# 1NC

### 1

#### Interpretation:

#### War powers authority is derived from congressional statute – restrictions are increased via statutory or judicial prohibitions on the source

CURTIS A. BRADLEY, Richard A. Horvitz Professor of Law and Professor of Public Policy Studies, Duke Law School, Harvard Journal of Law & Public Policy [Vol. 33 No. 1] 2010.

http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=2730&context=faculty\_scholarship

The scope of the President’s independent war powers is notoriously unclear, and courts are understandably reluctant to issue constitutional rulings that might deprive the federal government as a whole of the flexibility needed to respond to crises. As a result, courts often look for signs that Congress has either supported or opposed the President’s actions and rest their decisions on statutory grounds. This is essentially the approach outlined by Justice Jackson in his concurrence in Youngstown.¶ 1¶ For the most part, the Supreme Court has also followed this¶ approach in deciding executive power issues relating to the¶ war on terror. In Hamdi v. Rumsfeld, for example, Justice¶ O’Connor based her plurality decision, which allowed for military detention of a U.S. citizen captured in Afghanistan, on¶ Congress’s September 18, 2001, Authorization for Use of Military Force (AUMF).2¶ Similarly, in Hamdan v. Rumsfeld, the Court grounded its disallowance of the Bush Administration’s military commission system on what it found to be congressionally imposed restrictions.3 The Court’s decision in Boumediene v. Bush 4 might seem an aberration in this regard, but it is not. Although the Court in Boumediene did rely on the Constitution in holding that the detainees at Guantanamo have a right to seek habeas corpus review in U.S. courts, it did not impose any specific restrictions on the executive’s detention, treatment, or trial of the detain ees.5¶ In other words, Boumediene was more about preserving a role for the courts than about prohibiting the executive from exercising statutorily conferred authority.¶ Statutory authority was also a central issue in the much‐¶ discussed Al‐Marri case in the Fourth Circuit.6¶ Although the Su‐¶ preme Court vacated the Fourth Circuit’s decision as moot, the¶ decision still provides an instructive example. Al‐Marri involved¶ a Qatari citizen, Ali Saleh Kahlah al‐Marri, who came to the¶ United States on September 10, 2001, and was later arrested and¶ charged with various counts of fraud.7¶ Shortly before al‐Marri’s¶ trial, President Bush designated him an enemy combatant, and¶ he was moved to military custody.8¶ As justification for this ac‐¶ tion, the Bush Administration alleged that al‐Marri was an al¶ Qaeda sleeper agent who had come to the United States to await¶ instructions to carry outfurther attacks after September 11.9 ¶ In a closely divided en banc ruling, the Fourth Circuit held¶ that the executive had the authority to detain al‐Marri but that¶ it needed to provide him with additional process by which he¶ could challenge his designation as an enemy combatant.10 The¶ Supreme Court granted review of the decision in December¶ 2008.11 When briefing the case for the Court, al‐Marri focused primarily on statutory arguments, saving a fallback constitu‐¶ tional argument forthe end of his brief.12¶

#### And authority refers to permission granted – means restrictions must be on that permissive statute

Ellen Taylor 96, 21 Del. J. Corp. L. 870 (1996), Hein Online

The term authority is commonly thought of in the context of the law of agency, and the Restatement (Second) of Agency defines both power and authority.'89 Power refers to an agent's ability or capacity to produce a change in a legal relation (whether or not the principal approves of the change), and authority refers to the power given (permission granted) to the agent by the principal to affect the legal relations of the principal; the distinction is between what the agent can do and what the agent may do.

#### Violation:

#### The plan is an implicit delegation of “authority” – must stamp the originating statute to “increase restrictions on”

Graham Cronogue, Duke University School of Law, J.D. expected 2013; A NEW AUMF: DEFINING COMBATANTS IN THE WAR ON TERROR, DUKE JOURNAL OF COMPARATIVE & INTERNATIONAL LAW [Vol. 22:377 2012] http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1294&context=djcil

The AUMF’s broad “all necessary and appropriate force” language ¶ confers on the President complete Congressional authorization to wage war ¶ against the specified groups. First, the AUMF’s “all necessary and ¶ appropriate force” language mirrors that found in a declaration of war and, ¶ far from imposing any constraints, bolsters the President’s powers ¶ significantly.37 In Bas v. Tingy, the Court found that Congress could make ¶ narrow authorizations that are “limited in place, in objects, and in time.”38¶ Yet, the AUMF authorization is much broader than that typically found in a ¶ limited or quasi-war context where the President can only use certain ¶ armed forces against a specific type of target in a specified way.39 In the Quasi-War with France, for example, the President’s actions were limited to a specific place and type of enemy force.40 Indeed, the use of force was restricted to the high seas and armed French vessels.41 In these examples, ¶ the President was not authorized to use force in enemy ports or against ¶ many other members of the enemy’s military.42 In contrast, the AUMF does not explicitly limit where or what kind of force the President may ¶ use.43 Rather, it leaves this determination open to the President and merely ¶ names the class of targets.44¶ Second, the AUMF’s language illustrates congressional acquiescence ¶ or approval of broad presidential authority to use force. “[T]he enactment ¶ of legislation closely related to the question of the President’s authority in a ¶ particular case which evinces legislative intent to accord the President ¶ broad discretion may be considered to ‘invite’ ‘measures on independent ¶ presidential responsibility.’”45 The language in the AUMF is very similar to ¶ declarations of war and authorizations, in which presidents have exercised ¶ plenary power in determining the means and type of force.46 In these ¶ “perfect” wars, “all the members act[ed] under a general authority, and all ¶ the rights and consequences of war attach to their condition.”47 For ¶ instance, the Gulf of Tonkin Resolution allowed the President to “take all ¶ necessary measures” and was used as broad authority to wage combat and ¶ detain enemies.48 Similarly, the AUMF allows for the use of “all necessary ¶ and appropriate force.” Presidents have commonly exercised broad ¶ authority under similar grants of power, and Congress’s failure to act in ¶ limiting these powers here suggests acquiescence to this interpretation.49¶ More convincingly than in Dames & Moore, where Congress failed to ¶ object to executive action, there are numerous comments from the ¶ legislature that the President should have broad authority under the ¶ AUMF.50 Given these statements and Congress’s ample opportunity to ¶ limit the scope or type of force, Congress must have acquiesced to past ¶ executive practice and interpretation. Furthermore, the plurality in Hamdi also treated the AUMF as a broad ¶ authorization to use force.51 In upholding the President’s power to detain ¶ enemy combatants, the Court leaned heavily on the similarities between the ¶ current authorization and that of broad authorizations characteristic of full ¶ wars.52 The Court found that the President had many of the same powers ¶ usually granted to the President by war declarations.53 Then, it looked to ¶ past exercises of presidential power to find what actions Congress would ¶ have implicitly authorized.54 Specifically, the Court found that detention ¶ was as “fundamental and accepted an incident to war as to be an exercise of ¶ the ‘necessary and appropriate force’ Congress has authorized the President ¶ to use.”55¶ Given that the AUMF does not contain any specific limitation on the ¶ type of force and that the language describing this force is hashed in the ¶ extremely broad terms, the AUMF must grant the President significant ¶ authority to act. This authority is certainly still constrained by the laws of ¶ war and other independent constitutional checks on the Executive, but it ¶ appears that Congress delegated the President extremely broad powers. ¶ Finally, based on the plurality’s opinion in Hamdi, the exact scope of these ¶ powers will be interpreted in light of past actions by the Executive but still ¶ remains far from clear.56¶ D. Where? ¶ Another significant issue not addressed by the AUMF is where this ¶ “force” may be applied. Again, the text of the statute offers little guidance, ¶ as it does not mention any geographic limitation. The statute does confirm ¶ the existence of a threat to American citizens at home and abroad.57 Of ¶ course, one plausible reading is that there is no limitation whatsoever. ¶ Under this reading, if an organization that satisfies the 9/11 requirement is ¶ in the United States or in a foreign country, the President is always ¶ authorized to use force against that target. Given the President’s duty to protect Americans and the context in ¶ which the AUMF was passed, the AUMF seemingly authorizes force at home. The AUMF passed after an attack on American soil, and the United ¶ States seemed in a very real sense part of the theater of war. Furthermore, ¶ force under the AUMF is designed to “prevent any future acts of ¶ international terrorism against the United States” and its citizens at home.58¶ Since al-Qaeda could have small cells in the United States, a territorial ¶ limitation precluding force at home might hamstring this objective. Despite ¶ these factors, the plurality in Hamdi limited its holding to apply the AUMF ¶ to an American citizen captured in the traditional battlefield.59 However, it ¶ seems that the need to detain enemy combatants picked up on the foreign ¶ battlefield and prevent them from engaging in conflict is at least as strong ¶ as when the enemy is in the United States.60 Later, the Court in Padilla¶ upheld the application of the AUMF to an American citizen captured on ¶ American soil, suggesting the AUMF should apply at home.61¶ The true difficulty with the AUMF’s geographical limitation comes ¶ when the organization or person is in another country. The AUMF does ¶ authorize actions against “nations,” so it clearly is not limited to domestic ¶ threats. However, what happens if the target is in a state that is not an ¶ eligible target? This issue implicates fundamental questions of sovereignty ¶ that have become especially important in the case of targeted killings in ¶ Pakistan and Yemen. Despite the importance of this issue, the AUMF ¶ remains silent on this point. ¶ II. THE IMPORTANCE OF CONGRESSIONAL AUTHORIZATION ¶ In order to evaluate the significance of the AUMF, we must first ¶ determine whether the President actually needs authorization to defend the ¶ United States against these terrorist threats or if he can use his inherent ¶ constitutional authority to accomplish the same goal. The President’s ¶ inherent powers as Commander in Chief are at their height during times of ¶ war and emergency. Therefore, I will first examine the question of “were ¶ we at war.” In light of this answer and the President’s inherent authority, I ¶ will look at whether the AUMF provides any benefits in the prosecution of ¶ this conflict. A. Were We at War? ¶ The text of the AUMF confers on the President strong authorization to ¶ combat a category of enemies for an undefined period of time and in an unspecified location. His powers are much broader than that typically ¶ authorized in limited or quasi-wars. Moreover, the President has ordered ¶ transnational air strikes, electronic surveillance, detentions, and military ¶ invasions pursuant to his powers under the AUMF.62 Yet, the AUMF is not ¶ a formal declaration of war and its targets are not all states or state actors. ¶ This absence of a formal declaration might suggest that we are not in a ¶ state of war. However, if the United States was not in a state of war with alQaeda, the President’s inherent authority to act might be severely limited, ¶ making the AUMF an essential component to the use of force. ¶ The Court held in the Prize cases that a “state of actual war may exist ¶ without any formal declaration of it by either party; and this is true of both ¶ a civil and a foreign war.”63 Rather, a state of war can exist de facto.64 In ¶ the Prize cases, the Court considered President Lincoln’s order of a ¶ blockade against the South “official and conclusive evidence . . . that a ¶ state of war existed which demanded and authorized a recourse to such a ¶ Here, President Bush proclaimed that al-Qaeda’s attacks on American ¶ soil were “acts of war.”69 Even prior to September 11, al-Qaeda had ¶ attacked American embassies, ships, and military bases on several ¶ occasions, leading President Clinton to declare a state of armed conflict ¶ against al-Qaeda.70 But on September 11, 2001, the conflict escalated ¶ dramatically. Al-Qaeda inflicted massive casualties against American ¶ civilians, caused catastrophic economic damage, and fundamentally altered¶ measure.”65 In addition to the President’s declaration, the Court found that ¶ the Queen of England’s proclamation of neutrality after the firing on Fort ¶ Sumter was also adequate evidence of war.66 The Court acknowledged its ¶ deference to the President’s characterization of the conflict and ¶ classification of the enemy as “belligerents.”67 Thus, the President’s ¶ characterization of the conflict and the actions of the enemy can create a ¶ state of war even absent congressional action.68¶ America’s security and foreign policy goals. The President has framed the ¶ conflict as a war and the subsequent invasions, detentions, and killings ¶ confirm this view. These actions as well as the ongoing threat from alQaeda elevate the conflict to a de facto state of war. ¶ It is important to note, however, that the Prize cases dealt with a ¶ defensive war during a national crisis; the confederate rebels severely ¶ threatened the territorial integrity of the United States.71 In the immediate ¶ aftermath of 9/11 and given the ease with which foreign militants can ¶ inflict damage across state borders, the United States could probably claim ¶ that actions at home and overseas were part of a defensive war. Though the ¶ Prize cases should authorize the executive actions immediately following ¶ the attack, it is not clear whether they would authorize executive action ¶ today.72 With the death of the 9/11 mastermind and increased security ¶ measures, actions against al-Qaeda are looking less defensive and more ¶ offensive. Furthermore, the passage of time has made the scenario seem ¶ less like the emergency that required rapid executive action. For these ¶ reasons, it is unclear whether the United States today is actually in a ¶ defensive war with al-Qaeda under the Prize cases framework.73¶ B. Importance of Congressional Authorization¶ Though the President’s inherent authority to act in times of emergency ¶ and war can arguably make congressional authorization of force ¶ unnecessary, it is extremely important for the conflict against al-Qaeda and ¶ its allies. First, as seen above, the existence of a state of war or national ¶ emergency is not entirely clear and might not authorize offensive war ¶ anyway. Next, assuming that a state of war did exist, specific congressional authorization would further legitimate and guide the executive branch in the prosecution of this conflict by setting out exactly what Congress authorizes and what it does not. Finally, Congress should specifically set out what the President can and cannot do to limit his discretionary authority and prevent adding to the gloss on executive power. ¶ Even during a state of war, a congressional authorization for conflict ¶ that clearly sets out the acceptable targets and means would further ¶ legitimate the President’s actions and help guide his decision making ¶ during this new form of warfare. Under Justice Jackson’s framework from ¶ Youngstown, presidential authority is at its height when the Executive is acting pursuant to an implicit or explicit congressional authorization.74 In ¶ this zone, the President can act quickly and decisively because he knows ¶ the full extent of his power.75 In contrast, the constitutionality of ¶ presidential action merely supported by a president’s inherent authority ¶ exists in the “zone of twilight.”76 Without a congressional grant of power, ¶ the President’s war actions are often of questionable constitutionality ¶ because Congress has not specifically delegated any of its own war powers ¶ to the executive.77¶ This problem forces the President to make complex judgments ¶ regarding the extent and scope of his inherent authority. The resulting ¶ uncertainty creates unwelcome issues of constitutionality that might hinder ¶ the President’s ability to prosecute this conflict effectively. In timesensitive and dangerous situations, where the President needs to make splitsecond decisions that could fundamentally impact American lives and ¶ safety, he should not have to guess at the scope of his authority. Instead, ¶ Congress should provide a clear, unambiguous grant of power, which ¶ would mitigate many questions of authorization. Allowing the President to ¶ understand the extent of his authority will enable him to act quickly, ¶ decisively but also constitutionally. ¶ Finally, a grant or denial of congressional authorization will allow ¶ Congress to control the “gloss” on the executive power. There is ¶ considerable tension between the President’s constitutional powers as ¶ Commander in Chief and Congress’s war making powers.78 This tension is ¶ not readily resolved simply by looking at the Constitution.79 Instead courts look to past presidential actions and congressional responses when evaluating the constitutionality of executive actions.80 Indeed Justice ¶ Frankfurter noted in Youngstown that “a systematic, unbroken, executive ¶ practice, long pursued to the knowledge of the Congress and never before ¶ questioned . . . may be treated as a gloss on ‘executive Power’ vested in the ¶ President by § 1 of Art. II.”81 Thus, congressional inaction can be deemed as implicit delegation of war making power to the executive.82 Whether the United States is in a state of war or not, an authorization ¶ of force provides legitimacy and clarity to the war effort. If the President ¶ acts pursuant to such an authorization his authority is at its height; ¶ consequently, he can operate with greater certainty that his actions are ¶ constitutional.83 Absent such a declaration, the President’s power is much less clear. While the President has the authority to frame the conflict and he might still be able to act pursuant to his inherent powers, he is operating in ¶ the zone of twilight.84 Congressional authorizations remove this uncertainty by stamping specific acts with congressional approval or disapproval. This ¶ process also allows Congress to exert control over what the President can do in the future and prevents the “gloss” that comes from congressional ¶ acquiescence.85

#### Vote to require a statutory source:

#### Stabilizes topical authority and both restriction mechanisms – best chance of predictable aff limits and complementary neg ground

#### pleas for reasonability just warrant precision – only check on bi-directionality and Commander-in-Chief affs

Colby P. Horowitz 2013 “CREATING A MORE MEANINGFUL ¶ DETENTION STATUTE: LESSONS LEARNED ¶ FROM HEDGES V. OBAMA,” FORDHAM L.R. Vol. 81, http://fordhamlawreview.org/assets/pdfs/Vol\_81/Horowitz\_April.pdf

Thus, there at least two ways to interpret section 1021 under Justice ¶ Jackson’s framework. The government believes that section 1021 places ¶ the executive firmly in Zone 1. It has argued on appeal in Hedges that ¶ section 1021 is “an essentially verbatim affirmation by Congress of the ¶ Executive Branch’s interpretation of the AUMF.”335 This is supported by ¶ the government’s 2009 brief to the D.C. District Court, which is almost ¶ identical to the description of detention authority in section 1021.336 If ¶ section 1021 places the President in Zone 1, he has clear statutory authorization and does not need to rely on his general Commander-in-Chief powers (which courts view more narrowly).337 Additionally, in Zone 1, any ¶ ambiguities or vague terms in the statute might actually expand the President’s authority.338 338. See Chesney, supra note 33, at 792–93 (explaining that some observers view ambiguities in detention statutes as constituting “an implied delegation of authority to the executive to provide whatever further criteria may be required”).

### 2

#### Judicial Deference is High

Entin 2012

[Jonathan L, Associate Dean for Academic Affairs (School of Law), David L. Brennan Professor of Law, and Professor of Political Science, Case Western Reserve University, “War Powers, Foreign Affairs, and the Courts: Some Institutional Considerations”, http://law.case.edu/journals/JIL/Documents/45CaseWResJIntlL1&2.21.Article.Entin.pdf]

Congress responded to that suggestion by enacting the Military Commissions Act of 2006,91 which sought to endorse the executive’s detainee policies and to restrict judicial review of detainee cases. In Boumediene v. Bush, 92 the Supreme Court again rejected the government’s position. First, the statute did not suspend the writ of habeas corpus.93 Second, the statutory procedures for hearing cases involving detainees were constitutionally inadequate.94 At the same time, the Court emphasized that the judiciary should afford some deference to the executive branch in dealing with the dangers of terrorism95 and should respect the congressional decision to consolidate judicial review of detainee cases in the District of Columbia Circuit.96 Detainees who have litigated in the lower federal courts in the District of Columbia have not found a sympathetic forum. The U.S. Court of Appeals for the D.C. Circuit has not upheld a single district court ruling that granted any sort of relief to detainees, and the Supreme Court has denied certiorari in every post-Boumediene detainee case in which review was sought.97 In only one case involving a detainee has the D.C. Circuit granted relief, and that case came up from a military commission following procedural changes adopted in the wake of Boumediene. 98 About a month after this symposium took place, in Hamdan v. United States99 the court overturned a conviction for providing material support for terrorism. The defendant was the same person who successfully challenged the original military commissions in Hamdan v. Rumsfeld. 100 This very recent ruling emphasized that the statute under which he was prosecuted did not apply to offenses committed before its enactment.101 It remains to be seen how broadly the decision will apply. Meanwhile, other challenges to post-2001 terrorism policies also have failed, and the Supreme Court has declined to review those rulings as well. For example, the lower courts have rebuffed claims asserted by foreign nationals who were subject to extraordinary rendition. In Arar v. Ashcroft, 102 the U.S. Court of Appeals for the Second Circuit affirmed the dismissal of constitutional and statutory challenges brought by a plaintiff holding dual citizenship in Canada and the United States.103 And in Mohamed v. Jeppesen Dataplan, Inc., 104 the U.S. Court of Appeals for the Ninth Circuit held that the state-secrets privilege barred a separate challenge to extraordinary rendition brought by citizens of Egypt, Morocco, Ethiopia, Iraq, and Yemen.105 Unlike Arar, in which the defendants were federal officials,106 this case was filed against a private corporation that allegedly assisted in transporting the plaintiffs to overseas locations where they were subjected to torture.107 Although at least four judges on the en banc courts dissented from both rulings,108 the Supreme Court declined to review either case.109

#### The plan reverses court deference and rules on a political question

Lederman 11 (Martin, Professor of Law – Georgetown University Law Center, “War, Terror, and the Federal Courts, Ten Years After 9/11: Conference\*: Association of American Law Schools' Section on Federal Courts Program at the 2012 AALS Annual Meeting in Washington, D.C.,” American University Law Review, June, 61 Am. U.L. Rev. 1253, Lexis)

Number two: Numerous very important, contested, hotly debated topics have arisen in the last ten years, many of them in the Bush Administration, involving for example interrogation techniques, the scope of detention authority, habeas review, military commissions, targeted killings,and the use of force more broadly. On some of these questions, the federal courts - and the Supreme Court in particular - have had quite a lot to say; and on others, not so much, at least in part because of several different federal courts doctrines that prevent the courts from speaking too much about those. You're all familiar with standing limits, political questions, state secrets, etc. We're going to focus particularly on a couple of them, which are immunity doctrines and the weakening of the Bivens n2 and state court sorts of causes of action. We will also discuss the fact that there are many people who think the federal courts have become too involved at supervising and resolving substantive questions involving the political branches, including some of Judge Kavanaugh's colleagues, who have been particularly vocal about that, engaging in what appears to be a form of resistance to the Supreme Court's Boumediene n3 decision. By contrast, many other people think the courts have not been nearly involved enough at resolving some of the unresolved questions about the scope of interrogation and detention and military commissions and the like, that might be lingering from the last administration, or occurring now in the new administration, such as with respect to use of force. So that's the second broad topic - whether the federal courts have been too timid or too aggressive in this area.

#### Non-deferential judicial review kills military readiness

Chensey 2009

[Robert M. is a Professor at University of Texas School of Law, NATIONAL SECURITY FACT DEFERENCE, VIRGINIA LAW REVIEW, 17 September 2009, http://www.virginialawreview.org/content/pdfs/95/1361.pdf, pg. 1426-1428]

Advocates of deference at times also emphasize the collateral ¶ consequences that non-deferential judicial review of executive ¶ branch factual judgments might have on related government operations or activities. On this view, the benefits of judicial review—¶ measured in terms of enforcement of separation of powers values ¶ or even enhancement of accuracy—in some circumstances may be ¶ outweighed by collateral costs entailed by the very process of nondeferential, or insufficiently deferential, review. ¶ When precisely does this argument come into play? Advocates ¶ of deference do not contend that collateral costs outweigh potential benefits in all national security related litigation. Indeed, the ¶ argument played no significant role in most of the examples surveyed in Part I. Most if not all judicial review of government action, after all, entails some degree of disruption to government operations. Government personnel, for example, often are obliged to ¶ spend some amount of time and resources participating, directly or ¶ indirectly, in the process of litigation, whether by serving as witnesses in a formal sense, gathering and reviewing documents, ¶ speaking informally with attorneys or investigators, and so forth. ¶ These litigation related activities to some extent are bound to disrupt the performance of ordinary government functions. ¶ But some such disruptions are more serious than others. Disruption of military activity, for example, may impose unusually high ¶ costs. So said Justice Jackson in Johnson v. Eisentrager,¶ 218 a postWorld War II decision denying habeas rights to a group of Ger-[page 1427] mans convicted of war crimes and detained in a U.S. controlled facility in Germany. Jackson gave many reasons for the decision, but ¶ placed particular emphasis on the undesirable practical consequences that would, in his view, follow from permitting any judicial ¶ review in this setting. These included: disruption of ongoing military operations, expenditure of scarce military resources, distraction of field commanders, harm to the prestige of commanders, and ¶ comfort to armed enemies.219 The government not surprisingly emphasized such concerns in the Hamdi litigation as well, though with ¶ much less success; and similar arguments continue to play a significant role today as courts grapple with still unresolved questions regarding the precise nature of habeas review of military determinations of enemy combatant status.220¶ But even in the enemy combatant setting, where disruption concerns arguably are near their zenith, this argument does not necessarily point in the direction of fact deference as the requisite solution. It did not persuade the Supreme Court in Hamdi to defer to ¶ the government’s factual judgment, nor did it do so in the more recent decision in Boumediene v. Bush dealing with noncitizen detainees held at Guantánamo. The impact of the argument in those ¶ cases instead was to prompt the Court to accept procedural innovations designed to ameliorate the impact of judicial review, rather ¶ than seeking to avoid that impact via deference.221 This is a useful ¶ reminder that even when the executive branch raises a legitimate ¶ concern in support of a fact deference argument, it does not follow ¶ automatically that deference is the only mechanism by which the ¶ judiciary can accommodate the concern. ¶ This leaves the matter of secrecy. Secrecy relates to the collateral consequences inquiry in the sense that failure to maintain secrecy with respect to national security information can have extralitigation consequences for government operations—as well as for [page 1428] individuals or even society as a whole—ranging from the innocuous ¶ to the disastrous. Without a doubt this is a significant concern. But, ¶ again, it is not clear that deference is required in order to address ¶ it. Preservation of secrecy is precisely the reason that the state secrets privilege exists, of course, and it also is the motive for the ¶ Classified Information Procedures Act, which establishes a process ¶ through which judges work with the parties to develop unclassified ¶ substitutes for evidence that must be withheld on secrecy ¶ grounds.222

#### Military readiness key to heg

Donnelly 2003

[Thomas, resident fellow at AEI, The Underpinnings of the Bush Doctrine, February 1, <http://www.aei.org/article/foreign-and-defense-policy/the-underpinnings-of-the-bush-doctrine/>]

The preservation of today's Pax Americana rests upon both actual military strength and the perception of strength. The variety of victories scored by U.S. forces since the end of the cold war is testament to both the futility of directly challenging the United States and the desire of its enemies to keep poking and prodding to find a weakness in the American global order. Convincing would-be great powers, rogue states, and terrorists to accept the liberal democratic order--and the challenge to autocratic forms of rule that come with it--requires not only an overwhelming response when the peace is broken, but a willingness to step in when the danger is imminent. The message of the Bush Doctrine--"Don't even think about it!"--rests in part on a logic of preemption that underlies the logic of primacy.

#### Extinction

Barnett 11 (Thomas P.M., Former Senior Strategic Researcher and Professor in the Warfare Analysis & Research Department, Center for Naval Warfare Studies, U.S. Naval War College American military geostrategist and Chief Analyst at Wikistrat., worked as the Assistant for Strategic Futures in the Office of Force Transformation in the Department of Defense, “The New Rules: Leadership Fatigue Puts U.S., and Globalization, at Crossroads,” March 7, CMR)

Events in Libya are a further reminder forAmericans that we stand at a crossroads in our continuing evolution as the world's sole full-service superpower. Unfortunately, we are increasingly seeking change without cost, and shirking from risk because we are tired of the responsibility. We don't know who we are anymore, and our president is a big part of that problem. Instead of leading us, he explains to us. Barack Obama would have us believe that he is practicing strategic patience. But many experts and ordinary citizens alike have concluded that he is actually beset by strategic incoherence -- in effect, a man overmatched by the job. It is worth first examining the larger picture: We live in a time of arguably the greatest structural change in the global order yet endured, with this historical moment's most amazing feature being its relative and absolute lack of mass violence. That is something to consider when Americans contemplate military intervention in Libya, because if we do take the step to prevent larger-scale killing by engaging in some killing of our own, we will not be adding to some fantastically imagined global death count stemming from the ongoing "megalomania" and "evil" of American "empire." We'll be engaging in the same sort of system-administering activity that has marked our stunningly successful stewardship of global order since World War II. Let me be more blunt: **As the guardian of globalization**, **the U.S. military has been the** greatest force for peace the world has ever known. **Had America been removed from the global dynamics that governed the 20th century**, the **mass murder never would have ended**. Indeed, it's entirely conceivable **there would now be** no identifiable human civilization left**, once** nuclear weapons **entered the killing equation.**  But **the world did not keep sliding down that path of perpetual war**. **Instead, America stepped up and changed everything by ushering in our now-**perpetual great-power peace. **We introduced the international liberal trade order known as** globalization and played loyal Leviathan over its spread. **What resulted was the collapse of empires,** an explosion of democracy, the persistent spread of human rights, the liberation of women, the doubling of life expectancy, a roughly 10-fold increase in adjusted global GDP **and a profound and persistent reduction in battle deaths from** state-based conflicts. That is what American "hubris" actually delivered. Please remember that the next time some TV pundit sells you the image of "unbridled" American military power as the cause of global disorder instead of its cure. With self-deprecation bordering on self-loathing, we now imagine a post-American world that is anything but. Just watch who scatters and who steps up as the Facebook revolutions erupt across the Arab world. While we might imagine ourselves the status quo power, we remain the world's most vigorously revisionist force. As for the sheer "evil" that is our military-industrial complex, again, let's examine what the world looked like before that establishment reared its ugly head. The last great period of global structural change was the first half of the 20th century, a period that saw a death toll of about 100 million across two world wars. That comes to an average of 2 million deaths a year in a world of approximately 2 billion souls. Today, with far more comprehensive worldwide reporting, researchers report an average of less than 100,000 battle deaths annually in a world fast approaching 7 billion people. Though admittedly crude, these **calculations suggest a 90 percent absolute drop and a** 99 percent **relative** drop in deaths due to war. We are clearly headed for a world order characterized by multipolarity, something the American-birthed system was designed to both encourage and accommodate. But given how things turned out the last time we collectively faced such a fluid structure, **we would do well to keep U.S. power, in all of its forms**, deeply embedded in the geometry to come. To continue the historical survey, after salvaging Western Europe from its half-century of civil war, the U.S. emerged as the progenitor of a new, far more just form of globalization -- one based on actual free trade rather than colonialism. America then successfully replicated globalization further in East Asia over the second half of the 20th century, setting the stage for the Pacific Century now unfolding.

### 3

**US will continue reliance on drones – key to effective counter-terror while minimizing casualties**

**Byman** July/August **’13** (Daniel L, Research Director, Saban Center for Middle East Policy, Senior Fellow, Foreign Policy, Saban Center for Middle East Policy, “Why Drones Work: The Case for Washington's Weapon of Choice”, Foreign Affairs, <http://www.brookings.edu/research/articles/2013/06/17-drones-obama-weapon-choice-us-counterterrorism-byman>, CMR)

**Despite** President Barack **Obama’s** recent **call to reduce** the United States’ **reliance on drones, they will** likely **remain his administration’s weapon of choice**. Whereas President George W. Bush oversaw fewer than 50 drone strikes during his tenure, **Obama has signed off on over 400** of them **in the last four years, making the program the centerpiece of U.S. counterterror**ism **strategy**. **The drones have done** their job **remarkably well**: by **killing key leaders** **and denying terrorists sanctuaries** in Pakistan, Yemen, and, to a lesser degree, Somalia, **drones have devastated al Qaeda and associated anti-American militant groups**. And they have done so at little financial cost, at no risk to U.S. forces, and **with fewer civilian casualties than** many **alternative methods** would have caused. Critics, however, remain skeptical. They claim that drones kill thousands of innocent civilians, alienate allied governments, anger foreign publics, illegally target Americans, and set a dangerous precedent that irresponsible governments will abuse. Some of these criticisms are valid; others, less so. In the end, **drone strikes remain a necessary instrument of counterterror**ism. **The U**nited **S**tates simply **cannot tolerate terrorist safe havens** in remote parts of Pakistan and elsewhere, **and drones offer a comparatively low-risk way of targeting these areas while minimizing collateral damage**.

#### Constraining targeted killing’s role in the war on terror causes extinction

Louis Rene Beres 11, Professor of Political Science and International Law at Purdue, 2011, “After Osama bin Laden: Assassination, Terrorism, War, and International Law,” Case Western Reserve Journal of International Law, 44 Case W. Res. J. Int'l L. 93

Even after the U.S. assassination of Osama bin Laden, we are still left with the problem of demonstrating that assassination can be construed, at least under certain very limited circumstances, as an appropriate instance of anticipatory self-defense. Arguably, the enhanced permissibility of anticipatory self-defense that follows generally from the growing destructiveness of current weapons technologies in rogue hands may be paralleled by the enhanced permissibility of assassination as a particular strategy of preemption. Indeed, where assassination as anticipatory self-defense may actually prevent a nuclear or other highly destructive form of warfare, reasonableness dictates that it could represent distinctly, even especially, law-enforcing behavior. For this to be the case, a number of particular conditions would need to be satisfied. First, the assassination itself would have to be limited to the greatest extent possible to those authoritative persons in the prospective attacking state. Second, the assassination would have to conform to all of the settled rules of warfare as they concern discrimination, proportionality, and military necessity. Third, the assassination would need to follow intelligence assessments that point, beyond a reasonable doubt, to preparations for unconventional or other forms of highly destructive warfare within the intended victim's state. Fourth, the assassination would need to be founded upon carefully calculated judgments that it would, in fact, prevent the intended aggression, and that it would do so with substantially less harm [\*114] to civilian populations than would all of the alternative forms of anticipatory self-defense. Such an argument may appear manipulative and dangerous; permitting states to engage in what is normally illegal behavior under the convenient pretext of anticipatory self-defense. Yet, any blanket prohibition of assassination under international law could produce even greater harm, compelling threatened states to resort to large-scale warfare that could otherwise be avoided. Although it would surely be the best of all possible worlds if international legal norms could always be upheld without resort to assassination as anticipatory self-defense, the persisting dynamics of a decentralized system of international law may sometimes still require extraordinary methods of law-enforcement. n71 Let us suppose, for example, that a particular state determines that another state is planning a nuclear or chemical surprise attack upon its population centers. We may suppose, also, that carefully constructed intelligence assessments reveal that the assassination of selected key figures (or, perhaps, just one leadership figure) could prevent such an attack altogether. Balancing the expected harms of the principal alternative courses of action (assassination/no surprise attack v. no assassination/surprise attack), the selection of preemptive assassination could prove reasonable, life-saving, and cost-effective. What of another, more common form of anticipatory self-defense? Might a conventional military strike against the prospective attacker's nuclear, biological or chemical weapons launchers and/or storage sites prove even more reasonable and cost-effective? A persuasive answer inevitably depends upon the particular tactical and strategic circumstances of the moment, and on the precise way in which these particular circumstances are configured. But it is entirely conceivable that conventional military forms of preemption would generate tangibly greater harms than assassination, and possibly with no greater defensive benefit. This suggests that assassination should not be dismissed out of hand in all circumstances as a permissible form of anticipatory self-defense under international law. [\*115] What of those circumstances in which the threat to particular states would not involve higher-order (WMD) n72 military attacks? Could assassination also represent a permissible form of anticipatory self-defense under these circumstances? Subject to the above-stated conditions, the answer might still be "yes." The threat of chemical, biological or nuclear attack may surely enhance the legality of assassination as preemption, but it is by no means an essential precondition. A conventional military attack might still, after all, be enormously, even existentially, destructive. n73 Moreover, it could be followed, in certain circumstances, by unconventional attacks.

#### Plan ensures WMD terrorism – risk is high

Royal 11 (JOHN PAUL ROYAL, Institute of World Politics, “War Powers and the Age of Terrorism,” Center

for the Study of the Presidency & Congress The Fellows Review, 2010-2011, <http://www.thepresidency.org/storage/Fellows2011/Royal-_Final_Paper.pdf>, CMR)

Proliferation of weapons of mass destruction (WMD), especially nuclear weapons, into the hands of¶ these terrorists is the most dangerous threat to the United States. We know from the 9/11¶ Commission Report that Al Qaeda has attempted to make and obtain nuclear weapons for at¶ least the past fifteen years. Al Qaeda considers the acquisition of weapons of mass destruction¶ to be a religious obligation while “more than two dozen other terrorist groups are pursing¶ CBRN [chemical, biological, radiological, and nuclear] materials” (National Commission 2004, 397). Considering these¶ statements, rogue regimes that are openly hostile to the United States and have or seek to develop nuclear weapons capability¶ such as North Korea and Iran, or extremely unstable nuclear countries such as Pakistan, pose a special threat to¶ American national security interests. These nations were not necessarily a direct threat to the Unite d States in the¶ past. Now, however, due to proliferation of nuclear weapons and missile technology, they can inflict damage at considerably higher¶ levels and magnitudes than in the past. In addition, these regimes may pursue proliferation of nuclear weapons and missile¶ technology to other nations and to allied terrorist organizations. The United States must pursue condign¶ punishment and appropriate, rapid action against hostile terrorist organizations, rogue nation¶ states, and nuclear weapons proliferation threats in order to protect American interests both¶ at home and abroad. Combating these threats are the “top national security priority for the¶ United States... with the full support of Congress, both major political parties, the media, and the American¶ people” (National Commission 2004, 361). Operations may take the form of pre-emptive and sustained¶ action against those who have expressed hostility or declared war on the United States. Only¶ the executive branch can effectively execute this mission , authorized by the 2001 AUMF. If the national¶ consensus or the nature of the threat changes, Congress possesses the intrinsic power to rescind and limit these powers.¶ CONCLUSION¶ Alexis de Tocqueville, that prescient and inimitable observer of America, ¶ noted in his classic work Democracy in America that circumstances eventually ¶ would cause executive power to grow over time as the United States expanded in ¶ power and prestige. Observing the diminutive size and strength of the American ¶ armed forces of the period, he wrote that the “President of the United States is in ¶ the possession of almost royal prerogatives, which he has no opportunity of ¶ exercising; and those privileges which he can at present use are very circumscribed: ¶ the laws allow him to possess a degree of influence which circumstances do not ¶ permit him to employ” (de Tocqueville 1839, 119). Indeed at the time, the United ¶ States had little need for strong defenses since the country was isolated from the ¶ great powers of the day by two vast oceans; had few threats from its direct ¶ neighbors; and did not have major conflicting interests with other nations around ¶ the world. ¶ But Tocqueville stated that as the United States grew and threats to the ¶ nation increased, so too would its dependence on executive power. In foreign ¶ affairs and national security, the executive power of a nation must “exert its skill ¶ and its vigor.” As Tocqueville predicted: ¶ If the existence of the Union were perpetually threatened, and if its chief ¶ interests were in daily connection with those of other powerful nations, ¶ the executive government would assume an increased importance in ¶ proportion to the measures expected of it, and those which it would ¶ carry into effect (de Tocqueville 1839, 119). ¶ And so it has come to pass. Certainly, the Executive has grown but so have ¶ the intelligence services, armed forces, and foreign policy apparatus of the United ¶ States. Congress created, funded, trained, and organized an international U.S. ¶ national security presence throughout the world capable of quickly deployable ¶ global missions executed by the President. In an increasingly dangerous and ¶ globalized world filled with “perpetual threats,” it was prudent and judicious of the ¶ Founders to establish a flexible and fluid constitutional order to protect national ¶ interests during times of uncertainty, crisis, and war.

**Extinction**

**Hellman 8** Martin E. Hellman, emeritus prof of engineering @ Stanford, "Risk Analysis of Nuclear Deterrence" SPRING 2008 THE BENT OF TAU BETA PI, <http://www.nuclearrisk.org/paper.pdf>, CMR

**The threat of nuclear terrorism looms** much larger in the public’s mind than the threat of a full-scale nuclear war, yet this article focuses primarily on the latter. An explanation is therefore in order before proceeding. **A terrorist attack involving a nuclear weapon would be a catastrophe of immense proportions**: “A 10-kiloton bomb detonated at Grand Central Station on a typical work day would likely kill some half a million people, and inflict over a trillion dollars in direct economic damage. America and its way of life would be changed forever.” [Bunn 2003, pages viii-ix]. **The likelihood of such an attack is also** significant. Former Secretary of Defense William **Perry** has **estimated the chance of a nuclear terrorist incident** within the next decade **to be roughly 50 percent** [Bunn 2007, page 15]. David Albright, a former weapons inspector in Iraq, estimates those odds at less than one percent, but notes, “We would never accept a situation where the chance of a major nuclear accident like Chernobyl would be anywhere near 1% .... A nuclear terrorism attack is a low-probability event, but we can’t live in a world where it’s anything but extremely low-probability.” [Hegland 2005]. **In a survey of 85 national security experts, Senator Richard Lugar found** a median estimate of 20 percent for the “probability of **an attack involving a nuclear explosion occurring somewhere in the world in the next 10 years,” with 79 percent of the respondents believing “it more likely to be carried out by terrorists” than by a government** [Lugar 2005, pp. 14-15]. I support increased efforts to reduce the threat of nuclear terrorism, but that is not inconsistent with the approach of this article. Because **terrorism is** one of **the** potential **trigger mechanism**s **for a** full-scale nuclear war, the risk analyses proposed herein will include estimating the risk of nuclear terrorism as one component of the overall risk. If that risk, the overall risk, or both are found to be unacceptable, then the proposed remedies would be directed to reduce which- ever risk(s) warrant attention. Similar remarks apply to a number of other threats (e.g., nuclear war between the U.S. and China over Taiwan). his article would be incomplete if it only dealt with the threat of nuclear terrorism and neglected the threat of full- scale nuclear war. If both risks are unacceptable, an effort to reduce only the terrorist component would leave humanity in great peril. In fact, **society’s almost total neglect of the threat of full-scale nuclear war makes studying that risk all the more important**. The cosT of World War iii The danger associated with nuclear deterrence depends on both the cost of a failure and the failure rate.3 This section explores the cost of a failure of nuclear deterrence, and the next section is concerned with the failure rate. While other definitions are possible, this article defines a failure of deterrence to mean a full-scale exchange of all nuclear weapons available to the U.S. and Russia, an event that will be termed World War III. Approximately 20 million people died as a result of the first World War. World War II’s fatalities were double or triple that number—chaos prevented a more precise deter- mination. In both cases humanity recovered, and the world today bears few scars that attest to the horror of those two wars. Many people therefore implicitly believe that a third World War would be horrible but survivable, an extrapola- tion of the effects of the first two global wars. In that view, World War III, while horrible, is something that humanity may just have to face and from which it will then have to recover. In contrast, some of those most qualified to assess the situation hold a very different view. In a 1961 speech to a joint session of the Philippine Con- gress, General Douglas MacArthur, stated, “Global war has become a Frankenstein to destroy both sides. … If you lose, you are annihilated. If you win, you stand only to lose. **No longer does it possess even the chance of the winner of a duel. It contains now only the germs of double suicide**.” Former Secretary of Defense Robert McNamara ex- pressed a similar view: “If deterrence fails and conflict develops, the present U.S. and NATO strategy carries with it a high risk that **Western civilization will be** destroyed” [McNamara 1986, page 6]. More recently, George Shultz, William Perry, Henry Kissinger, and Sam Nunn4 echoed those concerns when they quoted President Reagan’s belief that nuclear weapons were “totally irrational, totally inhu- mane, good for nothing but killing, possibly destructive of life on earth and civilization.” [Shultz 2007] Official studies, while couched in less emotional terms, still convey the horrendous toll that World War III would exact: “**The resulting deaths would be far beyond any precedent**. Executive branch calculations show a range of U.S. deaths from 35 to 77 percent (i.e., 79-160 million dead) … a change in targeting could kill somewhere between 20 million and 30 million additional people on each side .... These calculations reflect only deaths during the first 30 days. Additional millions would be injured, and many would eventually die from lack of adequate medical care … millions of people might starve or freeze during the follow- ing winter, but it is not possible to estimate how many. … further millions … might eventually die of latent radiation effects.” [OTA 1979, page 8] This OTA report also noted the possibility of serious ecological damage [OTA 1979, page 9], a concern that as- sumed a new potentiality when the TTAPS report [TTAPS 1983] proposed that the ash and dust from so many nearly simultaneous **nuclear explosions** and their resultant fire- storms **could usher in a** nuclear winter **that might erase homo sapiens from the face of the earth**, much as many scientists now believe the K-T Extinction that wiped out the dinosaurs resulted from an impact winter caused by ash and dust from a large asteroid or comet striking Earth. The TTAPS report produced a heated debate, and there is still no scientific consensus on whether a nuclear winter would follow a full-scale nuclear war. Recent work [Robock 2007, Toon 2007] suggests that **even a limited nuclear exchange** or one between newer nuclear-weapon states, such as India and Pakistan, **could have devastating long-lasting climatic consequences** due to the large volumes of smoke that would be generated by fires in modern megacities. While it is uncertain how destructive World War III would be, prudence dictates that we apply the same engi- neering conservatism that saved the Golden Gate Bridge from collapsing on its 50th anniversary and assume that **preventing** World War III **is a necessity—not an option**.

### 4

#### The United States Congress should enact a resolution and issue a white paper stating that, in the conduct of its oversight it has reviewed ongoing targeted killing operations and determined that the United States government is conducting such operations in full compliance with relevant laws, including but not limited to the Authorization to Use Military Force of 2001, covert action findings, and the President’s inherent powers under the Constitution.

#### The CP’s the best middle ground---preserves the vital counter-terror role of targeted killings while resolving all their downsides

Daniel Byman 13, Professor in the Security Studies Program at the Edmund A. Walsh School of Foreign Service at Georgetown University and a Senior Fellow at the Saban Center for Middle East Policy at the Brookings Institution, July/August 2013, “Why Drones Work,” Foreign Affairs, Vol. 92, No. 4

Despite President Barack Obama's recent call to reduce the United States' reliance on drones, they will likely remain his administration's weapon of choice. Whereas President George W. Bush oversaw fewer than 50 drone strikes during his tenure, Obama has signed off on over 400 of them in the last four years, making the program the centerpiece of U.S. counterterrorism strategy. The drones have done their job remarkably well: by killing key leaders and denying terrorists sanctuaries in Pakistan, Yemen, and, to a lesser degree, Somalia, drones have devastated al Qaeda and associated anti-American militant groups. And they have done so at little financial cost, at no risk to U.S. forces, and with fewer civilian casualties than many alternative methods would have caused.

Critics, however, remain skeptical. They claim that drones kill thousands of innocent civilians, alienate allied governments, anger foreign publics, illegally target Americans, and set a dangerous precedent that irresponsible governments will abuse. Some of these criticisms are valid; others, less so. In the end, drone strikes remain a necessary instrument of counterterrorism. The United States simply cannot tolerate terrorist safe havens in remote parts of Pakistan and elsewhere, and drones offer a comparatively low-risk way of targeting these areas while minimizing collateral damage.

So drone warfare is here to stay, and it is likely to expand in the years to come as other countries' capabilities catch up with those of the United States. But Washington must continue to improve its drone policy, spelling out clearer rules for extrajudicial and extraterritorial killings so that tyrannical regimes will have a harder time pointing to the U.S. drone program to justify attacks against political opponents. At the same time, even as it solidifies the drone program, Washington must remain mindful of the built-in limits of low-cost, unmanned interventions, since the very convenience of drone warfare risks dragging the United States into conflicts it could otherwise avoid.

#### Solves---the combination of executive disclosure and Congressional support boosts accountability and legitimacy

Gregory McNeal 13, Associate Professor of Law, Pepperdine University, 3/5/13, “Targeted Killing and Accountability,” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1819583>

Perhaps the most obvious way to add accountability to the targeted killing process is for someone in government to describe the process the way this article has, and from there, defend the process. The task of describing the government’s policies in detail should not fall to anonymous sources, confidential interviews, and selective leaks. Government’s failure to defend policies is not a phenomenon that is unique to post 9/11 targeted killings. In fact, James Baker once noted

"In my experience, the United States does a better job at incorporating intelligence into its targeting decisions than it does in using intelligence to explain those decisions after the fact. This in part reflects the inherent difficulty in articulating a basis for targets derived from ongoing intelligence sources and methods. Moreover, it is hard to pause during ongoing operations to work through issues of disclosure…But articulation is an important part of the targeting process that must be incorporated into the decision cycle for that subset of targets raising the hardest issues…"519

Publicly defending the process is a natural fit for public accountability mechanisms. It provides information to voters and other external actors who can choose to exercise a degree of control over the process. However, a detailed public defense of the process also bolsters bureaucratic and professional accountability by demonstrating to those within government that they are involved in activities that their government is willing to publicly describe and defend (subject to the limits of necessary national security secrecy). However, the Executive branch, while wanting to reveal information to defend the process, similarly recognizes that by revealing too much information they may face legal accountability mechanisms that they may be unable to control, thus their caution is understandable (albeit self-serving).520

It’s not just the Executive branch that can benefit from a healthier defense of the process. Congress too can bolster the legitimacy of the program by specifying how they have conducted their oversight activities. The best mechanism by which they can do this is through a white paper. That paper could include:

A statement about why the committees believe the U.S. government's use of force is lawful. If the U.S. government is employing armed force it's likely that it is only doing so pursuant to the AUMF, a covert action finding, or relying on the President's inherent powers under the Constitution. Congress could clear up a substantial amount of ambiguity by specifying that in the conduct of its oversight it has reviewed past and ongoing targeted killing operations and is satisfied that in the conduct of its operations the U.S. government is acting consistent with those sources of law. Moreover, Congress could also specify certain legal red lines that if crossed would cause members to cease believing the program was lawful. For example, if members do not believe the President may engage in targeted killings acting only pursuant to his Article II powers, they could say so in this white paper, and also articulate what the consequences of crossing that red line might be. To bolster their credibility, Congress could specifically articulate their powers and how they would exercise them if they believed the program was being conducted in an unlawful manner. Perhaps stating: "The undersigned members affirm that if the President were to conduct operations not authorized by the AUMF or a covert action finding, we would consider that action to be unlawful and would publicly withdraw our support for the program, and terminate funding for it."

A statement detailing the breadth and depth of Congressional oversight activities. When Senator Feinstein released her statement regarding the nature and degree of Senate Intelligence Committee oversight of targeted killing operations it went a long way toward bolstering the argument that the program was being conducted in a responsible and lawful manner. An oversight white paper could add more details about the oversight being conducted by the intelligence and armed services committees, explaining in as much detail as possible the formal and informal activities that have been conducted by the relevant committees. How many briefings have members attended? Have members reviewed targeting criteria? Have members had an opportunity to question the robustness of the internal kill-list creation process and target vetting and validation processes? Have members been briefed on and had an opportunity to question how civilian casualties are counted and how battle damage assessments are conducted? Have members been informed of the internal disciplinary procedures for the DoD and CIA in the event a strike goes awry, and have they been informed of whether any individuals have been disciplined for improper targeting? Are the members satisfied that internal disciplinary procedures are adequate?

3) Congressional assessment of the foreign relations implications of the program. The Constitution divides some foreign policy powers between the President and Congress, and the oversight white paper should articulate whether members have assessed the diplomatic and foreign relations implications of the targeted killing program. While the white paper would likely not be able to address sensitive diplomatic matters such as whether Pakistan has privately consented to the use of force in their territory, the white paper could set forth the red lines that would cause Congress to withdraw support for the program. The white paper could specifically address whether the members have considered potential blow-back, whether the program has jeopardized alliances, whether it is creating more terrorists than it kills, etc. In specifying each of these and other factors, Congress could note the types of developments, that if witnessed would cause them to withdraw support for the program. For example, Congress could state "In the countries where strikes are conducted, we have not seen the types of formal objections to the activities that would normally be associated with a violation of state's sovereignty. Specifically, no nation has formally asked that the issue of strikes in their territory be added to the Security Council's agenda for resolution. No nation has shot down or threatened to shoot down our aircraft, severed diplomatic relations, expelled our personnel from their country, or refused foreign aid. If we were to witness such actions it would cause us to question the wisdom and perhaps even the legality of the program."

### Deterrence

**Obama can circumvent – covert loopholes inevitable**

**Lohmann 13 (**Julia, director of the Harvard Law National Security Research Committee, BA in political science from the University of California, Berkeley, “Distinguishing CIA-Led from Military-Led Targeted Killings,” <http://www.lawfareblog.com/wiki/the-lawfare-wiki-document-library/targeted-killing/effects-of-particular-tactic-on-issues-related-to-targeted-killings/>)

The U.S. military—in particular, the Special Operations Command (SOCOM), and its subsidiary entity, the Joint Special Operations Command (JSOC)—is responsible for carrying out military-led targeted killings.¶ Military-led targeted killings are subject to various legal restrictions, including a complex web of statutes and executive orders. For example, because the Covert Action Statute does not distinguish among institutions undertaking covert actions, targeted killings conducted by the military that fall within the definition of “covert action” set forth in 50 U.S.C. § 413(b) are subject to the same statutory constraints as are CIA covert actions. 50 U.S.C. § 413b(e). However, as Robert Chesney explains, many military-led targeted killings may fall into one of the CAS exceptions—for instance, that for traditional military activities—so that the statute’s requirements will not always apply to military-led targetings. Such activities are exempted from the CAS’s presidential finding and authorization requirements, as well as its congressional reporting rules.¶ Because such unacknowledged military operations are, in many respects, indistinguishable from traditional covert actions conducted by the CIA, **this** exception **may provide a “loophole” allowing the President to circumvent existing oversight mechanisms** without substantively changing his operational decisions. However, at least some military-led targetings do not fall within the CAS exceptions, and are thus subject to that statute’s oversight requirements. For instance, Chesney and Kenneth Anderson explain, some believe that the traditional military activities exception to the CAS only applies in the context of overt hostilities, yet it is not clear that the world’s tacit awareness that targeted killing operations are conducted (albeit not officially acknowledged) by the U.S. military, such as the drone program in Pakistan, makes those operations sufficiently overt to place them within the traditional military activities exception, and thus outside the constraints of the CAS.¶ Chesney asserts, however, that despite the gaps in the CAS’s applicability to military-led targeted killings, those targetings are nevertheless subject to a web of oversight created by executive orders that, taken together, largely mirrors the presidential authorization requirements of the CAS. But, this process is not enshrined in statute or **regulation** and arguably **could be changed or revoked by the President at any time**. Moreover, **this internal Executive Branch process does not involve Congress or the Judiciary** in either ex ante or ex post **oversight** of military-led targeted killings, and thus, Philip Alston asserts, **it may be insufficient to provide a meaningful check against** arbitrary and overzealous **Executive actions**.

**US action irrelevant to international norms on drones – other tech proves**

**Etzioni 13** – professor of IR @ George Washington (Amitai, “The Great Drone Debate”, March/April, <http://usacac.army.mil/CAC2/MilitaryReview/Archives/English/MilitaryReview_20130430_art004.pdf>, CMR)

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

#### Syria proves no drone wars---they’re useless against any adversary with an air defense system

Audrey Kurth Cronin 9-2, Professor of Public Policy at George Mason University, 9/2/13, “Drones Over Damascus,” http://www.foreignaffairs.com/articles/139889/audrey-kurth-cronin/drones-over-damascus

For the past four years, Americans have been preoccupied with drone technology as a cheap, low-risk, and discriminate way to eliminate emerging global threats without getting entangled in protracted conflicts. The U.S. government has even dramatically changed its military force structure to make armed drones a lynchpin of U.S. power projection. Yet these weapons have been virtually useless in the last two conflicts that the United States has faced, first in Libya and now in Syria. Why is that?

Broadly speaking, the United States has used armed drone strikes overseas in two ways: during war and to prevent war. Battlefield use of weaponized drones is not new (it dates back to World War I), and is fairly ubiquitous. A spring 2013 report by the U.S. Air Force estimated that unmanned aircraft fired about a quarter of all missiles used in coalition air strikes in Afghanistan in the early part of this year. Drones have proved remarkably effective at providing reconnaissance to U.S. troops on the ground, protecting them from enemy attacks, and reducing civilian casualties. When used within a war, in other words, drones are a great way to give U.S. soldiers an edge.

Armed drones have a preventive role to play, as well. They can keep terrorist threats at bay, and thus reduce the chance that Washington will need to send troops to battle insurgents in faraway places. Since 2009, U.S. counterterrorism efforts have involved hundreds of remote-controlled strikes by unmanned aerial vehicles. These were meant to prevent attacks on the United States and its allies by al Qaeda, the Taliban, and other groups. In these cases, the argument goes, discriminate targeting to prevent such attacks beats invading countries after them.

Prevention has thus become a watchword of U.S. policy, but its logic has rarely been applied to belligerent states. The international community had plenty of warning that the Syrian government might use chemical weapons, and now Syrian President Bashar al-Assad has apparently employed sarin gas to kill thousands of civilians. Photographs of rows of children left dead and videos of civilians running in fear have shocked the world. The last time the gas was used -- in Japan by Aum Shinrikyo, a terrorist group, to kill 13 people on the Tokyo subway -- pales in comparison with the recent slaughter in Syria. Could the United States have deployed its drone fleet to destroy Syrian arsenals or to kill those planning to make use of them before this happened?

The answer is no. Armed drones have serious limitations, and the situation in Syria lays them bare. They are only useful where the United States has unfettered access to airspace, a well-defined target, and a clear objective. In Syria, the United States lacks all three.

First, the airspace. So far, armed drones have been used either over countries that do not control their own airspace (Somalia, Mali, Afghanistan) or where the government has given the United States some degree of permission (Yemen, Pakistan). Those circumstances are rare. When the foe can actually defend itself, the use of armed drones is extraordinarily difficult and could constitute an act of war -- one that could easily draw the United States into the heart of a conflict.

Drones are slow and noisy; they fly at a low altitude; and they require time to hover over a potential target before being used. They are basically sitting ducks. Syria has an air force and air defenses that could easily pick American drones out of the sky. The only real way for the United States to use them would be to first destroy Syrian planes and anti-aircraft batteries. But that would be no different from a full-scale intervention and would negate the tactical advantage of remote strikes. In other words, the conditions under which armed drones are effective as preventive weapons are limited. And the more drones are used for prevention and during war, the more state belligerents will take note of that fact, and will make sure that those conditions are never met on their own territory.

Second, the target. Using armed drones against the Syrian government’s enormous chemical weapons stockpiles would have risked causing the very release of deadly agents that the United States was trying to avoid. Drones are precise but not perfect. Like cruise missiles, their effectiveness mainly depends upon the quality of their targeting information. Worse, an imperfect attack could inadvertently give the Assad government political cover to use the weapons with impunity. Assad could blame the release of chemical weapons on a misfired U.S. drone strike. Since U.S. drones are deeply despised in the Middle East, that argument could enjoy wide hearing.

Perhaps the United States might instead have tried to target chemical weapons delivery systems or tried to kill the people who were loading or moving them. But intelligence has been insufficient for such delicate operations. And even if U.S. officials got it right, a remote drone attack would have risked giving the rebels access to remaining stockpiles of chemical weapons or delivery systems. As the United States knows, some of those group are connected to al Qaeda. In such a mess of a situation, and especially in the presence of Syria’s large arsenal, there is no alternative to putting humans on the ground to secure dangerous, volatile weapons. Drones –- or cruise missiles, for that matter -- cannot do it.

Third, the objective. The United States wants to punish the Assad regime for using chemical weapons against the Syrian people and to prevent them from being used again. Drone attacks are ill suited for this purpose. They are unlikely either to inflict sufficient pain or to deter other tyrants from following Assad’s lead. A broader objective is to reinforce the global norm against the use of chemical weapons, and such a lofty goal can only be accomplished with a robust international response.

In a politically complex environment -- one in which the United States is not at war and the targets are unclear -- armed drones are really not all that useful. They might seem like a cool new tool to many observers and policymakers, but the horrible predicament in Syria reveals the sharp limitations of the technology -- and the serious problem of relying upon it so heavily in the U.S. force structure. Rather than looking for a quick technological fix, U.S. policymakers should invest more in good analysis and robust human assets on the ground, so as to sort friend from foe. The United States can take the pilot out of the aircraft, but it cannot remove human judgment, risk, and willpower from war -- especially if it plans to keep intervening in murky conflicts in the Middle East.

**No drones arms race – multiple checks**

- narrow application – diplomatic and political costs – state defenses

**Singh 12** – researcher at the Center for a New American Security (Joseph, “Betting Against a Drone Arms Race”, 8/13, <http://nation.time.com/2012/08/13/betting-against-a-drone-arms-race/#ixzz2TxEkUI37>, CMR)

Bold predictions of a coming drones arms race are all the rage since the uptake in their deployment under the Obama Administration. Noel Sharkey, for example, argues in an August 3 op-ed for the Guardian that rapidly developing drone technology — coupled with minimal military risk — portends an era in which states will become increasingly aggressive in their use of drones.¶ As drones develop the ability to fly completely autonomously, Sharkey predicts a proliferation of their use that will set dangerous precedents, seemingly inviting hostile nations to use drones against one another. Yet, **the narrow applications of** current **drone tech**nology **coupled with** what we know about **state behavior** in the international system **lend no credence to** these **ominous warnings**.¶ Indeed, critics seem overly-focused on the domestic implications of drone use.¶ In a June piece for the Financial Times, Michael Ignatieff writes that “virtual technologies make it easier for democracies to wage war because they eliminate the risk of blood sacrifice that once forced democratic peoples to be prudent.”¶ Significant public support for the Obama Administration’s increasing deployment of drones would also seem to legitimate this claim. Yet, **there remain** equally **serious** **diplomatic and political** **costs** that emanate from **beyond a fickle electorate, which** will **prevent** the likes of the **increased drone aggression** predicted by both Ignatieff and Sharkey.¶ Most recently, **the** serious **diplomatic scuffle instigated by Syria**’s **downing a Turkish reconnaissance plane** in June **illustrated** **the** very serious **risks** of operating any aircraft in foreign territory.¶ **States** **launching drones must still weigh** the **diplomatic and political costs** of their actions, **which make the calculation surrounding their use no fundamentally different** to any other aerial engagement.¶ **This** recent bout also **illustrated a salient point** regarding drone technology: **most states maintain** at least minimal air **defenses that can quickly detect and take down drones**, as the U.S. discovered when it employed drones at the onset of the Iraq invasion, while Saddam Hussein’s surface-to-air missiles were still active.¶ What the U.S. also learned, however, was that **drones constitute an effective military tool in an extremely narrow strategic context.** They are well-suited either in direct support of a broader military campaign, or to conduct targeted killing operations against a technologically unsophisticated enemy.¶ In a nutshell, then, the very contexts in which we have seen drones deployed. Northern Pakistan, along with a few other regions in the world, remain conducive to drone usage given a lack of air defenses, poor media coverage, and difficulties in accessing the region.

#### No scenario for conflict escalation – simply saying drones decrease stability doesn’t cut it

### I-Law

#### I-law fails – US will always do what’s in its best interests

**RT News 8/27** [2013 Interview with Debra Sweet, director of WCW movement, “US uses international law, UN to own advantage in Middle East”, <http://rt.com/op-edge/us-middle-east-interests-063/>, Abraha]

The US is using international law in accord with its national interests “in terms of its global agenda for domination,” Debra Sweet, director of the World Can't Wait movement, told RT, adding that Washington created a terrible mess in the Middle East. “**International law is not as important as what the US wants at any particular time**", Sweet said in an interview with RT. “Even though they use international law, when it is to their advantage, they use the UN. What deterrence the United States does at any particular time, including right now, is what its own national interests dictate in terms of its global agenda for domination and its particular interests in the Middle East. However, they have created a terrible mess.” RT: Recalling recent modern US history we've witnessed examples of America's intervention in different conflicts: Kosovo, Iraq, Libya... What is Washington's main drive in its foreign policy? Debra Sweet: Well, I think it’s like the other big powers – quite definitely so. There may be incidences of humanitarian [intervention], incidences that come along that the US responds to, but **its main drive is its own interest, pursuing its own global agenda. And this is across every country and every sphere**. And we learnt this more from WikiLeaks, didn’t we? And the cables [show] that **the US pursues this interest, relentlessly, no matter what is going on with the people of a particular country.**

**U.S. drones policy complies with international law – key to prevent terrorism**

**Groves 4/10** – Bernard and Barbara Lomas Senior Research Fellow in the Margaret Thatcher Center for Freedom, a division of the Kathryn and Shelby Cullom Davis Institute for International Studies, at The Heritage Foundation (Steven, “Drone Strikes: The Legality of U.S. Targeting Terrorists Abroad”, 2013, <http://www.heritage.org/research/reports/2013/04/drone-strikes-the-legality-of-us-targeting-terrorists-abroad>, CMR)

**Targeted drone strikes** by the United States against terrorists **comply with international law**, particularly with the law of war, both **because the U.S. is engaged in an armed conflict with al-Qaeda and associated forces and because the U.S. has an inherent right of self-defense.** **Armed drones are** particularly **well suited to target enemy belligerents while minimizing the harm to civilian populations—per the law of war**. **The U**nited **S**tates **should preserve its ability to use all of the tools in its arsenal, including** armed **drones, to ensure** that **terrorist** organizations and their operatives **do not successfully attack the U.S. homeland.**¶The debate over the circumstances in which lethal force may be used against terrorist organizations operating from foreign territory is not new. Nor is it a new reality that the United States must confront armed, non-state actors that threaten its national security and the lives of its people.¶ **Lethal force, including** targeted **drone strikes, may lawfully be used against an enemy belligerent** **during an armed conflict** **or under circumstances in which the belligerent constitutes an imminent threat** to national security. **Because the U**nited **S**tates **is currently engaged in an armed conflict with al-Qaeda** and its associated forces, **whose operatives continue to pose an imminent threat, U.S. armed forces may target them with lethal force wherever they may be found**, whether on the “hot” battlefield of Afghanistan or operating from other nations, such as Pakistan and Yemen.¶ American targeted **drone strikes comply with international law**, **in particular** that part of international law known as **the law of war, which requires belligerents to distinguish combatants from civilians and minimize harm to the civilian population**. Based on the information available to the public, it appears that **the U**nited **S**tates **takes great care to adhere to these principles by targeting only combatants and by taking care to avoid civilian casualties**. Indeed, the evidence indicates that **armed drones are particularly well suited to carry out targeted strikes that meet the standards of the law of war**.

#### Democracy doesn’t solve war

Goldsten ‘11, **Professor IR at American University** [Joshua S. Goldstein, Professor emeritus of international relations at American University, “Thing Again: War,” Sept/Oct 2011, <http://www.foreignpolicy.com/articles/2011/08/15/think_again_war?print=yes&hidecomments=yes&page=full>, CMR]

"A More Democratic World Will Be a More Peaceful One."

**Not necessarily**. The well-worn observation that real democracies almost never fight each other is historically correct, but it's also true that democracies have always been **perfectly willing** **to fight non-democracies**. In fact, democracy can **heighten conflict** by amplifying ethnic and nationalist forces, pushing leaders to appease belligerent sentiment in order to stay in power. Thomas Paine and Immanuel Kant both believed that selfish autocrats caused wars, whereas the common people, who bear the costs, would be loath to fight. But try telling that to the leaders of authoritarian China, who are struggling to hold in check, not inflame, a popular undercurrent of nationalism against Japanese and American historical enemies. Public opinion in tentatively democratic Egypt is far more hostile toward Israel than the authoritarian government of Hosni Mubarak ever was (though being hostile and actually going to war are quite different things).

Why then do democracies limit their wars to non-democracies rather than fight each other? Nobody really knows. As the University of Chicago's Charles Lipson once quipped about the notion of a democratic peace, "We know it works in practice. Now we have to see if it works in theory!" The best explanation is that of political scientists Bruce Russett and John Oneal, who argue that three elements -- democracy, economic interdependence (especially trade), and the growth of international organizations -- are mutually supportive of each other and of peace within the community of democratic countries. Democratic leaders, then, see themselves as having less to lose in going to war with autocracies.

#### Infectious diseases can’t cause extinction – population density mitigates virulence through resistance

Wynne Parry 11, 2/2/11, Live Science Staff Writer, “Article: Theory About Mammals and Fungus Explains Bat Plague”, <http://www.livescience.com/11705-theory-mammals-fungus-explains-bat-plague.html>

Even highly virulent infectious disease does not cause extinctions – because as population density decreases, so does transmission, and the remaining individuals are more resistant. In addition, at the end of the Cretaceous, dinosaurs weren't the only ones to be decimated. Marine animals were affected, as were many species of flowering plant, according to Douglas Robertson, of the Cooperative Institute for Research in Environmental Sciences at the University of Colorado. **"It is not even vaguely plausible that** all these **extinctions**, let alone just the various dinosaur species extinctions, were all caused by some pathogen," Robertson wrote in an e-mail.

#### Water shortages are inevitable, regardless of warming.

Vorosmarty 2k [Charles, Research Professor Biogeochemical Modeling, Jul 14, “Global Water Resources: Vulnerability from Climate Change and Population Growth,” Science]

The major increases in relative water demand documented here reveal that much of the world will face substantial challenges to water infrastructure and associated water services. Potentially large economic costs are likely to be associated with the implementation of response strategies (e.g., expansion of facilities, new water-pricing policies, innovative technology, and mismanagement) or the consequences of inaction (e.g., deterioration of water quality and reduction in irrigated crop yields). Where sustainable water supplies are at a premium, the challenges also include curtailment of economic activities, abandonment of existing water facilities, mass migration, and conflict in international river basins. Many parts of the developing world will experience large increases in relative water demand. In water-rich areas such as the wet tropics, the challenge will not be in providing adequate quantities of water, but in providing clean supplies that minimize public health problems. Arid and semiarid regions face the additional challenge of absolute water scarcity. Projected increases in scarcity will be focused on rapidly expanding cities. Much of the world's population growth over the next few decades will occur in urban areas, which are projected to double in size to near 5 billion between 1995 and 2025 (29) and face major challenges in coping with increased water pollution and incidence of waterborne disease . We conclude that impending global-scale changes in population and economic development over the next 25 years will dictate the future relation between water supply and demand to a **much greater degree** than will changes in mean climate.

#### Air pollution impacts are hype – no damage

Marxsen 2000 (Craig, Associate Professor of Economics at the University of Nebraska Kearney, Independent Review, Summer)

Particulate matter might be a killer largely because it is visible. People die as a result of averting behavior. The dying person's caregiver fears the "deadly pollution" on a hazy day and therefore refrains from getting Grandma up from the bed. Grandma dies of pulmonary edema exacerbated by her failure to get up. The death certificate reports cardiovascular disease as the cause of death because it is the underlying cause. In Israel, Iraqi missile attacks caused the deaths of several elderly people who, fearing poison gas, smothered themselves by wearing government-issued gas masks that had not been properly unpacked--the filter material was still sealed in its plastic wrapper! The missiles that struck Israel delivered no poison gas. Similarly, the EPA may have unwittingly encouraged people to, in effect, smother their dying relatives in an effort to keep them from breathing nearly harmless pollution.

#### 1.) No anthropogenic warming

– cloud feedbacks AND PDO proves\*\*\*

Spencer ‘10 – climatologist and a Principal Research Scientist for U. of Alabama [Roy W, Ph.D. in meteorology at the University of Wisconsin-Madison in 1981, former Senior Scientist for Climate Studies at NASA’s Marshall Space Flight Center, where he and Dr. John Christy received NASA’s Exceptional Scientific Achievement Medal for their global temperature monitoring work with satellites, “The Great Global Warming Blunder: How Mother Nature Fooled the World's Top Climate Scientists”, pg # below, CMR]

IN SCIENCE it only takes **only one finding** to overturn decades of mainstream belief. Scientific knowledge is **not a matter of consensus**, as if scientific truth were something to be voted on. It is either true or not true. I have described new and important scientific evidence-some published, some unpublished at this writing—that supports two major conclusions that could end up dismantling the theory of anthropogenic global warming. The first conclusion is that recent satellite measurements of the Earth reveal the climate system to be relatively insensitive to warming influences, such as humanity's greenhouse gas emissions. This insensitivity is the result of more clouds forming in response to warming, thereby reflecting more sunlight back to outer space and reducing that warming. This process, known as negative feedback, is analogous to opening your car window or putting a sun shade over the windshield as the sun begins to heat the car's interior. An insensitive climate system does not particularly care how much we drive suvs or how much coal we burn for electricity. This evidence directly contradicts the net positive feedback exhibited in the computerized climate models tracked by the IPCC. It is well known that positive feedback in these models is what causes them to produce so much warming in response to humanity's greenhouse gas emissions. Without the high climate sensitivity of the models, anthropogenic global warming becomes **little more than** a minor **academic curiosity**. 153 The strong negative feedback in the real climate system has not been noticed by previous researchers examining satellite data because- they have not been careful about inferring causation. As is the case in all realms of scientific research, making the measurements is much easier than figuring out what those measurements mean in terms of cause and effect. Climate researchers have neglected to account for clouds causing temperature change (forcing) when they tried to determine how temperature caused clouds to change (feedback). They mixed up cause and effect when analyzing year-to-year variability in clouds and temperature. You might say they were fooled by Mother Nature. Clouds causing temperature to change created the illusion of a sensitive climate system. In order to help you understand this problem, I have used the example that I was given when I asked the experts how they knew that feedbacks in the climate system were positive. It was explained to me that when there is an unusually warm year, researchers have found that there is typically less cloud cover. The researchers assumed that the warming caused the decrease in cloud cover. This would be positive feedback because fewer clouds would let in more sunlight and thereby amplify the warming. But I always wondered: How did they know that it was the warming causing fewer clouds, rather than fewer clouds causing the warming? As we have seen, **they didn’t** know. And when the larger, contaminating effect of clouds causing temperature change is taken into account, the true signal of negative feedback emerges from the data. I have demonstrated this with a simple climate model by showing that the two directions of causation-forcing and feedback (or cause and effect) have distinctly different signatures both in the satellite data and in a simple model of the climate system. These distinct signatures even show up in the climate models tracked by the IPCC. Probably as a result of the contusion between cause and effect, climate models have been built to be too sensitive, with clouds erroneously amplifying rather than reducing warming in response to increasing atmospheric carbon dioxide concen 154 trations. The models then predict **far too much warming** when the small warming influence of more man-made greenhouse gases is increased over lime in the models. This ultimately results in pre-dictions of serious lo catastrophic levels of warming for the future, which you then hear about through the news media. While different models predict various levels of warming, all of them exhibit positive feedbacks. The mix-up between cause and effect also explains why feedbacks previously diagnosed from satellite observations of the Earth by other researchers have been so variable. There have been differing levels of contamination of the feedback signal by forcing, depending on what year the satellites were observing the Earth The second major conclusion of this book is closely connected to the first. If the carbon dioxide we produce is not nearly enough to cause significant warming in a climate system dominated by negative feedback, then what caused the warming we have experienced over the last fifty years or more? New satellite measurements indicate that most of the global average temperature variability we have experienced in the last 100 years could have been caused by a natural fluctuation in cloud cover resulting from the Pacific: Decadal Oscillation (PDO). **Nine years of our best NASA satellite data,** combined with a simple climate model, reveal that the PDO causes cloud changes that might be sufficient to explain most of the major variations in global average temperature since 1900, including 75 percent of the warming trend. Those natural variations in clouds may be regarded as chaos in the climate system-direct evidence that the Earth is capable of causing its own climate change. Contrary to the claims of the IPCC, global warming or cooling does not require an external forcing mechanism such as more greenhouse gases, or a change in the sun, or a major volcanic eruption**. It is simply what the climate system does.** The climate system itself can cause its own climate change, supporting the widespread public opinion that global warming might simply be part of a **natural cycle**. I am not the first to suspect that the PDO might be causing climate change. I just look the issue beyond suspicion, with a quantitative 155 explanation based on both satellite observations and some analysis with a simple climate model. While some might claim that the timing of the PDO and associated changes in cloudiness in recent years is just a coincidence, I can make **the same claim for the** supposed **anthropogenic explanation** of global warming: Just because warming in the twentieth century happened during a period of increasing CO2 in the atmosphere **doesn't** necessarily **mean that the increasing CO2 caused the warming**. In fact, the PDO explanation for warming actually has a couple of advantages over the CO2 explanation. The first advantage is the fact that variations in cloud cover associated with the PDO actually "predict" the temperature changes that come later. It just so happens that the three PDO changes that occurred in the twentieth century were exactly what would be needed to explain most of the temperature changes that followed: warming until the 1940s, then slight cooling until the 1970s, and then resumed warming through the 1990s. This then answers a question I am sometimes asked: How do I know that the PDO-induced cloud changes caused the temperature changes, and not the other way around? It's because the temperature response comes after the forcing, not before. This PDO source of natural climate change can also explain 75 percent of the warming trend during the twentieth century. Addition of CO2 and other anthropogenic and natural forcings can explain the other 25 percent. This investigation took me only a few days with a desktop computer. In contrast, researchers have been tinkering for many years with various estimates of manmade aerosol (particulate) pollution in their attempts to explain why global warming stopped between 1940 and the late 1970s, even though this was a period of rapid increase in our greenhouse gas emissions. So, while the PDO explanation for temperature variations during the twentieth century fits like a hand in a glove, the IPPC’s explanation based on aerosol and greenhouse gas pollution had to be **wedged in with a crowbar.** Another advantage of the natural explanation for global 155 warming is that the mechanism-an energy imbalance of the Karth caused by natural cloud variations-was actually observed by satellite. In contrast, the cooling effects of aerosol pollution and the warming effects of greenhouse gas emissions have remained **too small to be measured**. They have to be calculated **theoretically** before being input into climate models. <153-156>

Reader note – PDO = Pacific Decadal Oscillation

#### 3.) No extinction

- their impacts are alarmism, not supported by science

Mauldin 6/4/12 – B.S. and M.S. in electrical engineering from Cal-Berkeley, registered professional engineer (Paul, “Global Warming Alarmism: At the Tipping Point of Credibility?”, <http://smartenergyportal.net/article/global-warming-alarmism-tipping-point-credibility>, CMR)

If we believe all we're told then there is no hope. Why change anything? But, to the frustration and anger of the alarmists, we don't believe all we're told about a global warming doomsday. There's a growing belief both in the lay and scientific communities that there's another side to the story. There's mounting evidence that the presuppositions about human-caused climate change are wrong or at the best, distorted. The earth is warming, yes (although that's not all that clear to some), but our planet has gone through warming/cooling cycles in the past. Yes, there is a correlation with CO2 concentrations, but it's not clear which came first, the warming or the change in CO2. And the CO2/temperature-rise pairing cycles have also occurred throughout the past. But isn't the global warming skeptic community pretty much a bunch of ignorant, untrained, flat-earther types? Not at all, according to the study reported in Nature. (see The polarizing impact of science literacy and numeracy on perceived climate change risks). It turns out that the more scientifically literate you are, the less concerned you are about climate change. Scientific literacy and training leads one to follow their own rationale rather than to follow the herd. "Seeming public apathy over climate change is often attributed to a deficit in comprehension. The public knows too little science, it is claimed, to understand the evidence or avoid being misled. Widespread limits on technical reasoning aggravate the problem by forcing citizens to use unreliable cognitive heuristics to assess risk. We conducted a study to test this account and found no support for it. Members of the public with the highest degrees of science literacy and technical reasoning capacity were not the most concerned about climate change. Rather, they were the ones among whom cultural polarization was greatest. This result suggests that public divisions over climate change stem not from the public’s incomprehension of science but from a distinctive conflict of interest: between the personal interest individuals have in forming beliefs in line with those held by others with whom they share close ties and the collective one they all share in making use of the best available science to promote common welfare." If something just doesn't smell right about the smug but dire predictions frantically pumped out by the media and platoons of alarmist bloggers, you're going to question it. Particularly if you have a fundamental understanding of science and experience with the vagaries of the science/politics/media triumvirate. In the long run, continued climate-change fear mongering, hyperbole and name calling will destroy what little public interest is left. We might even see a 'brown' rebound, and that would be tragic.

#### 4.) Unique link – C02 is sustaining global agriculture – outweighs their turns

Lomborg ’13 – director of the Copenhagen Consensus Center, and adjunct professor at Copenhagen Business School (Bjørn, “Ignore Newsweek’s Scaremongering about Global Warming Killing Pasta”, <http://www.slate.com/articles/health_and_science/project_syndicate/2013/01/lomborg_global_warming_does_not_mean_the_end_of_pasta.2.html>, CMR)

The argument is almost entirely wrong. Yields of all major crops have been rising dramatically in recent decades, owing to higher-yielding crop varieties and farmers’ greater use of fertilizer, pesticides, and irrigation. Moreover, CO2 acts as a fertilizer, and its increase has probably raised global yields more than 3 percent over the past 30 years.¶ But increasing temperatures will harm some crops while benefiting others. Because most crops are already grown where they do best, it is not surprising that climate models show that temperature increases will reduce yields if farmers change little or nothing. In fact, farmers will adapt, especially over the course of a century. They will plant earlier, grow more heat-loving varieties, or change their crop entirely. And, as growing wheat and grains becomes possible higher north in Canada and Russia, even more opportunities will open up.¶ The largest study, conducted by the International Institute for Applied Systems Analysis, includes temperature impacts, CO2 fertilization, and adaptation, and projects a 40.7 percent increase in grain production by 2050. Without global warming, production might have been half a percentage point higher. With global warming, prices will most likely be slightly lower. Our linguine supplies are safe.¶ Of course, this does not mean that global warming has no impact on crops. Production will move to new varieties and away from the tropics, implying even higher yields for developed countries, but slower growth in yields for developing countries. For wheat, it is even likely that parts of Africa simply will be unable to sustain production.¶ But cutting back on CO2 is a particularly ineffective way to help the world’s poor and hungry. Even if we managed—at very high cost—a significant reduction, we would achieve only a slightly slower rise in global temperatures. Meanwhile, by embracing biofuels, for example, we are essentially burning food in our cars, which drives up food prices and exacerbates hunger.¶ We could do much more good if we focused on allowing poor countries to use the benefits of extra CO2 fertilization while adapting to the problems caused by higher temperatures. That means greater investment in crop research to produce more robust and higher-yielding varieties, as well as making more irrigation, pesticides, and fertilizer available.

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### S.S interp frontline

#### originating statute solves\*\*\*

Justice Breyer, with whom Justice Kennedy, Justice Souter, and Justice Ginsburg join, concurring, SALIM AHMED HAMDAN, Petitioner v. DONALD H. RUMSFELD, SECRETARY OF DEFENSE, et al.¶ No. 05-184¶ SUPREME COURT OF THE UNITED STATES¶ 548 U.S. 557; 126 S. Ct. 2749; 165 L. Ed. 2d 723; 2006 U.S. LEXIS 5185; 19 Fla. L. Weekly Fed. S 452¶ March 28, 2006, Argued ¶ June 29, 2006, Decided

The dissenters say that today's decision would "sorely hamper the President's ability to confront and defeat a new and deadly enemy." Post, at 705, 165 L. Ed. 2d, at 823 (opinion of Thomas, J.). They suggest that it undermines our Nation's ability to "preven[t] future attacks" of the grievous sort that we have already suffered. Post, at 724, 165 L. Ed. 2d, at 834-835. That claim leads me to state briefly what I believe the majority sets forth both explicitly and implicitly at greater length. The Court's conclusion ultimately rests upon a single ground: Congress has not issued the Executive a "blank check." Cf. Hamdi v. Rumsfeld, 542 U.S. 507, 536, 124 S. Ct. 2633, 159 L. Ed. 2d 578 (2004) (plurality opinion). Indeed, Congress has denied the President the legislative authority to create military commissions of the kind at issue here. Nothing prevents the President from returning to Congress to seek the authority he believes necessary. Where, as here, no emergency prevents consultation with Congress, judicial insistence upon that consultation does not weaken our Nation's ability to deal with danger. To the contrary, that insistence strengthens the Nation's ability to determine--through democratic means-- how best to do so. The Constitution places its faith in those democratic means. Our Court today simply does the same. Justice Kennedy, with whom Justice Souter, Justice Ginsburg, and Justice Breyer join as to Parts I and II, concurring in part. Military Commission Order No. 1, which governs the military commission established to try petitioner Salim Hamdan for war crimes, exceeds [\*\*\*781] limits that certain statutes, duly enacted by Congress, have placed on the President's authority to convene military courts. This is not a case, then, where the Executive can assert some unilateral authority to fill a void left by congressional inaction. It is a case where Congress, in the proper exercise of its powers as an independent [\*637] branch of government, and as part of a long tradition of legislative involvement in matters of military justice, has considered the subject of military tribunals and set limits on the President's authority. Where a statute provides the conditions for the exercise of governmental power, its requirements are the result of a deliberative and reflective process engaging both of the political branches. Respect for laws derived from the customary operation of the Executive and Legislative Branches gives some assurance of stability in time of crisis. The Constitution is best preserved by reliance on standards tested over time and insulated from the pressures of the moment. These principles seem vindicated here, for a case that may be of extraordinary importance is resolved by ordinary rules. The rules of most relevance here are those pertaining to the authority of Congress and the interpretation of its enactments. It seems appropriate to recite these rather fundamental points because the Court refers, as it should in its exposition of the case, to the requirement of the Geneva Conventions of 1949 that military tribunals be "regularly constituted," ante, at 632, 165 L. Ed. 2d, at 778--a requirement that controls here, if for no other reason, because Congress requires that military commissions like the ones at issue conform to the "law of war," 10 U.S.C. § 821. Whatever the substance and content of the term "regularly [\*\*2800] constituted" as interpreted in this and any later cases, there seems little doubt that it relies upon the importance of standards deliberated upon and chosen in advance of crisis, under a system where the single power of the Executive is checked by other constitutional mechanisms. All of which returns us to the point of beginning--that domestic statutes control this case. If Congress, after due consideration, deems it appropriate to change the controlling statutes, in conformance with the Constitution and other laws, it has the power and prerogative to do so. [\*638]

### S.S vio frontline – judicial

#### Judicial review of Commander-in-Chief powers is only a “restriction” when applied to statutes – solves their offense, preserves our precision and limits\*\*\*

Julian Davis Mortenson, Assistant Professor, University of Michigan Law School, “Review: Executive Power and the Discipline of History Crisis and Command: The History of Executive Power from George Washington to George W. Bush John Yoo. Kaplan, 2009. Pp vii, 524,” Winter 2011, University of Chicago Law Review 78 U. Chi. L. Rev. 377

His second claim, at best, obscures deep ambiguity. It is certainly true that FDR "became more creative" in leveraging explicit exceptions contained in the Neutrality Acts and related statutes as his efforts to help the future Allies intensified (III, p 297). And the applicability of those exceptions has been sharply questioned, a complicated problem that space here does not suffice to address. n72 But as David Barron and Martin Lederman have exhaustively detailed in well-known work that Yoo does not cite, this focused use of explicit statutory exceptions demonstrates a President perforce acknowledging the constraining effect of congressional restrictions--even in purely internal deliberations. n73 Indeed, FDR rejected advice from both the vice president and the secretary of the interior that he simply disregard the statutes (III, p 297). n74 Nor was this cheap talk: FDR's choice to use exceptions rather [\*402] than simply ignore the statute had real costs for his policies. He sent less weaponry, worse equipment, and fewer troops to assist the United Kingdom--and he did so through far more convoluted mechanisms--than would have been the case had he simply ignored the statutory framework. n75 These were serious consequences in a time of global cataclysm, yet Yoo views this entire episode as evidence of a constitutional power to override congressional restrictions. These kinds of misunderstandings abound. At times, counterevidence is noted but essentially ignored; n76 at other points, it is minimized. n77 Yoo also overreads ordinary presidential efforts to push back on Congress through quotidian constitutional processes. For example, Washington's offer of amnesty for Whiskey Rebels is described as "reveal[ing his] power to stay a mechanical application of the law to yield more important national benefits" (III, p 72). This description of the Pardon Clause is strange, for it converts Washington's particular exercise of the explicit pardon power into evidence of a far broader right to disregard statutes more generally. In a similar vein, Yoo devotes much attention to the litigation postures of Ronald Reagan, George W. Bush, and Bill Clinton in challenges to the restrictions on presidential action imposed after Watergate (III, pp 110, 372, 376-81, 418). He fairly demonstrates that these Presidents shared similar perspectives on many [\*403] separation of powers questions. But he does not show them ignoring statutory restrictions without recourse. Rather, these episodes show precisely the theory of Federalist 51 in action: n78 vigorously self-interested power centers pursuing their various interests through the ordinary constitutional process of negotiation, enactment, veto, and judicial challenge--not simply ignoring the law or the legal process designed to enforce it.

#### “The closer the farther” – plan’s attempted explicitness actually makes it worse – reverse-delegates all authority related to \_\_\_\_\_.\*\*\*

Graham Cronogue, Duke University School of Law, J.D. expected 2013; A NEW AUMF: DEFINING COMBATANTS IN THE WAR ON TERROR, DUKE JOURNAL OF COMPARATIVE & INTERNATIONAL LAW [Vol. 22:377 2012] http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1294&context=djcil

Compared to Representative McKeon’s proposal, these new provisions would narrow the scope of authorization. The President would ¶ not be able to use this authorization to attack new groups that both spring ¶ up outside our current theater and have no relation to al-Qaeda, the Taliban ¶ or the newly defined associated forces. However, part (5) of my ¶ authorization would ensure that the President is not unnecessarily restricted ¶ in responding to new and emergent threats from organizations that do not ¶ collaborate and support al-Qaeda. In this way, the proposal incorporates ¶ Robert Chesney’s suggestion, “[i]t may be that it [is] better to draw the statutory circle narrowly, with language making clear that the narrow framing does not signify an intent to try and restrict the President’s authority to act when necessary against other groups in the exercise of ¶ lawful self-defense.”128 The purpose of the new AUMF should not be to ¶ give the President a carte blanche to attack any terrorist or extremist group ¶ all over the world. The purpose of this authorization is to provide clear ¶ authorization for the use of force against al-Qaeda and its allies. Moreover, ¶ if a new group is created that has no relation to any of the relevant actors ¶ defined in this statute, Congress can pass another authorization that ¶ addresses this reality. The purpose of congressional authorization should ¶ not be to authorize the President to act against every conceivable threat to ¶ American interests. In fact, such an authorization would effectively strip ¶ Congress of its constitutional war making powers. Instead, the new ¶ proposal should provide clear domestic authorization for the use of force against those nations that present the greatest threat to the United States ¶ today.

### 2NC “jr” – review statutory footing

#### Read their evidence closely – judicial review is topical ONLY in regards to political disagreement between Congress and President – statutory footing solves their offense, more predictable\*\*\*

David Jenkins, Assistant Professor of Law, University of Copenhagen (member of the Centre for ¶ European Constitutionalization, in collaboration with the Centre for Advanced Security ¶ Theory, 2010.¶ “Judicial Review Under a British ¶ War Powers Act,” http://www.vanderbilt.edu/jotl/manage/wp-content/uploads/jenkins-cr\_v2.pdf

The United States provides one of the best and most obvious ¶ examples of a departure from the British tradition.14 The U.S. ¶ Constitution of 1787, enforceable in the courts by judicial review, formally divides the war powers between the legislative and executive ¶ branches.15 This situation is distinct from the parliamentary system ¶ in Britain, where Crown ministers are accountable (in theory) to a ¶ sovereign Parliament (and the politically ascendant House of ¶ Commons) while simultaneously wielding a traditionally powerful, ¶ monarchical prerogative power over war.16 While the separation of ¶ powers doctrine exists in the United Kingdom as a matter of abstract ¶ constitutional principle,17 the convention of ministerial responsibility ¶ arguably tends to reduce the risk of serious, open confrontations ¶ between the Government and Parliament.18 By contrast, the U.S. Constitution’s sharp separation of the legislative and executive ¶ branches and the distribution of war powers between them intentionally sets conditions for potentially profound institutional conflict.19 Such conflict has implications for judicial review and the role of the courts in war-making.20 Regardless of whether one finds ¶ the prospect of substantial checks and balances desirable as a means ¶ of controlling government decision making,21 primary legislation ¶ abolishing the war prerogative and requiring the Government to seek ¶ advance parliamentary approval for military action might replicate ¶ this internally adversarial American system. And if such a conflict ¶ does occur, the worry then becomes that unelected judges might ¶ intrude and inappropriately impose judicial solutions to controversial ¶ political disputes over war. ¶ Were Parliament ever to pass a war powers act, however, the ¶ potential for judicial meddling in matters of war might be more ¶ theoretical than real. The American experience is thus worthy of ¶ closer study and comparison because it suggests—even under constitutionally entrenched war power provisions—that this is the ¶ case. U.S. courts are loathe to interfere in war powers disputes, despite (or maybe because of) a written Constitution that places far more restrictions on government and gives far more power to the judiciary than a war powers act could do in the United Kingdom.22 In ¶ the United States, Congress has the power to declare war, raise and ¶ spend revenue, and otherwise authorize and provide for the armed ¶ forces.23 These congressional powers often collide with the war powers of the President, who, as Commander-in-Chief, deploys and ¶ commands the military.24 The result is legal ambiguity in the scope of the President’s discretion to engage in and conduct hostilities, ¶ given that it is Congress that has the authority to commit the nation ¶ to war and limit military resources. The only certainty in this system ¶ is that by assigning to the executive and legislative branches different ¶ but complementary war powers, the Constitution recognizes that both¶ the executive and the legislature have important roles in military ¶ decision making.25 Overlap and friction between congressional and ¶ presidential war powers thus allow for considerable political ¶ maneuvering, compromise, and sometimes conflict between the ¶ legislative and executive branches. Nevertheless, some form and ¶ degree of legislative approval for executive military actions is required.26 Executive–legislative cooperation, no matter how legally ¶ tenuous or politically fragile, is thereby assured.27 In this pragmatic way, the Constitution attempts to balance the ¶ efficiency of centralized, executive military command with heightened ¶ democratic accountability through legislative debate, scrutiny, and ¶ approval.28 Therefore, despite the Constitution’s formal division of war powers between the executive and the legislature, disputes over these powers in the U.S. are usually resolved politically rather than judicially.29 This constitutional arrangement implicitly acknowledges ¶ that both political branches possess certain institutional qualities ¶ suited to war-making.30 These include the dispatch, decisiveness, ¶ and discretion of the executive with the open deliberation of the ¶ legislature and localized political accountability of its members, ¶ which are virtues that the slow, case specific, and electorally isolated ¶ courts do not possess.31 The open, politically contestable allocation of war powers under the Constitution not only permits differing and perhaps conflicting interpretations of the legal demarcations of branch authority but also accommodates differing normative preferences for determining which values and which branches are best-suited for war-making.32 Furthermore, this system adapts over ¶ time in response to inter-branch dynamics and shifting value ¶ judgments that are themselves politically contingent. Thus, the ¶ American war powers model is an intrinsically political—not legal—¶ process for adjusting and managing the different institutional ¶ capabilities of the legislative and executive branches to substantiate ¶ and reconcile accountability and efficiency concerns. A deeper understanding of why this might be so, despite the judiciary’s power to invalidate even primary legislation, can inform further discussions ¶ in the United Kingdom about the desirability and advisability of putting the Crown’s ancient war prerogative on a statutory footing.

### A2 court rulings on authority meet

#### No card will say that the content of a court ruling constitutes authority or a restriction on authority – this is a question of principal agency

Hawkins et al, 5(Darren, professor of law at Brigham Young, Delegation Under Anarchy: States, International Organizations, and Principal-Agent Theory,

<http://mjtier.people.wm.edu/papers/INTRO%20HLNT%20July%2031.pdf>

The relations between a principal and an agent are always governed by a con-tract,1 even if this agreement is implicit (never formally acknowledged) or informal (based on an unwritten agreement). To be a principal, an actor must be able to both grant authority and rescind it. The mere ability to terminate a contract does not make an actor a principal. Congress can impeach a president, and thereby remove him from office, but this power does not make Congress the principal of the president as we define it. Alternatively, Congress can authorize the president to decide policy on its behalf in a specific issue area – for example, to design environmental regulations – and then later revoke that authority if it disapproves of the president’s policies. In this case, the Congress is indeed the principal of the president. To be principals, actors must both grant and have the power to revoke authority.

#### Thus, the judicial role

Kavanaugh 12 (Brett Kavanaugh Federal Circuit Judge from the D.C. Circuit, “War, Terror, and the Federal Courts, Ten Years After 9/11,” American University Law Review Volume 61, Issue 5, Article 1)

Judge Kavanaugh: I think I’d start again, from the big picture, which is that courts review Executive action in times of war. That’s the lesson of Hamdi and Hamdan and Youngstown, 32 and you can go throughout our history, it’s been reinforced strongly by the Supreme Court. The courts will enforce statutory restrictions on the President’s conduct of war as well. And separately, the Executive Branch and Congress should, as I said upfront in my concurrence, should pay attention to international law obligations when thinking about what to put in the statutes. And when the Executive Branch is exercising its discretion pursuant to an authorization for the use of military force, or the President’s Article II authority. So courts have a role and Congress and the Executive should pay attention, close attention of course, to international law principles. Congress, on many occasions, has taken international law principles and put them into federal statutes, sometimes directly, by borrowing from the principle that’s at hand, sometimes by just having a reference, as in Hamdan, to international law or the laws of war more generally or the law of nations more generally.

### Not Power

#### Authority is distinct from power

Adam Zimmerman, Fellow, Center for the Study of the Presidency and Congress, 2009. "The Politics Economics Make," http://www.thepresidency.org/storage/documents/Fellows2009/Colgate\_Zimmerman.pdf

Skowronek distinguishes between presidential power and authority. Power is the ¶ formal and informal resources of the presidency. Authority is the warrant to exercise the powers of the presidency. Skowronek asserts that presidential authority is a function of a ¶ recurrent pattern that he refers to as political time. Political time is the “historical ¶ medium through which authority structures have recurred,” whereas secular time is “the ¶ medium through which power structures have evolved.”¶ 1¶ Political time describes the ¶ ability of the president to exercise authority over the formal powers of the office, whereas ¶ secular time is the emergent pattern that describes how those formal powers have ¶ developed and evolved. Skowronek employs these conceptions of secular and political ¶ time to understand how “contingent structures of authority have affected the ¶ reorganization of presidential power, and how changes in the organization of the ¶ presidential power have affected the political range of different claims to authority.”¶ 2¶ In ¶ short, Skowronek attempts to employ these two patterns – secular and political – to ¶ describe the president’s ability to exercise authority over the formal powers of the office ¶ changed. Skowronek concludes that as the formal powers of the presidency expands; the ¶ ability of the president to exercise those powers has narrowed.

### limits & ground

#### Only explicit reference solves limits – authority must be guided by statutory updates and amendments to maintain clarity

Graham Cronogue, Duke University School of Law, J.D. expected 2013; A NEW AUMF: DEFINING COMBATANTS IN THE ¶ WAR ON TERROR, DUKE JOURNAL OF COMPARATIVE & INTERNATIONAL LAW [Vol. 22:377 2012] http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1294&context=djcil

On September 11, 2001, the United States entered into a new kind of ¶ struggle, one that challenges long-observed norms of war and conflict. ¶ Throughout history, wars have typically been declared and fought between ¶ states and against clearly identifiable combatants, but this new enemy is ¶ neither organized by state affiliation nor located in a specific geographic ¶ area. Further, this enemy often lives among, dresses like, and even targets ¶ civilians. These profound differences make it extremely difficult to apply ¶ traditional rules of war. Just one week after the devastating attacks on the ¶ Pentagon and World Trade Center, Congress hastily passed the ¶ Authorization for Use of Military Force to address this threat and its new ¶ challenges. This statute authorized the President to: ¶ [U]se all necessary and appropriate force against those nations, ¶ organizations, or persons he determines planned, authorized, committed, ¶ or aided the terrorist attacks that occurred on September 11, 2001, or ¶ harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, ¶ organizations or persons.2¶ This congressional authorization gave the president the authority to ¶ use force against those involved in the 9/11 attacks and their allies, but the ¶ war on terror has moved beyond this mandate. In 2001, al-Qaeda, the ¶ Taliban, and Osama bin Laden were clearly the “enemy.”3¶ The AUMF ¶ addressed this threat by providing domestic authorization for the use of ¶ force against all entities closely tied to 9/11. However, ten years after the ¶ attacks, bin Laden is dead and the Taliban is a shadow of its former self.4¶ Yet the United States still uses the AUMF to justify the use of force against ¶ new terrorist and extremist groups, many of which were not closely ¶ involved in 9/11 and may not have even existed in 2001. Given this ¶ disconnect, politicians have advocated amending, scrapping, or reaffirming ¶ the AUMF to have it reflect the present reality of the conflict. ¶ The Obama administration argues that the AUMF should remain the ¶ same and has taken pains to expand the authorization to cover new terrorist ¶ threats from organizations unrelated to al-Qaeda.5¶ However, this ten-year old authorization must be revised. The United States is facing a new and ¶ still evolving enemy; our law on conflict must evolve with it. We should not expect the President to simply reinterpret or stretch statutory language ¶ when considering such fundamentally important issues as national security, ¶ deadly force, and indefinite detention. This “stretching” out of the statute ¶ will create significant questions of legality and authorization in times when ¶ we cannot afford to hesitate or second-guess. The President and the armed ¶ forces need an updated, clear, and explicit authorization to execute this war ¶ effectively and know the limits of their power. In short, Congress must ¶ amend or update the AUMF to reflect the current reality of conflict and ¶ guide the President’s prosecution of this war.

## Deterrence

**2NC Circumvention---Political WIll**

**No political will to implement the plan**

**Druck**, JD – Cornell Law, **‘12**

(Judah, 98 Cornell L. Rev. 209)

There are obvious similarities between the causes and effects of the public scrutiny associated **with** the **larger wars** discussed above. In each situation, **the** **U**nited **S**tates **was faced with** some, or even all, of **the traditional costs associated with war: a draft, an increasingly large military industry, logistical sacrifices** (such as rationing and other noncombat expenses), **and significant military casualties.** n114 Americans looking to keep the United States out of foreign affairs ob-viously had a great deal on the line, **which provided sufficient incentive to scrutinize military policy.** In the face of these potentially colossal harms, **the public was willing to assert a significant voice, which** in turn **increased the willingness of politicians to challenge and** subsequently **shift presidential policy.** As a result, public scrutiny and activism placed a President under constant scrutiny in one war, delayed U.S. intervention in another, and even helped end two wars entire-ly. Thus, we may extract a general principle from these events: when faced with the prospect of a war requiring heavy domestic sacrifices, and absent an incredibly compelling reason to engage in such a war (as seen in World War II, for example), n115 the public is properly incentivized to emerge and exert social (and, consequently, political) pressure in order to engage and shift foreign policy. However, as we will see, the converse is true as well. B. The Introduction of Technology-Driven Warfare and Shifting Wartime Doctrines The recent **actions in Libya illustrate the culmination of a shift toward a new era of warfare, one that upsets the system of social and political checks on presidential military action.** Contrary to the series of larger conflicts fought in the twen-tieth century, **this new era has ushered in a system of war devoid of** some of the fundamental aspects of war, including the **traditional costs** discussed above. Specifically, through the advent of military technology, especially in the area of robotics, **modern-day hostilities no longer require domestic sacrifices**, thereby **concealing the burden of war from main-stream consciousness.** n116 **By** using fewer troops and **introducing drones** and other [\*228] forms of mechanized warfare **into hostile areas** more frequently, n117 **an increased number of recent conflicts have managed to avoid** many **domestic casualties, economic damages, and drafts.** n118 In a way, **less is on the line when drones**, rather than people, **take fire** from enemy combatants, and this reality displaces many hindrances and considerations when deciding whether to use drones in the first place. n119 This move toward a limited form of warfare has been termed **the "Obama Doctrine**," which "**emphasizes air power and surgical strikes, rather than boots on the ground."** n120 Under this military framework, as indicated by the recent use of drones in the Middle East, the traditional harms associated with war might become increasingly obsolete as technolo-gy replaces the need for soldiers. Indeed, given the increased level of firepower attached to drones, we can imagine a situation where large-scale military engagements are fought without any American soldiers being put in harm's way, without Americans having to ration their food purchases, and without teenagers worrying about being drafted. n121 For example, "with no oxygen-and sleep-needing human on board, Predators and other [unmanned aerial vehicles] can watch over a potential target for 24 hours or more - then attack when opportunity knocks." n122 Thus, **if** the recent **actions in Libya are any indication** of what the future will look like, **we can predict a major shift in the way the** **U**nited **S**tates **carries out wars .** n123 [\*229] C. The Effects of Technology-Driven Warfare on Politics and Social Movements The practical effects of this move toward a technology-driven, and therefore limited, proxy style of warfare are mixed. On the one hand, the removal of American soldiers from harm's way is a clear benefit, n124 as is the reduced harm to the American public in general. For that, we should be thankful. But there is another effect that is less easy to identify: pub-lic apathy. By increasing the use of robotics and decreasing the probability of harm to American soldiers, modern war-fare has "affected the way the public views and perceives war" by turning it into "the equivalent of sports fans watching war, rather than citizens sharing in its importance." n125 As a result, **the American public has** slowly **fallen victim to the numbing effect of technology-driven warfare; when the risks of harm to American soldiers** abroad and civilians at home **are diminished, so too is the public's level of interest in foreign military policy.** n126 **In the political sphere, this effect snowballs into both an uncaring public not able** (**or willing**) **to** effectively **mobi-lize in order to challenge presidential action** and enforce the WPR, **and a Congress whose own willingness to check presidential military action is heavily tied to public opinion.** n127 **Recall**, for example, **the case of the Mayaguez, where** potentially **unconstitutional action went unchecked because the mission was** perceived to be **a success.** n128 Yet we can imagine that **most missions involving drone strikes will be "successful" in the eyes of** [\*230] **the public**: even if a strike misses a target, the only "loss" one needs to worry about is the cost of a wasted missile, and the ease of deploying another drone would likely provide a quick remedy. **Given** the **political risks associated with making critical statements about military action**, especially if that action results in success, n129 **we can expect even less congressional** WPR **en-forcement as more military engagements are supported** (**or**, at the very least, **ignored**) **by the public.** In this respect, the political reaction to the Mayaguez seems to provide an example of the rule, rather than the exception, in gauging politi-cal reactions within a technology-driven warfare regime. Thus, **when the public becomes more apathetic** about foreign affairs as a result of the limited harms associated with technology-driven warfare, and Congress's incentive to act consequently diminishes, **the President is freed from any possible** WPR **constraints** we might expect him to face, **regardless of any potential legal issues.** n130 Perhaps unsurpris-ingly, nearly all of the constitutionally problematic conflicts carried out by presidents involved smaller-scale military actions, rarely totaling more than a few thousand troops in direct contact with hostile forces. n131 Conversely, conflicts that have included larger forces, which likely provided sufficient incentive for public scrutiny, have generally complied with domestic law. n132 The result is that **as wars become more limited**, n133 **unilateral presidential action will likely become even more un-checked as the triggers for** WPR **enforcement** **fade away.** In contrast with the social and political backlash witnessed during the Civil War, World War I, the Vietnam War, and the Iraq War, **contemporary military actions provide insuffi-cient incentive to prevent something as innocuous and limited as a drone strike.** Simply put, **technology-driven warfare is not conducive to the formation of a substantial check on presidential action.** n134

**AT: Modeling/Arms Race – 2NC US Not Key**

**International norms irrelevant – countries will act in their own interests**

**Blair 13** (“U.S. Drone Strike Policies,” Admiral Dennis, Former Director of National Intelligence, Council on Foreign Relations, January 22, <http://www.cfr.org/counterterrorism/us-drone-strike-policies/p29849>, CMR)

The first point is **I'm less persuaded** that **international norms** really **have** much of **an effect when it** ¶ **comes to the use of force** against the United States. My experience is that **nation-states are** generally ¶ either **encouraged** or deterred **by their** sort of **cost-benefit calculation**, and so I -- **as other countries** ¶ **develop drones** of their own, I think that **they will make their own decisions on how they** -- on how ¶ they use them, looking at the United States' experience but drawing on their own -- on their -- **on their** ¶ **own interests and fears**. I think that nonstate organizations, terrorist groups, extremist groups, are ¶ not deterrable, and they look at U.S. norms in order to find weaknesses in them, not to -- not to be led ¶ by them. And they -- if a terrorist group can get hold of drone technology, it will use it against us every ¶ way we can. So I'm not so much persuaded that norms can be set by the United States in this area.

**US won’t set a precedent --- lack of permission**

**Leuckin 12** (Paul, graduate of Notre Dame, “Drones: Why Americans Shouldn't Worry About Them”, 12/29, <http://www.policymic.com/articles/21556/drones-why-americans-shouldn-t-worry-about-them>, CMR)

Plenty of digital ink has been spilled over concern for the future of warfare and policing now that unmanned aircraft – drones – are becoming the dominant expression of American force abroad. But **there is nothing to fear from drones** and our gawking at the technological marvels they represent and unfounded concern about the future that technology makes possible hides the real issue underlying the “drone wars.”¶ One commonly expressed concern about drones is that America is setting a **dangerous standard** by which other countries will conduct warfare. What if China decides to use drones to eliminate dissidents in neighboring countries? This sort of **speculation falls flat** for two reasons. First, **in countries like Yemen and Pakistan, the U**nited **S**tates **has permission from those governments to use drones. Unless China secured similar agreements, such an action would be an act of war**. Second, China already has manned aircraft that are perfectly capable of targeting dissidents if China so chose. Fear that a foreign power would use drones to attack American soil are even more far-fetched. Foreign drones, just like any other foreign military aircraft, would never be able to enter American airspace without being intercepted or shot down by U.S. air defenses.

**AT: Modeling/Arms Race – 2NC No Arms Race**

**AND, the costs outweigh the benefits – reject aff alarmism**

**Singh 12** – researcher at the Center for a New American Security (Joseph, “Betting Against a Drone Arms Race”, 8/13, <http://nation.time.com/2012/08/13/betting-against-a-drone-arms-race/#ixzz2TxEkUI37>, CMR)

In short, **the doomsday drone scenario** Ignatieff and Sharkey predict **results from an excessive focus on rapidly-evolving military technology.**¶ Instead, **we must return to what we know about state behavior** in an anarchistic international order. **Nations will confront the same principles of deterrence**, for example, **when deciding to launch a targeted killing operation regardless of whether they conduct it through a drone** or a covert amphibious assault team.¶ **Drones** may make waging war more domestically palatable, but they **don’t change the very serious risks of retaliation** **for an attacking state**. **Any state** **otherwise deterred from using force abroad will not** significantly **increase its power projection on account of acquiring drones**.¶ What’s more, **the very states** **whose use of drones could threaten U.S. security** – countries **like China** – **are not democratic, which means** that the possible **political ramifications** **of the low risk of casualties** resulting **from drone use are irrelevant**. For all their military benefits, putting drones into play requires an ability to meet the political and security risks associated with their use.¶ Despite these realities, there remain a host of defensible arguments one could employ to discredit the Obama drone strategy. The legal justification for targeted killings in areas not internationally recognized as war zones is uncertain at best.¶ Further, the short-term gains yielded by targeted killing operations in Pakistan, Somalia and Yemen, while debilitating to Al Qaeda leadership in the short-term, may serve to destroy already tenacious bilateral relations in the region and radicalize local populations.¶ Yet, **the past decade’s experience with drones bears no evidence** **of impending instability** **in the global strategic landscape**. Conflict may not be any less likely in the era of drones, but the nature of **21st Century warfare remains fundamentally unaltered despite their arrival in large numbers**.

## I-Law

### Acid Rain

Problem solved

King 08 (Sir David King is the former chief scientific adviser to the UK government and the director of the new Smith School of Enterprise and Environment at the University of Oxf “Now is not the time to abandon our ambition to be green” Guardian acc online 6/1/08 at: http://www.guardian.co.uk/commentisfree/2008/jun/01/carbonemissions.greenpolitics)

Nationally, other market mechanisms are required to encourage individuals to change their behaviour. We have recently dealt with other environmental market failures with remarkable success. Acid rain resulting from burning high sulphur content coal has virtually been eliminated; the loss of ozone from the stratosphere due to CFCs has been halted; pollution in our cities due to car exhaust fumes has been massively reduced. And with each of these measures, our economy and the well-being of our citizens have been improved.

numbers prove

Schwartz ’3 (Sr. Fellow, Env’t Program, Reason Public Policy Institute) 9/1/03 [Joel, “Air Quality in the U.S. Continues to Improve,” ENVIRONMENT NEWS, <http://www.heartland.org/Article.cfm?artId=12788>]

The nation’s success with air quality extends beyond ozone to other pollutants. For example, between 1981 and 2000, carbon monoxide (CO) declined 61 percent, sulfur dioxide (SO2) 50 percent, and nitrogen oxides (NOx) 14 percent. Only two among hundreds of the nation’s monitoring locations still exceed the CO and SO2 standards. All areas of the country meet the NOx standard. For all three pollutants, pollution levels are well below EPA standards in almost all cases.

Small impact

Easterbrook (journalist) 1995 [Gregg, A Moment on the Earth, p. 162]

A problem cannot be at once a threat to life as we know it and a hoax without grounding. But the prism of environmental perception is today machined to polarize debates into such extremes. When an issue splits to polar extremes, the chances are that both sides have lost sight of the real world. That has happened with acid rain. It is a genuine environmental problem, but its significance has never been as important as claimed. Meanwhile the cures, some already being put into effect, are effective and for the most part affordable.

### Ag

#### Global war Rising CO2 spurs plant growth ---- prevents famine ensuring global peace

Idsos ‘99 (Dr. Sherwood, President, former Research Physicist with the U.S. Department of Agriculture's Agricultural Research Service at the U.S. Water Conservation Laboratory in Phoenix, Arizona and Dr. Keith, Ph.D. in Botany at Arizona State University, President and Vice President of the Center for the Study of Carbon Dioxide and Global Change, CO2 Science, “Give Peace a Chance by Giving Plants a Chance”, Vol. 2, No. 19, 10-1, <http://www.co2science.org/scripts/CO2ScienceB2C/articles/V2/N19/EDIT.jsp>, CMR)

President Carter begins by stating that "when the Cold War ended 10 years ago, we expected an era of peace" but got instead "a decade of war." He then asks why peace has been so elusive, answering that most of today's wars are fueled by poverty, poverty in developing countries "whose economies depend on agriculture but which lack the means to make their farmland productive." This fact, he says, suggests an obvious, but often overlooked, path to peace: "raise the standard of living of the millions of rural people who live in poverty by increasing agricultural productivity," his argument being that thriving agriculture, in his words, "is the engine that fuels broader economic growth and development, thus paving the way for prosperity and peace." Can the case for atmospheric CO2 enrichment be made any clearer? Automatically, and without the investment of a single hard-earned dollar, ruble, or what have you, people everywhere promote the cause of peace by fertilizing the atmosphere with carbon dioxide; for CO2 - one of the major end-products of the combustion process that fuels the engines of industry and transportation - is the very elixir of life, being the primary building block of all plant tissues via the essential role it plays in the photosynthetic process that sustains nearly all of earth's vegetation, which in turn sustains nearly all of the planet's animal life. As with any production process, the insertion of more raw materials (in this case CO2) into the production line results in more manufactured goods coming out the other end, which, in the case of the production line of plant growth and development, is biosphere-sustaining food. And as President Carter rightly states, "leaders of developing nations must make food security a priority." Indeed, he ominously proclaims in his concluding paragraph that "there can be no peace until people have enough to eat." Within this context, we recently completed a project commissioned by the Greening Earth Society entitled "Forecasting World Food Supplies: The Impact of the Rising Atmospheric CO2 Concentration," which we presented at the Second Annual Dixy Lee Ray Memorial Symposium held in Washington, DC on 31 August - 2 September 1999. We found that continued increases in agricultural knowledge and expertise would likely boost world food production by 37% between now and the middle of the next century, but that world food needs, which we equated with world population, would likely rise by 51% over this period. Fortunately, we also calculated that the shortfall in production could be overcome - but just barely - by the additional benefits anticipated to accrue from the many productivity-enhancing effects of the expected rise in the air's CO2 content over the same time period. Our findings suggest that the world food security envisioned by President Carter is precariously dependent upon the continued rising of the atmosphere's CO2 concentration. As Sylvan Wittwer, Director Emeritus of Michigan State University's Agricultural Experiment Station, stated in his 1995 book, Food, Climate, and Carbon Dioxide: The Global Environment and World Food Production, "The rising level of atmospheric CO2 could be the one global natural resource that is progressively increasing food production and total biological output, in a world of otherwise diminishing natural resources of land, water, energy, minerals, and fertilizer. It is a means of inadvertently increasing the productivity of farming systems and other photosynthetically active ecosystems. The effects know no boundaries and both developing and developed countries are, and will be, sharing equally." So, let's give peace a chance. Let's give plants a chance. And, while we're at it, let's give all of the world's national economies a chance as well. Let's let the air's CO2 content rise unimpeded, and let's let the peoples of the world reap the multitudinous benefits that come from the God-given - and scientifically proven - aerial fertilization effect of atmospheric CO2 enrichment. Let's live and let live. And let's let CO2 do its wonderful work of promoting world peace via the planet-wide prosperity that comes from enhanced agricultural productivity.

# 1NR

## CP

### Do both

#### The counterplan aloneis key to effective drone operations---the permutation sends the signal that the rest of the government sides with critics of drones over the executive---that delegitimizes drones and collapses the program

Kenneth Anderson 10, Professor of International Law at American University, 3/8/10, “Predators Over Pakistan,” The Weekly Standard, http://www.weeklystandard.com/print/articles/predators-over-pakistan

Obama deserves support and praise for this program from across the political spectrum. More than that, though, the drone strikes need an aggressive defense against increasingly vocal critics who are moving to create around drone warfare a narrative of American wickedness and cowardice and of CIA perfidy. Here the administration has dropped the ball. It has so far failed to provide a robust affirmation of the propositions that underwrite Predator drone warfare. Namely: n Targeted killings of terrorists, including by Predators and even when the targets are American citizens, are a lawful practice; n Use of force is justified against terrorists anywhere they set up safe havens, including in states that cannot or will not prevent them; n These operations may be covert—and they are as justifiable when the CIA is tasked to carry them out secretly as when the military does so in open armed conflict. n All of the above fall within the traditional American legal view of “self-defense” in international law, and “vital national security interests” in U.S. domestic law. There are good reasons for Republicans and centrist Democrats to make common cause in defending these propositions. On the one hand, they should want to aggressively protect the administration against its external critics—the domestic and international left—who are eager to prosecute Americans for their actions in the war on terror. They should also want to make clear that in defending drone strikes, they are defending the American (and not just the Obama) legal and strategic position. Moreover, it will be the American view of domestic and international law for future administrations, Democratic and Republican. At the same time, congressional Republicans and centrist Democrats need to put Obama’s senior legal officials on the record and invite them to defend their own administration, defend it to the full extent that the Obama administration’s actions require. Which is to say, Congress needs to hear publicly from senior administration lawyers and officials who might be personally less-than-enthused about targeted killings of terrorists and not eager to endorse them publicly, or to do so only with hedged and narrow legal rationales from which they can later walk away. Consider, for instance, the diffidence of Harold Koh, the legal adviser of the Department of State. In an informal public discussion with his predecessor, John Bellinger, aired on C-SPAN on February 17, he was asked about drones and targeted killings and declined to say that the practice was lawful. (Granted, it was in an unscripted setting, which cannot be taken as anyone’s last word and on which it would be unfair to place too much weight.) All he said was that if he concluded that it was unlawful, he would, if he thought it appropriate, resign his position. He added that he remained at his post. The statement falls far short of the defense one might hope for from such a high-ranking administration lawyer. More than a year into the new administration, that ought surely to strike the general counsels of the CIA, the Pentagon, the Director of National Intelligence, the NSC, and other agencies directly conducting these activities as somewhat less than reassuring.

### Solves - Perception

**Executive-branch transparency and bringing U.S. practice in line with policy builds the international diplomatic capital to press for drone norms**

Kristin **Roberts 13**, News Editor, National Journal, 3/22/13, “When the Whole World Has Drones,” http://www.nationaljournal.com/magazine/when-the-whole-world-has-drones-20130321

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.

**Legal transparency solves global drone prolif---allows the U.S. to successfully shape international norms**

Daniel **Byman 13**, Professor in the Security Studies Program at the Edmund A. Walsh School of Foreign Service at Georgetown University and a Senior Fellow at the Saban Center for Middle East Policy at the Brookings Institution, July/August 2013, “Why Drones Work,” Foreign Affairs, Vol. 92, No. 4

The fact remains that by using drones so much, Washington risks setting a troublesome precedent with regard to extrajudicial and extraterritorial killings. Zeke Johnson of Amnesty International contends that "when the U.S. government violates international law, that sets a precedent and provides an excuse for the rest of the world to do the same." And it is alarming to think what leaders such as Syrian President Bashar al-Assad, who has used deadly force against peaceful pro-democracy demonstrators he has deemed terrorists, would do with drones of their own. Similarly, Iran could mockingly cite the U.S. precedent to justify sending drones after rebels in Syria. Even Brennan has conceded that the administration is "establishing precedents that other nations may follow." Controlling the spread of drone technology will prove impossible; that horse left the barn years ago. Drones are highly capable weapons that are easy to produce, and so there is no chance that Washington can stop other militaries from acquiring and using them. Nearly 90 other countries already have surveillance drones in their arsenals, and China is producing several inexpensive models for export. Armed drones are more difficult to produce and deploy, but they, too, will likely spread rapidly. Beijing even recently announced (although later denied) that it had considered sending a drone to Myanmar (also called Burma) to kill a wanted drug trafficker hiding there. The spread of drones cannot be stopped, but the United States can still influence how they are used. The coming proliferation means that Washington needs to set forth a clear policy now on extrajudicial and extraterritorial killings of terrorists -- and stick to it. Fortunately, Obama has begun to discuss what constitutes a legitimate drone strike. But the definition remains murky, and this murkiness will undermine the president's ability to denounce other countries' behavior should they start using drones or other means to hunt down enemies. By keeping its policy secret, Washington also makes it easier for critics to claim that the United States is wantonly slaughtering innocents. More transparency would make it harder for countries such as Pakistan to make outlandish claims about what the United States is doing. Drones actually protect many Pakistanis, and Washington should emphasize this fact. By being more open, the administration could also show that it carefully considers the law and the risks to civilians before ordering a strike. Washington needs to be especially open about its use of signature strikes. According to the Obama administration, signature strikes have eliminated not only low-level al Qaeda and Taliban figures but also a surprising number of higher-level officials whose presence at the scenes of the strikes was unexpected. Signature strikes are in keeping with traditional military practice; for the most part, U.S. soldiers have been trained to strike enemies at large, such as German soldiers or Vietcong guerrillas, and not specific individuals. The rise of unconventional warfare, however, has made this usual strategy more difficult because the battlefield is no longer clearly defined and enemies no longer wear identifiable uniforms, making combatants harder to distinguish from civilians. In the case of drones, where there is little on-the-ground knowledge of who is who, signature strikes raise legitimate concerns, especially because the Obama administration has not made clear what its rules and procedures for such strikes are. Washington should exercise particular care with regard to signature strikes because mistakes risk tarnishing the entire drone program. In the absence of other information, the argument that drones are wantonly killing innocents is gaining traction in the United States and abroad. More transparency could help calm these fears that Washington is acting recklessly.

## Terror DA

### Terror Likely

**Multiple threats exist, despite weakening of Al-Qaeda central – Yemen, Syria, Hizballah, Iran – impact is WMD attacks, sunni-shia conflict, and cyber-war**

**Leiter 13** – Director, National Counterterrorism Center (2007-2011), Senior Counselor to the Chief Executive Officer, Palantir Technologies (Michael, Testimony before the United States Senate, Counterterrorism Policies and Priorities: Addressing the Evolving Threat, March 20, <http://www.foreign.senate.gov/imo/media/doc/Michael_Leiter_Testimony.pdf>, CMR)

The **degradation of al Qa’ida’s “higher headquarters**” and relatively well‐coordinated ¶ command and control **has allowed its affiliates and** its **message to splinter, posing** ¶ **new dangers** and challenges. **Al Qa’ida affiliates or those inspired by its message have** ¶ **worrisome presences in Yemen, East Africa, North Africa, Syria, Western Europe,** and ¶ of course to a lesser degree the United States. ¶ Beginning with Yemen, in my view al Qa’ida in the Arabian Peninsula (**AQAP**)—as I ¶ stated two years ago—**continues to pose the most sophisticated and deadly threat to** ¶ **the U.S. Homeland** from an overseas affiliate. The death of operational commander ¶ Anwar al‐Aulaqi significantly reduced AQAP’s ability to attract and motivate English ¶ speakers, but **its operational efforts continue** with lesser abatement. As we saw in ¶ 2009, 2010, and 2012, **AQAP has remained committed**—**and able**—**to pursue complex** ¶ **attacks involving innovative improvised explosives devices**. Although some of the ¶ organization’s safe haven has been diminished because of Yemeni and U.S. efforts, the ¶ inability of the Government of Yemen to bring true control to wide swaths of the ¶ country suggests that the group will pose a threat for the foreseeable future and ¶ (unlike many other affiliates) it clearly remains focused on transnational attacks. ¶ East Africa, surprisingly to many, is a brighter spot in our efforts. Although al‐¶ Shabaab remains a force and poses significant risks in the region—most especially in ¶ Kenya and to the fledgling government in Somalia—its risk to the Homeland is ¶ markedly less today than just two years ago. Kenya’s offensive in the region ¶ shattered much of al Shabaab’s power base and most importantly the attractiveness ¶ of Somalia to Americans and other Westerners is radically less than was the case. The ¶ relative flood of Americans has turned into a trickle, thus significantly reducing the ¶ threat of trained terrorists returning to our shores. Maintaining this positive ¶ momentum will require continued U.S. attention and close cooperation with the ¶ African Union in Somalia (AMISOM) to nurture what clearly remains a fragile ¶ recovery. ¶ As the world witnessed over the past six months, al Qa’ida in the Islamic Maghreb ¶ (AQIM) has shifted the focus in Africa as the organization has made gains in Mali, ¶ Libya, and the rural areas of Algeria. To be clear, to those of us in the ¶ counterterrorism ranks this is not particularly surprising. In my view while the ¶ attacks in Benghazi and on the Algerian oil facility are tragic, the major change to the ¶ region is not a massive increase in AQIM’s attractiveness, but rather the huge shift ¶ that occurred with the virtual elimination of Libya’s security services, the associated ¶ flood of weapons in the region, and the coup d’état in Mali. ¶ AQIM has thus far proven a less tactically proficient and more regionally focused ¶ criminal organization than other al Qa’ida affiliates. Although we cannot blindly hope ¶ this remains the case, I would argue that we should also not read too much into ¶ recent events. Regional capacity building, targeted offensive measures, and forceful ¶ engagement with government like France, Algeria, and Libya that have a huge vested ¶ interest in the region should remain at the forefront of our strategy. And we must ¶ roundly condemn (and try to limit) the payment of ransoms that have proven to be ¶ the lifeblood of AQIM and its affiliates. ¶ One notable area of concern that we must forcefully combat in the region—and one ¶ which the U.S. is uniquely able to address given our global footprint—is the cross‐¶ fertilization across the African continent that has recently accelerated. Coordination ¶ amongst al Shabaab, AQIM, Boko Haram, and others is particularly problematic as it ¶ allows each organization to leverage the others’ strengths. We must use our ¶ intelligence capabilities to define these networks and then assist in disrupting them. ¶ **The most troubling of emerging fronts** in my view **is Syria**, where Jabhat al‐Nusra has ¶ emerged as the most radical of groups within the opposition. ¶ **Given the enormous instability in Syria**, which has to some degree already spread to Iraq and elsewhere in ¶ the Levant, Jabhat **al‐Nusra has become a magnet for al Qa’ida‐inspired fighters from** ¶ **around the globe. With virtually no likelihood of rapid improvements in Syria (and a** ¶ **not insignificant risk of rapid decline caused by the use chemical or bio**logical ¶ **weapons**), **the al‐Nusra front will almost certainly continue to arm, obtain real world** ¶ **combat experience, and attract additional recruits**—and potentially state assistance ¶ that is flowing to the FSA. ¶ Moreover, Jabhat al‐Nusra’s ideology not only contributes to the threat of terrorism, ¶ but more broadly **it is contributing significantly to the regional Sunni‐Shia tension** ¶ **that poses enormous risks**. The rapid removal of Bashar al‐Assad would not solve ¶ these problems, but an ongoing civil war does in my view worsen the situation. ¶ Although there is no easy answer to this devilish issue, I believe that with the U.K.’s ¶ recent movement to providing lethal assistance to the FSA, we too should move more ¶ forcefully with additional aid and the creating of safe havens in border areas. ¶ Without declaring victory, we should also have some optimism about al‐Qa’ida ¶ inspired terrorism in Western Europe and especially the Homeland. As recent studies ¶ have shown, there has been a continuing decline in numbers of significant homeland ¶ plots that have not been closely controlled by the FBI since 2009. In addition, the ¶ relative sophistication of Homeland terrorists has not increased. Combined with ¶ successful counterterrorism efforts in Western Europe—most particularly huge ¶ strides in the UK—the picture faced today is far brighter than just three years ago. ¶ Similar optimism cannot be applied to the threat posed by Lebanese Hizballah, ¶ especially given its successful and foiled attacks over the past two years. Most ¶ notably, Hizballah attack in Bulgaria killed six tourists and highlights the extent to ¶ which the group (and its patrons in Iran) continue to see themselves as being in an ¶ ongoing unconventional war with Israel and the U.S. Predicting Hizballah and Iranian ¶ “redlines” is a notoriously challenging endeavor—as illustrated by the surprising ¶ 2011 plot to kill the Saudi Ambassador to the U.S.—but both organizations almost ¶ certainly would launch attacks at least outside the U.S. were there a strike on Iranian ¶ nuclear facilities. ¶ There is little doubt that **both Hizballah and the IRGC Qods Force maintain a network** ¶ **of operatives that could be used for** such **strikes**. In this regard **the heavy Iranian** ¶ **presence in Latin America and Iranian cooperation with former Venezuelan President** ¶ Hugo **Chavez is of** particular **concern**. Although not every Hizballah member and ¶ Iranian diplomat is a trained operative, **a significant number could** in the case of ¶ hostilities enable other operatives to **launch attacks** against Israeli or U.S. diplomatic ¶ facilities, Jewish cultural institutions, or high profile individuals. ¶ In addition, and generally unlike al Qa’ida affiliates, **the specter of Hizballah or** ¶ **Iranian‐sponsored cyber attacks is disturbingly real**. Recent Distributed Denial of ¶ Service (DDOS) attacks on major U.S. financial institutions, as well as even more ¶ destructive Iranian‐sponsored attacks on Saudi Aramco and Qatar‐based RasGas have highlighted the extent to which physical attacks might be combined with cyber ¶ attacks.

#### Nuclear terrorism is feasible---high risk of theft and attacks escalate

Vladimir Z. Dvorkin ‘12 Major General (retired), doctor of technical sciences, professor, and senior fellow at the Center for International Security of the Institute of World Economy and International Relations of the Russian Academy of Sciences. The Center participates in the working group of the U.S.-Russia Initiative to Prevent Nuclear Terrorism, 9/21/12, "What Can Destroy Strategic Stability: Nuclear Terrorism is a Real Threat," belfercenter.ksg.harvard.edu/publication/22333/what\_can\_destroy\_strategic\_stability.html

Hundreds of scientific papers and reports have been published on nuclear terrorism. International conferences have been held on this threat with participation of Russian organizations, including IMEMO and the Institute of U.S. and Canadian Studies. Recommendations on how to combat the threat have been issued by the International Luxembourg Forum on Preventing Nuclear Catastrophe, Pugwash Conferences on Science and World Affairs, Russian-American Elbe Group, and other organizations. The UN General Assembly adopted the International Convention for the Suppression of Acts of Nuclear Terrorism in 2005 and cooperation among intelligence services of leading states in this sphere is developing.¶ At the same time, these efforts fall short for a number of reasons, partly because various acts of nuclear terrorism are possible. Dispersal of radioactive material by detonation of conventional explosives (“dirty bombs”) is a method that is most accessible for terrorists. With the wide spread of radioactive sources, raw materials for such attacks have become much more accessible than weapons-useable nuclear material or nuclear weapons. The use of “dirty bombs” will not cause many immediate casualties, but it will result into long-term radioactive contamination, contributing to the spread of panic and socio-economic destabilization.¶ Severe **consequences can be caused by sabotaging nuclear power plants, research reactors, and radioactive materials storage facilities. Large cities are especially vulnerable to such attacks. A large city may host dozens of research reactors with a nuclear power plant or a couple of spent nuclear fuel storage facilities and dozens of large radioactive materials storage facilities located nearby.** The past few years have seen significant efforts made to enhance organizational and physical aspects of security at facilities, especially at nuclear power plants. Efforts have also been made to improve security culture. But these efforts do not preclude the possibility that well-trained terrorists may be able to penetrate nuclear facilities.¶ Some estimates show that sabotage of a research reactor in a metropolis may expose hundreds of thousands to high doses of radiation. A formidable part of the city would become uninhabitable for a long time.¶ Of all the scenarios, it is building an improvised nuclear device by terrorists that poses the maximum risk. **There are no engineering problems that cannot be solved if terrorists decide to build a simple “gun-type” nuclear device.** Information on the design of such devices, as well as implosion-type devices, is available in the public domain. It is the acquisition of weapons-grade uranium that presents the sole serious obstacle. Despite numerous preventive measures taken, we cannot rule out the possibility that such materials can be bought on the black market. Theft of weapons-grade uranium is also possible. Research reactor fuel is considered to be particularly vulnerable to theft, as it is scattered at sites in dozens of countries. There are about 100 research reactors in the world that run on weapons-grade uranium fuel, according to the International Atomic Energy Agency (IAEA).¶ A terrorist “gun-type” uranium bomb can have a yield of least 10-15 kt, which is comparable to the yield of the bomb dropped on Hiroshima. The explosion of such a bomb in a modern metropolis can kill and wound hundreds of thousands and cause serious economic damage. There will also be long-term sociopsychological and political consequences.¶ The vast majority of states have introduced unprecedented security and surveillance measures at transportation and other large-scale public facilities after the terrorist attacks in the United States, Great Britain, Italy, and other countries. These measures have proved burdensome for the countries’ populations, but the public has accepted them as necessary. A nuclear terrorist attack will make the public accept further measures meant to enhance control even if these measures significantly restrict the democratic liberties they are accustomed to. Authoritarian states could be expected to adopt even more restrictive measures.¶ If a nuclear terrorist act occurs, nations will delegate tens of thousands of their secret services’ best personnel to investigate and attribute the attack. Radical Islamist groups are among those capable of such an act. We can imagine what would happen if they do so, given the anti-Muslim sentiments and resentment that conventional terrorist attacks by Islamists have generated in developed democratic countries. Mass deportation of the non-indigenous population and severe sanctions would follow such an attack in what will cause **violent protests in the Muslim world**. **Series of armed clashing terrorist attacks may follow**. The prediction that Samuel Huntington has made in his book “The Clash of Civilizations and the Remaking of World Order” may come true. Huntington’s book clearly demonstrates that it is not Islamic extremists that are the cause of the Western world’s problems. Rather there is a deep, intractable conflict that is rooted in the fault lines that run between Islam and Christianity. This is especially dangerous for Russia because these fault lines run across its territory. To sum it up, the political leadership of Russia has every reason to revise its list of factors that could undermine strategic stability.  BMD does not deserve to be even last on that list because its effectiveness in repelling massive missile strikes will be extremely low. BMD systems can prove useful only if deployed to defend against launches of individual ballistic missiles or groups of such missiles. Prioritization of other destabilizing factors—that could affect global and regional stability—merits a separate study or studies. But even without them I can conclude that nuclear terrorism should be placed on top of the list. The threat of nuclear terrorism is real, and a successful nuclear terrorist attack would lead to a radical transformation of the global order.  All of the threats on the revised list must become a subject of thorough studies by experts. States need to work hard to forge a common understanding of these threats and develop a strategy to combat them.

### Drone Collapse now

### Links

#### Terrorism debate – we control uniqueness – existing U.S. drone strategy has devastated al Qaeda by killing key leaders and denying safe havens while minimizing civilian casualties – that’s Byman

#### Judicial review would result in all targeted killings being ruled unconstitutional---courts would conclude they don’t satisfy the requirement of imminence for use of force in self-defense

Benjamin McKelvey 11, J.D., Vanderbilt University Law School, November 2011, “NOTE: Due Process Rights and the Targeted Killing of Suspected Terrorists: The Unconstitutional Scope of Executive Killing Power,” Vanderbilt Journal of Transnational Law, 44 Vand. J. Transnat'l L. 1353

In the alternative, and far more broadly, the DOJ argued that executive authority to conduct targeted killings is constitutionally committed power. n101 Under this interpretation, the President has the authority to defend the nation against imminent threats of attack. n102 This argument is not limited by statutory parameters or congressional authorization, such as that under the AUMF. n103 Rather, the duty to defend the nation is inherent in the President's constitutional powers and is not subject to judicial interference or review. n104

The DOJ is correct in arguing that the President is constitutionally empowered to use military force to protect the nation from imminent attack. n105 As the DOJ noted in its brief in response, the Supreme Court has held that the president has the authority to protect the nation from "imminent attack" and to decide the level of necessary force. n106 The same is true in the international context. Even though Yemen is not a warzone and al-Qaeda is not a state actor, international law accepts the position that countries may respond to specific, imminent threats of harm with lethal force. n107 [\*1367] Under these doctrines of domestic and international law, the use of lethal force against Aulaqi was valid if he presented a concrete, specific, and imminent threat of harm to the United States. n108

Therefore, the President was justified in using lethal force to protect the nation against Aulaqi, or any other American, if that individual presented a concrete threat that satisfied the "imminence" standard. n109 However, the judiciary may, as a matter of law, review the use of military force to ensure that it conforms with the limitations and conditions of statutory and constitional grants of authority. n110 In the context of targeted killing, a federal court could evaluate the targeted killing program to determine whether it satisfies the constitutional standard for the use of defensive force by the Executive Branch. Targeted killing, by its very name, suggests an entirely premeditated and offensive form of military force. n111 Moreover, the overview of the CIA's targeted killing program revealed a rigorous process involving an enormous amount of advance research, planning, and approval. n112 While the President has exclusive authority over determining whether a specific situation or individual presents an imminent threat to the nation, the judiciary has the authority to define "imminence" as a legal standard. n113 These [\*1368] are general concepts of law, not political questions, and they are subject to judicial review. n114

Under judicial review, a court would likely determine that targeted killing does not satisfy the imminence standard for the president's authority to use force in defense of the nation. Targeted killing is a premeditated assassination and the culmination of months of intelligence gathering, planning, and coordination. n115 "Imminence" would have no meaning as a standard if it were stretched to encompass such an elaborate and exhaustive process. n116 Similarly, the concept of "defensive" force is eviscerated and useless if it includes entirely premeditated and offensive forms of military action against a perceived threat. n117 Under judicial review, a court could easily and properly determine that targeted killing does not satisfy the imminence standard for the constitutional use of defensive force. n118

#### Expansive interpretation of imminence is key to win the entire war on terror---prevents bio and nuclear terrorism

John Yoo 12, Professor of Law, University of California at Berkeley, School of Law; Visiting Scholar, American Enterprise Institute, 2011/12, “Assassination or Targeted Killings After 9/11,” New York Law School Law Review, http://www.nylslawreview.com/wordpress/wp-content/uploads/2011/08/Yoo-56-1.pdf

Imminence is not a purely temporal concept. The concept traces its origins to the 1837 Caroline affair, in which British forces pursued Canadian insurgents into American territory, destroyed a vessel, and killed dozens of U.S. citizens.74 After that incident, the United States and Great Britain agreed in 1841 that a preemptive attack was justified if the “necessity of self-defense [was] instant, overwhelming, leaving no choice of means, and no moment for deliberation.”75 Imminence classically depended on timing. Only when an attack is soon to occur, and thus certain, can a nation use force in preemptive self-defense. What about the magnitude of harm posed by a threatened attack? According to conventional doctrine, a nation must wait until an attack is imminent before using force, whether the attack is launched by a small band of cross-border rebels, as in the Caroline affair, or by a terrorist organization armed with biological or chemical weapons. Terrorist groups today can launch a sudden attack with weapons of devastating magnitude. To save lives, it is now necessary to use force earlier and more selectively.

Imminence as a concept also fails to deal with covert activity. Terrorists deliberately disguise themselves as civilians. Their organizations have no territory or populations to defend, and they attack by surprise. This makes it virtually impossible to use force in self-defense once an attack is “imminent.” There is no target to attack in the form of the army of a nation-state. The best defense will be available only during a small window of opportunity when terrorist leaders become visible to the military or intelligence agencies. This can occur, as in the case of bin Laden, well before a major terrorist attack occurs. Imminence doctrine does not address cases in which an attack is likely to happen, but its timing is unpredictable. Rules of self defense need to adapt to the current terrorist threat.

In addition to imminence, the United States needs to account for the degree of expected harm, a function of the probability of attack times, the estimated casualties, and damage. There is ample justification for factoring this in, just as it ought to be a factor in ordinary acts of self-defense, as when one is attacked with a gun, as opposed to a set of fists. At the time of the Caroline decision in the early nineteenth century, the main weapons of war were single-shot weapons and artillery, cavalry, and infantry. There was an inherent technological limit on the destructiveness of armed conflict.

The speed and severity possible today mean that the right to preempt today should be greater than in the past. Weapons of mass destruction have increased the potential harm caused by a single terrorist attack from hundreds or thousands of innocent lives to hundreds of thousands, or even millions. This is not even counting the profound, long-term destruction of cities or contamination of the environment and the resulting long-term death or disease for large segments of the civilian population. WMDs can today be delivered with ease—a suicide bomber could detonate a “dirty bomb” using a truck or spread a biological agent with a small airplane. These threats are difficult to detect, as no broad mobilization and deployment of regular armed forces will be visible. Probability, magnitude, and timing are relevant factors that must be considered in determining when to use force against the enemy.

#### Perception is key – existing drone flexibility *signals* U.S. superiority and strength – key to win the war on terror

Haddick 11 (Robert, contractor at U.S. Special Operations Command, From January 2009 to September 2012 he was Managing Editor of Small Wars Journal, former U.S. Marine Corps officer, served in the 3rd and 23rd Marine Regiments, and deployed to Asia and Africa, “Drones help Washington win a war of perceptions”, Oct 3, <http://smallwarsjournal.com/blog/drones-help-washington-win-a-war-of-perceptions>, CMR)

An article in Saturday’s New York Times asserted that policymakers in Washington have settled on a new favorite technique to fight terrorists – the missile-firing Predator drone. Last week’s killing of Anwar al-Awlaki in Yemen showed, according to the Times, “a cheap, safe and precise tool to eliminate enemies. It was also a sign that the decade-old American campaign against terrorism has reached a turning point … Disillusioned by huge costs and uncertain outcomes in Iraq and Afghanistan, the Obama administration has decisively embraced the drone, along with small-scale lightning raids like the one that killed Osama bin Laden in May, as the future of the fight against terrorist networks.”¶ In my Foreign Policy column later this week, I will explore what the drone strategy will mean for the Pentagon’s plans. Here, I assert that the drone strikes, along with special operations raids, have become the policymaker’s best friend because they allow these policymakers to show the world that they have the power to strike spectacularly against their terrorist adversaries, something that was in doubt at the beginning of the war. Successful drone strikes and raids are now putting Washington in the lead in the battle over perceptions.¶ With their attacks on targets ranging from the World Trade Center and Pentagon to brand label hotels, terror planners have revealed their preference for spectacle and symbolism. Washington’s drone strikes and special operations raids are useful at a practical level. But they have now become more important as symbolic acts, showing that the United States government really can strike at adversaries who may have once believed they could torment the West while remaining invisible. Washington’s policymakers have been anxious to show they are not impotent against iconic figures like bin Laden and Awlaki. The Predator drone, supported by a vast intelligence effort, has delivered the potency and relevance these policymakers have longed for.¶ In order to show they are dominant in the struggle against terrorists, Washington policymakers are attempting to “gain and maintain spectacle superiority.” Washington will achieve the perception that it is winning the war when it achieves more spectacular drone and special operations strikes than do the terrorists. The logical limit will be the killing of all of the most infamous terror figures, with the top of that list currently held by Ayman al Zawahiri. Some have argued that U.S. policymakers should leave Zawahiri in place -- as an allegedly poor and divisive leader, he is thought by some to be more harmful to al Qaeda alive than dead. But the logic of “spectacle superiority” argues that Zawahiri must get a Hellfire missile if only to show the world that no one can escape the CIA’s grasp.¶ As already noted, there were practical benefits to the strikes against bin Laden and Awlaki. The bin Laden raid resulted in a massive intelligence haul. The strike on Awlaki removed a potentially effective recruiter of “lone wolf” attackers inside the United States. Beyond these effects, the counterterrorism benefits of these and other strikes are much more diffuse and difficult to measure. In the long run, the TIDE database, maintained by the National Counterterrorism Center and supported by interagency and international cooperation, is the most important defense against terror attacks and provides more tangible security than kinetic action overseas. Even so, policymakers in Washington will deem it essential to win the war of perceptions over terrorism, if only to preserve their reputational power.¶ Killing the last of the notables al Qaeda figures could prompt Washington to declare victory. However, the war won’t be over – the next generation of al Qaeda figures may adapt by to the drone campaign by striving to keep their al Qaeda affiliations secret. Al Qaeda operational security may improve while recruiting and fund-raising for a then completely anonymous organization would undoubtedly suffer. U.S. drone strikes and raids, many also secret, would continue as an increasingly hidden war goes on.¶ If this describes the end-game, Washington stands likely to win the war of perception, especially if al Qaeda fails to mount another large-scale spectacle inside the United States. Predator drones, supported by an army of intelligence analysts, have gained the initiative and are winning the war of perceptions over al Qaeda. Policymakers in Washington, who live and die in the world of perceptions, should be grateful.