is not consid-ered acceptable based on the risk associated with limiting that authority. In such contexts, the benefits of restraining otherwise lawful uses of force may justify this increased risk, but they do not dictate it. In other contexts, such as a high intensity conflict in Korea, the cost/benefit equation would likely be fundamentally different. Nor does the imposition of such con- straints reflect recognition of a humanitarian obligation to impose such ad-ditional risk on friendly forces. Furthermore, units operating pursuant to such ROE require significant training that prepares them to “ramp down” from the LOAC-based norm of pure status-based targeting.234 As a practical matter, restraining the in-stinctual level of combat aggressiveness developed in baseline training pur-suant to a pure status-based targeting standard makes it feasible to “ramp up” to the baseline norm on order. If, in contrast, the baseline standard of training must prepare the soldier to constantly question the permissibility of employing deadly combat power against a declared hostile enemy bellig-erent operative who is still physically capable of engaging in operations and has not surrendered, it will produce an inevitable dilution of the aggres-siveness that is frequently an essential component of seizing and retaining the initiative during an attack against enemy personnel.

### 2AC – Farm Bill

#### Link is about congress – we’re courts… obviously doesn’t apply

#### Obama political capital tanked-Snowden, Obamacare, Syria all wreck agenda

MSNBC.com 11/7/13

HEADLINE: Snowden leaks damage Obama foreign-policy agenda

By NBC's Ali Weinberg</p><p>The latest stream of revelations from former National Security Agency contractor Edward Snowden &#8211; that the United States has been spying on at least 35 foreign leaders &#8211; sparked a firestorm abroad and at home and have boxed in President Barack Obama, who finds himself struggling a year into his second term. They have damaged America&#8217;s relationship with some of its closest allies more so than any foreign-policy decision Obama has made, analysts say.</p><p>&#8220;We simply can&#8217;t return to business as usual,&#8221; German Defence Minister Thomas de Maiziere was quoted by ARD television as saying late last month. Sen. Dianne Feinstein, the Democratic chairwoman of the Senate Intelligence Committee, said on CBS&#8217; Face the Nation that tapping leaders&#8217; phones has &#8220;more political liability than probably intelligence viability.&#8221;</p><p>The botched rollout of Obama&#8217;s health-care law, his handling of Syria, and NSA revelations have led to Obama finding himself at the lowest point in his presidency, with his lowest approval ratings since taking office. That has hampered his ability to gain any traction for a second-term domestic agenda on things like the budget and immigration reform

#### No farm bill – SNAP provision debate

Rogers 10/24/13 (David, staffwriter, “Farm bill gets no respect” <http://www.politico.com/story/2013/10/farm-bill-gets-no-respect-98795.html>)

“We should pass a farm bill,” the president said. “One that America’s farmers and ranchers can depend on, one that protects vulnerable children and adults in times of need, and one that gives rural communities opportunities to grow and the longer-term certainty they deserve.” This deserves such Washington scorn? For sure, it’s not all bad to be dissed by Washington these days. Consider what most of America thinks of Washington. But how did the nation’s capital become so disconnected from a farm and food debate that touches so much of America itself? A farm bill is about more than corn and cotton futures. Beyond the nation’s vast croplands, it impacts the federal forests and millions of acres of prairie lands held in conservation. It is perhaps the single most important piece of legislation that addresses rural economic development. Its trade and food aid titles are a reminder of how important America’s agricultural power can be overseas. Even the beleaguered honey bee has a stake in new research provisions. This year’s debate has provoked a singularly bitter but landmark fight over the nutrition title and future of the food stamp program. House Republicans are insisting on cuts that together with already scheduled reductions next month would drive down spending on food stamp benefits by 12 percent in just two years—pushing millions of people off the rolls. The debate has been so partisan— without legislative hearings or any attempt to pump money back into reforms for the poor—that it has poisoned the farm bill well for many urban Democrats. That said, even the most loyal supporters of food stamps admit it is a program asked to do too much during the great recession. The disparity in eligibility rules from one state to the next can be huge. Unlike Medicaid, Washington pays the full bill, and the questions raised in the farm bill debate are central for both parties if they are to preserve the social safety net. What should the income threshold be for eligibility? What assets are counted? And should there be a work requirement? House Agriculture Committee Chairman Frank Lucas (R-Okla.) and his ranking Democrat, Minnesota Rep. Collin Peterson, attempted to address this last year but were plowed under by the Republican right and forces aligned with Majority Leader Eric Cantor (R-Va.). Freshman Rep. Suzan DelBene (D-Wash.), who will be part of the farm bill talks, offered her own alternative on income limits and an updated asset test. But she got little traction in her own party. “This thing has been so politicized,” Peterson told POLITICO. “Everybody is focused on how many dollars it saves and not looking at the policy.” When the farm bill conference meets Wednesday afternoon, it will be on a grand stage: the gilded Ways and Means Committee meeting room in Longworth with its sculpted eagles and history of past bargains. The challenge for negotiators is to think as big and bold. The Agriculture Committees argue—somewhat defensively— that they have already taken major steps. Both bills end the current system of direct cash payments to producers—costing about $4.5 billion annually. At the same time, organic and specialty crops gain modest ground. Much tighter payment limits are imposed on future subsidies. More of an effort is made to help only producers who have put seed in the ground, put themselves at risk and experienced a loss. What that “loss” entails is still debated. The Senate’s “shallow loss” revenue protection program could end up distributing taxpayer funds to corn and soybean producers who are already making a profit. At the same time, critics would say the House goes off the deep end with a heavily subsidized supplemental coverage option— with only a 10 percent deductible. The next few days could be pivotal as the Senate responds to new options outlined by the House. Time is running short, and given the erratic legislative schedule this fall, neither side can afford to allow matters to drift.

#### No impact to the environment

**Brook, Adelaide professor, 2013**

(Barry, “Worrying about global tipping points distracts from real planetary threats”, 3-4, <http://bravenewclimate.com/2013/03/04/ecological-tipping-points/>, ldg)

We argue that at the global-scale, ecological “tipping points” and threshold-like “planetary boundaries” are improbable. Instead, shifts in the Earth’s biosphere follow a gradual, smooth pattern. This means that it might be impossible to define scientifically specific, critical levels of biodiversity loss or land-use change. This has important consequences for both science and policy. Humans are causing changes in ecosystems across Earth to such a degree that there is now broad agreement that we live in an epoch of our own making: the Anthropocene. But the question of just how these changes will play out — and especially whether we might be approaching a planetary tipping point with abrupt, global-scale consequences — has remained unsettled. A tipping point occurs when an ecosystem attribute, such as species abundance or carbon sequestration, responds abruptly and possibly irreversibly to a human pressure, such as land-use or climate change. Many local- and regional-level ecosystems, such as lakes,forests and grasslands, behave this way. Recently however, there have been several efforts to define ecological tipping points at the global scale. At a local scale, there are definitely warning signs that an ecosystem is about to “tip”. For the terrestrial biosphere, tipping points might be expected if ecosystems across Earth respond in similar ways to human pressures and these pressures are uniform, or if there are strong connections between continents that allow for rapid diffusion of impacts across the planet. These criteria are, however, unlikely to be met in the real world. First, ecosystems on different continents are not strongly connected. Organisms are limited in their movement by oceans and mountain ranges, as well as by climatic factors, and while ecosystem change in one region can affect the global circulation of, for example, greenhouse gases, this signal is likely to be weak in comparison with inputs from fossil fuel combustion and deforestation. Second, the responses of ecosystems to human pressures like climate change or land-use change depend on local circumstances and will therefore differ between locations. From a planetary perspective, this diversity in ecosystem responses creates an essentially gradual pattern of change, without any identifiable tipping points. This puts into question attempts to define critical levels of land-use change or biodiversity loss scientifically. Why does this matter? Well, one concern we have is that an undue focus on planetary tipping points may distract from the vast ecological transformations that have already occurred. After all, as much as four-fifths of the biosphere is today characterised by ecosystems that locally, over the span of centuries and millennia, have undergone human-driven regime shifts of one or more kinds. Recognising this reality and seeking appropriate conservation efforts at local and regional levels might be a more fruitful way forward for ecology and global change science. Corey Bradshaw (see also notes published here on ConservationBytes.com) Let’s not get too distracted by the title of the this article – Does the terrestrial biosphere have planetary tipping points? – or the potential for a false controversy. It’s important to be clear that the planet is indeed ill, and it’s largely due to us. Species are going extinct faster than they would have otherwise. The planet’s climate system is being severely disrupted; so is the carbon cycle. Ecosystem services are on the decline. But – and it’s a big “but” – we have to be wary of claiming the end of the world as we know it, or people will shut down and continue blindly with their growth and consumption obsession. We as scientists also have to be extremely careful not to pull concepts and numbers out of thin air without empirical support. Specifically, I’m referring to the latest “craze” in environmental science writing – the idea of “planetary tipping points” and the related “planetary boundaries”. It’s really the stuff of Hollywood disaster blockbusters – the world suddenly shifts into a new “state” where some major aspect of how the world functions does an immediate about-face. Don’t get me wrong: there are plenty of localised examples of such tipping points, often characterised by something we call “hysteresis”. Brook defines hysterisis as: a situation where the current state of an ecosystem is dependent not only on its environment but also on its history, with the return path to the original state being very different from the original development that led to the altered state. Also, at some range of the driver, there can exist two or more alternative states and “tipping point” as: the critical point at which strong nonlinearities appear in the relationship between ecosystem attributes and drivers; once a tipping point threshold is crossed, the change to a new state is typically rapid and might be irreversible or exhibit hysteresis. Some of these examples include state shifts that have happened (or mostly likely will) to the cryosphere, ocean thermohaline circulation, atmospheric circulation, and marine ecosystems, and there are many other fine-scale examples of ecological systems shifting to new (apparently) stable states. However, claiming that we are approaching a major planetary boundary for our ecosystems (including human society), where we witness such transitions simultaneously across the globe, is simply not upheld by evidence. Regional tipping points are unlikely to translate into planet-wide state shifts. The main reason is that our ecosystems aren’t that connected at global scales.

## 1AR

### Violence good

#### A violent war on terror is the only way to solve—nonviolent solutions empirically fail

Hanson 10—Senior Fellow, Hoover. Former visiting prof, classics, Stanford. PhD in classics, Stanford (Victor Davis, The Tragic Truth of War, 19 February 2010, http://www.victorhanson.com/articles/hanson021910.html)

Victory has usually been defined throughout the ages as forcing the enemy to accept certain political objectives. “Forcing” usually meant killing, capturing, or wounding men at arms. In today’s polite and politically correct society we seem to have forgotten that nasty but eternal truth in the confusing struggle to defeat radical Islamic terrorism. What stopped the imperial German army from absorbing France in World War I and eventually made the Kaiser abdicate was the destruction of a once magnificent army on the Western front — superb soldiers and expertise that could not easily be replaced. Saddam Hussein left Kuwait in 1991 when he realized that the U.S. military was destroying his very army. Even the North Vietnamese agreed to a peace settlement in 1973, given their past horrific losses on the ground and the promise that American air power could continue indefinitely inflicting its damage on the North. When an enemy finally gives up, it is for a combination of reasons — material losses, economic hardship, loss of territory, erosion of civilian morale, fright, mental exhaustion, internal strife. But we forget that central to a concession of defeat is often the loss of the nation’s soldiers — or even the threat of such deaths. A central theme in most of the memoirs of high-ranking officers of the Third Reich is the attrition of their best warriors. In other words, among all the multifarious reasons why Nazi Germany was defeated, perhaps the key was that hundreds of thousands of its best aviators, U-boaters, panzers, infantrymen, and officers, who swept to victory throughout 1939–41, simply perished in the fighting and were no longer around to stop the allies from doing pretty much what they wanted by 1944–45. After Stalingrad and Kursk, there were not enough good German soldiers to stop the Red Army. Even the introduction of jets could not save Hitler in 1945 — given that British and American airmen had killed thousands of Luftwaffe pilots between 1939 and 1943. After the near destruction of the Grand Army in Russia in 1812, even Napoleon’s genius could not restore his European empire. Serial and massive Communist offensives between November 1950 and April 1951 in Korea cost Red China hundreds of thousands of its crack infantry — and ensured that, for all its aggressive talk, it would never retake Seoul in 1952–53. But aren’t these cherry-picked examples from conventional wars of the past that have no relevance to the present age of limited conflict, terrorism, and insurgency where ideology reigns? Not really. We don’t quite know all the factors that contributed to the amazing success of the American “surge” in Iraq in 2007–08. Surely a number of considerations played a part: Iraqi anger at the brutish nature of al-Qaeda terrorists in their midst; increased oil prices that brought massive new revenues into the country; General Petraeus’s inspired counterinsurgency tactics that helped win over Iraqis to our side by providing them with jobs and security; much-improved American equipment; and the addition of 30,000 more American troops. But what is unspoken is also the sheer cumulative number of al Qaeda and other Islamic terrorists that the U.S. military killed or wounded between 2003 and 2008 in firefights from Fallujah to Basra. There has never been reported an approximate figure of such enemy dead — perhaps wisely, in the post-Vietnam age of repugnance at “body counts” and the need to create a positive media image. Nevertheless, in those combat operations, the marines and army not only proved that to meet them in battle was a near death sentence, but also killed thousands of low-level terrorists and hundreds of top-ranking operatives who otherwise would have continued to harm Iraqi civilians and American soldiers. Is Iraq relatively quiet today because many who made it so violent are no longer around? Contemporary conventional wisdom tries to persuade us that there is no such thing as a finite number of the enemy. Instead, killing them supposedly only incites others to step up from the shadows to take their places. Violence begets violence. It is counterproductive, and creates an endless succession of the enemy. Or so we are told. We may wish that were true. But military history suggests it is not quite accurate. In fact, there was a finite number of SS diehards and kamikaze suicide bombers even in fanatical Nazi Germany and imperial Japan. When they were attrited, not only were their acts of terror curtailed, but it turned out that far fewer than expected wanted to follow the dead to martyrdom. The Israeli war in Gaza is considered by the global community to be a terrible failure — even though the number of rocket attacks against Israeli border towns is way down. That reduction may be due to international pressure, diplomacy, and Israeli goodwill shipments of food and fuel to Gaza — or it may be due to the hundreds of Hamas killers and rocketeers who died, and the thousands who do not wish to follow them, despite their frequently loud rhetoric about a desire for martyrdom. Insurgencies, of course, are complex operations, but in general even they are not immune from eternal rules of war. Winning hearts and minds is essential; providing security for the populace is crucial; improving the economy is critical to securing the peace. But all that said, we cannot avoid the pesky truth that in war — any sort of war — killing enemy soldiers stops the violence. For all the much-celebrated counterinsurgency tactics in Afghanistan, note that we are currently in an offensive in Helmand province to “secure the area.” That means killing the Taliban and their supporters, and convincing others that they will meet a violent fate if they continue their opposition. Perhaps the most politically incorrect and Neanderthal of all thoughts would be that the American military’s long efforts in both Afghanistan and Iraq to kill or capture radical Islamists has contributed to the general safety inside the United States. Modern dogma insists that our presence in those two Muslim countries incited otherwise non-bellicose young Muslims to suddenly prefer violence and leave Saudi Arabia, Yemen, or Egypt to flock to kill the infidel invader. A more tragic view would counter that there was always a large (though largely finite) number of radical jihadists who, even before 9/11, wished to kill Americans. They went to those two theaters, fought, died, and were therefore not able to conduct as many terrorist operations as they otherwise would have, and also provided a clear example to would-be followers not to emulate their various short careers. That may explain why in global polls the popularity both of bin Laden and of the tactic of suicide bombing plummeted in the Middle Eastern street — at precisely the time America was being battered in the elite international press for the Iraq War. Even the most utopian and idealistic do not escape these tragic eternal laws of war. Barack Obama may think he can win over the radical Islamic world — or at least convince the more moderate Muslim community to reject jihadism — by means such as his Cairo speech, closing Guantanamo, trying Khalid Sheikh Mohammed in New York, or having General McChrystal emphatically assure the world that killing Taliban and al-Qaeda terrorists will not secure Afghanistan. Of course, such soft- and smart-power approaches have utility in a war so laden with symbolism in an age of globalized communications. But note that Obama has upped the number of combat troops in Afghanistan, and he vastly increased the frequency of Predator-drone assassination missions on the Pakistani border. Indeed, even as Obama damns Guantanamo and tribunals, he has massively increased the number of targeted assassinations of suspected terrorists — the rationale presumably being either that we are safer with fewer jihadists alive, or that we are warning would-be jihadists that they will end up buried amid the debris of a mud-brick compound, or that it is much easier to kill a suspected terrorist abroad than detain, question, and try a known one in the United States. In any case, the president — immune from criticism from the hard Left, which is angrier about conservative presidents waterboarding known terrorists than liberal ones executing suspected ones — has concluded that one way to win in Afghanistan is to kill as many terrorists and insurgents as possible. And while the global public will praise his kinder, gentler outreach, privately he evidently thinks that we will be safer the more the U.S. marines shoot Taliban terrorists and the more Hellfire missiles blow up al-Qaeda planners. Why otherwise would a Nobel Peace Prize laureate order such continued offensive missions? Victory is most easily obtained by ending the enemy’s ability to resist — and by offering him an alternative future that might appear better than the past. We may not like to think all of that entails killing those who wish to kill us, but it does, always has, and tragically always will — until the nature of man himself changes.

### Sig strikes

#### Sig strikes

Jaffer, Director-ACLU Center for Democracy, 13 (Jameel Jaffer, Director of the ACLU's Center for Democracy, “Judicial Review of Targeted Killings,” 126 Harv. L. Rev. F. 185 (2013), http://www.harvardlawreview.org/issues/126/april13/forum\_1002.php)

Since 9/11, the CIA and Joint Special Operations Command (JSOC) have used armed drones to kill thousands of people in places far removed from conventional battlefields. Legislators, legal scholars, and human rights advocates have raised concerns about civilian casualties, the legal basis for the strikes, the process by which the executive selects its targets, and the actual or contemplated deployment of armed drones into additional countries. Some have proposed that Congress establish a court to approve (or disapprove) strikes before the government carries them out. While judicial engagement with the targeted killing program is long overdue, those aiming to bring the program in line with our legal traditions and moral intuitions should think carefully before embracing this proposal. Creating a new court to issue death warrants is more likely to normalize the targeted killing program than to restrain it. The argument for some form of judicial review is compelling, not least because such review would clarify the scope of the government’s authority to use lethal force. The targeted killing program is predicated on sweeping constructions of the 2001 Authorization for Use of Military Force (AUMF) and the President’s authority to use military force in national self-defense. The government contends, for example, that the AUMF authorizes it to use lethal force against groups that had nothing to do with the 9/11 attacks and that did not even exist when those attacks were carried out. It contends that the AUMF gives it authority to use lethal force against individuals located far from conventional battlefields. As the Justice Department’s recently leaked white paper makes clear, the government also contends that the President has authority to use lethal force against those deemed to present “continuing” rather than truly imminent threats.These claims are controversial. They have been rejected or questioned by human rights groups, legal scholars, federal judges, and U.N. special rapporteurs. Even enthusiasts of the drone program have become anxious about its legal soundness. (“People in Washington need to wake up and realize the legal foundations are crumbling by the day,” Professor Bobby Chesney, a supporter of the program, recently said.) Judicial review could clarify the limits on the government’s legal authority and supply a degree of legitimacy to actions taken within those limits. It could also encourage executive officials to observe these limits. Executive officials would be less likely to exceed or abuse their authority if they were required to defend their conduct to federal judges. Even Jeh Johnson, the Defense Department’s former general counsel and a vocal defender of the targeted killing program, acknowledged in a recent speech that judicial review could add “rigor” to the executive’s decisionmaking process. In explaining the function of the Foreign Intelligence Surveillance Court, which oversees government surveillance in certain national security investigations, executive officials have often said that even the mere prospect of judicial review deters error and abuse.

### perm

#### Perm do both – policy is responsive and even if the alt is coopted it’s the only way to solve.

Kurki 2011

Milja, The Limitations of the Critical Edge: Reflections on Critical and Philosophical IR Scholarship Today, Principal Investigator of ‘Political Economies of Democratisation’, a European Research Council-funded project based at the International Politics Department, Aberystwyth University, Millennium: Journal of International Studies 40(1) 129–146 September 2011

We have yet another call to a new beginning, another meta-theoretical debate for the consumers of international relations theory. This is the easy part, and I support it as far as it goes. However, now it is time to move beyond introductions and openings to concrete applications, to the construction and illustration of viable alternatives. It is important that we proceed in this manner not because these alternatives are necessarily going to be ‘better’, closer to ‘truth’ or more ‘real’ in some sense than prevailing theoretical explanations; but in order to demonstrate the possibility of alternative – possibly, but not necessarily, superior – conceptualisations, that are otherwise widely held to be self-evident by the vast majority of scholars of IR.53 There have been many calls for more critical and philosophical debate in IR; yet, just how critical are all these debates and what effects do they have? What is the purpose of critical IR theory or philosophical reflection, and what is the purpose of the supposed theoretical diversity that the critical voices bring into IR? Many, in my view, misunderstand their purpose. Biersteker summarises my own view perfectly. The point of philosophical reflection and post-positivism, he argues, is not to provide ‘pluralism without purpose, but a critical pluralism, designed to reveal embedded power and authority structures, provoke critical scrutiny of dominant discourses, engage marginalised peoples and perspectives and provide a basis for alternative conceptualisations’.54 There is a purpose to critical theory that needs to be acknowledged, reflected upon and ‘practised’; both inside and outside academia. At present, it seems to me that relatively little such engagement takes place; not because critical theorists are ‘lazy’ or wrong-headed, but because the disciplinary environment and professional structures favour disassociation and depoliticisation even of these strands of thought. Strategic thinking of critical theorists is not missing, but it is oriented in such a way that does not facilitate real-world political changes. In the era of the expansion of the image of homo oeconomicus in academia too, much remains to be done in reinvigorating critical theoretical thought. At present, we have many theoretically sophisticated but practically disinvested scholars. This renders IR, and especially philosophical and critical theory within it, rather useless in challenging global structures and paradigms of domination. But what can we do about this? Arguably, revisions of conceptual categories and their political underpinnings, as well as spaces to think about alternatives, are needed more than ever. But how do we generate them, or, in Cox’s or Murphy’s words, how can IR academics help in generating such alternatives? We can do so in a few ways. We can do so by passing on the torch by continuing to teach critical theory: as Hoffman usefully reminds us, theorising itself (and passing it on through teaching) is a critical practice in itself.55 We can also do so today by continuing to fight the cuts to social science research in universities and the constriction of space for free thought within universities. We can also seek to obtain, but also seek to reshape, the kind of research funding that is provided by funding councils or states. This takes some perseverance, for it is not easy to argue for conceptual or philosophical engagement, let alone critical praxaeology, at a time of crisis or for reform within bureaucratic and conservative structures. Yet, this brings in another core aspect of the challenge faced by critical theorists, which is that we must also seek to engage with the world: to act in it as well as analyse it. We must engage the social groups and NGOs, but also the elites and bureaucrats. We can do so and we must try and do so; partly because these elites (and also NGO elites) are actually more well-meaning and even reflective than many academics give them credit for; and because, in my experience, they are very capable of understanding both the pros and cons, limits and possibilities, of alternative frameworks and actions when concretely presented with them. This is not to say that significant structural and ideological constraints do not exist to generating alternative political scenarios – they do – but the structures are only partly, and in many cases only secondarily, supported, even by governmental or intergovernmental elites. These elites may be a good ally, rather than an enemy, in re-shifting international political and economic paradigms. The result of a new kind of engagement with the empirical and the practical is not necessarily a victory of critical theory; critical theory rarely – indeed never, it would seem – ‘wins’, that much is a clear lesson of history. Yet, it can occasionally activate, motivate and, indeed, ‘enthral’ people, as well as giving them hope and impetus to achieve change. Despite its sceptical outlook, critical and philosophical theory is still valuable in reminding us that, while it does not seem so, we do not live in a world without any alternatives.