## 1ac

### Adv 1

#### Advantage 1 is Legitimacy

#### Unrestrained drone use collapses global stability – harms US legitimacy

Kennedy, 13 [“Drones: Legitimacy and Anti-Americanism”, Greg Kennedy is a Professor of Strategic Foreign Policy at the Defence Studies Department, King's College London, based at the Joint Services Command and Staff College, Defence Academy of the United Kingdom, in Shrivenham, Parameters 42(4)/43(1) Winter-Spring 2013]

The exponential rise in the use of drone technology in a variety of military and non-military contexts represents a real challenge to the framework of established international law and it is both right as a matter of principle, and inevitable as a matter of political reality, that the international community should now be focusing attention on the standards applicable to this technological development, particularly its deployment in counterterrorism and counter-insurgency initiatives, and attempt to reach a consensus on the legality of its use, and the standards and safeguards which should apply to it.4 deliver deadly force is taking place in both public and official domains in the United States and many other countries.5 The four key features at the heart of the debate revolve around: who is controlling the weapon system; does the system of control and oversight violate international law governing the use of force; are the drone strikes proportionate acts that provide military effectiveness given the circumstances of the conflict they are being used in; and does their use violate the sovereignty of other nations and allow the United States to disregard formal national boundaries? Unless these four questions are dealt with in the near future the impact of the unresolved legitimacy issues will have a number of repercussions for American foreign and military policies: “Without a new doctrine for the use of drones that is understandable to friends and foes, the United States risks achieving near-term tactical benefits in killing terrorists while incurring potentially significant longer-term costs to its alliances, global public opinion, the war on terrorism and international stability.”6 This article will address only the first three critical questions. The question of who controls the drones during their missions is attracting a great deal of attention. The use of drones by the Central Intelligence Agency (CIA) to conduct “signature strikes” is the most problematic factor in this matter. Between 2004 and 2013, CIA drone attacks in Pakistan killed up to 3,461—up to 891 of them civilians.7 Not only is the use of drones by the CIA the issue, but subcontracting operational control of drones to other civilian agencies is also causing great concern.8 Questions remain as to whether subcontractors were controlling drones during actual strike missions, as opposed to surveillance and reconnaissance activities. Nevertheless, the intense questioning of John O. Brennan, President Obama’s nominee for director of the CIA in February 2013, over drone usage, the secrecy of their controllers and orders, and the legality of their missions confirmed the level of concern America’s elected officials have regarding the legitimacy of drone use. Furthermore, perceptions and suspicions of illegal clandestine intelligence agency operations, already a part of the public and official psyche due to experiences from Vietnam, Iran-Contra, and Iraq II and the weapons of mass destruction debacle, have been reinforced by CIA management of drone capability. Recent revelations about the use of secret Saudi Arabian facilities for staging American drone strikes into Yemen did nothing to dissipate such suspicions of the CIA’s lack of legitimacy in its use of drones.9 The fact that the secret facility was the launching site for drones used to kill American citizens Anwar al-Awlaki and his son in September 2011, both classified by the CIA as al-Qaeda-linked threats to US security, only deepened such suspicions. Despite the fact that Gulf State observers and officials knew about American drones operating from the Arabian peninsula for years, the existence of the CIA base was not openly admitted in case such knowledge should “ . . . damage counter-terrorism collaboration with Saudi Arabia.”10 The fallout from CIA involvement and management of drone strikes prompted Senator Dianne Feinstein, Chairwoman of the Senate Intelligence Committee, to suggest the need for a court to oversee targeted killings. Such a body, she said, would replicate the Foreign Intelligence Surveillance Court, which oversees eavesdropping on American soil.11 Most importantly, such oversight would go a long way towards allaying fears of the drone usage lacking true political accountability and legitimacy. In addition, as with any use of force, drone strikes in overseas contingency operations can lead to increased attacks on already weak governments partnered with the United States. They can lead to retaliatory attacks on local governments and may contribute to local instability. Those actions occur as a result of desires for revenge and frustrations caused by the strikes. Feelings of hostility are often visited on the most immediate structures of authority—local government officials, government buildings, police, and the military.12 It can thus be argued that, at the strategic level, drone strikes are fuelling anti-American resentment among enemies and allies alike. Those reactions are often based on questions regarding the legality, ethicality, and operational legitimacy of those acts to deter opponents. Therefore, specifically related to the reaction of allies, the military legitimacy question arises if the use of drones endangers vital strategic relationships.13 One of the strategic relationships being affected by the drone legitimacy issue is that of the United States and the United Kingdom. Targeted killing, by drone strike or otherwise, is not the sole preserve of the United States. Those actions, however, attract more negative attention to the United States due to its prominence on the world’s stage, its declarations of support for human rights and democratic freedoms, and rule-of-law issues, all which appear violated by such strikes. This complexity and visibility make such targeted killings important for Anglo-American strategic relations because of the closeness of that relationship and the perception that Great Britain, therefore, condones such American activities. Because the intelligence used in such operations is seen by other nations as a shared Anglo-American asset, the use of such intelligence to identify and conduct such killings, in the opinion those operations.14 Finally, the apparent gap between stated core policies and values and the ability to practice targeted killings appears to be a starkly hypocritical and deceitful position internationally, a condition that once again makes British policymakers uncomfortable with being tarred by such a brush.15 The divide between US policy and action is exacerbated by drone technology, which makes the once covert practice of targeted killing commonplace and undeniable. It may also cause deep-rooted distrust due to a spectrum of legitimacy issues. Such questions will, therefore, undermine the US desire to export liberal democratic principles. Indeed, it may be beneficial for Western democracies to achieve adequate rather than decisive victories, thereby setting an example of restraint for the international order.16 The United States must be willing to engage and deal with drone-legitimacy issues across the entire spectrum of tactical, operational, strategic, and political levels to ensure its strategic aims are not derailed by operational and tactical expediency.

#### An executive lead role spurs mistrust and global opposition

Goldsmith, 13 [May 1st, Jack Goldsmith teaches at Harvard Law School and is a member of the Hoover Institution Task Force on National Security and Law. He is the author, most recently, of Power and Constraint, How Obama Undermined the War on Terror http://www.newrepublic.com/article/112964/obamas-secrecy-destroying-american-support-counterterrorism]

And so Barack Obama greatly expanded the secret war that George W. Bush began. In the fall of 2009, Obama approved a "long list" of new CIA paramilitary operation proposals, as well as CIA requests for more armed drones, more spies, and larger targeting areas in Pakistan. "The CIA gets what it wants," said the president, approving the CIA requests, and conveying what Mazzetti thinks was his first-term attitude toward the Agency. The Department of Defense also got most of what it wanted. Obama approved an initiative by General David Petraeus to expand "military spying activities throughout the Muslim world," and gave special operations forces "even broader authorities to run spying missions across the globe" than they possessed under the Bush administration. Mazzetti describes Obama's souped-up secret war as "the way of the knife," a reference to Obama counterterrorism czar (and now CIA director) John Brennan's claim that the administration had replaced the "hammer" of large deployments with the "scalpel" of secret pinpoint missions. Its most famous use was the Abbottabad raid to kill bin Laden. But its most enduring legacy is Obama's significant expansion of the CIA and JSOC drone-strike campaign against Al Qaeda and affiliates, especially in Pakistan and Yemen. In 2009, the Obama administration conducted more drone strikes in those countries than the Bush administration had done in the seven years after 9/11; and to date, it has conducted almost nine times more drone strikes there than its predecessor. The administration's most controversial drone strike came against an American citizen, Anwar al-Awlaki, a leader of Al Qaeda in the Arabian Peninsula, the Yemeni organization responsible for the failed Detroit "underwear bomb" attack on Christmas in 2009 and other attempted attacks against the United States. Government lawyers gave the green light to kill al-Awlaki in 2010, but the administration had no idea where in Yemen he was. By 2011, the CIA and JSOC both had spies on the ground in Yemen and were "running two distinct drone wars," with different targeting lists, from bases in Saudi Arabia (for the CIA) and Ethiopia and Djibouti (for JSOC). In the fall of 2011, in part because of prior JSOC targeting mistakes and in part because of the CIA's extraordinary successes in Pakistan, Obama tasked the CIA alone with finding and killing al-Awlaki. On September 30, a CIA Reaper drone fired on a convoy near the Saudi Arabian desert and completed the mission. At the end of president Obama's first term, Mazzetti remarks, Americans seemed "little concerned about their government's escalation of clandestine warfare." By that point Obama's way of the knife had both decimated the senior leadership of Al Qaeda and reversed the Republicans' traditional advantage on national security. "Ask Osama bin Laden and the 22 out of 30 top Al Qaeda leaders who have been taken off the field whether I engage in appeasement," said the boastful president in December 2011, flicking away Republican charges that he was soft on terrorism. "Or whoever is left out there, ask them about that," he added. But in the last few months the Obama administration's secret war—and especially its drone program—have come under attack on multiple fronts. In 2011, The Washington Post reported the CIA's counterterrorism chief bragging of his Al Qaeda strikes that "we are killing these sons of bitches faster than they can grow them now." It is unclear whether this statement is true today. The core Al Qaeda organization appears debilitated. But its affiliate organizations are operating in Somalia, Yemen, and Iraq. And powerful new affiliates appear to be springing up elsewhere, including Al Qaeda in the Islamic Maghreb in post-Qaddafi North Africa, and the Al Nusra Front in revolutionary Syria. Secrecy is the essence of the type of war that Obama has chosen to fight. In this light, questions about the strategic success of Obama's drone campaign, and his secret war more generally, are growing. "We cannot kill our way to victory," former Congresswoman Jane Harman, who was a member of the House Intelligence Committee, testified in a counterterrorism hearing last month. General Stanley McChrystal, who presided over JSOC from 2003 to 2008, made a similar point in a recent interview in Foreign Affairs. The "danger of special operating forces," he noted, is that "you get this sense that it is satisfying, it's clean, it's low risk, it's the cure for most ills." But history provides no example of "a covert fix that solved a complex problem," he continued, adding that a too-heavy reliance on drone strikes is also "problematic" because "it's not a strategy in itself; it's a short-term tactic." One reason McChrystal questions the strategic efficacy of heavy reliance on drones is that "inhabitants of that area and the world have significant problems watching Western forces, particularly Americans, conduct drone strikes inside the terrain of another country." Last summer, Pew Research reported "considerable opposition" in "nearly all countries," and especially in predominantly Muslim countries, to Obama's drone program. It also found that Lebanon, Egypt, Jordan, and Pakistan now had a less favorable attitude toward the United States than at the end of the Bush administration. And a Gallup poll in February found that 92 percent of the people in Pakistan disapprove of the American leadership and 4 percent approve—historically bad numbers for the United States that are largely attributable to the way of the knife. These are discouraging numbers for a president who hoped to diminish the terrorism threat by establishing "a new beginning between the United States and Muslims ... based upon mutual interest and mutual respect," as Obama said in Cairo in 2009. The president added in that speech that the United States during the Bush era had acted "contrary to our ideals," and he pledged to "change course." But as the polls abroad show, Obama's change of course has not made the world think better of American ideals. Ben Emmerson, a United Nations special rapporteur on counter-terrorism and human rights, recently suggested that some American drone attacks might be war crimes. Since he launched an investigation in January, he has noted that most nations "heavily disput[e]" the legal theory underlying Obama's stealth wars, and concluded that American drone strikes violate Pakistan's sovereignty, contrary to international law. Most Americans are little interested in the popularity abroad of the way of the knife. To date, they very strongly support what they know about the president's drone campaign against foreign terrorist suspects. Support for targeting American citizens such as Anwar al-Awlaki, however, has dropped, and the focus on American citizens is affecting other elements of the way of the knife. In large part this has resulted from the administration's stilted explanations about the legal limits on killing Americans and the secret processes for placing American suspects on target lists. When a less-than-convincing Justice Department white paper on the topic leaked to the press in February, it stoked suspicions that the administration had big plans and something to hide. Questions grew when the administration continued to withhold legal memos from Congress, and when John Brennan danced around the issue during his confirmation hearings to be director of the CIA. Senator Rand Paul then cleverly asked Brennan whether the president could order a drone to kill a terrorist suspect inside the United States. When Brennan and Attorney General Eric Holder seemed to prevaricate, Paul conducted his now-famous filibuster. "I cannot sit at my desk quietly and let the president say that he will kill Americans on American soil who are not actively attacking the country," Paul proclaimed. The president never said, or suggested, any such thing. But with trust in Obama falling fast, Paul was remarkably successful in painting the secret wars abroad as a Constitution-defying threat to American citizens at home. Paul's filibuster attracted attention to the issue of drone attacks on Americans in the homeland. A more serious challenge to the president comes from growing concerns, including within his own party, about the legal integrity of his secret wars abroad. Anne-Marie Slaughter, a former senior official in Obama's State Department, recently gainsaid "the idea that this president would leave office having dramatically expanded the use of drones—including [against] American citizens—without any public standards and no checks and balances." Many in Congress want to increase the transparency of the processes and legal standards for placing a suspect (especially an American) on a targeting list, to tighten those legal standards (perhaps by recourse to a "drone court"), and to establish a more open accounting of the consequences (including civilian casualties) from the strikes. "This is now out in the public arena, and now it has to be addressed," Senator Dianne Feinstein, a Democrat, recently said. Others in Congress worry about the obsolescence of the legal foundation for the way of the knife: the congressional authorization, in 2001, of force against Al Qaeda. "I don't believe many, if any, of us believed when we voted for [the authorization] that we were voting for the longest war in the history of the United States and putting a stamp of approval on a war policy against terrorism that, 10 years plus later, we're still using," said Senator Richard Durbin, also a Democrat, in a Wall Street Journal interview. "What are the checks and balances of the system?" he asked. Senator John McCain, who led bipartisan efforts against what he saw as Bush-era legal excesses, is now focusing similar attention on Obama. "I believe that we need to revisit this whole issue of the use of drones, who uses them, whether the CIA should become their own air force, what the oversight is, [and] what the legal and political foundations [are] for this kind of conflict," he said last month. These are unhappy developments for the president who in his first inaugural address pledged with supercilious confidence that, unlike his predecessor, he would not expend the "rule of law" for "expedience's sake." Obama reportedly bristles at the legal and political questions about his secret war, and the lack of presidential trust that they imply. "This is not Dick Cheney we're talking about here," he recently pleaded to Democratic senators who complained about his administration's excessive secrecy on drones, according to Politico. And yet the president has ended up in this position because he committed the same sins that led Cheney and the administration in which he served to a similar place. The first sin is an extraordinary institutional secrecy that Obama has long promised to reduce but has failed to. In part this results from any White House's inevitable tendency to seek maximum protection for its institutional privileges and prerogatives. The administration's disappointing resistance to sharing secret legal opinions about the secret war with even a small subset of Congress falls into this category. Much of what the administrat-ion says about its secret war seems incomplete, self-serving, and ultimately non-credible. But the point goes deeper, for secrecy is the essence of the type of war that Obama has chosen to fight. The intelligence-gathering in foreign countries needed for successful drone strikes there cannot be conducted openly. Nor can lethal operations in foreign countries easily be acknowledged. Foreign leaders usually insist on non-acknowledgment as a condition of allowing American operations in their territories. And in any event, an official American confirmation of the operations might spark controversies in those countries that would render the operations infeasible. The impossible-to-deny bin Laden raid was a necessary exception to these principles, and the United States is still living with the fallout in Pakistan. 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 oftheseparation 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. Administration officials resist this route because they worry about the outcome of the public debate, and because the president is, as The Washington Post recently reported, "seen as reluctant to have the legislative expansion of another [war] added to his legacy." But the administration can influence the outcome of the debate only by engaging it. And as Mazzetti makes plain, the president's legacy already includes the dramatic and unprecedented unilateral expansion of secret war. What the president should be worried about for legacy purposes is that this form of warfare, for which he alone is today responsible, is increasingly viewed as illegitimate.

#### Legitimacy key to global stability---prevents great power war

Fujimoto 12 (Kevin Fujimoto 12, Lt. Colonel, U.S. Army, January 11, 2012, “Preserving U.S. National Security Interests Through a Liberal World Construct,” online: <http://www.strategicstudiesinstitute.army.mil/index.cfm/articles/Preserving-US-National-Security-Interests-Liberal-World-Construct/2012/1/11>)

The emergence of peer competitors, not terrorism, presents the greatest long-term threat to our national security. Over the past decade, while the United States concentrated its geopolitical focus on fighting two land wars in Iraq and Afghanistan, China has quietly begun implementing a strategy to emerge as the dominant imperial power within Southeast Asia and the Indian Ocean. Within the next 2 decades, China will likely replace the United States as the Asia-Pacific regional hegemonic power, if not replace us as the global superpower.1 Although China presents its rise as peaceful and non-hegemonic, its construction of naval bases in neighboring countries and military expansion in the region contradict that argument. With a credible threat to its leading position in a unipolar global order, the United States should adopt a grand strategy of “investment,” building legitimacy and capacity in the very institutions that will protect our interests in a liberal global construct of the future when we are no longer the dominant imperial power. Similar to the Clinton era's grand strategy of “enlargement,”2 investment supports a world order predicated upon a system of basic rules and principles, however, it differs in that the United States should concentrate on the institutions (i.e., United Nations, World Trade Organization, ASEAN, alliances, etc.) that support a world order, as opposed to expanding democracy as a system of governance for other sovereign nations. Despite its claims of a benevolent expansion, China is already executing a strategy of expansion similar to that of Imperial Japan's Manchukuo policy during the 1930s.3 This three-part strategy involves: “(i) (providing) significant investments in economic infrastructure for extracting natural resources; (ii) (conducting) military interventions (to) protect economic interests; and, (iii) . . . (annexing) via installation of puppet governments.”4 China has already solidified its control over neighboring North Korea and Burma, and has similarly begun more ambitious engagements in Africa and Central Asia where it seeks to expand its frontier.5 Noted political scientist Samuel P. Huntington provides further analysis of the motives behind China's imperial aspirations. He contends that “China (has) historically conceived itself as encompassing a “‘Sinic Zone'. . . (with) two goals: to become the champion of Chinese culture . . . and to resume its historical position, which it lost in the nineteenth century, as the hegemonic power in East Asia.”6 Furthermore, China holds one quarter of the world's population, and rapid economic growth will increase its demand for natural resources from outside its borders as its people seek a standard of living comparable to that of Western civilization. The rise of peer competitors has historically resulted in regional instability and one should compare “the emergence of China to the rise of. . . Germany as the dominant power in Europe in the late nineteenth century.”7 Furthermore, the rise of another peer competitor on the level of the Soviet Union of the Cold War ultimately threatens U.S. global influence, challenging its concepts of human rights, liberalism, and democracy; as well as its ability to co-opt other nations to accept them.8 This decline in influence, while initially limited to the Asia-Pacific region, threatens to result in significant conflict if it ultimately leads to a paradigm shift in the ideas and principles that govern the existing world order. A grand strategy of investment to address the threat of China requires investing in institutions, addressing ungoverned states, and building legitimacy through multilateralism. The United States must build capacity in the existing institutions and alliances accepted globally as legitimate representative bodies of the world's governments. For true legitimacy, the United States must support these institutions, not only when convenient, in order to avoid the appearance of unilateralism, which would ultimately undermine the very organizations upon whom it will rely when it is no longer the global hegemon. The United States must also address ungoverned states, not only as breeding grounds for terrorism, but as conflicts that threaten to spread into regional instability, thereby drawing in superpowers with competing interests. Huntington proposes that the greatest source of conflict will come from what he defines as one “core” nation's involvement in a conflict between another core nation and a minor state within its immediate sphere of influence.9 For example, regional instability in South Asia10 threatens to involve combatants from the United States, India, China, and the surrounding nations. Appropriately, the United States, as a global power, must apply all elements of its national power now to address the problem of weak and failing states, which threaten to serve as the principal catalysts of future global conflicts.11 Admittedly, the application of American power in the internal affairs of a sovereign nation raises issues. Experts have posed the question of whether the United States should act as the world's enforcer of stability, imposing its concepts of human rights on other states. In response to this concern, The International Commission on Intervention and State Sovereignty authored a study titled, The Responsibility to Protect,12 calling for revisions to the understanding of sovereignty within the United Nations (UN) charter. This commission places the responsibility to protect peoples of sovereign nations on both the state itself and, more importantly, on the international community.13 If approved, this revision will establish a precedent whereby the United States has not only the authority and responsibility to act within the internal affairs of a repressive government, but does so with global legitimacy if done under the auspices of a UN mandate. Any effort to legitimize and support a liberal world construct requires the United States to adopt a multilateral doctrine whichavoidsthe precepts of the previous administration: “preemptive war, democratization, and U.S. primacy of unilateralism,”14 which have resulted in the alienation of former allies worldwide. Predominantly Muslim nations, whose citizens had previously looked to the United States as an example of representative governance, viewed the Iraq invasion as the seminal dividing action between the Western and the Islamic world. Appropriately, any future American interventions into the internal affairs of another sovereign nation must first seek to establish consensus by gaining the approval of a body representing global opinion, and must reject military unilateralism as a threat to that governing body's legitimacy. Despite the long-standing U.S. tradition of a liberal foreign policy since the start of the Cold War, the famous liberal leviathan, John Ikenberry, argues that “the post-9/11 doctrine of national security strategy . . . has been based on . . . American global dominance, the preventative use of force, coalitions of the willing, and the struggle between liberty and evil.”15 American foreign policy has misguidedly focused on spreading democracy, as opposed to building a liberal international order based on universally accepted principles that actually set the conditions for individual nation states to select their own system of governance. Anne-Marie Slaughter, the former Dean of the Woodrow Wilson School of Public and International Affairs, argues that true Wilsonian idealists “support liberal democracy, but reject the possibility of democratizing peoples . . .”16 and reject military primacy in favor of supporting a rules-based system of order. Investment in a liberal world order would also set the conditions for the United States to garner support from noncommitted regional powers (i.e., Russia, India, Japan, etc.), or “swing civilizations,” in countering China's increasing hegemonic influence.17 These states reside within close proximity to the Indian Ocean, which will likely emerge as the geopolitical focus of the American foreign policy during the 21st century, and appropriately have the ability to offset China's imperial dominance in the region.18 Critics of a liberal world construct argue that idealism is not necessary, based on the assumption that nations that trade together will not go to war with each other.19 In response, foreign affairs columnist Thomas L. Friedman rebukes their arguments, acknowledging the predicate of commercial interdependence as a factor only in the decision to go to war, and argues that while globalization is creating a new international order, differences between civilizations still create friction that may overcome all other factors and lead to conflict.20 Detractors also warn that as China grows in power, it will no longer observe “the basic rules and principles of a liberal international order,” which largely result from Western concepts of foreign relations. Ikenberry addresses this risk, citing that China's leaders already recognize that they will gain more authority within the existing liberal order, as opposed to contesting it. China's leaders “want the protection and rights that come from the international order's . . . defense of sovereignty,”21 from which they have benefitted during their recent history of economic growth and international expansion. Even if China executes a peaceful rise and the United States overestimates a Sinic threat to its national security interest, the emergence of a new imperial power will challenge American leadership in the Indian Ocean and Asia-Pacific region. That being said, it is more likely that China, as evidenced by its military and economic expansion, will displace the United States as the regional hegemonic power. Recognizing this threat now, the United States must prepare for the eventual transition and immediately begin building the legitimacy and support of a system of rules that will protect its interests later when we are no longer the world's only superpower.

#### Leadership prevents great power war

Zhang and Shi 11 Yuhan Zhang is a researcher at the Carnegie Endowment for International Peace, Washington, D.C.; Lin Shi is from Columbia University. She also serves as an independent consultant for the Eurasia Group and a consultant for the World Bank in Washington, D.C., 1/22, “America’s decline: A harbinger of conflict and rivalry”, http://www.eastasiaforum.org/2011/01/22/americas-decline-a-harbinger-of-conflict-and-rivalry/

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

### Adv 2

#### Advantage 2 is Drone Wars

#### Unfettered drone prolif causes deterrence crises that lead to nuclear conflict and Indo-Pak war

Boyle, 13 [“The costs and consequences of drone warfare”, MICHAEL J. BOYLE, International Affairs 89: 1 (2013) 1–29, assistant professor of political science at LaSalle University]

The emergence of this arms race for drones raises at least five long-term strategic consequences, not all of which are favourable to the United States over the long term. First, it is now obvious that other states will use drones in ways that are inconsistent with US interests. One reason why the US has been so keen to use drone technology in Pakistan and Yemen is that at present it retains a substantial advantage in high-quality attack drones. Many of the other states now capable of employing drones of near-equivalent technology—for example, the UK and Israel—are considered allies. But this situation is quickly changing as other leading geopolitical players, **such as Russia and China**, are beginning rapidly **to develop and deploy drones** for their own purposes. While its own technology still lags behind that of the US, Russia has spent huge sums on purchasing drones and has recently sought to buy the Israeli-made Eitan drone capable of surveillance and firing air-to-surface missiles.132 China has begun to develop UAVs for reconnaissance and combat and has several new drones capable of long-range surveillance and attack under development.133 China is also planning to use unmanned surveillance drones to allow it to monitor the disputed East China Sea Islands, which are currently under dispute with Japan and Taiwan.134 Both Russia and China will pursue this technology and develop their own drone suppliers which will sell to the highest bidder, presumably with fewer export controls than those imposed by the US Congress. Once both governments have equivalent or near-equivalent levels of drone technology to the United States, they will be similarly tempted to use it for surveillance or attack in the way the US has done. Thus, through its own over-reliance on drones in places such as Pakistan and Yemen, the US may be hastening the arrival of a world where its qualitative advantages in drone technology are eclipsed and where this technology will be used and sold by rival Great Powers whose interests do not mirror its own. A second consequence of the spread of drones is that many of the traditional concepts which have underwritten stability in the international system will be radically reshaped by drone technology. For example, much of the stability among the Great Powers in the international system is driven by deterrence, specifically nuclear deterrence.135 Deterrence operates with informal rules of the game and tacit bargains that govern what states, particularly those holding nuclear weapons, may and may not do to one another.136 While it is widely understood that nuclear-capable states will conduct aerial surveillance and spy on one another, overt military confrontations between nuclear powers are rare because they are assumed to be costly and prone to escalation. One open question is whether these states will exercise the same level of restraint with drone surveillance, which is unmanned, low cost, and possibly deniable. States may be more willing to engage in drone overflights which test the resolve of their rivals, or engage in ‘salami tactics’ to see what kind of drone-led incursion, if any, will motivate a response.137 This may have been Hezbollah’s logic in sending a drone into Israeli airspace in October 2012, possibly to relay information on Israel’s nuclear capabilities.138 After the incursion, both Hezbollah and Iran boasted that the drone incident demonstrated their military capabilities.139 One could imagine two rival states—for example, India and Pakistan—deploying drones to test each other’s capability and resolve, with untold consequences if such a probe were misinterpreted by the other as an attack. As drones get physically smaller and more precise, and as they develop a greater flying range, the temptation to use them to spy on a rival’s nuclear programme or military installations might prove too strong to resist. If this were to happen, drones might gradually erode the deterrent relationships that exist between nuclear powers, thus magnifying the risks of a spiral of conflict between them. Another dimension of this problem has to do with the risk of accident. Drones are prone to accidents and crashes. By July 2010, the US Air Force had identified approximately 79 drone accidents.140 Recently released documents have revealed that there have been a number of drone accidents and crashes in the Seychelles and Djibouti, some of which happened in close proximity to civilian airports.141 The rapid proliferation of drones worldwide will involve a risk of accident to civilian aircraft, possibly producing an international incident if such an accident were to involve an aircraft affiliated to a state hostile to the owner of the drone. Most of the drone accidents may be innocuous, but some will carry strategic risks. In December 2011, a CIA drone designed for nuclear surveillance crashed in Iran, revealing the existence of the spying programme and leaving sensitive technology in the hands of the Iranian government.142 The expansion of drone technology raises the possibility that some of these surveillance drones will be interpreted as attack drones, or that an accident or crash will spiral out of control and lead to an armed confrontation.143 An accident would be even more dangerous if the US were to pursue its plans for nuclear-powered drones, which can spread radioactive material like a dirty bomb if they crash.144 Third, lethal drones create the possibility that the norms on the use of force will erode, creating a much more dangerous world and pushing the international system back towards the rule of the jungle. To some extent, this world is already being ushered in by the United States, which has set a dangerous precedent that a state may simply kill foreign citizens considered a threat without a declaration of war. Even John Brennan has recognized that the US is ‘establishing a precedent that other nations may follow’.145 **Given this precedent**, there is nothing to stop other states from following the American lead and using drone strikes to eliminate potential threats. Those ‘threats’ need not be terrorists, but could be others— dissidents, spies, even journalists—whose behaviour threatens a government. One danger is that drone use might undermine the normative prohibition on the assassination of leaders and government officials that most (but not all) states currently respect. A greater danger, however, is that the US will have normalized murder as a tool of statecraft and created a world where states can increasingly take vengeance on individuals outside their borders without the niceties of extradition, due process or trial.146 As some of its critics have noted, the Obama administration may have created a world where states will find it easier to kill terrorists rather than capture them and deal with all of the legal and evidentiary difficulties associated with giving them a fair trial.147 Fourth, there is a distinct danger that the world will divide into two camps: developed states in possession of drone technology, and weak states and rebel movements that lack them. States with recurring separatist or insurgent problems may begin to police their restive territories through drone strikes, essentially containing the problem in a fixed geographical region and engaging in a largely punitive policy against them. One could easily imagine that China, for example, might resort to drone strikes in Uighur provinces in order to keep potential threats from emerging, or that Russia could use drones to strike at separatist movements in Chechnya or elsewhere. Such behaviour would not necessarily be confined to authoritarian governments; it is equally possible that Israel might use drones to police Gaza and the West Bank, thus reducing the vulnerability of Israeli soldiers to Palestinian attacks on the ground. The extent to which Israel might be willing to use drones in combat and surveillance was revealed in its November 2012 attack on Gaza. Israel allegedly used a drone to assassinate the Hamas leader Ahmed Jabari and employed a number of armed drones for strikes in a way that was described as ‘unprecedented’ by senior Israeli officials.148 It is not hard to imagine Israel concluding that drones over Gaza were the best way to deal with the problem of Hamas, even if their use left the Palestinian population subject to constant, unnerving surveillance. All of the consequences of such a sharp division between the haves and have-nots with drone technology is hard to assess, but one possibility is that governments with secessionist movements might be less willing to negotiate and grant concessions if drones allowed them to police their internal enemies with ruthless efficiency and ‘manage’ the problem at low cost. The result might be a situation where such conflicts are contained but not resolved, while citizens in developed states grow increasingly indifferent to the suffering of those making secessionist or even national liberation claims, including just ones, upon them. Finally, drones have the capacity to strengthen the surveillance capacity of both democracies and authoritarian regimes, with significant consequences for civil liberties. In the UK, BAE Systems is adapting military-designed drones for a range of civilian policing tasks including ‘monitoring antisocial motorists, protesters, agricultural thieves and fly-tippers’.149 Such drones are also envisioned as monitoring Britain’s shores for illegal immigration and drug smuggling. In the United States, the Federal Aviation Administration (FAA) issued 61 permits for domestic drone use between November 2006 and June 2011, mainly to local and state police, but also to federal agencies and even universities.150 According to one FAA estimate, the US will have 30,000 drones patrolling the skies by 2022.151 Similarly, the European Commission will spend US$260 million on Eurosur, a new programme that will use drones to patrol the Mediterranean coast.152 The risk that drones will turn democracies into ‘surveillance states’ is well known, but the risks for authoritarian regimes may be even more severe. Authoritarian states, particularly those that face serious internal opposition, may tap into drone technology now available to monitor and ruthlessly punish their opponents. In semi-authoritarian Russia, for example, drones have already been employed to monitor pro-democracy protesters.153 One could only imagine what a truly murderous authoritarian regime—such as Bashar al-Assad’s Syria—would do with its own fleet of drones. The expansion of drone technology may make the strong even stronger, thus **tilting the balance of power in authoritarian regimes** **even more decisively towards** those who wield the coercive instruments of power and against those who dare to challenge them. Conclusion Even though it has now been confronted with blowback from drones in the failed Times Square bombing, the United States has yet to engage in a serious analysis of the strategic costs and consequences of its use of drones, both for its own security and for the rest of the world. Much of the debate over drones to date has focused on measuring body counts and carries the unspoken assumption that if drone strikes are efficient—that is, low cost and low risk for US personnel relative to the terrorists killed—then they must also be effective. This article has argued that such analyses are operating with an attenuated notion of effectiveness that discounts some of the other key dynamics—such as the corrosion of the perceived competence and legitimacy of governments where drone strikes take place, growing anti-Americanism and fresh recruitment to militant networks—that reveal the costs of drone warfare. In other words, the analysis of the effectiveness of drones takes into account only the ‘loss’ side of the ledger for the ‘bad guys’, without asking what America’s enemies gain by being subjected to a policy of constant surveillance and attack. In his second term, President Obama has an opportunity to reverse course and establish a new drones policy which mitigates these costs and avoids some of the long-term consequences that flow from them. A more sensible US approach would impose some limits on drone use in order to minimize the political costs and long-term strategic consequences. One step might be to limit the use of drones to HVTs, such as leading political and operational figures for terrorist networks, while reducing or eliminating the strikes against the ‘foot soldiers’ or other Islamist networks not related to Al-Qaeda. This approach would reduce the number of strikes and civilian deaths associated with drones while reserving their use for those targets that pose a direct or imminent threat to the security of the United States. Such a self-limiting approach to drones might also minimize the degree of political opposition that US drone strikes generate in states such as Pakistan and Yemen, as their leaders, and even the civilian population, often tolerate or even approve of strikes against HVTs. Another step might be to improve the levels of transparency of the drone programme. At present, there are no publicly articulated guidelines stipulating who can be killed by a drone and who cannot, and no data on drone strikes are released to the public.154 Even a Department of Justice memorandum which authorized the Obama administration to kill Anwar al-Awlaki, an American citizen, remains classified.155 Such non-transparency fuels suspicions that the US is indifferent to the civilian casualties caused by drone strikes, a perception which in turn magnifies the deleterious political consequences of the strikes. Letting some sunlight in on the drones programme would not eliminate all of the opposition to it, but it would go some way towards undercutting the worst conspiracy theories about drone use in these countries while also signalling that the US government holds itself legally and morally accountable for its behaviour.156 A final, and crucial, step towards mitigating the strategic consequences of drones would be to develop internationally recognized standards and norms for their use and sale. It is not realistic to suggest that the US stop using its drones altogether, or to assume that other countries will accept a moratorium on buying and using drones. **The genie is out of the bottle**: drones will be a fact of life for years to come. What remains to be done is to ensure that their use and sale are transparent, regulated and consistent with internationally recognized human rights standards. The Obama administration has already begun to show some awareness that drones are dangerous if placed in the wrong hands. A recent New York Times report revealed that the Obama administration began to develop a secret drones ‘rulebook’ to govern their use if Mitt Romney were to be elected president.157 The same logic operates on the international level. Lethal drones will eventually be in the hands of those who will use them with fewer scruples than President Obama has. Without a set of internationally recognized standards or norms governing their sale and use, drones will proliferate without control, be misused by governments and non-state actors, and become an instrument of repression for the strong. One remedy might be an international convention on the sale and use of drones which could establish guidelines and norms for their use, perhaps along the lines of the Convention on Certain Conventional Weapons (CCW) treaty, which attempted to spell out rules on the use of incendiary devices and fragment-based weapons.158 While enforcement of these guidelines and adherence to rules on their use will be imperfect and marked by derogations, exceptions and violations, the presence of a convention may reinforce norms against the flagrant misuse of drones and induce more restraint in their use than might otherwise be seen. Similarly, a UN investigatory body on drones would help to hold states accountable for their use of drones and begin to build a gradual consensus on the types of activities for which drones can, and cannot, be used.159 As the progenitor and leading user of drone technology, the US now has an opportunity to show leadership in developing an international legal architecture which might avert some of the worst consequences of their use.

#### Indo Pak war causes extinction

Greg Chaffin 11, Research Assistant at Foreign Policy in Focus, July 8, 2011, “Reorienting U.S. Security Strategy in South Asia,” online: http://www.fpif.org/articles/reorienting\_us\_security\_strategy\_in\_south\_asia

The greatest threat to regional security (although curiously not at the top of most lists of U.S. regional concerns) is the possibility that increased India-Pakistan tension will erupt into all-out warthat could quickly escalate into a nuclear exchange. Indeed, in just the past two decades, the two neighbors have come perilously close to war on several occasions. India and Pakistan remain the most likely belligerents in the world to engage in nuclear war. Due to an Indian preponderance of conventional forces, Pakistan would have a strong incentive to use its nuclear arsenal very early on before a routing of its military installations and weaker conventional forces. In the event of conflict, Pakistan’s only chance of survival would be the early use of its nuclear arsenal to inflict unacceptable damage to Indian military and (much more likely) civilian targets. By raising the stakes to unacceptable levels, Pakistan would hope that India would step away from the brink. However, it is equally likely that India would respond in kind, with escalation ensuing. Neither state possesses tactical nuclear weapons, but both possess scores of city-sized bombs like those used on Hiroshima and Nagasaki. Furthermore, as more damage was inflicted (or as the result of a decapitating strike), command and control elements would be disabled, leaving individual commanders to respondin an environment increasingly clouded by the fog of war and decreasing the likelihood that either government (what would be left of them) would be able to guarantee that their forces would follow a negotiated settlement or phased reduction in hostilities. As a result any suchconflict would likely continue to escalateuntil one side incurred an unacceptable or wholly debilitating level of injury or exhausted its nuclear arsenal. A nuclear conflict in the subcontinentwould havedisastrous effects on the world as a whole. In a January 2010 paper published in Scientific American, climatology professors Alan Robock and Owen Brian Toon forecast the global repercussionsof a regional nuclear war. Their results are strikingly similar to those of studies conducted in 1980 that conclude that a nuclear war between the United States and the Soviet Union wouldresult in acatastrophic and prolonged nuclear winter,which could very well place the survival of the human race in jeopardy. In their study, Robock and Toon use computer models to simulate the effect of a nuclear exchange between India and Pakistan in which each were to use roughly half their existing arsenals (50 apiece). Since Indian and Pakistani nuclear devices are strategic rather than tactical, the likely targets would be major population centers. Owing to the population densities of urban centers in both nations, the number of direct casualties could climb as high as 20 million. The fallout of such an exchange would not merely be limited to the immediate area. First, the detonation of a large number of nuclear devices would propel as much as seven million metric tons of ash, soot, smoke, and debris as high as the lower stratosphere. Owing to their small size (less than a tenth of a micron) and a lack of precipitation at this altitude, ash particles would remain aloft for as long as a decade, during which time the world would remain perpetually overcast. Furthermore, these particles would soak up heat from the sun, generating intense heat in the upper atmosphere that would severely damage the earth’s ozone layer. The inability of sunlight to penetrate through the smoke and dust would lead toglobal cooling by as much as 2.3 degrees Fahrenheit. This shift in global temperature would lead to more drought, worldwide food shortages, and widespread political upheaval. Although the likelihood of this doomsday scenario remains relatively low, the consequences are dire enough to warrant greater U.S. and international attention. Furthermore, due to the ongoing conflict over Kashmir and the deep animus held between India and Pakistan, it might not take much to set them off. Indeed, following the successful U.S. raid on bin Laden’s compound, several members of India’s security apparatus along with conservative politicians have argued that India should emulate the SEAL Team Six raid and launch their own cross-border incursions to nab or kill anti-Indian terrorists, either preemptively or after the fact. Such provocative action could very well lead to all-out war between the two that couldquickly escalate.

#### Escalation uniquely likely now – no impact defense

Overdorf, 8/15/13 [Jason, Overdorf covers India for GlobalPost. Overdorf has spent most of the past 15 years living and working in Asia. He worked as an editor with Dow Jones Newswires in New York, Singapore and Hong Kong before moving to New Delhi and becoming a freelance writer in 2002. He was a frequent contributor to the Far Eastern Economic Review until 2004, covering Indian politics, society and business. Since 2004, he has been a special correspondent at Newsweek International, where he writes on a wide range of topics. He has covered Sonia Gandhi's surprising electoral victory, the ongoing problem of Hindu fundamentalism, the simmering conflict with Maoist rebels, and societal changes resulting from India's meteoric economic growth. He's written for the Atlantic Monthly and the Asian Wall Street Journal. His travel articles, personal essays and political commentary have appeared in Smithsonian Magazine, Departures, Travelers' Tales and other publications. He has degrees in English literature and creative writing from Columbia University, Washington University and Boston University.“Analysis: Are India and Pakistan headed for war? Under heavy shelling, Kashmir is again set to stymie the Indo-Pak peace process. And the risks are mounting” Citing Experts at the Woodrow Wilson Center, <http://www.globalpost.com/dispatch/news/war/conflict-zones/130814/analysis-are-india-and-pakistan-headed-war>]

“This is a sad reality of India-Pakistan relations — whenever things are looking up, a saboteur tries to send all progress up in smoke.” The region has been on the boil **since** the **five** Indian **soldiers were killed** in an ambush in the Poonch sector of India-administered Kashmir last week. India said Pakistani soldiers were to blame, and Pakistan disavowed the attack. More from GlobalPost: 7 graphs that prove America is overrated The incident prompted a series of cross-border skirmishes that each country has accused the other of starting. It has all-but scuttled hopes that Sharif and his Indian counterpart, Manmohan Singh, will be able to resume peace negotiations anytime soon. The so-called composite dialogue dates back to January 2004. It was called off following the November 2008 Mumbai terrorist attack, which India believes were perpetrated with the aid of Pakistan's Inter-Services Intelligence agency. Until this week, the formal talks had been set to resume this month. Now even an informal meeting between Singh and Sharif on the sidelines of the September UN General Assembly is at risk. **The situation is scary, experts say**. Kashmir — a divided territory that both India and Pakistan claim as their own — was the cause of two of the three wars the two countries have fought since they attained independence from Britain in 1947. Now both New Delhi and Islamabad control numerous nukes; Pakistan has the world’s fastest growing arsenal. As the tit-for-tat bombardment continues, the shelling already marks the heaviest exchange since the ceasefire began in 2003, raising fears that the repeated violations will result in a complete breakdown of the truce. Signaling their concern about further escalation, both Washington and the UN have appealed for calm. But which side is responsible for starting the fire? What is the endgame? And how far will the flames spread before cooler heads prevail? Indian analysts remain convinced that Pakistan uses such shelling to provide cover for jihadi militants crossing the border to attack installations in India-administered Kashmir. By India's tally, there have already been 42 such ceasefire violations in 2013, compared with 28 in 2012, according to India Today. Meanwhile, this year 40 members of India's security forces in the area have been killed, compared with 17 the year before. For Indians looking to explain who broke the truce this time, that's a smoking gun. “If you just take the common sensical point of view, India has no interest [in breaking the ceasefire], because we are not sending in infiltrators under cover of fire,” said former Indian foreign secretary Kanwal Sibal. “We have no reason to fire unilaterally because what do we then hope to achieve? We don't score any points either bilaterally or internationally.” Pakistan-watchers, however, argue that its army no longer provides such support for jihadi groups, and hint that the ambush story may have been a ploy by India, or a local Indian commander, to trigger hostilities. Admitting that Pakistani generals “may have” helped jihadis cross into India in the past, for instance, Pakistan-born Shuja Nawaz, director of the South Asia Center at the Atlantic Council, said that policy was ended under former president General Pervez Musharraf, and it would be “surprising if it is being activated again.” Nawaz also questioned why India first called the alleged ambush an attack by “persons dressed in Pakistani uniforms” – only later referring to it as an army assault — and why top military officials allowed tempers to flare for two days before activating a hotline intended to defuse these situations. “What is surprising is that the Director General Military Operations did not activate the hotline till two days [after the alleged ambush]. Why?” said Nawaz. Experts agree it’s not likely that Sharif's civilian government officially sanctioned the alleged ambush of Indian soldiers. But it may well have had the active or tacit support of the military-intelligence combine, or “deep state,” that holds the real power in Pakistan. Moreover, though the ceasefire is expected to hold, the ambush and subsequent saber rattling in Pakistan certainly establishes that its new prime minister — for all his talk of peace — must overcome enormous obstacles in his own country before he can think of negotiating with India. “Overarching all this is the fact that during the election campaign, [Sharif] spoke about his desire to improve relations with India, and there was an exchange of special envoys pretty quickly,” said India's Sibal. “There was hope that he might be able to begin turning a new page. But under his watch all the wrong things are happening... Jihadi organizations [and] what they call the ‘deep state’ in Pakistan [i.e. the army and intelligence apparatus] seem to be at work.” While Sharif has continued to preach peace since his June election, his army and spy agency don't seem to be listening. That's because both have vested interests in stoking fears of an Indian attack — lest they face a sustained drive to curtail their powers, or, worse, a deep cut to the defense budget. On August 3, terrorists whom India claims have links to Pakistan's Inter-Services Intelligence agency (ISI) attacked the Indian consulate in Jalalabad, Afghanistan. Meanwhile, Islamabad allowed alleged terrorist Hafiz Saeed to lead Eid prayers before a massive throng at the Gaddafi stadium in Lahore on August 9. India and the US accuse him of leading of Lashkar-e-Taiba, and Indians accuse of masterminding the 2008 attacks on Mumbai; Washington DC has a $10 million bounty on his head. The Eid prayers were not a one-off. Saeed also led several thousand supporters in a Lahore parade on August 14, to mark Pakistan’s independence day. And amidst the shelling this week, Pakistan's finance minister announced that a plan to grant India “most favored nation” status – once viewed an easily attained step that would be good for both countries – is now off the table. “Neither side wants war nor does either profit from a conflict escalating beyond [Kashmir’s Line of Control]. Local commanders, especially newly posted ones to the region, flex their muscles. But this is a dangerous game,” said the Atlantic Council's Nawaz. Worse still, the game is set to grow more perilous with the approach of 2014 – when the rules will change, according to the Woodrow Wilson Center's Kugelman. The US withdrawal from Afghanistan will leave India and Pakistan contending for influence there, while the exit of US troops will again make India and Kashmir the number one target for Pakistan-based terrorist groups like Lashkar-e-Taiba. Meanwhile, in the face of continued provocations since the 2008 attacks on Mumbai, India's capacity for restraint may have reached its limits, Kugelman worries. And the election slated for May 2014 will put added pressure on Singh's government to take a hard line. “As India's election grows closer, any consequent LoC hostilities could conceivably lead to escalation,” Kugelman said. “And that's a scary thought.”

#### Establishing a precedent of transparency and accountability spills over globally– a non-executive framework is key

Brooks 13 (Rosa, Professor of Law – Georgetown University Law Center, Bernard L. Schwartz Senior Fellow – New America Foundation, Former Counselor to the Undersecretary of Defense for Policy – Department of Defense, “The Constitutional and Counterterrorism Implications of Targeted Killing,” Testimony Before the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights, 4-23, <http://www.judiciary.senate.gov/pdf/04-23-13BrooksTestimony.pdf>)

5. Setting Troubling International Precedents Here is an additional reason to worry about the U.S. overreliance on drone strikes: Other states will follow America's example, and the results are not likely to be pretty. Consider once again the Letelier murder, which was an international scandal in 1976: If the Letelier assassination took place today, the Chilean authorities would presumably insist on their national right to engage in “targeted killings” of individuals deemed to pose imminent threats to Chilean national security -- and they would justify such killings using precisely the same legal theories the US currently uses to justify targeted killings in Yemen or Somalia. We should assume that governments around the world—including those with less than stellar human rights records, such as Russia and China—are taking notice. Right now, the United States has a decided technological advantage when it comes to armed drones, but that will not last long. We should use this window to advance a robust legal and normative framework that will help protect against abuses by those states whose leaders can rarely be trusted. Unfortunately, we are doing the exact opposite: Instead of articulating norms about transparency and accountability, the United States is effectively handing China, Russia, and every other repressive state a playbook for how to foment instability and –literally -- get away with murder. Take the issue of sovereignty. Sovereignty has long been a core concept of the Westphalian international legal order.42 In the international arena, all sovereign states are formally considered equal and possessed of the right to control their own internal affairs free of interference from other states. That's what we call the principle of non-intervention -- and it means, among other things, that it is generally prohibited for one state to use force inside the borders of another sovereign state. There are some well-established exceptions, but they are few in number. A state can lawfully use force inside another sovereign state with that state's invitation or consent, or when force is authorized by the U.N. Security Council, pursuant to the U.N. Charter, 43 or in self-defense "in the event of an armed attack." The 2011 Justice Department White Paper asserts that targeted killings carried out by the United States don't violate another state's sovereignty as long as that state either consents or is "unwilling or unable to suppress the threat posed by the individual being targeted." That sounds superficially plausible, but since the United States views itself as the sole arbiter of whether a state is "unwilling or unable" to suppress that threat, the logic is in fact circular. It goes like this: The United States -- using its own malleable definition of "imminent" -- decides that Person X, residing in sovereign State Y, poses a threat to the United States and requires killing. Once the United States decides that Person X can be targeted, the principle of sovereignty presents no barriers, because either 1) State Y will consent to the U.S. use of force inside its borders, in which case the use of force presents no sovereignty problems or 2) State Y will not consent to the U.S. use of force inside its borders, in which case, by definition, the United States will deem State Y to be "unwilling or unable to suppress the threat" posed by Person X and the use of force again presents no problem. This is a legal theory that more or less eviscerates traditional notions of sovereignty, and has the potential to significantly destabilize the already shaky collective security regime created by the U.N. Charter.44 If the US is the sole arbiter of whether and when it can use force inside the borders of another state, any other state strong enough to get away with it is likely to claim similar prerogatives. And, of course, if the US executive branch is the sole arbiter of what constitutes an imminent threat and who constitutes a targetable enemy combatant in an illdefined war, why shouldn’t other states make identical arguments—and use them to justify the killing of dissidents, rivals, or unwanted minorities?

#### Legal constraints key --- institutionalizing clarity key to influence norms

HRI, 11 [Human Rights Institute, Targeting Operations with Drone Technology: Humanitarian Law Implications Background Note for the American Society of International Law Annual Meeting Human Rights Institute, Columbia Law School March 25, 2011, p. online]

While they disagree on important legal issues, critics and proponents alike share at least one significant concern: drones may be the future of warfare, and the U.S. may soon find itself “on the other end of the drone,” as other governments and armed non-state groups develop drone technology. Yet **discussions of** the legal constraints lag behind the rapid advances in technological capability and deployment. Even those who believe that the U.S. government’s use of drone technology is carefully calibrated to adhere to applicable law worry that other governments or non-state groups will cite the U.S. government’s silence on legal questions as justification to shirk from transparency about their practice or even openly flout the law. In this paper, we describe three questions arising from the U.S. government’s use of drone technology, focusing on ambiguities in the government’s position which scholars have debated: the scope of the armed conflict; who may be targeted; and the legal and policy implications of who conducts the targeting. These questions stem not so much from drone technology itself, but from the kind of warfare for which the U.S. is currently using drones. Scholars and experts have sharply disagreed about the answers to these questions, but it is telling that a core set of issues has emerged as the shared focus for individuals from across the ideological spectrum. Ambiguity on these core issues exists despite **the Administration’s efforts** to establish the legality of targeting practices—most notably, State Department Legal Adviser Harold Koh’s address at the 2010 annual meeting of the American Society of International Law. Some scholars laud Koh’s speech as divorcing the Administration from an approach that invokes the privileges of the law of war while dismissing the relevance of it duties and restraints. Observers have recognized that Koh’s address reflects the Administration’s desire to legitimize its policy through forthrightness about the constraints imposed by law. However, scholars disagree about the functional difference between the paradigm of the “global war against terrorism” and the Administration’s articulation, in a variety of fora, of an armed conflict against al Qaeda, the Taliban and associated forces. Some observers have argued that without further explanation, the Administration’s position confirms the relevancy of humanitarian law but leaves unanswered questions fundamental to assessing the legality of U.S. practice. We agree that where significant ambiguity exists, it leaves the U.S. government vulnerable to challenges about the sincerity of its commitment to the rule of law. In the near future, ambiguity may also weaken the government’s ability to argue for constraints on the practice of less law-abiding states. Clarity about U.S. legal standards and policy, as we describe in this paper, would not require disclosure of classified information about who is targeted, or intelligence sources and methods. We recognize that rules of engagement are classified and vary based on the theater of combat. Instead, we encourage clarification of the existence or character of legal justifications TARGETING WITH DRONE TECHNOLOGY: HUMANITARIAN LAW IMPLICATIONS HUMAN RIGHTS INSTITUTE, COLUMBIA LAW SCHOOL 3 and standards, and generic procedural safeguards, about which scholars and experts have debated. To be sure, not all the scholars and observers whose views we present believe that the government needs to disclose more information about its legal standards and procedures. Some have objected to court scrutiny of the government’s standards or justifications. Many observers are concerned that further government clarification would require divulging sensitive information, or at least information that the government has not historically made public. They point to the extent to which the questions we raise involve not just legal standards, but policy determinations. These observers’ concerns, and countervailing concerns about the expansive or unbounded scope of the armed conflict referenced by the Administration, require further discussion—one we attempt to set the foundation for, by identifying particular areas of ambiguity and debate. For some issues, scholars disagree with each others’ characterization of the government’s position. For other issues, they agree that the government’s position is unknown. On still other issues, the question of the government’s position is relegated to the background in favor of a highly contested debate among scholars and practitioners about the relevance of the law or the practicability of a legal standard. Yet in each case, disagreement among scholars underscores the need for clarity about the U.S. government’s position. U.S. legal standards and policies are a necessary starting point for discussions among scholars, yet they are such a “moving target”—or simply a target in the fog—that discussions can be expected to devolve to speculation. Disagreement among scholars, to some degree, reflects a necessarily myopic understanding of government policy. At least to that extent, the government non-disclosure may undermine the robustness of debate among scholars and practitioners about humanitarian law standards, and effectively halt sound legal analysis of U.S. practice. Limiting scholarly debate would be detrimental to the development of clear legal standards that aid, rather than undermine, U.S. armed forces charged with conducting targeting operations. Insofar as government non-disclosure prevents public or legal accountability, it also undermines the U.S. government’s message to the international community, so evident in Koh’s ASIL speech, of commitment to the rule of law.

#### Credible external oversight leads to international modeling and allows the US to influence international drone policy

Omar S. Bashir 12, is a Ph.D. candidate in the Department of Politics at Princeton University and a graduate of the Department of Aeronautics and Astronautics at MIT, September 24th, 2012, "Who Watches the Drones?" Foreign Affairs,www.foreignaffairs.com/articles/138141/omar-s-bashir/who-watches-the-drones

Further, the U.S. counterterrorism chief John Brennan has noted that the administration is "establishing precedents that other nations may follow." But, for now, other countries have no reason to believe that the United States carries out its own targeted killing operations responsibly. Without a credible oversight program, those negative perceptions of U.S. behavior will fill the vacuum, and an anything-goes standard might be the result. U.S. denunciations of other countries' programs could come to ring hollow. ¶ If the United States did adopt an oversight system, those denunciations would carry more weight. So, too, would U.S. pressure on other states to adopt similar systems: just as suspicions grow when countries refuse nuclear inspection, foreign governments that turned down invitations to apply a proven system of oversight to their own drone campaigns would reveal their disregard for humanitarian concerns.

#### Now is key to shape norms and only the US can lead---lack of rules undermines all other checks on violence

James Whibley 13, received a M.A. in International Relations from Victoria University of Wellington, New Zealand, February 6th, 2013 "The Proliferation of Drone Warfare: The Weakening of Norms and International Precedent," Georgetown Journal of International Affairs,journal.georgetown.edu/2013/02/06/the-proliferation-of-drone-warfare-the-weakening-of-norms-and-international-precedent-by-james-whibley/

While drone advocates such as Max Boot argue that other countries are unlikely to follow any precedents about drone use established by America, power has an undeniable effect in establishing which norms are respected or enforced. America used its power in the international system after World War 2 to embed norms about human rights and liberal political organization, not only in allies, but in former adversaries and the international system as a whole. Likewise, the literature on rule-oriented constructivism presents a powerful case that norms have set precedents on the appropriate war-fighting and deterrence policies when using weapons of mass destruction and the practices of colonialism and human intervention. Therefore, drones advocates must consider the possible **unintended consequences of lending legitimacy to the** unrestricted use of drones. However, with the Obama administration only now beginning to formulate rules about using drones and seemingly uninterested in restraining its current practices, the US may miss an opportunity to entrench international norms about drone operations.¶ If countries begin to follow the precedent set by the US, there is also the risk of weakening pre-existing international norms about the use of violence. In the summer 2000 issue of International Security, Ward Thomas warned that, while the long-standing norm against assassination has always been less applicable to terrorist groups, the targeting of terrorists is, “likely to undermine the norm as a whole and erode the barriers to the use of assassination in other circumstances.” Such an occurrence would represent a deleterious unintended consequence to an already inhumane international system, justifying greater scrutiny of the drone program.¶ Realism cautions scholars not to expect ethical behaviour in international politics. Yet, the widespread use of drones by recent administrations with little accountability and the lack of any normative framework about their deployment on the battlefield could come to be seen as a serious strategic error and moral failing. If the Obama administration was nervous about leaving an amorphous drone policy to a possible Romney Presidency, then surely China or Russia possessing such a program would be terrifying.

#### Turkey models the accountability mechanism – averts PKK strike

Stein 13 (Aaron, Ph.D candidate at King’s College, London and the Nonproliferation Program Director at the Center for Economics and Foreign Policy Studies an independent think tank in Istanbul, “Turkey’s Negotiations with the Kurdistan Workers’ Party and Armed Drones” February 26, 2013, Turkey Wonk Blog)

Prime Minister Recep Tayyip Erdogan has recently re-intiated peace talks with Abdullah Ocalan and the Kurdistan Worker’s Party (PKK). Erdogan’s AKP, like Turgut Ozal’s Motherland Party, has sought to address Turkey’s Kurdish Issue – or the Kurds’ Turkey Problem – by focusing on the two groups’ shared muslim identity, rather than the previous policy of forced ethnic assimilation. Erdogan has previously engaged the PKK in peace talks, however, these efforts were unsuccessful. During the previous round of negotiations, Erdogan opted to hold the talks in secret, rather than subject himself to the inevitable backlash from Turkish nationalists (An important AKP voting bloc by the way). The talks, despite having made some progress, broke down after President Abdullah Gul went public with the negotiations and the subsequent celebration at the Habur border gate in 2009 when Kurdish fighters returned from the PKK camps in Iraqi Kurdistan to Turkish territory. The AKP appeared to have been caught off guard and ill-prepared to deal with the imagery of thousands of Kurds welcoming home the PKK fighters as national heroes. The Turkish nationalist backlash, combined with the AKP’s political ambitions, led to the end of the talks and the re-militarization of the Kurdish issue. This time around, Erdogan has opted to publicize the talks, which has, in my opinion, placed the responsibility for success squarely on the shoulders of Abdullah Ocalan. Erdogan’s public statements, as well as the policies that his party is now pursuing are politically dangerous, though the powerful Prime Minister has a number of reasons to solve the Kurdish issue. Most importantly, the AKP has shown an off and on commitment to ending the Turkish – Kurdish conflict, which has claimed an estimated 40,000 lives since the current conflict began in 1984. Moreover, Erdogan, who has made no secret of his desire to move to an executive Presidency, has an incentive to engage and secure the support of the Kurdish BDP for his proposed constitution. In addition, Erdogan’s 2009 – 2012 alliance with Turkey’s ultra-nationalist MHP has alienated Turkish liberals, which, despite being less religious than the AKP, are keen on implementing European Union reforms and deepening the country’s democratic system (Both AKP campaign themes). Erdogan, I am assuming, is betting that if he solves the PKK problem, the majority of Turks, who continue to be wary of negotiating with what they consider to be a terrorist group akin to Al Qaeda, will eventually support his decision. This of course hinges on his kicking out the fighters from Turkish territory, so as to ensure a drop in violence, which would in turn give him the credibility to go before the wary Turkish electorate and claim that he has brought peace. This political path is fraught with potential pitfalls, as illustrated by the recent attack of BDP MPs in the nationalist strongholds of Sinop and Samsun (For an excellent overview of the recent attack, see this blog post by the excellent Frederike Geerdink). The AKP, however, receives a tremendous amount of political support from nationalists. The AKP, which faces little resistance from the main opposition Republican People’s Party (CHP), is far more concerned about the potential for its base to splinter, which would in turn lead to it loosing some votes to the MHP, the BDP, and the Islamist Saadet Party. The AKP, therefore, is seeking to balance the current PKK negotiations with its need to continue to engage and appeal to Turkish nationalists. It is an incredibly difficult policy to pursue and is likely the reason why Erdogan’s messaging has vacillated wildly between themes like re-instituting the death penalty and the need to open chapters for Turkey’s stalled European Union bid. However, because the AKP has shown an incredible ability to set Turkey’s political agenda – using coordinated leaks, trial balloons, and speeches, which are framed by overarching themes like justice and development (The translation of the AKP’s name) – I believe that the AKP is capable of keeping its coalition together and ending the conflict with the PKK. (The PKK also has a lot to with this, but that is the subject for another blog post.) However, as I explain in my current piece on Foreign Policy, Ankara has opted to follow Washington’s example of using drones for counter-terrorism missions. Turkey, as I explain in the piece, has developed a surveillance drone and is seeking to use the current platform to develop an armed version. While Ankara has been characteristically opaque about the drones’ development, it does not take a genius to figure out that the Turkish military hopes to use armed drones to shorten to “kill-chain” for targeted strikes against PKK operatives. However, Turkey has not publicized who makes the decisions about when to use deadly force, nor has it publicly explained the legal rationale for using armed drones to assassinate Turkish citizens without due process. (As an EU candidate country, one would assume Turkey would try and figure this out). Moreover, if the drone is used in the southeast to attack PKK militants, it is likely that some of those killed will be Turkish citizens. Given the trajectory of the cease fire talks, I see a disconnect between Erdogan’s intentions, the likely use of armed drones in the future, and the military establishment’s opaque drone policy. To be clear, I am not advocating that Ankara disarm or cease in its efforts to further develop its anti-terror capabilities. However, I do think it would be prudent for the Turkish government to publicize its drone policies, in order to build trust with the Kurdish minority. Moreover, Turkey should also seek to clarify the current legal structure that has been put in place for the killing of Turkish citizens. (If one does not exist, Ankara should start writing.) It would also be prudent for the Turkish government to explain whether or not it conducts signature strikes (I think it does, one need not look any further than the Uludere tragedy for confirmation). If Ankara presses ahead with its armed drone program (and it will), the government should seek to be more forthcoming with information about the program’s goals and its intended use. **Otherwise, it risks undermining trust with the Kurdish minority** and, should the two sides agree to a cease fire,could risk re-igniting the conflict. Moreover, the program, which is still in the design phase, provides Ankara with a political opportunity. On the one hand, **Erodgan can tout the program as a symbol of** Turkey’s strength **– which would win him support from the nationalists**. However, **he could pair the rhetoric with a clear articulation of Turkey’s drone policy, which should include a** clear legal framework **for the strikes, in order to assuage Turkish liberals and Turkey’s Kurds.** This would allow for him to continue to balance the two sides’ political demands and, from the perspective of AKP political operatives, help them grow their voter base.

#### That causes wider regional Kurdish conflict and undermines Turkey’s non prolif cred

Stein, 13 [The First Rule of Drone Club The bad lessons Turkey learned from Obama's war from above. BY AARON STEIN | FEBRUARY 25, 2013,http://www.foreignpolicy.com/articles/2013/02/25/the\_first\_rule\_of\_drone\_club?page=0,1]

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

#### This will escalate to global conflict

Gokcek 2 – Faculty at the Department of Political Science at UC Santa Barbara (Gulriz, “Ethnic Conflict and Interstate War: An Analysis of the Kurdish Problem” Prepared for presentation at the International Studies Association Annual Meeting, <http://isanet.ccit.arizona.edu/noarchive/gokcek.html>)

The tensions over the Kurdish conflict, which eventually escalated to the brink of war, did not result in a military confrontation between Turkey and Syria. This might be because while all of the underlying conditions are satisfied in the Kurdish conflict, the two triggers for interstate war do not seem to have a strong showing in this case. This is not to suggest that the alliance factor played no role in the mounting tensions between Turkey and its neighbors. One could argue that the alliance trigger was present but then disappeared when Syria cut off its support of the Kurdish insurgents. Instead of treating the alliance factor as a dichotomous trigger it may be better to look at it as a continuous variable. It may not be the absence or presence of an external actor, but the strength of its role in the ethnic conflict that may help us to understand why some lead to interstate war. Fortunately, the 1998 crisis ended peacefully with Turkey and Syria signing an agreement to cooperate. However, prior Turkish threats of retaliation against any regional state supporting the PKK, raises the potential for interstate war as the PKK continues to seek the support of Iran, Iraq, and Syria against Turkey. If Syria decides to continue or increase its support for the training of the PKK or the militants inside Turkey, then the situation could escalate to an all-out war. If a war between Turkey and Syria breaks out, the possibility of Iran, Iraq, and other Arab countries getting involved is highly likely. Of course, being that Turkey is a member of NATO, this might get the United States and the European allies involved. Turkey has been an important ally to the United States, as it sits strategically between the Balkans, the former Soviet republics, and the Middle East. The United States uses the Incirlik military base in the southern part of Turkey to carry out intelligence operations and monitoring flights over northern Iraq to patrol violators of the “no fly” zone by Saddam Hussein’s air force.[103] If the U.S. or the Europeans were to come to the aid of a Turkey engaged in war with one of its neighbors, this would draw in other great powers, possibly even the Russians and the Chinese, thus raising the ethnic conflict to a whole new level. The U.S. and Western powers fear that the already fragile region cannot afford another major conflict. All four of the countries, which share the Kurdish population, have had hostile relations with one another in a region that already has a reputation for being volatile. The Kurdish conflict is not limited to Turkey, as evidenced by the demonstrations and riots at the Turkish government offices in Europe. The Kurdish problem “is characterized by a dimension that crosses borders and endangers peace.”[104] The Middle East has already been devastated both politically and economically as a result of the Palestinian and Israeli conflict. With the looming question on Palestinian statehood and peace, the region cannot afford to have any more conflict and instability. Since Kurds are the fourth largest national group in the Middle East after the Arabs, Persians, and Turks, a viable solution is needed.

#### Spills over to Nagorno-Karabakh – triggers war between Turkey, Armenia and Azerbaijan

**Blank, 8** – professor at the US Army War College (Stephen, “The Kurdish Issue and Nagorno-Karabakh,” <http://www.eurasianet.org/departments/insight/articles/eav052708a.shtml>)

The Kurdish issue, specifically the matter of establishing a homeland for Kurds, has complicated efforts to stabilize Iraq. Now, there is growing concern among international experts that the Kurdish question could become a source of tension, and possibly conflict in the South Caucasus.

Media outlets in Turkey and Azerbaijan have reported that militant Kurds, in particular fighters affiliated with the Kurdistan Workers Party, have been settling in Nagorno-Karabakh and in portions of Armenian-occupied Azerbaijan, with the tacit support of the Armenian government in Yerevan. Many of the Kurds are reputed to have resettled in the strategically important Lachin Corridor, a strip of territory now occupied by Armenia that was formerly part of Azerbaijan proper. Control of Lachin is one of the main obstacles in the search for a Karabakh settlement. [[For background see the Eurasia Insight archive](http://www.eurasianet.org/departments/insight/articles/eav091506.shtml)].

Before the outbreak of the Karabakh conflict, Lachin had a high number of Kurdish residents, and during the 1920s, it was part of a Kurdish Autonomous Area within the Soviet Union. Much of the Kurdish population fled the region during the Karabakh war. But the fact remains that there is a historical precedent for a Kurdish presence in Lachin. Even so, their resettlement today -- especially if reports about PKK militants being among the migrants are accurate -- is fraught with peril for regional security.

Some recent Turkish and Azerbaijani reports have seemed downright hyperbolic in sounding the alarm about the Kurdish threat, as well as about Armenia's supposed role in promoting resettlement. The reports alleged that Kurdish militants have established training camps in and around Karabakh, and that Armenian authorities have given Kurds access to state broadcasting facilities. They likewise claimed that political organizations in Armenia, such as the Armenian Revolutionary Federation (Dashnakstoutiun), are actively assisting the Kurds, seeing them as a means to strengthen Armenians' hold on Karabakh. In addition, Turkish and Azerbaijani media have stressed that both Ankara and Baku consider the PKK a terrorist organization.

On May 14, a commentary in the Istanbul newspaper Yeni Safak, a staunch supporter of Turkey's governing Justice and Development Party, claimed that the PKK's leadership, perhaps feeling insecure in northern Iraq, was mulling a move to Nagorno-Karabakh. The report could not be independently confirmed.

Armenia officials have vigorously denied a PKK presence in either Armenia proper or in Karabakh. "The unsubstantiated rumors about the intentions on the side of the Kurdistan Workers' Party (PKK) to move to Nagorno-Karabakh and controlled territories cannot be called anything less than another provocation," stated Foreign Ministry press spokesman Vladimir Karapetian.

It might be tempting to downplay the news reports as Turkish and Azerbaijani propaganda aimed at their longtime enemy -- Armenia. But dismissing Turkish and Azerbaijani assertions and concerns could prove dangerous. They require further investigation.

There is a danger that Turkey and Azerbaijan could take matters into their own hands, using the reported Kurdish threat as a pretext for military operations in Karabakh. In a February commentary published by the Ekho newspaper in Baku, political analyst Mubariz Ahmadoglu stated that that the country's political leadership might feel compelled to use force in an attempt to address the Kurdish issue. "If Armenia continues moving in this direction, resistance on the part Azerbaijan will be increasing. And not only at a diplomatic level," the newspaper quoted Ahmadoglu as saying. "I cannot rule out that Azerbaijan can start real actions of a military character. I know officials who made remarks lately and I formed such an impression." For example, Azerbaijan's Deputy Foreign Minister Araz Azimov has stated publicly that Baku would consider military operations to root out Kurdish militants.

#### Most likely nuclear war

**Avetyan, 11 -** Special Agent, US Department of State, Master’s Thesis for the JOINT ADVANCED WARFIGHTING SCHOOL at National Defense University (Avetik, “War in the Caucasus is Inevitable”, <http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA545741&Location=U2&doc=GetTRDoc.pdf>)

A protracted war between Armenia and Azerbaijan is sure to affect the geopolitical and economic factors of the region including disruption of Caspian Sea oil and gas production which certainly will upset the interests of the larger players. 42 To suppose that humanity will take lessons from history and change course is grossly naive. Although Russia, Iran, United States, and Turkey have been able to avoid a direct conflict over Nagorno-Karabagh, relying on each nation’s self restraint is a tremendous risk which can have disastrous consequences. Maintaining the status-quo of the conflict has helped Russia, Turkey, Iran, and the United States to advance their own strategic interests in the region at the expense of allowing escalating tensions between the Armenian and Azerbaijani nations. Since 1988, United States has countered Iran’s involvement in the region by encouraging Turkey’s role, especially in securing Azeri oil resources, and in the process also containing Russian domination of the region. 43 Russia has countered the U.S. role by fostering Turkish-Russian relationship through economic interdependence, while manipulating Iran to counter Turkey’s Pan-Turkish ambitions in Azerbaijan. 44 Iran has used the Russian influence in the region to counter U.S. and NATO basing in Azerbaijan while simultaneously developing Turkish-Iranian economic relationship. 45 Officially Turkey, Russia, Iran and the United States have announced their commitment to help resolve the Nagorno-Karabagh conflict peacefully within the framework of the OSCE however, a small change in an already tense environment may seriously undermine the strategic interests of all of these regional players. 46

Brinkmanship in Caucasus

The current frozen status of Nagorno-Karabagh conflict is not as stable as it appears. 47 Armenians and Azerbaijanis have used rhetoric, accusing the opposing side on charges of discrimination, racism, bigotry, hatred, mistrust, qualms, injustice, intimidation, and coercion in an effort to classify, categorize, and dehumanize the opponent, a tactic which dates back to the overall tone in the First and Second World Wars. “The two governments have so far undertaken virtually nothing to prepare their populations for the necessity of concessions.” 48 Both presidents have manipulated memory and identity to maintain the status-quo of the frozen conflict and through corruption and brutal oppression they have managed to remain in their political positions. 49 However, there is mounting, external and internal political pressure to end corruption and promote democratic way of life in both countries. This may force the politicians to rally political support and exacerbate ethnic national actions to resume the conflict in Nagorno-Karabagh and divert the focus of their populations from seeking change to fighting for a national cause: a miscalculation and provocation which could easily lead to war. 50

The following recent events capture the danger. On February 25, 2010, Safar Abiyev, the Defense Minister of Azerbaijan, told the OSCE Minsk Group co-chairs that “Azerbaijan is seriously preparing to liberate its territories.” 51 This statement started a slew of similar inflammatory rhetoric and increased the number of sniper attacks and counterattacks on the Nagorno-Karabagh border, with the heaviest Azeri attack on June 18, 2010 that resulted in four Armenian and two Azeri soldiers killed. 52 On July 7, 2010, President Aliyev warned at a public event, “this is the last chance for Armenia to leave the occupied lands voluntarily for the sake of its own future and its own security.” 53 On December 1, 2010, the Armenian president addressed the OSCE co-chairs in Astana indicating Armenia’s position on the Nagorno-Karabagh conflict by stating that, “Azerbaijan has no legal, historical, or moral right to lay any claim on NagornoKarabagh. Armenia is strongly against a military settlement of the conflict. However, in the case of Azerbaijani military aggression Armenia will have no alternative but recognize Nagorno-Karabagh as an independent state, as it has no future as part of Azerbaijan.” 54

Azerbaijani diplomats have begun a heavy effort to increase Armenia’s economic isolation by trying to convince the government of Georgia to deny Armenian businesses easy access to the Georgian coastal city of Kabuleti. On February 27, 2011, the Azerbaijani Ambassador to Georgia, Namig Aliyev, alluded to the possibility that Armenians are on a “Pan-Armenian” quest to expand their territory and gain access to the Black Sea. 55 The Armenia-Georgia route was the only direct line of operation for supplies and equipment during the Armenian-Azeri war. If it is eliminated, it will restrict Armenia to only one land based supply source, Iran. The Azeri actions in Georgia are viewed by the Armenians as an effort by the Azeri government to further extend its economic blockade on Armenia and weaken Armenia’s ability to resist an Azeri attack on Nagorno-Karabagh.

On March 5, 2011, Russian President Dmitri Medvedev invited the Armenian and Azerbaijani presidents to a meeting in Sochi to renew talks. Although both presidents promised to increase the number of diplomatic dialogues and meetings, the atmosphere of trust between two nations no longer exists. 56

 From these events it became clear that in the words of one observer, “**No comparable conflict** in the world today arguably has the potential to involve as many regional and global powers as does the Armenian-Azerbaijani conflict.” 57 Indeed, Russia, the U.S., Turkey and Iran are the big regional and global powers with important interests tied to the Nagorno-Karabagh conflict that may blunder unintentionally into war.

#### Goes nuclear at a lower launch threshold

**Blank 2K -** professor of research at the Strategic Studies Institute of the US Army War College, (Stephen, “US Military Engagement with Transcaucasia and Central Asia”, June, <http://www.bits.de/NRANEU/docs/Blank2000.pdf>)

Washington’s burgeoning military-political-economic involvement seeks, *inter alia*, to demonstrate the U.S. ability to project military power even into this region or for that matter, into Ukraine where NATO recently held exercises that clearly originated as an anti-Russian scenario. Secretary of Defense William Cohen has discussed strengthening U.S.-Azerbaijani military cooperation and even training the Azerbaijani army, certainly alarming Armenia and Russia.69 And Washington is also training Georgia’s new Coast Guard. 70 However, Washington’s well-known ambivalence about committing force to Third World ethnopolitical conflicts suggests that U.S. military power will not be easily committed to saving its economic investment. But this ambivalence about committing forces and the dangerous situation, where Turkey is allied to Azerbaijan and Armenia is bound to Russia, create the potential for wider and more protracted regional conflicts among local forces. In that connection, Azerbaijan and Georgia’s growing efforts to secure NATO’s lasting involvement in the region, coupled with Russia’s determination to exclude other rivals, foster a polarization along very traditional lines.71 In 1993 Moscow even threatened World War III to deter Turkish intervention on behalf of Azerbaijan. Yet the new Russo-Armenian Treaty and Azeri-Turkish treaty suggest that Russia and Turkey could be dragged into a confrontation to rescue their allies from defeat. 72 Thus many of the conditions for conventional war or protracted ethnic conflict in which third parties intervene are present in the Transcaucasus. For example, many Third World conflicts generated by local structural factors have a great potential for unintended escalation. Big powers often feel obliged to rescue their lesser proteges and proxies. One or another big power may fail to grasp the other side’s stakes since interests here are not as clear as in Europe. Hence commitments involving the use of nuclear weapons to prevent a client’s defeat are not as well established or apparent. Clarity about the nature of the threat could prevent the kind of **rapid and almost uncontrolled escalation** we saw in 1993 when Turkish noises about intervening on behalf of Azerbaijan led Russian leaders to threaten a nuclear war in that case. 73 Precisely because Turkey is a NATO ally, Russian nuclear threats could trigger a potential nuclear blow (not a small possibility given the erratic nature of Russia’s declared nuclear strategies). The real threat of a Russian nuclear strike against Turkey to defend Moscow’s interests and forces in the Transcaucasus makes the **danger of major war there higher than almost everywhere else**. As Richard Betts has observed, The greatest danger lies in areas where (1) the potential for serious instability is high; (2) both superpowers perceive vital interests; (3) neither recognizes that the other’s perceived interest or commitment is as great as its own; (4) both have the capability to inject conventional forces; and, (5) neither has willing proxies capable of settling the situation.74

### Solvency

#### Congress key --

#### Specific statutory parameters by Congress are key

Griffin, 13 [January 11th, “Will Congress take on drones in 2013?” Rebecca, Citing the New America Foundation and Human Rights Watch, <http://blog.peaceactionwest.org/2013/01/11/will-congress-take-on-drones-in-2013/>]

As with any technology, the United States will not maintain a monopoly on the use of **armed** drones. The New America Foundation cites 70 countries that currently have some kind of drone. Examining our standards for use of drones and setting specific parameters will become even more critical as we set a precedent for international drone use. As Human Rights Watch points out, “Because the US treats many of the most important constraints on the use of force as matters of **discretionary prudence** rather than legal requirements, the US approach would not forbid the Russians to target an alleged Chechen militant in New York, or the Chinese a Uighur separatist in Washington, DC, if they said they were at war with these groups and the US didn’t apprehend them. That is a deeply troublesome precedent to set.” Congress should push for clear, public standards that can contribute to an international conversation about global standards for the use of drones.

#### Congress has to be the first mover to ensure adequate oversight

Ellison, 13 [January 15th, Keith Ellison, a Democrat, represents Minnesota's 5th District in the U.S. House and is co-chair of the Congressional Progressive Caucus. He wrote this for the Washington Post.Keith Ellison: Congress must take control of drones, <http://www.startribune.com/opinion/commentaries/186866462.html>]

 The United States has to provide answers, and Congress has a critical role to play. The heart of the problem is that our technological capability has far surpassed our policy. As things stand, the executive branch exercises unilateral authority over drone strikes against terrorists abroad. In some cases, President Obama approves each strike himself through "kill lists." While the president should be commended for creating explicit rules for the use of drones, unilateral kill lists are unseemly and fraught with hazards. When asked about the drone program in October during an interview on the "The Daily Show," the president said, "One of the things we've got to do is put a legal architecture in place, and we need congressional help in order to do that, to make sure that not only am I reined in, but any president's reined in terms of some of the decisions that we're making." It's time to put words into action. Weaponized drones have produced results. They have eliminated 22 of Al-Qaida's top 30 leaders and just last week took out a Taliban leader. Critically, they lessen the need to send our troops into harm's way, reducing the number of U.S. casualties. Yet the costs of drone strkes have been ignored or inadequately acknowledged. The number of innocent civilian casualties may be greater than people realize. A recent study by human rights experts at Stanford Law School and the New York University School of Law found that the number of innocent civilians killed by U.S. drone strikes is much higher than what the U.S. government has reported: approximately 700 since 2004, including almost 200 children. This is unacceptable. Another cost is how drone strikes are shaping views of the United States around the world. You might develop a negative attitude toward the United States if your only perception of it is a foreign aircraft buzzing over your house that occasionally fires missiles into your neighborhood. In Pakistan, where 95 percent of U.S. drone strikes have occurred, people familiar with them overwhelmingly express disapproval (97 percent, according to Pew polling from June) and believe they kill too many innocent people (94 percent). Drone strikes may well contribute to the extremism and terrorism the United States seeks to deter. U.S. drone use has also lowered the threshold for the use of lethal force in foreign countries. Would we fire so many missiles into Pakistan, Yemen and Somalia if doing so required sending U.S. troops into harm's way? Our drone policy must be guided by more than capability. It must be guided by respect for noncombatants, necessity and urgency. It is the responsibility of Congress to exercise oversight and craft policies that govern the use of lethal force. Any rules must provide adequate transparency, respect the rule of law, conform with international standards and prudently advance U.S. national security over the long term. In codifying a legal framework to guide executive action on drone strikes, Congress should consider these steps: First, we must do more to avoid innocent civilian casualties. The Geneva Conventions, which have governed the rules of war since World War II, distinguish between combatants and noncombatants in the conduct of hostilities and state that civilian casualties are not acceptable except in cases of demonstrated military necessity. This is the standard we must follow. Second, Congress must require an independent judicial review of any executive-branch "kill list." The U.S. legal system is based on the principle that one branch of government should not have absolute authority. Congress should object to that concentration of power, especially when it may be used against U.S. citizens. A process of judicial review would diffuse executive power and provide a mechanism for greater oversight. Third, the United States must collaborate with the international community to develop a widely accepted set of legal standards. No country -- not even our allies -- accepts the U.S. legal justification for targeted killings. Our justification must rest on the concept of self-defense, which would allow the United States to protect itself against any imminent threat. Any broader criteria would create the opportunity for abuse and set a dangerous standard for other countries to follow, which could harm long-term U.S. security interests. The United States will not always enjoy a monopoly on sophisticated drone technology. The Iranian-made drone that Hezbollah recently flew over Israel should compel us to think about the far-reaching implications of current policy. A just, internationally accepted protocol on the use of drones in warfare is needed. By creating and abiding by our own set of reasonable standards, **the United States will demonstrate to the world that we believe in the rule of law.**

#### Only statutory clarification creates legitimacy

Maxwell, 12 [Mark David, Colonel, Judge Advocate with the U.S. Army, Winter, TARGETED KILLING, THE LAW, AND TERRORISTS, Joint Force Quarterly, http://www.ndu.edu/press/targeted-killing.html]

The weakness of this theory is that it is not codified in U.S. law; it is merely the extrapolation of international theorists and organizations. The only entity under the Constitution that can frame and settle Presidential power regarding the enforcement of international norms is Congress. As the check on executive power, Congress must amend the AUMF to give the executive a statutory roadmap that articulates when force is appropriate and under what circumstances the President can use targeted killing. This would be the needed endorsement from Congress, the other political branch of government, to clarify the U.S. position on its use of force regarding targeted killing. For example, it would spell out the limits of American lethality once an individual takes the status of being a member of an organized group. Additionally, statutory clarification will give other states a roadmap for the contours of what constitutes anticipatory self-defense and the proper conduct of the military under the law of war. Congress should also require that the President brief it on the decision matrix of articulated guidelines before a targeted killing mission is ordered. As Kenneth Anderson notes, “[t]he point about briefings to Congress is partly to allow it to exercise its democratic role as the people’s representative.”74 The desire to feel safe is understandable. The consumers who buy SUVs are not buying them to be less safe. Likewise, the champions of targeted killings want the feeling of safety achieved by the elimination of those who would do the United States harm. But allowing the President to order targeted killing without congressional limits means the President can manipulate force in the name of national security without tethering it to the law advanced by international norms. The potential consequence of such unilateral executive action is that it gives other states, such as North Korea and Iran, the customary precedent to do the same. Targeted killing might be required in certain circumstances, but if the guidelines are debated and understood, the decision can be executed with the full faith of the people’s representative, Congress. When the decision is made without Congress, the result might make the United States feel safer, but the process eschews what gives a state its greatest safety: the rule of law.

#### Even though the modifications are small, Congressional amendment of the WPR is key to signaling domestic legitimacy and oversight

Laney, 13 [“Drone Strikes and the War Powers Resolution Brock Laney”, JD Candidate and BA IR, BYU and IU, 16 Vol. 27, 2013, p. internet]

(ii) Accounting for Drones in the War Powers Resolution the inclusion of drone strikes in the WPR would duly anticipate an increasing trend towards fighting through unmanned vehicles.82 this global trend has indicated that “technologies that remove humans from the battlefield are becoming the new normal in war.”83 The costs to the US in terms of personnel casualties and political capital remain so low relative to other types of conflict that drone usage will likely persist or increase in frequency. The changing nature of international conflict suggests that drones and other unmanned military assets will probably become important aspects of war. Properly classifying drones and implementing a congressional check on their usage at a time when they are emerging as conventional weapons is therefore very important. Accounting for drones through the WPR would require only small modifications to the legislation. The resolution refers to “armed forces” as the asset of interest that Congress seeks to regulate.84 To induct drones into the WPR, legislators can expand the definition of armed forces therein to explicitly include drones and other unmanned military assets. Specifically, the resolution should define “armed forces” as any US military asset, manned or unmanned, deployed in the interest of national security with specific military target(s). Similar to the current version of the resolution, the updated law should require any President that deploys these military assets to abide by the restrictions and protocols outlined therein. An effective definition of drone strikes as part of the armed forces must necessarily address conditional factors since drones are not used exclusively for long-term campaigns. Drones are sometimes used for assassinations and other objectives, and although guidelines for controlling their use in these other areas are too broad to be discussed here, modifications to the resolution should account for those distinct circumstances. To avoid unnecessary and possibly detrimental consequences of reporting covert operations to Congress, the updated resolution should include a clause that limits the type of drone activity the President must report to Congress. To distinguish between long-term campaigns and single attacks, the law should specify that two attacks targeting the same group or occurring in the same country within one month of each other constitute the beginning of a campaign. Once this condition is met, proceeding with the campaign would require presidential action as outlined in the WPR. Although seemingly arbitrary, two drone strikes in one month is likely an effective indicator that a series of attacks is becoming acampaign, and Congress should have the power to exert its constitutional authority when such a benchmark is reached. Reports indicate that there have been, on average, 2.84 drone attacks per month in Pakistan since 2004.85 Attacks in Yemen exhibit similar patterns, although the consistency of those attacks has not risen to Pakistan’s levels until recently.86 Using these current trends as a baseline helps determine the appropriate attack frequency for determining the starting point of a campaign. Because unsuccessful assassination attempts may necessitate a second attack in a relatively short period of time, the success of an attack should be considered in the definition of which attacks count towards defining a series of attacks as a campaign. Only attacks that successfully eliminate the intended target should be counted towards the limit. This will allow for repeated attempts if an assassination or other single operation endeavor fails after an initial attempt. Some might argue that including drone strikes in the WPR raises the cost of using drones to an unacceptably high level because their use would require formal sanction. Congressional approval, however, does not necessarily constitute an official declaration of war. Presidents have reported a number of conflicts to Congress consistent with the WPR that have proceeded without an official declaration from Congress.87 Additionally, the Obama administration explicitly classifies the conflict with al-Qaeda and the Taliban as “armed conflict”88 and gaining explicit approval from Congress would not change the costs of moving forward with the conflict. Finally, obtaining congressional approval would potentially create 85 greater domestic legitimacy for a campaign, thereby strengthening the President’s political position instead of weakening it. These considerations indicate that Congress can justifiably and easily address the lack of institutional oversight for drone warfare through modifying the WPR. IV. Conclusion Although critics have disputed the constitutionality of the WPR, the major functional pieces of the law are specifically backed by the Constitution. Further, US Presidents have provided reports to Congress in compliance with the legislation, suggesting some level of implied legitimacy for the resolution. Revising the WPR to include drones and other non-conventional weapons will provide an essential check on presidential power as these forms of conflict become more common in the future. The current drone strikes campaign has proven very costly and the cost-benefit analysis should not be limited to the President, White House aides, and a handful of correspondents at the CIA. The negative consequences of drone strikes suggest that a greater number of decision makers should become involved in the discussion of whether or not to move forward with these costly campaigns of dubious merit. The nature of conflict is constantly evolving. Legislation must also evolve through a combination of pragmatism and foresight in the interest of protecting democratic processes and human rights.

#### Even if the WPR doesn’t curtail use of force, it does create symbolic legal parameters to check reckless behavior while signaling democratic legitimacy

Weiner, 07 [Copyright (c) 2007 The Vanderbilt University Law School Vanderbilt Journal of Transnational Law May, 2007 40 Vand. J. Transnat'l L. 861 LENGTH: 18965 words NOTE: A Paper Tiger with Bite: A Defense of the War Powers Resolution NAME: Michael Benjamin Weiner\* BIO: \* J.D. Candidate, Vanderbilt University Law School, 2007. B.A., Swarthmore College, 2004, p. lexis]

 In practice the WPR limits presidents' outrageous unilateral uses of force. While critics of the WPR seem likely to oppose any legislation that stops short of emasculating the Executive into [\*872] becoming the "messenger-boy" n64 of Congress, they must remember that the foundation for the law of war lies in practice. n65 Again, recall this Note's suggestion that the WPR, and the law of war in general, should be viewed from a functionalist perspective. Any law that purports to control the actions of those involved in warfare will only be followed if it allows the actor the chance to preserve his own interests. Thus, while a soldier is interested in staying alive, and a commander is interested in preserving the lives of those under his command, the Executive is interested in both of these things as well as ensuring the national security of the entire nation. A law that does not afford the Executive sufficient flexibility to satisfy these interests is bound to be a dead-letter. The WPR allows such flexibility, because while its requirements are clear black-letter law, its enforcement structure owes its strength to behavioral norms rather than law. The Executive has an incentive to abide by the WPR to avoid showing disrespect for Congress or the will of the U.S. public. However, he retains the legal freedom to function outside the WPR when he judges it to be manifestly clear (1) that the Nation's interests require it, or (2) when he perceives that the will of the people is behind him. n66 The WPR's effectiveness can only be evaluated by its effect in practice. For this reason, this Note now surveys post-1973 presidential unilateral uses of force. A. Grenada The WPR was first applied in the invasion of Grenada. n67 In this instance, President Reagan unilaterally ordered the island to be [\*873] invaded after a coup by communist rebels seemed to provide Cuba and Soviet Russia with another strategically located ally. n68 Significantly, for terms of the U.S. pretext for invasion, Grenada was also home to hundreds of U.S. medical students. n69 While many dispute the veracity of the request for military assistance from interested parties in the region, n70 as well as the level of danger that the medical students actually faced, n71 it is undisputed that once the invasion took place it "was considered an unmitigated military success." n72 The invasion, as the Powell Doctrine commanded, also enjoyed immense public support. n73 Nevertheless, many consider the Grenada invasion to be emblematic of the WPR's impotence; for WPR opponents, the invasion was just another example of an Executive waging a war at his own prerogative. n74 As the facts are examined, however, it becomes clear not only that the WPR was abided by, but that its spirit was heeded and its goals achieved. To begin, the Grenada invasion complied with the WPR. Despite the WPR's lack of strength, President Reagan opted to follow its prescribed guidelines. To satisfy § 1542's consultation requirement, President Reagan met with bipartisan leaders of Congress the night before the invasion began. n75 While it is true that the invasion was green-lighted two hours before the meeting took place and that the invasion commenced early the next morning, n76 it is also true that President Reagan could have cancelled the invasion after the meeting occurred. Thus, when referenced in conjunction with the WPR's command that "the President in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities," n77 it appears that President Reagan adhered to the plain meaning of the statutory term "consult," which is "to ask the advice or opinion of." n78 This, along with President Reagan's explanation for the dearth of time between the consultation and the commencement of the invasion (protecting the secrecy of the [\*874] invasion), n79 necessitates the conclusion there is at least a prima facie case that the consultation requirement was met. Thus, it seems strange that some scholars claim that the congressional consultation requirement was not met. n80 While it would be hard to argue that the level of consultation offered by President Reagan was anything but sparse, it is one thing to criticize the level of consultation and quite another to claim that there was none. For this reason, it is difficult to imagine what would satiate opponents of the WPR. The WPR requires the Executive only to consult and report, not abandon unilateral uses of force altogether. n81 Opponents of the WPR apparently would prefer that the Executive "psychoanalyze ... Congress rather than read ... its laws." n82 A more reasonable position is the one advanced by former Secretary of State Cyrus R. Vance, who contended that while the meaning of "consult" was clear to him, it should be replaced with the requirement that the Executive ""discuss fully and seek the advice and counsel' of a defined group of congressional leaders." n83 President Reagan also abided by the reporting requirement during the Grenada invasion by submitting a report to Congress on October 25, 1983, the day military actions began. n84 While some contend that President Reagan did not meet this requirement, this complaint seems to be grounded more on the substance of the report than lack of a report, as President Reagan's report did not refer to U.S. armed forces being engaged in "hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances." n85 An explicit reference to "hostilities" is significant in terms of the WPR, because such a reference is what begins the sixty-day countdown of the automatic termination clause. n86 Thus, while [\*875] complying with the WPR, President Reagan allowed Congress to decide whether the WPR would actually be a legal constraint on Executive power. Congress did begin to create a resolution exercising its power under the WPR to put the Executive "on the clock" when deemed necessary. n87 In the end, however, while the House of Representatives passed a resolution deeming the automatic countdown to have started, there was not sufficient support for such a resolution in the Senate. n88 The WPR's legislative failure, however, did not result in the kind of extended conflict that the WPR's framers, and indeed the nation, hoped to avoid. The Grenada invasion enjoyed astounding success through reliance on the Powell Doctrine (using overwhelming forces to achieve clear objectives). n89 The large U.S. invasion force compelled the capitulation of joint Cuban and Grenadian forces in under a week, with minimal U.S. casualties. n90 In the end, the U.S. Marines employed in the fighting were off the island by October 30, 1983, and elements of the Army 82nd Airborne unit were also off the island well before the theoretical sixty-day time limit. n91 The invasion of Grenada, then, represented a departure from previous presidential unilateral uses of force. Although President Reagan likely irritated members of Congress through his interpretation of the consultation and reporting clauses, he did heed the ultimate purpose of the WPR. The unilateral use of force in Grenada was short in duration and not bloody by any standard. n92 Even though Congress had not achieved dominance over the Executive branch in the decision to use military force, the WPR did spur President Reagan, at least to some extent, to involve Congress in the decision. Further, the WPR spurred Congress to discuss amongst itself whether it should take a greater role. That congressional support was insufficient to put the WPR into play says more about the lack of congressional will than it does about the ability of the WPR to constrain Executive action. The invasion of Grenada thus serves as a good start for proving that the WPR, despite its imperfect nature as a legal document, has led to increased participation between the [\*876] Executive and Legislative branches in the decision to use military force. B. Lebanon In 1982, President Reagan relied on his authority as Commander in Chief in sending 800 marines to join a multinational force with the task of keeping the peace "in an internecine struggle among the many ethnic and religious groups that have been warring in Lebanon from time out of memory." n93 Unfortunately, the intervention in Lebanon is notoriously remembered for the suicide bombing of a marine barracks, which caused the deaths of 241 U.S. servicemen (an act that accounted for 94% of all U.S. casualties in the conflict). n94 Despite this event, the intervention in Lebanon teaches much about the effectiveness of the WPR. This is so even though President Reagan arguably failed to abide by the consultation requirement in the WPR (since it appears that no member of Congress was consulted before the marines went ashore). n95 While President Reagan may have believed that the marines would not encounter "hostilities or ... situations where imminent involvement in hostilities is clearly indicated by the circumstances," n96 thus making the WPR inapplicable to the event, it is hard to argue that when one orders a ground combat force into a war-torn area the WPR will not apply. Nevertheless, President Reagan did comply with the WPR's reporting requirement. After the marines entered Lebanon, President Reagan sent a report to Congress. n97 Interestingly, President Reagan's letter proclaimed that the report was "consistent" with the WPR rather than in "compliance" with it. n98 Former Secretary of State Vance interpreted this language as the President's implicit statement that he was complying with the WPR out of respect for Congress, rather than because of a legal obligation. n99 Whatever the motivation, President Reagan did continue to send [\*877] reports to Congress after he ordered 1200 additional troops to be sent to Lebanon and again after the United States suffered its first casualties. n100 The last of these reports was significant because Congress acted on the basis of this information to invoke the WPR and begin the sixty-day countdown. n101 Opponents of the WPR were then presented with what amounts to their utopian situation: a President tries to statutorily interpret his way around the WPR, but Congress stands fast and invokes the WPR itself. If nothing else, the Lebanese intervention is at least incontrovertible evidence that the WPR is not legally impotent in all instances. The events occurring after Congress's invocation of the WPR are profoundly important for the purposes of this Note. First, despite President Reagan's contentions that the WPR could not constrain his powers as Commander in Chief, n102 his administration actually sought explicit congressional authorization for "continued participation of United States Armed Forces in the Multinational Force in Lebanon." n103 Thus, in the end, while there was implicit posturing about the WPR's legality, the Executive chose to respect its, and Congress's, authority. As such, the WPR contributed to the restoration of some semblance of balanced participation between the political branches on the question of continuing to use force in Lebanon. While the discussion preferably would have occurred before the insertion of U.S. forces, it is true that in Lebanon "the War Powers Resolution ... belatedly achieved its purpose [of] bringing the President and the Congress together to discuss a critically important foreign policy issue." n104 While some scholars may disapprove of Congress's policy decision to follow the President's lead, such a policy decision is not the fault of the WPR. The WPR should instead be lauded for prodding President Reagan into obtaining congressional approval for what began as a unilateral use of his Commander in Chief power. The second profound event following the invocation of the WPR comes from Congress's authorization itself. Secretary Vance said that the time extension given to President Reagan was "subject to a [\*878] variety of important conditions and restrictions designed to define and limit the scope of our involvement in the Lebanese conflict." n105 For example, while Congress's Resolution provided the President with eighteen months of leeway, it also provided that this leeway would cease to exist if the United Nations or the government of Lebanon assumed the U.S. peacekeeping role, if the U.S. partners in the venture abandoned the cause, or if any other competent security arrangement for Lebanon was put forward. n106 Congress thus created enforcement measures to substantiate its policy goals of ensuring a timely U.S. withdrawal from Lebanon. Such a pointed articulation of policy stands in direct contrast to the broad "take any and all appropriate means" delegation that embodied the Tonkin Gulf Resolution. n107 The WPR contributed to a high level of interaction between the Executive and Congress, notwithstanding the regrettable loss of life involved with the barracks attack. This point will be revisited again in this Note's conclusion, as the Multinational Force in Lebanon Resolution remains a model for Congress to emulate. C. Libya The Libyan air strike, which occurred on April 14, 1986, n108 serves as another example of the WPR's positive effect on the implementation of U.S. foreign policy. The air strike also illustrates one of the WPR's weaknesses, because an air strike, which can certainly be referred to as "surgical" in nature, is sure to be over within the WPR's sixty-day limit. n109 For this reason, an Executive could hypothetically order unrelated air strikes around the clock, without consulting with or reporting to Congress, and have no fear of running afoul of the WPR. Despite this reality, President Reagan chose not to take this route, and instead complied with the WPR. n110 Thus, the Libyan air strike is a prime example of how the WPR, **even if legally impotent**, consistently affects and constrains presidential unilateral uses of force. [\*879] The pretext for the air strike was what President Reagan called "irrefutable" n111 evidence of Libyan involvement in not only the Lockerbie Scotland Pan Am disaster but also in terrorist attacks that killed U.S. citizens in airports in Vienna and Rome, and in the bombing of a West Berlin nightclub frequented by U.S. servicemen (killing one Army sergeant and wounding others). n112 It is at least arguable that President Reagan complied with the WPR. He consulted with fifteen members of Congress, a group larger than he met with before the Grenada operation, before the air strikes took place. n113 However, just as the manner of consultation in the Grenada invasion surely irritated some members of Congress, this instance must have been no different; the consultation did not take place until the planes responsible for the air strike were in the air. n114 Again, while President Reagan could have responded by noting his ability to call off the air strikes while the planes were en route, this is surely not the manner of consultation desired by parties in the mold of Secretary Vance. n115 However, when the plain meaning of the statutory text is as weak as it is in the WPR (an interpretation even accepted by some of its opponents n116), it is a large step to maintain that Reagan failed the consultation requirement altogether. President Reagan also satisfied the reporting requirement, submitting a report to Congress on April 16, 1986. While some scholars claim that the reporting requirement was evaded because the report was vague and made no reference to "hostilities," a necessity for the implementation of the sixty-day countdown, this is not the correct conclusion. n117 Although President Reagan may have had bad intentions in not referring to "hostilities," this does not mean the reporting requirement was not met. It simply means that the Executive took advantage of a legislative loophole to place the ball back into Congress's court. However, the reporting requirement was made moot by the use of an air strike; as soon as the planes conducting the strikes returned to their respective bases the attack [\*880] was over, and this was well before the sixty-day clock could have struck zero. So while the WPR had no formal influence over President Reagan's decision to use military force, its existence likely provided the Executive with the impetus to favor a strategy that would not give Congress a chance to implement it. The WPR, therefore, deterred the Executive's preference for undertaking foreign policy initiatives that could have become the next Korea or Vietnam. Furthermore, one must only look to the popularity of the Libyan air strike n118 to accentuate the difference between this conflict and one such as Vietnam. With popularity in one hand and narrow objectives (retribution for supporting terrorism n119) achieved by a discrete use of force in the other, the Libyan air strike constitutes the Powell Doctrine taken airborne. Given the Libyan air strike's strong compliance with the principles of the Powell Doctrine, it must be said that this unilateral use of force was at least a responsible one. D. The Persian Gulf Prior to the 1991 Gulf War (which will not be discussed in this Note since it was not a unilateral use of force on the part of the Executive), n120 but after the Iran-Iraq war made the strategic Persian Gulf un-navigable, Kuwait requested U.S. protection for merchant oil tankers using Kuwaiti ports. n121 Responding favorably, the United States re-flagged the merchant ships and escorted the tankers through the Gulf with U.S. warships. n122 Believing that the WPR did not apply to this use of the Navy, President Reagan did not consult with or report to Congress before ordering the naval escorts into service. n123 Following this action and an incident in which a U.S. helicopter opened fire on an Iranian minelayer, 110 members of the [\*881] House of Representatives sued the President to compel him to report to Congress pursuant to the WPR (and thus initiate the automatic sixty-day countdown). n124 The district court's opinion, which relied on the doctrines of equitable discretion and nonjusticiability to dismiss the suit, n125 amply illustrates how the WPR has increased Congress's participation in the prosecution of foreign policy. As seen in the Lebanon intervention, it does not take much to make out a case that the U.S. forces engaged in the Gulf were involved in "hostilities or in ... situations where imminent involvement in hostilities was clearly indicated by the circumstances." n126 Beyond the fact that U.S. warships were going to be conducting escort operations in the Gulf during the vicious Iran-Iraq war and the imminent destruction of the Iranian minelayer (which killed three and led to the capture of twenty-six more), n127 there were multiple reasons for President Reagan to conclude that the WPR was applicable to the escort operation. During the time of the operation there were multiple examples of hostilities, such as when the U.S. frigate the Samuel B. Roberts struck two mines or when Iranian missile boats fired on the U.S. cruiser the Wainwright as well as U.S. aircraft. n128 Other naval clashes occurred as well, including the downing of an Iranian airliner by the U.S. cruiser Vincennes, providing President Reagan and later President Bush with a reason to report to Congress. n129 Neither President Reagan nor President Bush, however, actually chose to report to Congress. n130 On these facts, it is easy to criticize the WPR as failing to constrain the Executive. In fact, one could even say that the WPR significantly empowered the Executive in this case, because without the triggering of the WPR, there was not even a sixty-day limit with which the Executive had to contend. A closer look, however, tells a different story. While it is true that Congress was not able to muster enough support to trigger the WPR by itself, and that the courts refused to do the same, the Persian Gulf situation is marked by a high level of congressional involvement. For example, the district court in Lowry v. Reagan noted that "before the filing of this lawsuit, several bills to compel the President to invoke section 4(a)(1) of the [WPR] were introduced in Congress. Bills also were introduced to alternately repeal and to strengthen the [WPR]." n131 The WPR therefore led Congress to [\*882] discuss not only the constitutional and legislative authority involved in the Persian Gulf incident, but the merits of the entire constitutional and legislative war powers system. Furthermore, the court's handling of Lowry also implicitly contributed to reaching the utopia of balanced participation in the prosecution of U.S. foreign policy. By refusing to adjudicate the WPR claims and sending the substantive questions back to Congress, the courts allowed Congress to decide "a question for the executive and legislative branches." n132 Rather than "impose a consensus on Congress," n133 the court gave Congress a chance to use the legislation that it wrote and rein in the Executive. Again, it is not the fault of the WPR that the Senate enacted a bill that would restrain the Executive, but that the House, in the words of former majority leader Senator John Warner, "s[at there] and did nothing" with it. n134 Rather, the WPR led to political discussion, and almost action, over a presidential unilateral use of force. Given the strong success that the Executive has enjoyed throughout U.S. history in the foreign affairs arena, n135 it is impractical to expect that the WPR would have transformed the Executive into a figurative dog that follows obediently after the heels of Congress. As such, the discussion and votes spurred by the WPR should not be derided as insignificant. Indeed, this Note contends that such political discourse is significant - it is the practical result of a reasonable piece of legislation. Remembering Justice Holmes's adage on representational government, n136 the prospect of Congress being on the edge of invoking the WPR must have had some normative effect on the Executive. Perhaps this explains why the escort action was relatively safe, despite the Vincennes calamity. For example, of the 10,000 Navy personnel sent to support the escort effort, there were only thirty-nine casualties (with thirty-seven of those coming in one instance, the attack on the Stark). n137 Thus, this illustrates another post-1973 unilateral use of force that was not protracted, bloody, or based on murky objectives. n138 The conflict was, again, the antithesis of Vietnam. [\*883] E. Panama The 1989 Panamanian invasion is an interesting case study with which to test the effectiveness of the WPR. The intrigue stems from President H.W. Bush's choice to comply with the consultation requirement of the WPR in only the most barebones fashion. n139 Much like President Reagan's actions in the Libyan air strikes, President Bush only consulted with a small group of congressional leaders, hours before deposing Dictator Manuel Noriega. n140 While President Bush defended his actions by arguing that Congress was not in session at the time of the invasion n141 and that he needed to protect the secrecy of the invasion, Secretary Vance is quick to point out the logical response to these arguments: [A] group of leaders such as I have suggested [Majority and Minority Leaders of both houses and the Chairpersons and ranking minority members of the Armed Forces and Foreign Affairs committees of both houses, among others] will almost always be within reach of the President and will keep confidences. n142 Thus, President Bush can cite no bulletproof reason for choosing to test the WPR's consultation requirement. President Bush, however, did report to Congress within forty-eight hours of introducing U.S. forces into "hostilities." n143 What makes the Panamanian invasion an interesting case for judging the WPR's effectiveness, however, is that even though President Bush almost flouted the consultation requirement, the House of Representatives still chose to enact a resolution praising President Bush for his actions as Commander in Chief. n144 Even more striking is that the resolution passed the House by the margin of 389 to 26. n145 This extreme margin is even more interesting when it is noted that the House of Representatives was the chamber of Congress that tried to invoke the WPR to limit President Reagan's invasion of Grenada just six years earlier. n146 The House of Representative's behavior can be explained by President Bush's adherence to the spirit of the WPR. Although [\*884] President Bush's failure to consult with Congress until seven hours before the invasion took place seems to contradict this conclusion, n147 the Panamanian invasion satisfied the purpose of the WPR, because unlike Vietnam and as the Powell Doctrine commanded, the invasion had the support of the U.S. public. n148 This support (likely stemming from Noriega's federal indictment for engaging in narcotics dealings, n149 the Panamanian Defense Forces slaying of a U.S. marine, and the assault of a Navy Lieutenant and the threat of sexual assault made toward his wife n150) is a probable reason why neither branch of Congress mounted a formal challenge to President Bush and why the House went so far as to praise the President. A second reason why the Panamanian invasion illustrates the relevance of the WPR was the brevity and the relative safety of the conflict. While U.S. forces were already based in Panama prior to the action to unseat Noriega (due to the Panama Canal), the additional U.S. troops sent to bolster the existing 13,000 were for the most part removed from the area within the sixty-day period specified by the WPR. n151 Again, the success and speed of this operation can be credited to the use of the Powell Doctrine, the strategy designed to win conflicts quickly and safely. n152 The intervention was indeed safe by the standards of conventional war, with only twenty-three U.S. citizens losing their lives in an operation involving over 4,000 combat troops. n153 Thus, the safety, brevity, and recognition of the public will is what made the intervention in Panama another example of a post-1973 unilateral use of force that was positively influenced by the "paper tiger" itself, the WPR. F. Somalia The U.S. experience in Somalia does more to illustrate the pragmatic constraints on the use of force in the modern era than it does to show the legal effect of the WPR. In fact, with the intervention having been predicated on humanitarian reasons - feeding starving Somalis n154 - and not on enforcing law and order, [\*885] there is little reason why the WPR, which applies to the "introduction of United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances," n155 would even be relevant to the operation. n156 Indeed, if not for the UN Security Council's expansion of the humanitarian forces mandate from combating starvation to enforcement of order and the disarming of the militias that effectively controlled the country, n157 the intervention in Somalia would not even belong in this Note. n158 However, as subsequent events made painfully clear, the expansion of the mandate did take place, and a chain of events was set into motion that culminated in the disaster that became known as Black Hawk Down. n159 This tragedy, which President Clinton inherited from the previous administration, stemmed from a U.S. Special Forces effort to kill Somali warlord Mohammed Farrah Aidid. n160 In terms of WPR compliance, it appears that Congress was not consulted prior to the Aidid raid. This breach of the WPR is conceded, as it is not difficult to conclude that trying to kill or capture a heavily armed and defended warlord is just the type of event that will involve hostilities. President Clinton, however, had kept Congress informed with reports prior to this point, even though before the contemplation of raids the WPR was reasonably inapposite. n161 Also relevant to a WPR compliance discussion is the fact that the Senate and the House of Representatives had passed similar resolutions lending some support to the humanitarian operation prior to the raid. n162 [\*886] The legal implications of this fact pattern, such as whether President Clinton was on the sixty-day clock or whether he should have been, were rendered moot when he announced the day after the servicemen were killed that "all U.S. forces would be home within six months." n163 At the first sight of blood, there was really no need for the WPR to constrain the Executive; in this instance, the constant television footage of the bodies of U.S. troops being dragged through the streets of Mogadishu was more than enough to do the job. n164 The Somalia intervention, therefore, does not offer much in terms of WPR compliance. Rather, the intervention simply fits into the pattern of post-1973 presidential unilateral uses of force that do offer much about the WPR. This is so since the intervention was just another presidential unilateral use of force that had the potential to, but did not, end up like Korea or Vietnam. With this foray complete, it is now time to return to a discussion that is more relevant to the WPR's effect on U.S. foreign policy. G. Kosovo In a Note defending the WPR, perhaps the most difficult presidential unilateral use of force to address is the "air war" n165 over Kosovo. n166 Because the use of force lasted seventy-nine days, n167 [\*887] nineteen over the sixty-day blank check window, and because Congress failed to pass a resolution explicitly ratifying the Executive's actions, n168 Kosovo is, at first glance, a unilateral presidential use of force that stands in defiance of the WPR. Perhaps this is true in a legal sense, but this Note will show Kosovo to be nothing of the sort. While it is a tougher case to argue, the protracted air war over Kosovo still fulfilled the spirit of the WPR. The Kosovo conflict was the byproduct of the Dayton Accords, a U.S.-led negotiated ceasefire to the ethnic cleansing in Bosnia, which as a concession to the Serbs made no mention of the Serbian province that was populated almost entirely by non-Serbs. n169 Thus, when Serbia eventually began implementing a genocidal campaign against the Albanian citizens of Kosovo that became so fierce and televised that it became "politically untenable" for the United States to remain uninvolved, n170 President Clinton ordered U.S. forces to join the NATO air war against Serbia. n171 Unfortunately for WPR compliance, there seems to be little evidence of President Clinton consulting with members of Congress before the attacks began. Thus, it must be conceded that in the case of the Kosovo Intervention, the Executive failed to meet the initial consultation requirement in the WPR. President Clinton, however, did submit an informative report to Congress within forty-eight hours of the beginning of the intervention in a manner that he labeled "consistent with the [WPR]." n172 Like many of the reports of his predecessors, President Clinton's report did not concede that U.S. forces were "introduced ... into hostilities or into situations where imminent involvement in hostilities is clearly [\*888] indicated by the circumstances." n173 Accordingly, the sixty-day countdown provision was never triggered, and Congressmen critical of President Clinton's actions were spurred to file a suit similar to the one brought in Lowry. n174 The plaintiff congressmen were wrong to assert that the evasive report submitted by President Clinton violated the WPR. Perhaps President Clinton was guilty of taking advantage of a legislative loophole or perhaps he simply had a different interpretation of what the Kosovo intervention would entail. Regardless, the twenty-six members of Congress that sued the President were still unable to muster enough support to either close that loophole or call the President on his bluff. n175 The WPR calls for the Executive to submit a report in certain circumstances - it does not require the Executive to submit a report that satisfies the subjective demands of Congress. n176 Thus, even the district court noted, "The Court does not understand ... why plaintiffs believe the President did not comply with [the reporting requirement] by virtue of the letters he sent to Speaker Hastert and Senator Thurmond on March 26, 1999." n177 Regardless of the consultation or reporting issues, the courts refused, to take the baton from the congressmen in their race against the Executive. Affirming the district court's dismissal on the grounds of standing, the D.C. Circuit reasoned that the multiplicity of self-help measures available to the congressmen, such as passing a law proscribing the President from continuing the campaign, or decreasing funding for the venture, took the group out of the Coleman v. Miller exception n178 to the Raines v. Byrd ban n179 on standing to assert a legislative institutional injury. n180 As a result, the D.C. Circuit sent the WPR battle back to the political branches. Again, as noted in the Persian Gulf discussion, Congress's inability to pass an act or resolution condemning the Executive is not [\*889] the fault of the WPR. n181 In this instance, Congress had numerous chances to impose its will upon President Clinton. n182 While a declaration of war failed the House by the extreme margin of 427 to two, and a ratification of the air strikes failed by the tied vote of 213 to 213, a concurrent resolution ordering the President to end the conflict failed by a vote of 290 to 139, and an emergency appropriations bill providing funding for military operations in Kosovo even passed. n183 It should also be noted that the House, which failed to adopt the Senate's concurrent resolution authorizing the intervention, passed a resolution by the margin of 424 to one, praising participating U.S. servicemen for their courage and service. n184 Thus, while Congress failed to rebuke the President and even relinquished its trump card, the power of the purse, n185 it cannot be said that Congress was shut out of the Kosovo debate. While at an irreducible minimum there was no ex ante or ex post facto authorization for President Clinton's use of force, n186 Congress was nothing like the paralyzed and incompetent actor that many of its critics argued it to be. n187 In the Kosovo intervention, Congress was a player - albeit a player who lost. This Note suggests that the WPR had something to do with this greater assertion of power and more specifically with how the intervention played out. Even if it did not legally constrain the Executive, the WPR framed the debate between the two political branches and led to numerous congressional votes. Thus, while Professor Yoo may be right to state that the Kosovo intervention displayed the WPR's "impotence" n188 as a legal document, one may still recognize the effect of the WPR as a document of practicality. While the Kosovo intervention lasted much longer than other presidential unilateral uses of force, the intervention was nothing like [\*890] Korea or Vietnam. n189 Even Professor Yoo, an opponent of the intervention, acknowledged that "the war for the most part had a limited, controlled, even antiseptic quality to it that called for little fighting on the ground by U.S. troops." n190 The "safe" quality of the intervention can be attributed to the use of air strikes, which as Professor Kurth poignantly points out, allows the pilots to remain fifteen-thousand feet away from the real carnage. n191 In fact, of 34,000 sorties flown by NATO, only two planes were shot down, and more importantly, no U.S. servicemen were killed, n192 substantiating Professor Kurth's claim that Kosovo was "a completely bloodless victory." n193 The use of ground troops in the peacekeeping action notwithstanding, Professor Yoo's and Professor Kurth's descriptions of the intervention make any comparison with Korea or Vietnam unlikely. Moreover, Professor Yoo, when trying to reason why (in stark contrast to the other uses of force referenced in this Note) there was no outcry from legal scholars over the shaky constitutional ground that the Kosovo intervention rested upon, n194 speculated that the members of the academy were silent, "because they believed the conflict served higher ends, that of promoting a normative vision of international justice in which each individual is guaranteed a certain minimum of liberty and freedom." n195 Regardless of this statement's veracity, it must be at the very least self-evident that this conflict stands irreconcilable with, for example, Vietnam, a savage conflict that unequivocally served no "higher end." n196 [\*891] While the causal link may be less than perfect, this Note contends that the WPR, which codified the nation's distaste for spilled blood, played a noticeable role in President Clinton's actions. After all, President Clinton did submit constant reports to Congress informing it of the state of the conflict, n197 as § 1543(c) requires, even though he, like all the post-WPR Executives, chafed at the WPR as an unconstitutional restriction on the Executive's Commander in Chief powers. n198 While the length of the conflict, seventy-nine days, screams a breach of the WPR, if President Clinton, at the end of the first sixty-day window, exercised the § 1544(b) option to take thirty more days to help with the withdrawal of U.S. forces, he would have ended the Kosovo intervention with time to spare. n199 While this option was not exercised and President Clinton did violate the sixty-day window, the existence of the sixty-day limit at the very least provided a framework for discussion with a standard that does not favor the Executive. Though the consultation requirement seems to have been violated in this context, it is worthwhile to ask if that truly matters. While it is true that the WPR itself states that its purpose is to ensure intertwined decisionmaking between the Executive and Congress when it comes to introducing U.S. forces into hostilities, n200 it should be asked if this goal is realistically achievable. Considering that in over 200 years of history, there have been well over one-hundred presidential unilateral uses of force, n201 could Congress (and legal scholars) actually have thought that from 1973 on the "sole organ" n202 of U.S. foreign policy would now sit down and reach a consensus with over 500 people before using the military to achieve short-term policy objectives? In this respect this Note asks the reader to consider whether the purpose of the consultation requirement was achieved. Did evasion of the consultation requirement lead to a foreign policy train wreck? Certainly in the Kosovo Intervention, the answer is an emphatic no. For these reasons, then, the Kosovo intervention should be viewed as evidence that the WPR has had a positive effect on the implementation of presidential unilateral uses of force. IV. Conclusion: The Exonerated WPR and the Wolf in Sheep's Clothing The WPR is an effective piece of war powers legislation. As Part III made clear, no presidential unilateral use of force since 1973 has developed into a conflict that in any way resembles the WPR's impetus, Vietnam. Rather, the great majority of these conflicts have been characterized by their brevity, safety, and downright success. Yes, there have been tragic outcomes in Lebanon and Somalia; but what happened in response to those tragedies? In Lebanon, President Reagan actually submitted to being Congress's "messenger-boy," n203 asking for its permission, per the WPR, to continue the operation. And in Somalia, at the first sight of a looming disaster, it was President Clinton who cut short the operation. Thus, from 1973 on, it is easy to argue that sitting Executives have made responsible use of their power to act unilaterally in the foreign affairs realm. The WPR has even contributed to a congressional resurgence in the foreign affairs arena. In many of these conflicts, we have seen Congress conducting numerous votes on whether and how it should respond to a unilaterally warring Executive. In some of the conflicts, Congress has come close to invoking the WPR against rather impetuous Executives. n204 In Lebanon, Congress actually succeeded in the task. n205 It is this Note's contention, though, that even when Congress failed to legally invoke the WPR, these votes had normative effects on the Executives in power. Such votes demonstrate that Congress desires to be, and will try to be, a player in foreign affairs decisions. So, perhaps the enactment of the WPR, the rise of Congress (at least in the normative sense) and the successful string of unilateral presidential uses of force are just a series of coincidences. This Note, however, with common sense as its companion, contends that they are not. Rather, it is self-evident that the WPR has played a significant role in improving the implementation of presidential unilateral uses of force.

#### WPR specificity is key

Economou, 11 [GW International Affairs Review, “After Libya: The Need to Revise the War Powers Resolution”, By By Chris Economou, Contributor, October 17, 2011. <http://www.iar-gwu.org/node/353>]

Before U.S. President Barack Obama committed American forces to the North Atlantic Treaty Organization (NATO) mission in Libya last spring, he neglected to provide an adequate reason for America’s involvement or seek approval from Congress. Because of this decision, Obama faced extensive criticism as the conflict dragged on. In a letter sent to the president in March 2011, House Speaker John Boehner wrote that he was “troubled” that Obama committed U.S. military forces to the conflict “without clearly defining” what the mission is and without first consulting Congress. Additionally, on June 3, 2011, the House of Representatives passed a nonbinding resolution demanding that President Obama define U.S. goals in Libya. Obama’s failure to consult with Congress creates a dangerous precedent that denies Congress a say in deciding when and how U.S. military forces should be used and instead places these decisions into the hands of just one person - he president. To ensure that this practice does not continue, Congress should learn from Obama’s actions in Libya and make the War Powers Resolution binding and more specific. The U.S. Constitution grants Congress the power to declare wars and fund the military. However, the Constitution simultaneously empowers the president to carry out wars as commander-in-chief. Both branches of government have long debated this dichotomy of war powers. The War Powers Resolution of 1973 meant to end this debate by requiring closer collaboration between the branches when the United States enters into a conflict. The War Powers Resolution states that the president may not engage the U.S. military in any conflict for more than 60 days unless Congress has declared war extended the sixty-day period, or cannot convene due to an armed attack on U.S. territory. Passed over a presidential veto, the War Powers Resolution means to serve as a check on the president’s ability to commit U.S. forces to lengthy military engagements without approval from Congress. Since the start of U.S. involvement in NATO’s Libya mission, President Obama has neglected the War Powers Resolution by denying that the conflict is actually a war. In a 38-page report sent to lawmakers on June 15, 2011, the Obama administration asserted that since “U.S. operations do not involve sustained fighting or active exchanges of fire with hostile forces, nor do they involve U.S. ground troops,” the Libyan conflict does not constitute a war or fall under the War Powers Resolution. Despite Obama’s argument to the contrary, the Libya mission is exactly the type of conflict that the War Powers Resolution was meant to control. Through air support and strategic bombings, NATO’s mission was clearly of a military nature and directly assisted the Libyan rebels’ takeover of the capital city of Tripoli on August 23, 2011. Considering that America provided the bulk of NATO’s military capabilities and funding in Libya, this was as much America’s war as it was NATO’s. Therefore, Obama should have consulted with and sought approval from Congress and adhered to the 60-day deadline, as the Resolution requires. To prevent future presidents from ignoring Congress’ role in military conflicts, the War Powers Resolution should be revised to make it more specific and binding. Such revisions should include accurately defining terms used in the original resolution such as “engaging in hostilities” that are ambiguous and can be easily circumvented by the executive branch. These revisions should also include penalties which are automatically enacted should the president fail to uphold the resolution’s requirements. Such penalties would most likely include the automatic withholding of funds reserved for the conflict without a congressional debate or vote. The outcome would be a new War Powers Resolution, which still **allows the president to dispatch** American armed forces when necessary, but ensures effective oversight by elected officials in Congress.

#### Only Congress can modify the WPR to make it an effective signal

Patera, 12 [spring, Hamline Journal of Public Law and Policy, 33 Hamline J. Pub. L. & Pol'y 387, CURRENT PUBLIC LAW AND POLICY ISSUE: War Powers Resolution in the Age of Drone Warfare: How Drone Technology has Dramatically Reduced the Resolution's Effectiveness as a Curb on Executive Power, John, J.D., May 2012, Hamline University School of Law. p.lexis]

C. A Solution The Resolution remains an important tool for Congress to shape public opinion and needs to be updated. Therefore, with the advent of new technology that could not have been predicted by its drafters, it should be amended to make it a more effective in the 21st century. The Obama Administration's arguments for why it was not engaging in "hostilities" within the meaning of the Resolution are at the very least supportable and undermine the Resolution's effectiveness as a curb on executive power. As Representative Boehner argued, however, to suggest that one is not engaging in "hostilities" while armed drones are firing upon military targets "defies rational thought." n166 If Congress wishes to use the Resolution as a means of limiting presidential action through public pressure, than it must amend the Resolution to explicitly prohibit the offensive use of drones. As demonstrated by the conflict in Libya, assertions by members of Congress that a president is engaging in "hostilities" by deploying drones are undermined by the limited manner in which they operate, and more importantly, the relative lack of exposure of American personnel to harm. Members of Congress attempted to rectify this by passing funding legislation that would specifically prohibit the offensive use of drones in Libya, but were unsuccessful. n167 Further, if passed, the funding legislation would merely have been an ad hoc veto against the unilateral action taken by the President. This was not the intent of those who drafted the Resolution. The purpose of the Resolution was to ensure Congress' participation in the initial decision to send armed forces abroad. n168 With regards to the operation in Libya, the Resolution provided the [\*421] guidelines that shaped the scope of American involvement. n169 Indeed, it is reasonable to infer that the operation would have been carried out in a different manner, if at all, had the Resolution included a specific prohibition against **the offensive use of** drone technology. At the very least, should the Libyan conflict prove to be a blueprint for future small-scale military interventions, Congress would have concrete language to point to when attempting to shape public opinion. If Congress wants to ensure its role in the decision to send American military forces abroad, then it must recognize that drones are here to stay. V. Conclusion The War Powers Resolution needs updating. Though it has its critics, the Resolution does still serve a purpose in ensuring that Congress plays a concurrent role in the field of foreign policy, as intended by this Nation's Founders. The Resolution's language does not, however, adequately address the types of small-scale conflicts that are likely to occur in the 21st century. A product of the Vietnam era, the Resolution places too great of an emphasis on the exposure of American servicemen to harm, and gives presidents the freedom to rely on new technologies to skirt its strictures. Drone technology is here to stay. Technological advancements mean that drones will be more agile, more deadly, and more effective. Further, the increase in the numbers of drones utilized by American armed forces mean that they will play an even greater role in future conflicts. The drafters of the Resolution did not, and could not envision the day where American pilots could deliver their aircraft's deadly payload while remaining safely on the ground, far from the conflict. The intent in passing the Resolution was to ensure that Congress has a mechanism to ensure its concurrent participation in the decision to involve the Nation in armed conflict. **Congress should** therefore **amend the Resolution to** [\*422] **include the offensive use of** armed **drones** within the definition of "hostilities."

#### **Congress key to establish a signal of accountability – the plan enables mediation of disputes**

Farley, 12 [winter, 2012, South Texas Law Review, 54 S. Tex. L. Rev. 385, “Drones and Democracy: Missing Out on Accountability?” Benjamin R. Farley\* J.D. with honors, Emory University School of Law, 2011. Editor-in-Chief, Emory International Law Review, 2010-2011. M.A., The George Washington University Elliott School of International Affairs, 2007, p. lexis]

Among the relevant accountability-holders, Congress is best positioned to strengthen the U.S. accountability system for use-of-force decisions. Congress can both define the limits of presidential authority to [\*423] use force and compel adherence to those limits. Moreover, Congress need not wait for an election or a plaintiff with standing to employ its accountability mechanisms. Congress should reinvigorate the WPR regime by insisting on presidential compliance. Congress should no longer tolerate scenarios like Kosovo or Libya in which the President uses force beyond the sixty-day window without congressional authorization. Moreover, Congress should not allow such a scenario to arise in the first place. When the President uses force abroad, Congress should take up the matter immediately and determine well before the expiration of the sixty-day clock whether the United States will go to war. This determination is Congress's constitutional responsibility. Earlier determinations will also avoid the spectacle of last-minute congressional ratification of a president's decision to go to war simply to avoid the appearance of marginalization, as was the case during the 1991 Gulf War. Obviously, merely approving or disapproving of a president's decision to use force is not enough. Congress must be willing to enforce its determination through its appropriations authority. Having actually employed its supervisory accountability mechanism in the manner described here, Congress will more likely be able to rely on judicial support and enforcement. Congress should strengthen the WPR regime by defining hostilities in a manner that links hostilities to the scope and intensity of a use of force, irrespective of the attendant threat of U.S. casualties. Without defining hostilities, Congress has ceded to the President the ability to evade the trigger and the limits of the WPR. The President's adoption of a definition of hostilities that is tied to the threat of U.S. casualties or the presence of U.S. ground troops opens the door to long-lasting and potentially intensive operations that rely on drones - at least beyond the sixty-day window - that escape the WPR by virtue of drones being pilotless (which is to say, by virtue of drones being drones). Tying hostilities to the intensity and scope of the use of force will limit the President's ability to evade Congressional regulation of war. It will curtail future instances of the United States being in an armed conflict for purposes of international law but not for purposes of domestic law, as was the case in Libya. Finally, a statutory definition of hostilities will provide the judiciary with a meaningful standard for determining presidential compliance with the WPR - assuming the future existence of a plaintiff able to surmount the various prudential doctrines that have counseled against entertaining WPR cases thus far.

#### That makes the WPR effective – the alternative is unilateral decision making that collapses drone leadership

Cowan, 04 [Kelly, “Rethinking the War Powers Resolution: A Strengthened Check on Unfettered Presidential Decision Making Abroad”, 45 Santa Clara L. Rev. 99 (2004), Editor, Santa Clara Law Review, Volume 45; J.D. Candidate, Santa Clara University School of Law; B.A., Economics, University of Colorado]

Finally, the War Powers Resolution can become more effective if the judiciary is able to better interpret specific provisions of the statute.27 Future cases must be brought by plaintiffs in such a way as to avoid dismissal on justiciable grounds, such as constituting a political question, lack of standing, or lack of ripeness.228 In order to escape such dismissal, cases need to center on the meaning of the words within the statute, rather than on alleged presidential actions.229 If courts could better interpret the meaning of words within the Resolution, such as "consult"23 ° or "hostilities,"23' the expectations of the president's actions would be more clearly defined. Thus, Congress would know when the president fails to meet the Resolution's requirements and could legitimately act in response to indiscretions. VI. CONCLUSION The world today is a different place as compared to 1973, when the War Powers Resolution was passed. As drastic changes have taken place in the United States and the world at large, it is now even more imperative that both the executive and the legislative branches of the government determine the federal government's foreign policy decisions. 32 In order to safeguard the United States from unilateral and hasty decision making, certain provisions of the War Powers Resolution should be amended. The Resolution should also be better enforced and interpreted, in order to be a more effective statute. These changes to the Resolution would help reinforce the United States' position as a world leader, while at the same time respecting the global trend of multilateral foreign policy and decision making.

## 2ac

### AT: T Restriction

#### We meet – The WPR is a statutory restriction

Scheffer, 99 [Copyright (c) 1999 Oklahoma City University Oklahoma City University Law Review Spring / Summer, 1999 24 Okla. City U.L. Rev. 233 LENGTH: 27979 words FRANCHISING LAW SYMPOSIUM: ARTICLE: Does Absolute Power Corrupt Absolutely? Part I. A Theoretical Review of Presidential War Powers NAME: Martin S. Sheffer \* BIO: \* Associate Professor (retired), Old Dominion University and Tuskegee University; A.B., A.M., Hunter College, CUNY; Ph.D., New School For Social Research, p. lexis]

 Earlier I suggested that the essence of the debate over the President's powers as commander-in-chief outside of declared wars is whether he has independent power to commit our military forces to combat. That question, notwithstanding Jackson's concurrence in Youngstown, n195 has not been answered by any definitive Supreme Court decision. Congress, however, has indicated its own answer in the War Powers Resolution (WPR) n196 and the National Emergencies Act (NEA). n197 The former was vetoed by President Nixon as an unconstitutional infringement of the President's powers as commander-in-chief. It was enacted over his veto. The WPR is a statutory restriction on the President's powers. It is also ambiguous. It limits the President's power to commit troops into hostilities to instances of (1) a declaration of war, (2) a specific statutory authorization, or (3) a national emergency created by an attack on the United States, its territories or possessions, or its armed forces. n198 The supposed prohibitions contained in the WPR, however, are more imagined than real. The Resolution does in fact recognize, according to Arthur S. Miller, that the President can unilaterally employ the armed forces of the United States whenever and wherever he wishes to do so. n199 In other words, despite the fire storm of emotion and rhetoric, very little, if anything, has changed.

#### Counter interp – limitations or qualifications, not prohibitions

CAA 8,COURT OF APPEALS OF ARIZONA, DIVISION ONE, DEPARTMENT A, STATE OF ARIZONA, Appellee, v. JEREMY RAY WAGNER, Appellant., 2008 Ariz. App. Unpub. LEXIS 613

P10 The term "restriction" is not defined by the Legislature for the purposes of the DUI statutes. See generally A.R.S. § 28-1301 (2004) (providing the "[d]efinitions" section of the DUI statutes). In the absence of a statutory definition of a term, we look to ordinary dictionary definitions and do not construe the word as being a term of art. Lee v. State, 215 Ariz. 540, 544, ¶ 15, 161 P.3d 583, 587 (App. 2007) ("When a statutory term is not explicitly defined, we assume, unless otherwise stated, that the Legislature intended to accord the word its natural and obvious meaning, which may be discerned from its dictionary definition.").

P11 The dictionary definition of "restriction" is "[a] limitation or qualification." Black's Law Dictionary 1341 (8th ed. 1999). In fact, "limited" and "restricted" are considered synonyms. See Webster's II New Collegiate Dictionary 946 (2001). Under these commonly accepted definitions, Wagner's driving privileges were "restrict[ed]" when they were "limited" by the ignition interlock requirement. Wagner was not only [\*7] statutorily required to install an ignition interlock device on all of the vehicles he operated, A.R.S. § 28-1461(A)(1)(b), but he was also prohibited from driving any vehicle that was not equipped with such a device, regardless whether he owned the vehicle or was under the influence of intoxicants, A.R.S. § 28-1464(H). These limitations constituted a restriction on Wagner's privilege to drive, for he was unable to drive in circumstances which were otherwise available to the general driving population. Thus, the rules of statutory construction dictate that the term "restriction" includes the ignition interlock device limitation.

#### Restrict doesn’t mean prohibit

**Coffey, 82** - US Circuit Judge, dissenting (VICTOR D. QUILICI, ROBERT STENGL, et al., GEORGE L. REICHERT, and ROBERT E. METLER, Plaintiffs-Appellants, v. VILLAGE OF MORTON GROVE, et al., Defendants-Appellees Nos. 82-1045, 82-1076, 82-1132 UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT 695 F.2d 261; 1982 U.S. App. LEXIS 23560, lexis)

Pursuant to section 83, a municipality can enact an ordinance reasonably restricting or confining the use and possession of firearms. A municipality can also require registration of firearm ownership. What the legislature has authorized is limited regulation of firearm possession by local units of government, but not prohibition. Section 83 does not allow a municipality such as Morton Grove to categorically prohibit handgun possession. [\*\*35] To limit or restrict involves a circumscription which falls far short of an absolute prohibition.

"The words 'prohibit' and 'restrict' are not synonymous. They are not alike in their meaning in their ordinary use . . . . 'To restrict is to restrain within bounds; to limit; to confine and does not mean to destroy or prohibit.'"

### Case

#### President believes he is constrained by statute

Saikrishna Prakash 12**,** professor of law at the University of Virginia and Michael Ramsey, professor of law at San Diego, “The Goldilocks Executive” Feb, SSRN

We accept that the President’s lawyers search for legal arguments to justify presidential action, that they find the President’s policy preferences legal more often than they do not, and that the President sometimes disregards their conclusions. But the close attention the Executive pays to legal constraints suggests that the President (who, after all, is in a good position to know) believes himself constrained by law. Perhaps Posner and Vermeule believe that the President is mistaken. But we think, to the contrary, it represents the President’s recognition of the various constraints we have listed, and his appreciation that attempting to operate outside the bounds of law would trigger censure from Congress, courts, and the public.

#### **Congress key to establish a signal of accountability – the plan enables mediation of disputes**

Farley, 12 [winter, 2012, South Texas Law Review, 54 S. Tex. L. Rev. 385, “Drones and Democracy: Missing Out on Accountability?” Benjamin R. Farley\* J.D. with honors, Emory University School of Law, 2011. Editor-in-Chief, Emory International Law Review, 2010-2011. M.A., The George Washington University Elliott School of International Affairs, 2007, p. lexis]

Among the relevant accountability-holders, Congress is best positioned to strengthen the U.S. accountability system for use-of-force decisions. Congress can both define the limits of presidential authority to [\*423] use force and compel adherence to those limits. Moreover, Congress need not wait for an election or a plaintiff with standing to employ its accountability mechanisms. Congress should reinvigorate the WPR regime by insisting on presidential compliance. Congress should no longer tolerate scenarios like Kosovo or Libya in which the President uses force beyond the sixty-day window without congressional authorization. Moreover, Congress should not allow such a scenario to arise in the first place. When the President uses force abroad, Congress should take up the matter immediately and determine well before the expiration of the sixty-day clock whether the United States will go to war. This determination is Congress's constitutional responsibility. Earlier determinations will also avoid the spectacle of last-minute congressional ratification of a president's decision to go to war simply to avoid the appearance of marginalization, as was the case during the 1991 Gulf War. Obviously, merely approving or disapproving of a president's decision to use force is not enough. Congress must be willing to enforce its determination through its appropriations authority. Having actually employed its supervisory accountability mechanism in the manner described here, Congress will more likely be able to rely on judicial support and enforcement. Congress should strengthen the WPR regime by defining hostilities in a manner that links hostilities to the scope and intensity of a use of force, irrespective of the attendant threat of U.S. casualties. Without defining hostilities, Congress has ceded to the President the ability to evade the trigger and the limits of the WPR. The President's adoption of a definition of hostilities that is tied to the threat of U.S. casualties or the presence of U.S. ground troops opens the door to long-lasting and potentially intensive operations that rely on drones - at least beyond the sixty-day window - that escape the WPR by virtue of drones being pilotless (which is to say, by virtue of drones being drones). Tying hostilities to the intensity and scope of the use of force will limit the President's ability to evade Congressional regulation of war. It will curtail future instances of the United States being in an armed conflict for purposes of international law but not for purposes of domestic law, as was the case in Libya. Finally, a statutory definition of hostilities will provide the judiciary with a meaningful standard for determining presidential compliance with the WPR - assuming the future existence of a plaintiff able to surmount the various prudential doctrines that have counseled against entertaining WPR cases thus far.

#### That makes the WPR effective – the alternative is unilateral decision making that collapses drone leadership

Cowan, 04 [Kelly, “Rethinking the War Powers Resolution: A Strengthened Check on Unfettered Presidential Decision Making Abroad”, 45 Santa Clara L. Rev. 99 (2004), Editor, Santa Clara Law Review, Volume 45; J.D. Candidate, Santa Clara University School of Law; B.A., Economics, University of Colorado]

Finally, the War Powers Resolution can become more effective if the judiciary is able to better interpret specific provisions of the statute.27 Future cases must be brought by plaintiffs in such a way as to avoid dismissal on justiciable grounds, such as constituting a political question, lack of standing, or lack of ripeness.228 In order to escape such dismissal, cases need to center on the meaning of the words within the statute, rather than on alleged presidential actions.229 If courts could better interpret the meaning of words within the Resolution, such as "consult"23 ° or "hostilities,"23' the expectations of the president's actions would be more clearly defined. Thus, Congress would know when the president fails to meet the Resolution's requirements and could legitimately act in response to indiscretions. VI. CONCLUSION The world today is a different place as compared to 1973, when the War Powers Resolution was passed. As drastic changes have taken place in the United States and the world at large, it is now even more imperative that both the executive and the legislative branches of the government determine the federal government's foreign policy decisions. 32 In order to safeguard the United States from unilateral and hasty decision making, certain provisions of the War Powers Resolution should be amended. The Resolution should also be better enforced and interpreted, in order to be a more effective statute. These changes to the Resolution would help reinforce the United States' position as a world leader, while at the same time respecting the global trend of multilateral foreign policy and decision making.

### AT: K

#### 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.

#### Mack is wrong – threats aren’t psychological projections -- political engagement key

Hoffman, 86 [Stanley, Center for European Studies at Harvard, “On the Political Psychology of Peace and War: A Critique and an Agenda,” Political Psychology 7.1 JSTOR]

The traditionalists, even when, in their own work, they try scrupulous-ly to transcend national prejudices and to seek scientific truth, believe that it is unrealistic to expect statesmen to stand above the fray: By definition, the statesmen are there to worry not only about planetary survival, but — first of all—about national survival and safety. To be sure, they ought to be able to see how certain policies, aimed at enhancing security, actually increase in-security all around. But there are sharp limits to how far they can go in their mutual empathy or in their acts (unlike intellectuals in their advice), as long as the states' antagonisms persist, as long as uncertainty about each other's intentions prevails, and as long as there is reason to fear that one side's wise restraint, or unilateral moves toward "sanity," will be met, not by the rival's similar restraint or moves, but either by swift or skillful political or military exploitation of the opportunity created for unilateral gain, or by a for-midable domestic backlash if national self-restraint appears to result in ex-ternal losses, humiliations or perceptions of weakness. There is little point in saying that the state of affairs which imposes such limits is "anachronistic" or "unrational." To traditionalists, the radicals' stance — condemnation from the top of Mount Olympus — can only impede understanding of the limits and possibilities of reform. To be sure, the fragmentation of mankind is a formidable obstacle to the solution of many problems that cannot be handled well in a national framework, and a deadly peril insofar as the use of force, the very distinctive feature of world politics, now entails the risk of nuclear war. But one can hardly call anachronistic a phenomenon—the assertion of national identity — that, to the bulk of [HU]mankind, appears not only as a necessity but also as a positive good, since humanity's fragmentation results from the very aspiration to self-determination. Many people have only recently emerged from foreign mastery, and have reason to fear that the alternative to national self-mastery is not a world government of assured fairness and efficiency, but alien domination. As for "unrationality," the drama lies in the contrast between the ra-tionality of the whole, which scholars are concerned about—the greatest good of the greatest number, in utilitarian terms — and the rationality or greatest good of the part, which is what statesmen worry about and are responsible for. What the radicals denounce as irrational and irresponsible from the viewpoint of mankind is what Weber called the statesman's ethic of responsibility. What keeps ordinary "competitive conflict processes" (Deutsch, 1983)— the very stuff of society — from becoming "unrational" or destructive, isprecisely what the nature of world politics excludes: the restraint of the partners either because of the ties of affection or responsibility that mitigate the conflict, or because of the existence of an outsider — marriage counselor, arbitrator, judge, policeman or legislator— capable of inducing or imposing restraints. Here we come to a third point of difference. The very absence of such safeguards of rationality, the obvious discrepancy between what each part intends, and what it (and the whole world) ends with, the crudeness of some of the psychological mechanisms at work in international affairs—as one can see from the statements of leaders, or from the media, or from inflamed publics—have led many radicals, especially among those whose training or profession is in psychoanalysis or mental health, to treat the age-old contests of states in terms, not of the psychology of politics, but of individual psychology and pathology. There are two manifestations of this. One is the tendency to look at nations or states as individuals writ large, stuck at an early stage of development (similarly, John Mack (1985) in a recent paper talks of political ideologies as carrying "forward the dichotomized structures of childhood"). One of my predecessors writes about "the correspondence between development of the individual self and that of the group or nation," and concludes "that intergroup or international conflict contains the basic elements of the conflict each individual experiences psychologically" (Volkan, 1985). Robert Holt, from the viewpoint of cognitive psychology, finds "the largest part of the American public" immature, in a "phase of development below the Conscientious" (Holt, 1984). The second related aspect is the tendency to look at the notions statesmen or publics have of "the enemy," not only as residues of childhood or adolescent phases of development, but as images that express "disavowed aspects of the self" (Stein, 1985), reveal truths about our own fears and hatreds, and amount to masks we put on the "enemy," because of our own psychological needs. Here is where the clash between traditionalists and radicals is strongest. Traditionalists do not accept a view of group life derived from the study of individual development or family relations, or a view of modern society derived from the simplistic Freudian model of regressed followers identifying with a leader. They don't see in ideologies just irra-tional constructs, but often rationally selected maps allowing individuals to cope with reality. They don't see national identification as pathological, as an appeal to the people's baser instincts, more aggressive impulses or un-sophisticated mental defenses; it is, as Jean-Jacques Rousseau so well understood, the competition of sovereign states that frequently pushes people from "sane" patriotism to "insane" nationalism (Rousseau's way of preventing the former from veering into the latter was, to say the least, im-practical: to remain poor in isolation). Nor do they see anything "primitive" in the nation's concern for survival: It is a moral and structural requirement. Traditionalists also believe that the "intra-psychic" approach distorts reality. Enemies are not mere projections of negative identities; they are often quite real. To be sure, the Nazis' view of the Jews fits the metaphor of the mask put on the enemy for one's own needs. But were, in return, those Jews who understood what enemies they had in the Nazis, doing the same? Is the Soviet domination of Eastern Europe, is the Soviet regime's treatment of dissidents, was the Gulag merely a convenient projection of our intrapsychic battles? Clichés such as the one about how our enemy "understands only force" may tell us a great deal about ourselves; but sometimes they contain half-truths about him, and not just revelations about us. Our fears flow not only from our private fantasies but also from concrete realities and from the fantasies which the international state of nature generates. In other words, the psychology of politics which traditionalists deem adequate is not derived from theories of psychic development and health; it is derived from the logic of the international milieu, which breeds the kind of vocabulary found in the historians and theorists of the state of nature: fear and power, pride and honor, survival and security, self-interest and reputation, distrust and misunderstanding, commitment and credibility. It is also derived from the social psychology of small or large groups, which resorts to the standard psychological vocabulary that describes mental mechanisms or maneuvers and cognitive processes: denial, projection, guilt, repression, closure, rigidity, etc.... But using this vocabulary does not imply that a group whose style of politics is paranoid is therefore composed of people who, as private individuals, are paranoid. Nor does it relieve us of the duty to look at the objective reasons and functions of these mental moves, and of the duty to make explicit our assumptions about what constitutes a "healthy," wise, or proper social process. Altogether, traditionalists find the mental health approach to world affairs unhelpful. Decisions about war and peace are usually taken by small groups of people; the temptation of analyzing their behavior either, literal-ly, in terms of their personalities, or, metaphysically, in terms borrowed from the study of human development, rather than in those of group dynamics or principles of international politics is understandable. But it is misleading. What is pathological in couples, or in a well-ordered community, is, alas, frequent, indeed normal, among states, or in a troubled state. What is malignant or crazy is usually not the actors or the social process in which they are engaged: it is the possible results. The grammar of motives which the mental health approach brands as primitive or immature is actually rational for the actors. to the substitution of labels for explanations, to bad analysis and fanciful prescriptions. Bad analysis: the tendency to see in group coherence a regressive response to a threat, whereas it often is a rational response to the "existential" threats entailed by the very nature of the international milieu. Or the tendency to see in the effacement or minimization of individual differences in a group a release of unconscious instincts, rather than a phenomenon that can be perfectly adaptive—in response to stress or threats—or result from governmental manipulation or originate in the code of conduct inculcated by the educational system, etc.. . The habit of comparing the state, or modern society, with the Church or the army, and to analyze human relations in these institutions in ways that stress the libidinal more than the cognitive and superego factors, or equate libidinal bonds and the desire for a leader. The view that enemies are above all products of mental drives, rather than inevitable concomitants of social strife at every level. Or the view that the contest with the rival fulfills inter-nal needs, which may be true, but requires careful examination of the nature of these needs (psychological? bureaucratic? economic?), obscures the objective reasons of the contest, and risks confusing cause and function. Indeed, such analysis is particularly misleading in dealing with the pre-sent scene. The radicals are so (justifiably) concerned with the nuclear peril that the traditional ways in which statesmen and publics behave seem to vindicate the pathological approach. But this, in turn, incites radicals to overlook the fundamental ambiguity of contemporary world politics. On the one hand, there is a nuclear revolution—the capacity for total destruction. On the other hand, many states, without nuclear weapons, find that the use of force remains rational (in terms of a rationality of means) and beneficial at home or abroad—ask the Vietnamese, or the Egyptians after October 1973, or Mrs. Thatcher after the Falklands, or Ronald Reagan after Grenada. The superpowers themselves, whose contest has not been abolished by the nuclear revolution (it is the stakes, the costs of failure that have, of course, been transformed), find that much of their rivalry can be conducted in traditional ways — including limited uses of force —below the level of nuclear alarm. They also find that nuclear weapons, while—perhapsunusable rationally, can usefully strengthen the very process that has been so faulty in the prenuclear ages: deterrence (this is one of the reasons for nuclear proliferation). The pathological approach interprets deterrence as expressing the deterrer's belief that his country is good, the enemy's is bad. This is often the case, but it need not be; it can also reflect the conviction that one's country has interests that are not mere figments of the imagination, and need to be protected both because of the material costs of losing them, and because of the values embedded in them. As for war planning, it is not a case of "psychological denial of unwelcome reality" (Montville, 1985). but a — perhaps futile, perhaps dangerous—necessity in a world where deterrence may once more fail. The prescriptions that result from the radicals' psychological approach also run into traditionalist objections. Even if one accepts the metaphors of collective disease or pathology, one must understand that the "cure" can only be provided by politics. All too often, the radicals' cures consist of perfectly sensible recommendations for lowering tensions, but fail to tell us how to get them carried out —they only tell us how much better the world would be, if only "such rules could be established" (Deutsch, 1983). Sometimes, they express generous aspirations — for common or mutual security—without much awareness of the obstacles which conflict-ing interests, fears about allies or clients, and the nature of the weapons themselves, continue to erect. Sometimes, they too neglect the ambiguity of life in a nuclear world: The much lamented redundancy of weapons, a calamity if nuclear deterrence fails, can also be a cushion against failure. Finally, many of the remedies offered are based on an admirable liberal model of personality and politics: the ideal of the mature, well-adjusted, open-minded person (produced by liberal education and healthy family relations) transposed on the political level, and thus accompanied by the triumph of democracy in the community, by the elimination of militarism and the spread of functional cooperation abroad. But three obstacles remain unconquered: first, a major part of the world rejects this ideal and keeps itself closed to it (many of the radicals seem to deny it, or to ignore it, or to believe it doesn't matter). Second, the record shows that real democracies, in their behavior toward non-democratic or less "advanced" societies, do not conform to the happy model (think of the US in Central America). Third, the task of reform, both of the publics and of the statesmen, through consciousness raising and education is hopelessly huge, incapable of being pursued equally in all the important states, and — indeed — too slow if one accepts the idea of a mortal nuclear peril. These, then, are the dimensions of a split that should not be minimized or denied

#### Zero empirical or logical basis for the psychoanalytic critique

Mootz, 2k [Francis J, Visiting Professor of Law, Pennsylvania State University, Dickinson School of Law; Professor of Law, Western New England College School of Law, Yale Journal of the Law & Humanities, 12 Yale J.L. & Human. 299, p. 319-320]

Freudian psychoanalysis increasingly is the target of blistering criticism from a wide variety of commentators. 54 In a recent review, Frederick Crews reports that   independent studies have begun to converge toward a verdict... that there is literally nothing to be said, scientifically or therapeutically, to the advantage of the entire Freudian system or any of its component dogmas Analysis as a whole remains powerless... and understandably so, because a thoroughgoing epistemological critique, based on commonly acknowledged standards of evidence and logic decertifies every distinctively psychoanalytic proposition. 55   The most telling criticism of Freud's psychoanalytic theory is that it has proven no more effective in producing therapeutic benefits than have other forms of psychotherapy. 56 Critics draw the obvious conclusion that the benefits (if any) of psychotherapy are neither explained nor facilitated by psychoanalytic theories. Although Freudian psychoanalytic theory purports to provide a truthful account of the operations of the psyche and the causes for mental disturbances, critics argue that psychoanalytic theory may prove in the end to be nothing more than fancy verbiage that tends to obscure whatever healing effects psychotherapeutic dialogue may have. 57

Freudian psychoanalysis failed because it could not make good on its claim to be a rigorous and empirical science. Although Freud's mystique is premised on a widespread belief that psychoanalysis was a profound innovation made possible by his genius, Freud claimed only that he was extending the scientific research of his day within the organizing context of a biological model of the human mind. 58  [\*320]  Freud's adherents created the embarrassing cult of personality and the myth of a self-validating psychoanalytic method only after Freud's empirical claims could not withstand critical scrutiny in accordance with the scientific methodology demanded by his metapsychology. 59 The record is clear that Freud believed that psychoanalysis would take its place among the sciences and that his clinical work provided empirical confirmation of his theories. This belief now appears to be completely **unfounded** and indefensible.

Freud's quest for a scientifically grounded psychotherapy was not amateurish or naive. Although Freud viewed his "metapsychology as a set of directives for constructing a scientific psychology," n60 Patricia Kitcher makes a persuasive case that he was not a blind dogmatist who refused to adjust his metapsychology in the face of contradictory evidence. n61 Freud's commitment to the scientific method, coupled with his creative vision, led him to construct a comprehensive and integrative metapsychology that drew from a number of scientific disciplines in an impressive and persuasive manner. n62 However, the natural and social sciences upon which he built his derivative and interdisciplinary approach developed too rapidly and unpredictably for him to respond. n63 As developments in biology quickly undermined Freud's theory, he "began to look to linguistics and especially to anthropology as more hopeful sources of support," n64 but this strategy later in his career proved equally [\*321] unsuccessful. n65 The scientific justification claimed by Freud literally eroded when the knowledge base underlying his theory collapsed, leaving his disciples with the impossible task of defending a theory whose presuppositions no longer were plausible according to their own criteria of validation. n66

#### One speech act doesn’t cause securitization – it’s an ongoing process

**Ghughunishvili 10**

Securitization of Migration in the United States after 9/11: Constructing Muslims and Arabs as Enemies Submitted to Central European University Department of International Relations European Studies In partial fulfillment of the requirements for the degree of Master of Arts Supervisor: Professor Paul Roe <http://www.etd.ceu.hu/2010/ghughunishvili_irina.pdf>

As provided by the Copenhagen School securitization theory is comprised by speech act, acceptance of the audience and facilitating conditions or other non-securitizing actors contribute to a successful securitization. The causality or a one-way relationship between the speech act, the audience and securitizing actor, where politicians use the speech act first to justify exceptional measures, has been criticized by scholars, such as Balzacq. According to him, the one-directional relationship between the three factors, or some of them, is not the best approach. To fully grasp the dynamics, it will be more beneficial to “rather than looking for a one-directional relationship between some or all of the three factors highlighted, it could be profitable to focus on the degree of congruence between them. 26 Among other aspects of the Copenhagen School’s theoretical framework, which he criticizes, the thesis will rely on the criticism of the lack of context and the rejection of a ‘one-way causal’ relationship between the audience and the actor. The process of threat construction, according to him, can be clearer if external context, which stands independently from use of language, can be considered. 27 Balzacq opts for more context-oriented approach when it comes down to securitization through the speech act, where a single speech does not create the discourse, but it is created through a long process, where context is vital. 28 He indicates: In reality, the speech act itself, i.e. literally a single security articulation at a particular point in time, will at best only very rarely explain the entire social process that follows from it. In most cases a security scholar will rather be confronted with a process of articulations creating sequentially a threat text which turns sequentially into a securitization. 29 This type of approach seems more plausible in an empirical study, as it is more likely that a single speech will not be able to securitize an issue, but it is a lengthy process, where a the audience speaks the same language as the securitizing actors and can relate to their speeches.

#### Legal reforms restrain the cycle of violence and prevent error replication

Colm O’Cinneide 8, Senior Lecturer in Law at University College London, “Strapped to the Mast: The Siren Song of Dreadful Necessity, the United Kingdom Human Rights Act and the Terrorist Threat,” Ch 15 in Fresh Perspectives on the ‘War on Terror,’ ed. Miriam Gani and Penelope Mathew, <http://epress.anu.edu.au/war_terror/mobile_devices/ch15s07.html>

This ‘symbiotic’ relationship between counter-terrorism measures and political violence, and the apparently inevitable negative impact of the use of emergency powers upon ‘target’ communities, would indicate that it makes sense to be very cautious in the use of such powers. However, the impact on individuals and ‘target’ communities can be too easily disregarded when set against the apparent demands of the greater good. Justice Jackson’s famous quote in Terminiello v Chicago [111] that the United States Bill of Rights should not be turned into a ‘suicide pact’ has considerable resonance in times of crisis, and often is used as a catch-all response to the ‘bleatings’ of civil libertarians.[112] The structural factors discussed above that appear to drive the response of successive UK governments to terrorist acts seem to invariably result in a depressing repetition of mistakes.¶ However, certain legal processes appear to have some capacity to slow down the excesses of the counter-terrorism cycle. What is becoming apparent in the UK context since 9/11 is that there are factors at play this time round that were not in play in the early years of the Northern Irish crisis. A series of parliamentary, judicial and transnational mechanisms are now in place that appear to have some moderate ‘dampening’ effect on the application of emergency powers.¶ This phrase ‘dampening’ is borrowed from Campbell and Connolly, who have recently suggested that law can play a ‘dampening’ role on the progression of the counter-terrorism cycle before it reaches its end. Legal processes can provide an avenue of political opportunity and mobilisation in their own right, whereby the ‘relatively autonomous’ framework of a legal system can be used to moderate the impact of the cycle of repression and backlash. They also suggest that this ‘dampening’ effect can ‘re-frame’ conflicts in a manner that shifts perceptions about the need for the use of violence or extreme state repression.[113] State responses that have been subject to this dampening effect may have more legitimacy and generate less repression: the need for mobilisation in response may therefore also be diluted.

#### Condo Bad

#### Case outweighs and the alt doesn’t solve

### AT: McNeal CP

#### Administration not viewed as credible – SOP and Congressional acquiescence key

Goldmsith, 13 [Jack Goldsmith is the Henry L. Shattuck Professor at Harvard Law School, where he teaches and writes about national security law, presidential power, cybersecurity, international law, internet law, foreign relations law, and conflict of laws. Before coming to Harvard, Professor Goldsmith served as Assistant Attorney General, Office of Legal Counsel from 2003–2004, and Special Counsel to the Department of Defense from 2002–2003. Professor Goldsmith is a member of the Hoover Institution Task Force on National Security and Law, “ Why the Administration Needs to Get Congress on Board for Its Stealth War” <http://www.lawfareblog.com/2013/03/why-the-administration-needs-to-get-congress-on-board-for-its-stealth-war/>]

I disagree with Steve’s claim that we don’t know how the government conceives of its authority or the limits on it. The administration has told us a lot about that – in speeches, papers, leaks, and more, though of course it could give us much more detail. Steve correctly says we needn’t trust the government’s words. But note that Steve’s proposed remedy is “a more comprehensive public defense by the Executive Branch.” To which one can ask: Why should we trust the words of a more comprehensive public defense? Public skepticism about the administration’s drone program has grown in step with its public defenses. I think the administration made a big mistake in thinking that unilateral disclosures alone — in speeches, white papers, controlled leaks to authors and journalists, and other “public defenses” – would legitimate its policies. The reason is precisely what Steve puts his finger on: Outsiders needn’t trust Executive branch representations, and over time they won’t trust its representations if that is all the information they have on a matter they care about, especially on an issue as fraught as executive authority to kill an American citizen. This is where separations of powers can help. One way to make the president’s secret actions and decisions and authorities legitimate and credible is to have an adversarial institution look at and pass on them. GTMO detentions became more legitimate and less controversial after another branch of government, the judiciary, looked at them and largely agreed with the executive’s assessment. I don’t think judicial review is even conceivably available for most of our stealth war. But congressional review is. As I once wrote: [A] different adversarial branch of government — Congress — can play an analogous role. The congressional intelligence and arms services committees know a lot about the president’s targeting policies, and have gone along with the president’s actions. These committees could (without revealing sensitive information) do more to enhance the president’s credibility by stating publicly — and preferably in a bipartisan fashion — that they have monitored the president’s high-value targeting decisions and find them, and the facts and processes on which they are based, to be sound. Having the intelligence committees publicly on board helps, but what the administration really needs now is to have Congress on board. The only way to legitimate the administration’s stealth war tactics, and to stop the growing bipartisan sniping at and distrust of them (which will only grow and grow if not addressed), is to make Congress vote on them and get behind them. The administration should ask for a comprehensive authorization for the tactics it is now deploying in the “war on terrorism.” I know, this approach is risky; secrets can spill out; Congress might give too much or too little authority; and the administration will be tagged with the legacy of making war permanent. There are plenty of excuses for not forging congressional approval, all of them premised on short-term thinking and a remarkable paucity of executive branch leadership. At some point soon the pain of not engaging Congress will be greater than the pain of engaging Congress, and at that point the administration will wish it had gone to Congress sooner.

#### Doesn’t solve signaling -- Griffin says statutory requirements are necessary to advance the international agenda – binding constraints signal accountability – Maxwell says endorsement is vital to global legitimacy the CP is hollow – Ellison says Obama called on Congress to act, follow through key – Economou says only restrictions solve inevitable circumvention

#### Perm do both:

#### This counterplan is a voting issue for deterrence --- fiats the object on the resolution which kills aff offense AND it’s fiat artificially limits the topic, decreasing the scope of discussion and undermining real world education – independently the topic mandates the judge isn’t the executive - the impact is jurisdiction

#### Second plank doesn’t solve:

#### Congressional publication isn’t sufficient

Gregory S. McNeal 3/5/13 (Pepperdine University School of Law, "Targeted Killing and Accountability" [http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=1819583)](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1819583%29)

The challenge with such a reporting and designation strategy is that it doesn’t fit neatly into the network based targeting strategy and current practices outlined in Parts I-III. If the U.S. is seeking to disrupt networks, then how can there be reporting that explains the networked based targeting techniques without revealing all of the links and nodes that have been identified by analysts? Furthermore, for side payment targets, the diplomatic secrecy challenges identified in Part I remain --- there simply may be no way the U.S. can publicly reveal that it is targeting networks that are attacking allied governments. These problems are less apparent when identifying the broad networks the U.S. believes are directly attacking American interests, however publication of actual names of targets will be nearly impossible (at least ex ante) under current targeting practices.

#### Transparency– can’t create a public check

Jonathan Hafetz 13, Associate Prof of Law at Seton Hall University Law School, former Senior Staff Attorney at the ACLU, served on legal teams in multiple Supreme Court cases regarding national security, June 18th, 2013, "War Without Strategy," Boston Review, www.bostonreview.net/world-books-ideas/war-without-strategy

Obama also pledged to make more information about America’s secret wars public. This is an important part of restricting drones and other operations conducted away from the battlefield. Transparency enables the public to act as a check on a war that has only widened over time. Secrecy, by contrast, allows the government to engage in ad hoc operations without consideration of a larger strategy for fighting terrorism or bringing the conflict to a close. ¶ Greater transparency, however, will only go so far. As Mazzetti and Scahill show, one of the greatest challenges to restricting drones is that they permit the United States to engage in war without experiencing war’s hardships firsthand. A war that brings little risk to the homeland or its citizens—including those in the armed forces—does not elicit much protest, as polling on the use of drones against foreign targets has consistently shown. Whereas the public would likely demand a real strategy for completing a war in which its own sons and daughters are dying, the urgency of such demands is tempered in a drone war, providing cover for yet more improvisational fighting.¶ The temptation to use drones will inevitably increase as the technology becomes more accurate and effective. But higher-precision killing will not alter the reality of death and destruction where drones strike or the terror they instill when they dot the skies, all of which fuels anti-American sentiment and creates tensions with partner states. The tipping point will come only when the United States absorbs and internalizes drones’ hidden costs and commits to a strategy that takes those costs seriously. The President’s speech suggests that this process has begun, but there is still a long way to go.

#### Doesn’t solve norms

Naureen Shah 13, August 17th, 2013, "Obama has not delivered on May's promise of transparency on drones," The Guardian, www.theguardian.com/commentisfree/2013/aug/17/obama-promise-transparency-drone-killing

Even more damning is that, in the absence of any commitment to investigating credible allegations of unlawful deaths, the United States appears indifferent to the question of who is actually dying in drone strikes. President Obama admitted in May that four US citizens had been killed, three of whom – including 16-year-old Abdulrahman Aal-Awlaki – he admitted were not intended targets. But the president did not define the identities of the more than 4,000 other people killed, or specifically address reports that a significant number of the dead – in assessments varying between 400 and nearly 1,000, according to the Bureau of Investigative Journalism – were civilians.¶ When the president acknowledges four deaths of US citizens, but not 4,000 deaths of non-Americans, he signals to the world a callous and discriminatory disregard for human life. Perhaps only a fraction of these 4,000 deaths were unlawful. But acknowledging and investigating these deaths is a matter of dignity and justice – for the survivors of strikes, their communities and their countrymen.¶ When deaths are found to be unlawful, victims' families and survivors have a right to reparation. Refusing to investigate deaths is a matter of disrespect both for international law and for the public's right to know the full truth.¶ Many critics, before President Obama's May address, feared that foreign governments would follow the US to lead and conduct secret drone strikes without regard for international law. They should still be concerned about the precedent the US government is setting: refusing to investigate or be held accountable for wrongful deaths.¶ The risk now is not just that the late May reforms on drone strikes were half-measures, but that they were calibrated to merely reassure the public, defuse criticism, and avert longer, harder scrutiny of whether the government's actions are lawful and right. A token dose of transparency may remove the sting of government secrecy, but it does not cure the disease.

### AT: Terror DA

#### Toon – disproven by nuclear testing, says it’s the equivalent of a counterforce exchange, not actual thermonuclear exchange

**Coates 2009** – former adjunct professor at George Washington University, President of the Kanawha Institute for the Study of the Future and was President of the International Association for Impact Assessment and was President of the Association for Science, Technology and Innovation, M.S., Hon D., FWAAS, FAAAS, (Joseph F., Futures 41, 694-705, "Risks and threats to civilization, humankind, and the earth”, ScienceDirect, WEA)

The opportunity for setting off a nuclear device, a dirty bomb, in a city is real. It appears to be a practical matter to acquire, illegally, nuclear material or a device, particularly some of those that may have been smuggled out of Russia during the breakup of the USSR. Again, suppose the device went off in one of our largest cities—New York, Chicago, Philadelphia, Los Angeles—it could kill as many as several million people, an event of 6 or 7 on my scale. It would probably injure more and create chronic disorders and shortening of life for millions of others. But that would be it. There would be no substantial effects leading to loss of civilization in the nation or the world from that kind of event. The political responses are difficult to anticipate and a distraction to conjecture about here.

#### Zero risk of acquisition – miniaturization and enrichment are too difficult – even Al Qaeda sucks at it after years of trying

Adnan Khan 9-13-2013; lecturer on political and Islamic issues. The initial founder and editor-in-chief of The Revolution Observer. Debunking the Myths of Nuclear Terrorism http://www.revolutionobserver.com/2013/09/debunking-myths-of-nuclear-terrorism.html

Contrary to their popular portrayal in Hollywood, nuclear bombs are actually both difficult to manufacture and challenging to effectively deploy, making it virtually impossible for terrorist groups to acquire them. Nuclear devices initiate nuclear chain reactions, and these reactions generate roughly a million times more energy than comparable chemical reactions. The enrichment of Uranium is probably the most complex aspect of building a nuclear device; It presents numerous challenges for any nation in developing a nuclear programme. The concept requires separating a heavier isotope (atoms of the same element having a different number of neutrons) of uranium from a lighter isotope of uranium in order to enrich or purify the stock to higher than 80% of U235 - sufficient for use in weapons. Achieving this separation on a suitably refined level differentiated by only a few subatomic particles is an extremely complicated process. A series of centrifuges carry out the delicate task of separating isotopes, these are finely tuned machine components, able to spin at high speeds while fully containing and separating highly corrosive gas. It is the combination of appropriate calibration and rotational speed that allow for enrichment to take place, low-quality bearings just would not do the job. Thereafter fabricating fissile material and developing either a gun-type device or implosion device is a process only 9-10 nations in the world have accomplished. South Africa has since renounced it, whilst North Korea is still working on it.[2] Today nuclear warheads sit in missiles and this would be another challenge any nation would face, i.e. delivering a bomb to its intended target. The components of the bomb that actually initiate a nuclear explosion must be miniaturized in order to be placed in a missile. Modern missiles are smaller than a human being weighing only a few hundred pounds. Actually getting a warhead down to this size is no simple exercise. It requires, among other things, precision manufacturing, exceptional quality control and a good understanding of nuclear physics. All of this would be after decades of testing to ensure detonation upon delivery. Building a Nuclear weapon requires a comprehensive commitment from any nation for its national resources to be deployed in such a manner. It is not just about one facility, it needs an industrial base. A nuclear program requires long term facilities, which are very energy intensive, years of experimentation, fissionable material and high grade industrial machinery. All of this is beyond most countries let alone terrorist groups. In the case of al Qaeda, even after immense security, sanctuary and financial backing they have been unable to produce a crude nuclear device in any meaningful way.

#### Their evidence is alarmism --- overstates strength of terrorists

**Mueller and Stewart 12** (John, Senior Research Scientist at the Mershon Center for International Security Studies, Adjunct Professor in the Department of Political Science, Ohio State University, Senior Fellow at Cato Institute, and Mark G., Australian Research Council Professorial Fellow, Professor and Director at the Centre for Infrastructure Performance and Reliability at the University of Newcastle, “The Terrorism Delusion,” International Security, Volume 37, Issue 1, Summer 2012, pg. 81-110, Project Muse)

People such as Giuliani and a whole raft of “**security experts**” have **massively exaggerate**d the capacities and the **dangers presented by** what they have often called “**the universal adversary**” both in its domestic and in its international form. The Domestic Adversary To assess the danger presented by terrorists seeking to attack the United States, we examined the fifty cases of Islamist extremist terrorism that have come to light since the September 11 attacks, whether based in the United States or abroad, in which the United States was, or apparently was, targeted. These cases make up (or generate) the chief terrorism fear for Americans. Table 1 presents a capsule summary of each case, and the case numbers given throughout this article refer to this table and to the free web book from which it derives.7 In 2009, the U.S. Department of Homeland Security (DHS) issued a lengthy report on protecting the homeland. Key to achieving such an objective should be a careful assessment of the character, capacities, and desires of potential terrorists targeting that homeland. Although the report contains a section dealing with what its authors call “the nature of the terrorist adversary,” the section devotes only two sentences to assessing that nature: “The number and high profile of international and domestic terrorist attacks and disrupted plots during the last two decades underscore the determination and persistence of terrorist organizations. Terrorists have proven to be relentless, patient, opportunistic, and flexible, learning from experience and modifying tactics and targets to exploit perceived vulnerabilities and avoid observed strengths.”8 This description may apply to some terrorists somewhere, including at least a few of those involved in the September 11 attacks. Yet, it scarcely describes the vast majority of those individuals picked up on terrorism charges in the United States since those attacks. The inability of the DHS to consider this fact even parenthetically in its fleeting discussion is not only amazing but perhaps delusional in its single-minded preoccupation with the extreme. In sharp contrast, the authors of the case studies, with remarkably few exceptions, describe their subjects with such words as incompetent, ineffective, unintelligent, idiotic, ignorant, inadequate, unorganized, misguided, muddled, amateurish, dopey, unrealistic, moronic, irrational, and foolish.9 And in nearly all of the cases where an operative from the police or from the Federal Bureau of Investigation was at work (almost half of the total), the most appropriate descriptor would be “gullible.” In all, as Shikha Dalmia has put it, would-be terrorists need to be “radicalized enough to die for their cause; Westernized enough to move around without raising red flags; ingenious enough to exploit loopholes in the security apparatus; meticulous enough to attend to the myriad logistical details that could torpedo the operation; self-sufficient enough to make all the preparations without enlisting outsiders who might give them away; disciplined enough to maintain complete secrecy; and—above all—psychologically tough enough to keep functioning at a high level without cracking in the face of their own impending death.”10 The case studies examined in this article certainly do not abound with people with such characteristics. In the eleven years since the September 11 attacks, no terrorist has been able to detonate even a primitive bomb in the United States, and except for the four explosions in the London transportation system in 2005, neither has any in the United Kingdom. Indeed, the only method by which Islamist terrorists have managed to kill anyone in the United States since September 11 has been with gunfire—inflicting a total of perhaps sixteen deaths over the period (cases 4, 26, 32).11 This limited capacity is impressive because, at one time, small-scale terrorists in the United States were quite successful in setting off bombs. Noting that the scale of the September 11 attacks has “tended to obliterate America’s memory of pre-9/11 terrorism,” Brian Jenkins reminds us (and we clearly do need reminding) that the 1970s witnessed sixty to seventy terrorist incidents, mostly bombings, on U.S. soil every year.12 The situation seems scarcely different in Europe and other Western locales. Michael Kenney, who has interviewed dozens of government officials and intelligence agents and analyzed court documents, has found that, in sharp contrast with the boilerplate characterizations favored by the DHS and with the imperatives listed by Dalmia, Islamist militants in those locations are operationally unsophisticated, short on know-how, prone to making mistakes, poor at planning, and limited in their capacity to learn.13 Another study documents the difficulties of network coordination that continually threaten the terrorists’ operational unity, trust, cohesion, and ability to act collectively.14 In addition, although some of the plotters in the cases targeting the United States harbored **visions** of toppling large buildings, destroying airports, setting off dirty bombs, or bringing down the Brooklyn Bridge (cases 2, 8, 12, 19, 23, 30, 42), all **were nothing more than wild fantasies**, **far beyond** the plotters’ **capacities** however much they may have been encouraged in some instances by FBI operatives. Indeed, in many of the cases, target selection is effectively a random process, lacking guile and careful planning. Often, it seems, targets have been chosen almost capriciously and simply for their convenience. For example, a would-be bomber targeted a mall in Rockford, Illinois, because it was nearby (case 21). Terrorist plotters in Los Angeles in 2005 drew up a list of targets that were all within a 20-mile radius of their shared apartment, some of which did not even exist (case 15). In Norway, a neo-Nazi terrorist on his way to bomb a synagogue took a tram going the wrong way and dynamited a mosque instead.15 Although the efforts of would-be terrorists have often seemed pathetic, even comical or absurd, the comedy remains a dark one. Left to their own devices, at least a **few of these** often **inept and** almost always **self-deluded individuals could** eventually have **commit**ted some **serious**, if small-scale, **damage**.

#### **Non-unique—drone usage is decreasing now—terrorists are already emboldened**

IBD 10/1 (Investor’s Business Daily, 10/1/13, “Obama Curbs Drone Strikes, Emboldening Terrorists,” <http://news.investors.com/ibd-editorials/100113-673324-obama-curbs-drone-strikes-jihadists-increase-terror-strikes.htm?ref=SeeAlso>)

A new study shows terrorist strikes have **surged** as U.S. drone strikes have plunged since May, when the president announced he was taking America off "perpetual war footing."¶ As the House intelligence committee chief warns, "This is no time to retreat." Yet that's exactly what our commander in chief is doing.¶ The threat of terrorism is "not diminishing," warned GOP Rep. Mike Rogers, head of the intel panel. "There have been counterterrorism changes made by the administration that have concerned us all."¶ Those changes went into effect May 23, after President Obama gave a speech at the National Defense University in Washington declaring a "new phase" in the drone campaign against terrorist targets in Pakistan, Yemen and Somalia — the one thing Obama has heretofore done right in the ongoing war he won't name.¶ Reacting to criticism from Muslim-rights groups, he vowed to curb the use of drones to "avoid civilian casualties."¶ "The use of force must be seen as part of a larger discussion we need to have about a comprehensive counterterrorism strategy — because for all the focus on the use of force, force alone cannot make us safe," he said.¶ "We cannot use force everywhere that a radical ideology takes root; and in the absence of a strategy that reduces the wellspring of extremism, a perpetual war — through drones or Special Forces or troop deployments — will prove self-defeating, and alter our country in troubling ways."¶ Obama then announced the U.S. would shift to a new strategy of winning Muslim hearts and minds.¶ "So the next element of our strategy involves addressing the underlying grievances and conflicts that feed extremism — from North Africa to South Asia," he said.¶ To the joy of our enemy**, Obama has followed through on his word**. "We have limited the use of drones," he confirmed last week in his speech to the United Nations.¶ In fact, drone strikes have fallen off sharply. According to the Long War Journal, the U.S. this year has launched just 23 drone strikes in Pakistan — half 2012's rate and a fraction of 2010's peak of 117.¶ **Not coincidentally, the tempo of terrorist activity has surged over the same period**. According to the West Point Combating Terrorism Center, there have been more than 60 terror attacks around the world just since this July, the last one on a shopping mall in Nairobi, Kenya, which killed 68.

#### Link about transparency proves it links to the CP

#### The plan pre-empts larger backlash

Anderson ‘9 (Kenneth Anderson, Professor of Law, Washington College of Law, American University, and Research Fellow, The Hoover Institution, Stanford University and Member of its Task Force on National Security and the Law, 5/11/2009, Targeted Killing in U.S. Counterterrorism Strategy and Law, http://www.brookings.edu/~/media/research/files/papers/2009/5/11%20counterterrorism%20anderson/0511\_counterterrorism\_anderson.pdf)

Obama was right as a candidate and is correct as president to insist on the propriety of targeted killings—that is, the targeting of a specific individual to be killed, increasingly often by means of high technology, remote-controlled Predator drone aircraft wielding missiles from a stand-off position. The strategic logic that presses toward targeted standoff killing as a necessary, available and technologically advancing part of counterterrorism is overpowering. So too is the moral and humanitarian logic behind its use. Just as crucial programs of Predator-centered targeted killing are underway now in Afghanistan and, with increasing international controversy, Pakistan, over the long term these programs of stand-off targeted killing will be an essential element in United States counterterrorism into the future—and with targets having little or nothing to do with today’s iteration of the war on terror.6 Future administrations, even if they naturally prefer to couch the matter in softer terms, will likely follow the same path. Even if the whole notion seems to some disturbingly close to arbitrary killing, not open combat, it is often the most expedient—and, despite civilian casualties that do occur, most discriminatingly humanitarian—manner to neutralize a terrorist without unduly jeopardizing either civilians or American forces. But there’s a paradox in Obama’s embrace of targeted killing: Even as the strategic and humanitarian logic for it increases in persuasiveness, the legal space for it and the legal rationales on which it has been traditionally justified are in danger of shrinking. They are at risk of shrinking in ways that might surprise members of Congress and the Obama Administration. And they are at risk of shrinking through seemingly innocuous, unrelated legal policy actions that the Obama Administration and Congress might be inclined to take in support of various political constituencies, usually related to broadly admirable goals of human rights and international law. American domestic law—the law codifying the existence of the CIA and defining its functions—has long accepted implicitly at least some uses of force, including targeted killing, as self-defense toward ends of vital national security that do not necessarily fall within the strict terms of armed conflict in the sense meant by the Geneva Conventions and other international treaties on the conduct of armed conflict. Categories of the use of force short of armed conflict or war in a juridical sense—by intelligence services such as the CIA, for example—or by military agents in furtherance of national self defense and vital security interests, yet outside of the legal condition of armed conflict, date back in codified law to the founding of the CIA and, in state practice by the United States and other sovereigns, far further still. Yet as a matter of legal justification, successive administrations have already begun to cede this ground. Even the Bush Administration, with its unrivaled enthusiasm for executive power, always sought to cast its killing targets as the killing of combatants in what it legally characterized as armed conflicts, governed by the laws of war on the conduct of hostilities, known as “international humanitarian law” (IHL). This concession, however, if followed by the Obama Administration and beyond, will likely reduce the practical utility of a policy and security tool of both longstanding provenance and proven current value. It will likely reduce the flexibility of the United States to respond to emerging threats before they ripen into yet another war with non-state terrorists, and it will reduce the ability of the United Sates to address terrorist threats in the most discriminating fashion advancing technology permits. At this moment in which many policymakers, members of Congress and serious observers see primarily a need to roll back policies and assertions of authority made by the Bush Administration, any call for the Obama Administration and Congress to insist upon powers of unilateral targeted killing and to claim a zone of authority outside of armed conflict governed by IHL that even the Bush Administration did not claim must seem at once atavistic, eccentric, myopic and perverse. Many will not much care that such legal authority already exists in international and U.S. domestic law. Yet the purpose of this chapter is to suggest that, on the contrary, the uses to which the Obama Administration seeks to put targeted killing are proper, but they will require that it carefully preserve and defend legal authorities it should not be taking for granted and that its predecessors, including the Bush Administration, have not adequately preserved for their present day uses. People who threaten serious harm to the United States will not always be al Qaeda, after all. Nor will they forever be those persons who, in the words of the Authorization for the Use of Military Force (AUMF), “planned, authorized, committed or aided” the attacks of September 11. As I will explain, it would have been better had the Bush and Clinton Administrations, for their parts, formulated their legal justifications for the targeted uses of force around the legal powers traditionally asserted by the United States: the right of self-defense, including the right to use force even in circumstances not rising to the level of an “armed conflict” in order to have firmly fixed in place the clear legal ability of the United States to respond as it traditionally has. Although the United States still has a long way to go to dismember al Qaeda, its affiliates and subsidiaries, although Osama bin Laden and key al Qaeda terrorist leaders remain at large, and although the President of the United States still exercises sweeping powers both inherent and granted by Congress to use all national power against the perpetrators of September 11, time moves on. New

threats will emerge, some of them from states and others from non-state actors, including terrorist organizations. Some of those new threats will be new forms of jihadist terrorism; others will champion new and different causes. Even now, Islamist terror appears to be fragmenting into loose networks of shared ideology and aspiration rather than tightly vertical organizations linked by command and control.8 It will take successive feats of intellectual jujitsu to cast all of the targets such developments will reasonably put in the cross hairs as, legally speaking, combatants. Yet the problem is still deeper and more immediate than that, for the accepted space for targeted killings is eroding even within what a reasonable American might understand as the four corners of our conflict with al Qaeda. In many situations in which any American president, Obama certainly included, would want to use a targeted killing, it is unclear to some important actors—at the United Nations, among our allies, among international law scholars, and among NGO activists—as a matter of international law that a state of armed conflict actually exists or that a targeted killing can qualify as an act of self-defense. The legal situation, therefore, threatens to become one in which, on the one hand, targeted killing outside of a juridical armed conflict is legally impermissible and, on the other hand, as a practical matter, no targeted killing even within the context of a “war” with al Qaeda is legally permissible, either. Congress’s role in this area is admittedly a peculiar one. It is mostly—though not entirely—politically defensive in nature. After all, the domestic legal authorities to conduct targeted killings and other “intelligence” uses of force have existed in statutory form at least since the legislation that established the Central Intelligence Agency in 1947 and in other forms long pre-dating that.9 The problem is that although domestic legal authority exists for the use of force against terrorists abroad, currents are stirring in international law and elsewhere that move to undermine that authority. Powerful trend and opinion-setting—so-called “soft law”—currents are developing in ways that, over time, promise to make the exercise of this activity ever more difficult and to create a presumption, difficult to overcome, that targeted killing is in fact both illegitimate and, indeed, per se illegal except in the narrowest of war-like conditions. The role of Congress is therefore to reassert, reaffirm, and reinvigorate the category as a matter of domestic la and policy, and as the considered, official view of the United States as a matter of international law.

#### Self-defense authority solves the DA without effecting the plan

Robert Chesney, U-Texas School of Law Professor, 4/24/12, AQAP Is Not Beyond the AUMF: A Response to Ackerman, www.lawfareblog.com/2012/04/aqap-is-not-beyond-the-aumf-a-response-to-ackerman/

In any event, what is so bad about invoking Article II’s national self-defense theory as to a group that has repeatedly attempted to kill Americans? Let’s assume that Ackerman is correct and that the AUMF does not apply to AQAP. That would not automatically make the use of force against it problematic from a separation of powers perspective, for such uses of force might be justified under Article II. Ackerman takes the contrary view, writing that the president should have “to return to Congress, and the American people, for another round of express support for military campaigns against other terrorist threats.” This is too broad. In circumstances where the “terrorist threat” in question is an organization that has already attempted to kill Americans on multiple occasions and is plainly intent on doing so again when the opportunity presents itself, the president just as plainly has both the authority and the obligation under Article II to act to defend the country, with or without an explicit legislative authorization to do so. To give the most obvious example, President Clinton did not wait for an AUMF authorizing him to use force against al Qaeda in 1998 after the East African embassy bombings—and rightly so. Using force in self-defense against AQAP does not open the door to an endless war on terrorism. Ackerman attempts to taint the Article II self-defense argument by labeling it a “Bush-era claim” of “unilateral power…to open up new fronts in an endless war against terrorism,” adding that as a “constitutional lawyer” Obama must of course know “the weakness of such claims” and warning the president that using this theory “would profoundly alienate his base just when he needs it.” That last point may be true as a descriptive matter, but I hope that when presidents confront the possible need to use military force in national self-defense they make a conscious effort to minimize the weight given to the likely impact of the decision on their reelection prospects. As for the other points, I think they set up a straw man. As I’ve explained, using force against AQAP in no way commits the president to an open-ended war on terrorism writ large, delinked from al Qaeda.

#### Structural conditions make terror inevitable – counter-terror fails

Khan 10-6 (Taimur, Killing or capturing Al Qaeda militants ‘is not a silver bullet’, The National, 2013, www.thenational.ae/world/americas/killing-or-capturing-al-qaeda-militants-is-not-a-silver-bullet#ixzz2gz15teoZ)

US raids in Libya and Somalia have underscored the new Western focus on Africa as an emerging haven for Al Qaeda-affiliated militants. But such **one-off operations** will not address the conditions that have made the region a fertile ground for extremists, analysts cautioned. **Killing or capturing militant leaders “is not a silver bullet alone** ... it offers a chance to kick them down, but not keep them down”, a foreign security official said. Some militant groups have reportedly formed decentralised command structures that allows them to function despite the loss of senior commanders. According to a UN report, the Somali Al Shabab group suspected of participating in the Nairobi mall attack has a secret service that operates in discrete cells “with the intention of surviving any kind of dissolution” of its parent organisation. A much more difficult task than carrying out attacks on militants is helping weak governments address issues that drive people into militancy, said Thomas Sanderson, the director of the Transnational Threats Project at the Centre for Strategic and International Studies in Washington.

### AT: midterms

#### The midterm is too far away

**Cook, 10/3/13 –** editor of the Cook Political Report; politics analyst for National Journal(Charlie, “Why Republicans Will Never Have an Electoral Incentive to Compromise”

<http://www.nationaljournal.com/the-cook-report/why-republicans-will-never-have-an-electoral-incentive-to-compromise-20131003?mrefid=PoliticsRiver>

Moving to the subject of the shelf life of a budget fight gone bad, an Oct. 1 analysis by the Gallup Organization's Elizabeth Mendes looked at Gallup's approval and favorability ratings, among other poll numbers, immediately before the 1995-96 government shutdowns, just after them, and then several months later. Both President Clinton and Gingrich saw their numbers dive immediately after the shutdowns, but then they bounced back completely or within a digit or two. The current budget and debt-ceiling showdowns are occurring more than a year before the midterm elections; it seems unlikely they'll have the staying power to affect approval ratings that far in the future. Other events between now and Election Day are likely to shift the numbers around.

#### No extinction—reject 1% hyperbole

Robert O. **Mendelsohn 9**, the Edwin Weyerhaeuser Davis Professor, Yale School of Forestry and Environmental Studies, Yale University, June 2009, “Climate Change and Economic Growth,” online: <http://www.growthcommission.org/storage/cgdev/documents/gcwp060web.pdf>

The heart of the debate about climate change comes from a number of warnings from scientists and others that give the impression that human-induced climate change is an immediate threat to society (IPCC 2007a,b; Stern 2006). Millions of people might be vulnerable to health effects (IPCC 2007b), crop production might fall in the low latitudes (IPCC 2007b), water supplies might dwindle (IPCC 2007b), precipitation might fall in arid regions (IPCC 2007b), extreme events will grow exponentially (Stern 2006), and between 20–30 percent of species will risk extinction (IPCC 2007b). Even worse, there may be catastrophic events such as the melting of Greenland or Antarctic ice sheets causing severe sea level rise, which would inundate hundreds of millions of people (Dasgupta et al. 2009). Proponents argue there is no time to waste. Unless greenhouse gases are cut dramatically today, economic growth and well‐being may be at risk (Stern 2006).

These statements are largely alarmist and misleading. Although climate change is a serious problem that deserves attention, society’s immediate behavior has an extremely low probability of leading to catastrophic consequences. The science and economics of climate change is quite clear that emissions over the next few decades will lead to only mild consequences. The severe impacts predicted by alarmists require a century (or two in the case of Stern 2006) of no mitigation. Many of the predicted impacts assume there will be no or little adaptation. The net economic impacts from climate change over the next 50 years will be small regardless. Most of the more severe impacts will take more than a century or even a millennium to unfold and many of these “potential” impacts will never occur because people will adapt. It is not at all apparent that immediate and dramatic policies need to be developed to thwart long‐range climate risks. What is needed are long‐run balanced responses.

#### Carbon tax doesn’t solve globally

**Hale, 11** - PhD Candidate in the Department of Politics at Princeton University and a Visiting Fellow at LSE Global Governance, London School of Economics (Thomas, “A Climate Coalition of the Willing,” Washington Quarterly, Winter,http://www.twq.com/11winter/docs/11winter\_Hale.pdf

Intergovernmental efforts to limit the gases that cause climate change have all but failed. After the unsuccessful 2010 Copenhagen summit, and with little progress at the 2010 Cancun meeting, it is hard to see how major emitters will agree any time soon on mutual emissions reductions that are sufficiently ambitious to prevent a substantial (greater than two degree Celsius) increase in average global temperatures.

It is not hard to see why. No deal excluding the United States and China, which together emit more than 40 percent of the world’s greenhouse gases (GHGs), is worth the paper it is written on. But domestic politics in both countries effectively block ‘‘G-2’’ leadership on climate. In the United States, the Obama administration has basically given up on national cap-and-trade legislation. Even the relatively modest Kerry-Lieberman-Graham energy bill remains dead in the Senate. The Chinese government, in turn, faces an even harsher constraint. Although the nation has adopted important energy efficiency goals, the Chinese Communist Party has staked its legitimacy and political survival on raising the living standard of average Chinese. Accepting international commitments that stand even a small chance of reducing the country’s GDP growth rate below a crucial threshold poses an unacceptable risk to the stability of the regime. Although the G-2 present the largest and most obvious barrier to a global treaty, they also provide a convenient excuse for other governments to avoid aggressive action. Therefore, the international community should not expect to negotiate a worthwhile successor to the Kyoto Protocol, at least not in the near future.

Democrats will still need 60 votes to overcome filibusters in the Senate and currently only have 54 seats.

Gerrymandering ensures most GOP House incumbents are in safe districts and their constituents are in favor of a shutdown/debt ceiling default.

#### No chance Democrats can retake the House in 2014

NBC News, 10-1-13, p. <http://nbcpolitics.nbcnews.com/_news/2013/10/01/20763839-winners-and-losers-of-the-government-shutdown?lite>

Democrats' chances of regaining control of the House have been regarded as steep at best, given the advantages many GOP state legislatures crafted during the Census-mandated redistricting process in 2010. And more Senate Democrats must defend their seats in competitive states come 2014.Gerrymandering makes Democratic control of the House impossible in 2014

### AT: Debt Ceiling (Kentucky)

#### Unilateral action solves

**Reich, 10/4/13** – professor of econ at UC Berkeley (Robert, “Robert Reich predicts Obama will unilaterally lift debt ceiling rather than allow a U.S. default”

<http://www.straight.com/news/498861/robert-reich-predicts-obama-will-unilaterally-lift-debt-ceiling-rather-allow-us-default>

Georgia Straight: How close do you think the United States is to an Argentina-style default? Robert Reich: I don’t think the United States is close to that because it’s simply unthinkable. Argentina is one thing. The United States, though, is a central pillar of the global economy. And a default would have cataclysmic consequences for the global economy. Before we got to that point, even if the Republican Party or the Republicans in Congress refused to raise the debt limit, the president, I’m sure, would go along and raise the debt limit, notwithstanding. There is arguable constitutional authority for him to do so. Even if he has to withstand the slings and arrows of angry Republicans, the stakes are simply too high. And the fallout from not raising the debt ceiling would be too onerous. Georgia Straight: So you don’t anticipate a default happening anytime soon? Robert Reich: Well, I anticipate us getting up to the brink. I don’t think the president would lightly decide to unilaterally raise the debt ceiling. That means that he will literally be breaking the law. Again, arguably the constitution allows him to do so, if not requires him to do so, under these circumstances. It’s going to be—it could be—a constitutional crisis of sorts. But I don’t think at the end of the day that the president would allow the United States to default on its financial obligations.

#### Decline doesn’t cause war

Daniel W. Drezner 12, Professor, The Fletcher School of Law and Diplomacy, Tufts University, October 2012, “The Irony of Global Economic Governance: The System Worked,” <http://www.globaleconomicgovernance.org/wp-content/uploads/IR-Colloquium-MT12-Week-5_The-Irony-of-Global-Economic-Governance.pdf>

The final outcome addresses a dog that hasn’t barked: the effect of the Great Recession on cross-border conflict and violence. During the initial stages of the crisis, multiple analysts asserted that the financial crisis would lead states to increase their use of force as a tool for staying in power.37 Whether through greater internal repression, diversionary wars, arms races, or a ratcheting up of great power conflict, there were genuine concerns that the global economic downturn would lead to an increase in conflict. Violence in the Middle East, border disputes in the South China Sea, and even the disruptions of the Occupy movement fuel impressions of surge in global public disorder. ¶ The aggregate data suggests otherwise, however. The Institute for Economics and Peace has constructed a “Global Peace Index” annually since 2007. A key conclusion they draw from the 2012 report is that “The average level of peacefulness in 2012 is approximately the same as it was in 2007.”38 Interstate violence in particular has declined since the start of the financial crisis – as have military expenditures in most sampled countries. Other studies confirm that the Great Recession has not triggered any increase in violent conflict;

the secular decline in violence that started with the end of the Cold War has not been reversed.39 Rogers Brubaker concludes, “the crisis has not to date generated the surge in protectionist nationalism or ethnic exclusion that might have been expected.”40¶ None of these data suggest that the global economy is operating swimmingly. Growth remains unbalanced and fragile, and has clearly slowed in 2012. Transnational capital flows remain depressed compared to pre-crisis levels, primarily due to a drying up of cross-border interbank lending in Europe. Currency volatility remains an ongoing concern. Compared to the aftermath of other postwar recessions, growth in output, investment, and employment in the developed world have all lagged behind. But the Great Recession is not like other postwar recessions in either scope or kind; expecting a standard “V”-shaped recovery was unreasonable. One financial analyst characterized the post-2008 global economy as in a state of “contained depression.”41 The key word is “contained,” however. Given the severity, reach and depth of the 2008 financial crisis, the proper comparison is with Great Depression. And by that standard, the outcome variables look impressive. As Carmen Reinhart and Kenneth Rogoff concluded in This Time is Different: “that its macroeconomic outcome has been only the most severe global recession since World War II – and not even worse – must be regarded as fortunate.”42

#### Won’t pass – hardliners

**Klein, 10/5/13** – (Ezra, The shutdown is a Republican civil war, Washington Post wonkblog <http://www.washingtonpost.com/blogs/wonkblog/wp/2013/10/05/the-shutdown-is-a-republican-civil-war/?tid=pm_pop>)

The dysfunctions of the House Republican Conference are often blamed on the so-called Hastert rule. The Hastert rule, which isn’t an actual rule, is named after former House speaker Dennis Hastert, who famously tried to bring to the floor only bills that had the support of a majority of House Republicans. Boehner has generally followed it, which is why he won’t allow the Senate’s immigration bill on the floor; it may have the support of a majority of the House, but it doesn’t have support from a majority of House Republicans. What’s strange and fascinating about the shutdown debacle, however, is that a majority of House Republicans were with Boehner: They didn’t want a shutdown. “Two-thirds want a clean CR,” Rep. Peter King told the National Review, using the acronym for a “continuing resolution” to fund the government. “Including some of the people who got elected as tea party candidates from the South. You talk to them, they think this is crazy.” The White House thinks it’s crazy, too. “One faction of one party, in one house of Congress, in one branch of government doesn’t get to shut down the entire government just to refight the results of an election,” President Obama said this week. The question that’s puzzling Washington is how a minority of the majority is managing to dominate the House of Representatives. Robert Costa, Washington bureau chief for the National Review, estimates that there are only “30 to 40 true hardliners” among House Republicans. He says more than 100 House Republicans are solidly behind Boehner. But Boehner’s troops are scared. “Could they stand firm when pressured by the 30 or 40 hardliners and the **outside groups?”** he asked. You’d think they could. Or, at the least, you’d think Boehner could. Typically, party leaders protect the mainstream members from the demands of the fringe. They control fundraising and committee assignments and the floor schedule, which gives them substantial power over individual members. And if outside groups want a seat at the table, they need to stay on leadership’s good side, which tends to keep them from going too far off the reservation. But the Republican leadership no longer has the strength to play that role. “What we’re seeing is the collapse of institutional Republican power,” Costa said. Having previously failed to rally tea party adherents behind him in negotiations over the fiscal cliff, Boehner can no longer serve that function in the House. “Ever since Plan B failed on the fiscal cliff in January and you saw Boehner in near tears in front of his conference, he’s been crippled,” Costa said. Boehner faces no plausible threat from traditional conservatives in his conference. They believe he’s one of them, they’re comforted that he’s speaker, and they’re generally terrified that a tea partier might replace him if he retires or is pushed out. The threat to Boehner comes from the right of his conference. Consequently, he panders to the fringe; as long as they’re happy, he’s safe. Members of the Republican establishment are agog. Cruz “pushed House Republicans into traffic and wandered away,” said conservative stalwart Grover Norquist, president of Americans for Tax Reform. But the real problem is that House Republican leaders didn’t push back. The reason the establishment has such trouble with the tea party is that the tea party really, truly means it. They don’t want to cut a deal. They don’t want to get the most that they reasonably can. Most represent extremely safe Republican districts and don’t care about positioning the party as a whole for the next election. Traditional politicians such as Boehner have no playbook for dealing with a powerful faction that’s completely uninterested in strategic or pragmatic concerns.

#### Illogical – Obama wouldn’t fight the plan if it diverted from the debt ceiling

Rosen 13 (Jeffrey, Legal Affairs Editor – New Republic, “A New Idea to Limit Drone Strikes Could Actually Legitimize Them,” New Republic, 2-11, <http://www.newrepublic.com/article/112392/drone-courts-congress-should-exercise-oversight-instead>)

On Sunday, Robert Gates, the former Pentagon chief for Presidents Obama and Bush, endorsed an idea that has been floated by Democratic lawmakers in the wake of John O. Brennan's confirmation hearings to be CIA Director: a drone court that would review the White House’s targeted killings of American citizens linked to al Qaida. The administration has signaled its openness to the idea of a congressionally created drone court, which would be modeled on the secret Foreign Intelligence Surveillance Court that reviews requests for warrants authorizing the surveillance of suspected spies or terrorists. But although senators at the Brennan hearings were rightly concerned about targeted killings operating without any judicial or congressional oversight, the proposed drone court would raise as many constitutional and legal questions as it resolved. And it would give a congressional and judicial stamp of approval to a program whose effectiveness, morality, and constitutionality are open to serious questions. Rather than rushing to create a drone court, Congress would do better to hold hearings about whether targeted drone killings are, in fact, morally, constitutionally, and pragmatically defensible in the first place. From the administration’s perspective, the appeal of a drone court is obvious: Despite the suggestion in the recently released Department of Justice White Paper white paper that the president’s unilateral decisions about targeted killings can’t be reviewed by judges, the administration cites Supreme Court cases that suggest the opposite: namely, that the president’s decision to designate Americans as enemy combatants can only be justified when authorized by Congress, with the possibility of independent judicial review.

#### Redistricting and primary fears block

**Isenstadt, 10/3/13** (Alex, Politico, “Government shutdown: Why many Republicans have no reason to deal” <http://www.politico.com/story/2013/10/government-shutdown-republicans-deal-97768.html?hp=l23>

The prevailing wisdom ahead of the government shutdown was that tea party lawmakers who agitated for it would fold within a few days, once they got an earful from angry constituents and felt the sting of bad headlines. House GOP leaders called it a “touch the stove” moment for the band of Republican rebels, when ideology would finally meet reality. But there’s another reality that explains why that thinking may well be wrong, and the country could be in for a protracted standoff: Most of the Republicans digging in have no reason to fear voters will ever punish them for it. The vast majority of GOP lawmakers are safely ensconced in districts that, based on the voter rolls, would never think of electing a Democrat. Their bigger worry is that someone even more conservative than they are — bankrolled by a cadre of uncompromising conservative groups — might challenge them in a primary. So from the standpoint of pure political survival, there’s every incentive to keep the government closed in what looks like a futile protest over Obamacare. The latest theory gaining currency in Congress is that it will take a potential default on the nation’s debt in a few weeks to bring the crisis to a head.

#### PC fails for fiscal fights

Greg Sargent 9-12, September 12th, 2013, "The Morning Plum: Senate conservatives stick the knife in House GOP leaders," Washington Post, factiva

All of this underscores a basic fact about this fall's fiscal fights: Far and away the dominant factor shaping how they play out will be the divisions among Republicans. There's a great deal of chatter (see Senator Bob Corker for one of the most absurd examples yet) to the effect that Obama's mishandling of Syria has diminished his standing on Capitol Hill and will weaken him in coming fights. But those battles at bottom will be about whether the Republican Party can resolve its internal differences. Obama's "standing" with Republicans -- if it even could sink any lower -- is utterly irrelevant to that question.¶ The bottom line is that, when it comes to how aggressively to prosecute the war against Obamacare, internal GOP differences may be unbridgeable. Conservatives have adopted a deliberate strategy of deceiving untold numbers of base voters into believing Obamacare will be stopped outside normal electoral channels. Central to maintaining this fantasy is the idea that any Republican leader who breaks with this sacred mission can only be doing so because he or she is too weak and cowardly to endure the slings and arrows that persevering against the law must entail. GOP leaders, having themselves spent years feeding the base all sorts of lies and distortions about the law, are now desperately trying to inject a does of reality into the debate by pointing out that the defund-Obamacare crusade is, in political and practical terms alike, insane. But it may be too late. The time for injecting reality into the debate has long since passed.

#### The DA is not intrinsic – it’s within the agential ambit of the USFG to do the plan and pass debt ceiling

#### Conservatives think they’re winning – closed information loops means they won’t cave

**Sargent, 10/4/13** (Greg, Washington Post’s Plum Line blog, “The Morning Plum: Conservatives have no endgame in shutdown fight” <http://www.washingtonpost.com/blogs/plum-line/wp/2013/10/04/the-morning-plum-conservatives-have-no-endgame-in-shutdown-fight/>)

\* BUT CONSERVATIVES THINK THEY’RE WINNING, ANYWAY: A crucial point from MSNBC’s First Read crew (no link yet): One of the major differences between the last shutdown (in 1995-1996) and now is the rise of FOX News, Drudge, and Breitbart News. As the New York Times recently wrote, “a fervent group of conservatives — bloggers, pundits, activists and even members of Congress — is harnessing the power of the Internet, determined to tell the story of the current budget showdown on its terms.” It explains why conservatives aren’t as convinced as many others are that this will do significant damage to the party. Yep. The perils of the closed conservative information feedback loop at work.

### AT: Circumvention (1ar)

#### Obama will comply

David J Barron 8, Professor of Law at Harvard Law School and Martin S. Lederman, Visiting Professor of Law at the Georgetown University Law Center, “The Commander in Chief at the Lowest Ebb -- A Constitutional History”, Harvard Law Review, February, 121 Harv. L. Rev. 941, Lexis

In addition to offering important guidance concerning the congressional role, our historical review also illuminates the practices of the President in creating the constitutional law of war powers at the "lowest ebb." Given the apparent advantages to the Executive of possessing preclusive powers in this area, it is tempting to think that Commanders in Chief would always have claimed a unilateral and unregulable authority to determine the conduct of military operations. And yet, as we show, for most of our history, the presidential practice was otherwise. Several of our most esteemed Presidents - Washington, Lincoln, and both Roosevelts, among others - never invoked the sort of preclusive claims of authority that some modern Presidents appear to embrace without pause. In fact, no Chief Executive did so in any clear way until the onset of the Korean War, even when they confronted problematic restrictions, some of which could not be fully interpreted away and some of which even purported to regulate troop deployments and the actions of troops already deployed.¶ Even since claims of preclusive power emerged in full, the practice within the executive branch has waxed and waned. No consensus among modern Presidents has crystallized. Indeed, rather than denying the authority of Congress to act in this area, some modern Presidents, like their predecessors, have acknowledged the constitutionality of legislative regulation. They have therefore concentrated their efforts on making effective use of other presidential authorities and institutional [\*949] advantages to shape military matters to their preferred design. n11 In sum, there has been much less executive assertion of an inviolate power over the conduct of military campaigns than one might think. And, perhaps most importantly, until recently there has been almost no actual defiance of statutory limitations predicated on such a constitutional theory.¶ This repeated, though not unbroken, deferential executive branch stance is not, we think, best understood as evidence of the timidity of prior Commanders in Chief. Nor do we think it is the accidental result of political conditions that just happened to make it expedient for all of these Executives to refrain from lodging such a constitutional objection. This consistent pattern of executive behavior is more accurately viewed as reflecting deeply rooted norms and understandings of how the Constitution structures conflict between the branches over war. In particular, this well-developed executive branch practice appears to be premised on the assumption that the constitutional plan requires the nation's chief commander to guard his supervisory powers over the military chain of command jealously, to be willing to act in times of exigency if Congress is not available for consultation, and to use the very powerful weapon of the veto to forestall unacceptable limits proposed in the midst of military conflict - but that otherwise, the Constitution compels the Commander in Chief to comply with legislative restrictions.¶ In this way, the founding legal charter itself exhorts the President to justify controversial military judgments to a sympathetic but sometimes skeptical or demanding legislature and nation, not only for the sake of liberty, but also for effective and prudent conduct of military operations. Justice Jackson's famous instruction that "with all its defects, delays and inconveniences, men have discovered no technique for long preserving free government except that the Executive be under the law, and that the law be made by parliamentary deliberations" n12 continues to have a strong pull on the constitutional imagination. n13 What emerges from our analysis is how much pull it seemed to [\*950] have on the executive branch itself for most of our history of war powers development.

#### Politics means Presidents are forced to accept restrictions – comprehensive studies

**Huq, 12** - Assistant Professor of Law, University of Chicago Law School (Aziz, “BINDING THE EXECUTIVE (BY LAW OR BY POLITICS)”, August, <http://www.law.uchicago.edu/files/file/400-ah-binding.pdf>) **PV = Posner and Vermeule**

The notion of a legislatively constrained presidential agenda is consistent with two canonical political science accounts of the contemporary presidency. Richard Neustadt, perhaps the most influential presidential scholar of the twentieth century, encapsulated the Constitution’s system as one of “separated institutions sharing powers” in which “a President will often be unable to obtain congressional action on his terms or even . . . halt action he opposes.” 62 Writing in 1990, Neustadt concluded that the President “still shares most of his authority with others and is no more free than formerly to rule by command.” 63 Neustadt’s finding of a weak presidency rested in part on his discernment of political constraints. But he also stressed “Congress and its key committees” as necessary partners in the production of policy. 64 Neustadt thus identified institutions, as much as public opinion, as impediments to the White House. In harmony with Neustadt’s view, Stephen Skowronek’s magisterial survey of presidential leadership suggests Presidents are not free to ignore or sideline Congress. Skowronek points out that “[i]t is not just that the presidency has gradually become more powerful and independent over the course of American history, but that the institutions and interests surrounding it have as well.” 65 His complex argument (much simplified) situates presidential authority within a cyclical pattern of political “regime” creation, maintenance, and disintegration.66 In this cycle, the presidency is primarily a destructive force. Chief executives affiliated with past regimes have fewer tools at their disposal than oppositional leaders who “come[] to power with a measure of independence from established commitments and can more easily justify the disruptions that attend the exercise of power.” 67 Executive discretion, in this account, is a function of a President’s location in the cycle of historical change. It is not a necessary attribute of the institution. Skowronek also argues that Congress maintains and enforces prior regimes’ policy commitments against presidential innovation. He finds congressional abdication to be “virtually unknown to the modern presidency.” 68 To the contrary, Skowronek contends, Congress has become more effective over time. Thomas Jefferson in the early 1800s, working with an “organizationally inchoate and politically malleable” legislature, had greater discretion than Ronald Reagan in the 1980s.69 By President Reagan’s time in office, the “governmental norms and institutional modalities” used to resist presidential initiatives had secured sufficient political capital to become resilient to presidential efforts at change.70 Until then, political movements proposing greater presidential authority also tended to advocate “some new mechanisms designed to hold [presidential] powers to account.” 71 Skowronek provides a useful corrective to the assumption that historical change occurs only at one end of Pennsylvania Avenue. Echoing Neustadt’s analysis, his bottom line is that the contemporary executive remains “constrained by Congress” 72 in ways that meaningfully hinder achievement of presidential goals.73 Nevertheless, neither Neustadt nor Skowronek articulate the precise role of law in congressional obstruction of presidential goals. Perhaps observed executive reticence is merely a result of political calculations, consistent with PV’s core hypothesis. But the evidence that the limits on executive authority tend to arise when Congress or existing law preclude a discretionary act suggests that institutions and statutes do play a meaningful role. Such correlations do not, however, establish the precise mechanisms whereby laws and institutions impose frictions on the employment of executive discretion.

### AT: Norms Defense

#### The plan influences drone norms – prevents cascading prolif

Roberts, 13 [Kristin, National Journal, Citing experts including Drone foreign policy expert Zenko of CFR, When the Whole World Has Drones The precedents the U.S. has set for robotic warfare may have fearsome consequences as other countries catch up, <http://www.nationaljournal.com/magazine/when-the-whole-world-has-drones-20130321>]

Berteau is not alone. Zenko, of the Council on Foreign Relations, has urged officials to quickly establish norms. Singer, at Brookings, argues that the window of opportunity for the United States to create stability-supporting precedent is quickly closing. The problem is, the administration is not thinking far enough down the line, according to a Senate Intelligence aide. Administration officials “are thinking about the next four years, and we’re thinking about the next 40 years. And those two different angles on this question are why you see them in conflict right now.” That’s in part a symptom of the “technological optimism” that often plagues the U.S. security community when it establishes a lead over its competitors, noted Georgetown University’s Kai-Henrik Barth. After the 1945 bombing of Hiroshima and Nagasaki, the United States was sure it would be decades before the Soviets developed a nuclear-weapon capability. It took four years. With drones, the question is how long before the dozens of states with the aircraft can arm and then operate a weaponized version. “Pretty much every nation has gone down the pathway of, ‘This is science fiction; we don’t want this stuff,’ to, ‘OK, we want them, but we’ll just use them for surveillance,’ to, ‘Hmm, they’re really useful when you see the bad guy and can do something about it, so we’ll arm them,’ ” Singer said. He listed the countries that have gone that route: the United States, Britain, Italy, Germany, China. “Consistently, nations have gone down the pathway of first only surveillance and then arming.” The opportunity to write rules that might at least guide, if not restrain, the world’s view of acceptable drone use remains, not least because this is in essence a conventional arms-control issue. The international Missile Technology Control Regime attempts to restrict exports of unmanned vehicles capable of carrying weapons of mass destruction, but it is voluntary and nonbinding, and it’s under attack by the drone industry as a drag on business. Further, the technology itself, especially when coupled with data and real-time analytics, offers the luxury of time and distance that could allow officials to raise the evidentiary bar for strikes—to be closer to certain that their target is the right one. But even without raising standards, tightening up drone-specific restrictions in the standing control regime, or creating a new control agreement (which is never easy to pull off absent a bad-state actor threatening attack), just the process of lining up U.S. policy with U.S. practice would go a long way toward establishing the kind of precedent on use of this technology that America—in five, 10, or 15 years—might find helpful in arguing against another’s actions. A not-insignificant faction of U.S. defense and intelligence experts, Dennis Blair among them, thinks norms play little to no role in global security. And they have evidence in support. The missile-technology regime, for example, might be credited with slowing some program development, but it certainly has not stopped non-signatories—North Korea and Iran—from buying, building, and selling missile systems. But norms established by technology-leading countries, even when not written into legal agreements among nations, have shown success in containing the use and spread of some weapons, including land mines, blinding lasers, and nuclear bombs. Arguably more significant than spotty legal regimes, however, is the behavior of the United States. “History shows that how states adopt and use new military capabilities is often influenced by how other states have—or have not—used them in the past,” Zenko argued. Despite the legal and policy complexity of this issue, it is something the American people have, if slowly, come to care about. Given the attention that Rand Paul’s filibuster garnered, it is not inconceivable that public pressure on drone operations could force the kind of unforeseen change to U.S. policy that it did most recently on “enhanced interrogation” of terrorists. The case against open, transparent rule-making is that it might only hamstring American options while doing little good elsewhere—as if other countries aren’t closely watching this debate and taking notes for their own future policymaking. But the White House’s refusal to answer questions about its drone use with anything but “no comment” ensures that the rest of the world is free to fill in the blanks where and when it chooses. And the United States will have already surrendered the moment in which it could have provided not just a technical operations manual for other nations but a legal and moral one as well.

## 1ar

### Food

#### No impact uniqueness—says feedstock volatility now—they can't articulate a difference even if there's a spike

#### It’s local, not bond markets

**Paarlberg, 08 -** professor of political science at Wellesley College and a visiting professor of government at Harvard University (Robert, “The Real Food Crisis,” Chronicle of Higher Education, 6/27, lexis)

Ironically, it was only when the so-called food crisis of the 1970s came to an end, during the slow-growth decade of the 1980s, that food circumstances in poor countries significantly worsened. In Latin America, even though world **food prices** were falling sharply, the number of hungry people increased from 46 million to more than 60 million. The reason was a regional "debt crisis" triggered by higher U.S. interest rates after 1979. The number of hungry people also increased sharply in Africa during the 1980s. The reason was faltering farm production, exacerbated in some regions by severe drought and civil conflict. The price for imported food was down, but hunger was up. Most real food crises are local rather than global.

**Multiple alt causes for international hunger**

**Shah, 08** http://www.globalissues.org/article/7/causes-of-hunger-are-related-to-poverty Causes of Hunger are related to Poverty Author and Page information by Anup Shah Last Updated Sunday, July 06, 2008

In a world of plenty, a huge number go hungry. Hunger is more than just the result of food production and meeting demands. The causes of hunger are related to the causes of poverty. One of the major causes of hunger is poverty itself. The various issues discussed throughout this site about poverty lead to people being unable to afford food and hence people go hungry. There are other related causes (also often related to the causes of poverty in various ways), including the following:

Land rights and ownership

Diversion of land use to non-productive use

Increasing emphasis on export-oriented agriculture

Inefficient agricultural practices

War

Famine

Drought

Over-fishing

Poor crop yield

Lack of democracy and rights

### 1ar at: econ impact

#### No impact and no turns case -- Unilateral action solves– prefer Reich, he’s a professor at Cal and makes a predictive claim -- the states are too high -- unilateral action happens regardless of constitutionality

#### Proves it doesn’t turn the case and no internal to governance breakdown -- small economic changes don’t uniquely trigger the impact

Daniel W. Drezner 12, Professor, The Fletcher School of Law and Diplomacy, Tufts University, October 2012, “The Irony of Global Economic Governance: The System Worked,” <http://www.globaleconomicgovernance.org/wp-content/uploads/IR-Colloquium-MT12-Week-5_The-Irony-of-Global-Economic-Governance.pdf>

Prior to 2008, numerous foreign policy analysts had predicted a looming crisis in global economic governance. Analysts only reinforced this perception since the financial crisis, declaring that we live in a “G-Zero” world. This paper takes a closer look at the global response to the financial crisis. It reveals a more optimistic picture**. Despite initial shocks** that were actually **more severe** than the 1929 financial crisis, global economic governance structures responded quickly and robustly. Whether one measures results by economic outcomes, policy outputs, or institutional flexibility, global economic governance has displayed **surprising resiliency** since 2008. Multilateral economic institutions performed well in crisis situations to reinforce open economic policies, especially in contrast to the 1930s. While there are areas where governance has either faltered or failed, on the whole, the system has worked. Misperceptions about global economic governance persist because the Great Recession has disproportionately affected the core economies – and because the efficiency of past periods of global economic governance has been badly overestimated. Why the system has worked better than expected remains an open question. The rest of this paper explores the possible role that the distribution of power, the robustness of international regimes, and the resilience of economic ideas might have played.

#### The plan is necessary and sufficient to solve – the signal of due process is overwhelmingly distinct from overall credibility and 2008 disproves that these args are offense

#### Market freak out inevitable and priced in

Peter Lefkin 13, Senior Vice President of Government and External Affairs for Allianz of North America, “Round 2 of the Debt-Ceiling Debate,” Allianz Global, 5/21, <http://us.allianzgi.com/Commentary/MarketInsights/Pages/5QuestionswithPeterLefkin.aspx>

Expect more brinkmanship from Democrats and Republicans. Both parties will go through the rhetoric and the charade of partisan politics. After several years of political uncertainty, markets generally discount dysfunction in Washington. But the political leverage has shifted: The fiscal cliff was a strategic loss for Republicans but it set the stage for them to stand pat on the sequester. The cards are now in their favor. And they’re going to play them. Earlier this year, everyone expected Republicans to demand sweeping changes to entitlement spending as a condition of agreeing to raise the debt limit. With the budget numbers improving, and the public already lulled into complacency about the deficit by low interest rates, many Republicans realize that they may have to shift gears. They could tie the debt-ceiling increase to something else. The Republican wish list includes comprehensive tax reform, entitlement reform and construction of the Keystone oil pipeline.

#### Other measures solve

Dorfman 10/3—professor of economics at The University of Georgia and consultant on economic issues to a variety of corporations and local governments (Jeffrey, 10/3/13, “Don't Believe The Debt Ceiling Hype: The Federal Government Can Survive Without An Increase,” <http://www.forbes.com/sites/jeffreydorfman/2013/10/03/dont-believe-the-debt-ceiling-hype-the-federal-government-can-survive-without-an-increase/>)

Ignore what you hear and read in the news. **The federal government actually reached the legal debt ceiling about** four months ago. Since then, the government has been financing its monthly budget deficit by stealing/borrowing money from other government funds, like the federal government employees’ pension fund. In about two weeks, the government will run out of tricks to keep operating as if nothing has happened. If the debt ceiling is not raised by then, the government has to balance its budget.¶ That’s right. As much as the politicians and news media have tried to convince you that the world will end without a debt ceiling increase, it is simply not true. The federal debt ceiling sets a legal limit for how much money the federal government can borrow. In other words, it places an upper limit on the national debt. It is like the credit limit on the government’s gold card.¶ Reaching the debt ceiling does not mean that the government will default on the outstanding government debt. In fact, the U.S. Constitution forbids defaulting on the debt (14th Amendment, Section 4), so the government is not allowed to default even if it wanted to.¶ In reality, if the debt ceiling is not raised in the next two weeks, the government will actually have to prioritize its expenses and keep its monthly, weekly, and daily spending under the revenue the government collects. In simple terms, the government would have to spend an amount less than or equal to what it earns. Just like ordinary Americans have to do in their everyday lives.¶ Once the reality of what hitting the debt ceiling means is understood, the important question is: can the government actually live with a balanced budget? How much money could it spend? Could enough spending be cut to live within a balanced budget? The answer is **yes**, the federal government could live with a balanced budget. Below I will show you precisely how.¶

### 1ar: at won’t use the 14th ammendment

#### He’s keeping the 14th Amendment as an option

**Bruce, 10/5/13** (Mary, “Obama Doesn’t Rule Out Using 14th Amendment To Raise The Debt Limit” <http://abcnews.go.com/blogs/politics/2013/10/obama-doesnt-rule-out-using-14th-amendment-to-raise-the-debt-limit/>)

With the October 17 deadline to raise the debt limit rapidly approaching, President Obama is not specifically ruling out using the 14th Amendment to increase the nation’s borrowing ability if the political impasse continues and Congress fails to do so, but says “I don’t expect to get there.” “There is one way to make sure that America pays its bills, and that’s for Congress to authorize the Secretary of the Treasury, Jack Lew, to pay bills that they have already accrued,” the president told The Associated Press in an interview Friday that was released this morning. “I’m pretty willing to bet that there are enough votes in the House of Representatives right now to make sure that the United States doesn’t end up being a deadbeat. The only thing that’s preventing that from happening is Speaker Boehner calling the vote,” he said. The White House has long maintained that “this administration does not believe that the 14th Amendment gives the power to the president to ignore the debt ceiling,” as White House Press Secretary Jay Carney said on Thursday. “We do not believe that the 14th Amendment provides that authority to the president.” Pressed about whether he would be willing to take unilateral action to prevent default, the president told the AP that the hopes the fight doesn’t get to that point. Four days into the government shutdown, the president reiterated to the Associated Press that he is not going to make concessions on his signature health care law or negotiate with House Republicans until they agree to reopen the government and raise the nation’s debt ceiling. “The only thing that is keeping that from happening is Speaker Boehner has made a decision that he is going to hold out to see if he can get additional concessions from us,” Obama told the Associated Press’ Julie Pace.

### 1ac uniqueness

#### GOP makes default inevitable

Evan McMurry 10-6, Mediaite columnist, 10/6/13, “Behold the GOP’s Terrifying New Debt Ceiling Theory: Default is Inevitable,” http://www.mediaite.com/online/behold-the-gops-terrifying-new-debt-ceiling-theory-default-is-inevitable/

Behold the GOP’s Terrifying New Debt Ceiling Theory: Default is Inevitable¶ Before the fingerpointing over the government shutdown even had a chance to really get going, Representative Steve King (R-IA) found the real driver behind the coming battle over the debt ceiling: “The march of history got us here.” ¶ King is not the most articulate voice for the GOP’s anything legislative strategy, but in this case his penchant for tin-eared overstatement perfectly encapsulated the Republican Party’s new attitude toward breaching the debt ceiling: it’s out of their hands. ¶ “That seems to be the path that we’re on,” House Speaker John Boehner (R-OH) told George Stephanopoulos this morning, with a petulant shrug, as if he were in someone else’s taxi. ¶ Boehner’s passivity is stunning for a number of reasons, not the least of which is that he could single-handedly avoid default simply by bringing a vote to raise the debt ceiling. In fact, one person said this week he would do just that: John Boehner, who, according to congressional sources, has been quietly telling his caucus that he would raise the debt ceiling with Democratic votes before he would allow default. Some thought this information was leaked precisely to force Boehner off of this position—if he was heard admitting he wouldn’t kill the hostage, the hostage-taking gig was up. Thus you have the conflicted Boehner we saw this morning, both defiant and resigned, simultaneously daring Obama to call his bluff and acquiescent to the fact that he would take the blame when it happened. ¶ This strange new determinism—the idea that breaching the debt ceiling is dialectically and structurally necessitated—is simply the latest in a series of GOP attempts to avoid responsibility for the shutdown and looming debt crisis. Their previous attempts, mostly focused on ObamaCare, have been so lackluster that at least one poll says that the House is now back in play in 2014, the exact 1998-redux Boehner was trying to avoid. His next maneuver is to take away the GOP’s perception as catalysts, to make them seem only players in an historically inevitable showdown. ¶ Crucial to this narrative is a bit of historical revisionism. After all, we were here just two years ago, when the United States’ credit rating was downgraded as a result of the debt ceiling brinksmanship induced by the 2010 tea party class, the most blaring sign that the debt ceiling debate was unforced error of irrevocable magnitude. It reflected poorly on everyone, but especially on Republicans, who, prior to that moment, had been making steady gains against Obama’s popularity. The debt ceiling debacle slammed the breaks on that: the GOP’s reputation with voters plummeted and never regained, leading to a substandard performance across every metric in the 2012 election. ¶ That, at least, is the canonical version of the debt ceiling fight of 2011. A new view was trotted out by Rand Paul (R-KY) on Meet the Press this morning, in which the deficit hawk revised Standard & Poor’s judgment to be almost entirely a verdict on the United States’ debt itself. He’s not wrong: Standard & Poor’s did chide the deficit reduction plan for “falling short” of what the agency wanted for a post-recession debt stabilization. But S&P argued the fiscal compromise in large part underwhelmed due to the absence of added “revenue,” better known to us laypeople as taxes. As these were the days of hardline conservatives refusing even a 10:1 ratio of spending cuts to tax increases, it was clear that revenue, no matter what it was called, wasn’t on the table. Thus tea party intransigence was not a tangential aspect of S&P’s downgrade, but the primary wrench in the machine they wanted to see functioning. ¶ But under Paul’s reading, the debt ceiling brinksmanship of two years ago finally and thankfully threw the U.S.’s debt problems into relief, a problem notarized by the rating agency’s responses. This reading neatly flips the heroes and villains of that dispute: if S&P were turned onto the U.S.’s debt problem by the tea party’s fit over the debt ceiling, it makes the GOP into conscientious objectors rather unprecedentedly reckless legislators, people who spotted the fire rather than started it. ¶ Today’s Republicans clearly want this battle over the debt ceiling to be an extension of this imaginary version of the last one. “This fight was going to happen one way or the other,” Boehner told Stephanopoulos this morning, and if you buy the theory that breaching the debt limit is not an avoidable catastrophe irresponsibly induced by one party but another iteration of the GOP refusing to ratify more profligate spending, he’s right. John Boehner obviously doesn’t buy this theory, as, if reports are to be believed, he’s working furiously behind the scenes to avoid the exact scenario he’s decrying as inevitable on the Sunday shows. ¶ But the party he only fitfully controls very much believes this story of their own concoction, and that should gravely worry everybody. As of two weeks ago, breaching the debt ceiling was unthinkable. Today it’s the march of history.

#### Insulated from pressure

**Hadar, 10/1**/13 – Washington Correspondent for the Business Times Singapore (Leon, “Now showing: Budget Wars” The Business Times Singapore, lexis)

The political reality today is different. Mr Obama and the Democrats believe that their electoral victories in 2012 gave them an electoral mandate to advance their agenda, including Obamacare. Republican lawmakers, on the other hand, are responding to the pressures of voters in their districts who support defunding Obamacare. The bottom line for these House Republicans is that the shutting-down the government and/or defaulting on America's debt may not be popular on the national level, it would nevertheless ensure their re-election next November. The White House, on the other hand, is not willing to see a repeat of what happened in the last fiscal crises when the Republicans took the debt ceiling hostage and put the US at a higher risk of default. Many moderate Republican lawmakers as well as investors and business executives with ties to the GOP share these sentiments. But the Republican leaders on Capitol Hill are facing the members who are more radical and right-wing and these members are not willing to make a deal with the White House and seem to suggest that that they would do everything in their power to get rid of Obamacare even if it would result in the political suicide of the GOP.

#### Media pressure, Base and Obama Hatred

**Tobin, 10/1/13** - Jonathan S. Tobin is Senior Online Editor of Commentary magazine with responsibility for managing the editorial content of the website as well as serving as chief politics blogger (“Must Republicans Blink on the Shutdown?” <http://www.commentarymagazine.com/2013/10/01/must-republicans-blink-on-the-shutdown/>)

There’s no question that Democrats are in a stronger position today, at least as far as public opinion is concerned. But the expectation that the GOP must give in and do so quickly may be mistaken. As I noted last night, after having gone this far in order to make a point about their unwillingness to go along with ObamaCare, for Boehner to cave in quickly would only worsen his party’s situation. Having taken a stand on points they believe are eminently defensible—applying ObamaCare to Congress and the staff of the White House and a demand to delay the penalties attached to the health-care bill’s personal mandate—and with the president declaring he won’t negotiate and with an even more important deadline looming in three weeks about raising the debt ceiling, the GOP may not have as much incentive to surrender as their opponents think. Let me specify that the decision to call the president’s bluff on the shutdown was unwise. There was never a chance the Democrats would agree to defund ObamaCare and no game plan that would give the Republicans a viable exit strategy from such a standoff, let alone a way to win it. But having gotten into this position, it must be conceded that the widespread belief that they will be forced to wave the white flag within days is based on a set of expectations that aren’t necessarily valid. As the Washington Examiner wisely noted this morning, the comparisons to the disastrous 1995 shutdown need to be re-examined. As much as Senator John McCain may be right when he said that he had seen this movie before, the circumstances are slightly different. Unlike in 1995, mainstream liberal media pressure on Republicans is now offset by not only Fox News but also conservative talk radio, a medium that is placing pressure on the GOP to stand firm, not to give in. The conservative base that helped goad the Republicans into this fix is equally unwilling to see them weasel their way out of it, at least not without a fight. Just as important is the nature of their antagonist. In 1995, Republicans were faced with a Democratic president who made a career out of successfully pretending to be a centrist. President Obama may have run in 2008 as a post-partisan candidate, but he dropped that act a long time ago and is a far more polarizing figure. When the president told NPR this morning that he “will not negotiate” with Republicans, that was what his liberal base wanted to hear. But it is not a stand that is likely to increase pressure on the GOP. To the contrary, the more Obama dares them to dig in their heels, the more likely it is that conservatives will do just that. All along, critics of the shutdown strategy have assumed that simply because there was no clear exit strategy the consequences of a shutdown would be enough to pressure Republicans to blink once the Democrats refused to budge. But the problem with that critique is that while Senator Ted Cruz and others were blowing smoke when they said Obama would cave, there may not be sufficient leverage on the other side that would cause Boehner to blink. Indeed, the longer this goes on, the more likely it may be that Republicans start to think time is on their side rather than against them. President Obama has been hoping for this shutdown for two years but only because he, like so many others, assumed it would not last long. As the days pass with Senate Democrats refusing to go into a conference with House Republicans and Obama drawing a line in the sand, pressure may start to build on him to give a little. The financial markets are not collapsing today because of the belief the shutdown will be brief. Once that changes, the economic impact will change with it.

#### Existential threat

**Klein, 10/5/13** – (Ezra, The shutdown is a Republican civil war, Washington Post wonkblog <http://www.washingtonpost.com/blogs/wonkblog/wp/2013/10/05/the-shutdown-is-a-republican-civil-war/?tid=pm_pop>)

Boehner’s problems aren’t such a surprise to Christopher Parker, a political scientist at the University of Washington and co-author of “Change They Can’t Believe In: The Tea Party and Reactionary Politics in America.” In 2011, Parker began running massive surveys of self-described conservatives in 13 states. He controlled for every demographic characteristic and political opinion he could think of. Tea partiers, he found, were simply different from other conservatives. In one telling example, 71 percent of tea party conservatives agreed Obama was “destroying the country” -- an opinion shared by only 6 percent of conservatives who didn’t identify with the tea party. On measure after measure, tea party members expressed fear that the country was changing in fundamental ways. They were much likelier to view Obama as a literal threat to the nation. They were more conspiratorial in their interpretation of politics. They viewed politics as less like a negotiation among stakeholders and more like a struggle for survival. “You’ve got about 52 members of the Republican conference who are affiliated with the Tea Party in some official way,” Parker said. “That’s a bit less than a quarter of all House Republicans. That’s enough in the House. They refuse to compromise because, to them, compromise is capitulation. If you go back to Richard Hofstadter’s work when he’s talking about when the John Birch Society rode high, he talks about how conservatives would see people who disagree as political opponents, but reactionary conservatives saw them as evil. You can’t capitulate to evil.” The problem for Boehner and the rest of the Republican establishment is that the tea party ethos is now being turned against them. After all, mainstream conservatives will compromise with “evil” (or, if you prefer, “Democrats”). For tea partiers, that makes them suspect, too. In fact, one way tea party Republicans can prove they haven’t sold out to Washington’s ways is by opposing any compromise Boehner proposes.

#### Irrationality

Paul Krugman 10/1, Professor of Economics and International Affairs at Princeton, “Commentary: Rebels without a clue,” http://www.rutlandherald.com/article/20131001/OPINION04/710019982

No sane political system would run this kind of risk. But we don’t have a sane political system; we have a system in which a substantial number of Republicans believe that they can force President Barack Obama to cancel health reform by threatening a government shutdown, a debt default, or both, and in which Republican leaders who know better are afraid to level with the party’s delusional wing. For they are delusional, about both the economics and the politics.¶ On the economics: Republican radicals generally reject the scientific consensus on climate change; many of them reject the theory of evolution, too. So why expect them to believe expert warnings about the dangers of default? Sure enough, they don’t: The GOP caucus contains a significant number of “default deniers,” who simply dismiss warnings about the dangers of failing to honor our debts.¶ Meanwhile, on the politics, reasonable people know that Obama can’t and won’t let himself be blackmailed in this way, and not just because health reform is his key policy legacy. After all, once he starts making concessions to people who threaten to blow up the world economy unless they get what they want, he might as well tear up the Constitution. But Republican radicals — and even some leaders — still insist that Obama will cave in to their demands.¶ So how does this end? The votes to fund the government and raise the debt ceiling are there, and always have been: Every Democrat in the House would vote for the necessary measures, and so would enough Republicans. The problem is that GOP leaders, fearing the wrath of the radicals, haven’t been willing to allow such votes. What would change their minds?

#### Unity high now

**Raju, 10/1/13** (Manu, Politico, “Collision course: CR and debt ceiling” <http://www.politico.com/story/2013/10/collision-course-continuing-resolution-debt-ceiling-congress-government-shutdown-97693.html>)

While the White House and Democrats eagerly highlight each Republican who mentions their desire for a clean CR — there are fewer than 20 — GOP leaders believe they are weathering the shutdown so far. Several sources described Tuesday’s House Republican Conference meeting as one of the best and most unified in some time. In short, Republicans are feeling absolutely no pressure to reopen government at this point. There’s also a parallel set of considerations: If Boehner caves, he could lose his job by prompting a rebellion of House conservatives. To preserve his internal political capital, Boehner would be very hard-pressed to pass a clean CR. In fact, the Ohio Republican hasn’t even mentioned it in closed meetings since the party’s original government-funding bill had to be pulled several weeks ago, sources said. But melding the two issues creates its own challenges. Conservatives won’t relent on their desire to curb Obamacare, and many House Republicans won’t be satisfied unless there are some structural budgetary changes.