# 1NC

### 1

#### Interp – “and/or” means 3 options

Jeongbin Ok, Safety material and system¶ EP 2619826 A2 (text from WO2012039632A2), Publication date Jul 31, 2013¶ http://www.google.com/patents/EP2619826A2?cl=en

As used herein "(s)" following a noun means the plural and/or singular forms of the noun. As used herein the term "and/or" means "and" or "or" or both.

#### Resolutional use implies a choice of restrictions

Tennessee Department of Education, Programs of Study¶ 2013-2014 Academic Year¶ http://www.scsk12.org/uf/ctae/documents/ProgramsofStudy/TradeIndustrial\_ProgramArea.pdf

The word "or" signifies that credit can be earned toward the fulfillment of the Program of Study ¶ in either course, but not both. The term “and/or” means a student may choose either course or both courses for credit toward the POS.

#### Vio – the plan does not choose judicial or statutory restrictions

#### Vote negative – plan avoids controversy of the resolution – question is whether court and/or Congress can check the executive. Impossible to get specific disads to generic “should restrict” affs and decreases solvency advocate burden of the aff.

#### And, plan is legally void, impossible agreement – zero solvency, roll-back, jurisdiction

CONTRACT CHAPTER 149 OF THE LAWS¶ 1959 EDITION¶ PRINTED BY¶ C. F. ROWORTH LIMITED, 54, GRAFTON WAY, LONDON, W.1.¶ [Appointed by the Government of Cyprus the Government Printers of this Edition of Laws within, the meaning of the Evidence (Colonial Statutes)Act, 1907.] 1959¶ [1st January, 1931.]¶ 1949 Cap. 192. 25 of 53. 7 of 56

32. Contingent contracts to do or not to do anything if an uncertain future event happens cannot be enforced by law unless and until that event has happened.¶ If the event becomes impossible, such contracts become void.

### 2

#### 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

#### 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”).

### 3

#### The Executive branch of the United States should make necessary adjustments to its targeted killing policy to ensure compliance with relevant domestic and international law, including principles of necessity, distinction, and proportionality. The Executive branch should publicly articulate its legal rationale for its targeted killing policy, including the process and safeguards in place for target selection. This articulation should clarify that the President retains the right to targeted killing as a first resort outside zones of active hostilities.

#### 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.

#### Counterplan solves counter-terror coop

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

4. Procedural Requirements Currently, officials in the executive branch carry out all such ex ante review of out-of-battlefield targeting and detention decisions, reportedly with the involvement of the President, but without any binding and publicly articulated standards governing the exercise of these authorities. n163 All ex post review of targeting is also done internally within the executive branch. There is no public accounting, or even acknowledgment, of most strikes, their success and error rates, or the extent of any collateral damage. Whereas the Department of Defense provides solatia or condolence payments to Afghan civilians who are killed or injured as a result of military actions in Afghanistan (and formerly did so in Iraq), there is no equivalent effort in areas outside the active conflict zone. n164 Meanwhile, the degree of ex post review of detention decisions depends on the location of detention as opposed to the location of capture. Thus, [\*1219] Guantanamo detainees are entitled to habeas review, but detainees held in Afghanistan are not, even if they were captured far away and brought to Afghanistan to be detained. n165 Enhanced ex ante and ex post procedural protections for both detention and targeting, coupled with transparency as to the standards and processes employed, serve several important functions: they can minimize error and abuse by creating time for advance reflection, correct erroneous deprivations of liberty, create endogenous incentives to avoid mistake or abuse, and increase the legitimacy of state action. a. Ex Ante Procedures Three key considerations should guide the development of ex ante procedures. First, any procedural requirements must reasonably respond to the need for secrecy in certain operations. Secrecy concerns cannot, for example, justify the lack of transparency as to the substantive targeting standards being employed. There is, however, a legitimate need for the state to protect its sources and methods and to maintain an element of surprise in an attack or capture operation. Second, contrary to oft-repeated rhetoric about the ticking time bomb, few, if any, capture or kill operations outside a zone of active conflict occur in situations of true exigency. n166 Rather, there is often the time and need for advance planning. In fact, advance planning is often necessary to minimize damage to one's own troops and nearby civilians. n167 Third, the procedures and standards employed must be transparent and sufficiently credible to achieve the desired legitimacy gains. These considerations suggest the value of an independent, formalized, ex ante review system. Possible models include the Foreign Intelligence [\*1220] Surveillance Court (FISC), n168 or a FISC-like entity composed of military and intelligence officials and military lawyers, in the mode of an executive branch review board. n169 Created by the Foreign Intelligence Surveillance Act (FISA) in 1978, n170 the FISC grants ex parte orders for electronic surveillance and physical searches, among other actions, based on a finding that a "significant purpose" of the surveillance is to collect "foreign intelligence information." n171 The Attorney General can grant emergency authorizations without court approval, subject to a requirement that he notify the court of the emergency authorization and seek subsequent judicial authorization within seven days. n172 The FISC also approves procedures related to the use and dissemination of collected information. By statute, heightened restrictions apply to the use and dissemination of information concerning U.S. persons. n173 Notably, the process has been extraordinarily successful in protecting extremely sensitive sources and methods. To date, there has never been an unauthorized disclosure of an application to or order from the FISC court. An ex parte review system for targeting and detention outside zones of active hostility could operate in a similar way. Judges or the review board would approve selected targets and general procedures and standards, while still giving operators wide rein to implement the orders according to the approved standards. Specifically, the court or review board would determine whether the targets meet the substantive requirements and would [\*1221] evaluate the overarching procedures for making least harmful means-determinations, but would leave target identification and time-sensitive decisionmaking to the operators. n174 Moreover, there should be a mechanism for emergency authorizations at the behest of the Secretary of Defense or the Director of National Intelligence. Such a mechanism already exists for electronic surveillance conducted pursuant to FISA. n175 These authorizations would respond to situations in which there is reason to believe that the targeted individual poses an imminent, specific threat, and in which there is insufficient time to seek and obtain approval by a court or review panel as will likely be the case in instances of true imminence justifying the targeting of persons who do not meet the standards applicable to operational leaders. As required under FISA, the reviewing court or executive branch review board should be notified that such an emergency authorization has been issued; it should be time-limited; and the operational decisionmakers should have to seek court or review board approval (or review, if the strike has already taken place) as soon as practicable but at most within seven days. n176 Finally, and critically, given the stakes in any application namely, the deprivation of life someone should be appointed to represent the potential target's interests and put together the most compelling case that the individual is not who he is assumed to be or does not meet the targeting criteria. The objections to such a proposal are many. In the context of proposed courts to review the targeting of U.S. citizens, for example, some have argued that such review would serve merely to institutionalize, legitimize, and expand the use of targeted drone strikes. n177 But this ignores the reality of their continued use and expansion and imagines a world in which targeted [\*1222] killings of operational leaders of an enemy organization outside a zone of active conflict is categorically prohibited (an approach I reject n178). If states are going to use this extraordinary power (and they will), there ought to be a clear and transparent set of applicable standards and mechanisms in place to ensure thorough and careful review of targeted-killing decisions. The formalization of review procedures along with clear, binding standards will help to avoid ad hoc decisionmaking and will ensure consistency across administrations and time. Some also condemn the ex parte nature of such reviews. n179 But again, this critique fails to consider the likely alternative: an equally secret process in which targeting decisions are made without any formalized or institutionalized review process and no clarity as to the standards being employed. Institutionalizing a court or review board will not solve the secrecy issue, but it will lead to enhanced scrutiny of decisionmaking, particularly if a quasi-adversarial model is adopted, in which an official is obligated to act as advocate for the potential target. That said, there is a reasonable fear that any such court or review board will simply defer. In this vein, FISC's high approval rate is cited as evidence that reviewing courts or review boards will do little more than rubber-stamp the Executive's targeting decisions. n180 But the high approval rates only tell part of the story. In many cases, the mere requirement of justifying an application before a court or other independent review board can serve as an internal check, creating endogenous incentives to comply with the statutory requirements and limit the breadth of executive action. n181 Even if this system does little more than increase the attention paid to the stated requirements and expand the circle of persons reviewing the factual basis for the application, those features in and of themselves can lead to increased reflection and restraint. Additional accountability mechanisms, such as civil or criminal sanctions in the event of material misrepresentations or omissions, the granting of far-reaching authority to the relevant Inspectors General, and meaningful ex post review by Article III courts, n182 are also needed to help further minimize abuse. Conversely, some object to the use of courts or court-like review as stymying executive power in wartime, and interfering with the President's Article II powers. n183 According to this view, it is dangerous and potentially unconstitutional to require the President's wartime targeting decisions to be subject to additional reviews. These concerns, however, can be dealt with through emergency authorization mechanisms, the possibility of a presidential override, and design details that protect against ex ante review of operational decisionmaking. The adoption of an Article II review board, rather than an Article III-FISC model, further addresses some of the constitutional concerns. Some also have warned that there may be no "case or controversy" for an Article III, FISC-like court to review, further suggesting a preference for an Article II review board. n184 That said, similar concerns have been raised with respect to FISA and rejected. n185 Drawing heavily on an analogy to courts' roles in issuing ordinary warrants, the Justice Department's Office of Legal Counsel concluded at the time of enactment that a case and controversy existed, even though the FISA applications are made ex parte. n186 [\*1224] Here, the judges would be issuing a warrant to kill rather than surveil. While this is significant, it should not fundamentally alter the legal analysis. n187 As the Supreme Court has ruled, killing is a type of seizure. n188 The judges would be issuing a warrant for the most extreme type of seizure. n189 It is also important to emphasize that a reviewing court or review board would not be "selecting" targets, but determining whether the targets chosen by executive branch officials met substantive requirements much as courts do all the time when applying the law to the facts. Press accounts indicate that the United States maintains lists of persons subject to capture or kill operations lists created in advance of specific targeting operations and reportedly subject to significant internal deliberation, including by the President himself. n190 A court or review board could be incorporated into the existing ex ante decisionmaking process in a manner that would avoid interference with the conduct of specific operations reviewing the target lists but leaving the operational details to the operators. As suggested above, emergency approval mechanisms could and should be available to deal with exceptional cases where ex ante approval is not possible. Additional details will need to be addressed, including the temporal limits of the court's or review board's authorizations. For some high-level operatives, inclusion on a target list would presumably be valid for some set period of [\*1225] time, subject to specific renewal requirements. Authorizations based on a specific, imminent threat, by comparison, would need to be strictly time-limited, and tailored to the specifics of the threat, consistent with what courts regularly do when they issue warrants. In the absence of such a system, the President ought to, at a minimum, issue an executive order establishing a transparent set of standards and procedures for identifying targets of lethal killing and detention operations outside a zone of active hostilities. n192 To enhance legitimacy, the procedures should include target list reviews and disposition plans by the top official in each of the agencies with a stake in the outcome the Secretary of Defense, the Director of the CIA, the Secretary of State, the Director of Homeland Security, and the Director of National Intelligence, with either the Secretary of Defense, Director of National Intelligence, or President himself, responsible for final sign-off. n193 In all cases, decisions should be unanimous, or, in the absence of consensus, elevated to the President of the United States. n194 Additional details will need to be worked out, including critical questions about the standard of proof that applies. Given the stakes, a clear and convincing evidentiary standard is warranted. n195 While this proposal is obviously geared toward the United States, the same principles should apply for all states engaged in targeting operations. n196 States would ideally subject such determinations to independent review or, alternatively, clearly articulate the standards and procedures for their decisionmaking, thus enhancing accountability. b. Ex Post Review For targeted-killing operations, ex post reviews serve only limited purposes. They obviously cannot restore the target's life. But retrospective review either by a FISC-like court or review board can serve to identify errors or overreaching and thereby help avoid future mistakes. This can, and ideally would, be supplemented by the adoption of an additional Article III damages mechanism. n197 At a minimum, the relevant Inspectors General should engage in regular and extensive reviews of targeted-killing operations. Such post hoc analysis helps to set standards and controls that then get incorporated into ex ante decisionmaking. In fact, post hoc review can often serve as a more meaningful and often more searching inquiry into the legitimacy of targeting decisions. Even the mere knowledge that an ex post review will occur can help to protect against rash ex ante decisionmaking, thereby providing a self-correcting mechanism. Ex post review should also be accompanied by the establishment of a solatia and condolence payment system for activities that occur outside the active zone of hostilities. Extension of such a system beyond Afghanistan and Iraq would help mitigate resentment caused by civilian deaths or injuries and would promote better accounting of the civilian costs of targeting operations. n198

### 4

#### Obama will prevail in the debt ceiling battle by maintaining a focused message and strong political image

Dovere 10/1 (EDWARD-ISAAC DOVERE and REID J. EPSTEIN, 10/1/2013, “Government shutdown: President Obama holds the line,” <http://www.politico.com/story/2013/10/government-shutdown-president-obama-holds-the-line-97646.html?hp=f3>) CMR

President Barack Obama started September in an agonizing, extended display of how little sway he had in Congress. He ended the month with a display of resolve and strength that could redefine his presidency.¶ All it took was a government shutdown.¶ This was less a White House strategy than simply staying in the corner the House GOP had painted them into — to the White House’s surprise, Obama was forced to do what he so rarely has as president: he said no, and he didn’t stop saying no.¶ For two weeks ahead of Monday night’s deadline, Obama and aides rebuffed the efforts to kill Obamacare with the kind of firm, narrow sales pitch they struggled with in three years of trying to convince people the law should exist in the first place. There was no litany of doomsday scenarios that didn’t quite come true, like in the run-up to the fiscal cliff and the sequester. No leaked plans or musings in front of the cameras about Democratic priorities he might sacrifice to score a deal.¶ After five years of what’s often seen as Obama’s desperation to negotiate — to the fury of his liberal base and the frustration of party leaders who argue that he negotiates against himself. Even his signature health care law came with significant compromises in Congress.¶ Instead, over and over and over again, Obama delivered the simple line: Republicans want to repeal a law that was passed and upheld by the Supreme Court — to give people health insurance — or they’ll do something that everyone outside the GOP caucus meetings, including Wall Street bankers, seems to agree would be a ridiculous risk.¶ “If we lock these Americans out of affordable health care for one more year,” Obama said Monday afternoon as he listed examples of people who would enjoy better treatment under Obamacare, “if we sacrifice the health care of millions of Americans — then they’ll fund the government for a couple more months. Does anybody truly believe that we won’t have this fight again in a couple more months? Even at Christmas?”¶ The president and his advisers weren’t expecting this level of Republican melee, a White House official said. Only during Sen. Ted Cruz’s (R-Texas) 21-hour floor speech last week did the realization roll through the West Wing that they wouldn’t be negotiating because they couldn’t figure out anymore whom to negotiate with. And even then, they didn’t believe the shutdown was really going to happen until Saturday night, when the House voted again to strip Obamacare funding.¶ This wasn’t a credible position, Obama said again Monday afternoon, but rather, bowing to “extraneous and controversial demands” which are “all to save face after making some impossible promises to the extreme right wing of their political party.”¶ Obama and aides have said repeatedly that they’re not thinking about the shutdown in terms of political gain, but the situation’s is taking shape for them. Congress’s approval on dealing with the shutdown was at 10 percent even before the shutters started coming down on Monday according to a new CNN/ORC poll, with 69 percent of people saying the House Republicans are acting like “spoiled children.”¶ “The Republicans are making themselves so radioactive that the president and Democrats can win this debate in the court of public opinion” by waiting them out, said Jim Manley, a Democratic strategist and former aide to Senate Majority Leader Harry Reid who has previously been critical of Obama’s tactics.¶ Democratic pollster Stan Greenberg said the Obama White House learned from the 2011 debt ceiling standoff, when it demoralized fellow Democrats, deflated Obama’s approval ratings and got nothing substantive from the negotiations.¶ “They didn’t gain anything from that approach,” Greenberg said. “I think that there’s a lot they learned from what happened the last time they ran up against the debt ceiling.”¶ While the Republicans have been at war with each other, the White House has proceeded calmly — a breakthrough phone call with Iranian President Hassan Rouhani Friday that showed him getting things done (with the conveniently implied juxtaposition that Tehran is easier to negotiate with than the GOP conference), his regular golf game Saturday and a cordial meeting Monday with his old sparring partner Israeli Prime Minister Benjamin Netanyahu.¶ White House press secretary Jay Carney said Monday that the shutdown wasn’t really affecting much of anything.¶ “It’s busy, but it’s always busy here,” Carney said. “It’s busy for most of you covering this White House, any White House. We’re very much focused on making sure that the implementation of the Affordable Care Act continues.”¶ Obama called all four congressional leaders Monday evening — including Boehner, whose staff spent Friday needling reporters to point out that the president hadn’t called for a week. According to both the White House and Boehner’s office, the call was an exchange of well-worn talking points, and changed nothing.¶ Manley advised Obama to make sure people continue to see Boehner and the House Republicans as the problem and not rush into any more negotiations until public outrage forces them to bend.¶ “He may want to do a little outreach, but not until the House drives the country over the cliff,” Manley said Monday, before the shutdown. “Once the House has driven the country over the cliff and failed to fund the government, then it might be time to make a move.”¶ The White House believes Obama will take less than half the blame for a shutdown – with the rest heaped on congressional Republicans.¶ The divide is clear in a Gallup poll also out Monday: over 70 percent of self-identifying Republicans and Democrats each say their guys are the ones acting responsibly, while just 9 percent for both say the other side is.¶ If Obama is able to turn public opinion against Republicans, the GOP won’t be able to turn the blame back on Obama, Greenberg said. “Things only get worse once things begin to move in a particular direction,” he said. “They don’t suddenly start going the other way as people rethink this.”

#### Syria means Obama’s credibility is on the brink – plan makes the difference – causes stronger GOP pushback

Seeking Alpha 9/10/13 (“Syria Could Upend Debt Ceiling Fight”, <http://seekingalpha.com/article/1684082-syria-could-upend-debt-ceiling-fight>) CMR

Unless President Obama can totally change a reluctant public's perception of another Middle-Eastern conflict, it seems unlikely that he can get 218 votes in the House, though he can probably still squeak out 60 votes in the Senate. This defeat would be totally unprecedented as a President has never lost a military authorization vote in American history. To forbid the Commander-in-Chief of his primary power renders him all but impotent. At this point, a rebuff from the House is a 67%-75% probability.¶ I reach this probability by looking within the whip count. I assume the 164 declared "no" votes will stay in the "no" column. To get to 218, Obama needs to win over 193 of the 244 undecided, a gargantuan task. Within the "no" column, there are 137 Republicans. Under a best case scenario, Boehner could corral 50 "yes" votes, which would require Obama to pick up 168 of the 200 Democrats, 84%. Many of these Democrats rode to power because of their opposition to Iraq, which makes it difficult for them to support military conflict. The only way to generate near unanimity among the undecided Democrats is if they choose to support the President (recognizing the political ramifications of a defeat) despite personal misgivings. The idea that all undecided Democrats can be convinced of this argument is relatively slim, especially as there are few votes to lose. In the best case scenario, the House could reach 223-225 votes, barely enough to get it through. Under the worst case, there are only 150 votes. Given the lopsided nature of the breakdown, the chance of House passage is about one in four.¶ While a failure in the House would put action against Syria in limbo, I have felt that the market has overstated the impact of a strike there, which would be limited in nature. Rather, investors should focus on the profound ripple through the power structure in Washington, which would greatly impact impending battles over spending and the debt ceiling.¶ Currently, the government loses spending authority on September 30 while it hits the debt ceiling by the middle of October. Markets have generally felt that Washington will once again strike a last-minute deal and avert total catastrophe. Failure in the Syrian vote could change this. For the Republicans to beat Obama on a President's strength (foreign military action), they will likely be emboldened that they can beat him on domestic spending issues.¶ Until now, consensus has been that the two sides would compromise to fund the government at sequester levels while passing a $1 trillion stand-alone debt ceiling increase. However, the right wing of Boehner's caucus has been pushing for more, including another $1 trillion in spending cuts, defunding of Obamacare, and a one year delay of the individual mandate. Already, Conservative PACs have begun airing advertisements, urging a debt ceiling fight over Obamacare. With the President rendered hapless on Syria, they will become even more vocal about their hardline resolution, setting us up for a showdown that will rival 2011's debt ceiling fight.¶ I currently believe the two sides will pass a short-term continuing resolution to keep the government open, and then the GOP will wage a massive fight over the debt ceiling. While Obama will be weakened, he will be unwilling to undermine his major achievement, his healthcare law. In all likelihood, both sides will dig in their respective trenches, unwilling to strike a deal, essentially in a game of chicken. If the House blocks Syrian action, it will take America as close to a default as it did in 2011. Based on the market action then, we can expect massive volatility in the final days of the showdown with the Dow falling 500 points in one session in 2011.¶ As markets panicked over the potential for a U.S. default, we saw a massive risk-off trade, moving from equities into Treasuries. I think there is a significant chance we see something similar this late September into October. The Syrian vote has major implications on the power of Obama and the far-right when it comes to their willingness to fight over the debt ceiling. If the Syrian resolution fails, the debt ceiling fight will be even worse, which will send equities lower by upwards of 10%. Investors must be prepared for this "black swan" event.¶ Looking back to August 2011, stocks that performed the best were dividend paying, less-cyclical companies like Verizon (VZ), Wal-Mart (WMT), Coca-Cola (KO) and McDonald's (MCD) while high beta names like Netflix (NFLX) and Boeing (BA) were crushed. Investors also flocked into treasuries despite default risk while dumping lower quality bonds as spreads widened. The flight to safety helped treasuries despite U.S. government issues. I think we are likely to see a similar move this time.¶ Assuming there is a Syrian "no" vote, I would begin to roll back my long exposure in the stock market and reallocate funds into treasuries as I believe yields could drop back towards 2.50%. Within the stock market, I think the less-cyclical names should outperform, making utilities and consumer staples more attractive. For more tactical traders, I would consider buying puts against the S&P 500 and look toward shorting higher-beta and defense stocks like Boeing and Lockheed Martin (LMT). I also think lower quality bonds would suffer as spreads widen, making funds like JNK vulnerable. Conversely, gold (GLD) should benefit from the fear trade.¶ I would also like to address the potential that Congress does not vote down the Syrian resolution. First, news has broken that Russia has proposed Syria turn over its chemical stockpile. If Syria were to agree (Syria said it was willing to consider), the U.S. would not have to strike, canceling the congressional vote. The proposal can be found here. I strongly believe this is a delaying tactic rather than a serious effort. In 2005, Libya began to turn over chemical weapons; it has yet to complete the hand-off. Removing and destroying chemical weapons is an exceptionally challenging and dangerous task that would take years, not weeks, making this deal seem unrealistic, especially because a cease-fire would be required around all chemical facilities. The idea that a cease-fire could be maintained for months, essentially allowing Assad to stay in office, is hard to take seriously. I believe this is a delaying tactic, and Congress will have to vote within the next two weeks.¶ The final possibility is that Democrats back their President and barely ram the Syria resolution through. I think the extreme risk of a full-blown debt stand-off to dissipate. However, Boehner has promised a strong fight over the debt limit that the market has largely ignored. I do believe the fight would still be worse than the market anticipates but not outright disastrous. As such, I would not initiate short positions, but I would trim some longs and move into less cyclical stocks as the risk would still be the debt ceiling fight leading to some drama not no drama.¶ Remember, in politics everything is connected. Syria is not a stand-alone issue. Its resolution will impact the power structure in Washington. A failed vote in Congress is likely to make the debt ceiling fight even worse, spooking markets, and threatening default on U.S. obligations unless another last minute deal can be struck.

#### Obama’s *hardline position* against GOP negotiating demands key to prevent the GOP from *dragging the process out* and triggering *economic collapse*

Lobello, 8/27 --- business editor at TheWeek.com (Carmel, 8/27/2013, “How the looming debt ceiling fight could screw up the U.S. economy; Yup, this is happening — again,” <http://theweek.com/article/index/248775/how-the-looming-debt-ceiling-fight-could-screw-up-the-us-economy)>)

Having two big deadlines fall two weeks apart could be a recipe for disaster. Republicans, led by Speaker John Boehner (R-Ohio), have been musing about the possibility of using the debt ceiling, instead of a government shutdown, as leverage to delay the implementation of ObamaCare.¶ But as Ezra Klein put it in The Washington Post, "Trading a government shutdown for a debt-ceiling breach is like trading the flu for septic shock":¶ Anything Republicans might fear about a government shutdown is far more terrifying amidst a debt-ceiling breach. The former is an inconvenience. The latter is a global financial crisis. It’s the difference between what happened in 1995, when the government did shutdown, and what happened in 2008, when global markets realized a bedrock investment they thought was safe (housing in that case, U.S. treasuries in this one) was full of risk. [The Washington Post]¶ Indeed, a debt ceiling debate in 2011 that went on to the last possible minute had real economic consequences, leading Standard & Poor's to downgrade the United States' credit rating. The move "left a clear and deep dent in US economic and market data," said Matt Phillips at Quartz.¶ Investors pulled huge amounts of cash from the stock market, and consumer confidence was hurt as well. When the same problem cropped up again in May 2012, because Congress failed to reach a long-term deal, Betsey Stevenson and Justin Wolfers in Bloomberg explained how confidence plummeted the first time around:¶ [Confidence] went into freefall as the political stalemate worsened through July. Over the entire episode, confidence declined more than it did following the collapse of Lehman Brothers Holdings Inc. in 2008. After July 31, when the deal to break the impasse was announced, consumer confidence stabilized and began a long, slow climb that brought it back to its starting point almost a year later. [Bloomberg]¶ This morning, Wolfers had this to say:¶ Treasury Secretary Jack Lew visited CNBC Tuesday morning to reiterate President Obama's promise not to go down he same road. "The president has made it clear: We're not going to negotiate over the debt limit," Lew said.

#### Nuclear war

Cesare Merlini 11, nonresident senior fellow at the Center on the United States and Europe and chairman of the Board of Trustees of the Italian Institute for International Affairs, May 2011, “A Post-Secular World?”, Survival, Vol. 53, No. 2

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

### Norms Adv

**This advantage is laughable – zero evidence makes a reverse causal claim about other countries pulling back from using drones**

**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 Chinese drone aggression – political constraints**

**Erickson 5/23** – associate professor at the Naval War College and an Associate in Research at Harvard University’s Fairbank Center (Andrew, and Austin Strange, researcher at the Naval War College’s China Maritime Studies Institute and a graduate student at Zhejiang University, “China Has Drones. Now What?”, 2013, <http://www.foreignaffairs.com/articles/139405/andrew-erickson-and-austin-strange/china-has-drones-now-what?page=show>, CMR)

Indeed, the time to fret about when China and other authoritarian countries will acquire drones is over: they have them. The question now is when and how they will use them. But as with its other, less exotic military capabilities, **Beijing has cleared only a technological hurdle** -- **and its behavior will continue to be constrained by politics**.¶ China has been developing a drone capacity for over half a century, starting with its reverse engineering of Soviet Lavochkin La-17C target drones that it had received from Moscow in the late 1950s. Today, Beijing’s opacity makes it difficult to gauge the exact scale of the program, but according to Ian Easton, an analyst at the Project 2049 Institute, by 2011 China’s air force alone had over 280 combat drones. In other words, its fleet of unmanned aerial vehicles is already bigger and more sophisticated than all but the United States’; in this relatively new field Beijing is less of a newcomer and more of a fast follower. And the force will only become more effective: the Lijian (“sharp sword” in Chinese), a combat drone in the final stages of development, will make China one of the very few states that have or are building a stealth drone capacity.¶ This impressive arsenal may tempt China to pull the trigger. The fact that a Chinese official acknowledged that Beijing had considered using drones to eliminate the Burmese drug trafficker, Naw Kham, made clear that it would not be out of the question for China to launch a drone strike in a security operation against a nonstate actor. Meanwhile, as China’s territorial disputes with its neighbors have escalated, there is a chance that Beijing would introduce unmanned aircraft, especially since India, the Philippines, and Vietnam distantly trail China in drone funding and capacity, and would find it difficult to compete. Beijing is already using drones to photograph the Senkaku/Diaoyu Islands it disputes with Japan, as the retired Chinese Major General Peng Guangqian revealed earlier this year, and to keep an eye on movements near the North Korean border.¶ **Beijing**, however, **is unlikely to use its drones lightly**. **It already faces tremendous criticism** from much of the international community **for its perceived brazenness in** continental and maritime **sovereignty disputes**. **With its leaders attempting to allay notions that China’s rise poses a threat** to the region, **injecting drones** conspicuously into these disputes **would prove counterproductive. China also fears setting a precedent for the use of drones in East Asian hotspots that the U**nited **S**tates **could eventually exploit**. For now, **Beijing** is showing that it **understands these risks, and** to date it **has limited its use of drones** in these areas to surveillance, according to recent public statements from China’s Defense Ministry.¶ What about using drones outside of Chinese-claimed areas? **That China did not**, in fact, launch a drone **strike** on **the Burmese drug criminal underscores its caution**. According to Liu Yuejin, the director of the antidrug bureau in China’s Ministry of Public Security, **Beijing considered using a drone** carrying a 20-kilogram TNT payload **to bomb Kham’s mountain** redoubt in northeast Myanmar. Kham had already evaded capture three times, so a drone strike may have seemed to be the best option. The authorities apparently had at least two plans for capturing Kham. The method they ultimately chose was to send Chinese police forces to lead a transnational investigation that ended in April 2012 with Kham’s capture near the Myanmar-Laos border. **The** ultimate **decision to refrain** from the strike **may reflect** both **a fear of political reproach and a lack of confidence in untested drones, systems, and operators**.¶ **The restrictive position** that **Beijing takes on sovereignty in international forums will further constrain its use of drones**. **China is not likely to publicly deploy drones** for precision strikes or in other military assignments **without first having been granted a credible mandate to do so**. The gold standard of such an authorization is a resolution passed by the UN Security Council, the stamp of approval that has permitted Chinese humanitarian interventions in Africa and antipiracy operations in the Gulf of Aden. China might consider using drones abroad with some sort of regional authorization, such as a country giving Beijing explicit permission to launch a drone strike within its territory. But **even with** the **endorsement** of the international community or specific states, **China would have to weigh any benefits of a drone strike** abroad **against the potential for mishaps and perceptions** that **it was infringing on other countries’ sovereignty -- something Beijing regularly decries** when others do it.¶ The **limitations** on China’s drone use **are reflected in the country’s academic literature** on the topic. The bulk of Chinese drone research is dedicated to scientific and technological topics related to design and performance. The articles that do discuss potential applications primarily point to major combat scenarios -- such as a conflagration with Taiwan or the need to attack a U.S. aircraft carrier -- which would presumably involve far more than just drones. **Chinese researchers have thought a great deal about the utility of drones** **for** domestic **surveillance and law enforcement**, as well as for non-combat-related tasks near China’s contentious borders. **Few scholars**, **however**, **have** publicly **considered** the **use of drone strikes overseas**.¶ Yet there is a reason why the United States has employed drones extensively despite domestic and international criticism: it is much easier and cheaper to kill terrorists from above than to try to root them out through long and expensive counterinsurgency campaigns. Some similar challenges loom on China’s horizon. Within China, Beijing often considers protests and violence in the restive border regions, such as Xinjiang and Tibet, to constitute terrorism. It would presumably consider ordering precision strikes to suppress any future violence there. **Even if** such **strikes are operationally prudent, China’s leaders understand** that **they would damage the country’s image abroad**, but they prioritize internal stability above all else. Domestic surveillance by drones is a different issue; there should be few barriers to its application in what is already one of the world’s most heavily policed societies. China might also be willing to use stealth drones in foreign airspace without authorization if the risk of detection were low enough; it already deploys intelligence-gathering ships in the exclusive economic zones of Japan and the United States, as well as in the Indian Ocean.¶ Still, although China enjoys a rapidly expanding and cutting-edge drone fleet, it is bound by the same rules of the game as the rest of the military’s tools. Beyond surveillance, the other non-lethal military actions that China can take with its drones are to facilitate communications within the Chinese military, support electronic warfare by intercepting electronic communications and jamming enemy systems, and help identify targets for Chinese precision strike weapons, such as missiles. **Beijing’s overarching approach remains** one of **caution** -- something Washington must bear in mind with its own drone program.

#### No Chinese aggression in the SCS

Fravel 2012—Associate Professor of Political Science and member of the Security Studies Program at MIT. (Taylor, All Quiet in the South China Sea, 3/22/12, www.foreignaffairs.com/articles/137346/m-taylor-fravel/all-quiet-in-the-south-china-sea?page=show)

Little noticed, however, has been China's recent adoption of a new -- and much more moderate -- approach. The primary goals of the friendlier policy are to restore China's tarnished image in East Asia and to reduce the rationale for a more active U.S. role there. ¶ The first sign of China's new approach came last June, when Hanoi dispatched a special envoy to Beijing for talks about the countries' various maritime disputes. The visit paved the way for an agreement in July 2011 between China and the ten members of the Association of Southeast Asian Nations (ASEAN) to finally implement a declaration of a code of conduct they had originally drafted in 2002 after a series of incidents in the South China Sea. In that declaration, they agreed to "exercise self-restraint in the conduct of activities that would complicate or escalate disputes."¶ Since the summer, senior Chinese officials, especially top political leaders such as President Hu Jintao and Premier Wen Jiabao, have repeatedly reaffirmed the late Deng Xiaoping's guidelines for dealing with China's maritime conflicts to focus on economic cooperation while delaying the final resolution of the underlying claims. In August 2011, for example, Hu echoed Deng's approach by stating that "the countries concerned may put aside the disputes and actively explore forms of common development in the relevant sea areas."¶ Authoritative Chinese-language media, too, has begun to underscore the importance of cooperation. Since August, the international department of People's Daily (under the pen name Zhong Sheng) has published several columns stressing the need to be less confrontational in the South China Sea. In January 2012, for example, Zhong Sheng discussed the importance of "pragmatic cooperation" to achieve "concrete results." Since the People's Daily is the official paper of the Central Committee of the Chinese Communist Party, such articles should be interpreted as the party's attempts to explain its new policy to domestic readers, especially those working lower down in party and state bureaucracies.¶ In terms of actually setting aside disputes, China has made progress. In addition to the July consensus with ASEAN, in October China reached an agreement with Vietnam on "basic principles guiding the settlement of maritime issues." The accord stressed following international law, especially the UN Convention on the Law of the Sea. Since then, China and Vietnam have begun to implement the agreement by establishing a working group to demarcate and develop the southern portion of the Gulf of Tonkin near the disputed Paracel Islands.¶ China has also initiated or participated in several working-level meetings to address regional concerns about Beijing's assertiveness. Just before the East Asian Summit last November, China announced that it would establish a three billion yuan ($476 million) fund for China-ASEAN maritime cooperation on scientific research, environmental protection, freedom of navigation, search and rescue, and combating transnational crimes at sea. The following month, China convened several workshops on oceanography and freedom of navigation in the South China Sea, and in January it hosted a meeting with senior ASEAN officials to discuss implementing the 2002 code of conduct declaration. The breadth of proposed cooperative activities indicates that China's new approach is probably more than just a mere stalling tactic.¶ Beyond China's new efforts to demonstrate that it is ready to pursue a more cooperative approach, the country has also halted many of the more assertive behaviors that had attracted attention between 2009 and 2011. For example, patrol ships from the Bureau of Fisheries Administration have rarely detained and held any Vietnamese fishermen since 2010. (Between 2005 and 2010, China detained 63 fishing boats and their crews, many of which were not released until a hefty fine was paid.) And Vietnamese and Philippine vessels have been able to conduct hydrocarbon exploration without interference from China. (Just last May, Chinese patrol ships cut the towed sonar cable of a Vietnamese ship to prevent it from completing a seismic survey.) More generally, China has not obstructed any recent exploration-related activities, such as Exxon's drilling in October of an exploratory well in waters claimed by both Vietnam and China. Given that China retains the capability to interfere with such activities, its failure to do so suggests a conscious choice to be a friendlier neighbor. ¶ The question, of course, is why did the Chinese shift to a more moderate approach? More than anything, Beijing has come to realize that its assertiveness was harming its broader foreign policy interests. One principle of China's current grand strategy is to maintain good ties with great powers, its immediate neighbors, and the developing world. Through its actions in the South China Sea, China had undermined this principle and tarnished the cordial image in Southeast Asia that it had worked to cultivate in the preceding decade. It had created a shared interest among countries there in countering China -- and an incentive for them to seek support from Washington. In so doing, China's actions provided a strong rationale for greater U.S. involvement in the region and inserted the South China Sea disputes into the U.S.-Chinese relationship.¶ By last summer, China had simply recognized that it had overreached. Now, Beijing wants to project a more benign image in the region to prevent the formation of a group of Asian states allied against China, reduce Southeast Asian states' desire to further improve ties with the United States, and weaken the rationale for a greater U.S. role in these disputes and in the region.¶ So far, Beijing's new approach seems to be working, especially with Vietnam. China and Vietnam have deepened their political relationship through frequent high-level exchanges. Visits by the Vietnamese Communist Party general secretary, Nguyen Phu Trong, to Beijing in October 2011 and by the Chinese heir apparent, Xi Jinping, to Hanoi in December 2011 were designed to soothe spirits and protect the broader bilateral relationship from the unresolved disputes over territory in the South China Sea. In October, the two also agreed to a five-year plan to increase their bilateral trade to $60 billion by 2015. And just last month, foreign ministers from both countries agreed to set up working groups on functional issues such as maritime search and rescue and establish a hotline between the two foreign ministries, in addition to starting talks over the demarcation of the Gulf of Tonkin.

#### No impact to nuclear Iran – our evidence indicts all their scenarios – arms race, terror, belligerence

Keith L. **Shimko**, Associate Professor of Political Science at Purdue University, “International Relations: Perspectives and Controversies”, **2009**, page number below, CMR

The same architects of illusion who fulminated for war with Iraq say that if Iran gets nuclear weapons, three had things could happen: it could trigger a nuclear arms race in the Middle East; it might supply nuclear weapons to terrorists; and Tehran could use its nuclear weapons to blackmail other states in the region or to engage in aggression. Each of these scenarios, however, is **improbable in the extreme**. During the early 1960s, American policymakers had similar fears that China's acquisition of nuclear weapons would trigger a proliferation stampede, but these fears did not materialize, and a nuclear Iran is no more likely to start a proliferation snowball in the Middle East. Israel, of course, already is a nuclear power. The other three states that might be tempted to seek nuclear weapons capability are Egypt, Saudi Arabia, and Turkey. But **as MIT professor** Barry **Posen points out**, each of these three states would be under strong pressure not do to so. Egypt is particularly vulnerable to outside pressure to refrain from going nuclear because its shaky economy depends on foreign—especially U.S.—economic assistance. Saudi Arabia would find it hard to purchase nuclear weapons or material on the black market, which is closely watched by the United States, and, Posen notes, it would take the Saudis years to develop the industrial and engineering capabilities to develop nuclear weapons indigenously. Notwithstanding the near-hysterical rhetoric of the Bush administration and the neoconservatives, Iran is not going to give nuclear weapons to terrorists. This is not to say that Tehran has not abetted groups like Hezbollah in Lebanon or Hamas in the Palestinian Authority. However, there are good reasons that states—even those that have ties to terrorists—draw the line at giving them nuclear weapons or other WMD. If the terrorists were to use these weapons against the United States or its allies, the weapons could be traced back to the donor state, which would be at risk of annihilation by an American retaliatory strike. Iran's leaders have too much at stake to run this risk. Even if one believed the administration's hype about the indifference of rogue-state leaders to the fate of their populations, they care very much about the survival of their regimes, which is why **deterrence works**. For the same reason, Iran's possession of nuclear weapons will not invest Tehran with options to attack or intimidate its neighbors. Just as it did during the Cold War, the U.S. can extend its own deterrence umbrella to protect its clients in the region like Saudi Arabia, the Gulf states, and Turkey. American security guarantees will not only dissuade Iran from acting recklessly but also restrain proliferation by negating the incentives for states like Saudi Arabia and Turkey to build their own nuclear weapons. Given the overwhelming U.S. advantage in both nuclear and conventional military capabilities, Iran is not going to risk **national suicide** by challenging America's security commitments in the region. In this sense dealing with the Iranian '"nuclear threat" is actually one of the easier strategic challenges the United States faces. It is a threat that can be handled by an offshore balancing strategy that relies on missile, air, and naval power well away from the volatile Persian Gulf, thus reducing the American poltico-military footprint in the region. In short, while a nuclear-armed Iran is hardly desirable, neither is it "intolerable," because it could be contained and deterred successfully by the United States.... [page 291-292]

### Terror Adv

#### Allied terror coop is high now, despite frictions

Kristin Archick, European affairs specialist @ CRS, 9-4-2013, “U.S.-EU Cooperation Against Terrorism,” Congressional Research Service, <http://www.fas.org/sgp/crs/row/RS22030.pdf>

As part of the EU’s efforts to combat terrorism since September 11, 2001, the EU made improving law enforcement and intelligence cooperation with the United States a top priority. The previous George W. Bush Administration and many Members of Congress largely welcomed this EU initiative in the hopes that it would help root out terrorist cells in Europe and beyond that could be planning other attacks against the United States or its interests. Such growing U.S.-EU cooperation was in line with the 9/11 Commission’s recommendations that the United States should develop a “comprehensive coalition strategy” against Islamist terrorism, “exchange terrorist information with trusted allies,” and improve border security through better international cooperation. Some measures in the resulting Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108-458) and in the Implementing Recommendations of the 9/11 Commission Act of 2007 (P.L. 110-53) mirrored these sentiments and were consistent with U.S.-EU counterterrorism efforts, especially those aimed at improving border controls and transport security. U.S.-EU cooperation against terrorism has led to a new dynamic in U.S.-EU relations by fostering dialogue on law enforcement and homeland security issues previously reserved for bilateral discussions. Despite some frictions, most U.S. policymakers and analysts view the developing partnership in these areas as positive. Like its predecessor, the Obama Administration has supported U.S. cooperation with the EU in the areas of counterterrorism, border controls, and transport security. At the November 2009 U.S.-EU Summit in Washington, DC, the two sides reaffirmed their commitment to work together to combat terrorism and enhance cooperation in the broader JHA field. In June 2010, the United States and the EU adopted a new “Declaration on Counterterrorism” aimed at deepening the already close U.S.-EU counterterrorism relationship and highlighting the commitment of both sides to combat terrorism within the rule of law. In June 2011, President Obama’s National Strategy for Counterterrorism asserted that in addition to working with European allies bilaterally, “the United States will continue to partner with the European Parliament and European Union to maintain and advance CT efforts that provide mutual security and protection to citizens of all nations while also upholding individual rights.”

#### Cooperation’s inevitable\*\*

Mueller 12 (John, Prof @ Ohio State, Terrorism and Security, in “Controversies in Globalization,” page 149-150, CMR)

Overall, with 9/11 and subsequent activity, bin Laden and his gang seem mainly to have succeeded in uniting the world, including its huge Muslim portion, against their violent global jihad. No matter how much they might disagree on other issues (most notably America’s war on Iraq), there is a compelling incentive for states – including Arab and Muslim ones – to cooperate to deal with any international terrorist problem emanating from groups and individuals connected to, or sympathetic with, al-Qaeda. Although these multilateral efforts, particularly by such Muslim States as Sudan, Syria, Libya, Pakistan, and even Iran, may not have received sufficient publicity, these countries have had a vital interest, because they felt directly threatened by the militant network, and their diligent and aggressive efforts have led to important breakthroughs against al-Qaeda. ¶ **This** post-9/11 **willingness** of governments around the world to take on terrorists **has been reinforced and amplified as they reacted to subsequent,** if sporadic, **terrorist activity** with**in** **their own countries**. Thus a terrorist bombing in Balin in 2002 galvanized the Indonesia government into action and into extensive arrests and convictions. **When terrorists attacked** Saudis in **Saudi** Arabia in 2002, **that country** **seems**, very much for self-interested reasons, **to have become** considerably **more serious about** dealing with internal **terrorism**, including a clampdown on radical clerics and preachers. Some inept terrorist **bombings in** **Casablanca** in 2003 **inspired** a similar determined **crackdown by Moroccan authorities.** **The** main **result** **of** al-Qaeda-linked **suicide terrorism in Jordan** in 2003 **was to outrage** Jordanians and other **Arabs** against the perpetrators. Massive protests were held, and in polls, those expressing a lot of confidence in Osama Bin Laden to “do the right thing” plunged from 25 percent to less than 1 percent. In polls conducted in 35 predominately Muslim coutnries, more than 90 percent condemned bin Laden’s terrorism on religious grounds. [149-150]

#### No WMD terrorism – lack of desire and capability – empirically the threat is overblown

Mueller 11. John Mueller, Professor and Woody Hayes Chair of National Security Studies, Mershon Center for International Security Studies and Department of Political Science, “The Truth About al Qaeda”, 8/2/2011, <http://www.foreignaffairs.com/articles/68012/john-mueller/the-truth-about-al-qaeda?page=show>, CMR

The chief lesson of 9/11 should have been that small bands of terrorists, using simple methods, can exploit loopholes in existing security systems. But instead, **many** preferred to **engage in mass**ive **extrapolation**: **If 19 men could hijack four airplanes** simultaneously, the thinking went, then **surely al Qaeda would soon make an atomic bomb.** As a misguided Turkish proverb holds, "If your enemy be an ant, imagine him to be an elephant." The new information unearthed in Osama bin Laden's hideout in Abbottabad, Pakistan, suggests that the United States has been doing so for a full decade. **Whatever al Qaeda's threatening rhetoric and occasional nuclear fantasies, its potential as a menace**, particularly as an atomic one, **has been much inflated**. **The public has** now **endured a decade of dire warnings about** the imminence of a **terrorist atomic attack**. In 2004, the former CIA spook Michael Scheuer proclaimed on television's 60 Minutes that it was "probably a near thing," and in 2007, the physicist Richard Garwin assessed the likelihood of a nuclear explosion in an American or a European city by terrorism or other means in the next ten years to be 87 percent. By 2008, Defense Secretary Robert Gates mused that what keeps every senior government leader awake at night is "the thought of a terrorist ending up with a weapon of mass destruction, especially nuclear." **Few**, it seems, **found** much **solace in** the fact **that** **an al Qaeda computer** seized in Afghanistan in 2001 **indicated** that **the group's budget for research on w**eapons of **m**ass **d**estruction (almost all of it focused on primitive chemical weapons work) **was** some $2,000 to $4,000. In the wake of the killing of Osama bin Laden, officials now have more al Qaeda computers, which reportedly contain a wealth of information about the workings of the organization in the intervening decade. A multi-agency task force has completed its assessment, and according to first reports, it has found that **al Qaeda members have** **primarily been engaged in dodging drone strikes and complaining about how cash-strapped they are**. Some **reports suggest** **they've** also **been looking at quite a bit of** pornography. The full story is not out yet, but **it seems** breathtakingly unlikely **that the miserable little group has** had **the time or inclination, let alone the money, to set up and staff a uranium-seizing operation, as well as a** fancy, super-high-tech **facility to fabricate a bomb**. **It** is a process that **requires trusting corrupted foreign collaborators** and other criminals, **obtaining and transporting** highly guarded **material**, **setting up a** machine **shop staffed with top scientists** and technicians, **and rolling the** heavy, cumbersome, and untested finished **product into position to be detonated by a skilled crew**, all the **while attracting no attention from outsiders.** The documents also reveal that after fleeing Afghanistan, bin Laden maintained what one member of the task force calls an "obsession" with attacking the United States again, even though 9/11 was in many ways a disaster for the group. It led to a worldwide loss of support, a major attack on it and on its Taliban hosts, and a decade of furious and dedicated harassment. And indeed, bin Laden did repeatedly and publicly threaten an attack on the United States. He assured Americans in 2002 that "the youth of Islam are preparing things that will fill your hearts with fear"; and in 2006, he declared that his group had been able "to breach your security measures" and that "operations are under preparation, and you will see them on your own ground once they are finished." Al Qaeda's animated spokesman, Adam Gadahn, proclaimed in 2004 that "the streets of America shall run red with blood" and that "the next wave of attacks may come at any moment." The **obsessive desire notwithstanding**, such **fulminations have clearly lacked substance**. Although hundreds of millions of people enter the United States legally every year, and countless others illegally, **no true al Qaeda cell has been found in the country since 9/11** and exceedingly few people have been uncovered who even have any sort of "link" to the organization. The closest effort at an al Qaeda operation within the country was a decidedly nonnuclear one by an Afghan-American, Najibullah Zazi, in 2009. Outraged at the U.S.-led war on his home country, Zazi attempted to join the Taliban but was persuaded by al Qaeda operatives in Pakistan to set off some bombs in the United States instead. Under surveillance from the start, he was soon arrested, and, however "radicalized," he has been talking to investigators ever since, turning traitor to his former colleagues. Whatever training Zazi received was inadequate; he repeatedly and desperately sought further instruction from his overseas instructors by phone. At one point, he purchased bomb material with a stolen credit card, guaranteeing that the purchase would attract attention and that security video recordings would be scrutinized. Apparently, his handlers were so strapped that they could not even advance him a bit of cash to purchase some hydrogen peroxide for making a bomb. For al Qaeda, then, the operation was a failure in every way -- except for the ego boost it got by inspiring the usual dire litany about the group's supposedly existential challenge to the United States, to the civilized world, to the modern state system. Indeed, **no** Muslim **extremist has succeeded in detonating** even **a simple bomb in the U**nited **S**tates **in the last ten years**, and except for the attacks on the London Underground in 2005, neither has any in the United Kingdom. **It seems** wildly unlikely **that al Qaeda is remotely ready to go nuclear**. Outside of war zones, the amount of killing carried out by **al Qaeda** and al Qaeda linkees, maybes, and wannabes throughout the entire world since 9/11 stands at perhaps a few hundred per year. That's a few hundred too many, of course, but it scarcely presents an existential, or elephantine, threat. And **the likelihood that a**n **American will be killed by a terrorist** of any ilk **stands at one in 3.5 million per year**, even with 9/11 included. **That probability will remain unchanged** unless terrorists are able to increase their capabilities massively -- and obtaining nuclear weapons would allow them to do so. Although al Qaeda may have dreamed from time to time about getting such weapons, no other terrorist group has even gone so far as to indulge in such dreams, with the exception of the Japanese cult **Aum Shinrikyo**, which leased the mineral rights to an Australian sheep ranch that sat on uranium deposits, purchased some semi-relevant equipment, and tried to buy a finished bomb from the Russians. That experience, however, **cannot be very encouraging to** the would-be atomic **terrorist**. Even though it was flush with funds and undistracted by drone attacks (or even by much surveillance), **Aum Shinrikyo abandoned its atomic efforts in frustration very early on. It then moved to bio**logical **weapons**, another complete failure that inspired its leader to suggest that fears expressed in the United States of a biological attack were actually a ruse to tempt terrorist groups to pursue the weapons. **The group did** finally **manage to release some sarin gas** in a Tokyo subway **that killed 13 and led to the group's terminal shutdown, as well as to 16 years** (and counting) **of pronouncements that WMD terrorism is the wave of the future. No elephants there, either**.

#### No Russia impact

#### a. Safeguards

**Ryabikhin et al. ‘9** [Dr. Leonid Ryabikhin, Executive Secretary, Committee of Scientist for Global Security and Arms Control; Senior Fellow, EastWest Institute, General (Ret.) Viktor Koltunov, Deputy Director, Institute for Strategic Stability of Rosatom, and Dr. Eugene Miasnikov, Senior Research Scientist, Center for Arms Control, Energy and Environmental Studies, 21-23 June 2009, “De-alerting: Decreasing the Operational Readiness of Strategic Nuclear Forces\*” Discussion paper presented at the seminar on “Re-framing De-Alert: Decreasing the Operational Readiness of Nuclear Weapons Systems in the U.S.-Russia Context” in Yverdon, Switzerland, http://www.ewi.info/system/files/RyabikhinKoltunovMiasnikov.pdf]

Most of the experts define de-alerting as implementing some reversible physical changes in a weapon system that would significantly increase time between the decision to use the weapon and the actual moment of its launch. The proponents of this concept consider it as one of the ways to maintain strategic stability. They provide the following arguments in support of this concept. 􀂃 Radical changes have occurred in US-Russian relations. Russia and the United States are building strategic partnership relationship. In such situation the high alert readiness of strategic offensive forces targeted at each other does not correspond to the character of our relations. 􀂃 Strategic nuclear forces high alert readiness in combination with a concept of launch-on-warning strike increases the risk of “accidental” nuclear war (as a result of mistakes in the C3I system, inadequate situation analysis, mistaken decision-making, unauthorized action of personnel or even terrorists, provocation from the “third” states or non-state actors, etc.); 􀂃 False signals about missile attacks obtained from early warning system that may trigger an accidental launch. This assumption was very popular when the Russian early warning system was weakened as a result of collapse of the Soviet Union. Analysis of the above **arguments** shows, that they do not have solid grounds. **Today Russian and U.S. ICBMs are** not targeted at any state**. High alert status of the Russian and U.S. strategic nuclear forces has not been an obstacle for building a strategic partnership. The issue of the possibility of an “accidental” nuclear war** itself **is** hypothetical. **Both states have developed and implemented constructive organizational and technical measures that practically exclude launches resulting from unauthorized action of personnel or terrorists. Nuclear weapons are maintained under** very strict system of control **that excludes any accidental** or unauthorized **use and guarantees that these weapons can only be used provided that there is an appropriate authorization by the national leadership**. Besides that it should be mentioned that even the Soviet Union and the United States had taken important bilateral steps toward decreasing the risk of accidental nuclear conflict. **Direct emergency telephone “red line” has been established** between the White House and the Kremlin in **1963**. **In 1971** **the** **USSR and USA signed** **the Agreement on Measures to Reduce the Nuclear War Threat**. **This Agreement established the actions of each side in case of even a hypothetical accidental missile launch and it contains the requirements for the owner of the launched missile to deactivate and eliminate the missile.** Both the Soviet Union and the United States have developed proper measures to observe the agreed requirements.

#### b. Communication

**Ford ‘8** [Dr. Christopher A. Ford, Senior Fellow and Director of the Center for Technology and Global Security at the Hudson Institute and previously served as U.S. Special Representative for Nuclear Nonproliferation, October 7, 2008, “Dilemmas of Nuclear Force “De-Alerting”” Presented to the International Peace Institute Policy Forum

http://www.hudson.org/files/documents/De-Alerting%20FINAL2%20(2).pdf]

**The U**nited **S**tates **and Russia have** also **worked for years to improve communications, reduce misunderstandings, and develop ways to lessen the risk of inadvertent launch or other errors** in their strategic relationship. Most readers will be familiar with the Direct Communications Link (the famous “hotline”) established in 1963.27 In 1971, however, **Washington and Moscow** also **signed an agreement establishing basic procedures to increase mutual consultation and notification regarding** relatively innocent but **potentially alarming activities – thereby reducing the risk of accidental nuclear war**.28 Since 1987, **the two parties have** also **operated securely-linked 24-hour communications centers** – the U.S. node of which is the Nuclear Risk Reduction Center (NRRC) operated by the State Department29 – which specialize in transmitting such things as the notifications required under arms control treaties. Pursuant to a 1988 memorandum, NRRC transmittals, which go directly to the Russian Ministry of Defense, include ballistic missile launch notifications. **This link also proved useful to help prevent strategic tensions after the terrorist assault** of September 11, 2001 – at which point U.S. officials used the NRRC to reassure their Russian counterparts that the sudden American security alert in the wake of the Manhattan and Pentagon attacks was not in any way an indication of impending U.S. belligerence vis-à-vis Russia.

#### Drone strikes still a first resort but operate within legal norms – recent Kerry gaffe proves

Brooks 8/12/13 (Susan, Professor of Theology and immediate past President of Chicago Theological Seminary, “Drones in Yemen: Fear as foreign policy”, <http://www.washingtonpost.com/blogs/on-faith/wp/2013/08/12/drones-in-yemen-fear-as-foreign-policy/>, CMR)

Secretary of State John **Kerry**, on his recent trip to Pakistan, **said**, **in response to demands** by Pakistan’s new prime minister, Nawaz Sharif, **for an immediate halt to** the use of **drones** **to target militants along the border with Afghanistan, “I think the president has a very real timeline and we hope it’s going to be very, very soon.**” **Several hours later**, however, **a State Department spokesperson** “walked back the comments.”¶ **This back and forth** between Secretary Kerry and his own State Department **is illustrative of the** lack of coherence **between U.S. foreign policy and drones**. It also shows that of the two, drone strikes are a preferred, “first resort” strategy, not a “last resort” when negotiation has failed.¶ The **Obama** administration, however, **claims its drone policy is morally and legally sound because it is based in Just War theory**. In May, President **Obama**, in a speech at the National Defense University, **defended his drones policy as legal and conforming to those principles**, saying “this is a just war — a war waged proportionally, in last resort, and in self-defense.”¶ But as the example of Secretary Kerry and Pakistan shows, drones continue to be a first resort, not a last resort only used when all other options of negotiation have been exhausted. In addition, while these Yemeni drones strikes are used to pre-emptively kill suspected militants, they are striking wide-spread fear into civilian populations disproportionate to the gain. Whether or not civilians are being killed, they are being threatened as drones are far from perfect in their targeting, as the President actually acknowledged in his May, 2013 speech.

#### The *plan’s framework* produces *new terrorist safe-havens* and injects *debilitating uncertainty* into drone operations

Blank 13 – Director, International Humanitarian Law Clinic, Emory University School of Law (Laurie, “LEARNING TO LIVE WITH (A LITTLE) UNCERTAINTY: THE OPERATIONAL ASPECTS AND CONSEQUENCES OF THE GEOGRAPHY OF CONFLICT DEBATE”, 161 U. Pa. L. Rev. Online 347, lexis, CMR)

As Daskal aptly describes, the primary contours of the debate over **the scope of the battlefield** are **shaped by the territorially prescribed view** on one side and the broadly conceived "global battlefield" on the other. n17 From a policy standpoint, the latter poses the risk of spiraling violence and a degradation of sovereignty; the former **offers terrorists and** other armed **groups** an unnecessary bonus of safe haven **simply by crossing an international border.** In an earlier piece, I have argued for a middle ground, based on an understanding of the relevant legal parameters that can offer guidance in analyzing the geographic space of conflict. n18 In this sense, I firmly agree with the motivation behind Daskal's effort to transcend the "impasse" seemingly created by a dichotomous, all-or-nothing view of the geography of conflict. However, **attempting to navigate these** thorny questions **through new binding legal frameworks** that copy and borrow from two or more distinct legal regimes **poses a separate set of concerns, with the risk of** more **comprehensive long-term consequences**.

This Part highlights two of these concerns, specifically within the context of one overarching question: would a new law of war framework apply only to conflicts with terrorist groups or to all LOAC-triggering situations? To the extent that this new framework would become the dominant framework for all conflict situations, the operational and law-development concerns discussed in this Part loom large. However, **if the new framework were to apply only in the event of conflicts like that between the U.S. and al Qaeda**--a conflict between a state and a transnational terrorist group-two equally **significant questions arise**. First, **how--and by whom--would the determination be made as to whether a particular conflict situation fits** $=P354 **within the** regular LOAC framework or **the new rules-based framework**? **The risk of additional layers of complexity, legal challenge, and uncertainty** as a result of having to make this additional determination first **would be great and poses** a significant concern. Second, would there thus be two different standards for training and for enforcement, depending on the framework under which a particular unit was operating? Here **the consequences for clarity and predictability are** quite simply enormous.

#### Yes public support – but the plan spills-over to *complete ban* on drones

Anderson 13

[Kenneth, Professor of Law, Visiting Fellow, The Hoover Institution on War, Revolution and Peace, Stanford University, Member, Hoover Task Force on National Security and Law, Non-Resident Visiting Fellow, The Brookings Institution (Governance Studies), Senior Fellow, The Rift Valley Institute, “The Case for Drones”, 5/24, <http://dyn.realclearpolitics.com/printpage/?url=http://www.realclearpolitics.com/articles/2013/05/24/the_case_for_drones_118548-full.html>, CMR]

Without a hardheaded effort on the part of Congress and the executive branch to make drone policy, the efforts to discredit drones will continue. The current wide public support in the United States today should not mask the ways in which public perception and sentiment can be shifted, here and abroad. The campaign of **delegitimation is modeled on** the one against **Guantanamo** Bay during the George W. Bush administration; the British campaigning organization Reprieve tweets that it will make drones the Obama administration’s Guantanamo. Then as now, administration officials did not, or were unforgivably slow to, believe that a mere civil-society campaign could force a reset of their policies. **They** miscalculated then and, as former Bush administration officials John Bellinger and Jack Goldsmith have repeatedly warned, they **might** well **be** miscalculating now.¶ U.S. counterterrorism policy overall needs to be embedded in policies, processes, and laws that get beyond mere executive-branch discretion and bear the stamp of the two political branches coming together in tools available in a stable way across presidential administrations of both parties. We are not there now. While the critics are not wrong to call for reform of drone-warfare processes, many of them see these merely as the first step to ending drone warfare altogether. They are advocating procedural reforms not to give it a permanent and steady framework for the long run, but effectively to outlaw the practice.

# 2NC

## CP

### AT: Armenia-Azerbaijan

#### Outside pressure can’t contain conflict – recent effort proves

Arakelyan 10/3

Lilit “Civilian Deaths Underline Armenia-Azerbaijan Tensions”, <http://iwpr.net/report-news/civilian-deaths-underline-armenia-azerbaijan-tensions>, CMR

**Ambassadors from** the Minsk Group’s three co-chair states – the **U**nited **S**tates, **Russia** and France –**met the foreign ministers of Armenia and Azerbaijan** at the United Nations on **September 27**, **but made** no progress.¶ In a statement, **the co-chairs** said they had “**stressed the commitment of their three countries to support** the **peaceful settlement** of the Nagorny Karabakh conflict based on the non-use of force or the threat of force, territorial integrity, and equal rights and self-determination of peoples”.¶ Poghosyan said the Minsk Group was failing to do its job properly.¶ “The problem is that they try to operate honestly, impartially and without bias, but when they do act, they avoid taking responsibility. **After every incident, they limit themselves to** spineless statements, with appeals and requests addressed to both sides,” he said.

## Politics

**2NC Overview**

#### Disad outweighs the case –

#### SPEED – default this month triggers rapid collapse of the global economy – aff impacts are long-term and solved by future policymakers

**SCOPE – US economic decline triggers military withdrawal—causes a power vacuum and nuclear war—hegemony deters hostile powers and controls conflict escalation—solves the impact to the aff—that’s Khalilzad**

#### Turns terror

Thomas ‘8 [John Thomas, Professor of Economics, January 18 2008, Becker-Posner Blog, Accessed April 8 2008, http://www.becker-posner-blog.com/archives/2008/01/terrorism\_and\_e.html]

However lack of economic growth also helps terrorism. To manage in the modern world, every country requires an intellectual class, and without sufficient economic growth this intellectual class is often idle or their partially educated children are idle and likely somewhat unemployed, and thus ripe for radicalism. Also, lack of economic growth tends to support the idea that the nation has fallen behind as a great power. People always like to feel like their part of a great power and economic growth makes people feel like if they are not part of a great power they are becoming part of one. Much of the discontent in the Muslim world is from the idea that the Muslim world has fallen behind the West and thus it must become a great power by any means necessarily.

#### Turns China

Mead ‘9 - Senior Fellow in U.S. Foreign Policy at the Council on Foreign Relations

[Walter Russell Mead, , “Only Makes You Stronger,” Feb 4, The New Republic, http://www.tnr.com/politics/story.html?id=571cbbb9-2887-4d81-8542-92e83915f5f8&p=2]

The greatest danger both to U.S.-China relations and to American power itself is probably not that China will rise too far, too fast; it is that the current crisis might end China's growth miracle. In the worst-case scenario, the turmoil in the international economy will plunge China into a major economic downturn. The Chinese financial system will implode as loans to both state and private enterprises go bad. Millions or even tens of millions of Chinese will be unemployed in a country without an effective social safety net. The collapse of asset bubbles in the stock and property markets will wipe out the savings of a generation of the Chinese middle class. The political consequences could include dangerous unrest--and a bitter climate of anti-foreign feeling that blames others for China's woes. (Think of Weimar Germany, when both Nazi and communist politicians blamed the West for Germany's economic travails.) Worse, instability could lead to a vicious cycle, as nervous investors moved their money out of the country, further slowing growth and, in turn, fomenting ever-greater bitterness. Thanks to a generation of rapid economic growth, China has so far been able to manage the stresses and conflicts of modernization and change; nobody knows what will happen if the growth stops.

#### Turns Iran.

Green & Schrage, ‘9 - Senior Advisor and Japan Chair at the Center for Strategic and International Studies (CSIS) and Associate Professor at Georgetown University & s the CSIS Scholl Chair in International Business and a former senior official with the US Trade Representative's Office

[Michael & Steven, “It's not just the economy” Asia Times, March 26, 2009, <http://www.atimes.com/atimes/Asian_Economy/KC26Dk01.html>]

It is noteworthy that North Korea, Myanmar and Iran have all intensified their defiance in the wake of the financial crisis, which has distracted the world's leading nations, limited their moral authority and sown potential discord. With Beijing worried about the potential impact of North Korean belligerence or instability on Chinese internal stability, and leaders in Japan and South Korea under siege in parliament because of the collapse of their stock markets, leaders in the North Korean capital of Pyongyang have grown increasingly boisterous about their country's claims to great power status as a nuclear weapons state. The junta in Myanmar has chosen this moment to arrest hundreds of political dissidents and thumb its nose at fellow members of the 10-country Association of Southeast Asian Nations. Iran continues its nuclear program while exploiting differences between the US, UK and France (or the P-3 group) and China and Russia - differences that could become more pronounced if economic friction with Beijing or Russia crowds out cooperation or if Western European governments grow nervous about sanctions as a tool of policy. It is possible that the economic downturn will make these dangerous states more pliable because of falling fuel prices (Iran) and greater need for foreign aid (North Korea and Myanmar), but that may depend on the extent that authoritarian leaders care about the well-being of their people or face internal political pressures linked to the economy. So far, there is little evidence to suggest either and much evidence to suggest these dangerous states see an opportunity to advance their asymmetrical advantages against the international system.

### 2nc Uniqueness

#### Obama will prevail in the debt ceiling battle because he emerged from the shutdown with the political upper hand and he is maintaining focus –this ratchets up PUBLIC PRESSURE making it IMPOSSIBLE for the GOP to continue – that’s Dovore – this is an independent [conceded] focus link

**Debt ceiling will be raised now but it’s not certain --- Obama’s ironclad political capital is forcing the GOP to give in**

Brian **Beutler 10/3**/13, “**Republicans** finally confronting reality: They**’re trapped!,”** Salon <http://www.salon.com/2013/10/03/republicans_finally_confronting_reality_theyre_trapped/>

After struggling for weeks and weeks in stages one through four, **Republicans are finally** **entering the final stage of grief over** the **death of their belief that** President **Obama would begin offering concessions** **in exchange for an increase in the debt limit**.¶ The catalyzing event appears to have been **a**n hour-plus-long **meeting between Obama** **and congressional leaders** at the White House **on Wednesday**. Senior administration officials say that if the meeting **accomplished** only **one thing** it was **to convey to Republican leaders the extent of Obama’s determination not to negotiate** with them over the budget until after they fund the government and increase the debt limit. These officials say **his will here is stronger than at any time since he decided to press ahead with healthcare reform** after Scott Brown ended the Democrats’ Senate supermajority in 2010.¶ **There’s evidence that it sunk in.**¶ First, **there’s this hot mic moment in which** Senate Minority Leader Mitch **McConnell tells** Sen. Rand **Paul**, R-Ky., **that the president’s position is ironclad**.¶ **Then we learn** that House Speaker John **Boehner has told at least one House Republican privately** what he and McConnell have hinted at publicly for months, which is **that they won’t execute their debt limit hostage. Boehner specifically said**, according to a New York Times report, and obliquely confirmed by a House GOP aide, that **he would increase the debt limit before defaulting even if he lost more than half his conference on a vote.¶** **None of this is to say that Republicans have “folded” exactly, but they’ve pulled the curtain back before the stage has been fully set for the final act, and revealed who’s being fitted with the red dye packet.**

**Obama is only winning because he’s controlling the message through a consistent focus**

Diermeier, 10/4/13 - IBM Distinguished Professor of Regulation and Competitive Practices at Northwestern's Kellogg School of Management; he also holds appointments in law and political science and directs Kellogg's Ford Motors Center for Global Citizenship (Daniel, “How a game theorist would solve the shutdown showdown” <http://www.washingtonpost.com/blogs/wonkblog/wp/2013/10/04/how-a-game-theorist-would-solve-the-shutdown-showdown/>)

So looking at confrontations like the current one on the shutdown, and the coming one on the debt ceiling, one analogy I've heard people use is the game of chicken, where two cars are driving at each other and the first one to swerve away loses. Swerving is worse for you than not swerving, but if nobody swerves then you die. Similarly, John Boehner doesn't want to "swerve" (pass a clean continuing resolution or debt ceiling increase) and Obama doesn't want to "swerve" (sign a CR that defunds Obamacare, or sign a non-clean debt ceiling increase), but if neither swerves, then the shutdown continues and/or we default. Is that a fair analogy?¶ That's the most basic way to think about it. When we think about the Cuban missile crisis, it kind of has that flavor. You could also call it a war of attrition, which is a more dynamic version of that. Those are appropriate analogies to a certain extent, but what they're missing is the specific nature of the U.S. political system and how public opinion plays a critical role in how damaging it is to be intransigent. It's not helpful for understanding the structural reasons why this is happening.¶ The really critical question is whether the Republicans are going to stay together. There's a spectrum, of course, depending on your district and what your primaries will look like, from more extreme to more moderate, but they've been more able to maintain a level of party discipline that's unusual compared to the '60s, '70s and '80s. But at what point will the moderate Republicans peel off? Will they stay together, or will they feel so much backlash in their districts at this point, and hear from their constituencies, that the political calculus just doesn't work anymore? That, to me, is the big question.¶ To a large extent that will depend on how effective the Obama administration is in shifting public opinion. It depends on (a) how catastrophic they think breaching the debt ceiling is and (b) who they're blaming for that. So I think this bargaining game will be determined by how successful the two sides are in shifting public opinion.¶ Who do you think is doing better at managing that so far?¶ So far it's going better for the Obama administration. You have these incidents of people being unable to get into national parks or Arlington National Cemetery, the Army/Navy games jeopardized. There are things where people say, "Ooh this is very bad," or "This is crazy." These are important because they give salience to the issue. The sequester didn't have anything like that. There wasn't anything symbolic that really caught people's attention and gave a sense of, "This is really wrong. We need to stop this." These small things, though they're economically not very significant, can shift public opinion because they reinforce how serious this is.

#### Obama strategy will force GOP to blink

Trumbull 10/5 (Mark, “First a shutdown, then a debt limit fight. Could that ruin the economy?”, <http://www.csmonitor.com/USA/Politics/2013/1005/First-a-shutdown-then-a-debt-limit-fight.-Could-that-ruin-the-economy>, CMR)

.¶ Mr. Obama appears to hold the high ground politically. The ACA is the law of the land, and although the public isn't enamored of the law, Americans don't support the Republican goal of "defunding" it, according to a Christian Science Monitor/TIPP survey.¶ **Obama** also **has the** bully pulpit **and has used it to frame his case that basic congressional responsibilities** such as funding the government and servicing the debt **shouldn't be held hostage to politics**.¶ "One faction of one party, in one house of Congress, in one branch of government doesn't get to shut down the entire government just to refight the results of an election," he said on Sept. 30. "Congress needs to keep our government open, needs to pay our bills on time, and never, ever threaten the full faith and credit of the United States of America."¶ Many political analysts, including some on the conservative end of the spectrum, agree with Obama's premise that the 2012 election was the nation's real opportunity to reconsider the health-care law.¶ But Republicans can also point to polls showing the public is on their side. A late September Bloomberg poll found 61 percent of Americans saying it's "right to require spending cuts when the debt ceiling is raised even if it risks default." Many Republicans say that view syncs with their efforts to use the debt-ceiling issue as a venue for pursuing fiscal reforms as well as for taking jabs at Obamacare.¶ Markets: Above all, don't default¶ So how will all this wrangling end?¶ Quite possibly, **Republicans will conclude** that **the public will put most of the blame on them for the economic effects of any prolonged government shutdown or failure to raise the cap on federal borrowing**. Already, **surveys** including the Monitor/TIPP poll **show Republicans scoring the worst on leadership**, heading into the shutdown.¶ **As they seek a face-saving way forward, they might agree to a bargain that deals simultaneously with the need to fund the government and to raise the debt limit**, while seeking to insert some additional items (perhaps on entitlement spending or tax reform) that they can point to as progress toward fiscal responsibility.¶ "I think it will be solved at the last minute," says Russell Price, senior economist at Ameriprise Financial in Minneapolis. "**The critical thing for financial markets is that the U**nited **S**tates **does not default**."¶

### AT: Obama Can Give-In

#### “Giving in” makes future crises inevitable

FLAVELLE 9/25 (Christopher, “Flavelle: Barack Obama may have to cave on debt ceiling”, <http://www.newsday.com/opinion/oped/flavelle-barack-obama-may-have-to-cave-on-debt-ceiling-1.6139806>, CMR)

And that isn't just a problem for this president. **Giving in to Republican threats legitimizes the politicization of the debt ceiling, weakening future administrations and making it easier for the House to get its way. It also sets up future debt- ceiling crises**, by **rewarding bad behavior**.¶ So **giving in is a terrible idea**. But what about the alternative?

### PC Key/Finite

#### Obama’s capital is key --- it’s his sole focus now

Jonathan Allen 9/19, Politico, 9/19/13, GOP battles boost President Obama, dyn.politico.com/printstory.cfm?uuid=17961849-5BE5-43CA-B1BC-ED8A12A534EB

There’s a simple reason President Barack Obama is using his bully pulpit to focus the nation’s attention on the battle over the budget: In this fight, he’s watching Republicans take swings at each other. And that GOP fight is a lifeline for an administration that had been scrambling to gain control its message after battling congressional Democrats on the potential use of military force in Syria and the possible nomination of Larry Summers to run the Federal Reserve. If House Republicans and Obama can’t cut even a short-term deal for a continuing resolution, the government’s authority to spend money will run out on Oct. 1. Within weeks, the nation will default on its debt if an agreement isn’t reached to raise the federal debt limit. For some Republicans, those deadlines represent a leverage point that can be used to force Obama to slash his health care law. For others, they’re a zero hour at which the party will implode if it doesn’t cut a deal. Meanwhile, “on the looming fiscal issues, Democrats — both liberal and conservative, executive and congressional — are virtually 100 percent united,” said Sen. Charles Schumer (D-N.Y.). Just a few days ago, all that Obama and his aides could talk about were Syria and Summers. Now, they’re bringing their party together and shining a white hot light on Republican disunity over whether to shut down the government and plunge the nation into default in a vain effort to stop Obamacare from going into effect. The squabbling among Republicans has gotten so vicious that a Twitter hashtag — #GOPvsGOPugliness — has become a thick virtual data file for tracking the intraparty insults. Moderates, and even some conservatives, are slamming Texas Sen. Ted Cruz, a tea party favorite, for ramping up grassroots expectations that the GOP will shut down the government if it can’t win concessions from the president to “defund” his signature health care law. “I didn’t go to Harvard or Princeton, but I can count,” Sen. Bob Corker (R-Tenn.) tweeted, subtly mocking Cruz’s Ivy League education. “The defunding box canyon is a tactic that will fail and weaken our position.” While it is well-timed for the White House to interrupt a bad slide, Obama’s singular focus on the budget battle is hardly a last-minute shift. Instead, it is a return to the narrative arc that the White House was working to build before the Syria crisis intervened. And it’s so important to the president’s strategy that White House officials didn’t consider postponing Monday’s rollout of the most partisan and high-stakes phase even when a shooter murdered a dozen people at Washington’s Navy Yard that morning. The basic storyline, well under way over the summer, was to have the president point to parts of his agenda, including reducing the costs of college and housing, designed to strengthen the middle class; use them to make the case that he not only saved the country from economic disaster but is fighting to bolster the nation’s finances on both the macro and household level; and then argue that Republicans’ desire to lock in the sequester and leverage a debt-ceiling increase for Obamacare cuts would reverse progress made. The president is on firm ground, White House officials say, because he stands with the public in believing that the government shouldn’t shut down and that the country should pay its bills.

### AT: Unilat Action S

**\*\*Obama won’t use executive action --- the debate’s over --- even if he did it still collapses the economy**

Dan **Roberts 10/4**/13, writer @ the Guardian, “US shutdown: Republicans threaten to take debt limit fight to the brink,” The Guardian, http://www.theguardian.com/world/2013/oct/03/republicans-debt-limit-treasury-economy

The **White House has** **ruled out** **using a legal veto to force Congress to extend the** US **debt limit** as conservative Republicans threaten to take what the Treasury described as a potentially catastrophic economic standoff to the brink of a 17 October deadline.¶ President Obama had been encouraged by senior Democrats to call the bluff of hardline Republicans who want to add a debt limit refusal to an existing spending impasse that has already shut down much of the federal government.¶ **Some Democrats argue** that powers granted under **the 14th amendment to** the constitution, which was introduced to control southern states after the civil war, **would allow the president to unilaterally borrow money** if there was such a threat to the credit-worthiness of the US.¶ "Using the 14th would show the Republicans he means business," one former aide to Bill Clinton told the Guardian last week.¶ **But the White House ruled out the option** on Thursday, **ending** days of Washington **debate** **about whether this obscure legal authority might provide a way out for Obama** – at least from one half of Republicans' fiscal pincer movement. "**The administration does not believe the 14th amendment gives power to the president to ignore the debt ceiling," said spokesman Jay Carney**.¶ "**The fact that there is significant controversy** **around** the president's **authority to act unilaterally means** that **it would not be a** **credible alternative** **to Congress** raising the debt ceiling **and would not be taken seriously by the market."**

### Links

#### Restrictions on authority are a loss that spills over to the debt ceiling

Parsons 9/12/13 (Christi, Los Angeles Times, “Obama's team calls a timeout” <http://www.latimes.com/nation/la-na-obama-congress-20130913,0,2959396.story>)

After a week in which President Obama narrowly averted a bruising defeat on Capitol Hill over a military strike on Syria, the decision had the feeling of a much-needed timeout. The messy debate over a resolution to authorize military force put a harsh light on the president's already rocky relationship with Congress. Despite a charm offensive earlier this year, complete with intimate dinners and phone calls, Obama faced contrary lawmakers in both parties, a climate that is certain to persist through the next round of legislative fights, if not to the end of his second term. In deciding to seek approval for military action, Obama banked on the long-standing deference to the commander in chief on matters of national defense. But by the time he pressed "pause" on the intense White House lobbying effort, he was finding as much defiance as deference. Although the White House cast the issue as a matter of national security and a crucial test of U.S. power, dozens of lawmakers from both parties were set to deliver a rare rebuke to a president on foreign policy. Even Democratic loyalists seemed unswayed by appeals to preserve the prestige of the presidency — and this president. Hawkish Republicans offering to reach across the aisle to support the president said they found the White House distant and uninterested. The canceled picnic punctuated a week of aggravated feelings. "We obviously have divided government. We have sometimes contentious, sometimes very effective relations with Congress. But we keep at it," said White House spokesman Jay Carney, who denied the picnic cancellation had anything to do with the state of relations between the two branches of government. On Capitol Hill, the week's episode strained Obama's traditional alliance with his fellow Democrats, many of whom were wary of another military involvement, unclear about the president's plans for a missile strike and surprised by his decision to ask them to vote on it. "Not only was it a hard ask, but it was not a well-prepared ask," said Sen. Sheldon Whitehouse (D-R.I.). "His willingness to back away from the ultimatum and pursue the disarmament proposal was extremely welcome, and I think that helped all of us in our relationship with him." Obama's relationship with his Republican critics was not helped. As lawmakers look ahead to the rest of the fall agenda, including the coming budget battles, the administration's performance this week will not be easy to forget, some said. "It's just more lack of confidence that they know what they're doing," said Sen. Tom Coburn (R-Okla.). "There's only so much political capital," said Sen. Rob Portman (R-Ohio). Democrats defended the president, blaming Republicans for a "knee-jerk" opposition to any initiative tied to this White House, a phenomenon that Obama aides regularly cite but that the president appears to have disregarded in his decision to put a use-of-force resolution before Congress. "Historically, when it comes to military force, Republicans and conservatives have led that. Now they're opposed to it," said Sen. Richard J. Durbin (D-Ill.). In a private meeting this week, Durbin said, Obama himself joked that "a lot of Republicans on Capitol Hill are discovering their inner doves on Syria." The next set of negotiations will be far more predictable and on familiar territory. By the end of the month, the president and Congress must agree on a plan to continue funding the government, or it will shut down. And by mid-October, they will have to agree to raise the debt limit, or risk a default. The White House has said it won't negotiate on the debt limit, as it did twice before, counting on the public and business groups to pressure Republicans. Democrats were hopeful the budget issues would put the White House back on more solid political footing. "I think the public has a heck of a lot more confidence in the president on economics and budget than [in] the House Republicans," said Sen. Carl Levin (D-Mich.). That may be wishful thinking, said Ross Baker, a political science professor at Rutgers University, who studies the Senate. "These things carry over. There's no firewall between issues," he said. "Failure in one area leads to problems in other areas." The debate over the war in Syria may be on an extended pause, although prospects of Obama returning to Congress to ask for a use-of-force authorization seem slim. A bipartisan group of senators is drafting an amended authorization, but the group is not expected to fully air its proposal until diplomatic talks conclude. There were some signs that the debate may have won the president some empathy, if not support. At a private lunch with Republican senators this week, Obama asked them not to undermine him on the world stage. Sen. Ron Johnson of Wisconsin, who is part of a group of GOP senators working with the White House on fiscal issues, said the appeal resonated.

#### Deference to Congressional authorization positions Obama favorably with the voting public and shields Republican sniping – rare position on war powers resolves the aff’s uniqueness warrant

Paul M. Barrett September 02, 2013. http://www.businessweek.com/articles/2013-09-02/obamas-syria-maneuver-and-the-limits-of-war-powers

President Barack Obama is spending much of his Labor Day weekend lobbying Congress for authorization to take military action against the Syrian government. By most accounts, he made his surprise decision to seek lawmakers’ backing for political reasons—above all, the need to rally a war-weary electorate and insulate himself from Republican sniping if he unilaterally ordered a punitive strike against the Syrian regime that didn’t work as planned. It may not have been prominent in the president’s calculus, but there’s another very good reason to go to Congress: respecting the (admittedly vague) constitutional limits on the commander-in-chief’s war power. A former constitutional law professor at the University of Chicago, Obama described those limits during his first run for the White House. “The president does not have power under the Constitution to unilaterally authorize a military attack in a situation that does not involve stopping an actual or imminent threat to the nation,” Obama said in an interview with the Boston Globe in 2007. “As commander-in-chief, the president does have a duty to protect and defend the United States. In instances of self-defense, the president would be within his constitutional authority to act before advising Congress or seeking its consent,” he added.¶ ¶ By Obama’s version of the constitutional standard, the proposed bombing or missile attack on Syria in response to that nation’s use of chemical weapons against its own people would require congressional approval, according to Jack Goldsmith, a professor of law at Harvard who specializes in national security. As Goldsmith cogently explained in a recent post on the Lawfare blog: In Syria, “neither U.S. persons nor property are at stake, and no plausible self-defense rationale exists.” Goldsmith, who served as a senior Justice Department official during the George W. Bush administration, generally has an expansive view of presidential power to use military force abroad without congressional authorization. About Obama’s current dilemma, however, he posed these sensible questions:¶ ‘Since U.S. intervention in Syria portends many foreseeably bad consequences, and because there is so little support in the nation for this intervention, why not get Congress on board—not just to legitimate the action, but also to spread political risk? Why exacerbate the growing perception—justified or not—of a presidency indifferent to legal constraints? Why not follow the example of George H.W. Bush, who sought and received congressional authorization for the 1991 invasion of Iraq, or George W. Bush, who did the same for the 2003 invasion of Iraq?”¶ Obama’s decision to get congressional authorization has been interpreted by some analysts, including our Bloomberg News colleagues Michael Tackett and Mike Dorning, as marking “a rare moment in the last half century when a president unilaterally decided to give some power back to another government branch.” That may turn out to be correct. In the long run, though, a willingness to defer to lawmakers on Syria could actually enhance Obama’s strength, rather than weaken him. “It’s quite uncertain what a military strike is going to produce,” Robert Dallek, a presidential historian, told Bloomberg News. “He really shouldn’t go it alone. It’s wise to bring Congress into it. It gets him much more of a broad consensus.”

## Terror

### UQ---2NC Must-Read

#### Status quo target vetting is carefully calibrated to avoid every aff impact in balance with CT--- there’s only a risk that restrictions destroy it

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>

Target vetting is the process by which the government integrates the opinions of subject matter experts from throughout the intelligence community.180 The United States has developed a formal voting process which allows members of agencies from across the government to comment on the validity of the target intelligence and any concerns related to targeting an individual. At a minimum, the vetting considers the following factors: target identification, significance, collateral damage estimates, location issues, impact on the enemy, environmental concerns, and intelligence gain/loss concerns.181 An important part of the analysis also includes assessing the impact of not conducting operations against the target.182 Vetting occurs at multiple points in the kill-list creation process, as targets are progressively refined within particular agencies and at interagency meetings. A validation step follows the vetting step. It is intended to ensure that all proposed targets meet the objectives and criteria outlined in strategic guidance.183 The term strategic is a reference to national level objectives—the assessment is not just whether the strike will succeed tactically (i.e. will it eliminate the targeted individual) but also whether it advances broader national policy goals.184 Accordingly, at this stage there is also a reassessment of whether the killing will comport with domestic legal authorities such as the AUMF or a particular covert action finding.185 At this stage, participants will also resolve whether the agency that will be tasked with the strike has the authority to do so.186 Individuals participating at this stage analyze the mix of military, political, diplomatic, informational, and economic consequences that flow from killing an individual. Other questions addressed at this stage are whether killing an individual will comply with the law of armed conflict, and rules of engagement (including theater specific rules of engagement). Further bolstering the evidence that these are the key questions that the U.S. government asks is the clearly articulated target validation considerations found in military doctrine (and there is little evidence to suggest they are not considered in current operations). Some of the questions asked are: • Is attacking the target lawful? What are the law of war and rules of engagement considerations? • Does the target contribute to the adversary's capability and will to wage war? • Is the target (still) operational? Is it (still) a viable element of a target system? Where is the target located? • Will striking the target arouse political or cultural “sensitivities”? • How will striking the target affect public opinion? (Enemy, friendly, and neutral)? • What is the relative potential for collateral damage or collateral effects, to include casualties? • What psychological impact will operations against the target have on the adversary, friendly forces, or multinational partners? • What would be the impact of not conducting operations against the target?187 As the preceding criteria highlight, many of the concerns that critics say should be weighed in the targeted killing process are considered prior to nominating a target for inclusion on a kill-list.188 For example, bureaucrats in the kill-list development process will weigh whether striking a particular individual will improve world standing and whether the strike is worth it in terms of weakening the adversary's power.189 They will analyze the possibility that a strike will adversely affect diplomatic relations, and they will consider whether there would be an intelligence loss that outweighs the value of the target.190 During this process, the intelligence community may also make an estimate regarding the likely success of achieving objectives (e.g. degraded enemy leadership, diminished capacity to conduct certain types of attacks, etc.) associated with the strike. Importantly, they will also consider the risk of blowback (e.g. creating more terrorists as a result of the killing).191

## Norms

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

**Zero risk of a global drones precedent---it’s inevitable regardless of what the U.S. does**

**Wright 12** (Robert, “The Incoherence of a Drone-Strike Advocate,” 11/14/12, <http://www.theatlantic.com/international/archive/2012/11/the-incoherence-of-a-drone-strike-advocate/265256/>, CMR)

Naureen **Shah** of Columbia Law School, a guest on the show, had **raised the possibility that America is setting a dangerous precedent with drone strikes**. **If other people start doing what America does**--fire drones into nations that house somebody they want dead--**couldn't this come back to haunt us?** And haunt the whole world? Shouldn't the U.S. be helping to establish a global norm against this sort of thing? Host Warren Olney asked Boot to respond. ¶ Boot started out with this observation:¶ I think **the precedent setting argument is overblown**, **because** **I don't think other countries act based** necessarily **on what we do and** in fact **we've seen lots of Americans be killed by acts of terrorism** over the last several decades, **none of them by drones** but they've certainly been killed with car bombs and other means.¶ That's true--no deaths by terrorist drone strike so far. But I think a fairly undeniable premise of the question was that the arsenal of terrorists and other nations may change as time passes. So answering it by reference to their current arsenal isn't very illuminating. In 1945, if I had raised the possibility that the Soviet Union might one day have nuclear weapons, it wouldn't have made sense for you to dismiss that possibility by noting that none of the Soviet bombs dropped during World War II were nuclear, right? ¶ As if he was reading my mind, Boot immediately went on to address the prospect of drone technology spreading. Here's what he said: ¶ You know, **drones are a** **pretty high tech instrument** to employ **and they're going to be outside the reach of most terrorist groups and even most countries**. But **whether we use them or not, the technology is propagating** out there. We're seeing Hezbollah operate Iranian supplied drones over Israel, for example, and **our giving up our use of drones is not going to prevent Iran or others** **from using drones on their own**. So I wouldn't worry too much about the so called precedent it sets..."

**US actions won’t limit drones – spread inevitable**

**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)

**Controlling the spread of drone tech**nology **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.

# 1NR

### Case List

#### Targeted Killing authority from the AUMF

Allyson L. Mitchell, School of Conflict Analysis and Resolution (S-CAR), George Mason University, “My Neighbor Is A Terrorist: Peacebuilding, Drones, and America's Presence in Yemen,” November 2012, http://www.beyondintractability.org/reflection/mitchell-neighbor

Once wary of the use of targeted killings, the United States became an advocate of targeted warfare after 9/11. According to a 2010 United Nations report, targeted killings are defined as, "the intentional, premeditated and deliberate use of lethal force, by States or their agents acting under colour of law, or by an organized armed group in armed conflict, against a specific individual who is not in the physical custody of the perpetrator."[16] Under the rules of International Humanitarian Law, targeted killing is only lawful when met by three requirements; (1) The target is directly participating in the hostilities, (2) The use of force is proportionate, and (3) Precautions were taken to minimize harm to civilians. Under the Law of Inter-State Force, a targeted killing directed by a State in a territory of another State does not violate the second State's sovereignty if (A) the second State gives consent, or (B) the first State is using force in an act of self-defense. This act of self-defense is warranted when "the second state is unwilling or unable to stop armed attacks against the first State launched from its territory".[17] In both these cases the United States has legal authority to use lethal force against AQAP in Yemen; President Saleh had given the U.S. government permission to attack AQAP members and the United States' claim of self-defense is justified due to the previous assaults coordinated by AQAP that Yemeni authorities were unable to prevent. Although the United States appears to have followed the correct guidance in accordance with international laws, U.S. Constitutional Law was called into question because of Mr. al-Awlaki's American citizenship. To validate its claim, the U.S. government rationalized that Mr. Awlaki presented an imminent threat to civilians, that he was working hand-in-hand with the enemy (Al Qaeda), and that there was no feasible way to arrest and extradite him to the U.S. for trial. The justification for the kill order came from a secret memorandum written by the Justice Department's Office of Legal Counsel which concluded "Mr. Awlaki was covered by the authorization to use military force against Al Qaeda that Congress enacted shortly after the terrorist attacks of Sept. 11, 2001".[18] The document also alluded to the fact that there was future risk of Mr. Awlaki attacking the United States at any given time and this risk posed a significant threat to Americans' safety.

#### Multiple Statutes for detention

Oona Hathaway, Samuel Adelsberg, Spencer Amdur, Philip Levitz, Freya Pitts, and Sirine Shebaya,Oona Hathaway is the Gerard C. and Bernice Latrobe Smith Professor of International Law, Yale Law School. The remaining authors are J.D. candidates at Yale Law School, April 2012, THE POWER TO DETAIN: DETENTION OFTERRORISM SUSPECTS AFTER 9/11, Yale Journal of International Law 2012 p. 19-20

International law places limits on detention authority. These limits are incorporated into domestic law in several ways. First, they may be incorporated into the affirmative statutory authority that Congress grants the President. The government has explicitly acknowledged, for example, that the statutory grant of detention authority in the 2001 AUMF is interpreted in light of international law. In a brief before the Court of Appeals for the D.C. Circuit, the United States explained that "principles derived from law-of-war rules governing international armed conflicts ... must inform the interpretation of the detention authority." n174 This position is consistent with the Hamdi plurality's use of international law to interpret congressional grants of war-making authority as well as with longstanding historical practice. n175 Indeed, the Supreme Court has frequently used international law as an interpretive tool for construing statutes to avoid conflict with "the law of nations" where possible. n176 Second, many treaty provisions have been directly implemented into domestic law by Congress. Although international agreements now face a [\*154] presumption of non-self-execution, n177 a number of federal statutes explicitly enforce both human rights and humanitarian law treaties. For instance, the War Crimes Act of 1996 implements parts of the Geneva Conventions and Hague Convention IV, n178 and the Torture Victim Protection Act of 1991 implements the Convention Against Torture. n179 These and similar statutes provide an additional constraint on detention authority. Absent a clear statement to the contrary, subsequent legislation, such as the 2001 AUMF or 2012 NDAA, cannot be understood to abrogate these prior statutes. n180

#### Cyber is the WPR and the NDAA

Jay P. Kesan, Professor, H. Ross & Helen Workman Research Scholar, and Director of the Program ¶ in Intellectual Property & Technology Law, University of Illinois College of Law. and Carol M. Hayes, Research Fellow, University of Illinois College of Law. After receiving her J.D. from ¶ the University of Illinois, Carol Hayes served as a Christine Mirzayan Science and Technology Policy Graduate Fellow at the National Academy of Sciences in Fall 2010.¶ “MITIGATIVE COUNTERSTRIKING:SELF-DEFENSE ¶ AND DETERRENCE IN CYBERSPACE,” Harvard Journal of Law & Technology¶ Volume 25, Number 2 Spring 2012. http://jolt.law.harvard.edu/articles/pdf/v25/25HarvJLTech415.pdf

Additionally, Congress used § 954 to clear up several questions about the President’s authority, rules governing cyberattacks, and the ¶ role of the DOD. In a very short section, Congress stated that the President has the authority to direct the DOD to “conduct offensive operations in cyberspace to defend our Nation, Allies and interests,” while applying the same rules that govern kinetic capabilities, and subject to ¶ the limitations placed on the President by the War Powers Resolution.517 In § 954, Congress recognized the importance of cyberspace ¶ to future international conflicts and the need to codify rules in advance. The question of Congress’s position on the President’s authority to direct formal cyberwarfare activities is thus partly answered by § 954 of the NDAA. Given § 954’s reference to offensive cyber operations undertaken in defense, it is likely that Congress would approve military use of active defense as described in this Article. However, ¶ these provisions address only the President’s authority to order the ¶ DOD to use cyber capabilities in a formal military context, leaving ¶ unanswered the issue of possible federal involvement in protecting ¶ privately held CNI. ¶ Congress has now explicitly spoken on the President’s authority ¶ to direct military cyber activities, but has not yet addressed the President’s authority to exercise control over cybersecurity matters in the ¶ private sector outside of the context of national emergencies and wartime. Therefore, under Justice Jackson’s test in Youngstown, the President may have intermediate authority on matters involving ¶ cybersecurity and the private sector, though we argue that setting out ¶ guidelines in advance of a crisis would be preferable to ad hoc presidential management of individual issues as they arise.

#### Hostilities is the WPR

Eric Lorber, J.D. Candidate, University of Pennsylvania Law School, Ph.D Candidate, Duke University ¶ Department of Political Science, Journal Of Constitutional Law 15.3 Jan. 2013. https://www.law.upenn.edu/live/files/1773-lorber15upajconstl9612013

Second, the War Powers Resolution may not constitute a “legislative ¶ veto” for the purposes of Chadha.¶ 157 According to legal scholars, “[t]he Chadha decision is generally believed to have struck down section 5(c) of the ¶ War Powers Resolution, which permits the Congress to direct the President ¶ to remove the armed from a hostile situation by passage of a concurrent ¶ resolution.”158 In addition, some argue that Section 5(b) (requiring the ¶ removal of troops after the mandatory sixty-day period without ¶ congressional action, i.e., if only one chamber of Congress does not act) also ¶ represents a legislative veto.159 In Chadha, the Supreme Court ruled that ¶ § 244(c)(2) of the Immigration and Nationality Act, which allowed Congress ¶ to pass a joint resolution forcing the Attorney General to cancel a ¶ deportation, was unconstitutional because it was a legislative veto of ¶ executive action.160 Basing its decision on Article I, Section 7, Clauses 2 and ¶ 3 of the Constitution, the Supreme Court concluded that congressional ¶ action meant to have the effect of law must be approved by both houses of ¶ Congress and presented to the President for his approval (or disapproval).161¶ In Chadha, “the Court held that § 244(c)(2) [was] unconstitutional because ¶ it authorized one house of Congress to change the legal status quo by action ¶ less than that required by the Constitution for a valid law.”162 As noted by ¶ Professor Sidney Buchanan however, substantial distinctions exist between ¶ § 244(c)(2) and the War Powers Resolution. For example, § 244(c)(2) ¶ allowed Congress to change the legal status quo by adjusting the legal status ¶ of the immigrant.163 If, as some scholars argue, the War Powers Resolution is ¶ a codification of legally existing congressional war-making authority, then ¶ the War Powers Resolution does not change the legal status quo but merely ¶ fleshes out these powers.164 Further, though scholars note that the War ¶ Powers Resolution may be unconstitutional because the action (of forcing ¶ the removal of troops) is not presented to the President for his approval, ¶ such presentment may not be required.165 In Hollingsworth v. Virginia, the ¶ Supreme Court suggested that the presentment requirement applies only to “ordinary” cases of legislation.166 This assertion implies that there may exist ¶ cases where legislation does not require presentment before the President ¶ and it is likely that a concurrent resolution in the War Powers Resolution ¶ would be extraordinary enough to fall into such a category.167 As a result, it ¶ is unclear whether the War Powers Resolution represents an impermissible ¶ legislative veto. ¶ Third, courts have suggested that members of Congress may have ¶ standing to bring suit based on violations of the War Powers Resolution.168¶ Federal courts have suggested that, if Congress were to pass a resolution ¶ requiring a particular presidential report under the War Powers Resolution, ¶ for example, non-compliance with this resolution would constitute a ¶ cognizable claim.169 As a result, Congress could potentially use the courts to ¶ bring a successful claim for violation of the War Powers Resolution. ¶ Fourth and finally, some federal courts have asserted that the issue of ¶ whether the President refuses to abide by the War Powers Resolution is a ¶ political, non-justiciable question, and therefore the courts cannot rule on ¶ the matter.170 At the same time, however, courts have also asserted that if a ¶ majority of Congress agreed that the President must abide by the ¶ requirements of the War Powers Resolution in a given circumstance, such ¶ consensus would present a justiciable claim to the courts.171¶ As this discussion illustrates, the War Powers Resolution is certainly ¶ flawed. However, it is not necessarily unconstitutional and may serve some positive function by alerting Congress to activities undertaken by the ¶ President and giving them the potential opportunity to weigh in, albeit not ¶ likely force the removal of U.S. forces. Thus, it still may prove useful in ¶ helping Congress regulate the use of offensive cyber operations, if it applies ¶ to them. ¶ C. The War Powers Resolution as Applied to Offensive Cyber Operations ¶ As discussed above, critical to the application of the War Powers ¶ Resolution—especially in the context of an offensive cyber operation—are ¶ the definitions of key terms, particularly “armed forces,” as the relevant ¶ provisions of the Act are only triggered if the President “introduc[es armed ¶ forces] into hostilities or into situations [of] imminent . . . hostilities,”172 or if ¶ such forces are introduced “into the territory, airspace, or waters of a foreign ¶ nation, while equipped for combat, except for deployments which relate ¶ solely to supply, replacement, repair, or training of such forces.”173 The ¶ requirements may also be triggered if the United States deploys armed ¶ forces “in numbers which substantially enlarge United States Armed Forces ¶ equipped for combat already located in a foreign nation.”174 As is evident, ¶ the definition of “armed forces” is crucial to deciphering whether the WPR ¶ applies in a particular circumstance to provide congressional leverage over ¶ executive actions. The definition of “hostilities,” which has garnered the ¶ majority of scholarly and political attention,175 particularly in the recent ¶ Libyan conflict,176 will be dealt with secondarily here because it only becomes ¶ important if “armed forces” exist in the situation. ¶ As is evident from a textual analysis,177 an examination of the legislative history,178 and the broad policy purposes behind the creation of the Act,179 “armed forces” refers to U.S. soldiers and members of the armed forces, not¶ weapon systems or capabilities such as offensive cyber weapons. Section ¶ 1547 does not specifically define “armed forces,” but it states that “the term ¶ ‘introduction of United States Armed Forces’ includes the assignment of ¶ members of such armed forces to command, coordinate, participate in the ¶ movement of, or accompany the regular or irregular military forces of any ¶ foreign country or government.”180 While this definition pertains to the ¶ broader phrase “introduction of armed forces,” the clear implication is that ¶ only members of the armed forces count for the purposes of the definition ¶ under the WPR. Though not dispositive, the term “member” connotes a ¶ human individual who is part of an organization.181 Thus, it appears that the ¶ term “armed forces” means human members of the United States armed ¶ forces. However, there exist two potential complications with this reading. ¶ First, the language of the statute states that “the term ‘introduction of ¶ United States Armed Forces’ includes the assignment of members of such ¶ armed forces.”182 By using inclusionary—as opposed to exclusionary—¶ language, one might argue that the term “armed forces” could include more ¶ than members. This argument is unconvincing however, given that a core ¶ principle of statutory interpretation, expressio unius, suggests that expression ¶ of one thing (i.e., members) implies the exclusion of others (such as nonmembers constituting armed forces).183 Second, the term “member” does ¶ not explicitly reference “humans,” and so could arguably refer to individual ¶ units and beings that are part of a larger whole (e.g., wolves can be members ¶ of a pack). As a result, though a textual analysis suggests that “armed forces” ¶ refers to human members of the armed forces, such a conclusion is not ¶ determinative. ¶ An examination of the legislative history also suggests that Congress clearly conceptualized “armed forces” as human members of the armed ¶ forces. For example, disputes over the term “armed forces” revolved around ¶ who could be considered members of the armed forces, not what constituted ¶ a member. Senator Thomas Eagleton, one of the Resolution’s architects, ¶ proposed an amendment during the process providing that the Resolution ¶ cover military officers on loan to a civilian agency (such as the Central Intelligence Agency).184 This amendment was dropped after encountering ¶ pushback,185 but the debate revolved around whether those military ¶ individuals on loan to the civilian agency were still members of the armed ¶ forces for the purposes of the WPR, suggesting that Congress considered the ¶ term to apply only to soldiers in the armed forces. Further, during the ¶ congressional hearings, the question of deployment of “armed forces” ¶ centered primarily on past U.S. deployment of troops to combat zones,186¶ suggesting that Congress conceptualized “armed forces” to mean U.S. ¶ combat troops.

### We Meet

#### 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]

### Related Legislation

#### Plan vagueness begets authorization – related legislation sparks confusion and provides territory for executive expansion, crushing limits – THE CLOSER, THE FARTHER \*\*\*

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

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.

### On

#### “on” controls the meaning of the topic’s “restriction” mechanism through demonstration of a relationship to the topic’s object “war powers authority”

The Guide to Grammar and Writing is sponsored by the Capital Community College Foundation, a nonprofit 501 c-3 organization that supports scholarships, faculty development, and curriculum innovation, no date given, http://grammar.ccc.commnet.edu/grammar/prepositions.htm

A preposition describes a relationship between other words in a sentence. In itself, a word like "in" or "after" is rather meaningless and hard to define in mere words. For instance, when you do try to define a preposition like "in" or "between" or "on," you invariably use your hands to show how something is situated in relationship to something else. Prepositions are nearly always combined with other words in structures called prepositional phrases. Prepositional phrases can be made up of a million different words, but they tend to be built the same: a preposition followed by a determiner and an adjective or two, followed by a pronoun or noun (called the object of the preposition). This whole phrase, in turn, takes on a modifying role, acting as an adjective or an adverb, locating something in time and space, modifying a noun, or telling when or where or under what conditions something happened.

#### as in “THE war powers authority” is a definite article (entails particular enumeration)

Kenneth T. Cuccinelli, II, Attorney General, July 20, 2012. Commonwealth of Virginia, http://www.oag.state.va.us/Opinions%20and%20Legal%20Resources/Opinions/2012opns/12-062%20Bryant.pdf

Section 53.1-131.1 provides, in relevant part: ¶ Any court having jurisdiction for the trial of a person charged with a misdemeanor or ¶ traffic offense or charged with any offense under Chapter 5 ( § 20-61 et seq.) of Title 20 ¶ may, if the defendant is convicted and sentenced to confinement in jail, impose the time ¶ to be served on weekends or nonconsecutive days to permit the convicted defendant to ¶ retain gainful employment. In construing § 53.1-131.1, the primary objective is "to ascertain and give effect to legislative ¶ intent," as expressed by the language used in the statute.1 You relate that some construe the statute to ¶ mean that a court may impose on felony convictions a sentence to be served on weekends or ¶ nonconsecutive days provided the court has jurisdiction over misdemeanor and traffic cases. The plain language,¶ 2 however, limits the court's authority to impose such a sentence only to convictions for ¶ misdemeanors, traffic offenses and violations of Chapter 5 Title 20. The dispositive portion of the statute is the phrase modifying "court": the court must be one ¶ "having jurisdiction for the trial of a person charged with a misdemeanor or traffic offense or charged ¶ with any offense under Chapter 5 (§ 20-61 et seq.) ofTitle 20[.]" Note that the General Assembly did not ¶ grant the authority to a court having jurisdiction over cases involving such charges generally. Rather, a ¶ court must have jurisdiction for "the trial of a person" so charged who is thereafter convicted. As the ¶ Court of Appeals of Virginia has explained: ¶ The word "the" is used grammatically in the statute as a definite article -- a word that, when used before a noun, specifies or particularizes the meaning of the noun that follows, ¶ as opposed to the indefinite article "a." See American Bus Ass'n v. Slater, 231 F.3d 1, 4-¶ 5, 343 U.S. App. D.C. 367 (D.C. Cir. 2000) (explaining that "[i]t is a rule of law well ¶ established that the definite article 'the' particularizes the subject which it precedes. It is a word of limitation as opposed to the indefinite or generalizing force of 'a' or 'an."' (citing ¶ Black's Law Dictionary 1477 (6th ed. 1990)))\_131 ¶ The application of§ 53.1-131.1, therefore, clearly is limited to a court presiding over one of the enumerated offenses.4

#### Proves topic-object-“the” implies principal agent

WILLIAMS v. WILLIAMS¶ Kent M. WILLIAMS v. Kimberly D. WILLIAMS.¶ Record No. 0476–12–4.¶ -- ¶ Present: FELTON, C.J., and ALSTON and McCULLOUGH, JJ. ¶ November 27, 2012 John L. Bauserman, Jr. (Pikrallidas & Associates, on brief), for appellant.No brief or argument for appellee.¶ http://caselaw.findlaw.com/va-court-of-appeals/1616475.html

We hold that Code § 20–108 confers subject matter jurisdiction to revise and alter a decree concerning the care, custody, and maintenance of children on the particular circuit court that entered the original decree. The use of the definite article “the” in the phrase “the court” in Code § 20–108 suggests that the legislature intended the specific circuit court that entered the original decree, and no other circuit court, retain subject matter jurisdiction to revise and alter that decree. See Grafmuller v. Commonwealth, 57 Va.App. 58, 65, 698 S.E.2d 276, 280 (2010) (“The word ‘the is used grammatically in the statute as a definite articlea word that, when used before a noun, specifies or particularizes the meaning of the noun that follows, as opposed to the indefinite article ‘a.’ “ (citing Am. Bus Ass'n v. Slater, 231 F.3d 1, 4–5 (D.C.Cir.2000))). In addition, Code § 20–108 states that the court may revise or alter the decree “from time to time after decreeing as provided in [Code] § 20–107.2.” Thus, a circuit court that did not enter the original decree could not revise it under Code § 20–108 because it did not first “decree[ ] as provided in Code § 20–107.2.” Therefore, the language of Code § 20–108 shows that it establishes subject matter jurisdiction to modify child support in the circuit court that issued the original decree.

### C/I – Gallagher

#### Plan attempts to restrict Independent executive authority, essentially targeting the Constitution – must target “war powers”

Michael A. Newton, Case Western Reserve Journal of International Law¶ Date: Sep 22, 2012. “Inadvertent implications of the War Powers Resolution”¶ http://www.thefreelibrary.com/Inadvertent+implications+of+the+War+Powers+Resolution.-a0331686136

First, debates over the applicability of the War Powers Resolution ¶ have shifted the attention from the proper role of the president as the ¶ national leader to that of the national litigator-in-chief. The¶ interpretation guidance to the War Powers Resolution states that the ¶ Resolution should not be “construed as granting any authority to the ¶ President with respect to the introduction of United States Armed ¶ Forces into hostilities or into situations wherein involvement in ¶ hostilities is clearly indicated by the circumstances.”¶ 50 But this ¶ assumes that the president already has such authority, and that the Resolution is not “intended to alter the constitutional authority of the ¶ . . . President.”¶ 51 Additionally, although the text makes plain that, ¶ even in the absence of specific authorization from Congress, the ¶ President may introduce armed forces into hostilities only in “a ¶ national emergency created by attack upon the United States, its ¶ territories or possessions, or its armed forces,” every lucid observer ¶ concedes that this declaration, found in the Purpose and Policy ¶ section, either is incomplete or is not meant to be binding.52 The War Powers Resolution effectively marginalized the congressional role to ¶ carping from the sidelines as various presidents have launched an ¶ increasingly diverse range of military operations.¶ After forty-years practice, there is a long line of precedent that ¶ has stretched the bounds of executive power in ways that could ¶ scarcely have been imagined by the framers. For example, the OLC¶ opinion for the use of force in Somalia in 1992 reasoned that, ¶ “Attorneys General and this Office have concluded that the President ¶ has the power to commit United States troops abroad as well as to ¶ take military action, for the purpose of protecting important national ¶ interests,” even without specific prior authorization from Congress.53¶ Just two years later, the OLC echoed its’ reasoning in the deployment ¶ of armed forces into Haiti.54 The “pattern of executive conduct, made ¶ under claim of right, extended over many decades and engaged in by ¶ Presidents of both parties, ‘evidences the existence of broad ¶ constitutional power.’”¶ 55 The independent authority of the executive ¶ derives from the president’s unique responsibility, as Commander-inChief and chief executive for foreign and military affairs as well as ¶ national security.56 The OLC used similar reasoning once again in ¶ 1995 in relation to the proposed deployment into Bosnia.57 It ¶ explained that the scope and limits of the congressional power to ¶ declare war is not well defined by constitutional text, case law, or ¶ statute, but rather, the relationship of Congress’ power to declare war ¶ and the president’s authority as Commander-in-Chief and chief ¶ executive has been clarified by two-hundred years of practice.58 This frame of reasoning is uniformly supported by the judiciary, ¶ including the Supreme Court. Chief Justice Rehnquist explained in ¶ Dames & Moore v. Regan: ¶ [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 Article II. Past practice does not, by itself, ¶ create power, but long-continued practice, known to and¶ acquiesced in by Congress, would raise a presumption that the ¶ [action] had been [taken] in pursuance of its consent[.]¶ 59¶ In Haig v. Agee, Chief Justice Burger further reasoned that the ¶ historical practice reflects the two political branches’ practical ¶ understanding, developed since the founding of the republic, of their ¶ respective roles and responsibilities with respect to national defense.60¶ Jack Goldsmith, who admirably delivered the keynote address earlier ¶ this morning, described this reasoning as simply a principle of ¶ constitutional law—”that a constitutional meaning may be liquidated ¶ by constitutional practice.”¶ 61 Professor Goldsmith argued that ¶ Congress had known about the pattern of presidential unilateralism ¶ for decades and done little in response. Congress has never seriously ¶ questioned the use of overseas military power without its ¶ authorization, much less impeached a president for authorizing such ¶ force. Instead, a succession of bipartisan legislatures has financed an ¶ enormous military force in the face of this continuing practice and has ¶ consistently refused to withhold funding for a wide array of ¶ deployments. The net effect of this practice has been to immunize the ¶ president from oversight. Hence, presidents of both parties are in an ¶ almost unassailably strong litigation posture vis-á-vis Congress, and ¶ they know it. The War Powers Resolution has therefore had the paradoxical ¶ effect of displacing good faith debate and dialogue between the ¶ branches with after-the-fact litigation. Presidents of both parties have ¶ felt confident that courts would support their executive prerogatives, ¶ and the War Powers Resolution has had the unfortunate effect of ¶ creating the perception that the constitutional authority is subject to distributive bargaining between the executive and legislative ¶ branches. Thus, presidents have relied upon their inherent constitutional authority, secure in the belief that the war-making ¶ function is not a zero sum game. In the process, there has been a ¶ tendency to rely upon successful litigation strategies rather than a ¶ clearly presented framing of the national objectives at stake in a given ¶ deployment or a clear-eyed national discussion of the merits of such ¶ overseas action.

#### Specific language should hold priority – Constitution’s ONLY use of “war” supports our distinction between Commander-in-Chief and war powers authority\*\*\*

R. Andrew Smith, Breaking the Stalemate: The Judiciary's Constitutional Role in Disputes over the War Powers, 41 Val. U. L. Rev. 1517¶ (2007). http://scholar.valpo.edu/cgi/viewcontent.cgi?article=1194&context=vulr

The text of Article II states that the president acts as the Commander in Chief of the Army, Navy, and the Militia of the several states.45 However, the only provision in the Constitution using the word “war” is in the definition of legislative war power.46 A reading of the ¶ Constitution may generally indicate that the president’s war power only activates when Congress issues a declaration of war; however, the ¶ president has used military force under both declarations of war and ¶ congressional resolutions authorizing military action.47

### C/I – Wheeler

#### Their Wheeler evidence is the epitome of what we’re trying to exclude – President referenced Article II authority to justify targeted killing – this ev does NOT say “war powers authority” – it’s literally a violation card

Marcy Wheeler 13, founder of EmptyWheel – a national security blog, PhD in comparative lit, The AUMF Fallacy, <http://www.emptywheel.net/2013/02/18/the-aumf-fallacy/>

And ultimately, we should look to what Stephen Preston — the General Counsel of the agency that actually carried out the Awlaki killing — has to say about where the CIA gets its authorization to engage in lethal covert operations. Let’s start with the first box: **Authority to Act under U.S. Law**. First, we would confirm that **the contemplated activity is authorized** by the President **in the exercise of** his powers under Article II **of the U.S. Constitution, for example, the President’s responsibility as Chief Executive and Commander-in-Chief to protect the country from an imminent threat of violent attack**. This would not be just a one-time check for legal authority at the outset. Our hypothetical program would be engineered so as to ensure that, through careful review and senior-level decision-making, each individual action is linked to the imminent threat justification.

### Reasonability

#### Err toward precision – reasonability and clear limits are exact opposites in war powers

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 definition of “associated forces” will add much needed clarity and ¶ provide congressional guidance in determining what groups actually fall ¶ under this provision. Rather than putting faith in the President not to abuse ¶ his discretion, Congress should simply clarify what it means and limit his ¶ discretion to acceptable amounts. The “close and well-established ¶ collaboration” ensures that only groups with very close and observable ties ¶ to al-Qaeda and the Taliban are designated as “associated forces.” While ¶ the requirement that part of their collaboration involve some kind of ¶ tactical or logistical support ensures that those classified as enemy ¶ combatants are actually engaged, or part of an organization that is engaged, ¶ in violence against the United States. Also, requiring that the associated ¶ force’s violence be directed at the United States or a coalition partner and ¶ that this violence is part of its relationship with al-Qaeda or the Taliban is ¶ another important limitation.

#### Vague plan text controls intent and reasonability – AUMF proves

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 Authorization for Use of Military Force (AUMF) was clearly ¶ directed at the perpetrators of 9/11 and their allies. Comments by ¶ legislators and those most involved in the drafting confirm that ¶ Afghanistan, the Taliban, and bin Laden were the chief targets.7¶ Despite this seemingly clear legislative intent, many terms in the statute are extremely ambiguous, making it difficult to say exactly against § Marked 19:40 § whom, ¶ when, where, and what the AUMF authorizes. In order to understand how ¶ the AUMF does and should operate today, this paper first examines the text ¶ and original goals of the bill.