## 1AC---KY Doubles

### Advantage 1 is Accountability

#### Accountability mechanisms that constrain the executive prevent drone overuse in Pakistan and Yemen---drones are key to stability but overuse is counterproductive

Benjamin R. Farley 12, JD from Emory University School of Law, former Editor-in-Chief of the Emory International Law Review, “Drones and Democracy: Missing Out on Accountability?” Winter 2012, 54 S. Tex. L. Rev. 385, lexis

Effective accountability mechanisms constrain policymakers' freedom to choose to use force by increasing the costs of use-of-force decisions and imposing barriers on reaching use-of-force decisions. The accountability mechanisms discussed here, when effective, reduce the likelihood of resorting to force (1) through the threat of electoral sanctioning, which carries with it a demand that political leaders explain their resort to force; (2) by limiting policymakers to choosing force only in the manners authorized by the legislature; and (3) by requiring policymakers to adhere to both domestic and international law when resorting to force and demanding that their justifications for uses of force satisfy both domestic and international law. When these accountability mechanisms are ineffective, the barriers to using force are lowered and the use of force becomes more likely.¶ Use-of-force decisions that avoid accountability are problematic for both functional and normative reasons. Functionally, accountability avoidance yields increased risk-taking and increases the likelihood of policy failure. The constraints imposed by political, supervisory, fiscal, and legal accountability "make[] leaders reluctant to engage in foolhardy military expeditions... . If the caution about military adventure is translated into general risk-aversion when it comes to unnecessary military engagements, then there will likely be a distributional effect on the success rates of [democracies]." n205 Indeed, this result is predicted by the structural explanation of the democratic peace. It also explains why policies that rely on covert action - action that is necessarily less constrained by accountability mechanisms - carry an increased risk of failure. n206 Thus, although accountability avoidance seductively holds out the prospect of flexibility and freedom of action for policymakers, it may ultimately prove counterproductive.¶ In fact, policy failure associated with the overreliance on force - due at least in part to lowered barriers from drone-enabled accountability avoidance - may be occurring already. Airstrikes are deeply unpopular in both Yemen n207 and Pakistan, n208 and although the strikes have proven critical [\*421] to degrading al-Qaeda and associated forces in Pakistan, increased uses of force may be contributing to instability, the spread of militancy, and the failure of U.S. policy objectives there. n209 Similarly, the success of drone [\*422] strikes in Pakistan must be balanced against the costs associated with the increasingly contentious U.S.-Pakistani relationship, which is attributable at least in part to the number and intensity of drone strikes. n210 These costs include undermining the civilian Pakistani government and contributing to the closure of Pakistan to NATO supplies transiting to Afghanistan, n211 thus forcing the U.S. and NATO to rely instead on several repressive central Asian states. n212 Arguably the damage to U.S.-Pakistan relations and the destabilizing influence of U.S. operations in Yemen would be mitigated by fewer such operations - and there would be fewer U.S. operations in both Pakistan and Yemen if U.S. policymakers were more constrained by use-of-force accountability mechanisms.¶ From a normative perspective, the freedom of action that accountability avoidance facilitates represents the de facto concentration of authority to use force in the executive branch. While some argue that such concentration of authority is necessary or even pragmatic in the current international environment, 168 it is anathema to the U.S. constitutional system. Indeed, the founding generation’s fear of foolhardy military adventurism is one reason for the Constitution’s diffusion of use-of-force authority between the Congress and the President. 169 That generation recognized that a President vested with an unconstrained ability to go to war is more likely to lead the nation into war.

#### Judicial review is key to prevent mistakes – executive targeting decisions are inevitably flawed

Ahmad Chehab 12, Georgetown University Law Center, “RETRIEVING THE ROLE OF ACCOUNTABILITY IN THE TARGETED KILLINGS CONTEXT: A PROPOSAL FOR JUDICIAL REVIEW,” March 30 2012, abstract available at http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2031572

The practical, pragmatic justification for the COAACC derives largely from considering social psychological findings regarding the skewed potential associated with limiting unchecked decision-making in a group of individuals. As an initial point, psychologists have long pointed out how individuals frequently fall prey to cognitive illusions that produce systematic errors in judgment.137 People simply do not make decisions by choosing the optimal outcome from available alternatives, but instead employ shortcuts (i.e., heuristics) for convenience.138 Cognitive biases like groupthink can hamper effective policy deliberations and formulations.139 Groupthink largely arises when a group of decision-makers seek conformity and agreement, thereby avoiding alternative points of view that are critical of the consensus position.140 This theory suggests that some groups—particularly those characterized by a strong leader, considerable internal cohesion, internal loyalty, overconfidence, and a shared world view or value system—suffer from a deterioration in their capacity to engage in critical analysis.141 Many factors can affect such judgment, including a lack of crucial information, insufficient timing for decision-making, poor judgment, pure luck, and/or unexpected actions by adversaries.142 Moreover, decision-makers inevitably tend to become influenced by irrelevant information,143 seek out data and assessments that confirm their beliefs and personal hypotheses notwithstanding contradictory evidence,144 and “[i]rrationally avoid choices that represent extremes when a decision involves a trade-off between two incommensurable values.”145 Self-serving biases can also hamper judgment given as it has been shown to induce well-intentioned people to rationalize virtually any behavior, judgment or action after the fact.146 The confirmation and overconfidence bias, both conceptually related to groupthink, also result in large part from neglecting to consider contradictory evidence coupled with an irrational persistence in pursuing ideological positions divorced from concern of alternative viewpoints.147¶ Professor Cass Sunstein has described situations in which groupthink produced poor results precisely because consensus resulted from the failure to consider alternative sources of information.148 The failures of past presidents to consider alternative sources of information, critically question risk assessments, ensure neutral-free ideological sentiment among those deliberating,149 and/or generally ensure properly deliberated national security policy has produced prominent and devastating blunders,150 including the Iraq War of 2003,151 the Bay of Pigs debacle in the 1960’s,152 and the controversial decision to wage war against Vietnam.153¶ Professor Sunstein also has described the related phenomenon of “group polarization,” which includes the tendency to push group members toward a “more extreme position.”154 Given that both groupthink and group polarization can lead to erroneous and ideologically tainted policy positions, the notion of giving the President unchecked authority in determining who is eligible for assassination can only serve to increase the likelihood for committing significant errors.155 The reality is that psychological mistakes, organizational ineptitude, lack of structural coherence and other associated deficiencies are inevitable features in Executive Branch decision-making.¶ D. THE NEED FOR ACCOUNTABILITY CHECKS¶ To check the vices of groupthink and shortcomings of human judgment, the psychology literature emphasizes a focus on accountability mechanisms in which a better reasoned decision-making process can flourish.156 By serving as a constraint on behavior, “accountability functions as a critical norm-enforcement mechanism—the social psychological link between individual decision makers on the one hand and social systems on the other.”157 Such institutional review can channel recognition for the need by government decision-makers to be more self-critical in policy targeted killing designations, more willing to consider alternative points of view, and more willing to anticipate possible objections.158 Findings have also shown that ex ante awareness can lead to more reasoned judgment while also preventing tendentious and ideological inclinations (and political motivations incentivized and exploited by popular hysteria and fear).159¶ Requiring accounting in a formalized way prior to engaging in a targeted killing—by providing, for example, in camera review, limited declassification of information, explaining threat assessments outside the immediate circle of policy advisors, and securing meaningful judicial review via a COAACC-like tribunal—can promote a more reliable and informed deliberation in the executive branch. With process-based judicial review, the COAACC could effectively reorient the decision to target individuals abroad by examining key procedural aspects—particularly assessing the reliability of the “terrorist” designation—and can further incentivize national security policy-makers to engage in more carefully reasoned choices and evaluate available alternatives than when subject to little to no review.

#### Opposing authors force a false choice by only arguing against total bans---reform through external oversight solves status quo problems---executive actions aren’t accountable

Conor Friedersdorf 13, staff writer at The Atlantic, where he focuses on politics and national affairs, March 27th, 2013, "Let's Make Drone Strikes Safe, Legal, and Rare,"www.theatlantic.com/politics/archive/2013/03/lets-make-drone-strikes-safe-legal-and-rare/274399/

Plenty of pundits on the left and right still support targeted killing, as do voters, military brass, think-tank fellows, and Congressional majorities. It is nevertheless worth giving the issue another look, because the Obama Administration's apologists seldom acknowledge the strongest arguments against our particular drone policy. Their rhetoric, however effective, depends on a subtle, sometimes unconscious evasion. It's surprisingly easy for an interested observer to be led astray.¶ Can you spot the problem in the following arguments? Joshua Foust acknowledges that unmanned aerial vehicles sometimes terrorize and kill innocents, but asks, "Is there a better alternative to drone strikes for counterterrorism in northwest Pakistan?" He concludes that, in the short run, there simply isn't.\* "The targets of drone strikes in Pakistan sponsor insurgents in the region that kill U.S. soldiers and destabilize the Pakistani state," he writes. "They cannot simply be left alone to continue such violent attacks."¶ Says David Frum, defending the extrajudicial killing of American citizens, "The practical alternative to drones isn't jury trials. It's leaving U.S. passport carrying terrorists alone unharmed to execute their plans." Max Boot in Commentary agrees that citizens are fair game. "Given the need to continue these drone strikes," he argues, "it would be silly and self-destructive to grant certain al-Qaeda figures immunity just because they happen to have American citizenship."¶ In a Los Angeles Times op-ed defending drones, international law professor Michael W. Lewis writes that there are "four obvious options" for dealing with Taliban or Al Qaeda in tribal areas of Pakistan: accept their presence, send the Pakistani military to attack them, send in American ground troops, or his preference, which is armed drones. "Any alternative use of force against Taliban or Al Qaeda forces would be likely to cause many more civilian casualties," he concludes.¶ Implicit in each argument is a false choice. The authors all write here as if America must persist with our drone policy as it is or else forever ground our fleet.\* They're arguing against the proposition that there should be no drones at all. None treat seriously the alternative that the vast majority of drone critics advocate: a reformed drone program that operates legally, morally, and prudently. In 2009, President Obama criticized his predecessor for establishing "an ad hoc legal approach for fighting terrorism" that was neither effective nor sustainable -- a framework that "failed to rely on our legal traditions and time-tested institutions, and that failed to use our values as a compass." Going forward, he said, America's war against Al Qaeda must proceed "with an abiding confidence in the rule of law and due process; in checks and balances and accountability."¶ Most drone critics demand no more than that Obama live up to the standards he articulated. They aren't against keeping armed drones in our arsenal; they're against giving them to the CIA, an opaque intelligence agency that is prone to abusing the power to kill in secret and has no obligation to follow the rules of engagement that constrain the U.S. military.¶ They aren't against killing Al Qaeda members with Hellfire missiles; they're against a process for identifying Al Qaeda terrorists or "associated forces" that equates being accused with being guilty.¶ They aren't against killing American citizens who join the enemy; they're against the extrajudicial killing of Americans merely accused of doing so, especially when conducted in secret, far from any battlefield, with no evidence or defense presented, and no mechanism for accountability if a mistake is made.¶ They aren't against rules permitting certain enemies to be targeted and killed; they're against secret rules written by compromised political appointees and withheld from the crucible of public discourse.¶ In short, most drone critics aren't opposed to armed, unmanned aerial vehicles in general, but to specific features of the targeted-killing program that make it imprudent and immoral. Precisely because it is so difficult to argue that armed drones are always indefensible, Obama defenders often speak out as if against that straw man. As a result, fewer Americans grapple with the more persuasive argument that Obama's specific drone campaign is indefensible, for a much more legally, morally, and prudentially sound drone program could replace it. That's the tragedy and travesty of this whole picture -- many of the problems with the U.S. drone program could be mitigated through straightforward reforms. And those reforms ought to be imposed by Congress, not adopted in secret by an executive branch that has the prerogative to reverse itself in secret or grant itself exceptions.

#### Scenario 1 is Yemen

#### Unaccountable drone strikes strengthen AQAP and destabilize Yemen

Jacqueline Manning 12, Senior Editor of International Affairs Review, December 9 2012, “Free to Kill: How a Lack of Accountability in America’s Drone Campaign Threatens U.S. Efforts in Yemen,” http://www.iar-gwu.org/node/450

Earlier this year White House counter-terrorism advisor, John Brennan, named al-Qaeda in the Arabian Peninsula (AQAP) in Yemen the greatest threat to the U.S. Since 2009, the Obama administration has carried out an estimated 28 drone strikes and 13 air strikes targeting AQAP in Yemen, while the Yemeni Government has carried out 17 strikes, and another five strikes cannot be definitively attributed to either state . There is an ongoing debate over the effectiveness of targeted killings by drone strikes in the fight against al-Qaeda. However, what is clear is that the secrecy and unaccountability with which these drone strike are being carried out are undermining U.S. efforts in Yemen.¶ The drone campaign in Yemen is widely criticized by human rights activists, the local population and even the United Nations for its resulting civilian casualties. It is also credited with fostering animosity towards the U.S. and swaying public sentiment in Yemen in favor of AQAP. The long-term effects, as detailed by a 2012 report by the Center for Civilians in Conflict, seem to be particularly devastating. The resulting loss of life, disability, or loss of property of a bread-winner can have long-term impacts, not just on an individual, but on an entire family of dependents.¶ The effectiveness of drone technology in killing al-Qaeda militants, however, cannot be denied. Targeted killings by drone strikes have eliminated several key AQAP members such as Anwar al-Awlaki, Samir Khan, Abdul Mun’im Salim al Fatahani, and Fahd al-Quso . Advocates of the counterterrorism strategy point out that it is much less costly in terms of human lives and money than other military operations.¶ While there are strong arguments on both sides of the drone debate, both proponents and critics of targeted killings of AQAP operatives by drones agree that transparency and accountability are needed.¶ Authorizing the CIA to carry out signature strikes is of particular concern. In signature strikes, instead of targeting individual Al Qaeda leaders, the CIA targets locations without knowing the precise identity of the individuals targeted as long as the locations are linked to a “signature” or pattern of behavior by Al Qaeda officials observed over time. This arbitrary method of targeting often results in avoidable human casualties.¶ Secrecy surrounding the campaign often means that victims and families of victims receive no acknowledgement of their losses, much less compensation. There are also huge disparities in the reported number of deaths. In addition, according to The New York Times, Obama administration officials define “militants” as “all military-age males in a strike zone...unless there is explicit intelligence posthumously proving them innocent” This definition leads to a lack of accountability for those casualties and inflames anti-American sentiment.¶ In a report submitted to the UN Human Rights Council, Ben Emmerson, special rapporteur on the promotion and protection of human rights while countering terrorism, asserted that, "Human rights abuses have all too often contributed to the grievances which cause people to make the wrong choices and to resort to terrorism….human rights compliant counter-terrorism measures help to prevent the recruitment of individuals to acts of terrorism." There is now statistical evidence that supports this claim. A 2010 opinion poll conducted by the New America Foundation in the Federally Administered Tribal Areas (FATA) of Pakistan, where U.S. drone strikes have been carried out on a much larger scale, shows an overwhelming opposition to U.S. drone strikes coupled with a majority support for suicide attacks on U.S. forces under some circumstances.¶ It is clear that the drone debate is not simply a matter of morality and human rights; it is also a matter of ineffective tactics. At a minimum the U.S. must implement a policy of transparency and accountability in the use of drones. Signature strikes take unacceptable risks with innocent lives. Targets must be identified more responsibly, and risks of civilian casualties should be minimized. When civilian casualties do occur, the United States must not only acknowledge them, but also pay amends to families of the victims.

#### Strengthened AQAP undermines the Saudi regime

Colonel Hassan Abosaq 12, US Army War College, master of strategic studies degree candidate, 2012, "The Implications of Unstable on Saudi Arabia," Strategy Research Project, www.dtic.mil/cgi-bin/GetTRDoc?Location=U2&doc=GetTRDoc.pdf&AD=ADA560581

AQAP has been vociferous in its opposition to the Saudi regime, and is likely to continue targeting the Kingdom, particularly its oil installations and members of the royal family. In August 2009, an AQAP member attempted to assassinate Prince Mohammed bin Naif, the Saudi Assistant Interior Minister for security affairs. The prince’s attacker was trained in and launched his attack from Yemen, confirming to the Saudis that instability in Yemen poses a security threat to Saudi Arabia. A strengthened AQAP in Yemen is certain to try to put pressure on Saudi Arabia and to strike Saudi targets. AQAP’s military chief, Qasin al-Raymi, warned the Saudi Leadership in July 2011 that they are still regarded as apostates. And he specifically placed King Abdullah, the late Crown Prince Sultan, Interior Minister Prince Naif, and his son Mohammed Bin Naif on the target list.21 In March 2010, Saudi Arabia foiled several planned attacks on oil installation with the arrest of more than 100 suspected al-Qaeda militants. The arrests included 47 Saudis, 51 Yemenis, a Somali, a Bangladeshi, and an Eritrean.22 The wider domestic strife in Yemen has provided AQAP with some breathing space. More worrisome for Saudi Arabia is the increased lawlessness within Yemen. Not only does this provide the space that al-Qaeda needs to regroup, train, recruit, but it also deflects the state resources away from counterterrorism operations. Saudi Arabia has for years been working to infiltrate al-Qaeda in its unstable neighbor to south, Yemen. Saudi Arabia has also been giving Yemen a great deal of assistance to counterterrorism and it is worrying to the Saudis to see all of that assistance diverted from the purposes for which it was intended. In June 2011, AQAP leaped into the security vacuum created by Yemen’s political volatility, and 63 al-Qaeda in the Arabian Peninsula fighters escaped from a Yemeni prison.23 This exemplifies how Yemeni instability emboldens this lethal al-Qaeda affiliate. As the Yemeni military consolidates its strength in an attempt to maintain state control and fight two insurgencies and oppress the protesters, AQAP has further expanded its safe haven in the country’s interior, further increasing their operational capacity. This organization has not only attacked police, foreigners, and diplomatic missions within the country, but also served as a logistic base for acts of terrorism abroad. Yemen also has become the haven for jihad militants not just from Yemen and Saudi Arabia, but from all over the world which includes some Arabs, Americans, Europeans, Africans and others. Al-Qaeda camps, where terrorists from all over the world train are also situated in Yemen. The growing anarchy and al-Qaeda presence could spill over into Saudi Arabia.

#### That destabilizes the Middle East

Anthony Cordesman 11, Arleigh A. Burke Chair in Strategy at CSIS, former director of intelligence assessment in the Office of the Secretary of Defense, former adjunct prof of national security studies at Georgetown, PhD from London University, Feb 26 2011, “Understanding Saudi Stability and Instability: A Very Different Nation,” http://csis.org/publication/understanding-saudi-stability-and-instability-very-different-nation

History scarcely means we can take Saudi stability for granted. Saudi Arabia is simply too critical to US strategic interests and the world. Saudi petroleum exports play a critical role in the stability and growth of a steadily more global economy, and the latest projections by the Department of Energy do not project any major reductions in the direct level of US dependence on oil imports through 2025.¶ Saudi Arabia is as important to the region’s security and stability as it is to the world’s economy. It is the key to the efforts of the Gulf Cooperation Council to create local defenses, and for US strategic cooperation with the Southern Gulf states. It plays a critical role as a counterbalance to a radical and more aggressive Iran, it is the source of the Arab League plan for a peace with Israel, and it has become a key partner in the war on terrorism. The US strategic posture in the Middle East depends on Saudi Arabia having a friendly and moderate regime.

#### Global nuke war

Primakov 9 [September, Yevgeny, President of the Chamber of Commerce and Industry of the Russian Federation; Member of the Russian Academy of Sciences; member of the Editorial Board of Russia in Global Affairs. This article is based on the scientific report for which the author was awarded the Lomonosov Gold Medal of the Russian Academy of Sciences in 2008, “The Middle East Problem in the Context of International Relations”]

The Middle East conflict is unparalleled in terms of its potential for spreading globally. During the Cold War, amid which the Arab-Israeli conflict evolved, the two opposing superpowers directly supported the conflicting parties: the Soviet Union supported Arab countries, while the United States supported Israel. On the one hand, the bipolar world order which existed at that time objectively played in favor of the escalation of the Middle East conflict into a global confrontation. On the other hand, the Soviet Union and the United States were not interested in such developments and they managed to keep the situation under control. The behavior of both superpowers in the course of all the wars in the Middle East proves that. In 1956, during the Anglo-French-Israeli military invasion of Egypt (which followed Cairo’s decision to nationalize the Suez Canal Company) the United States – contrary to the widespread belief in various countries, including Russia – not only refrained from supporting its allies but insistently pressed – along with the Soviet Union – for the cessation of the armed action. Washington feared that the tripartite aggression would undermine the positions of the West in the Arab world and would result in a direct clash with the Soviet Union. Fears that hostilities in the Middle East might acquire a global dimension could materialize also during the Six-Day War of 1967. On its eve, Moscow and Washington urged each other to cool down their “clients.” When the war began, both superpowers assured each other that they did not intend to get involved in the crisis militarily and that that they would make efforts at the United Nations to negotiate terms for a ceasefire. On July 5, the Chairman of the Soviet Government, Alexei Kosygin, who was authorized by the Politburo to conduct negotiations on behalf of the Soviet leadership, for the first time ever used a hot line for this purpose. After the USS *Liberty* was attacked by Israeli forces, which later claimed the attack was a case of mistaken identity, U.S. President Lyndon Johnson immediately notified Kosygin that the movement of the U.S. Navy in the Mediterranean Sea was only intended to help the crew of the attacked ship and to investigate the incident. The situation repeated itself during the hostilities of October 1973. Russian publications of those years argued that it was the Soviet Union that prevented U.S. military involvement in those events. In contrast, many U.S. authors claimed that a U.S. reaction thwarted Soviet plans to send troops to the Middle East. Neither statement is true. The atmosphere was really quite tense. Sentiments both in Washington and Moscow were in favor of interference, yet both capitals were far from taking real action. When U.S. troops were put on high alert, Henry Kissinger assured Soviet Ambassador Anatoly Dobrynin that this was done largely for domestic considerations and should not be seen by Moscow as a hostile act. In a private conversation with Dobrynin, President Richard Nixon said the same, adding that he might have overreacted but that this had been done amidst a hostile campaign against him over Watergate. Meanwhile, Kosygin and Foreign Minister Andrei Gromyko at a Politburo meeting in Moscow strongly rejected a proposal by Defense Minister Marshal Andrei Grechko to “demonstrate” Soviet military presence in Egypt in response to Israel’s refusal to comply with a UN Security Council resolution. Soviet leader Leonid Brezhnev took the side of Kosygin and Gromyko, saying that he was against any Soviet involvement in the conflict. The above suggests an unequivocal conclusion that control by the superpowers in the bipolar world did not allow the Middle East conflict to escalate into a global confrontation. After the end of the Cold War, some scholars and political observers concluded that a real threat of the Arab-Israeli conflict going beyond regional frameworks ceased to exist. However, in the 21st century this conclusionno longer conforms to the realit**y**. The U.S. military operation in Iraq has changed the balance of forces in the Middle East. The disappearance of the Iraqi counterbalance has brought Iran to the fore as a regional power claiming a direct role in various Middle East processes. I do not belong to those who believe that the Iranian leadership has already made a political decision to create nuclear weapons of its own. Yet Tehran seems to have set itself the goal of achieving a technological level that would let it make such a decision (the “Japanese model”) under unfavorable circumstances. Israel already possesses nuclear weapons and delivery vehicles. In such circumstances, the absence of a Middle East settlement opens a dangerous prospect ofa nuclear collision in the region, which would have catastrophic consequences for the whole world**.** The transition to a multipolar world has objectively strengthened the role of states and organizations that are directly involved in regional conflicts, which increases the latter’s danger and reduces the possibility of controlling them. This refers, above all, to the Middle East conflict. The coming of Barack Obama to the presidency has allayed fears that the United States could deliver a preventive strike against Iran (under George W. Bush, it was one of the most discussed topics in the United States). However, fears have increased that such a strike can be launched *Yevgeny Primakov* 1 3 2 RUSSIA IN GLOBAL AFFAIRS VOL. 7 • No. 3 • JULY – SEPTEMBER• 2009 by Israel, which would have unpredictable consequences for the region and beyond. It seems that President Obama’s position does not completely rule out such a possibility.

#### Scenario 2 is Pakistan

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

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

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

#### Pakistan instability causes loose nukes and Indian intervention --- goes nuclear

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PhD in public and international affairs from Princeton, Apr 27 2005, “Dealing with the Collapse of a Nuclear-Armed State: The Cases of North Korea and Pakistan,” http://www.princeton.edu/~ppns/papers/ohanlon.pdf

Were Pakistan to collapse, it is unclear what the United States and like-minded states would or should do. As with North Korea, it is highly unlikely that “surgical strikes” to destroy the nuclear weapons could be conducted before extremists could make a grab at them. The United States probably would not know their location – at a minimum, scores of sites controlled by Special Forces or elite Army units would be presumed candidates – and no Pakistani government would likely help external forces with targeting information. The chances of learning the locations would probably be greater than in the North Korean case, given the greater openness of Pakistani society and its ties with the outside world; but U.S.-Pakistani military cooperation, cut off for a decade in the 1990s, is still quite modest, and the likelihood that Washington would be provided such information or otherwise obtain it should be considered small.¶ If a surgical strike, series of surgical strikes, or commando-style raids were not possible, the only option would be to try to restore order before the weapons could be taken by extremists and transferred to terrorists. The United States and other outside powers might, for example, respond to a request by the Pakistani government to help restore order. Given the embarrassment associated with requesting such outside help, the Pakistani government might delay asking until quite late, thus complicating an already challenging operation. If the international community could act fast enough, it might help defeat an insurrection. Another option would be to protect Pakistan’s borders, therefore making it harder to sneak nuclear weapons out of the country, while only providing technical support to the Pakistani armed forces as they tried to quell the insurrection. Given the enormous stakes, the United States would literally have to do anything it could to prevent nuclear weapons from getting into the wrong hands.¶ India would, of course, have a strong incentive to ensure the security of Pakistan’s nuclear weapons. It also would have the advantage of proximity; it could undoubtedly mount a large response within a week, but its role would be complicated to say the least. In the case of a dissolved Pakistani state, India likely would not hesitate to intervene; however, in the more probable scenario in which Pakistan were fraying but not yet collapsed, India’s intervention could unify Pakistan’s factions against the invader, even leading to the deliberate use of Pakistani weapons against India. In such a scenario, with Pakistan’s territorial integrity and sovereignty on the line and its weapons put into a “use or lose” state by the approach of the Indian Army, nuclear dangers have long been considered to run very high.

#### Extinction

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

A nuclear conflict in the subcontinent would have disastrous effects on the world as a whole. In a January 2010 paper published in Scientific American, climatology professors Alan Robock and Owen Brian Toon forecast the global repercussions of a regional nuclear war. Their results are strikingly similar to those of studies conducted in 1980 that conclude that a nuclear war between the United States and the Soviet Union would result in a catastrophic and prolonged nuclear winter, which could very well place the survival of the human race in jeopardy. In their study, Robock and Toon use computer models to simulate the effect of a nuclear exchange between India and Pakistan in which each were to use roughly half their existing arsenals (50 apiece). Since Indian and Pakistani nuclear devices are strategic rather than tactical, the likely targets would be major population centers. Owing to the population densities of urban centers in both nations, the number of direct casualties could climb as high as 20 million. ¶ The fallout of such an exchange would not merely be limited to the immediate area. First, the detonation of a large number of nuclear devices would propel as much as seven million metric tons of ash, soot, smoke, and debris as high as the lower stratosphere. Owing to their small size (less than a tenth of a micron) and a lack of precipitation at this altitude, ash particles would remain aloft for as long as a decade, during which time the world would remain perpetually overcast. Furthermore, these particles would soak up heat from the sun, generating intense heat in the upper atmosphere that would severely damage the earth’s ozone layer. The inability of sunlight to penetrate through the smoke and dust would lead to global cooling by as much as 2.3 degrees Fahrenheit. This shift in global temperature would lead to more drought, worldwide food shortages, and widespread political upheaval.

### Advantage 2 is Norms

#### Failure to adopt rules for US drones sets an abusive international precedent----magnifies every impact by causing global instability and collapse of interstate relations

Kristen Roberts 13, news editor for National Journal, master's in security studies from Georgetown University, master's degree in journalism from Columbia University, March 21st, 2013, "When the Whole World Has Drones," National Journal, www.nationaljournal.com/magazine/when-the-whole-world-has-drones-20130321

To implement this covert program, the administration has adopted a tool that lowers the threshold for lethal force by reducing the cost and risk of combat. This still-expanding counterterrorism use of drones to kill people, including its own citizens, outside of traditionally defined battlefields and established protocols for warfare, has given friends and foes a green light to employ these aircraft in extraterritorial operations that could not only affect relations between the nation-states involved but also destabilize entire regions and potentially upset geopolitical order.¶ Hyperbole? Consider this: Iran, with the approval of Damascus, carries out a lethal strike on anti-Syrian forces inside Syria; Russia picks off militants tampering with oil and gas lines in Ukraine or Georgia; Turkey arms a U.S.-provided Predator to kill Kurdish militants in northern Iraq who it believes are planning attacks along the border. Label the targets as terrorists, and in each case, Tehran, Moscow, and Ankara may point toward Washington and say, we learned it by watching you. In Pakistan, Yemen, and Afghanistan.¶ This is the unintended consequence of American drone warfare. For all of the attention paid to the drone program in recent weeks—about Americans on the target list (there are none at this writing) and the executive branch’s legal authority to kill by drone outside war zones (thin, by officials’ own private admission)—what goes undiscussed is Washington’s deliberate failure to establish clear and demonstrable rules for itself **that would at minimum** create a globally relevant standard **for delineating between legitimate and rogue uses of one of the most awesome military robotics capabilities of this generation.**

#### And it makes great power war inevitable by tempting leaders to use drones too often---causes escalation---traditional checks don’t apply

Eric Posner 13, a professor at the University of Chicago Law School, May 15th, 2013, "The Killer Robot War is Coming," Slate, www.slate.com/articles/news\_and\_politics/view\_from\_chicago/2013/05/drone\_warfare\_and\_spying\_we\_need\_new\_laws.html

Drones have existed for decades, but in recent years they have become ubiquitous. Some people celebrate drones as an effective and humane weapon because they can be used with precision to slay enemies and spare civilians, and argue that they pose no special risks that cannot be handled by existing law. Indeed, drones, far more than any other weapon, enable governments to comply with international humanitarian law by avoiding civilian casualties when attacking enemies. Drone defenders also mocked Rand Paul for demanding that the Obama administration declare whether it believed that it could kill people with drones on American territory. Existing law permits the police to shoot criminals who pose an imminent threat to others; if police can gun down hostage takers and rampaging shooters, why can’t they drone them down too?¶ While there is much to be said in favor of these arguments, drone technology poses a paradox that its defenders have not confronted. Because drones are cheap, effective, riskless for their operators, and adept at minimizing civilian casualties, governments may be tempted to use them too frequently.¶ Indeed, a panic has already arisen that the government will use drones to place the public under surveillance. Many municipalities have passed laws prohibiting such spying even though it has not yet taken place. Why can’t we just assume that existing privacy laws and constitutional rights are sufficient to prevent abuses?¶ To see why, consider U.S. v. Jones, a 2012 case in which the Supreme Court held that the police must get a search warrant before attaching a GPS tracking device to a car, because the physical attachment of the device trespassed on property rights. Justice Samuel Alito argued that this protection was insufficient, because the government could still spy on people from the air. While piloted aircraft are too expensive to use routinely, drones are not, or will not be. One might argue that if the police can observe and follow you in public without obtaining a search warrant, they should be able to do the same thing with drones. But when the cost of surveillance declines, more surveillance takes place. If police face manpower limits, then they will spy only when strong suspicions justify the intrusion on targets’ privacy. If police can launch limitless drones, then we may fear that police will be tempted to shadow ordinary people without good reason.¶ Similarly, we may be comfortable with giving the president authority to use military force on his own when he must put soldiers into harm’s way, knowing that he will not risk lives lightly. Presidents have learned through hard experience that the public will not tolerate even a handful of casualties if it does not believe that the mission is justified. But when drones eliminate the risk of casualties, the president is more likely to launch wars too often.¶ The same problem arises internationally. The international laws that predate drones assume that military intervention across borders risks significant casualties. Since that check normally kept the peace, international law could give a lot of leeway for using military force to chase down terrorists. But if the risk of casualties disappears, then nations might too eagerly attack, resulting in blowback and retaliation. Ironically, the reduced threat to civilians in tactical operations could wind up destabilizing relationships between countries, including even major powers like the United States and China, making the long-term threat to human life much greater.¶ These three scenarios illustrate the same lesson: that law and technology work in tandem. When technological barriers limit the risk of government abuse, legal restrictions on governmental action can be looser. When those technological barriers fall, legal restrictions may need to be tightened.

#### These conflicts go nuclear --- wrecks global stability

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A second consequence of the spread of drones is that many of the traditional concepts which have underwritten stability in the international system will be radically reshaped by drone technology. For example, much of the stability among the Great Powers in the international system is driven by deterrence, specifically nuclear deterrence.135 Deterrence operates with informal rules of the game and tacit bargains that govern what states, particularly those holding nuclear weapons, may and may not do to one another.136 While it is widely understood that nuclear-capable states will conduct aerial surveillance and spy on one another, overt military confrontations between nuclear powers are rare because they are assumed to be costly and prone to escalation. One open question is whether these states will exercise the same level of restraint with drone surveillance, which is unmanned, low cost, and possibly deniable. States may be more willing to engage in drone overflights which test the resolve of their rivals, or engage in ‘salami tactics’ to see what kind of drone-led incursion, if any, will motivate a response.137 This may have been Hezbollah’s logic in sending a drone into Israeli airspace in October 2012, possibly to relay information on Israel’s nuclear capabilities.138 After the incursion, both Hezbollah and Iran boasted that the drone incident demonstrated their military capabilities.139 One could imagine two rival states—for example, India and Pakistan—deploying drones to test each other’s capability and resolve, with untold consequences if such a probe were misinterpreted by the other as an attack. As drones get physically smaller and more precise, and as they develop a greater flying range, the temptation to use them to spy on a rival’s nuclear programme or military installations might prove too strong to resist. If this were to happen, drones might gradually erode the deterrent relationships that exist between nuclear powers, thus magnifying the risks of a spiral of conflict between them.

#### Credible external oversight is key---leads to international modeling and allows the US to effectively crack down on other abusive drone programs

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

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

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

#### That prevents heg decline and allows the US to set global drones norms that prevent the worst consequences of use

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In his second term, President Obama has an opportunity to reverse course and establish a new drones policy which mitigates these costs and avoids some of the long-term consequences that flow from them. A more sensible US approach would impose some limits on drone use in order to minimize the political costs and long-term strategic consequences. One step might be to limit the use of drones to HVTs, such as leading political and operational figures for terrorist networks, while reducing or eliminating the strikes against the ‘foot soldiers’ or other Islamist networks not related to Al-Qaeda. This approach would reduce the number of strikes and civilian deaths associated with drones while reserving their use for those targets that pose a direct or imminent threat to the security of the United States. Such a self-limiting approach to drones might also minimize the degree of political opposition that US drone strikes generate in states such as Pakistan and Yemen, as their leaders, and even the civilian population, often tolerate or even approve of strikes against HVTs. Another step might be to improve the levels of transparency of the drone programme. At present, there are no publicly articulated guidelines stipulating who can be killed by a drone and who cannot, and no data on drone strikes are released to the public.154 Even a Department of Justice memorandum which authorized the Obama administration to kill Anwar al-Awlaki, an American citizen, remains classified.155 Such non-transparency fuels suspicions that the US is indifferent to the civilian casualties caused by drone strikes, a perception which in turn magnifies the deleterious political consequences of the strikes. Letting some sunlight in on the drones programme would not eliminate all of the opposition to it, but it would go some way towards undercutting the worst conspiracy theories about drone use in these countries while also signalling that the US government holds itself legally and morally accountable for its behaviour.156¶ A final, and crucial, step towards mitigating the strategic consequences of drones would be to develop internationally recognized standards and norms for their use and sale. It is not realistic to suggest that the US stop using its drones altogether, or to assume that other countries will accept a moratorium on buying and using drones. The genie is out of the bottle: drones will be a fact of life for years to come. What remains to be done is to ensure that their use and sale are transparent, regulated and consistent with internationally recognized human rights standards. The Obama administration has already begun to show some awareness that drones are dangerous if placed in the wrong hands. A recent New York Times report revealed that the Obama administration began to develop a secret drones ‘rulebook’ to govern their use if Mitt Romney were to be elected president.157 The same logic operates on the international level. Lethal drones will eventually be in the hands of those who will use them with fewer scruples than President Obama has. Without a set of internationally recognized standards or norms governing their sale and use, drones will proliferate without control, be misused by governments and non-state actors, and become an instrument of repression for the strong. One remedy might be an international convention on the sale and use of drones which could establish guidelines and norms for their use, perhaps along the lines of the Convention on Certain Conventional Weapons (CCW) treaty, which attempted to spell out rules on the use of incendiary devices and fragment-based weapons.158 While enforcement of these guidelines and adherence to rules on their use will be imperfect and marked by derogations, exceptions and violations, the presence of a convention may reinforce norms against the flagrant misuse of drones and induce more restraint in their use than might otherwise be seen. Similarly, a UN investigatory body on drones would help to hold states accountable for their use of drones and begin to build a gradual consensus on the types of activities for which drones can, and cannot, be used.159 As the progenitor and leading user of drone technology, the US now has an opportunity to show leadership in developing an international legal architecture which might avert some of the worst consequences of their use.¶ If the US fails to take these steps, its unchecked pursuit of drone technology will have serious consequences for its image and global position. Much of American counterterrorism policy is premised on the notion that the narrative that sustains Al-Qaeda must be challenged and eventually broken if the terrorist threat is to subside over the long term. The use of drones does not break this narrative, but rather confirms it. It is ironic that Al-Qaeda’s image of the United States—as an all-seeing, irreconcilably hostile enemy who rains down bombs and death on innocent Muslims without a second thought—is inadvertently reinforced by a drones policy that does not bother to ask the names of its victims. Even the casual anti-Americanism common in many parts of Europe, the Middle East and Asia, much of which portrays the US as cruel, domineering and indifferent to the suffering of others, is reinforced by a drones policy which involves killing foreign citizens on an almost daily basis. A choice must be made: the US cannot rely on drones as it does now while attempting to convince others that these depictions are gross caricatures. Over time, an excessive reliance on drones will deepen the reservoirs of anti-US sentiment, embolden America’s enemies and provide other governments with a compelling public rationale to resist a US-led international order which is underwritten by sudden, blinding strikes from the sky. For the United States, preventing these outcomes is a matter of urgent importance in a world of rising powers and changing geopolitical alignments. No matter how it justifies its own use of drones as exceptional, the US is establishing precedents which others in the international system—friends and enemies, states and non-state actors—may choose to follow. Far from being a world where violence is used more carefully and discriminately, a drones-dominated world may be one where human life is cheapened because it can so easily, and so indifferently, be obliterated with the press of a button. Whether this is a world that the United States wants to create—or even live in—is an issue that demands attention from those who find it easy to shrug off the loss of life that drones inflict on others today.

#### Decline of US leadership causes global conflict

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

#### Lack of norms causes Chinese drone aggression in maritime disputes---that increases tensions

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It's now been a year since Japan's previously ruling liberal government purchased three of the Senkaku Islands to prevent a nationalist and provocative Tokyo mayor from doing so himself. The move was designed to dodge a potential crisis with China, which claims "indisputable sovereignty" over the islands it calls the Diaoyus.¶ Disregarding the Japanese government's intent, Beijing has reacted to the "nationalization" of the islands by flooding the surrounding waters and airspace with Chinese vessels in an effort to undermine Japan's de facto administration, which has persisted since the reversion of Okinawa from American control in 1971. Chinese incursions have become so frequent that the Japanese Air Self-Defense Forces (JASDF) are now scrambling jet fighters on a near-daily basis in response.¶ In the midst of this heightened tension, you could be forgiven for overlooking the news early in September that Japanese F-15s had again taken flight after Beijing graciously commemorated the one-year anniversary of Tokyo's purchase by sending an unmanned aerial vehicle (UAV) toward the islands. But this wasn't just another day at the office in the contested East China Sea: this was the first known case of a Chinese drone approaching the Senkakus.¶ Without a doubt, China's drone adventure 100-miles north of the Senkakus was significant because it aggravated already abysmal relations between Tokyo and Beijing. Japanese officials responded to the incident by suggesting that Japan might have to place government personnel on the islands, a red line for Beijing that would have been unthinkable prior to the past few years of Chinese assertiveness.¶ But there's a much bigger and more pernicious cycle in motion. The introduction of indigenous drones into Asia's strategic environment -- now made official by China's maiden unmanned provocation -- will bring with it additional sources of instability and escalation to the fiercely contested South and East China Seas. Even though no government in the region wants to participate in major power war, there is widespread and growing concern that military conflict could result from a minor incident that spirals out of control.¶ Unmanned systems could be just this trigger. They are less costly to produce and operate than their manned counterparts, meaning that we're likely to see more crowded skies and seas in the years ahead. UAVs also tend to encourage greater risk-taking, given that a pilot's life is not at risk. But being unmanned has its dangers: any number of software or communications failures could lead a mission awry. Combine all that with inexperienced operators and you have a perfect recipe for a mistake or miscalculation in an already tense strategic environment. ¶ The underlying problem is not just the drones themselves. Asia is in the midst of transitioning to a new warfighting regime with serious escalatory potential. China's military modernization is designed to deny adversaries freedom of maneuver over, on, and under the East and South China Seas. Although China argues that its strategy is primarily defensive, the capabilities it is choosing to acquire to create a "defensive" perimeter -- long-range ballistic and cruise missiles, aircraft carriers, submarines -- are acutely offensive in nature. During a serious crisis when tensions are high, China would have powerful incentives to use these capabilities, particularly missiles, before they were targeted by the United States or another adversary. The problem is that U.S. military plans and posture have the potential to be equally escalatory, as they would reportedly aim to "blind" an adversary -- disrupting or destroying command and control nodes at the beginning of a conflict.¶ At the same time, the increasingly unstable balance of military power in the Pacific is exacerbated by the (re)emergence of other regional actors with their own advanced military capabilities. Countries that have the ability and resources to embark on rapid modernization campaigns (e.g., Japan, South Korea, Indonesia) are well on the way. This means that in addition to two great powers vying for military advantage, the region features an increasingly complex set of overlapping military-technical competitions that are accelerating tensions, adding to uncertainty and undermining stability.¶ This dangerous military dynamic will only get worse as more disruptive military technologies appear, including the rapid diffusion of unmanned and increasingly autonomous aerial and submersible vehicles coupled with increasingly effective offensive cyberspace capabilities.¶ Of particular concern is not only the novelty of these new technologies, but the lack of well-established norms for their use in conflict.¶ Thankfully, the first interaction between a Chinese UAV and manned Japanese fighters passed without major incident. But it did raise serious questions that neither nation has likely considered in detail. What will constrain China's UAV incursions from becoming increasingly assertive and provocative? How will either nation respond in a scenario where an adversary downs a UAV? And what happens politically when a drone invariably falls out of the sky or "drifts off course" with both sides pointing fingers at one another? Of most concern, how would these matters be addressed during a crisis, with no precedents, in the context of a regional military regime in which actors have powerful incentives to strike first?¶ These are not just theoretical questions: Japan's Defense Ministry is reportedly looking into options for shooting down any unmanned drones that enter its territorial airspace.¶ Resolving these issues in a fraught strategic environment between two potential adversaries is difficult enough; the United States and China remain at loggerheads about U.S. Sensitive Reconnaissance Operations along China's periphery. But the problem is multiplying rapidly. The Chinese are running one of the most significant UAV programs in the world, a program that includes Reaper- style UAVs and Unmanned Combat Aerial Vehicles (UCAVs); Japan is seeking to acquire Global Hawks; the Republic of Korea is acquiring Global Hawks while also building their own indigenous UAV capabilities; Taiwan is choosing to develop indigenous UAVs instead of importing from abroad; Indonesia is seeking to build a UAV squadron; and Vietnam is planning to build an entire UAV factory.¶ One could take solace in Asia's ability to manage these gnarly sources of insecurity if the region had demonstrated similar competencies elsewhere. But nothing could be further from the case. It has now been more than a decade since the Association of Southeast Asian Nations (ASEAN) and China signed a declaration "to promote a peaceful, friendly and harmonious environment in the South China Sea," which was meant to be a precursor to a code of conduct for managing potential incidents, accidents, and crises at sea. But the parties are as far apart as ever, and that's on well-trodden issues of maritime security with decades of legal and operational precedent to build upon.¶ It's hard to be optimistic that the region will do better in an unmanned domain in which governments and militaries have little experience and where there remains a dearth of international norms, rules, and institutions from which to draw.¶ The rapid diffusion of advanced military technology is not a future trend. These capabilities are being fielded -- right now -- in perhaps the most geopolitically dangerous area in the world, over (and soon under) the contested seas of East and Southeast Asia. These risks will only increase with time as more disruptive capabilities emerge. In the absence of political leadership, these technologies could very well lead the region into war.

#### Causes US-Sino nuclear war

Max Fisher 11, foreign affairs writer and editor for the Atlantic, MA in security studies from Johns Hopkins, Oct 31 2011, “5 Most Likely Ways the U.S. and China Could Spark Accidental Nuclear War,” http://www.theatlantic.com/international/archive/2011/10/5-most-likely-ways-the-us-and-china-could-spark-accidental-nuclear-war/247616

Neither the U.S. nor China has any interest in any kind of war with one other, nuclear or non-nuclear. The greater risk is an accident. Here's how it would happen. First, an unforeseen event that sparks a small conflict or threat of conflict. Second, a rapid escalation that moves too fast for either side to defuse. And, third, a mutual misunderstanding of one another's intentions.¶ This three-part process can move so quickly that the best way to avert a nuclear war is for both sides to have absolute confidence that they understand when the other will and will not use a nuclear weapon. Without this, U.S. and Chinese policy-makers would have to guess -- perhaps with only a few minutes -- if and when the other side would go nuclear. This is especially scary because both sides have good reason to err on the side of assuming nuclear war. If you think there's a 50-50 chance that someone is about to lob a nuclear bomb at you, your incentive is to launch a preventative strike, just to be safe. This is especially true because you know the other side is thinking the exact same thing. In fact, even if you think the other side probably won't launch an ICBM your way, they actually might if they fear that you're misreading their intentions or if they fear that you might over-react; this means they have a greater incentive to launch a preemptive strike, which means that you have a greater incentive to launch a preemptive strike, in turn raising their incentives, and on and on until one tiny kernel of doubt can lead to a full-fledged war that nobody wants.¶ The U.S. and the Soviet Union faced similar problems, with one important difference: speed. During the first decades of the Cold War, nuclear bombs had to be delivered by sluggish bombers that could take hours to reach their targets and be recalled at any time. Escalation was much slower and the risks of it spiraling out of control were much lower. By the time that both countries developed the ICBMs that made global annihilation something that could happen within a matter of minutes, they'd also had a generation to sort out an extremely clear understanding of one another's nuclear policies. But the U.S. and China have no such luxury -- we inherited a world where total mutual destruction can happen as quickly as the time it takes to turn a key and push a button.¶ The U.S. has the world's second-largest nuclear arsenal with around 5,000 warheads (first-ranked Russia has more warheads but less capability for flinging them around the globe); China has only about 200, so the danger of accidental war would seem to disproportionately threaten China. But the greatest risk is probably to the states on China's periphery. The borders of East Asia are still not entirely settled; there are a number of small, disputed territories, many of them bordering China. But the biggest potential conflict points are on water: disputed naval borders, disputed islands, disputed shipping lanes, and disputed underwater energy reserves. These regional disputes have already led to a handful of small-scale naval skirmishes and diplomatic stand-offs. It's not difficult to foresee one of them spiraling out of control. But what if the country squaring off with China happens to have a defense treaty with the U.S.?¶ There's a near-infinite number of small-scale conflicts that could come up between the U.S. and China, and though none of them should escalate any higher than a few tough words between diplomats, it's the unpredictable events that are the most dangerous. In 1983 alone, the U.S. and Soviet Union almost went to war twice over bizarre and unforeseeable events. In September, the Soviet Union shot down a Korean airliner it mistook for a spy plane; first Soviet officials feared the U.S. had manufactured the incident as an excuse to start a war, then they refused to admit their error, nearly pushing the U.S. to actually start war. Two months later, Soviet spies misread an elaborate U.S. wargame (which the U.S. had unwisely kept secret) as preparations for an unannounced nuclear hit on Moscow, nearly leading them to launch a preemptive strike. In both cases, one of the things that ultimately diverted disaster was the fact that both sides clearly understood the others' red lines -- as long as they didn't cross them, they could remain confident there would be no nuclear war.¶ But the U.S. and China have not yet clarified their red lines for nuclear strikes. The kinds of bizarre, freak accidents that the U.S. and Soviet Union barely survived in 1983 might well bring today's two Pacific powers into conflict -- unless, of course, they can clarify their rules. Of the many ways that the U.S. and China could stumble into the nightmare scenario that neither wants, here are five of the most likely. Any one of these appears to be extremely unlikely in today's world. But that -- like the Soviet mishaps of the 1980s -- is exactly what makes them so dangerous.

### Plan

#### The United States Federal Government should limit the President's war powers authority to assert, on behalf of the United States, immunity from judicial review by establishing a cause of action allowing civil suits brought against the United States by those unlawfully injured by targeted killing operations, their heirs, or their estates in security cleared legal proceedings.

### Solvency

#### The plan establishes legal norms and ensures compliance with the laws of war

Jonathan Hafetz 13, Associate Prof of Law at Seton Hall University Law School, former Senior Staff Attorney at the ACLU, served on legal teams in multiple Supreme Court cases regarding national security, “Reviewing Drones,” 3/8/2013, http://www.huffingtonpost.com/jonathan-hafetz/reviewing-drones\_b\_2815671.html

The better course is to ensure meaningful review after the fact. To this end, Congress should authorize federal damages suits by the immediate family members of individuals killed in drone strikes.¶ Such ex post review would serve two main functions: providing judicial scrutiny of the underlying legal basis for targeted killings and affording victims a remedy. It would also give judges more leeway to evaluate the facts without fear that an error on their part might leave a dangerous terrorist at large.¶ For review to be meaningful, judges must not be restricted to deciding whether there is enough evidence in a particular case, as they would likely be under a FISA model. They must also be able to examine the government's legal arguments and, to paraphrase the great Supreme Court chief justice John Marshall, "to say what the law is" on targeted killings.¶ Judicial review through a civil action can achieve that goal. It can thus help resolve the difficult questions raised by the Justice Department white paper, including the permissible scope of the armed conflict with al Qaeda and the legality of the government's broad definition of an "imminent" threat.¶ Judges must also be able to afford a remedy to victims. Mistakes happen and, as a recent report by Columbia Law School and the Center for Civilians in Conflict suggests, they happen more than the U.S. government wants to acknowledge.¶ Errors are not merely devastating for family members and their communities. They also increase radicalization in the affected region and beyond. Drone strikes -- if unchecked -- could ultimately create more terrorists than they eliminate.¶ Courts should thus be able to review lethal strikes to determine whether they are consistent with the Constitution and with the 2001 Authorization for Use of Military Force, which requires that such uses of force be consistent with the international laws of war. If a drone strike satisfies these requirements, the suit should be dismissed.

#### Cause of action creates a deterrent effect that makes officials think twice about drones---drawbacks of judicial review don’t apply

Stephen I. Vladeck 13, Professor of Law and Associate Dean for Scholarship at American University Washington College of Law, senior editor of the peer-reviewed Journal of National Security Law and Policy, Supreme Court Fellow at the Constitution Project, and fellow at the Center on National Security at Fordham University School of Law, JD from Yale Law School, Feb 27 2013, “DRONES AND THE WAR ON TERROR: WHEN CAN THE U.S.TARGET ALLEGED AMERICAN TERRORISTS OVERSEAS?” Hearing Before the House Committee on the Judiciary, http://www.lawfareblog.com/wp-content/uploads/2013/02/Vladeck-02272013.pdf

At first blush, it may seem like many of these issues would be equally salient in the context of after-the-fact damages suits. But as long as such a regime was designed carefully and conscientiously, I believe that virtually all of these concerns could be mitigated. ¶ For starters, retrospective review doesn’t raise anywhere near the same concerns with regard to adversity or judicial competence. With respect to adversity, presumably those who are targeted in an individual strike could be represented as plaintiffs in a post-hoc proceeding, whether through their next friend or their heirs. And as long as they could state a viable claim for relief, it’s difficult to see any pure Article III problem with such a suit for retrospective relief.¶ As for competence, judges routinely review whether government officers acted in lawful self-defense under exigent circumstances (this is exactly what the Supreme Court’s 1985 decision in Tennessee v. Garner20 contemplates, after all). And if the Guantánamo litigation of the past five years has shown nothing else, it demonstrates that judges are also more than competent to resolve not just whether individual terrorism suspects are who the government says they are (and thus members of al Qaeda or one of its affiliates), but to do so using highly classified information in a manner that balances—albeit not always ideally—the government’s interest in secrecy with the detainee’s ability to contest the evidence against him.21 Just as Guantánamo detainees are represented in their habeas proceedings by security-cleared counsel who must comply with court-imposed protective orders and security procedures,22 so too, the subjects of targeted killing operations could have their estates represented by security-cleared counsel, who would be in a far better position to challenge the government’s evidence and to offer potentially exculpatory evidence / arguments of their own. And although the Guantánamo procedures have been developed by courts on an ad hoc basis (a process that has itself been criticized by some jurists), 23 Congress might also look to provisions it enacted in 1996 in creating the little-known Alien Terrorist Removal Court, especially 8 U.S.C. § 1534,24 as a model for such proceedings. ¶ More to the point, it should also follow that courts would be far more able as a practical matter to review the relevant questions in these cases after the fact. Although the pure membership question can probably be decided in the abstract, it should stand to reason that the imminence and infeasibility-of-capture issues will be much easier to assess in hindsight—removed from the pressures of the moment and with the benefit of the dispassionate distance that judicial review provides. To similar effect, whether the government used excessive force in relation to the object of the attack is also something that can only reasonably be assessed post hoc.¶ In addition to the substantive questions, it will also be much easier for courts to review the government’s own internal procedures after they are employed, especially if the government itself is already conducting after-action reviews that could be made part of the (classified) record in such cases. Indeed, the government’s own analysis could, in many cases, go a long way toward proving the lawfulness vel non of an individual strike.¶ As I mentioned before, there would still be a host of legal doctrines that would likely get in the way of such suits. Just to name a few, there is the present (albeit, in my view, unjustified) hostility to judicially inferred causes of actions under Bivens; the state secrets privilege;and sovereign and official immunity doctrines. But I am a firm believer that, except where the President himself is concerned (where there’s a stronger argument that immunity is constitutionally grounded),25 each of these concerns can be overcome by statute—as at least some of them arguably have been in the context of the express damages actions provided for under FISA. 26 So long as Congress creates an express cause of action for nominal damages, and so long as the statute both (1) expressly overrides state secrets and immunity doctrines; and (2) replaces them with carefully considered procedures for balancing the secrecy concerns that would arise in many—if not most—of these cases, these legal issues would be vitiated. Moreover, any concerns about exposing to liability government officers who acted in good faith and within the scope of their employment can be ameliorated by following the model of the Westfall Act, and substituting the United States as the proper defendant in any suit arising out of such an operation.27¶ Perhaps counterintuitively, I also believe that after-the-fact judicial review wouldn’t raise anywhere near the same prudential concerns as those noted above. Leaving aside how much less pressure judges would be under in such cases, it’s also generally true that damages regimes don’t have nearly the same validating effect on government action that ex ante approval does. Otherwise, one would expect to have seen a dramatic upsurge in lethal actions by law enforcement officers after each judicial decision refusing to impose individual liability arising out of a prior use of deadly force. So far as I know, no such evidence exists.¶ Of course, damages actions aren’t a perfect solution here. It’s obvious, but should be said anyway, that in a case in which the government does act unlawfully, no amount of damages will make the victim (or his heirs) whole. It’s also inevitable that, like much of the Guantánamo litigation, most of these suits would be resolved under extraordinary secrecy, and so there would be far less public accountability for targeted killings than, ideally, we might want. Some might also object to this proposal as being unnecessary—that, given existing criminal laws and executive orders, there is already a sufficiently clear prohibition on unlawful strikes to render any such damages regime unnecessarily superfluous. ¶ At least as to this last objection, it bears emphasizing that the existing laws depend entirely upon the beneficence of the Executive Branch, since they assume both that the government will (1) willfully disclose details of unlawful operations rather than cover them up; and (2) prosecute its own in cases in which they cross the line. Given both prior practice and unconfirmed contemporary reports of targeted killing operations that appear to raise serious legality issues, such as “signature strikes,” it doesn’t seem too much of a stretch to doubt that these remedies will prove sufficient.¶ In addition, there are two enormous upsides to damages actions that, in my mind, make them a least-worst solution—even if they are deeply, fundamentally flawed:¶ First, if nothing else, the specter of damages, even nominal damages, should have a deterrent effect on future government officers, such that, if a targeted killing operation ever was carried out in a way that violated the relevant legal rules, there would be liability—and, as importantly, precedent—such that the next government official in a similar context might think twice, and might make sure that he’s that much more convinced that the individual in question is who the government claims, and that there’s no alternative to the use of lethal force. Second, at least where the targets of such force are U.S. citizens, I believe that there is a non-frivolous argument that the Constitution may even compel at least some form of judicial process. 28 Compared to the alternatives, nominal damages actions litigated under carefully circumscribed rules of secrecy may be the only way to balance all of the relevant private, government, and legal interests at stake in such cases.¶ \* \* \*¶ In his concurrence in the Supreme Court’s famous decision in the Steel Seizure case, Justice Frankfurter suggested that “The accretion of dangerous power does not come in a day. It does come, however slowly, from the generative force of unchecked disregard of the restrictions that fence in even the most disinterested assertion of authority.”¶ 29 It seems to me, Mr. Chairman, that targeted killing operations by the Executive Branch present the legislature with two realistic choices: Congress could accept with minimal scrutiny the Executive Branch’s claims that these operations are carried out lawfully and with every relevant procedural safeguard to maximize their accuracy—and thereby open the door to the “unchecked disregard” of which Justice Frankfurter warned. Or Congress could require the government to defend those assertions in individual cases before a neutral magistrate invested with the independence guaranteed by the Constitution’s salary and tenure protections. So long as the government’s interests in secrecy are adequately protected in such proceedings, and so long as these operations really are consistent with the Constitution and laws of the United States, what does the government have to hide?

#### Ex post review creates a credible signal of compliance that restrains future executives

Kwame Holman 13, congressional correspondent for PBS NewsHour; citing Rosa Brooks, Prof of Law at Georgetown University Law Center, former Counselor to the Under Secretary of Defense for Policy, former senior advisor at the US Dept of State, “Congress Begins to Weigh In On Drone Strikes Policy,” http://www.pbs.org/newshour/rundown/2013/04/congress-begins-to-weigh-in-on-drone-strikes-policy.html

While some experts have argued for court oversight of drone strikes before they're carried out, Brooks sides with those who say that would be unwieldy and unworkable.¶ Brooks says however an administration that knows its strikes could face court review after the fact -- with possible damages assessed -- would be more responsible and careful about who it strikes and why.¶ "If Congress were to create a statutory cause of action for damages for those who had been killed in abusive or mistaken drone strikes, you would have a court that would review such strikes after the fact. [That would] create a pretty good mechanism that would frankly keep the executive branch as honest as we hope it is already and as we hope it will continue to be into administrations to come," Brooks said.¶ "It would be one of the approaches that would go a very long way toward reassuring both U.S. citizens and the world more generally that our policies are in compliance with rule of law norms."

#### Only judicial oversight can credibly verify compliance with the laws of war

Avery Plaw 7, Associate Prof of Political Science at the University of Massachusetts at Dartmouth, PhD in Political Science from McGill University, “Terminating Terror: The Legality, Ethics and Effectiveness of Targeting Terrorists,” Theoria: A Journal of Social and Political Theory, No. 114, War and Terror (December 2007), pp. 1-27

To summarize, the general policy of targeting terrorists appears to be defensible in principle in terms of legality, morality and effectiveness. However, some specific targetings have been indefensible and should be prevented from recurring. Critics focus on the indefensible cases and insist that these are best prevented by condemning the general policy. States which target terrorists and their defenders have insisted that self-defense provides a blanket justification for targeting operations. The result has been a stalemate over terrorist targeting harmful to both the prosecution of the war on terror and the credibility of international law. Yet neither advocates nor critics of targeting appear to have a viable strategy for resolving the impasse. A final issue which urgently demands attention, therefore, is whether there are any plausible prospects for a coherent and principled political compromise over the issue of targeting terrorists.¶ Conclusion: the Possibility of Principled Compromise ¶ This final section offers a brief case that there is room for a principled compromise between critics and advocates of targeting terrorists. The argument is by example—a short illustration of one promising possibility. It will not satisfy everyone, but I suggest that it has the potential to resolve the most compelling concerns on both sides.¶ The most telling issues raised by critics of targeting fall into three categories: (1) the imperative need to establish that targets are combatants; (2) the need in attacking combatants to respect the established laws of war; and (3) the overwhelming imperative to avoid civilian casualties. The first issue seems to demand an authoritative judicial determination that could only be answered by a competent court. The second issue requires the openly avowed and consistent implementation of targeting according to standards accepted in international law—a requirement whose fulfillment would best be assured through judicial oversight. The third issue calls for independent evaluation of operations to assure that standards of civilian protection are robustly upheld, a role that could be effectively performed by a court.

## 2AC

### Authority T

#### We meet---the ability to act without judicial review is presidential authority

John C. Eastman 6, Prof of Law at Chapman University, PhD in Government from the Claremont Graduate University, served as the Director of Congressional & Public Affairs at the United States Commission on Civil Rights during the Reagan administration, “Be Very Wary of Restricting President's Power,” Feb 21 2006, http://www.claremont.org/publications/pubid.467/pub\_detail.asp]

Prof. Epstein challenges the president's claim of inherent power by noting that the word "power" does not appear in the Commander in Chief clause, but the word "command," fairly implied in the noun "Commander," is a more-than-adequate substitute for "power." Was it really necessary for the drafters of the Constitution to say that the president shall have the power to command? Moreover, Prof. Epstein ignores completely the first clause of Article II -- the Vesting clause, which provides quite clearly that "The executive Power shall be vested in a President." The relevant inquiry is whether those who ratified the Constitution understood these powers to include interception of enemy communications in time of war without the permission of a judge, and on this there is really no doubt; they clearly did, which means that Congress cannot restrict the president's authority by mere statute.¶ Prof. Epstein's own description of the Commander in Chief clause recognizes this. One of the "critical functions" performed by the clause, he notes, is that "Congress cannot circumvent the president's position as commander in chief by assigning any of his responsibilities to anyone else." Yet FISA does precisely that, assigning to the FISA court a core command authority, namely, the ability to authorize interception of enemy communications. This authority has been exercised by every wartime president since George Washington.

#### Ex post meets

ECHR 91,European Court of Human Rights, Decision in Ezelin v. France, 26 April 1991, http://www.bailii.org/eu/cases/ECHR/1991/29.html

The main question in issue concerns Article 11 (art. 11), which provides:¶ "1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.¶ 2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. ..."¶ Notwithstanding its autonomous role and particular sphere of application, Article 11 (art. 11) must, in the present case, also be considered in the light of Article 10 (art. 10) (see the Young, James and Webster judgment of 13 August 1981, Series A no. 44, p. 23, § 57). The protection of personal opinions, secured by Article 10 (art. 10), is one of the objectives of freedom of peaceful assembly as enshrined in Article 11 (art. 11).¶ A. Whether there was an interference with the exercise of the freedom of peaceful assembly¶ In the Government’s submission, Mr Ezelin had not suffered any interference with the exercise of his freedom of peaceful assembly and freedom of expression: he had been able to take part in the procession of 12 February 1983 unhindered and to express his convictions publicly, in his professional capacity and as he wished; he was reprimanded only after the event and on account of personal conduct deemed to be inconsistent with the obligations of his profession.¶ The Court does not accept this submission. The term "restrictions" in paragraph 2 of Article 11 (art. 11-2) - and of Article 10 (art. 10-2) - cannot be interpreted as not including measures - such as punitive measures - taken not before or during but after a meeting (cf. in particular, as regards Article 10 (art. 10), the Handyside judgment of 7 December 1976, Series A no. 24, p. 21, § 43, and the Müller and Others judgment of 24 May 1988, Series A no. 133, p. 19, § 28).

#### Counter-interp---restrictions means limit---includes conditions

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

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

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

#### Ground---ex ante is illegal and always loses to the ex post CP

Bloomberg 13, Bloomberg Editorial Board, Feb 18 2013, “Why a ‘Drone Court’ Won’t Work,” http://www.bloomberg.com/news/2013-02-18/why-a-drone-court-won-t-work.html

As for the balance of powers, that is where we dive into constitutional hot water. Constitutional scholars agree that the president is sworn to use his “defensive power” to protect the U.S. and its citizens from any serious threat, and nothing in the Constitution gives Congress or the judiciary a right to stay his hand. It also presents a slippery slope: If a judge can call off a drone strike, can he also nix a raid such as the one that killed Osama bin Laden? If the other branches want to scrutinize the president’s national security decisions in this way, they can only do so retrospectively.

#### Authority means LEGALITY, NOT capability---prevents affs like “defund the military”

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

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

#### “On” means there’s no limits disad

Dictionary.com, http://dictionary.reference.com/browse/on

On preposition 1.so as to be or remain supported by or suspended from: Put your package down on the table; Hang your coat on the hook. 2.so as to be attached to or unified with: Hang the picture on the wall. Paste the label on the package.

### Solvency

#### Obama won’t circumvent the plan---recent DC Circuit ruling

Joel B. Pollak 13, "Nuclear Fallout: Yucca Decision Could Affect Immigration, Obamacare", August 14, www.breitbart.com/Big-Government/2013/08/14/Nuclear-Fallout-Yucca-Decision-Affects-Immigration-Obamacare

The Obama administration suffered a setback Tuesday when the D.C. Circuit Court of Appeals ruled against it over the issue of nuclear waste storage at Yucca Mountain, Nevada, which President Barack Obama opposes. Though the ruling re-opens the issue, and provoked bipartisan backlash from Nevada Senators Harry Reid (D) and Dean Heller (R), the bigger impact is the fallout the decision may have for the White House on other issues.¶ In his decision, Judge Brett Kavanaugh, a George W. Bush appointee, held that the Obama administration and federal agencies could not ignore their statutory duty, under the Nuclear Waste Policy Act of 1983, to issue a final decision on the Yucca issue within three years. The Obama administration simply ignored that duty because of policy objections, Kavanaugh held, and therefore had failed to show the "constitutional respect owed to Congress."¶ While a President may refuse to obey a statutory mandate if he has a constitutional objection to it, or if Congress has failed to appropriate the funds necessary to carry it out, he may not do so simply because he has a different opinion: "[T]he President may not decline to follow a statutory mandate or prohibition simply because of policy objections," Kavanaugh said, referring to Article II of the Constitution and Supreme Court precedent.¶ That holding could be relevant to several other issues on which President Obama has decided to flout federal statutes. In 2012, after Congress refused to pass the "Dream Act" to ease immigration laws for illegal aliens brought to the country as children, Obama announced that he would direct federal agencies not to enforce existing immigration laws against them. That decision is already the subject of a lawsuit by ICE agents.¶ Kavanaugh noted that the Constitution protects the President's prosecutorial discretion, but that applies only to the decision to enforce a law, not the decision to follow it. The ICE agents are suing on the grounds that the new Obama administration policy goes so far that it effectively violates existing immigration law.

### Agamben K

#### No prior questions

Molly Cochran 99, Assistant Professor of International Affairs at Georgia Institute for Technology, “Normative Theory in International Relations”, 1999, pg. 272

To conclude this chapter, while modernist and postmodernist debates continue, while we are still unsure as to what we can legitimately identify as a feminist ethical/political concern, while we still are unclear about the relationship between discourse and experience, it is particularly important for feminists that we proceed with analysis of both the material (institutional and structural) as well as the discursive. This holds not only for feminists, but for all theorists oriented towards the goal of extending further moral inclusion in the present social sciences climate of epistemological uncertainty. Important ethical/political concerns hang in the balance. We cannot afford to wait for the meta-theoretical questions to be conclusively answered. Those answers may be unavailable. Nor can we wait for a credible vision of an alternative institutional order to appear before an emancipatory agenda can be kicked into gear. Nor do we have before us a chicken and egg question of which comes first: sorting out the metatheoretical issues or working out which practices contribute to a credible institutional vision. The two questions can and should be pursued together, and can be via moral imagination. Imagination can help us think beyond discursive and material conditions which limit us, by pushing the boundaries of those limitations in thought and examining what yields. In this respect, I believe international ethics as pragmatic critique can be a useful ally to feminist and normative theorists generally.

#### Congress checks on exec terror policy prevents state of exception

Mitzen 11 Dr. Jennifer, Associate Professor of Political Science at Ohio State University and Michael Newell, PhD student in Political Science at the Maxwell School of Citizenship and Public Affairs, “Crisis Authority, the War on Terror and the Future of Constitutional Democracy,” JUROS Arts & Humanities Vol. 2, http://libeas01.it.ohio-state.edu/ojs/index.php/juros/article/download/1265/1791

As Benjamin Wittes notes, the “presidential power model has failed,” and “Only Congress can ultimately write the law of this long war” (Wittes, 2008). The pursuit of terrorist policies through the exception has not resulted in clear, transparent and legally correct outcomes because the exception has been entirely controlled by “unilateral presidential actions” (Wittes, 2008). Instead, Congress “can build comprehensive legal systems and do so in the name of the political system as a whole” (Wittes, 2008). What this would entail would be a “law of terrorism” that would “at once restrain and empower the executive branch” in its actions in the War on Terror (Wittes, 2008). Simply allowing the executive to continue to unilaterally decide the fate of suspected terrorists and anti-terrorism policy will prove Agamben correct: that the American system of checks on power has been replaced with the primacy of the executive. It should then be Congress’ goal to step forward and outline the exact legal policies in the War on Terror, allowing President Obama this role will only prolong the elements of the exception that Agamben has given such dire warnings about.¶ Conclusion¶ The state of exception has been the standard response to crises for American presidents and other world leaders since the emergence of constitutional law and democratic government. Its creation and longevity as a political and legal tool should not be surprising. Constitutional democracies were not and are not designed to have laws and rules governing every potential complication that the country could face. Instead, it has been consistently argued that exceptional times require exceptional measures. The use of these measures when the public is ready and willing to accept the securitizing speech-act almost invariably lead to breaches of the law, and in Agamben’s opinion the expansion of executive authority. The War on Terror has seemingly reinforced Agamben’s argument, as the breadth and magnitude of legal issues resulting from this war have made the legal recovery extremely complicated.¶ However, some scholars suggest that the War on Terror has actually undermined the ability of the sovereign to invoke the state of exception, stating that instead:¶ In so far as it pursues this end, the effect of such commentary is to compound efforts to curtail the experience of deciding on/in the exception – efforts that are already well under way at Guantánamo Bay. For notwithstanding all the liberal heartache that they provoke, the law and legal institutions of Guantánamo Bay are working to negate the exception (Johns, 2005).¶ Johns suggests that the policies of the War on Terror are leading towards a tendency to condemn the state of exception and crisis authority. Johns bases his argument in the abundance of legal scholarship calling for “a newly fashioned emergency regime” that would “rescue the concept [of emergency power] from fascist thinkers like Carl Schmitt” (Johns, 2005). This logic would suggest that Agamben’s prediction is not coming true, that the executive will now be limited by what actions they can pursue during future crises and that the legal authority acquired by the executive during the War on Terror has been ceded back to its designated proprietors.¶ But for Johns to be proven right, it requires a change in long established habits. Citizens cannot expect the executive to singularly react to any complication the country faces. Indeed, Agamben’s warnings and the results of the War on Terror suggest that doing so will continue to produce dissatisfying results at best, immoral quagmires at worst. For democracy and constitutional governance to survive, it is the responsibility of officials and citizens alike to adapt existing legal structures to novel threats, and to not rely on executive mandate alone.

#### The state’s inevitable---reform is key

Paul A. Passavant 7, Hobart and William Smith Colleges in New York, “The Contradictory State of Giorgio Agamben”, Political Theory Volume 35, Number 2, April, SAGE

Third, any social formation is constituted by elements of both contingency and determination. By emphasizing pure potentiality, Agamben misses this and either cherishes the excessive quality of pure potentiality to the neglect of the exigent needs of the present, or neglects how the active political subjects he does defend are embedded within finite commitments that necessarily persevere through the foreclosure of other possibilities. Some contemporary political theorists concerned with injustice and the lack of democracy also emphasize contingency, excess, and potentiality over determination, finitude, and acts.49 These theorists correctly seek to disrupt oppressive patterns. Since politics-hence political change-would not be possible under conditions of absolute determination, emphasizing contingency or excess makes sense. Yet reflection upon the retraction of certain state services from places like the Bronx during the late 1970s per mits us to see how neither justice nor democracy is served by excessive eco nomic duress or violence. Not only are these contingencies unjust, but also their incapacitating effects prevent democratic practices of government where the latter necessarily presupposes some collective capacity to direct and achieve collective purposes. State actions that mitigate chaos, economic inequality, and violence, then, potentially contribute to the improved justice of outcomes and democracy. Political theorists must temper celebrating contingency with a simultaneous consideration of the complicated relation that determination has to democratic purposes.50 ¶ Fourth, the state's institutions are among the few with the capacity to respond to the exigency of human needs identified by political theorists. These actions will necessarily be finite and less than wholly adequate, but responsibility may lie on the side of acknowledging these limitations and seeking to redress what is lacking in state action rather than calling for pure potentiality and an end to the state. We may conclude that claims to justice or democracy based on the wish to rid ourselves of the state once and for all are like George W. Bush claiming to be an environmentalist because he has proposed converting all of our cars so that they will run on hydrogen.5" Meanwhile, in the here and now, there are urgent claims that demand finite acts that by definition will be both divisive and less than what a situation demands.52 In the end, the state remains. Let us defend this state of due process and equal protection against its ruinous other.

#### Alt fails

Robert Sinnerbrink 5, Professor of Philosophy at Macquarie University, Critical Horizons, Vol. 6, No. 1, p. 258-259

Foucault and Agamben leave us with a stark alternative: either to take the ethical turn towards practices of freedom compatible with neo-liberalist governmentality, or accelerate biopolitical nihilism in the hope that a messianic overcoming of the breach between bare life and sovereign power will institute a redeemed human community. In short, affirm pragmatic practices of ethical self-formation, or prepare for the messianic overcoming of biopolitical domination. These alternatives, however, seem partial and inadequate. Foucault’s turn to ethics and liberalism underplays the political urgency of confronting societies of biopolitical control; this is a point not lost on Deleuze and taken up by Hardt and Negri in their neo-Marxist version of biopolitical production.70 Agamben’s despairing account of biopolitical nihilism, on the other hand, overemphasises the ontological ‘sameness’ of biopower regimes, and retreats from concrete politics into a metaphysical messianism prophetically gesturing towards a utopian community to come. What my brief genealogy of biopower and biopolitics suggests, then, is the need to find a path between these alternatives. We should retain the Foucaultian emphasis on a critical analysis of biopower without acquiescing to an ethical accommodation with neo-liberalism. And we ought to affirm Agamben’s profound questioning of the biopolitical foundations of modernity without succumbing to a utopian metaphysical messianism. We also need to question the Heideggerian metaphysical critique of modernity that has profoundly marked both Foucaultian and Agambenian conceptions of biopower and biopolitics. Finally, this genealogy suggests the need to restore the experience of injustice, the suffering of human beings, to any philosophical account of biopolitics, and to articulate political responses to biopower that go beyond ethical acquiescence and metaphysical longing.

#### Democracy checks biopower impact

Edward Ross Dickinson 4, Associate Professor, History Ph.D., U.C. Berkeley, Central European History, Vol. 37 No. 1, p. 34-36

And it is, of course, embedded in a broader discursive complex (institutions, professions, fields of social, medical, and psychological expertise) that pursues these same aims in often even more effective and inescapable ways.89 In short, the continuities between early twentieth-century biopolitical discourse and the practices of the welfare state in our own time are unmistakable.¶ Both are instances of the “disciplinary society” and of biopolitical, regulatory, social-engineering modernity, and they share that genealogy with more authoritarian states, including the National Socialist state, but also fascist Italy, for example. And it is certainly fruitful to view them from this very broad perspective. But that analysis can easily become superficial and misleading, because it obfuscates the profoundly different strategic and local dynamics of power in the two kinds of regimes. Clearly the democratic welfare state is not only formally but also substantively quite different from totalitarianism. Above all, again, it has nowhere developed the fateful, radicalizing dynamic that characterized National Socialism (or for that matter Stalinism), the psychotic logic that leads from economistic population management to mass murder. Again, there is always the potential for such a discursive regime to generate coercive policies.¶ In those cases in which the regime of rights does not successfully produce “health,” such a system can —and historically does— create compulsory programs to enforce it. But again, there are political and policy potentials and constraints in such a structuring of biopolitics that are very different from those of National Socialist Germany. Democratic biopolitical regimes require, enable, and incite a degree of self-direction and participation that is functionally incompatible with authoritarian or totalitarian structures. And this pursuit of biopolitical ends through a regime of democratic citizenship does appear, historically, to have imposed increasingly narrow limits on coercive policies, and to have generated a “logic” or imperative of increasing liberalization. Despite limitations imposed by political context and the slow pace of discursive change, I think this is the unmistakable message of the really very impressive waves of legislative and welfare reforms in the 1920s or the 1970s in Germany.90¶ Of course it is not yet clear whether this is an irreversible dynamic of such systems. Nevertheless, such regimes are characterized by sufficient degrees of autonomy (and of the potential for its expansion) for sufficient numbers of people that I think it becomes useful to conceive of them as productive of a strategic configuration of power relations that might fruitfully be analyzed as a condition of “liberty,” just as much as they are productive of constraint, oppression, or manipulation. At the very least, totalitarianism cannot be the sole orientation point for our understanding of biopolitics, the only end point of the logic of social engineering. ¶ This notion is not at all at odds with the core of Foucauldian (and Peukertian) theory. Democratic welfare states are regimes of power/knowledge no less than early twentieth-century totalitarian states; these systems are not “opposites,” in the sense that they are two alternative ways of organizing the same thing. But they are two very different ways of organizing it. The concept “power” should not be read as a universal stifling night of oppression, manipulation, and entrapment, in which all political and social orders are grey, are essentially or effectively “the same.” Power is a set of social relations, in which individuals and groups have varying degrees of autonomy and effective subjectivity. And discourse is, as Foucault argued, “tactically polyvalent.” Discursive elements (like the various elements of biopolitics) can be combined in different ways to form parts of quite different strategies (like totalitarianism or the democratic welfare state); they cannot be assigned to one place in a structure, but rather circulate. The varying possible constellations of power in modern societies create “multiple modernities,” modern societies with quite radically differing potentials.91

#### Agamben’s state of exception erases politics---destroys alt’s efficacy

Jef Huysmans 8, Professor of Security Studies at The Open University UK, "The Jargon of Exception—On Schmitt, Agamben and the Absence of Political Society", International Political Sociology (2008) 2, 165-183, bigo.zgeist.org/students/readings/huysmansjargonexceptionIPS.pdf

Deploying the jargon of exception and especially Agamben’s conception of the exception-being-the-rule for reconfiguring conceptions of politics in a biopolitical age comes at a serious cost, though. It inserts both a diagnosis of our time and a conceptual apparatus for rethinking politics that has no place for the category that has been central to the modern democratic tradition: the political significance of people as a multiplicity of social relations that condition politics and that are constituted by the mediations of various objectified forms and processes (for example, scientific knowledge, technologies, property relations, legal institutions...).¶ Even if one would argue that Agamben’s framing of the current political conditions are valuable for understanding important changes that have taken place in the twentieth century and that are continuing in the twenty first, they also are to a considerable extent depoliticizing. Agamben’s work tends to guide the analysis to unmediated, factual life. For example, some draw on Agamben to highlight the importance of bodily strategies of resistance. One of the key examples is individual refugees protesting against their detention by sewing up lips and eyes. They exemplify how individualized naked life resists by deploying their bodily, biological condition against sovereign biopolitical powers (for example, Edkins and Pin-Fat 2004:15–17). I follow Adorno and others, however, that such a conception of bodily, naked life is not political. It ignores how this life only exists and takes on political form through various socioeconomic, technological, scientific, legal, and other mediations. For example, the images of the sewed-up eye- lids and lips of the individualized and biologized refugees have no political significance without being mediated by public media, intense mobilizations on refugee and asylum questions, contestations of human rights in the courts, etc. It is these mediations that are the object and structuring devices of political struggle. Reading the politics of exception as the central lens onto modern con- ceptions of politics, as both Agamben and Schmitt do, erases from the concept of politics a rich and constitutive history of sociopolitical struggles, traditions of thought linked to this history, and key sites and temporalities of politics as well as the central processes through which individualized bodily resistances gain their sociopolitical significance.

**No global war impact**

David **Chandler 9**, Professor of International Relations at the Department of Politics and International Relations, University of Westminster, War Without End(s): Grounding the Discourse of `Global War', Security Dialogue 2009; 40; 243

Western governments appear to portray some of the distinctive characteristics that Schmitt attributed to ‘motorized partisans’, in that the shift from narrowly strategic concepts of security to more abstract concerns reflects the fact that Western states have tended to fight free-floating and non-strategic wars of aggression without real enemies at the same time as professing to have the highest values and the absolute enmity that accompanies these. The government policy documents and critical frameworks of ‘global war’ have been so accepted that it is assumed that it is the strategic interests of Western actors that lie behind the often irrational policy responses, with ‘global war’ thereby being understood as merely the extension of instrumental struggles for control. This perspective seems unable to contemplate the possibility that it is the lack of a strategic desire for control that drives and defines ‘global’ war today. ¶ Very few studies of the ‘war on terror’ start from a study of the Western actors themselves rather than from their declarations of intent with regard to the international sphere itself. This methodological framing inevitably makes assumptions about strategic interactions and grounded interests of domestic or international regulation and control, which are then revealed to explain the proliferation of enemies and the abstract and metaphysical discourse of the ‘war on terror’ (Chandler, 2009a). For its radical critics, the abstract, global discourse merely reveals the global intent of the hegemonizing designs of biopower or neoliberal empire, as critiques of liberal projections of power are ‘scaled up’ from the international to the global.¶ Radical critics working within a broadly Foucauldian problematic have no problem grounding global war in the needs of neoliberal or biopolitical governance or US hegemonic designs. These critics have produced numerous frameworks, which seek to assert that global war is somehow inevitable, based on their view of the needs of late capitalism, late modernity, neoliberalism or biopolitical frameworks of rule or domination. From the declarations of global war and practices of military intervention, rationality, instrumentality and strategic interests are read in a variety of ways (Chandler, 2007). Global war is taken very much on its own terms, with the declarations of Western governments explaining and giving power to radical abstract theories of the global power and regulatory might of the new global order of domination, hegemony or empire¶ The alternative reading of ‘global war’ rendered here seeks to clarify that the declarations of global war are a sign of the lack of political stakes and strategic structuring of the international sphere rather than frameworks for asserting global domination. We increasingly see Western diplomatic and military interventions presented as justified on the basis of value-based declarations, rather than in traditional terms of interest-based outcomes. This was as apparent in the wars of humanitarian intervention in Bosnia, Somalia and Kosovo – where there was no clarity of objectives and therefore little possibility of strategic planning in terms of the military intervention or the post-conflict political outcomes – as it is in the ‘war on terror’ campaigns, still ongoing, in Afghanistan and Iraq. ¶ There would appear to be a direct relationship between the lack of strategic clarity shaping and structuring interventions and the lack of political stakes involved in their outcome. In fact, the globalization of security discourses seems to reflect the lack of political stakes rather than the urgency of the security threat or of the intervention. Since the end of the Cold War, the central problematic could well be grasped as one of withdrawal and the emptying of contestation from the international sphere rather than as intervention and the contestation for control. The disengagement of the USA and Russia from sub-Saharan Africa and the Balkans forms the backdrop to the policy debates about sharing responsibility for stability and the management of failed or failing states (see, for example, Deng et al., 1996). It is the lack of political stakes in the international sphere that has meant that the latter has become more open to ad hoc and arbitrary interventions as states and international institutions use the lack of strategic imperatives to construct their own meaning through intervention. As Zaki Laïdi (1998: 95) explains:¶ war is not waged necessarily to achieve predefined objectives, and it is in waging war that the motivation needed to continue it is found. In these cases – of which there are very many – war is no longer a continuation of politics by other means, as in Clausewitz’s classic model – but sometimes the initial expression of forms of activity or organization in search of meaning. . . . War becomes not the ultimate means to achieve an objective, but the most ‘efficient’ way of finding one. ¶ The lack of political stakes in the international sphere would appear to be the precondition for the globalization of security discourses and the ad hoc and often arbitrary decisions to go to ‘war’. In this sense, global wars reflect the fact that the international sphere has been reduced to little more than a vanity mirror for globalized actors who are freed from strategic necessities and whose concerns are no longer structured in the form of political struggles against ‘real enemies’. The mainstream critical approaches to global wars, with their heavy reliance on recycling the work of Foucault, Schmitt and Agamben, appear to invert this reality, portraying the use of military firepower and the implosion of international law as a product of the high stakes involved in global struggle, rather than the lack of clear contestation involving the strategic accommodation of diverse powers and interests.

#### Aff reclaims agency

Kelly Michael Young 13, Associate Professor of Communication and Director of Forensics at Wayne State University, "Why Should We Debate About Restriction of Presidential War Powers", 9/4, public.cedadebate.org/node/13

Beyond its obviously timeliness, we believed debating about presidential war powers was important because of the stakes involved in the controversy. Since the Korean War, scholars and pundits have grown increasingly alarmed by the growing scope and techniques of presidential war making. In 1973, in the wake of Vietnam, Congress passed the joint War Powers Resolution (WPR) to increase Congress’s role in foreign policy and war making by requiring executive consultation with Congress prior to the use of military force, reporting within 48 hours after the start of hostiles, and requiring the close of military operations after 60 days unless Congress has authorized the use of force. Although the WPR was a significant legislative feat, 30 years since its passage, presidents have frequently ignores the WPR requirements and the changing nature of conflict does not fit neatly into these regulations. After the terrorist attacks on 9-11, many experts worry that executive war powers have expanded far beyond healthy limits. Consequently, there is a fear that continued expansion of these powers will undermine the constitutional system of checks and balances that maintain the democratic foundation of this country and risk constant and unlimited military actions, particularly in what Stephen Griffin refers to as a “long war” period like the War on Terror (http://www.hup.harvard.edu/catalog.php?isbn=9780674058286). In comparison, pro-presidential powers advocates contend that new restrictions undermine flexibility and timely decision-making necessary to effectively counter contemporary national security risks. Thus, a debate about presidential wars powers is important to investigate a number of issues that have serious consequences on the status of democratic checks and national security of the United States.¶ Lastly, debating presidential war powers is important because we the people have an important role in affecting the use of presidential war powers. As many legal scholars contend, regardless of the status of legal structures to check the presidency, an important political restrain on presidential war powers is the presence of a well-informed and educated public. As Justice Potter Stewart explains, “the only effective restraint upon executive policy and power…may lie in an enlightened citizenry – in an informed and critical public opinion which alone can protect the values of a democratic government” (http://www.law.cornell.edu/supct/html/historics/USSC\_CR\_0403\_0713\_ZC3.html). As a result, this is not simply an academic debate about institutions and powers that that do not affect us. As the numerous recent foreign policy scandals make clear, anyone who uses a cell-phone or the internet is potential affected by unchecked presidential war powers. Even if we agree that these powers are justified, it is important that today’s college students understand and appreciate the scope and consequences of presidential war powers, as these students’ opinions will stand as an important potential check on the presidency.

### Transparency CP

#### No accountability

Gregory McNeal 13, professor of national security law at Pepperdine University's School of Law, Mar 31 2013, “How A 'Drone Court' Might Work,” interview with Rachel Martin at NPR, http://www.npr.org/2013/03/31/175829140/how-a-drone-court-might-work

MARTIN: So, let's walk through another option that you outline. It would be a court modeled after what are called FISA courts. These are the courts formed out of the Foreign Intelligence Surveillance Act, essentially a secret group of judges who can hear very highly classified cases and decide, for example, whether or not the government can open a wiretap or otherwise monitor a person of interest.

MCNEAL: This category of before-the-fact review, I think, is much more difficult. First, it's problematic because a court doesn't have competence in this, which is sometimes OK because a court can call forth experts. But what experts exist in commander in chief targeting? People in the military and people in the intelligence community. And so you'd have a court that I think oftentimes would defer to the experts that the executive branch brought forth. And soon you'll have a situation where if a strike goes bad, the commander in chief could say, well, hey, the court signed off on it. It's not my fault. And if a strike doesn't occur, the court denied the strike against that person and then they end up doing the second Christmas Day bombing plot but they actually succeed, the president can wipe his hands of it and say, hey, look, not my fault, we tried and the court said no.

#### Links to disad

Omar S. Bashir 12, Ph.D. candidate in the Department of Politics at Princeton University and a graduate of the Department of Aeronautics and Astronautics at MIT, 9/24/12, "Who Watches the Drones?" Foreign Affairs,www.foreignaffairs.com/articles/138141/omar-s-bashir/who-watches-the-drones

First, imagine that the government opted for full transparency in its drone programs. That would certainly make the government more accountable, with no special oversight system needed. Officials would release all the necessary information for citizens to assess the ethics of the programs themselves. This would include answers to such questions as: What crimes have targeted individuals allegedly committed? What threats do they pose? Who else might be harmed in a drone attack? How feasible are non-lethal options such as capture? In practice, though, full transparency is neither morally nor strategically ideal. For one, the government has a duty to protect its civilian informants, so there is risk in revealing the government's sources of information. And potential targets could adjust their behaviors were capture proposals to be debated openly. That would make it all the more difficult for the government to use non-lethal options to round up suspects. ¶ So how much transparency is enough? How can citizens know that the state is not overselling the sensitivity of details that it chooses to withhold? This central dilemma has not been resolved. Well-intentioned legal efforts undertaken by the ACLU and others to force openness about the drone program have only led the government to dig in its heels. It refuses to formally declassify even widely known facets of its operations, let alone release new details. The refusal is absurd on the surface, but it fits into an understandable strategy. Washington does not believe that limited declassifications would appease drone skeptics. As Jack Goldsmith, the Harvard law professor, has explained, Washington fears a slippery slope toward full transparency in the courts that might render one of its most potent counterterrorism weapons unusable.

#### Not credible---external oversight key

Jack Goldsmith 13, Henry L. Shattuck Professor at Harvard Law School, May 1 2013, “How Obama Undermined the War on Terror,” <http://www.newrepublic.com/article/112964/obamas-secrecy-destroying-american-support-counterterrorism>

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

#### Transparency without reform doesn’t solve precedent---investigating wrongful deaths is key

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

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

#### Won’t fully disclose---proven by last memo

Ron Fournier 13, editorial director of the National Journal, February 21st, 2013, "The Credibility Gap: Shading the Truth Has Consequences," National Journal, www.nationaljournal.com/politics/the-credibility-gap-shading-the-truth-has-consequences-20130221

Drone warfare: After the leak of an unclassified Justice Department white paper justifying “targeted killings” of terrorist suspects, including U.S. citizens, Obama promised to share classified details with Congress. That pledge helped quiet critics of drone warfare and White House secrecy.¶ But lawmakers on the Intelligence committees were granted only brief access to the documents. Their lawyers and staff weren’t allowed to see the memos at all — a condition the White House knew would limit Congress’s oversight abilities.¶ “I recognize that in our democracy, no one should just take my word that we’re doing this the right way,” Obama said in his Feb. 12 State of the Union address. “So, in the months ahead, I will continue to engage with Congress to ensure not only that our targeting, detention, and prosecution of terrorists remains consistent with our laws and the system of checks and balances, but that our efforts are even more transparent to the American people and the world.”¶ And yet, The New York Times reported Thursday that the White House is still refusing to share the legal opinions fully with Congress. Rather than keep his word, Obama’s team is negotiating with Republicans to provide more information on the deadly assault last year on the U.S. diplomatic compound in Benghazi, Libya, The Times reported.¶ The apparent White House goal: Use Republicans’ obsession with Benghazi to keep drone warfare tactics under wraps. Obama’s team doesn’t want John Brennan’s confirmation as CIA director to be tied up in the fight over drone documents. It’s a cynical strategy that might work with the acquiescence of the same Democratic senators who publicly denounced Obama for his secrecy over drone warfare.

#### No solvency---White House standards for transparency are too low

Micah Zenko 13, CFR Douglas Dillon Fellow in the Center for Preventive Action, PhD in Political Science from Brandeis University, May 29th, 2013, "Obama's Low Bar for Drones Transparency," Council on Foreign Relations, blogs.cfr.org/zenko/2013/05/29/obamas-low-bar-for-drones-transparency/

I had a column published at Foreign Policy today that analyzes the divergence between what President Obama said about drone strikes in his counterterrorism speech last week, and what his senior aides selectively leaked to journalists. Subsequently, many columnists and journalists have mistakenly characterized Obama’s speech as placing tight restrictions on who can be targeted with drone strikes. Others listened to the speech and believed, as National Public Radio stated: “Obama Pledges To Be More Transparent About Drone Program.”¶ The actual speech neither presented new restrictions, nor offered much in the way of transparency. The president highlighted his decision to authorize attorney general Eric Holder to provide a letter to the senate judiciary committee that acknowledges that four U.S. citizens died in drone strikes, three of whom were not the intended target. Given that all but one of the citizen’s names was reported in the press, this was an example of belated transparency through the acknowledgment of already public information.¶ Unfortunately, this low bar for transparency about drone strikes is becoming the norm for the Obama administration. Two weeks ago, the Senate Armed Services Committee invited four Pentagon officials to testify at a hearing, “The Law of Armed Conflict, and the Use of Military Force, and the 2001 Authorization for Use of Military Force.” Although the media did not report it, the Pentagon’s joint statement for the record contained this remarkable passage:¶ We have also made significant efforts to increase transparency regarding whom the U.S. military targets in the current conflict…Last year, for example, we declassified information about the U.S. military’s counterterrorism activities in Yemen and Somalia in a June 2012 War Powers report to Congress. This type of transparency helps preserve public confidence, dispel misconceptions that the U.S. military targets low-level terrorists who pose no threat to the United States, and address questions raised by our allies and partners abroad.¶ In March, the former chief Pentagon lawyer Jeh Johnson admitted that agreeing to even that basic of language required “a long and difficult deliberative process to get there.” So what far-reaching and specific revelations were contained in the June 2012 War Powers report?¶ In a limited number of cases, the U.S. military has taken direct action in Somalia against members of al-Qa’ida…engaged in efforts to carry out terrorist attacks against the United States and our interests.¶ The U.S. military has also been working closely with the Yemeni government to operationally dismantle and ultimately eliminate the terrorist threat posed by al-Qa’ida in the Arabian Peninsula (AQAP)…Our joint efforts have resulted in direct action against a limited number of AQAP operatives and senior leaders in that country who posed a terrorist threat to the United States and our interests.¶ That’s all. Here again, the White House acknowledged (albeit with no specificity) to Congress what was public information, which the Pentagon touted as a “type of transparency.” Nothing contained in the White House War Powers report to Congress preserved public confidence, dispelled any misconceptions, or certainly addressed the many problems that U.S. allies and partners have with America’s interpretation of the scope of who can be lawfully killed by drone strikes. The White House communications strategy of repeating over and over again that it is committed to greater transparency and public debate regarding targeted killings does not make it so.

### Debt Ceiling DA

#### Won’t pass until economy collapses and no GOP unity link

Michael McAuliffe 10-5, HuffPo, “How The Government Shutdown Will End: 'The Market Is Just Going To Smash Us',” http://www.huffingtonpost.com/2013/10/05/government-shutdown-debt-limit\_n\_4049056.html?ir=Politics

With Congress unable to move, the end to the standoff in the nation's capital over Obamacare and funding the government is looking ever more certain to come down to a battle over the nation's debt limit -- and an epic smackdown from the global market. ¶ Friday, all sides made clear they are not willing to move. House Speaker John Boehner (R-Ohio) said Republicans will not budge unless Democrats start negotiating over President Barack Obama's health care law. "This isn't some damn game. All we want is to sit down and have a discussion," Boehner said. ¶ Democrats and the president said they will talk only after the GOP releases its chokehold on government funding and the economy by letting the House vote on a six-week funding bill that the Senate passed. "If Speaker Boehner will simply allow that vote to take place, we can end this shutdown," Obama said. ¶ The shutdown is an economic drain that has dragged down consumer confidence by 14 points, according the Gallup. Economists say failing to raise the debt limit of $16.7 trillion -- forecast to be reached on Oct. 17 -- would be a catastrophe. ¶ And lawmakers are starting to fear nothing but an economic near-cataclysm will break the impasse in the House. ¶ "I'm apprehensive that we're looking at at least a couple of weeks until we bump up against the debt ceiling and the market is an outside force that pistol whips us into our senses," said Rep. Peter Welch (D-Vt.), who has already begun preparing for the showdown by circulating a letter -- with nearly all the Democrats signing on -- calling for a clean raising of the limit. ¶ However, Welch was not sure even presenting a unified front would move Republicans -- including those who are sympathetic.¶ "Ultimately what will get them to move is the market reaction. The market is just going to smash us for our congressional abstinence," he said. "At that point they'll cave. And Boehner knows that."

#### Won’t pass---GOP

Michael McAuliffe 10-5, HuffPo, “How The Government Shutdown Will End: 'The Market Is Just Going To Smash Us',” http://www.huffingtonpost.com/2013/10/05/government-shutdown-debt-limit\_n\_4049056.html?ir=Politics

"What you have now is a minority in the Republican Party in one house of Congress saying, 'Shutdown and default unless we get our way,'" Welch told HuffPost. "They know it won't be passed by the Senate; they know it won't be signed by the president. So they say, 'Well, instead of winning elections in the Senate, instead of winning the presidency, we're going to burn down the U.S. economy.'"¶

#### No econ decline war

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

The final outcome addresses a dog that hasn’t barked: the effect of the Great Recession on cross-border conflict and violence. During the initial stages of the crisis, multiple analysts asserted that the financial crisis would lead states to increase their use of force as a tool for staying in power.37 Whether through greater internal repression, diversionary wars, arms races, or a ratcheting up of great power conflict, there were genuine concerns that the global economic downturn would lead to an increase in conflict. Violence in the Middle East, border disputes in the South China Sea, and even the disruptions of the Occupy movement fuel impressions of surge in global public disorder. The aggregate data suggests otherwise, however. The Institute for Economics and Peace has constructed a “Global Peace Index” annually since 2007. A key conclusion they draw from the 2012 report is that “The average level of peacefulness in 2012 is approximately the same as it was in 2007.”38 Interstate violence in particular has declined since the start of the financial crisis – as have military expenditures in most sampled countries. Other studies confirm that the Great Recession has not triggered any increase in violent conflict; the secular decline in violence that started with the end of the Cold War has not been reversed.39 Rogers Brubaker concludes, “the crisis has not to date generated the surge in protectionist nationalism or ethnic exclusion that might have been expected.”40 None of these data suggest that the global economy is operating swimmingly. Growth remains unbalanced and fragile, and has clearly slowed in 2012. Transnational capital flows remain depressed compared to pre-crisis levels, primarily due to a drying up of cross-border interbank lending in Europe. Currency volatility remains an ongoing concern. Compared to the aftermath of other postwar recessions, growth in output, investment, and employment in the developed world have all lagged behind. But the Great Recession is not like other postwar recessions in either scope or kind; expecting a standard “V”-shaped recovery was unreasonable. One financial analyst characterized the post-2008 global economy as in a state of “contained depression.”41 The key word is “contained,” however. Given the severity, reach and depth of the 2008 financial crisis, the proper comparison is with Great Depression. And by that standard, the outcome variables look impressive. As Carmen Reinhart and Kenneth Rogoff concluded in This Time is Different: “that its macroeconomic outcome has been only the most severe global recession since World War II – and not even worse – must be regarded as fortunate.”42

#### Won’t pass---Dems

Michael McAuliffe 10-5, HuffPo, “How The Government Shutdown Will End: 'The Market Is Just Going To Smash Us',” http://www.huffingtonpost.com/2013/10/05/government-shutdown-debt-limit\_n\_4049056.html?ir=Politics

"But the bigger reason is that, as a senior aide told HuffPost privately Friday in order to speak candidly on negotiations, Democrats see the standoff as an institutional crisis in which, if they give in, Congress will be beholden to the most determined minority on every important piece of legislation where the side that is willing to do the most damage wins.

#### Obama weak now

NPR 9/21, “Have Obama's Troubles Weakened Him For Fall's Fiscal Fights?” http://www.ideastream.org/news/npr/224494760

President Obama has had a tough year. He failed to pass gun legislation. Plans for an immigration overhaul have stalled in the House. He barely escaped what would have been a humiliating rejection by Congress on his plan to strike Syria.¶ Just this week, his own Democrats forced Larry Summers, the president's first choice to head the Federal Reserve, to withdraw.¶ Former Clinton White House aide Bill Galston says all these issues have weakened the unity of the president's coalition.¶ "It's not a breach, but there has been some real tension there," he says, "and that's something that neither the president nor congressional Democrats can afford as the budget battle intensifies."¶ Obama is now facing showdowns with the Republicans over a potential government shutdown and a default on the nation's debt. On Friday, the House voted to fund government operations through mid-December, while also defunding the president's signature health care law — a position that's bound to fail in the Senate.¶ As these fiscal battles proceed, Republicans have been emboldened by the president's recent troubles, says former GOP leadership aide Ron Bonjean.

#### Obama won’t fight plan

Carlo Munoz 5/23/13, staff writer for defense and national security for the Hill, “Obama seeks to ramp down 9/11-era rules for war on terror,” http://thehill.com/blogs/defcon-hill/policy-and-strategy/301737-obama-seeks-to-ramp-down-911-rules-for-war-on-terror

But Obama argued in his address Thursday at the National Defense University that the law has expanded beyond its intent and should be repealed.¶ "I look forward to engaging Congress and the American people in efforts to refine, and ultimately repeal, the AUMF’s mandate," Obama said.¶ Obama argued that unless the 12-year-old rules are rewritten, Congress risked giving future presidents unbound powers.¶ “Unless we discipline our thinking and our actions, we may be drawn into more wars we don’t need to fight, or continue to grant presidents unbound powers more suited for traditional armed conflicts between nation states,” Obama said in arguing for the AUMF’s change.¶ “So I look forward to engaging Congress and the American people in efforts to refine, and ultimately repeal, the AUMF’s mandate,” he said. “And I will not sign laws designed to expand this mandate further. Our systematic effort to dismantle terrorist organizations must continue. But this war, like all wars, must end. That’s what history advises. That’s what our democracy demands.”¶ It seems unlikely Congress will approve legislation to change the rules of engagement, however, and it is unclear how hard Obama — already focused on immigration reform and distracted by a trio of controversies — will push on the issue.¶ Some Republicans argued Obama was weakening the U.S. war on terror with his proposals.¶ “I believe we are still in a long, drawn-out conflict with al Qaeda. To somehow argue that al Qaeda is ‘on the run,’ comes from a degree of un-reality to me that is really incredible,” said Sen. John McCain (R-Ariz.).¶ Violent al Qaeda affiliates in Yemen, West Africa, Libya and elsewhere that continue to plot attacks against the United States are proof positive the rules of engagement must remain intact, he said.¶ "To somehow think we can bring the [AUMF] to a complete closure contradicts the reality of the facts on the ground," McCain said. "Al Qaeda will be with us for a long time."¶ A former CIA officer argued the White House simply does not have the political capital to burn in order to get the counterterrorism rules changed.¶ "Congress is not going to allow [Obama] to move" on the rules changes or any of the other initiatives laid out by the president during Thursday's speech, Frederick Fleitz, a former CIA official, told The Hill on Thursday.¶ "I do not think the president is going to spend a lot of political capital on this," said Fleitz, who described Thursday's speech as being geared more toward preserving Obama's foreign policy legacy than actual changes in counterterrorism strategy.

#### PC low now---plan’s a win

Jill Lawrence 9-17**,** national correspondent at National Journal, September 17th, 2013, “Obama Says He’s Not Worried About Style Points. He Should Be,” National Journal, <http://www.nationaljournal.com/whitehouse/obama-says-he-s-not-worried-about-style-points-he-should-be-20130917>

In some ways Obama's fifth year is typical of fifth years, when reelected presidents aim high and often fail. But in some ways it is atypical, notably in the number of failures, setbacks, and incompletes Obama has piled up. Gun control and immigration reform are stalled. Two Obama favorites withdrew their names as potential nominees in the face of congressional opposition – Susan Rice, once a frontrunner for secretary of state, followed by Larry Summers, a top candidate to head the Federal Reserve. Secretary of State John Kerry's possibly offhand remark about Assad giving up his chemical weapons, and Putin's jump into the arena with a diplomatic proposal, saved him from almost certain defeat on Capitol Hill. Edward Snowden set the national security establishment on its heels, then won temporary refuge from … Putin. It's far from clear how that will be resolved.¶ And that's as true for the budget and debt-limit showdowns ahead.¶ Some of Obama's troubles are due to the intransigence of House conservatives, and some may be inevitable in a world far less black and white than the one Reagan faced. But the impression of ineffectiveness is the same.¶ "People don't like it when circumstances are dictating the way in which a president behaves. They want him to be the one in charge," says Dallek, who has written books about nine presidents, including Reagan and Franklin Roosevelt. "It's unfair… On the other hand, that's what goes with the territory. People expect presidents to be in command, and they can't always be in command, and the public is not forgiving."¶ Obama's job approval numbers remain in the mid-40s. The farther they fall below 50 percent, history suggests, the worse he can expect Democrats to do in the midterm House and Senate elections next year. Obama would likely be in worse trouble with the public, at least in the short term, if he had pushed forward with a military strike in Syria. In fact, a new Pew Research Center poll shows 67 percent approve of Obama's switch to diplomacy. But his journey to that point made him look weak and indecisive.¶ Indeed, the year's setbacks are accumulating and that is dangerous for Obama.¶ "At some point people make a collective decision and they don't listen to the president anymore. That's what happened to both Jimmy Carter and George W. Bush," Cannon says. "I don't think Obama has quite gone off the diving board yet in the way that Carter or Bush did … but he's close to the edge. He needs to have some successes and perceptions of success."

#### PC not key and passage inevitable

Jason Easley 9-15, September 15th, 2013, "Obama Humiliates John Boehner By Laughing At His Debt Ceiling Threat," www.politicususa.com/2013/09/15/obama-humiliates-john-boehner-laughing-debt-ceiling-threat.html

Republicans might want to rethink this whole scare Obama into spending cuts with a threat not to raise the debt ceiling plan, because the president isn’t looking scared. The only person who should be scared here is Speaker John Boehner, because Obama clearly has the upper hand.¶ The president has been around the block more than a few times with Boehner and his House Republicans. He knows how this drama plays out. Despite all of their huffy warnings of doom, everyone knows that the wealthy billionaires who fund many Republican campaigns do not want their party to crash the economy (again).¶ President Obama was burned by Boehner the first time that he tried to negotiate, and he learned a valuable lesson. Unless Obama will negotiate with them, all Republicans have are empty threats. When Obama waits the House Republicans out, he wins. The president has nothing to lose. The pressure is all on the House Republicans. They are up for reelection next year. Paying the nation’s bills is their constitutional duty. House Republicans will feel the wrath of the voters if they hurt the economy.¶ The president knows that Boehner’s threats are meaningless. He can laugh them off because they are nothing more than hot air from an empty suit. House Republicans keep trying the same crisis creating tactics and failing. President Obama already knows how the debt ceiling issue is going to end, and whether they’ll admit it or not, Republicans do too.

#### No debt ceiling impact---all rhetoric

Tom Raum 11, AP, “Record $14 trillion-plus debt weighs on Congress”, Jan 15, <http://www.mercurynews.com/news/ci_17108333?source=rss&nclick_check=1>

Democrats have use doomsday rhetoric about a looming government shutdown and comparing the U.S. plight to financial crises in Greece and Portugal. It's all a bit of a stretch. "We can't do as the Gingrich crowd did a few years ago, close the government," said Senate Majority Leader Harry Reid (D-Nev.), referring to government shutdowns in 1995 when Georgia Republican Newt Gingrich was House speaker. But those shutdowns had nothing to do with the debt limit. They were caused by failure of Congress to appropriate funds to keep federal agencies running. And there are many temporary ways around the debt limit. Hitting it does not automatically mean a default on existing debt. It only stops the government from new borrowing, forcing it to rely on other ways to finance its activities. In a 1995 debt-limit crisis, Treasury Secretary Robert Rubin borrowed $60 billion from federal pension funds to keep the government going. It wasn't popular, but it helped get the job done. A decade earlier, James Baker, President Ronald Reagan's treasury secretary, delayed payments to the Civil Service and Social Security trust funds and used other bookkeeping tricks to keep money in the federal till. Baker and Rubin "found money in pockets no one knew existed before," said former congressional budget analyst Stanley Collender. Collender, author of "Guide to the Federal Budget," cites a slew of other things the government can do to delay a crisis. They include leasing out government-owned properties, "the federal equivalent of renting out a room in your home," or slowing down payments to government contractors. Now partner-director of Qorvis Communications, a Washington consulting firm, Collender said such stopgap measures buy the White House time to resist GOP pressure for concessions. "My guess is they can go months after the debt ceiling is not raised and still be able to come up with the cash they need. But at some point, it will catch up," and raising the debt limit will become an imperative, he suggested.

### Flex DA

#### Plan solves kick-out

Micah Zenko 13, CFR Douglas Dillon Fellow in the Center for Preventive Action, PhD in Political Science from Brandeis University, “Reforming U.S. Drone Strike Policies,” CFR Special Report 65, January 2013

The choice the United States faces is not between unfettered drone use and sacrificing freedom of action, but between drone policy reforms by design or drone policy reforms by default. Recent history demonstrates that domestic political pressure could severely limit drone strikes in ways that the CIA or JSOC have not anticipated. In support of its counterterrorism strategy, the Bush administration engaged in the extraordinary rendition of terrorist suspects to third countries, the use of enhanced interrogation techniques, and warrantless wiretapping. Although the Bush administration defended its policies as critical to protecting the U.S. homeland against terrorist attacks, unprecedented domestic political pressure led to significant reforms or termination. Compared to Bush-era counterterrorism policies, drone strikes are vulnerable to similar—albeit still largely untapped—moral outrage, and they are even more susceptible to political constraints because they occur in plain sight. Indeed, a negative trend in U.S. public opinion on drones is already apparent. Between February and June 2012, U.S. support for drone strikes against suspected terrorists fell from 83 percent to 62 percent—which represents less U.S. support than enhanced interrogation techniques maintained in the mid-2000s.65 Finally, U.S. drone strikes are also widely opposed by the citizens of important allies, emerging powers, and the local populations in states where strikes occur.66 States polled reveal overwhelming opposition to U.S. drone strikes: Greece (90 percent), Egypt (89 percent), Turkey (81 percent), Spain (76 percent), Brazil (76 percent), Japan (75 percent), and Pakistan (83 percent).67 ¶ This is significant because the United States cannot conduct drone strikes in the most critical corners of the world by itself. Drone strikes require the tacit or overt support of host states or neighbors. If such states decided not to cooperate—or to actively resist—U.S. drone strikes, their effectiveness would be immediately and sharply reduced, and the likelihood of civilian casualties would increase. This danger is not hypothetical. In 2007, the Ethiopian government terminated its U.S. military presence after public revelations that U.S. AC-130 gunships were launching attacks from Ethiopia into Somalia. Similarly, in late 2011, Pakistan evicted all U.S. military and intelligence drones, forcing the United States to completely rely on Afghanistan to serve as a staging ground for drone strikes in Pakistan. The United States could attempt to lessen the need for tacit host-state support by making significant investments in armed drones that can be flown off U.S. Navy ships, conducting electronic warfare or missile attacks on air defenses, allowing downed drones to not be recovered and potentially transferred to China or Russia, and losing access to the human intelligence networks on the ground that are critical for identifying targets.¶ According to U.S. diplomats and military officials, active resistance— such as the Pakistani army shooting down U.S. armed drones— is a legitimate concern. In this case, the United States would need to either end drone sorties or escalate U.S. military involvement by attacking Pakistani radar and antiaircraft sites, thus increasing the likelihood of civilian casualties.68 Beyond where drone strikes currently take place, political pressure could severely limit options for new U.S. drone bases. For example, the Obama administration is debating deploying armed drones to attack al-Qaeda in the Islamic Maghreb (AQIM) in North Africa, which would likely require access to a new airbase in the region. To some extent, anger at U.S. sovereignty violations is an inevitable and necessary trade-off when conducting drone strikes. Nevertheless, in each of these cases, domestic anger would partially or fully abate if the United States modified its drone policy in the ways suggested below.

#### Military capabilities aren’t key to heg --- our internal link outweighs

Winslow Wheeler 10/11/12, director of the Straus Military Reform Project of the Center for Defense Information, which recently moved to the Project on Government Oversight, "Not All That It Can Be," Foreign Policy, foreignpolicy.com/articles/2012/10/11/not\_all\_that\_it\_can\_be?page=full

You hear it routinely during congressional events involving defense issues, when a defense secretary wants to protect his budget (or his legacy), and when candidate Barack Obama or his operatives defend the administration's national security record: The American armed forces are "the best in the world." It has become such an unremarkable bit of conventional wisdom that the comment is usually prologue to some other point the speaker wants to make. ¶ Many think that because the United States spends multiples of any conceivable opponent or even combinations of them, has the largest modern navy and air force, and can operate all over the world, there is no conceivable enemy or enemies that can take on America successfully. The history of warfare is full of this kind of arrogance before the fall; it has occurred from the beginnings of recorded warfare until today. Consider Xerxes and Darius against Greece in antiquity, the British in America in 1775, the Russians before their war with Japan in 1904, and the United States in 1964 facing Vietnam.¶ History has recorded these and numerous other conflicts when the "wrong" side won the war, and there are still more examples from campaigns and individual battles. If spending or the size and breadth of forces were the sole determinants of success, the British and French would have won in 1940, the Russians would have repelled the Germans in 1941, the British would have won in Malaysia in 1942, and the wars in Iraq and Afghanistan would not have been the disasters they are.¶ When I have suggested that America's military might not be "the best," the inevitable question is, "Against whom? Name an opponent who can beat us." History is not kind to those who are so sure they know the future, and in today's vapid culture the confident prediction of supremacy is articulated in the absence of anything beyond a superficial bean count of forces and hardware -- sometimes not even that.¶ There are far more subtle and supremely powerful forces at play in deciding who wins in warfare than the stuff that occupies the hollow defense debates in the American political spectrum. As a nation, Americans mostly ignore those deciding elements. As American strategist John Boyd explained cogently, material elements come in a poor third in deciding which side wins in conflict -- after moral and mental factors.¶ Instead, in the debate that today dominates the American political-military system on both sides of the political spectrum, two main props sustain the "we are the best" advocates. The first is America's spectacular performance on the battlefield when, even after the post-Cold War budget reductions of George H.W. Bush's and Bill Clinton's administrations, U.S. armed forces "used Saddam Hussein as a speed bump" in 2003. The second, they say, is America's vastly superior military technology, which, while expensive, gives the country the essential winning edge that no one can match.¶ The example of America's victory over Saddam is particularly inapt. Iraq's armed forces were a speed bump: Their leadership was hopelessly politicized and grossly incompetent, and their uniformed combat personnel were demoralized and unwilling to fight even before the first bombs were dropped. They were assessed as literally the worst in the world by the Center for Strategic and International Studies, and as some have noted, the performance of the U.S. military leadership -- even at the field-command level -- in that war was an embarrassment.¶ In Iraq and Afghanistan, U.S. forces often showed real guts and skill at the tactical level, but the heroism of soldiers and Marines notwithstanding, it should be remembered that they have fought enemies with no air force or navy and not much infantry equipment beyond home-built road mines, AK-47 rifles, and rocket-propelled grenades.¶ We also heard a lot of bombast after the first war with Iraq, Operation Desert Storm in 1991; then, the technologists declared a "revolution in military affairs." The Government Accountability Office (GAO) spent two years looking at that: The air campaign should more accurately be characterized as bombing a tethered goat led by a military jackass, and even then, the air campaign did not live up to the hype. The high-cost "silver bullet" of the war, the F-117 stealth light bomber, badly underperformed its puffery. For example, in contrast to claims that "alone and unafraid" it destroyed Saddam's air defense system in the first hours of the first night, the F-117s actually had help from 167 non-stealthy aircraft and were confirmed by the Defense Intelligence Agency's bomb-damage assessments to have effectively destroyed only two of the 15 air defense targets assigned to them that first night. Overall, the GAO found that effectiveness did not correlate with cost and that on many dimensions the ultralow-cost A-10 close-combat attack aircraft was the top performer.¶ Nothing is changed today; the bluster is as frequent and hollow. Typical examples are unmanned drones, such as the MQ-9 Reaper and the Air Force's F-22 fighter.¶ The real-world performance of the MQ-9 Reaper is actually rather pathetic. With a tiny payload of an extremely limited selection of weapons and very poor ability to find targets to which it is not precisely shepherded, the Reaper is incapable of defending itself, and it is several times more expensive than manned aircraft that are more effective, such as the A-10. Also, it crashes so routinely that the Air Force appears to not even report all "mishaps" on the appropriate website. Yet, such drones are slavishly characterized as a revolution in warfare, yet again, and technologists are talking proudly about future nuclear bombers that are "optionally manned."¶ The F-22 fighter is described by the Air Force as an "exponential leap in warfighting capabilities." A review of the data shows the F-22 to be more expensive and less impressive than the hype would have you believe. For one thing, the cost for each F-22 is not the $143 million the Air Force asserts but rather a whopping $412 million, according to the GAO. The plane was supposed to be less expensive to operate than the F-15C; instead, it is 50 percent more. For another, its radar-evading "stealth" capability is significantly limited, as we know from two F-117 "stealth" casualties in the 1999 Kosovo air war, and its ability to detect, identify, and engage enemy aircraft at very long range with radar-controlled missiles relies on a technology that has repeatedly failed in combat. Finally, the F-22 compares roughly in close-in air combat to early versions of the F-15 and F-16. This June, that unexceptional agility was on display when German pilots flew Eurofighter Typhoons successfully against F-22s in mock dogfights.¶ Because the F-22 is so expensive to fly and difficult to maintain, its pilots get too few hours in the air to train -- half of what fighter pilots got in previous decades. Worse, a controversy has raged over how safe the F-22 is to its own pilots. Powerful toxins populate the areas where the F-22 derives its oxygen for the pilot, and despite an Air Force explanation that "contamination" has nothing to do with the physiological problems pilots have experienced, some observers are deeply skeptical that the Air Force is taking the proper care to protect F-22 pilots. Already two pilots have been killed in accidents in which those toxins are very possibly at play. Even though pilot skill is a dominating factor in air combat, the U.S. Air Force provides few in-air training hours and requires pilots to fly aircraft that are not free of potential poisons. These are not the signs of a first-rate military organization.¶ That it is people, not hardware, that provide the winning edge in warfare was clearly expressed at the end of the first Iraq war when the U.S. commander, Gen. Norman Schwarzkopf, stated that had the two sides switched equipment, the United States still would have won its lopsided victory. There are many veterans of other wars who agree. Indeed, Napoleon said it succinctly 200 years ago: "The moral is to the physical as three to one."¶ Just as those F-22 pilots had difficulties against some highly skilled Typhoon aircrew, the United States can expect to encounter smart, skillful enemies in the future. The country has been surprised by opponents it had assumed were inferior -- for example in the Vietnam War -- and by crude but highly effective technology it failed to anticipate, such as handmade road mines (decorously called improvised explosive devices) in Iraq and Afghanistan. The "we are the best in the world" foolishness is prologue to wars of choice making America pay dearly, just as the country discovered immediately after the arrogantly predicted "cakewalk" against Iraq -- a prediction that contemplated no "after."¶ Both sides of the American political spectrum persistently cheapen this debate.¶ Republican presidential candidate Mitt Romney spoke for the right when he attacked Obama for "deep and arbitrary" cuts in the defense budget (cuts that actually were neither deep nor arbitrary) at the Virginia Military Institute (VMI) on Oct. 8. He also alleged that Obama is responsible for reducing the size of the U.S. Navy to a post-World War II low and for putting the Air Force "out of business." To fix all this, Romney will do things like spend more money and put the F-22 back into production. He ignores that Obama is spending on defense at a rate well above any other post-World War II president, and Romney doesn't mention that Obama inherited a U.S. Navy and an Air Force from George W. Bush that were already at post-World War II lows. Most significantly, Romney is oblivious to the fact that the shrinkage has been occurring as the non-war parts of the defense budget increased by a trillion dollars from 2001 to 2010.¶ Romney's proposal to put the very disappointing F-22 back into production is a classic example of "solving" the problem by making it worse: At many times the price of the F-15 it replaces, the F-22 can only be bought in such small numbers -- at greatly increased total cost -- that the overall inventory shrinks and ages as the Pentagon is forced to retire as few ancient F-15s as possible. The disingenuousness of Romney's cheap shot on defense spending is exceeded only by the ignorance of his solution and silly pander to ill-informed conventional wisdom.¶ In his VMI speech, Romney also made a seemingly conscious attempt to walk his previously expressed adventurism into the closest; some hostile rhetorical flourishes aside, he sounded a lot like Obama. It remains entirely unclear, however, whether Romney is merely Etch-A-Sketching away the neoconservative premise that, with U.S. armed forces being the best in the world, the United States can and should use them in still more adventures, such as Iran. He may be asking for even more future trouble than does Obama.¶ Many on the left do not exactly distinguish themselves in the overall debate. While they are typically far more accurate in characterizing what increases or decreases have or have not occurred in the defense budget, most Democrats persist in the notion that Obama has husbanded a U.S. military that remains the best in the world. The shrinkage is OK because the newer -- even if preposterously expensive -- equipment is more capable, both individually and collectively. It has all the hallmarks of a political argument of convenience, and it ignores as much evidence as the right does when it asserts that the amount of money spent measures the health of overall U.S. forces.¶ Were Romney running for reelection to a second term, he too would be crowing the "best in the world" rhetoric, and it would be in the face of still further shrinkage and aging despite the heaps of extra money he would strain to pile on to America's less-bang-for-more-bucks defenses.¶ The empty rhetoric that U.S. armed forces are the best masks serious problems that have been festering for decades. Obama tolerates the problems; candidate Romney would make them even worse. All of it will continue until leaders emerge who understand that more money has meant more decay, and less money can mean the start of reform.

#### No overstretch which is what their impact ev is actually talking about

Nagl 10—President of the Center for a New American Security. Member of the Defense Policy Board. Distinguished Graduate of the United States Military Academy, Retired Lt. Col. PhD, Oxford, Rhodes Scholar—AND—Travis Sharp—Research Associate at the Center for a New American Security. Served as Military Policy Analyst at the Center for Arms Control and Non-Proliferation (John, Operational for What? The Future of the Guard and Reserves, 7 September 2010, http://www.cnas.org/node/4948)

Since the end of the Cold War, the National Guard and Reserves have been transformed from a strategic to an operational force because of the demands of U.S. military involvementin Haiti, Somalia, Bosnia, Kosovo, and—most significantly— Afghanistan and Iraq **(**twice). While still providing strategic depth in the event of a major war, the often derided "weekend warriors" of yesteryear have been replaced by men and women who join the Guard and Reserves knowing full well that they will participate routinely and regularly in ongoing military missions. This transformation of the Reserve Component (RC)—comprised of approximately 1.1 million Servicemembers in the Army, Navy, Marine Corps, Air Force, and Coast Guard Reserve, along with the Army and Air National Guard—has been widely acknowledged by U.S. political and military leaders. As Vice President Joe Biden said earlier this year, "This ain't your father's National Guard."1 Officials also have recognized the need for new policies that will support an operational reserve. Department of Defense (DOD) Secretary Robert Gates observed, "Since the Guard was considered in the past a strategic reserve, it was a lower priority for funding. That has changed."2 He later added, "Today, the standard is that the Guard and Reserves receive the same equipment as the Active Force."3 DOD has moved to support an operational reserve thanks in no small part to the influence of the Commission on the National Guard and Reserves, which released its landmark final report in January 2008. Besides developing implementation plans for the majority of the commission's recommendations, Secretary Gates issued Directive 1200.17 (October 29, 2008), Directive 1235.10 (November 26, 2008), and Instruction 1235.12 (February 4, 2010), which collectively enshrined the principles and policies required to sustain the Reserve Component as an operational force. Congress assisted by fully funding RC budget requests and by instituting legislative changes to fund requirements, such as improved medical and dental screenings, that bolster operational readiness. On balance, the United States has come a long way in developing a ready, capable, and available operational reserve. DOD should be commended for its improvements during both the Bush and Obama administrations. Yet two strands of unanswered questions relating to strategic roles and missions as well as readiness and funding threaten to unravel the progress made so far. In a budgetary environment where defense spending is expected to decrease, postwar reset expenditures loom, and structural cost growth is intensifying internal competition for Pentagon resources, a fundamental question must be answered about the future of the Guard and Reserves: "Operational for what?" Strategic Roles and Missions The Guard and Reserves have contributed considerably to the U.S. war efforts in Afghanistan and Iraq. Over 770,000 RC Servicemembers have been activated since September 11, 2001, and half of all Army RC personnel are now combat veterans.4 President Barack Obama has highlighted specific capabilities that the RC brings to the fight.5 Chairman of the Joint Chiefs of Staff Admiral Mike Mullen recently wrote, "We could not have accomplished what we have these past eight years were it not for our Reserve and National Guard forces."6 Through early July 2010, there were 184 Guardsmen and Reservists killed in Afghanistan and 820 killed in Iraq, representing nearly one-fifth of total U.S. military casualties in the conflicts. The numbers wounded in Afghanistan and Iraq stand at 959 and 6,642, respectively.7 Despite this sacrifice, the U.S. national security bureaucracy will not enact future policies and apportion future resources based solely on the Reserve's wartime contributions over the past decade. Current necessity does not equal continued relevance. Today, there is already talk of placing the RC "back on the shelf," or restoring it to a strictly strategic or "weekend warrior" status, in order to save the additional money required to keep it operational. This is nothing new; the RC has historically been targeted for downsizing during times of diminishing Pentagon budgets, in part due to the counterproductive yet persistent rivalry between the Active and Reserve Components. Secretary Gates may have issued the directives to sustain the RC as an operational force, but unless defense policymakers coalesce soon around a shared vision for how the RC is integral to overcoming future threats—that is, unless the "Operational for what?" question is answered convincingly—budgetary rivalries among the Services and between the Active and Reserve Components may overwhelm larger strategic considerations. Before gazing inward at the state of U.S. planning, it helps to look outward at the policies of U.S allies and potential adversaries. Throughout the world, the most militarily powerful nations are no longer managing their reserves as a strictly strategic asset meant only to be used in the event of a "big" war. Australia, Canada, China, Israel, Japan, Russia, and Western European countries now increasingly rely on their reserves as complementary, integral, and operational portions of their "total" military force. Defense scholar Richard Weitz has labeled this transformation, which mirrors what has happened in the U.S. military, as the "de facto globalization of the Abrams Doctrine"—the concept espoused by former Army Chief of Staff General Creighton Abrams, which dictates that the United States should never go to war without its Guard and Reserves, as it did by and large during the Vietnam War, because it severs the American public's connection to and support for U.S. military operations.8 As a nation whose military modernization is cause for concern in East Asia, China serves as an example of the new role played by reserves. The People's Liberation Army (PLA) incorporates its 500,000 to 800,000 reservists directly into its order of battle, requires reserve units to train alongside active-duty forces, and is increasing the funding and time devoted to reserve training and equipment. The majority of PLA reservists are former active-duty soldiers, and every reserve unit includes a small contingent of active-duty personnel that forms a continuous management nucleus between and during mobilizations. In recent years, the PLA has increasingly recruited civilian reservists who lack prior military service but possess high-tech skills with military applicability. For example, reservists employed in the chemical industry serve in chemical warfare units, and reservist telecommunications workers have been assigned to new PLA units specializing in information warfare and information operations. 9 These highly skilled reservists play a growing role in China's evolving antiaccess/ area-denial strategy of using sophisticated cyber and electronic attacks to degrade the U.S. military's battle networks, forward bases, and maritime forces and thereby inhibit U.S. power projection capabilities. The 2010 U.S. Quadrennial Defense Review (QDR) was supposed to offer a similarly forward-oriented vision of the future role of the Guard and Reserves. While comprehensive in its description of the emerging international security environment, however, the QDR spent much less time on the RC. It stated: Prevailing in today's wars requires a Reserve Component that can serve in an operational capacity—available, trained, and equipped for predictable routine deployment. Preventing and deterring conflict will likely necessitate the continued use of some elements of the Reserve Component—especially those that possess high-demand skill sets—in an operational capacity well into the future. . . . The challenges facing the United States today and in the future will require us to employ National Guard and Reserve forces as an operational reserve to fulfill requirements for which they are well-suited in the United States and overseas. For example, the National Guard often serves at the forefront of DoD operations.10 On the positive side, the QDR codified the "likely" need for an operational reserve "well into the future," including in "preventing and deterring conflict," one of the QDR's four priority objectives. The RC's inclusion under this objective is important because it confirms that the RC has an operational role, aside from prevailing in today's wars (another of the priority objectives), in the initiatives listed under the "prevent and deter" heading. Because of the enduring phenomenon Secretary Gates calls "next-war-itis," these futureoriented initiatives are already attracting more of defense policymakers' attention and resources. This trend is sure to accelerate as U.S. forces leave Afghanistan and Iraq. From the perspective of the RC, it is positive to have gotten in at the ground level, doctrinally speaking, on the "prevent and deter" objective that is likely to dominate the post-Afghanistan/ Iraq defense planning era. On the negative side, the QDR failed to identify which specific roles and missions it envisioned the RC fulfilling. Instead, it vaguely stated that "some elements" of the RC, especially those with "high-demand skill sets," would be needed "to fulfill requirements for which they are well-suited." But which elements, which skill sets, and which requirements? As noted above, "The National Guard often serves at the forefront of DoD operations" was all the QDR could offer as an example. Since millions of DOD civilian and military personnel undertake scores of operations every day, however, this example did not exactly narrow things down. By specifying neither the roles and missions anticipated for the RC, nor the strength, capabilities, or equipment needed to perform those roles and missions, the QDR failed to address directly one of the 17 reporting items required by law (10 U.S.C. Section 118, as amended).11 To compensate for this disappointing omission, the QDR pledged to conduct a comprehensive Pentagon review of future RC roles and missions, including an examination of the balance between Active and Reserve forces. The last government study to devote serious thought to this issue was the 2001 QDR-directed Review of Reserve Component Contributions to National Defense published in December 2002—3 months before the U.S. invasion of Iraq intensified what would become years of heavy reliance on the Guard and Reserves. The results of the new review being spearheaded by General James Cartwright, Vice Chairman of the Joint Chiefs of Staff, and Dennis McCarthy, Assistant Secretary of Defense for Reserve Affairs, are expected by spring 2011. What conclusions will this review reach, and what will the implications be? In its discussion of the future character of conflict, the 2010 QDR offered some helpful hints. It posited that in the 21st century, conventional U.S. military superiority will increasingly drive potential adversaries toward asymmetric responses to American power. It emphasized the nontraditional threats posed by weapons of mass destruction (WMD) terrorist attacks, hybrid warfare combining high- and low-tech tactics, and the loss of shared access to the global commons in sea, air, space, and cyberspace. Cueing off of this assessment, the QDR's future-oriented "prevent and deter" objective, mentioned above as a place where RC capabilities will likely be applied operationally, included such high-profile U.S. missions as: •contributing to homeland defense and civil support capabilities •assisting partner nations in developing and acquiring the capabilities and systems required to improve their security capacity •maintaining awareness of global threats and opportunities, including the capabilities, values, intent, and decisionmaking of potential adversaries •supporting U.S. diplomatic and development efforts and strengthening governance •extending a global defense posture composed of forward-stationed forces, prepositioned equipment and facilityies, and international agreements •protecting DOD infrastructure in space and cyberspace •building tailored regional deterrence architectures and missile defenses •overcoming antiaccess weaponry and tactics (for example, "AirSea Battle").12

## 1AR

### Topicality

#### So does cause of action

Edward Keynes 10, Professor of Political Science at The Pennsylvania State University and has been visiting professor at the universities of Cologne, Kiel, and Marburg. A University of Wisconsin Ph.D., he has been a Fulbright and an Alexander von Humboldt fellow, “Undeclared War: Twilight Zone of Constitutional Power”, Google Books, p. 119-120

Despite numerous cases challenging the President’s authority to initiate and conduct the Vietnam War, the Federal courts exhibited extreme caution in entering this twilight zone of constitutional power. The federal judiciary’s reluctance to decide war-powers controversies reveals a respect for the constitutional separation of powers, an appreciation of the respective constitutional functions of Congress and the President in external affairs, and a sense of judicial self-restraint. Although most Federal courts exercised self-restraint, several courts scaled such procedural barriers as jurisdiction, standing to sue, sovereign immunity, and the political question to address the scope of congressional and presidential power to initiate war and military hostilities without a declaration of war. The latter decisions reveal an appreciation of the constitutional equilibrium upon which the separation of powers and the rule of law rest. Despite judicial caution, several Federal courts entered the political thicket in order to restore the constitutional balance between Congress and the President. Toward the end of the war in Indochina, judicial concern for the rule of law recommended intervention rather than self-restraint.

#### Judicial review is a statutory restriction

Mortenson 11, Julian Davis Assistant Professor, University of Michigan Law School, “Review: Executive Power and the Discipline of History Crisis and Command: The History of Executive Power from George Washington to George W. Bush John Yoo. Kaplan, 2009. Pp vii, 524,” Winter 2011, University of Chicago Law Review 78 U. Chi. L. Rev. 377

At least two of Yoo's main examples of presidential power are actually instances of presidential deference to statutory restrictions during times of great national peril. The earliest is Washington's military suppression of the Whiskey Rebellion (III, pp 66-72), a domestic disturbance that Americans viewed as implicating adventurism by European powers and threatening to dismember the new nation. n60 The Calling Forth Act of 1792 n61 allowed the President to mobilize state militias under federal control, but included a series of mandatory procedural checks--including judicial [\*399] approval--that restricted his ability to do so. n62 Far from defying these comprehensive restrictions at a moment of grave crisis, Washington satisfied their every requirement in scrupulous detail. He issued a proclamation ordering the Whiskey Rebels to disperse. n63 When they refused to do so, he submitted a statement to Justice James Wilson of the Supreme Court describing the situation in Pennsylvania and requesting statutory certification. n64 Only when Wilson issued a letter precisely reciting the requisite statutory language (after first requiring the President to come back with authentication of underlying reports and verification of their handwriting n65) did Washington muster the troops. n66 Washington's compliance with statutory restrictions on his use of force continued even after his forces were in the field. Because Congress was not in session when he issued the call-up order, Washington was authorized by statute to mobilize militias from other states besides Pennsylvania--but only "until the expiration of thirty days after the commencement of the ensuing [congressional] session." n67 When it became clear that the Pennsylvania campaign would take longer than that, Washington went back to Congress to petition for extension of the statutory time limit that would otherwise have required him to [\*400] disband his troops. n68 Far from serving as an archetypal example of presidential defiance, the Whiskey Rebellion demonstrates exactly the opposite. FDR's efforts to supply the United Kingdom's war effort before Pearl Harbor teach a similar lesson. During the run-up to America's entry into the war, Congress passed a series of Neutrality Acts that supplemented longstanding statutory restrictions on providing assistance to foreign belligerents. Despite these restrictions, FDR sent a range of military assistance to the future Allies. n69 Yoo makes two important claims about the administration's actions during this period. First, he claims the administration asserted that "[a]ny statutory effort by Congress to prevent the President from transferring military equipment to help American national security would be of 'questionable constitutionality'" (III, p 300). Second, he suggests that American military assistance in fact violated the neutrality statutes (III, pp 295-301, 310, 327-28).

### Agamben K

#### Simulated national security law debates preserve agency and enhance decision-making---avoids cooption

Laura K. Donohue 13, Associate Professor of Law, Georgetown Law, 4/11, “National Security Law Pedagogy and the Role of Simulations”, http://jnslp.com/wp-content/uploads/2013/04/National-Security-Law-Pedagogy-and-the-Role-of-Simulations.pdf

The concept of simulations as an aspect of higher education, or in the law school environment, is not new.164 Moot court, after all, is a form of simulation and one of the oldest teaching devices in the law. What is new, however, is the idea of designing a civilian national security course that takes advantage of the doctrinal and experiential components of law school education and integrates the experience through a multi-day simulation. In 2009, I taught the first module based on this design at Stanford Law, which I developed the following year into a full course at Georgetown Law. It has since gone through multiple iterations. The initial concept followed on the federal full-scale Top Official (“TopOff”) exercises, used to train government officials to respond to domestic crises.165 It adapted a Tabletop Exercise, designed with the help of exercise officials at DHS and FEMA, to the law school environment. The Tabletop used one storyline to push on specific legal questions, as students, assigned roles in the discussion, sat around a table and for six hours engaged with the material. The problem with the Tabletop Exercise was that it was too static, and the rigidity of the format left little room, or time, for student agency. Unlike the government’s TopOff exercises, which gave officials the opportunity to fully engage with the many different concerns that arise in the course of a national security crisis as well as the chance to deal with externalities, the Tabletop focused on specific legal issues, even as it controlled for external chaos. The opportunity to provide a more full experience for the students came with the creation of first a one-day, and then a multi-day simulation. The course design and simulation continues to evolve. It offers a model for achieving the pedagogical goals outlined above, in the process developing a rigorous training ground for the next generation of national security lawyers.166 A. Course Design The central idea in structuring the NSL Sim 2.0 course was to bridge the gap between theory and practice by conveying doctrinal material and creating an alternative reality in which students would be forced to act upon legal concerns.167 The exercise itself is a form of problem-based learning, wherein students are given both agency and responsibility for the results. Towards this end, the structure must be at once bounded (directed and focused on certain areas of the law and legal education) and flexible (responsive to student input and decisionmaking). Perhaps the most significant weakness in the use of any constructed universe is the problem of authenticity. Efforts to replicate reality will inevitably fall short. There is simply too much uncertainty, randomness, and complexity in the real world. One way to address this shortcoming, however, is through design and agency. The scenarios with which students grapple and the structural design of the simulation must reflect the national security realm, even as students themselves must make choices that carry consequences. Indeed, to some extent, student decisions themselves must drive the evolution of events within the simulation.168 Additionally, while authenticity matters, it is worth noting that at some level the fact that the incident does not take place in a real-world setting can be a great advantage. That is, the simulation creates an environment where students can make mistakes and learn from these mistakes – without what might otherwise be devastating consequences. It also allows instructors to develop multiple points of feedback to enrich student learning in a way that would be much more difficult to do in a regular practice setting. NSL Sim 2.0 takes as its starting point the national security pedagogical goals discussed above. It works backwards to then engineer a classroom, cyber, and physical/simulation experience to delve into each of these areas. As a substantive matter, the course focuses on the constitutional, statutory, and regulatory authorities in national security law, placing particular focus on the interstices between black letter law and areas where the field is either unsettled or in flux. A key aspect of the course design is that it retains both the doctrinal and experiential components of legal education. Divorcing simulations from the doctrinal environment risks falling short on the first and third national security pedagogical goals: (1) analytical skills and substantive knowledge, and (3) critical thought. A certain amount of both can be learned in the course of a simulation; however, the national security crisis environment is not well-suited to the more thoughtful and careful analytical discussion. What I am thus proposing is a course design in which doctrine is paired with the type of experiential learning more common in a clinical realm. The former precedes the latter, giving students the opportunity to develop depth and breadth prior to the exercise. In order to capture problems related to adaptation and evolution, addressing goal [1(d)], the simulation itself takes place over a multi-day period. Because of the intensity involved in national security matters (and conflicting demands on student time), the model makes use of a multi-user virtual environment. The use of such technology is critical to creating more powerful, immersive simulations.169 It also allows for continual interaction between the players. Multi-user virtual environments have the further advantage of helping to transform the traditional teaching culture, predominantly concerned with manipulating textual and symbolic knowledge, into a culture where students learn and can then be assessed on the basis of their participation in changing practices.170 I thus worked with the Information Technology group at Georgetown Law to build the cyber portal used for NSL Sim 2.0. The twin goals of adaptation and evolution require that students be given a significant amount of agency and responsibility for decisions taken in the course of the simulation. To further this aim, I constituted a Control Team, with six professors, four attorneys from practice, a media expert, six to eight former simulation students, and a number of technology experts. Four of the professors specialize in different areas of national security law and assume roles in the course of the exercise, with the aim of pushing students towards a deeper doctrinal understanding of shifting national security law authorities. One professor plays the role of President of the United States. The sixth professor focuses on questions of professional responsibility. The attorneys from practice help to build the simulation and then, along with all the professors, assume active roles during the simulation itself. Returning students assist in the execution of the play, further developing their understanding of national security law. Throughout the simulation, the Control Team is constantly reacting to student choices. When unexpected decisions are made, professors may choose to pursue the evolution of the story to accomplish the pedagogical aims, or they may choose to cut off play in that area (there are various devices for doing so, such as denying requests, sending materials to labs to be analyzed, drawing the players back into the main storylines, and leaking information to the media). A total immersion simulation involves a number of scenarios, as well as systemic noise, to give students experience in dealing with the second pedagogical goal: factual chaos and information overload. The driving aim here is to teach students how to manage information more effectively. Five to six storylines are thus developed, each with its own arc and evolution. To this are added multiple alterations of the situation, relating to background noise. Thus, unlike hypotheticals, doctrinal problems, single-experience exercises, or even Tabletop exercises, the goal is not to eliminate external conditions, but to embrace them as part of the challenge facing national security lawyers. The simulation itself is problem-based, giving players agency in driving the evolution of the experience – thus addressing goal [2(c)]. This requires a realtime response from the professor(s) overseeing the simulation, pairing bounded storylines with flexibility to emphasize different areas of the law and the students’ practical skills. Indeed, each storyline is based on a problem facing the government, to which players must then respond, generating in turn a set of new issues that must be addressed. The written and oral components of the simulation conform to the fourth pedagogical goal – the types of situations in which national security lawyers will find themselves. Particular emphasis is placed on nontraditional modes of communication, such as legal documents in advance of the crisis itself, meetings in the midst of breaking national security concerns, multiple informal interactions, media exchanges, telephone calls, Congressional testimony, and formal briefings to senior level officials in the course of the simulation as well as during the last class session. These oral components are paired with the preparation of formal legal instruments, such as applications to the Foreign Intelligence Surveillance Court, legal memos, applications for search warrants under Title III, and administrative subpoenas for NSLs. In addition, students are required to prepare a paper outlining their legal authorities prior to the simulation – and to deliver a 90 second oral briefing after the session. To replicate the high-stakes political environment at issue in goals (1) and (5), students are divided into political and legal roles and assigned to different (and competing) institutions: the White House, DoD, DHS, HHS, DOJ, DOS, Congress, state offices, nongovernmental organizations, and the media. This requires students to acknowledge and work within the broader Washington context, even as they are cognizant of the policy implications of their decisions. They must get used to working with policymakers and to representing one of many different considerations that decisionmakers take into account in the national security domain. Scenarios are selected with high consequence events in mind, to ensure that students recognize both the domestic and international dimensions of national security law. Further alterations to the simulation provide for the broader political context – for instance, whether it is an election year, which parties control different branches, and state and local issues in related but distinct areas. The media is given a particularly prominent role. One member of the Control Team runs an AP wire service, while two student players represent print and broadcast media, respectively. The Virtual News Network (“VNN”), which performs in the second capacity, runs continuously during the exercise, in the course of which players may at times be required to appear before the camera. This media component helps to emphasize the broader political context within which national security law is practiced. Both anticipated and unanticipated decisions give rise to ethical questions and matters related to the fifth goal: professional responsibility. The way in which such issues arise stems from simulation design as well as spontaneous interjections from both the Control Team and the participants in the simulation itself. As aforementioned, professors on the Control Team, and practicing attorneys who have previously gone through a simulation, focus on raising decision points that encourage students to consider ethical and professional considerations. Throughout the simulation good judgment and leadership play a key role, determining the players’ effectiveness, with the exercise itself hitting the aim of the integration of the various pedagogical goals. Finally, there are multiple layers of feedback that players receive prior to, during, and following the simulation to help them to gauge their effectiveness. The Socratic method in the course of doctrinal studies provides immediate assessment of the students’ grasp of the law. Written assignments focused on the contours of individual players’ authorities give professors an opportunity to assess students’ level of understanding prior to the simulation. And the simulation itself provides real-time feedback from both peers and professors. The Control Team provides data points for player reflection – for instance, the Control Team member playing President may make decisions based on player input, giving students an immediate impression of their level of persuasiveness, while another Control Team member may reject a FISC application as insufficient. The simulation goes beyond this, however, focusing on teaching students how to develop (6) opportunities for learning in the future. Student meetings with mentors in the field, which take place before the simulation, allow students to work out the institutional and political relationships and the manner in which law operates in practice, even as they learn how to develop mentoring relationships. (Prior to these meetings we have a class discussion about mentoring, professionalism, and feedback). Students, assigned to simulation teams about one quarter of the way through the course, receive peer feedback in the lead-up to the simulation and during the exercise itself. Following the simulation the Control Team and observers provide comments. Judges, who are senior members of the bar in the field of national security law, observe player interactions and provide additional debriefing. The simulation, moreover, is recorded through both the cyber portal and through VNN, allowing students to go back to assess their performance. Individual meetings with the professors teaching the course similarly follow the event. Finally, students end the course with a paper reflecting on their performance and the issues that arose in the course of the simulation, develop frameworks for analyzing uncertainty, tension with colleagues, mistakes, and successes in the future. B. Substantive Areas: Interstices and Threats As a substantive matter, NSL Sim 2.0 is designed to take account of areas of the law central to national security. It focuses on specific authorities that may be brought to bear in the course of a crisis. The decision of which areas to explore is made well in advance of the course. It is particularly helpful here to think about national security authorities on a continuum, as a way to impress upon students that there are shifting standards depending upon the type of threat faced. One course, for instance, might center on the interstices between crime, drugs, terrorism and war. Another might address the intersection of pandemic disease and biological weapons. A third could examine cybercrime and cyberterrorism. This is the most important determination, because the substance of the doctrinal portion of the course and the simulation follows from this decision. For a course focused on the interstices between pandemic disease and biological weapons, for instance, preliminary inquiry would lay out which authorities apply, where the courts have weighed in on the question, and what matters are unsettled. Relevant areas might include public health law, biological weapons provisions, federal quarantine and isolation authorities, habeas corpus and due process, military enforcement and posse comitatus, eminent domain and appropriation of land/property, takings, contact tracing, thermal imaging and surveillance, electronic tagging, vaccination, and intelligence-gathering. The critical areas can then be divided according to the dominant constitutional authority, statutory authorities, regulations, key cases, general rules, and constitutional questions. This, then, becomes a guide for the doctrinal part of the course, as well as the grounds on which the specific scenarios developed for the simulation are based. The authorities, simultaneously, are included in an electronic resource library and embedded in the cyber portal (the Digital Archives) to act as a closed universe of the legal authorities needed by the students in the course of the simulation. Professional responsibility in the national security realm and the institutional relationships of those tasked with responding to biological weapons and pandemic disease also come within the doctrinal part of the course. The simulation itself is based on five to six storylines reflecting the interstices between different areas of the law. The storylines are used to present a coherent, non-linear scenario that can adapt to student responses. Each scenario is mapped out in a three to seven page document, which is then checked with scientists, government officials, and area experts for consistency with how the scenario would likely unfold in real life. For the biological weapons and pandemic disease emphasis, for example, one narrative might relate to the presentation of a patient suspected of carrying yersinia pestis at a hospital in the United States. The document would map out a daily progression of the disease consistent with epidemiological patterns and the central actors in the story: perhaps a U.S. citizen, potential connections to an international terrorist organization, intelligence on the individual’s actions overseas, etc. The scenario would be designed specifically to stress the intersection of public health and counterterrorism/biological weapons threats, and the associated (shifting) authorities, thus requiring the disease initially to look like an innocent presentation (for example, by someone who has traveled from overseas), but then for the storyline to move into the second realm (awareness that this was in fact a concerted attack). A second storyline might relate to a different disease outbreak in another part of the country, with the aim of introducing the Stafford Act/Insurrection Act line and raising federalism concerns. The role of the military here and Title 10/Title 32 questions would similarly arise – with the storyline designed to raise these questions. A third storyline might simply be well developed noise in the system: reports of suspicious activity potentially linked to radioactive material, with the actors linked to nuclear material. A fourth storyline would focus perhaps on container security concerns overseas, progressing through newspaper reports, about containers showing up in local police precincts. State politics would constitute the fifth storyline, raising question of the political pressures on the state officials in the exercise. Here, ethnic concerns, student issues, economic conditions, and community policing concerns might become the focus. The sixth storyline could be further noise in the system – loosely based on current events at the time. In addition to the storylines, a certain amount of noise is injected into the system through press releases, weather updates, private communications, and the like. The five to six storylines, prepared by the Control Team in consultation with experts, become the basis for the preparation of scenario “injects:” i.e., newspaper articles, VNN broadcasts, reports from NGOs, private communications between officials, classified information, government leaks, etc., which, when put together, constitute a linear progression. These are all written and/or filmed prior to the exercise. The progression is then mapped in an hourly chart for the unfolding events over a multi-day period. All six scenarios are placed on the same chart, in six columns, giving the Control Team a birds-eye view of the progression. C. How It Works As for the nuts and bolts of the simulation itself, it traditionally begins outside of class, in the evening, on the grounds that national security crises often occur at inconvenient times and may well involve limited sleep and competing demands.171 Typically, a phone call from a Control Team member posing in a role integral to one of the main storylines, initiates play. Students at this point have been assigned dedicated simulation email addresses and provided access to the cyber portal. The portal itself gives each team the opportunity to converse in a “classified” domain with other team members, as well as access to a public AP wire and broadcast channel, carrying the latest news and on which press releases or (for the media roles) news stories can be posted. The complete universe of legal authorities required for the simulation is located on the cyber portal in the Digital Archives, as are forms required for some of the legal instruments (saving students the time of developing these from scratch in the course of play). Additional “classified” material – both general and SCI – has been provided to the relevant student teams. The Control Team has access to the complete site. For the next two (or three) days, outside of student initiatives (which, at their prompting, may include face-to-face meetings between the players), the entire simulation takes place through the cyber portal. The Control Team, immediately active, begins responding to player decisions as they become public (and occasionally, through monitoring the “classified” communications, before they are released). This time period provides a ramp-up to the third (or fourth) day of play, allowing for the adjustment of any substantive, student, or technology concerns, while setting the stage for the breaking crisis. The third (or fourth) day of play takes place entirely at Georgetown Law. A special room is constructed for meetings between the President and principals, in the form of either the National Security Council or the Homeland Security Council, with breakout rooms assigned to each of the agencies involved in the NSC process. Congress is provided with its own physical space, in which meetings, committee hearings and legislative drafting can take place. State government officials are allotted their own area, separate from the federal domain, with the Media placed between the three major interests. The Control Team is sequestered in a different area, to which students are not admitted. At each of the major areas, the cyber portal is publicly displayed on large flat panel screens, allowing for the streaming of video updates from the media, AP wire injects, articles from the students assigned to represent leading newspapers, and press releases. Students use their own laptop computers for team decisions and communication. As the storylines unfold, the Control Team takes on a variety of roles, such as that of the President, Vice President, President’s chief of staff, governor of a state, public health officials, and foreign dignitaries. Some of the roles are adopted on the fly, depending upon player responses and queries as the storylines progress. Judges, given full access to each player domain, determine how effectively the students accomplish the national security goals. The judges are themselves well-experienced in the practice of national security law, as well as in legal education. They thus can offer a unique perspective on the scenarios confronted by the students, the manner in which the simulation unfolded, and how the students performed in their various capacities. At the end of the day, the exercise terminates and an immediate hotwash is held, in which players are first debriefed on what occurred during the simulation. Because of the players’ divergent experiences and the different roles assigned to them, the students at this point are often unaware of the complete picture. The judges and formal observers then offer reflections on the simulation and determine which teams performed most effectively. Over the next few classes, more details about the simulation emerge, as students discuss it in more depth and consider limitations created by their knowledge or institutional position, questions that arose in regard to their grasp of the law, the types of decision-making processes that occurred, and the effectiveness of their – and other students’ – performances. Reflection papers, paired with oral briefings, focus on the substantive issues raised by the simulation and introduce the opportunity for students to reflect on how to create opportunities for learning in the future. The course then formally ends.172 Learning, however, continues beyond the temporal confines of the semester. Students who perform well and who would like to continue to participate in the simulations are invited back as members of the control team, giving them a chance to deepen their understanding of national security law. Following graduation, a few students who go in to the field are then invited to continue their affiliation as National Security Law fellows, becoming increasingly involved in the evolution of the exercise itself. This system of vertical integration helps to build a mentoring environment for the students while they are enrolled in law school and to create opportunities for learning and mentorship post-graduation. It helps to keep the exercise current and reflective of emerging national security concerns. And it builds a strong community of individuals with common interests. CONCLUSION The legal academy has, of late, been swept up in concern about the economic conditions that affect the placement of law school graduates. The image being conveyed, however, does not resonate in every legal field. It is particularly inapposite to the burgeoning opportunities presented to students in national security. That the conversation about legal education is taking place now should come as little surprise. Quite apart from economic concern is the traditional introspection that follows American military engagement. It makes sense: law overlaps substantially with political power, being at once both the expression of government authority and the effort to limit the same. The one-size fits all approach currently dominating the conversation in legal education, however, appears ill-suited to address the concerns raised in the current conversation. Instead of looking at law across the board, greater insight can be gleaned by looking at the specific demands of the different fields themselves. This does not mean that the goals identified will be exclusive to, for instance, national security law, but it does suggest there will be greater nuance in the discussion of the adequacy of the current pedagogical approach. With this approach in mind, I have here suggested six pedagogical goals for national security. For following graduation, students must be able to perform in each of the areas identified – (1) understanding the law as applied, (2) dealing with factual chaos and uncertainty, (3) obtaining critical distance, (4) developing nontraditional written and oral communication skills, (5) exhibiting leadership, integrity, and good judgment in a high-stakes, highly-charged environment, and (6) creating continued opportunities for self-learning. They also must learn how to integrate these different skills into one experience, to ensure that they will be most effective when they enter the field. The problem with the current structures in legal education is that they fall short, in important ways, from helping students to meet these goals. Doctrinal courses may incorporate a range of experiential learning components, such as hypotheticals, doctrinal problems, single exercises, extended or continuing exercises, and tabletop exercises. These are important classroom devices. The amount of time required for each varies, as does the object of the exercise itself. But where they fall short is in providing a more holistic approach to national security law which will allow for the maximum conveyance of required skills. Total immersion simulations, which have not yet been addressed in the secondary literature for civilian education in national security law, may provide an important way forward. Such simulations also cure shortcomings in other areas of experiential education, such as clinics and moot court. It is in an effort to address these concerns that I developed the simulation model above. NSL Sim 2.0 certainly is not the only solution, but it does provide a starting point for moving forward. The approach draws on the strengths of doctrinal courses and embeds a total immersion simulation within a course. It makes use of technology and physical space to engage students in a multi-day exercise, in which they are given agency and responsibility for their decision making, resulting in a steep learning curve. While further adaptation of this model is undoubtedly necessary, it suggests one potential direction for the years to come.

#### Hegemony solves nuke war and extinction

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It is worth first examining the larger picture: We live in a time of arguably the greatest structural change in the global order yet endured, with this historical moment's most amazing feature being its relative and absolute lack of mass violence. That is something to consider when Americans contemplate military intervention in Libya, because if we do take the step to prevent larger-scale killing by engaging in some killing of our own, we will not be adding to some fantastically imagined global death count stemming from the ongoing "megalomania" and "evil" of American "empire." We'll be engaging in the same sort of system-administering activity that has marked our stunningly successful stewardship of global order since World War II. Let me be more blunt: As the guardian of globalization, the U.S. military has been the greatest force for peace the world has ever known. Had America been removed from the global dynamics that governed the 20th century, the mass murder never would have ended. Indeed, it's entirely conceivable there would now be no identifiable human civilization left, once nuclear weapons entered the killing equation. But the world did not keep sliding down that path of perpetual war. Instead, America stepped up and changed everything by ushering in our now-perpetual great-power peace. We introduced the international liberal trade order known as globalization and played loyal Leviathan over its spread. What resulted was the collapse of empires, an explosion of democracy, the persistent spread of human rights, the liberation of women, the doubling of life expectancy, a roughly 10-fold increase in adjusted global GDP and a profound and persistent reduction in battle deaths from state-based conflicts. That is what American "hubris" actually delivered. Please remember that the next time some TV pundit sells you the image of "unbridled" American military power as the cause of global disorder instead of its cure. With self-deprecation bordering on self-loathing, we now imagine a post-American world that is anything but. Just watch who scatters and who steps up as the Facebook revolutions erupt across the Arab world. While we might imagine ourselves the status quo power, we remain the world's most vigorously revisionist force.

As for the sheer "evil" that is our military-industrial complex, again, let's examine what the world looked like before that establishment reared its ugly head. The last great period of global structural change was the first half of the 20th century, a period that saw a death toll of about 100 million across two world wars. That comes to an average of 2 million deaths a year in a world of approximately 2 billion souls. Today, with far more comprehensive worldwide reporting, researchers report an average of less than 100,000 battle deaths annually in a world fast approaching 7 billion people. Though admittedly crude, these calculations suggest a 90 percent absolute drop and a 99 percent relative drop in deaths due to war. We are clearly headed for a world order characterized by multipolarity, something the American-birthed system was designed to both encourage and accommodate. But given how things turned out the last time we collectively faced such a fluid structure, we would do well to keep U.S. power, in all of its forms, deeply embedded in the geometry to come.

#### **U.S. hegemony is vital to global stability --- decline causes nuclear great power war --- best scholarship proves**

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A core premise of deep engagement is that it prevents the emergence of a far more dangerous global security environment. For one thing, as noted above, the United States’ overseas presence gives it the leverage to restrain partners from taking provocative action. Perhaps more important, its core alliance commitments also deter states with aspirations to regional hegemony from contemplating expansion and make its partners more secure, reducing their incentive to adopt solutions to their security problems that threaten others and thus stoke security dilemmas. The contention that engaged U.S. power dampens the baleful effects of anarchy is consistent with influential variants of realist theory. Indeed, arguably the scariest portrayal of the war-prone world that would emerge absent the “American Pacifier” is provided in the works of John Mearsheimer, who forecasts dangerous multipolar regions replete with security competition, arms races, nuclear proliferation and associated preventive war temptations, regional rivalries, and even runs at regional hegemony and full-scale great power war. 72 How do retrenchment advocates, the bulk of whom are realists, discount this benefit? Their arguments are complicated, but two capture most of the variation: (1) U.S. security guarantees are not necessary to prevent dangerous rivalries and conflict in Eurasia; or (2) prevention of rivalry and conflict in Eurasia is not a U.S. interest. Each response is connected to a different theory or set of theories, which makes sense given that the whole debate hinges on a complex future counterfactual (what would happen to Eurasia’s security setting if the United States truly disengaged?). Although a certain answer is impossible, each of these responses is nonetheless a weaker argument for retrenchment than advocates acknowledge. The first response flows from defensive realism as well as other international relations theories that discount the conflict-generating potential of anarchy under contemporary conditions. 73 Defensive realists maintain that the high expected costs of territorial conquest, defense dominance, and an array of policies and practices that can be used credibly to signal benign intent, mean that Eurasia’s major states could manage regional multipolarity peacefully without the American pacifier. Retrenchment would be a bet on this scholarship, particularly in regions where the kinds of stabilizers that nonrealist theories point to—such as democratic governance or dense institutional linkages—are either absent or weakly present. There are three other major bodies of scholarship, however, that might give decisionmakers pause before making this bet. First is regional expertise. Needless to say, there is no consensus on the net security effects of U.S. withdrawal. Regarding each region, there are optimists and pessimists. Few experts expect a return of intense great power competition in a post-American Europe, but many doubt European governments will pay the political costs of increased EU defense cooperation and the budgetary costs of increasing military outlays. 74 The result might be a Europe that is incapable of securing itself from various threats that could be destabilizing within the region and beyond (e.g., a regional conflict akin to the 1990s Balkan wars), lacks capacity for global security missions in which U.S. leaders might want European participation, and is vulnerable to the influence of outside rising powers. What about the other parts of Eurasia where the United States has a substantial military presence? Regarding the Middle East, the balance begins to swing toward pessimists concerned that states currently backed by Washington— notably Israel, Egypt, and Saudi Arabia—might take actions upon U.S. retrenchment that would intensify security dilemmas. And concerning East Asia, pessimism regarding the region’s prospects without the American pacifier is pronounced. Arguably the principal concern expressed by area experts is that Japan and South Korea are likely to obtain a nuclear capacity and increase their military commitments, which could stoke a destabilizing reaction from China. It is notable that during the Cold War, both South Korea and Taiwan moved to obtain a nuclear weapons capacity and were only constrained from doing so by a still-engaged United States. 75 The second body of scholarship casting doubt on the bet on defensive realism’s sanguine portrayal is all of the research that undermines its conception of state preferences. Defensive realism’s optimism about what would happen if the United States retrenched is very much dependent on its particular—and highly restrictive—assumption about state preferences; once we relax this assumption, then much of its basis for optimism vanishes. Specifically, the prediction of post-American tranquility throughout Eurasia rests on the assumption that security is the only relevant state preference, with security defined narrowly in terms of protection from violent external attacks on the homeland. Under that assumption, the security problem is largely solved as soon as offense and defense are clearly distinguishable, and offense is extremely expensive relative to defense. Burgeoning research across the social and other sciences, however, undermines that core assumption: states have preferences not only for security but also for prestige, status, and other aims, and they engage in trade-offs among the various objectives. 76 In addition, they define security not just in terms of territorial protection but in view of many and varied milieu goals. It follows that even states that are relatively secure may nevertheless engage in highly competitive behavior. Empirical studies show that this is indeed sometimes the case. 77 In sum, a bet on a benign postretrenchment Eurasia is a bet that leaders of major countries will never allow these nonsecurity preferences to influence their strategic choices. To the degree that these bodies of scholarly knowledge have predictive leverage, U.S. retrenchment would result in a significant deterioration in the security environment in at least some of the world’s key regions. We have already mentioned the third, even more alarming body of scholarship. Offensive realism predicts that the withdrawal of the American pacifier will yield either a competitive regional multipolarity complete with associated insecurity, arms racing, crisis instability, nuclear proliferation, and the like, or bids for regional hegemony, which may be beyond the capacity of local great powers to contain (and which in any case would generate intensely competitive behavior, possibly including regional great power war). Hence it is unsurprising that retrenchment advocates are prone to focus on the second argument noted above: that avoiding wars and security dilemmas in the world’s core regions is not a U.S. national interest. Few doubt that the United States could survive the return of insecurity and conflict among Eurasian powers, but at what cost? Much of the work in this area has focused on the economic externalities of a renewed threat of insecurity and war, which we discuss below. Focusing on the pure security ramifications, there are two main reasons why decisionmakers may be rationally reluctant to run the retrenchment experiment. First, overall higher levels of conflict make the world a more dangerous place. Were Eurasia to return to higher levels of interstate military competition, one would see overall higher levels of military spending and innovation and a higher likelihood of competitive regional proxy wars and arming of client states—all of which would be concerning, in part because it would promote a faster diffusion of military power away from the United States. Greater regional insecurity could well feed proliferation cascades, as states such as Egypt, Japan, South Korea, Taiwan, and Saudi Arabia all might choose to create nuclear forces. 78 It is unlikely that proliferation decisions by any of these actors would be the end of the game: they would likely generate pressure locally for more proliferation. Following Kenneth Waltz, many retrenchment advocates are proliferation optimists, assuming that nuclear deterrence solves the security problem. 79 Usually carried out in dyadic terms, the debate over the stability of proliferation changes as the numbers go up. Proliferation optimism rests on assumptions of rationality and narrow security preferences. In social science, however, such assumptions are inevitably probabilistic. Optimists assume that most states are led by rational leaders, most will overcome organizational problems and resist the temptation to preempt before feared neighbors nuclearize, and most pursue only security and are risk averse. Confidence in such probabilistic assumptions declines if the world were to move from nine to twenty, thirty, or forty nuclear states. In addition, many of the other dangers noted by analysts who are concerned about the destabilizing effects of nuclear proliferation—including the risk of accidents and the prospects that some new nuclear powers will not have truly survivable forces—seem prone to go up as the number of nuclear powers grows. 80 Moreover, the risk of “unforeseen crisis dynamics” that could spin out of control is also higher as the number of nuclear powers increases. Finally, add to these concerns the enhanced danger of nuclear leakage, and a world with overall higher levels of security competition becomes yet more worrisome. The argument that maintaining Eurasian peace is not a U.S. interest faces a second problem. On widely accepted realist assumptions, acknowledging that U.S. engagement preserves peace dramatically narrows the difference between retrenchment and deep engagement. For many supporters of retrenchment, the optimal strategy for a power such as the United States, which has attained regional hegemony and is separated from other great powers by oceans, is offshore balancing: stay over the horizon and “pass the buck” to local powers to do the dangerous work of counterbalancing any local rising power. The United States should commit to onshore balancing only when local balancing is likely to fail and a great power appears to be a credible contender for regional hegemony, as in the cases of Germany, Japan, and the Soviet Union in the midtwentieth century. The problem is that China’s rise puts the possibility of its attaining regional hegemony on the table, at least in the medium to long term. As Mearsheimer notes, “The United States will have to play a key role in countering China, because its Asian neighbors are not strong enough to do it by themselves.” 81 Therefore, unless China’s rise stalls, “the United States is likely to act toward China similar to the way it behaved toward the Soviet Union during the Cold War.” 82 It follows that the United States should take no action that would compromise its capacity to move to onshore balancing in the future. It will need to maintain key alliance relationships in Asia as well as the formidably expensive military capacity to intervene there. The implication is to get out of Iraq and Afghanistan, reduce the presence in Europe, and pivot to Asia— just what the United States is doing. 83 In sum, the argument that U.S. security commitments are unnecessary for peace is countered by a lot of scholarship, including highly influential realist scholarship. In addition, the argument that Eurasian peace is unnecessary for U.S. security is weakened by the potential for a large number of nasty security consequences as well as the need to retain a latent onshore balancing capacity that dramatically reduces the savings retrenchment might bring. Moreover, switching between offshore and onshore balancing could well be difªcult. Bringing together the thrust of many of the arguments discussed so far underlines the degree to which the case for retrenchment misses the underlying logic of the deep engagement strategy. By supplying reassurance, deterrence, and active management, the United States lowers security competition in the world’s key regions, thereby preventing the emergence of a hothouse atmosphere for growing new military capabilities. Alliance ties dissuade partners from ramping up and also provide leverage to prevent military transfers to potential rivals. On top of all this, the United States’ formidable military machine may deter entry by potential rivals. Current great power military expenditures as a percentage of GDP are at historical lows, and thus far other major powers have shied away from seeking to match top-end U.S. military capabilities. In addition, they have so far been careful to avoid attracting the “focused enmity” of the United States. 84 All of the world’s most modern militaries are U.S. allies (America’s alliance system of more than sixty countries now accounts for some 80 percent of global military spending), and the gap between the U.S. military capability and that of potential rivals is by many measures growing rather than shrinking. 85

#### No impact to the environment and no solvency

Holly Doremus 2k Professor of Law at UC Davis, "The Rhetoric and Reality of Nature Protection: Toward a New Discourse," Winter 2000 Washington & Lee Law Review 57 Wash & Lee L. Rev. 11, lexis

Reluctant to concede such losses, tellers of the ecological horror story highlight how close a catastrophe might be, and how little we know about what actions might trigger one. But the apocalyptic vision is **less credible today than it seemed in the 1970s.** Although it is clear that the earth is experiencing a mass wave of extinctions, n213 the **complete elimination of life on earth seems unlikely.** n214 **Life is remarkably robust**. **Nor is human extinction probable** any time soon. Homo sapiens is **adaptable to nearly any environment**. Even if the world of the future includes far fewer species, it likely will hold people. n215 One response to this credibility problem tones the story down a bit, arguing not that humans will go extinct but that ecological disruption will bring economies, and consequently civilizations, to their knees. n216 But this too may be **overstating the case**. Most ecosystem functions are **performed by multiple species**. This **functional redundancy** means that **a high proportion of species can be lost without precipitating a collapse**. n217 Another response drops the horrific ending and returns to a more measured discourse of the many material benefits nature provides humanity. Even these more plausible tales, though, suffer from an important limitation. They call for nature protection only at a high level of generality. For example, human-induced increases in atmospheric carbon dioxide levels may cause rapid changes in global temperatures in the near future, with drastic consequences for sea levels, weather patterns, and ecosystem services. n218 Similarly, the loss of large numbers of species undoubtedly reduces the genetic library from which we might in the future draw useful resources. n219 But it is difficult to translate these insights into convincing arguments against any one of the small local decisions that contribute to the problems of global warming or biodiversity loss. n220 It is easy to argue that **the** material **impact of any individual decision to increase** carbon **emissions slightly or to destroy a small amount of habitat will be small.** It is difficult to identify the specific straw that will break the camel's back. Furthermore, **no unilateral action at the local or even national level can solve these global problems**. Local decisionmakers may feel paralyzed by the scope of the problems, or may conclude that any sacrifices they might make will go unrewarded if others do not restrain their actions. In sum, at the local level at which most decisions affecting nature are made, the material discourse provides little reason to save nature. Short of the ultimate catastrophe, the material benefits of destructive decisions frequently will exceed their identifiable material costs. n221