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### 1

#### Restrictions are prohibitions --- the aff is distinct

Jean Schiedler-Brown 12, Attorney, Jean Schiedler-Brown & Associates, Appellant Brief of Randall Kinchloe v. States Dept of Health, Washington, The Court of Appeals of the State of Washington, Division 1, http://www.courts.wa.gov/content/Briefs/A01/686429%20Appellant%20Randall%20Kincheloe%27s.pdf

3. The ordinary definition of the term "restrictions" also does not include the reporting and monitoring or supervising terms and conditions that are included in the 2001 Stipulation.

Black's Law Dictionary, 'fifth edition,(1979) defines "restriction" as;

A limitation often imposed in a deed or lease respecting the use to which the property may be put. The term "restrict' is also cross referenced with the term "restrain." Restrain is defined as; To limit, confine, abridge, narrow down, restrict, obstruct, impede, hinder, stay, destroy. To prohibit from action; to put compulsion on; to restrict; to hold or press back. To keep in check; to hold back from acting, proceeding, or advancing, either by physical or moral force, or by interposing obstacle, to repress or suppress, to curb.

In contrast, the terms "supervise" and "supervisor" are defined as; To have general oversight over, to superintend or to inspect. See Supervisor. A surveyor or overseer. . . In a broad sense, one having authority over others, to superintend and direct. The term "supervisor" means an individual having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but required the use of independent judgment.

Comparing the above definitions, it is clear that the definition of "restriction" is very different from the definition of "supervision"-very few of the same words are used to explain or define the different terms. In his 2001 stipulation, Mr. Kincheloe essentially agreed to some supervision conditions, but he did not agree to restrict his license.

#### Restrictions on authority are distinct from conditions

William Conner 78, former federal judge for the United States District Court for the Southern District of New York United States District Court, S. D. New York, CORPORACION VENEZOLANA de FOMENTO v. VINTERO SALES, http://www.leagle.com/decision/19781560452FSupp1108\_11379

Plaintiff next contends that Merban was charged with notice of the restrictions on the authority of plaintiff's officers to execute the guarantees. Properly interpreted, the "conditions" that had been imposed by plaintiff's Board of Directors and by the Venezuelan Cabinet were not "restrictions" or "limitations" upon the authority of plaintiff's agents but rather conditions precedent to the granting of authority. Essentially, then, plaintiff's argument is that Merban should have known that plaintiff's officers were not authorized to act except upon the fulfillment of the specified conditions.

#### Vote neg---

#### Neg ground and limits---only prohibitions on particular authorities guarantee links to every core argument like flexibility and deference---there are an infinite number of potential conditions

#### Precision---only our interpretation defines “restrictions on authority”---that’s key to adequate preparation and policy analysis

### 2

#### Security politics are driven by a fundamental fear of alterity that create the enabling conditions for executive overreach and violence --- it’s try or die

Vivienne Jabri 6, Director of the Centre for International Relations and Senior Lecturer at the Department of War Studies, King’s College London, War, Security and the Liberal State, Security Dialogue, 37;47

LATE MODERN TRANSFORMATIONS are often conceived in terms of the sociopolitical and economic manifestations of change emergent from a globalized arena. What is less apparent is how late modernity as a distinct era has impacted upon our conceptions of the social sphere, our lived experience, and our reflections upon the discourses and institutions that form the taken-for-granted backdrop of the known and the knowable. The paradigmatic certainties of modernity – the state, citizenship, democratic space, humanity’s infinite capacity for progress, the defeat of dogma and the culmination of modernity’s apotheosis in the free-wheeling market place – have in the late modern era come face to face with uncertainty, unpre- dictability and the gradual erosion of the modern belief that we could indeed simply move on, assisted by science and technology, towards a condition where instrumental rationality would become the linchpin of government and human interaction irrespective of difference. Progress came to be associated with peace, and both were constitutively linked to the universal, the global, the human, and therefore the cosmopolitan. What shatters such illusions is the recollection of the 20th century as the ‘age of extremes’ (Hobsbawm, 1995), and the 21st as the age of the ever-present condition of war. While we might prefer a forgetting of things past, a therapeutic anamnesis that manages to reconfigure history, it is perhaps the continuities with the past that act as antidote to such righteous comforts.

How, then, do we begin to conceptualize war in conditions where distinctions disappear, where war is conceived, or indeed articulated in political discourse, in terms of peace and security, so that the political is somehow banished in the name of governmentalizing practices whose purview knows no bounds, whose remit is precisely the banishment of limits, of boundaries and distinctions. Boundaries, however, do not disappear. Rather, they become manifest in every instance of violence, every instance of control, every instance of practices targeted against a constructed other, the enemy within and without, the all-pervasive presence, the defences against which come to form the legitimizing tool of war.

Any scholarly take on the present juncture of history, any analysis of the dynamics of the present, must somehow render the narrative in measured tones, taking all factors into account, lest the narrator is accused of exaggeration at best and particular political affiliations at worst. When the late modern condition of the West, of the European arena, is one of camps, one of the detention of groups of people irrespective of their individual needs as migrants, one of the incarceration without due process of suspects, one of overwhelming police powers to stop, search and detain, one of indefinite detention in locations beyond law, one of invasion and occupation, then language itself is challenged in its efforts to contain the description of what is. The critical scholarly take on the present is then precisely to reveal the conditions of possibility in relation to how we got here, to unravel the enabling dynamics that led to the disappearance of distinctions between war and criminality, war and peace, war and security. When such distinctions disappear, impunity is the result, accountability shifts beyond sight, and violence comes to form the linchpin of control. We can reveal the operations of violence, but far more critical is the revelation of power and how power operates in the present. As the article argues, such an exploration raises fundamental questions relating to the relationship of power and violence, and their mutual interconnection in the complex interstices of disrupted time and space locations. Power and violence are hence separable analytical categories, separable practices; they are at the same time connected in ways that work on populations and on bodies – with violence often targeted against the latter so that the former are reigned in, governed. Where Michel Foucault sought, in his later writings, to distinguish between power and violence, to reveal the subtle workings of power, now, in the present, this article will venture, perhaps the distinction is no longer viable when we witness the indistinctions I highlight above

The article provides an analysis of the place of war in late modern politics. In particular, it concentrates on the implications of war for our conceptions of the liberty–security problematique in the context of the modern liberal state. The first section of the article argues the case for the figure of war as analyser of the present. The second section of the article reveals the con- ditions of possibility for a distinctly late modern mode of war and its imbri- cations in politics. The final section of the article concentrates on the political implications of the primacy of war in late modernity, and in particular on possibilities of dissent and articulations of political agency. The aim through- out is to provide the theoretical and conceptual tools that might begin to meet the challenges of the present and to open an agenda of research that concentrates on the politics of the present, the capacities or otherwise of contestation and accountability, and the institutional locations wherein such political agency might emerge.

The Figure of War and the Spectre of Security

The so-called war against terrorism is constructed as a global war, transcend- ing space and seemingly defiant of international conventions. It is dis- tinguished from previous global wars, including the first and the second world wars, in that the latter two have, in historiography, always been analysed as interstate confrontations, albeit ones that at certain times and in particular locations peripherally involved non-state militias. Such distinc- tions from the old, of course, will be subject to future historical narratives on the present confrontation and its various parameters. What is of interest in the present discussion is the distinctly global aspect of this war, for it is the globality1 of the war against terrorism that renders it particularly relevant and pertinent to investigations that are primarily interested in the relation- ship between war and politics, war and the political processes defining the modern state. The initial premise of the present article is that war, rather than being confined to its own time and space, permeates the normality of the political process, has, in other words, a defining influence on elements con- sidered to be constitutive of liberal democratic politics, including executive answerability, legislative scrutiny, a public sphere of discourse and inter- action, equal citizenship under the law and, to follow liberal thinkers such as Habermas, political legitimacy based on free and equal communicative practices underpinning social solidarity (Habermas, 1997). War disrupts these elements and is a time of crisis and emergency. A war that has a permanence to it clearly normalizes the exceptional, inscribing emergency into the daily routines of social and political life. While the elements of war – conflict, social fragmentation, exclusion – may run silently through the assemblages of control in liberal society (Deleuze, 1986), nevertheless the persistent iteration of war into politics brings these practices to the fore, and with them a call for a rethinking of war’s relationship to politics.

The distinctly global spatiality of this war suggests particular challenges that have direct impact on the liberal state, its obligations towards its citizenry, and the extent to which it is implicated in undermining its own political institutions. It would, however, be a mistake to assume that the practices involved in this global war are in any way anathema to the liberal state. The analysis provided here would argue that while it is crucial to acknowledge the transformative impact of the war against terrorism, it is equally as important to appreciate the continuities in social and political life that are the enabling conditions of this global war, forming its conditions of possibility. These enabling conditions are not just present or apparent at global level, but incorporate local practices that are deep-rooted and institu- tionalized. The mutually reinforcing relationship between global and local conditions renders this particular war distinctly all-pervasive, and poten- tially, in terms of implications, far more threatening to the spaces available for political contestation and dissent.

Contemporary global politics is dominated by what might be called a ‘matrix of war’2 constituted by a series of transnational practices that vari- ously target states, communities and individuals. These practices involve states as agents, bureaucracies of states and supranational organizations, quasi-official and private organizations recruited in the service of a global machine that is highly militarized and hence led by the United States, but that nevertheless incorporates within its workings various alliances that are always in flux. The crucial element in understanding the matrix of war is the notion of ‘practice’, for this captures the idea that any practice is not just situated in a system of enablements and constraints, but is itself constitutive of structural continuities, both discursive and institutional. As Paul Veyne (1997: 157) writes in relation to Foucault’s use of the term, ‘practice is not an agency (like the Freudian id) or a prime mover (like the relation of produc- tion), and moreover for Foucault, there is no agency nor any prime mover’. It is in this recursive sense that practices (of violence, exclusion, intimidation, control and so on) become structurated in the routines of institutions as well as lived experience (Jabri, 1996). To label the contemporary global war as a ‘war against terrorism’ confers upon these practices a certain legitimacy, suggesting that they are geared towards the elimination of a direct threat. While the threat of violence perpetrated by clandestine networks against civilians is all too real and requires state responses, many of these responses appear to assume a wide remit of operations – so wide that anyone interested in the liberties associated with the democratic state, or indeed the rights of individuals and communities, is called upon to unravel the implications of such practices.

When security becomes the overwhelming imperative of the democratic state, its legitimization is achieved both through a discourse of ‘balance’ between security and liberty and in terms of the ‘protection’ of liberty.3 The implications of the juxtaposition of security and liberty may be investigated either in terms of a discourse of ‘securitization’ (the power of speech acts to construct a threat juxtaposed with the power of professionals precisely to so construct)4 or, as argued in this article, in terms of a discourse of war. The grammars involved are closely related, and yet that of the latter is, para- doxically, the critical grammar, the grammar that highlights the workings of power and their imbrications with violence. What is missing from the securitization literature is an analytic of war, and it is this analytic that I want to foreground in this article.

The practices that I highlight above seem at first hand to constitute differ- ent response mechanisms in the face of what is deemed to be an emergency situation in the aftermath of the events of 11 September 2001. The invasion and occupation of Iraq, the incarceration without due process of prisoners in camps from Afghanistan to Guantánamo and other places as yet un- identified, the use of torture against detainees, extra-judicial assassination, the detention and deportation – again without due process – of foreign nationals deemed a threat, increasing restrictions on refugees, their confine- ment in camps and detention centres, the construction of the movement of peoples in security terms, and restrictions on civil liberties through domestic legislation in the UK, the USA and other European states are all represented in political discourse as necessary security measures geared towards the protection of society. All are at the same time institutional measures targeted against a particular other as enemy and source of danger.

It could be argued that the above practices remain unrelated and must hence be subject to different modes of analysis. To begin with, these practices involve different agents and are framed around different issues. Afghanistan and Iraq may be described as situations of war, and the incarceration of refugees as encompassing practices of security. However, what links these elements is not so much that they constitute a constructed taxonomy of dif- ferentiated practices. Rather, what links them is the element of antagonism directed against distinct and particular others. Such a perspective suggests that the politics of security, including the production of fear and a whole array of exclusionary measures, comes to service practices that constitute war and locates the discourse of war at the heart of politics, not just domes- tically, but, more crucially in the present context, globally. The implications for the late modern state and the distinctly liberal state are monumental, for a perpetual war on a global scale has implications for political structures and political agency, for our conceptions of citizenship and the role of the state in meeting the claims of its citizens,5 and for the workings of a public sphere that is increasingly global and hence increasingly multicultural.

The matrix of war is centrally constituted around the element of antago- nism, having an association with existential threat: the idea that the continued presence of the other constitutes a danger not just to the well-being of society but to its continued existence in the form familiar to its members, hence the relative ease with which European politicians speak of migrants of particular origins as forming a threat to the ‘idea of Europe’ and its Christian origins.6 Herein lies a discourse of cultural and racial exclusion based on a certain fear of the other. While the war against specific clandestine organiza- tions7 involves operations on both sides that may be conceptualized as a classical war of attrition, what I am referring to as the matrix of war is far more complex, for here we have a set of diffuse practices, violence, disci- plinarity and control that at one and same time target the other typified in cultural and racial terms and instantiate a wider remit of operations that impact upon society as a whole.

The practices of warfare taking place in the immediate aftermath of 11 September 2001 combine with societal processes, reflected in media representations and in the wider public sphere, where increasingly the source of threat, indeed the source of terror, is perceived as the cultural other, and specifically the other associated variously with Islam, the Middle East and South Asia. There is, then, a particularity to what Agamben (1995, 2004) calls the ‘state of exception’, a state not so much generalized and generalizable, but one that is experienced differently by different sectors of the global population. It is precisely this differential experience of the exception that draws attention to practices as diverse as the formulation of interrogation techniques by military intelligence in the Pentagon, to the recent provisions of counter-terrorism measures in the UK,8 to the legitimizing discourses surrounding the invasion of Iraq. All are practices that draw upon a discourse of legitimization based on prevention and pre-emption. Enemies constructed in the discourses of war are hence always potential, always abstract even when identified, and, in being so, always drawn widely and, in consequence, communally. There is, hence, a ‘profile’ to the state of exception and its experience. Practices that profile particular communities, including the citizens of European states, create particular challenges to the self-understanding of the liberal democratic state and its capacity, in the 21st century, to deal with difference.

While a number of measures undertaken in the name of security, such as proposals for the introduction of identity cards in the UK or increasing surveillance of financial transactions in the USA, might encompass the population as a whole, the politics of exception is marked by racial and cul- tural signification. Those targeted by exceptional measures are members of particular racial and cultural communities. The assumed threat that under- pins the measures highlighted above is one that is now openly associated variously with Islam as an ideology, Islam as a mode of religious identi- fication, Islam as a distinct mode of lifestyle and practice, and Islam as a particular brand associated with particular organizations that espouse some form of a return to an Islamic Caliphate. When practices are informed by a discourse of antagonism, no distinctions are made between these various forms of individual and communal identification. When communal profiling takes place, the distinction between, for example, the choice of a particular lifestyle and the choice of a particular organization disappears, and diversity within the profiled community is sacrificed in the name of some ‘pre- cautionary’ practice that targets all in the name of security.9 The practices and language of antagonism, when racially and culturally inscribed, place the onus of guilt onto the entire community so identified, so that its indi- vidual members can no longer simply be citizens of a secular, multicultural state, but are constituted in discourse as particular citizens, subjected to particular and hence exceptional practices. When the Minister of State for the UK Home Office states that members of the Muslim community should expect to be stopped by the police, she is simply expressing the condition of the present, which is that the Muslim community is particularly vulnerable to state scrutiny and invasive measures that do not apply to the rest of the citizenry.10 We know, too, that a distinctly racial profiling is taking place, so that those who are physically profiled are subjected to exceptional measures.

Even as the so-called war against terrorism recognizes no boundaries as limits to its practices – indeed, many of its practices occur at transnational, often indefinable, spaces – what is crucial to understand, however, is that this does not mean that boundaries are no longer constructed or that they do not impinge on the sphere of the political. The paradox of the current context is that while the war against terrorism in all its manifestations assumes a boundless arena, borders and boundaries are at the heart of its operations. The point to stress is that these boundaries and the exclusionist practices that sustain them are not coterminous with those of the state; rather, they could be said to be located and perpetually constructed upon the corporeality of those constructed as enemies, as threats to security. It is indeed the corporeal removal of such subjects that lies at the heart of what are constructed as counter-terrorist measures, typified in practices of direct war, in the use of torture, in extra-judicial incarceration and in judicially sanctioned detention. We might, then, ask if such measures constitute violence or relations of power, where, following Foucault, we assume that the former acts upon bodies with a view to injury, while the latter acts upon the actions of subjects and assumes, as Deleuze (1986: 70–93) suggests, a relation of forces and hence a subject who can act. What I want to argue here is that violence is imbricated in relations of power, is a mode of control, a technology of governmentality. When the population of Iraq is targeted through aerial bombardment, the consequence goes beyond injury and seeks the pacifica- tion of the Middle East as a political region.

When legislative and bureaucratic measures are put in place in the name of security, those targeted are categories of population. At the same time, the war against terrorism and the security discourses utilized in its legitimiza- tion are conducted and constructed in terms that imply the defence or protection of populations. One option is to limit policing, military and intel- ligence efforts through the targeting of particular organizations. However, it is the limitless construction of the war against terrorism, its targeting of particular racial and cultural communities, that is the source of the challenge presented to the liberal democratic state. In conditions constructed in terms of emergency, war permeates discourses on politics, so that these come to be subject to the restraints and imperatives of war and practices constituted in terms of the demands of security against an existential threat. The implications for liberal democratic politics and our conceptions of the modern state and its institutions are far-reaching,11 for the liberal democratic polity that considers itself in a state of perpetual war is also a state that is in a permanent state of mobilization, where every aspect of public life is geared towards combat against potential enemies, internal and external.

One of the most significant lessons we learn from Michel Foucault’s writ- ings is that war, or ‘the distant roar of battle’ (Foucault, 1977: 308), is never quite so distant from liberal governmentality. Conceived in Foucaultian terms, war and counter-terrorist measures come to be seen not as discontinuity from liberal government, but as emergent from the enabling conditions that liberal government and the modern state has historically set in place. On reading Foucault’s renditions on the emergence of the disciplinary society, what we see is the continuation of war in society and not, as in Hobbes and elsewhere in the history of thought, the idea that wars happen at the outskirts of society and its civil order. The disciplinary society is not simply an accumulation of institutional and bureaucratic procedures that permeate the everyday and the routine; rather, it has running through its interstices the constitutive elements of war as continuity, including confrontation, struggle and the corporeal removal of those deemed enemies of society. In Society Must Be Defended (Foucault, 2003) and the first volume of the History of Sexuality (Foucault, 1998), we see reference to the discursive and institutional continuities that structurate war in society. Reference to the ‘distant roar of battle’ suggests confrontation and struggle; it suggests the ever-present construction of threat accrued to the particular other; it suggests the immediacy of threat and the construction of fear of the enemy; and ultimately it calls for the corporeal removal of the enemy as source of threat. The analytic of war also encompasses the techniques of the military and their presence in the social sphere – in particular, the control and regulation of bodies, timed pre- cision and instrumentality that turn a war machine into an active and live killing machine. In the matrix of war, there is hence the level of discourse and the level of institutional practices; both are mutually implicating and mutually enabling. There is also the level of bodies and the level of population. In Foucault’s (1998: 152) terms: ‘the biological and the historical are not con- secutive to one another . . . but are bound together in an increasingly com- plex fashion in accordance with the development of the modern technologies of power that take life as their objective’.

What the above suggests is the idea of war as a continuity in social and political life. The matrix of war suggests both discursive and institutional practices, technologies that target bodies and populations, enacted in a complex array of locations. The critical moment of this form of analysis is to point out that war is not simply an isolated occurrence taking place as some form of interruption to an existing peaceful order. Rather, this peaceful order is imbricated with the elements of war, present as continuities in social and political life, elements that are deeply rooted and enabling of the actuality of war in its traditional battlefield sense. This implies a continuity of sorts between the disciplinary, the carceral and the violent manifestations of government.

#### Our alternative is to refuse technical debates about war powers in favor of subjecting the 1ac’s discourse to rigorous democratic scrutiny

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

But this mode of popular involvement comes at a key cost. Secret information is generally treated as worthy of a higher status than information already present in the public realm—the shared collective information through which ordinary citizens reach conclusions about emergency and defense. Yet, oftentimes, as with the lead up to the Iraq War in 2003, although the actual content of this secret information is flawed,197 its status as secret masks these problems and allows policymakers to cloak their positions in added authority. This reality highlights the importance of approaching security information with far greater collective skepticism; it also means that security judgments may be more ‘Hobbesian’—marked fundamentally by epistemological uncertainty as opposed to verifiable fact—than policymakers admit.

If the objective sociological claims at the center of the modern security concept are themselves profoundly contested, what does this meahn for reform efforts that seek to recalibrate the relationship between liberty and security? Above all, it indicates that the central problem with the procedural solutions offered by constitutional scholars-emphasizing new statutory frameworks or greater judicial assertiveness-is that they mistake a question of politics for one of law. In other words, such scholars ignore the extent to which governing practices are the product of background political judgments about threat, democratic knowledge, professional expertise, and the necessity for insulated decision-making. To the extent that Americans are convinced that they face continuous danger from hidden and potentially limitless assailants-danger too complex for the average citizen to comprehend independently-it is inevitable that institutions (regardless of legal reform initiatives) will operate to centralize power in those hands presumed to enjoy military and security expertise. Thus, any systematic effort to challenge the current framing of the relationship between security and liberty must begin by challenging the underlying assumptions about knowledge and security upon which legal and political arrangements rest. Without a sustained and public debate about the validity of security expertise, its supporting institutions, and the broader legitimacy of secret information, there can be no substantive shift in our constitutional politics. The problem at present, however, is that it remains unclear which popular base exists in society to raise these questions. Unless such a base fully emerges, we can expect our prevailing security arrangements to become ever more entrenched.

### 3

#### Obama will hold off a vote on Iran sanctions now---PC’s key---failure destroys regional and global U.S. power and cred

Flynt Leverett 1-20, professor at Pennsylvania State University’s School of International Affairs and is a Visiting Scholar at Peking University’s School of International Studies, and Hillary Mann Leverett, Senior Professorial Lecturer at the American University in Washington, DC and a Visiting Scholar at Peking University in Beijing, 1/20/14, “Iran, Syria and the Tragicomedy of U.S. Foreign Policy,” http://goingtotehran.com/iran-syria-and-the-tragicomedy-of-u-s-foreign-policy

Regarding President Obama’s ongoing struggle with the Senate over Iran policy, Hillary cautions against premature claims of “victory” for the Obama administration’s efforts to avert new sanctions legislation while the Joint Plan of Action is being implemented. She points out that “the foes of the Iran nuclear deal, of any kind of peace and conflict resolution in the Middle East writ large, are still very strong and formidable. For example, the annual AIPAC policy conference—a gathering here in Washington of over 10,000 people from all over the country, where they come to lobby congressmen and senators, especially on the Iran issue—that will be taking place in very early March. There’s still a lot that can be pushed and played here.”

To be sure, President Obama and Secretary of State John Kerry “have put a lot of political capital on the line.” No other administration has so openly staked out its opposition to a piece of legislation or policy initiative favored by AIPAC and backed by a bipartisan majority on Capitol Hill since the 1980s, when the Reagan administration successfully defended its decision to sell AWACs planes to Saudi Arabia. But, Hillary notes, if the pro-Israel lobby is able to secure a vote on the new sanctions bill, and to sustain the promised veto of said bill by President Obama, “that would be such a dramatic blow to President Obama, and not just on his foreign policy agenda, but it would be devastating to his domestic agenda.” So Obama “has a tremendous amount to lose, and by no means is the fight anywhere near over.”

Of course, to say that Obama has put a lot of political capital on the line over the sanctions issue begs the question of whether he is really prepared to spend the far larger amounts of capital that will be required to close a final nuclear deal with Tehran. As Hillary points out, if Obama were “really trying to lead this country on a much more constructive, positive trajectory after failed wars and invasions in Iraq and Afghanistan and Libya—Libya entirely on President Obama’s watch—[he] would be doing a lot more, rather than just giving these lukewarm talks, basically trying to continue to kiss up to major pro-Israel constituencies, and then trying to bring in some of political favors” on Capitol Hill.

Compare Obama’s handling of Iran and other Middle East challenges to President Nixon’s orchestration of the American opening to China—including Nixon’s willingness to “break the crockery” of the pro-Taiwan lobby—and the inadequacy of Obama’s approach become glaringly apparent. And that, Hillary underscores, is why we wrote our book, Going to Tehran—because “we think it’s absolutely essential for President Obama to do what Nixon did and go to Tehran, as Nixon went to China,” for “the Middle East is the make-or-break point for the United States, not just in our foreign affairs but in our global economic power and what we’re able to do here at home. If we can’t get what we’re doing in the Middle East on a much better, more positive trajectory, not only will we see the loss of our power, credibility, and prestige in the Middle East, but we will see it globally.”

#### It’s a war powers issue that Obama will win now---failure commits us to Israeli strikes

Merry 1/1Robert W., political editor of the National Interest, is the author of books on American history and foreign policy “Obama may buck the Israel lobby on Iran” Washington Times, http://www.washingtontimes.com/news/2013/dec/31/merry-obama-may-buck-the-israel-lobby-on-iran/

With the veto threat, Mr. Obama has announced that he is prepared to buck the Israel lobby — and may even welcome the opportunity. It isn’t fair to suggest that everyone who thinks Mr. Obama’s overtures to Iran are ill-conceived or counterproductive is simply following the Israeli lobby’s talking points, but Israel’s supporters in this country are a major reason for the viability of the sanctions legislation the president is threatening to veto.¶ It is nearly impossible to avoid the conclusion that the Senate legislation is designed to sabotage Mr. Obama’s delicate negotiations with Iran (with the involvement also of the five permanent members of the U.N. Security Council and Germany) over Iran’s nuclear program. The aim is to get Iran to forswear any acquisition of nuclear weapons in exchange for the reduction or elimination of current sanctions. Iran insists it has a right to enrich uranium at very small amounts, for peaceful purposes, and Mr. Obama seems willing to accept that Iranian position in the interest of a comprehensive agreement.¶ However, the Senate measure, sponsored by Sens. Robert Menendez, New Jersey Democrat; Charles E. Schumer, New York Democrat; and Mark Kirk, Illinois Republican, would impose potent new sanctions if the final agreement accords Iran the right of peaceful enrichment. That probably would destroy Mr. Obama’s ability to reach an agreement. Iranian President Hasan Rouhani already is under pressure from his country’s hard-liners to abandon his own willingness to seek a deal. The Menendez-Schumer-Kirk measure would undercut him and put the hard-liners back in control.¶ Further, the legislation contains language that would commit the United States to military action on behalf of Israel if Israel initiates action against Iran. This language is cleverly worded, suggesting U.S. action should be triggered only if Israel acted in its “legitimate self-defense” and acknowledging “the law of the United States and the constitutional responsibility of Congress to authorize the use of military force,” but the language is stunning in its brazenness and represents, in the view of Andrew Sullivan, the prominent blogger, “**an appalling new low in the Israeli government’s grip on the U.S. Congress**.”¶ While noting the language would seem to be nonbinding, Mr. Sullivan adds that “it’s basically endorsing the principle of handing over American foreign policy on a matter as grave as war and peace to a foreign government, acting against international law, thousands of miles away.”¶ That brings us back to Mr. Obama’s veto threat. The American people have made clear through polls and abundant expression (especially during Mr. Obama’s flirtation earlier this year with military action against Bashar Assad’s Syrian regime) that they are sick and weary of American military adventures in the Middle East. They don’t think the Iraq and Afghanistan wars have been worth the price, and they don’t want their country to engage in any other such wars.¶ That’s what the brewing confrontation between Mr. Obama and the Israel lobby comes down to — war and peace. Mr. Obama’s delicate negotiations with Iran, whatever their outcome, are designed to avert another U.S. war in the Middle East. The Menendez-Schumer-Kirk initiative is designed to kill that effort and cedes to Israel America’s war-making decision in matters involving Iran, which further increases the prospects for war. It’s not even an argument about whether the United States should come to Israel’s aid if our ally is under attack, but whether the decision to do so and when that might be necessary should be made in Jerusalem or Washington.

#### Obama fights the plan --- losers lose --- that drains political capital

Loomis 7 – Department of Government at Georgetown

(3/2/2007, Dr. Andrew J. Loomis is a Visiting Fellow at the Center for a New American Security, “Leveraging legitimacy in the crafting of U.S. foreign policy,” pg 35-36, <http://citation.allacademic.com//meta/p_mla_apa_research_citation/1/7/9/4/8/pages179487/p179487-36.php>)

Declining political authority encourages defection. American political analyst Norman Ornstein writes of the domestic context, ¶ In a system where a President has limited formal power, perception matters. The reputation for success—the belief by other political actors that even when he looks down, a president will find a way to pull out a victory—is the most valuable resource a chief executive can have. Conversely, the widespread belief that the Oval Office occupant is on the defensive, on the wane or without the ability to win under adversity can lead to disaster, as individual lawmakers calculate who will be on the winning side and negotiate accordingly. In simple terms, winners win and losers lose more often than not. ¶ Failure begets failure. In short, a president experiencing declining amounts of political capital has diminished capacity to advance his goals. As a result, political allies perceive a decreasing benefit in publicly tying themselves to the president, and an increasing benefit in allying with rising centers of authority. A president’s incapacity and his record of success are interlocked and reinforce each other. Incapacity leads to political failure, which reinforces perceptions of incapacity. This feedback loop accelerates decay both in leadership capacity and defection by key allies. ¶ The central point of this review of the presidential literature is that the sources of presidential influence—and thus their prospects for enjoying success in pursuing preferred foreign policies—go beyond the structural factors imbued by the Constitution. Presidential authority is affected by ideational resources in the form of public perceptions of legitimacy. The public offers and rescinds its support in accordance with normative trends and historical patterns, non-material sources of power that affects the character of U.S. policy, foreign and domestic.¶ This brief review of the literature suggests how legitimacy norms enhance presidential influence in ways that structural powers cannot explain. Correspondingly, increased executive power improves the prospects for policy success. As a variety of cases indicate—from Woodrow Wilson’s failure to generate domestic support for the League of Nations to public pressure that is changing the current course of U.S. involvement in Iraq—the effective execution of foreign policy depends on public support. Public support turns on perceptions of policy legitimacy. As a result, policymakers—starting with the president—pay close attention to the receptivity that U.S. policy has with the domestic public. In this way, normative influences infiltrate policy-making processes and affect the character of policy decisions.

#### Causes Israel strikes

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As 2013 draws to close, the negotiations over the Iranian nuclear program have entered a delicate stage. But in 2014, the tensions will escalate dramatically as a bipartisan group of Senators brings a new Iran sanctions bill to the floor for a vote. As many others have warned, that promise of new measures against Tehran will almost certainly blow up the interim deal reached by the Obama administration and its UN/EU partners in Geneva. But Congress' highly unusual intervention into the President's domain of foreign policy doesn't just make the prospect of an American conflict with Iran more likely. As it turns out, the Nuclear Weapon Free Iran Act essentially empowers Israel to decide whether the United States will go to war against Tehran.¶ On their own, the tough new sanctions imposed automatically if a final deal isn't completed in six months pose a daunting enough challenge for President Obama and Secretary of State Kerry. But it is the legislation's commitment to support an Israeli preventive strike against Iranian nuclear facilities that almost ensures the U.S. and Iran will come to blows. As Section 2b, part 5 of the draft mandates:¶ If the Government of Israel is compelled to take military action in legitimate self-defense against Iran's nuclear weapon program, the United States Government should stand with Israel and provide, in accordance with the law of the United States and the constitutional responsibility of Congress to authorize the use of military force, diplomatic, military, and economic support to the Government of Israel in its defense of its territory, people, and existence.¶ Now, the legislation being pushed by Senators Mark Kirk (R-IL), Chuck Schumer (D-NY) and Robert Menendez (D-NJ) does not automatically give the President an authorization to use force should Israel attack the Iranians. (The draft language above explicitly states that the U.S. government must act "in accordance with the law of the United States and the constitutional responsibility of Congress to authorize the use of military force.") But there should be little doubt that an AUMF would be forthcoming from Congressmen on both sides of the aisle. As Lindsey Graham, who with Menendez co-sponsored a similar, non-binding "stand with Israel" resolution in March told a Christians United for Israel (CUFI) conference in July:¶ "If nothing changes in Iran, come September, October, I will present a resolution that will authorize the use of military force to prevent Iran from developing a nuclear bomb."¶ Graham would have plenty of company from the hardest of hard liners in his party. In August 2012, Romney national security adviser and pardoned Iran-Contra architect Elliott Abrams called for a war authorization in the pages of the Weekly Standard. And just two weeks ago, Norman Podhoretz used his Wall Street Journal op-ed to urge the Obama administration to "strike Iran now" to avoid "the nuclear war sure to come."¶ But at the end of the day, the lack of an explicit AUMF in the Nuclear Weapon Free Iran Act doesn't mean its supporters aren't giving Prime Minister Benjamin Netanyahu de facto carte blanche to hit Iranian nuclear facilities. The ensuing Iranian retaliation against to Israeli and American interests would almost certainly trigger the commitment of U.S. forces anyway.¶ Even if the Israelis alone launched a strike against Iran's atomic sites, Tehran will almost certainly hit back against U.S. targets in the Straits of Hormuz, in the region, possibly in Europe and even potentially in the American homeland. Israel would face certain retaliation from Hezbollah rockets launched from Lebanon and Hamas missiles raining down from Gaza.¶ That's why former Bush Defense Secretary Bob Gates and CIA head Michael Hayden raising the alarms about the "disastrous" impact of the supposedly surgical strikes against the Ayatollah's nuclear infrastructure. As the New York Times reported in March 2012, "A classified war simulation held this month to assess the repercussions of an Israeli attack on Iran forecasts that the strike would lead to a wider regional war, which could draw in the United States and leave hundreds of Americans dead, according to American officials." And that September, a bipartisan group of U.S. foreign policy leaders including Brent Scowcroft, retired Admiral William Fallon, former Republican Senator (now Obama Pentagon chief) Chuck Hagel, retired General Anthony Zinni and former Ambassador Thomas Pickering concluded that American attacks with the objective of "ensuring that Iran never acquires a nuclear bomb" would "need to conduct a significantly expanded air and sea war over a prolonged period of time, likely several years." (Accomplishing regime change, the authors noted, would mean an occupation of Iran requiring a "commitment of resources and personnel greater than what the U.S. has expended over the past 10 years in the Iraq and Afghanistan wars combined.") The anticipated blowback?¶ Serious costs to U.S. interests would also be felt over the longer term, we believe, with problematic consequences for global and regional stability, including economic stability. A dynamic of escalation, action, and counteraction could produce serious unintended consequences that would significantly increase all of these costs and lead, potentially, to all-out regional war.

#### Israeli strikes cause global great power war

Rafael Reuveny 10, PhD, Professor in the School of Public and Environmental Affairs at Indiana University, "Unilateral Strike on Iran could trigger world Depression", Op-ed distributed through McClatchy Newspaper Co, <http://www.indiana.edu/~spea/news/speaking_out/reuveny_on_unilateral_strike_Iran.shtml>

A unilateral Israeli strike on Iran’s nuclear facilities would likely have dire consequences, including a regional war, global economic collapse and a major power clash. For an Israeli campaign to succeed, it must be quick and decisive. This requires an attack that would be so overwhelming that Iran would not dare to respond in full force. Such an outcome is extremely unlikely since the locations of some of Iran’s nuclear facilities are not fully known and known facilities are buried deep underground. All of these widely spread facilities are shielded by elaborate air defense systems constructed not only by the Iranians, but also the Chinese and, likely, the Russians as well. By now, Iran has also built redundant command and control systems and nuclear facilities, developed early-warning systems, acquired ballistic and cruise missiles and upgraded and enlarged its armed forces. Because Iran is well-prepared, a single, conventional Israeli strike — or even numerous strikes — could not destroy all of its capabilities, giving Iran time to respond. A regional war Unlike Iraq, whose nuclear program Israel destroyed in 1981**,** Iran has a second-strike capability comprised of a coalition of Iranian, Syrian, Lebanese, Hezbollah, Hamas, and, perhaps, Turkish forces. Internal pressure might compel Jordan, Egypt, and the Palestinian Authority to join the assault, turning a bad situation into a regional war. During the 1973 Arab-Israeli War, at the apex of its power, Israel was saved from defeat by President Nixon’s shipment of weapons and planes. Today, Israel’s numerical inferiority is greater, and it faces more determined and better-equipped opponents. Despite Israel’s touted defense systems, Iranian coalition missiles, armed forces, and terrorist attacks would likely wreak havoc on its enemy, leading to a prolonged tit-for-tat. In the absence of massive U.S. assistance, Israel’s military resources may quickly dwindle, forcing it to use its alleged nuclear weapons, as it had reportedly almost done in 1973. An Israeli nuclear attack would likely destroy most of Iran’s capabilities, but a crippled Iran and its coalition could still attack neighboring oil facilities, unleash global terrorism, plant mines in the Persian Gulf and impair maritime trade in the Mediterranean, Red Sea and Indian Ocean. Middle Eastern oil shipments would likely slow to a trickle as production declines due to the war and insurance companies decide to drop their risky Middle Eastern clients. Iran and Venezuela would likely stop selling oil to the United States and Europe. The world economy would head into a tailspin; international acrimony would rise; and Iraqi and Afghani citizens might fully turn on the United States, immediately requiring the deployment of more American troops. Russia, China, Venezuela, and maybe Brazil and Turkey — all of which essentially support Iran — could be tempted to form an alliance and openly challenge the U.S. hegemony. Replaying Nixon’s nightmare Russia and China might rearm their injured Iranian protege overnight, just as Nixon rearmed Israel, and threaten to intervene, just as the U.S.S.R. threatened to join Egypt and Syria in 1973. President Obama’s response would likely put U.S. forces on nuclear alert, replaying Nixon’s nightmarish scenario. Iran may well feel duty-bound to respond to a unilateral attack by its Israeli archenemy, but it knows that it could not take on the United States head-to-head. In contrast, if the United States leads the attack, Iran’s response would likely be muted. If Iran chooses to absorb an American-led strike, its allies would likely protest and send weapons, but would probably not risk using force.

¶ While no one has a crystal ball, leaders should be risk-averse when choosing war as a foreign policy tool. If attacking Iran is deemed necessary, Israel must wait for an American green light. A unilateral Israeli strike could ultimately spark World War III.

### 4

#### Even a limited drone court collapses effectiveness of the program

James Oliphant 13, Deputy Editor, the National Journal, J.D. from the Ohio State University Morrill College of Law, 5/30/13, “Vetting the Kill List,” National Journal, http://www.nationaljournal.com/magazine/vetting-the-kill-list-20130404

Civil libertarians and even hawks such as former Rep. Jane Harman of California, who served on the House Intelligence Committee, have suggested creating a court modeled on the one that signs off on federal wiretaps of suspected foreign agents. The Foreign Intelligence Surveillance Court in Washington operates in secret and requires the government to make a case before approving a tap. Harman and other proponents say such a body could review names on the “kill list” and weigh in on whether they merit inclusion based on the White House’s criteria for targeting potential threats. Robert Gates, the former Defense secretary, also favors such an approach.

But even among supporters, no consensus exists on what questions a drone court would actually review or even whether its scrutiny would come before or after a strike. The most problematic scenario involves any sort of preoperational clearance. Possible windows for action open and shut in a matter of hours. The kill lists are constantly being revised and updated. Even many of those who argue for some sort of oversight mechanism, such as University of Texas law professor Robert Chesney, don’t believe a judge should be involved when it comes to “pulling the trigger.”

Still, Chesney says such a court could still vet the names on the list in advance to ensure the administration is following its own guidelines for a strike: the target is connected to al-Qaida; he poses some threat of “imminent” harm; and the government is operating within its legal authority. “Whether and when to fire is a totally separate question,” Chesney says. (He notes that there’s a range of disagreement over how the administration classifies an “imminent” threat and whether a judge would be qualified to make that determination.)

But even that small degree of oversight, warns Gregory McNeal, a counterterrorism expert at Pepperdine University, risks throwing sand in the gears by extending the timeline of an op. And to McNeal, this point leads directly to the larger issue of accountability—or, to use the Washington synonym, blame. Judges, he says, simply aren’t ever going to be equipped to identify and navigate the variables involved in a drone strike.

Jeh Johnson, formerly the Obama administration’s top lawyer at the Pentagon, expressed his discomfort with court-based oversight in a speech last month at Fordham University. Questions of feasibility and imminence, he said, “are up-to-the-minute, real-time assessments.” More important, Johnson emphasized, “we want military and national security officials to continually assess and reassess these two questions up until the last minute of the operation.”

Given that reality, shifting the responsibility of a sign-off to a set of federal judges, who are unelected and serve for life, would allow the White House to escape the consequences of its actions, or more crucially, perhaps its failure to act if a target slips out of harm’s way and then masterminds an attack. Military decisions are, at heart, political ones, McNeal says, and they are rightly made by the branch of government whose top official, the president, faces voters. (A case in point: Republicans suffered at the ballot box in 2006 and 2008 as a result of the public’s displeasure with the Iraq war.) “If you’re a politician,” McNeal says of a drone court, “this is great. Because you aren’t on the hook for anything.”

By and large, federal judges don’t want to be in this position. They worry about damaging the integrity of the bench. Retired Judge James Robertson, who served on the U.S. Appeals Court in Washington, argued in The Washington Post that the Constitution forbids the judiciary from issuing advisory opinions. “Federal courts rule on specific disputes between adversary parties,” he wrote. “They do not make or approve policy; that job is reserved to Congress and the executive.” The FISA court is a different animal, because approving surveillance is related to Fourth Amendment protections on search warrants.

#### Targeted killing’s vital to CT

Kenneth Anderson 13, Professor of International Law at American University, June 2013, “The Case for Drones,” Commentary, Vol. 135, No. 6

Targeted killing of high-value terrorist targets, by contrast, is the end result of a long, independent intelligence process. What the drone adds to that intelligence might be considerable, through its surveillance capabilities -- but much of the drone's contribution will be tactical, providing intelligence that assists in the planning and execution of the strike itself, in order to pick the moment when there might be the fewest civilian casualties.

Nonetheless, in conjunction with high-quality intelligence, drone warfare offers an unparalleled means to strike directly at terrorist organizations without needing a conventional or counterinsurgency approach to reach terrorist groups in their safe havens. It offers an offensive capability, rather than simply defensive measures, such as homeland security alone. Drone warfare offers a raiding strategy directly against the terrorists and their leadership.

If one believes, as many of the critics of drone warfare do, that the proper strategies of counterterrorism are essentially defensive -- including those that eschew the paradigm of armed conflict in favor of law enforcement and criminal law -- then the strategic virtue of an offensive capability against the terrorists themselves will seem small. But that has not been American policy since 9/11, not under the Bush administration, not under the Obama administration -- and not by the Congress of the United States, which has authorized hundreds of billions of dollars to fight the war on terror aggressively. The United States has used many offensive methods in the past dozen years: Regime change of states offering safe havens, counter-insurgency war, special operations, military and intelligence assistance to regimes battling our common enemies are examples of the methods that are just of military nature.

Drone warfare today is integrated with a much larger strategic counterterrorism target -- one in which, as in Afghanistan in the late 1990s, radical Islamist groups seize governance of whole populations and territories and provide not only safe haven, but also an honored central role to transnational terrorist groups. This is what current conflicts in Yemen and Mali threaten, in counterterrorism terms, and why the United States, along with France and even the UN, has moved to intervene militarily. Drone warfare is just one element of overall strategy, but it has a clear utility in disrupting terrorist leadership. It makes the planning and execution of complex plots difficult if only because it is hard to plan for years down the road if you have some reason to think you will be struck down by a drone but have no idea when. The unpredictability and terrifying anticipation of sudden attack, which terrorists have acknowledged in communications, have a significant impact on planning and organizational effectiveness.

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

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

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

#### Extinction---equivalent to full-scale nuclear war

Owen B. Toon 7, chair of the Department of Atmospheric and Oceanic Sciences at CU-Boulder, et al., April 19, 2007, “Atmospheric effects and societal consequences of regional scale nuclear conflicts and acts of individual nuclear terrorism,” online: http://climate.envsci.rutgers.edu/pdf/acp-7-1973-2007.pdf

To an increasing extent, people are congregating in the world’s great urban centers, creating megacities with populations exceeding 10 million individuals. At the same time, advanced technology has designed nuclear explosives of such small size they can be easily transported in a car, small plane or boat to the heart of a city. We demonstrate here that a single detonation in the 15 kiloton range can produce urban fatalities approaching one million in some cases, and casualties exceeding one million. Thousands of small weapons still exist in the arsenals of the U.S. and Russia, and there are at least six other countries with substantial nuclear weapons inventories. In all, thirty-three countries control sufficient amounts of highly enriched uranium or plutonium to assemble nuclear explosives. A conflict between any of these countries involving 50-100 weapons with yields of 15 kt has the potential to create fatalities rivaling those of the Second World War. Moreover, even a single surface nuclear explosion, or an air burst in rainy conditions, in a city center is likely to cause the entire metropolitan area to be abandoned at least for decades owing to infrastructure damage and radioactive contamination. As the aftermath of hurricane Katrina in Louisiana suggests, the economic consequences of even a localized nuclear catastrophe would most likely have severe national and international economic consequences. Striking effects result even from relatively small nuclear attacks because low yield detonations are most effective against city centers where business and social activity as well as population are concentrated. Rogue nations and terrorists would be most likely to strike there. Accordingly, an organized attack on the U.S. by a small nuclear state, or terrorists supported by such a state, could generate casualties comparable to those once predicted for a full-scale nuclear “counterforce” exchange in a superpower conflict. Remarkably, the estimated quantities of smoke generated by attacks totaling about one megaton of nuclear explosives could lead to significant global climate perturbations (Robock et al., 2007). While we did not extend our casualty and damage predictions to include potential medical, social or economic impacts following the initial explosions, such analyses have been performed in the past for large-scale nuclear war scenarios (Harwell and Hutchinson, 1985). Such a study should be carried out as well for the present scenarios and physical outcomes.

#### Limiting targeted killings in Pakistan causes a shift to ground assaults---turns the case and collapses the Pakistani government

Richard Weitz 11, Senior Fellow and Director of the Center for Political-Military Analysis at the Hudson Institute, 1/2/11, “WHY UAVS HAVE BECOME THE ANTI-TERROR WEAPON OF CHOICE IN THE AFGHAN-PAK BORDER,” http://www.sldinfo.com/why-uavs-have-become-the-anti-terror-weapon-of-choice-in-the-afghan-pak-border/

Perhaps the most important argument in favor of using UAV strikes in northwest Pakistan and other terrorist havens is that alternative options are typically worse.

The Pakistani military has made clear that it is neither willing nor capable of repressing the terrorists in the tribal regions. Although the controversial ceasefire accords Islamabad earlier negotiated with tribal leaders have formally collapsed, the Pakistani Army has repeatedly postponed announced plans to occupy North Waziristan, which is where the Afghan insurgents and the foreign fighters supporting them and al-Qaeda are concentrated.

Such a move that would meet fierce resistance from the region’s population, which has traditionally enjoyed extensive autonomy. The recent massive floods have also forced the military to divert its assets to humanitarian purposes, especially helping the more than ten million displaced people driven from their homes.

But the main reason for their not attacking the Afghan Taliban or its foreign allies based in Pakistan’s tribal areas is that doing so would result in their joining the Pakistani Taliban in its vicious fight with the Islamabad government.

Yet, sending in U.S. combat troops on recurring raids or a protracted occupation of Pakistani territory would provoke widespread outrage in Pakistan and perhaps in other countries as well since the UN Security Council mandate for the NATO-led International Security Assistance Force (ISAF) in Afghanistan only authorizes military operations in Pakistan.

On the one known occasion when U.S. Special Forces actually conducted a ground assault in the tribal areas in 2008, the Pakistanis reacted furiously. On September 3, 2008, a U.S. Special Forces team attacked a suspected terrorist base in Pakistan’s South Waziristan region, killing over a dozen people. These actions evoked strong Pakistani protests. Army Chief of Staff Gen. Ashfaq Kayani, who before November 2007 had led Pakistan’s Inter-Services Intelligence (ISI), issued a written statement denying that “any agreement or understanding [existed] with the coalition forces” [in Afghanistan] allowing them to strike inside Pakistan.” The general pledged to defend Pakistan’s sovereignty and territorial integrity “at all cost.” Prime Minister Yousaf Raza Gilani and President Asif Ali Zardari also criticized the U.S. ground operation on Pakistani territory. On September 16, 2008, the Pakistani army announced it would shoot any U.S. forces attempting to cross the Afghan-Pakistan border.

On several occasions since then, Pakistani troops and militia have fired at what they believed to be American helicopters flying from Afghanistan to deploy Special Forces on their territory, though there is no conclusive evidence that the U.S. military has ever attempted another large-scale commando raid in Pakistan after the September 2008 incident.

Further large-scale U.S. military operations into Pakistan could easily rally popular support behind the Taliban and al-Qaeda. It might even precipitate the collapse of the Islambad government and its replacement by a regime in nuclear-armed Pakistan that is less friendly to Washington.

Given these alternatives, continuing the drone strikes appears to be the best of the limited options available to deal with a core problem, giving sanctuary to terrorists striking US and coalition forces in Afghanistan and beyond.

#### Empowering Pakistani hardliners triggers nuclear war with India---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

This policy is probably not directed from the top. Indeed, any characterization of Pakistan as a unitary actor would be fallacious. Portions of the military and ISI, whose primary concern is the strategic challenge posed by India, operate largely without constraints or civilian oversight. As a result of this strategic calculus, Pakistan has not and will never be the strategic ally the United States wants or needs. Indeed, so long as Pakistan’s overriding security concern emanates from India, U.S. and Pakistani interests in Afghanistan will diverge.

Five Minutes to Midnight

The greatest threat to regional security (although curiously not at the top of most lists of U.S. regional concerns) is the possibility that increased India-Pakistan tension will erupt into all-out war that could quickly escalate into a nuclear exchange. Indeed, in just the past two decades, the two neighbors have come perilously close to war on several occasions. India and Pakistan remain the most likely belligerents in the world to engage in nuclear war. ¶ Due to an Indian preponderance of conventional forces, Pakistan would have a strong incentive to use its nuclear arsenal very early on before a routing of its military installations and weaker conventional forces. In the event of conflict, Pakistan’s only chance of survival would be the early use of its nuclear arsenal to inflict unacceptable damage to Indian military and (much more likely) civilian targets. By raising the stakes to unacceptable levels, Pakistan would hope that India would step away from the brink. However, it is equally likely that India would respond in kind, with escalation ensuing. Neither state possesses tactical nuclear weapons, but both possess scores of city-sized bombs like those used on Hiroshima and Nagasaki. ¶ Furthermore, as more damage was inflicted (or as the result of a decapitating strike), command and control elements would be disabled, leaving individual commanders to respond in an environment increasingly clouded by the fog of war and decreasing the likelihood that either government (what would be left of them) would be able to guarantee that their forces would follow a negotiated settlement or phased reduction in hostilities. As a result any such conflict would likely continue to escalate until one side incurred an unacceptable or wholly debilitating level of injury or exhausted its nuclear arsenal. ¶ 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.¶ Although the likelihood of this doomsday scenario remains relatively low, the consequences are dire enough to warrant greater U.S. and international attention. Furthermore, due to the ongoing conflict over Kashmir and the deep animus held between India and Pakistan, it might not take much to set them off. Indeed, following the successful U.S. raid on bin Laden’s compound, several members of India’s security apparatus along with conservative politicians have argued that India should emulate the SEAL Team Six raid and launch their own cross-border incursions to nab or kill anti-Indian terrorists, either preemptively or after the fact. Such provocative action could very well lead to all-out war between the two that could quickly escalate.

### 5

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## Case

## Accountability

### U.S. Not Key---1NC

#### No causal link between U.S. drone doctrine and other’ countries choices---means can’t set a precedent

Kenneth Anderson 11, Professor of International Law at American University, 10/9/11, “What Kind of Drones Arms Race Is Coming?,” <http://www.volokh.com/2011/10/09/what-kind-of-drones-arms-race-is-coming/#more-51516>

New York Times national security correspondent Scott Shane has an opinion piece in today’s Sunday Times predicting an “arms race” in military drones. The methodology essentially looks at the US as the leader, followed by Israel – countries that have built, deployed and used drones in both surveillance and as weapons platforms. It then looks at the list of other countries that are following fast in US footsteps to both build and deploy, as well as purchase or sell the technology – noting, correctly, that the list is a long one, starting with China. The predicament is put this way:

Eventually, the United States will face a military adversary or terrorist group armed with drones, military analysts say. But what the short-run hazard experts foresee is not an attack on the United States, which faces no enemies with significant combat drone capabilities, but the political and legal challenges posed when another country follows the American example. The Bush administration, and even more aggressively the Obama administration, embraced an extraordinary principle: that the United States can send this robotic weapon over borders to kill perceived enemies, even American citizens, who are viewed as a threat.

“Is this the world we want to live in?” asks Micah Zenko, a fellow at the Council on Foreign Relations. “Because we’re creating it.”

By asserting that “we’re” creating it, this is a claim that there is an arms race among states over military drones, and that it is a consequence of the US creating the technology and deploying it – and then, beyond the technology, changing the normative legal and moral rules in the international community about using it across borders. In effect, the combination of those two, technological and normative, forces other countries in strategic competition with the US to follow suit. (The other unstated premise underlying the whole opinion piece is a studiously neutral moral relativism signaled by that otherwise unexamined phrase “perceived enemies.” Does it matter if they are not merely our “perceived” but are our actual enemies? Irrespective of what one might be entitled to do to them, is it so very difficult to conclude, even in the New York Times, that Anwar al-Awlaki was, in objective terms, our enemy?)

It sounds like it must be true. But is it? There are a number of reasons to doubt that moves by other countries are an arms race in the sense that the US “created” it or could have stopped it, or that something different would have happened had the US not pursued the technology or not used it in the ways it has against non-state terrorist actors. Here are a couple of quick reasons why I don’t find this thesis very persuasive, and what I think the real “arms race” surrounding drones will be.

Unmanned aerial vehicles have clearly got a big push from the US military in the way of research, development, and deployment. But the reality today is that the technology will transform civil aviation, in many of the same ways and for the same reasons that another robotic technology, driverless cars (which Google is busily plying up and down the streets of San Francisco, but which started as a DARPA project). UAVs will eventually move into many roles in ordinary aviation, because it is cheaper, relatively safer, more reliable – and it will eventually include cargo planes, crop dusting, border patrol, forest fire patrols, and many other tasks. There is a reason for this – the avionics involved are simply not so complicated as to be beyond the abilities of many, many states. Military applications will carry drones many different directions, from next-generation unmanned fighter aircraft able to operate against other craft at much higher G stresses to tiny surveillance drones. But the flying-around technology for aircraft that are generally sizes flown today is not that difficult, and any substantial state that feels like developing them will be able to do so.

But the point is that this was happening anyway, and the technology was already available. The US might have been first, but it hasn’t sparked an arms race in any sense that absent the US push, no one would have done this. That’s just a fantasy reading of where the technology in general aviation was already going; Zenko’s ‘original sin’ attribution of this to the US opening Pandora’s box is not a credible understanding of the development and applications of the technology. Had the US not moved on this, the result would have been a US playing catch-up to someone else. For that matter, the off-the-shelf technology for small, hobbyist UAVs is simple enough and available enough that terrorists will eventually try to do their own amateur version, putting some kind of bomb on it.

Moving on from the avionics, weaponizing the craft is also not difficult. The US stuck an anti-tank missile on a Predator; this is also not rocket science. Many states can build drones, many states can operate them, and crudely weaponizing them is also not rocket science. The US didn’t spark an arms race; this would occur to any state with a drone. To the extent that there is real development here, it lies in the development of specialized weapons that enable vastly more discriminating targeting. The details are sketchy, but there are indications from DangerRoom and other observers (including some comments from military officials off the record) that US military budgets include amounts for much smaller missiles designed not as anti-tank weapons, but to penetrate and kill persons inside a car without blowing it to bits, for example. This is genuinely harder to do – but still not all that difficult for a major state, whether leading NATO states, China, Russia, or India. The question is whether it would be a bad thing to have states competing to come up with weapons technologies that are … more discriminating.

### Norms Fail---1NC

#### Norms fail---non-democracies will inevitably cheat---the only country constrained will be the U.S.

Ben Lerner 13, Vice President for Government Relations at the Center for Security Policy, 3/25/13, “Judging ‘Drones’ from Afar,” http://spectator.org/archives/2013/03/25/judging-drones-from-afar/print

Those international events are significant. UAV technology has proliferated substantially in recent years, and not just among allies like the United Kingdom, Israel and Colombia. The Project 2049 Institute recently published a critical study on China’s UAV program, detailing its architecture as well as some of the tactical innovations that the People’s Liberation Army (PLA) has in mind. The report states in part:

[A]ccording to several military-technical materials reviewed for this study, PLA operational thinkers and scientists envision attacking U.S. aircraft carrier battle groups with swarms of multi-mission UAVs in the event of conflict.… The ultimate goal of combined UAV and missile campaigns would be to penetrate otherwise robust defense networks through tightly coordinated operations planned to optimize the probability of overwhelming targets.

Meanwhile, the Iranians are experimenting with their own UAV capabilities, including through use by proxies such as Hezbollah, which last year launched a UAV into Israel. Pakistan and Turkey, rapidly exiting their pro-American orbits (such as they were), are entering this space as well: The Pakistani military last fall revealed that it is working on developing its own combat UAV, while reports from the same time period indicate that Turkey will supply its army with indigenously produced UAVs by the end of this year.

This proliferation is also forming the backdrop against which the United Nations is conducting an investigation of UAV use in counter-terrorism operations in order to determine, according to special investigator for the U.N. Human Rights Council Ben Emmerson, “whether there is a plausible allegation of unlawful killing.” The New York Times, in covering this development, conveys Emmerson’s less-than-convincing reassurances that this is not about the United States and its allies:

The immediate focus, Mr. Emmerson said in an interview, would be on 25 selected drone strikes that had been conducted in recent years in Afghanistan, Pakistan, Yemen, Somalia and the Palestinian territories. That put the panel’s spotlight on the United States, Britain and Israel, the nations that have conducted drone attacks in those areas, but Mr. Emmerson said the inquiry would not be singling out the United States or any other countries.

While it appears that Reuters’ inference — that President Obama is seeking out an international agreement on UAVs in response to events like these — is inaccurate, it remains plausible that he would take us down this path. Let’s not forget that President Obama has been a major supporter of multilateral agreements that limit American sovereignty, including the U.N. Law of the Sea Treaty, the Comprehensive Test Ban Treaty, the Convention on the Rights of Persons with Disabilities, and others.

If President Obama pursues global rules for UAVs, such an initiative could also have the added benefit, from his perspective, of atoning for sins committed against his far-left political base. If waging, and escalating, UAV warfare has rendered the President a disciple of Vice President Cheney in the eyes of the enraged left, volunteering to restrain our own UAV use through the creation and application of global rules might make up for the transgression.

Whatever the potential motivations for trying to codify international rules for using UAVs, such a move would be ill advised. While in theory, every nation that signs onto a treaty governing UAVs will be bound by its requirements, it is unlikely to play out this way in practice. It strains credulity to assume that China, Russia, Iran, and other non-democratic actors will not selectively apply (at best) such rules to themselves while using them as a cudgel with which to bash their rivals and score political points. The United States and its democratic allies, meanwhile, are more likely to adhere to the commitments for which they signed up. The net result: we are boxed in as far as our own self-defense, while other nations with less regard for the rule of law go use their UAVs to take out whomever, whenever, contorting said “rules” as they see fit. One need only look at China’s manipulation of the Law of the Sea Treaty to justify its vast territorial claims at the expense of its neighbors to see how this often plays out.

And who would enforce the treaty’s rules — a third party tribunal? Would it be an apparatus of the United Nations, the same U.N. that assures us that it is not coming after the United States or its allies specifically, even as its investigation takes on as its “immediate focus” UAV operations recently conducted by those countries?

The United States already conducts warfare under the norms of centuries of practice of customary international law in areas such as military necessity and proportionality, as well as the norms to which we committed ourselves when we became party to the 1949 Geneva Conventions and the United Nations Charter. These same rules can adequately cover the use of UAVs in the international context. But if the United States were to create or agree to a separate international regime for UAVs, we would subject ourselves to new, politicized “rules” that would needlessly hold back countries that already use UAVs responsibly, while empowering those that do not.

### No Drone Wars

#### No risk of drone wars

Joseph Singh 12, researcher at the Center for a New American Security, 8/13/12, “Betting Against a Drone Arms Race,” http://nation.time.com/2012/08/13/betting-against-a-drone-arms-race/#ixzz2eSvaZnfQ

In short, the doomsday drone scenario Ignatieff and Sharkey predict results from an excessive focus on rapidly-evolving military technology.

Instead, we must return to what we know about state behavior in an anarchistic international order. Nations will confront the same principles of deterrence, for example, when deciding to launch a targeted killing operation regardless of whether they conduct it through a drone or a covert amphibious assault team.

Drones may make waging war more domestically palatable, but they don’t change the very serious risks of retaliation for an attacking state. Any state otherwise deterred from using force abroad will not significantly increase its power projection on account of acquiring drones.

What’s more, the very states whose use of drones could threaten U.S. security – countries like China – are not democratic, which means that the possible political ramifications of the low risk of casualties resulting from drone use are irrelevant. For all their military benefits, putting drones into play requires an ability to meet the political and security risks associated with their use.

Despite these realities, there remain a host of defensible arguments one could employ to discredit the Obama drone strategy. The legal justification for targeted killings in areas not internationally recognized as war zones is uncertain at best.

Further, the short-term gains yielded by targeted killing operations in Pakistan, Somalia and Yemen, while debilitating to Al Qaeda leadership in the short-term, may serve to destroy already tenacious bilateral relations in the region and radicalize local populations.

Yet, the past decade’s experience with drones bears no evidence of impending instability in the global strategic landscape. Conflict may not be any less likely in the era of drones, but the nature of 21st Century warfare remains fundamentally unaltered despite their arrival in large numbers.

### China---No Impact to Drones

#### No impact to Chinese drones---their ev is irrational media hype

Trefor Moss 13, journalist for The Diplomat covering Asian politics, defense and security, formerly Asia-Pacific Editor at Jane’s Defence Weekly, 3/2/13, “Here Come…China’s Drones,” The Diplomat, http://thediplomat.com/2013/03/02/here-comes-chinas-drones/?print=yes

Unmanned systems have become the legal and ethical problem child of the global defense industry and the governments they supply, rewriting the rules of military engagement in ways that many find disturbing. And this sense of unease about where we’re headed is hardly unfamiliar. Much like the emergence of drone technology, the rise of China and its reshaping of the geopolitical landscape has stirred up a sometimes understandable, sometimes irrational, fear of the unknown.

It’s safe to say, then, that Chinese drones conjure up a particularly intense sense of alarm that the media has begun to embrace as a license to panic. China is indeed developing a range of unmanned aerial vehicles/systems (UAVs/UASs) at a time when relations with Japan are tense, and when those with the U.S. are delicate. But that hardly justifies claims that “drones have taken center stage in an escalating arms race between China and Japan,” or that the “China drone threat highlights [a] new global arms race,” as some observers would have it. This hyperbole was perhaps fed by a 2012 U.S. Department of Defense report which described China’s development of UAVs as "alarming."

That’s quite unreasonable. All of the world’s advanced militaries are adopting drones, not just the PLA. That isn’t an arms race, or a reason to fear China, it’s just the direction in which defense technology is naturally progressing. Secondly, while China may be demonstrating impressive advances, Israel and the U.S. retain a substantial lead in the UAV field, with China—alongside Europe, India and Russia— still in the second tier. And thirdly, China is modernizing in all areas of military technology – unmanned systems being no exception.

### Surveillance Alt Cause

#### The U.S. and Japan are boosting surveillance drone capabilities---obviously the plan doesn’t affect that---makes the impact inevitable

AP 10-2 – Associated Press, 10/2/13, “US, Japan to deploy new radar, drones in next year,” http://www.times-standard.com/ci\_24228434/us-japan-deploy-new-radar-drones-next-year

U.S. and Japanese officials said Thursday they will position a second early-warning radar in Japan within the next year and deploy new long-range surveillance drones to help monitor disputed islands in the East China Sea by next spring, moves that may well raise tensions again with China.¶ The foreign and defense ministers of the two countries also, for the first time, put a price on what Japan will contribute to the relocation of Marines out of Okinawa to Guam and other locations in the Asia-Pacific region. Japan will pay up to $3.1 billion of the move, which includes development of new facilities in Guam and the Northern Mariana Islands. ¶ The announcements came at the close of high-level meetings between U.S. Secretary of State John Kerry and U.S. Defense Secretary Chuck Hagel with Japanese Foreign Minister Fumio Kishida and Defense Minister Itsunori Onodera. The talks, ahead of President Barack Obama's visits to Indonesia and Brunei next week, were aimed at modernizing the American-Japanese alliance that both sides maintain is a cornerstone of peace and stability in North Asia. ¶ The new X-band radar system would boost Japan's ability to track and intercept missiles from across the Sea of Japan and will be set up on the west coast. Officials have said it is aimed at protecting the region against the threat from North Korea, and is not directed at China. ¶ But the drones—two or three that will fly out of a U.S. base—are designed in part to help step up surveillance around the Senkaku islands, a source of heated debate between Japan and China.

### AT: Senkaku Impact

#### No Sino-Japanese/Senkaku conflict

Reuters 12, “Japan, China military conflict seen unlikely despite strain,” 9/23/12, http://www.reuters.com/article/2012/09/23/us-china-japan-confrontation-idUSBRE88M0F220120923

Hawkish Chinese commentators have urged Beijing to prepare for military conflict with Japan as tensions mount over disputed islands in the East China Sea, but most experts say chances the Asian rivals will decide to go to war are slim. ¶ A bigger risk is the possibility that an unintended maritime clash results in deaths and boosts pressure for retaliation, but even then Tokyo and Beijing are expected to seek to manage the row before it becomes a full-blown military confrontation. ¶ "That's the real risk - a maritime incident leading to a loss of life. If a Japanese or Chinese were killed, there would be a huge outpouring of nationalist sentiment," said Linda Jakobson, director of the East Asia Program at the Lowy Institute for International Policy in Sydney. ¶ "But I still cannot seriously imagine it would lead to an attack on the other country. I do think rational minds would prevail," she said, adding economic retaliation was more likely. ¶ A feud over the lonely islets in the East China Sea flared this month after Japan's government bought three of the islands from a private owner, triggering violent protests in China and threatening business between Asia's two biggest economies. ¶ Adding to the tensions, China sent more than 10 government patrol vessels to waters near the islands, known as the Diaoyu in China and the Senkaku in Japan, while Japan beefed up its Coast Guard patrols. Chinese media said 1,000 fishing boats have set sail for the area, although none has been sighted close by.¶ Despite the diplomatic standoff and rising nationalist sentiment in China especially, experts agree neither Beijing nor Tokyo would intentionally escalate to a military confrontation what is already the worst crisis in bilateral ties in decades.

### AT: Asia War Broadly

#### Multiple factors make Asia war unlikely

Vannarith 10—Executive Director of the Cambodian Institute for Cooperation and Peace. PhD in Asia Pacific Studies, Ritsumeikan Asia Pacific U (Chheang, Asia Pacific Security Issues: Challenges and Adaptive Mechanism, <http://www.cicp.org.kh/download/CICP%20Policy%20brief/CICP%20Policy%20brief%20No%203.pdf>)

Some people look to China for economic and strategic interests while others still stick to the US. Since, as a human nature, change is not widely acceptable due to the high level of uncertainty. It is therefore logical to say that most of the regional leaders prefer to see the status quo of security architecture in the Asia Pacific Region in which US is the hub of security provision. But it is impossible to preserve the status quo since China needs to strategically outreach to the wider region in order to get necessary resources especially energy and raw materials to maintain her economic growth in the home country. It is understandable that China needs to have stable high economic growth of about 8 percent GDP growth per year for her own economic and political survival. Widening development gap and employment are the two main issues facing China. Without China, the world will not enjoy peace, stability, and development. China is the locomotive of global and regional economic development and contributes to global and regional peace and stability. It is understandable that China is struggling to break the so-called containment strategy imposed by the US since the post Cold War. Whether this tendency can lead to the greater strategic division is still unknown. Nevertheless, many observers agree that whatever changes may take place, a multi-polar world and multilateralism prevail. The reasons or logics supporting multilateralism are mainly based on the fact that no one country can really address the security issues embedded with international dimension, no one country has the capacity to adapt and adopt to new changes alone, and it needs cooperation and coordination among the nation states and relevant stakeholders including the private sector and civil societies. Large scale interstate war or armed conflict is **unthinkable** in the region due to the high level of interdependency and democratization. It is believed that economic interdependency can reduce conflicts and prevent war. Democracy can lead to more transparency, accountability, and participation that can reduce collective fears and create more confidence and trust among the people in the region. In addition, globalism and regionalism are taking the center stage of national and foreign policy of many governments in the region except North Korea. The combination of those elements of peace is necessary for peace and stability in the region and those elements are **present and being improved in this region.**

### AT: Economy

#### No econ impact

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

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

## Hegemony

### No Program Collapse

#### Absolutely zero chance that criticism of the drone program causes the U.S. to ban it

Benjamin Wittes 13, Senior Fellow in Governance Studies at the Brookings Institution, 2/27/13, “In Defense of the Administration on Targeted Killing of Americans,” http://www.lawfareblog.com/2013/02/in-defense-of-the-administration-on-targeted-killing-of-americans/

This view has currency among European allies, among advocacy groups, and in the legal academy. Unfortunately for its proponents, it has no currency among the three branches of government of the United States. The courts and the executive branch have both taken the opposite view, and the Congress passed a broad authorization for the use of force and despite many opportunities, has never revisited that document to impose limitations by geography or to preclude force on the basis of co-belligerency—much less to clarify that the AUMF does not, any longer, authorize the use of military force at all. Congress has been repeatedly briefed on U.S. targeting decisions, including those involving U.S. persons.[5] It was therefore surely empowered to either use the power of the purse to prohibit such action or to modify the AUMF in a way that undermined the President’s legal reasoning. Not only has it taken neither of these steps, but Congress has also funded the relevant programs. Moreover, as I noted above, Congress’s recent reaffirmation of the AUMF in the 2012 NDAA with respect to detention, once again contains no geographical limitation.

There is, in other words, a consensus among the branches of government on the point that the United States is engaged in an armed conflict that involves co-belligerent forces and follows the enemy to the new territorial ground it stakes out. It is a consensus that rejects the particular view of the law advanced by numerous critics. And it is a consensus on which the executive branch is entitled to rely in formulating its legal views.

#### There’s a sustainable consensus on the drone program---won’t collapse

Robert Chesney 12, professor at the University of Texas School of Law, nonresident senior fellow of the Brookings Institution, distinguished scholar at the Robert S. Strauss Center for International Security and Law, 8/29/12, “Beyond the Battlefield, Beyond Al Qaeda: The Destabilizing Legal Architecture of Counterterrorism,” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2138623>

This multi-year pattern of cross-branch and cross-party consensus gives the impression that the legal architecture of detention has stabilized at last. But the settlement phenomenon is not limited to detention policy. The same thing has happened, albeit to a lesser extent, in other areas.

The military commission prosecution system provides a good example. When the Obama administration came into office, it seemed quite possible, indeed likely, that it would shut down the commissions system. Indeed, the new president promptly ordered all commission proceedings suspended pending a policy review.48 In the end, however, the administration worked with the then Democratic-controlled Congress to pursue a mend-it-don’t-end-it approach culminating in passage of the Military Commissions Act of 2009, which addressed a number of key objections to the statutory framework Congress and the Bush administration had crafted in 2006. In his National Archives address in spring 2009, moreover, President Obama also made clear that he would make use of this system in appropriate cases.49 He has duly done so, notwithstanding his administration’s doomed attempt to prosecute the so-called “9/11 defendants” (especially Khalid Sheikh Mohamed) in civilian courts. Difficult questions continue to surround the commissions system as to particular issues—such as the propriety of charging “material support” offenses for pre-2006 conduct50—but the system as a whole is far more stable today than at any point in the past decade.51

There have been strong elements of cross-party continuity between the Bush and Obama administration on an array of other counterterrorism policy questions, including the propriety of using rendition in at least some circumstances and, perhaps most notably, the legality of using lethal force not just in contexts of overt combat deployments but also in areas physically remote from the “hot battlefield.” Indeed, the Obama administration quickly outstripped the Bush administration in terms of the quantity and location of its airstrikes outside of Afghanistan,52 and it also greatly surpassed the Bush administration in its efforts to marshal public defenses of the legality of these actions.53 What’s more, the Obama administration also succeeded in fending off a lawsuit challenging the legality of the drone strike program (in the specific context of Anwar al-Awlaki, an American citizen and member of AQAP known to be on a list of approved targets for the use of deadly force in Yemen who was in fact killed in a drone strike some months later).54

The point of all this is not to claim that legal disputes surrounding these counterterrorism policies have effectively ended. Far from it; a steady drumbeat of criticism persists, especially in relation to the use of lethal force via drones. But by the end of the first post-9/11 decade, this criticism no longer seemed likely to spill over in the form of disruptive judicial rulings, newly-restrictive legislation, or significant spikes in diplomatic or domestic political pressure, as had repeatedly occurred in earlier years. Years of law-conscious policy refinement—and quite possibly some degree of public fatigue or inurement when it comes to legal criticisms—had made possible an extended period of cross-branch and cross-party consensus, and this in turn left the impression that the underlying legal architecture had reached a stage of stability that was good enough for the time being.

### Heg D

#### No impact to decline---decline of conflict is unrelated to hegemony

Christopher J. Fettweis 11, Department of Political Science, Tulane University, 9/26/11, Free Riding or Restraint? Examining European Grand Strategy, Comparative Strategy, 30:316–332, EBSCO

It is perhaps worth noting that there is no evidence to support a direct relationship between the relative level of U.S. activism and international stability. In fact, the limited data we do have suggest the opposite may be true. During the 1990s, the United States cut back on its defense spending fairly substantially. By 1998, the United States was spending $100 billion less on defense in real terms than it had in 1990.51 To internationalists, defense hawks and believers in hegemonic stability, this irresponsible “peace dividend” endangered both national and global security. “No serious analyst of American military capabilities,” argued Kristol and Kagan, “doubts that the defense budget has been cut much too far to meet America’s responsibilities to itself and to world peace.”52 On the other hand, if the pacific trends were not based upon U.S. hegemony but a strengthening norm against interstate war, one would not have expected an increase in global instability and violence. The verdict from the past two decades is fairly plain: The world grew more peaceful while the United States cut its forces. No state seemed to believe that its security was endangered by a less-capable United States military, or at least none took any action that would suggest such a belief. No militaries were enhanced to address power vacuums, no security dilemmas drove insecurity or arms races, and no regional balancing occurred once the stabilizing presence of the U.S. military was diminished. The rest of the world acted as if the threat of international war was not a pressing concern, despite the reduction in U.S. capabilities. Most of all, the United States and its allies were no less safe. The incidence and magnitude of global conflict declined while the United States cut its military spending under President Clinton, and kept declining as the Bush Administration ramped the spending back up. No complex statistical analysis should be necessary to reach the conclusion that the two are unrelated. Military spending figures by themselves are insufficient to disprove a connection between overall U.S. actions and international stability. Once again, one could presumably argue that spending is not the only or even the best indication of hegemony, and that it is instead U.S. foreign political and security commitments that maintain stability. Since neither was significantly altered during this period, instability should not have been expected. Alternately, advocates of hegemonic stability could believe that relative rather than absolute spending is decisive in bringing peace. Although the United States cut back on its spending during the 1990s, its relative advantage never wavered. However, even if it is true that either U.S. commitments or relative spending account for global pacific trends, then at the very least stability can evidently be maintained at drastically lower levels of both. In other words, even if one can be allowed to argue in the alternative for a moment and suppose that there is in fact a level of engagement below which the United States cannot drop without increasing international disorder, a rational grand strategist would still recommend cutting back on engagement and spending until that level is determined. Grand strategic decisions are never final; continual adjustments can and must be made as time goes on. Basic logic suggests that the United States ought to spend the minimum amount of its blood and treasure while seeking the maximum return on its investment. And if the current era of stability is as stable as many believe it to be, no increase in conflict would ever occur irrespective of U.S. spending, which would save untold trillions for an increasingly debt-ridden nation. It is also perhaps worth noting that if opposite trends had unfolded, if other states had reacted to news of cuts in U.S. defense spending with more aggressive or insecure behavior, then internationalists would surely argue that their expectations had been fulfilled. If increases in conflict would have been interpreted as proof of the wisdom of internationalist strategies, then logical consistency demands that the lack thereof should at least pose a problem. As it stands, the only evidence we have regarding the likely systemic reaction to a more restrained United States suggests that the current peaceful trends are unrelated to U.S. military spending. Evidently the rest of the world can operate quite effectively without the presence of a global policeman. Those who think otherwise base their view on faith alone.

### AT: Transition Wars

#### No transition wars---best empirics and theory

Paul K. MacDonald 11, Assistant Professor of Political Science at Williams College, and Joseph M. Parent, Assistant Professor of Political Science at the University of Miami, Spring 2011, “Graceful Decline?: The Surprising Success of Great Power Retrenchment,” International Security, Vol. 35, No. 4, p. 7-44

Our findings are directly relevant to what appears to be an impending great power transition between China and the United States. Estimates of economic performance vary, but most observers expect Chinese GDP to surpass U.S. GDP sometime in the next decade or two.91 This prospect has generated considerable concern. Many scholars foresee major conflict during a Sino-U.S. ordinal transition. Echoing Gilpin and Copeland, John Mearsheimer sees the crux of the issue as irreconcilable goals: China wants to be America's superior and the United States wants no peer competitors. In his words, "[N]o amount [End Page 40] of goodwill can ameliorate the intense security competition that sets in when an aspiring hegemon appears in Eurasia."92

Contrary to these predictions, our analysis suggests some grounds for optimism. Based on the historical track record of great powers facing acute relative decline, the United States should be able to retrench in the coming decades. In the next few years, the United States is ripe to overhaul its military, shift burdens to its allies, and work to decrease costly international commitments. It is likely to initiate and become embroiled in fewer militarized disputes than the average great power and to settle these disputes more amicably. Some might view this prospect with apprehension, fearing the steady erosion of U.S. credibility. Yet our analysis suggests that retrenchment need not signal weakness. Holding on to exposed and expensive commitments simply for the sake of one's reputation is a greater geopolitical gamble than withdrawing to cheaper, more defensible frontiers.

Some observers might dispute our conclusions, arguing that hegemonic transitions are more conflict prone than other moments of acute relative decline. We counter that there are deductive and empirical reasons to doubt this argument. Theoretically, hegemonic powers should actually find it easier to manage acute relative decline. Fallen hegemons still have formidable capability, which threatens grave harm to any state that tries to cross them. Further, they are no longer the top target for balancing coalitions, and recovering hegemons may be influential because they can play a pivotal role in alliance formation. In addition, hegemonic powers, almost by definition, possess more extensive overseas commitments; they should be able to more readily identify and eliminate extraneous burdens without exposing vulnerabilities or exciting domestic populations.

We believe the empirical record supports these conclusions.

In particular, periods of hegemonic transition do not appear more conflict prone than those of acute decline. The last reversal at the pinnacle of power was the Anglo-American transition, which took place around 1872 and was resolved without armed confrontation. The tenor of that transition may have been influenced by a number of factors: both states were democratic maritime empires, the United States was slowly emerging from the Civil War, and Great Britain could likely coast on a large lead in domestic capital stock. Although China and the United [End Page 41] States differ in regime type, similar factors may work to cushion the impending Sino-American transition. Both are large, relatively secure continental great powers, a fact that mitigates potential geopolitical competition.93 China faces a variety of domestic political challenges, including strains among rival regions, which may complicate its ability to sustain its economic performance or engage in foreign policy adventurism.94

Most important, the United States is not in free fall. Extrapolating the data into the future, we anticipate the United States will experience a "moderate" decline, losing from 2 to 4 percent of its share of great power GDP in the five years after being surpassed by China sometime in the next decade or two.95 Given the relatively gradual rate of U.S. decline relative to China, the incentives for either side to run risks by courting conflict are minimal. The United States would still possess upwards of a third of the share of great power GDP, and would have little to gain from provoking a crisis over a peripheral issue. Conversely, China has few incentives to exploit U.S. weakness.96 Given the importance of the U.S. market to the Chinese economy, in addition to the critical role played by the dollar as a global reserve currency, it is unclear how Beijing could hope to consolidate or expand its increasingly advantageous position through direct confrontation.

In short, the United States should be able to reduce its foreign policy commitments in East Asia in the coming decades without inviting Chinese expansionism. Indeed, there is evidence that a policy of retrenchment could reap potential benefits. The drawdown and repositioning of U.S. troops in South Korea, for example, rather than fostering instability, has resulted in an improvement in the occasionally strained relationship between Washington and Seoul. 97 U.S. moderation on Taiwan, rather than encouraging hard-liners in Beijing, resulted in an improvement in cross-strait relations and reassured U.S. allies that Washington would not inadvertently drag them into a Sino-U.S. conflict. 98 Moreover, Washington’s support for the development of multilateral security institutions, rather than harming bilateral alliances, could work to enhance U.S. prestige while embedding China within a more transparent regional order. 99 A policy of gradual retrenchment need not undermine the credibility of U.S. alliance commitments or unleash destabilizing regional security dilemmas. Indeed, even if Beijing harbored revisionist intent, it is unclear that China will have the force projection capabilities necessary to take and hold additional territory. 100 By incrementally shifting burdens to regional allies and multilateral institutions, the United States can strengthen the credibility of its core commitments while accommodating the interests of a rising China. Not least among the benefits of retrenchment is that it helps alleviate an unsustainable financial position. Immense forward deployments will only exacerbate U.S. grand strategic problems and risk unnecessary clashes. 101

# Block

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### UQ/AT: Ackerman 12-31---2NC

#### The status quo’s goldilocks---strikes are down numerically because they’re so successful---and the program’s locked in despite controversy and criticism

Max Fisher 12-30, Foreign Affairs blogger for The Washington Post, 12/30/13, “The best case for drones I’ve heard yet,” http://www.washingtonpost.com/blogs/worldviews/wp/2013/12/30/the-best-case-for-drones-ive-ever-heard/

The United States program of unmanned aerial vehicles is way beyond controversial. It is, in certain parts of the world, especially but not exclusively the parts where drones are used, positively loathed. Drones are heavily debated within the U.S. as well, with many people seeing their use as prima facie immoral and counterproductive. The case against them is straightforward: They are prone to inadvertently killing civilians, sometimes many at a time, and thus also risk "creating" more anti-American terrorists than they take out.

So why does the Obama administration continue to rely so heavily on drones? There are three possibilities: the administration is incompetent, the administration is evil or the administration has reasonably concluded that the benefits of drones outweigh their downsides. The case for drones is not one you hear much – who wants to be seen defending a policy so widely associated with accidental civilian deaths? – but clearly there is a case to be made, or else the Obama administration would not continue using them. Clint Watts, a senior fellow at the Foreign Policy Research Institute, made that case recently on a national security podcast called "War on the Rocks."

Watts does not argue that drones are great and we should all be thrilled to have them. He is not personally endorsing every drone flight since 2001. But he does lay out the best articulation I've heard for why the U.S. might conclude that they are worth the downsides. I've transcribed his points in full:

It's part of the counter-terrorism package. That, I mean, that is the option we've descended on. That's because of the way our public responds to things and because of the challenges we face. I mean, you could trace it all the way through. We started doing everything under the sun for counter-terrorism and now we've descended on the one, two or three things that have been more effective and that people haven't gotten upset about as fast.

If you look back to 2002, we did everything. We were doing "Three Cups of Tea" in Herat [Afghanistan], trying to win over hearts and minds. We were trying to do all these other things. We were occupying whole countries. So you look at how public perception does shape policy. Go back.

The first thing everybody got worked up about was detention. We don't like black sites and we don't like Gitmo, so people freaked out about that. We stopped black sites and stopped Gitmo [Note from Max: I presume he's making a shorthand reference to the decision to stop adding new detainees to the prison at Guantanamo Bay, which is of course still in use]. What's the next thing we get worked up about? Next thing is that we don't like the NSA spying on us. This is round two of NSA surveillance. There was another one, about 2007, the phone calls or whatever. So, okay, we'll take that off the plate.

Right after the surge going in Afghanistan, it was like, hey, we're not going to occupy and "clear, hold, build" and rebuild nations anymore. It's too expensive and we're not good at it and we're not successful. So we pulled that off the plate.

And the only thing that was really effective against al-Qaeda in Pakistan was drones. It was the one thing that we could do. We tried, you know, militia groups, the Frontier Corps in Pakistan, we tried the Pakistani military, none of that worked. It gives perverse incentives, gives them the incentive to keep terrorists around so they keep getting funded. They lightly go after it or don't really have the capability. So we don't like that and we take it off the table.

So you work back around to drones now, which is where we're at. It worked in Pakistan really, really well. And it wasn't until there was public pushback that anyone really addressed the "eliminating hearts and minds campaign" – eliminating them instead of winning them. But we got there because we took all of the other options off the table. So if you can't detain somebody, or you can't drop them off to a foreign partner because they're going to torture them, or you can't use other tactics for rendition, then we fall back to drones.

When you look at the guys who are executing this, they say, "Well I can't do any of these other things, but I have to get rid of bin Laden and his support network, so I'm gonna go with this." And it was super effective.

The pushback is justified in some cases, even though some of it's mislabeled. Like, the 41 people that died in Yemen weren't killed by a drone, it was a cruise missile. That all sort of gets lumped in; anything that explodes for any reason now around the world is the result of a drone, even it's an aircraft or a cruise missile or whatever.

If you look at the numbers, we've backed off of it. But drones are never, ever going to be perfect. They're not going to go away because the secret that everybody knows in D.C. but nobody will say is that they're our best option that we've got out there. We're only withdrawing from Iraq and Afghanistan right now because we've come up with that drone system where we can actually interdict targets. Al-Qaeda's running all over Africa and the Middle East in the numbers of ones, twos, threes and twenties. And that's the best to keep an eye on them and to interdict them without putting U.S. troops at home.

So it's not going away. And we're still going to make mistakes. There are going to be civilians that get killed. Civilians will get killed in all options.

#### Ackerman is not a terrorism uniqueness card for the aff---quotes Daveed, who’s quite conservative, and only says terrorism’s up in places outside the reach of drone strikes, in ways that don’t matter

Spencer Ackerman 12-31, 12/31/13, “Fewer deaths from drone strikes in 2013 after Obama policy change,” http://www.theguardian.com/world/2013/dec/31/deaths-drone-strikes-obama-policy-change

With the drawdown of the US wars in Iraq and Afghanistan, Zenko said, “there has never been more available, both dedicated US and leased, satellite bandwidth; never been more strike drones available; and there’s more people who can watch full-motion video [for targeting]. There has never been more assets available to kill people and strikes are going down. There’s been a policy decision, and I think they’ve been correct to emphasize that.”

A number of counterterrorism scholars consider 2013 to have been a good year for terrorist groups that claim to be motivated by Islam. Daveed Gartenstein-Ross of the conservative Foundation for the Defense of Democracies cited a “regeneration” for al-Qaida – although the regeneration Gartenstein-Ross cited occurred among “affiliate” groups of varying connection to the organization that attacked the US on 9/11, and in places mostly outside the reach of drones, such as Mali, Libya, Syria and Iraq.

The exception is Somalia, where al-Shabab, an Islamist militia that formally joined al-Qaida in 2012, launched a handful of terrorist attacks in the capital, Mogadishu, and a dramatic, deadly assault on Kenya’s Westgate mall in September that killed 70 people. The US responded with what is believed to be the only missile strike of the year, apparently launched from a drone in October and leaving two dead.

'They have not opened a new front'

But despite the strength of groups believed to be aligned with al-Qaida, observers are yet to see an affiliated rise in either the groups’ sophistication or ability and ambition to attack the US at home. US officials and sympathetic analysts in 2013 talked more of threats to “US interests” than threats to the American people.

#### Strikes are down numerically because we’ve eliminated an entire generation of Al-Qaeda leadership---just proves they’re effective

Roger Boyes 1-15, Diplomatic Editor of The London Times, 1/15/14, “Who's afraid of al-Qaeda? It's a busted flush,” The London Times, p. lexis

For more than a decade al-Qaeda has turned our lives upside down. Fear of the terror franchise has conditioned how we travel, changed the way we look at bearded men entering our neighbourhood mosques and contaminated our approach to the complex problems of the Middle East. Yet as a military force and as a strategic threat, al-Qaeda is in sharp decline; it is about as politically relevant as the Hell's Angels.

That's not the way it looks in Syria and Iraq at the moment, of course. Fighters from one al-Qaeda affiliate, ISIS - the Islamic State of Iraq and Syria - have been hoisting their black flag over towns in Iraq and furiously battling in Syria. They have ceded terrain to another al-Qaeda outfit, the Jabhat al-Nusra, run by Ayman al-Zawahiri, Osama bin Laden's successor.

So al-Qaeda is having an impact. Chiefly, though, it has become a tool for creating common ground: if nothing else we can all agree that al-Qaeda is evil. Bashar Assad plays up the presence of the fighters: he claims to be the only thing shielding the world from the break-up of Syria and a radical Sunni Caliphate that would breed international terrorists. The moderate Free Syrian Army, unable to defeat Assad, is making itself indispensable to the West ahead of next week's planned peace talks by battling al-Qaeda (with a sudden rush of Saudi cash). As for the US and Britain, the spectre of a new al-Qaeda helps to provide a simpler narrative for the public in a muddy Middle East that offers no good options.

The threat is being exaggerated. As a global menace, al-Qaeda is on the retreat. It is financially strapped (some of the British wannabe jihadists are having to pay for their own training) and its affiliates often have to fund themselves through extortion. Its central mission - to drive foreign unbelievers out of Arab and Muslim lands -will lose its point when Western troops leave Afghanistan this year.

In the Syrian insurgency its fighters cannot hang on to captured territory. The al-Qaeda core can function together only with tribal or militia leaders on the ground - and it is getting the reputation of being parasitical, feeding off local conflicts in return for global contacts and strategic knowhow. Above all, al-Qaeda is poorly led, partly because drone strikes in Pakistan and Yemen have thinned out a whole tier of command.

### UQ---Al-Qaeda Strength

Doesn’t take out our impact --- this evidence says the US has had trouble containing small-scale plots --- even if that’s true, drones are key to disrupt large scale attacks

#### Core Al-Qaeda’s been devastated by successful U.S. CT---but maintaining an aggressive approach is key---their ev mistakes short-term tactical conditions for overall trends

Andrew Liepman 1-6, former principal deputy director of the National Counterterrorism Center and a senior policy analyst at the nonprofit, nonpartisan RAND Corporation; and Philip Mudd, former Senior Intelligence Advisor at the FBI and Deputy Director of the CIA Counterterrorist Center, director of Global Risk at SouthernSun Asset Management, 1/6/14, “Al Qaeda is down. Al Qaedism isn't,” <http://globalpublicsquare.blogs.cnn.com/2014/01/06/al-qaeda-is-down-al-qaedism-isnt/>

The recent New York Times investigation into the deadly 2012 attack on the U.S. diplomatic mission in Benghazi has reignited the debate over the nature and trajectory of al Qaeda. The conclusion of the report – that there was no evidence of an al Qaeda role in the attack – reinforces our view that the organization that attacked the United States more than 12 years ago is in decline. But it also serves as a reminder that the threat has not disappeared. Rather, it is morphing into a new, more dispersed, less predictable, but still lethal enemy.

The 9/11 attacks on the World Trade Center and the Pentagon showed al Qaeda at its deadliest. At the same time, though, 9/11 also represented the beginning of al Qaeda’s decline as an organized terror enterprise that would ultimately lead to its emergence as a decentralized, factious amalgam of freelance groups, each with its own methods and agenda. This new organization may lack the infrastructure to plan and carry out attacks like the one that occurred in Benghazi (and certainly attacks like 9/11), but today’s al Qaeda remains a threat to strike where and when it can and to fan the flames of extremism.

The decade that followed the 9/11 attack saw the gradual decline of bin Laden’s core al Qaeda. The architects of 9/11 were largely killed or detained, the remnants were in hiding in Pakistan, and the revolutionary message had lost ground globally in the face of relentless al Qaeda killings of Muslims across the Islamic world. Some of its most promising potential successors experienced similar declines, from Jemaah Islamiyya in Indonesia to al-Shabaab in Somalia, along with al Qaeda cells in Saudi Arabia and Europe.

But what of the current generation of Salafist militants – the offspring of bin Laden’s al Qaeda? For them, the signs may not be so bleak. Though they may lack the organizational structure, the focus on attacking the West and the charismatic leadership of yesterday’s al Qaeda killers, today’s militants do not lack its homicidal audacity. Or its wide reach.

Affiliated groups have risen across the Middle East and South Asia and into Africa and Europe. Homegrown plots have emerged in the United States in Europe, carried out by individuals zealously donning the al Qaeda mantle, even with little or no contact with terror networks. And the killing hasn’t stopped. Indeed, in many areas of the Middle East, murder in al Qaeda’s name is sharply increasing. In Iraq, Shia are being murdered at a shocking rate. In Pakistan, Shia are frequent targets and across the Middle East groups inspired by bin Laden’s old message continue to sacrifice innocents – from mall shoppers in Kenya and a teacher in Benghazi, to students in Nigeria and oil workers in Algeria. These are the victims of the new breed of al Qaeda terrorists.

So we have conflicting trends. In broad strategic terms, al Qaeda is diminished. Numerous acts of terror against the United States have been prevented. It is clear that the American homeland is safer than it was, and it’s hard to conceive of a 9/11-style attack occurring today. At the same time, though, this emerging generation of militants poses its own threat to regional stability. We would be remiss if we assumed this jihadi phoenix could never rise again to threaten American cities.

America’s attention span tends to be shorter than that of its adversaries. Americans may evaluate the changing terror landscape as they would the NASDAQ stock exchange, defining success by watching swings over a month or even a year. For al Qaeda, success is something that is defined over decades, or even centuries.

Looking at the landscape through this lens might yield a different picture, one that offers hope to the current generation of Salafist extremists. From this perspective, the al Qaeda cause has endured even as the post-9/11 years brought setbacks to its leadership, its globalist message, and many of its affiliates and adherents. But periodic attacks – London, Bali, and even Ft. Hood, Texas – meant the decline was not a linear downward slope.

The United States has reason to worry, as Sen. Dianne Feinstein (D-Calif.) Rep. Mike Rogers (R-Mich.), the chairs of the Senate and House Intelligence Committees, pointed out recently. Events in the region – the unremitting violence in Syria, the collapse of any authority in Libya, and the continued instability and infighting in Yemen, Somalia, and elsewhere – appear to be emboldening al Qaeda sympathizers. Instability in Syria has opened the door for al Qaedists to broaden their sway among oppositionists, and instability in Iraq – and potentially Lebanon – offers further opportunities for radical jihadis.

There are too many breeding grounds. While much of today’s violence is localized – Yemeni extremists are interested in Yemen, Somalis in Somalia, and Syrians in Syria – any of these hot spots could become the next launching ground for a resurgence of anti-western targeting. Neither the inevitable decline of al Qaedism nor the rise of disparate al Qaedist groups in Africa and the Middle East is a full picture, though, and frequent assessments and reassessments might suggest that the al Qaeda phenomenon is morphing more quickly than it actually is.

At the same time, the United States can take some comfort in the progress that has been made at home – in the knowledge that a concerted and consistent counterterrorism campaign has made the country safer and largely eliminated the scourge that hatched the 9/11 plot. Because the al Qaeda revolutionary ideology is so resonant and resilient, the United States should be cautious about translating this comfort into a judgment that it is out of the woods. The picture is neither as positive as it looked even two years ago, nor as bleak as alarmists suggest.

Terror leaders with a target horizon that reaches Europe and the United States are uncommon. Carrying out successful plots against the West requires stout leadership, loyal and focused operatives, and a safe haven to plan without diverting attention to more immediate battles against local security services, other competing groups, or U.S. drones. At the moment, the al Qaeda offshoots do not possess these assets, and America is safer because of that.

At the same time, though, the United States must not allow this fragile sense of security to become complacency. The terrorist threat is still there, morphing over time from local or regional threats to international conspiracies and back again. Measuring progress threat- by-threat, or month by month, would lead to the mistaken belief that tactical gains or losses represent major shifts in this long, painful counterterror campaign. The campaign is a marathon run against a slowly declining revolutionary idea, al Qaedism, which will take many more years to stamp out fully.

The United States should not lose sight of the fact that while 12 years of counterterrorism efforts have helped keep it safe, many more years of vigilance lie ahead. Measuring progress in a counterterrorism war against the al Qaeda group may be straightforward; measuring progress against the morphing idea of al Qaedism isn’t.

### Link UQ---Must Read

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

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

Target vetting is the process by which the government integrates the opinions of subject matter experts from throughout the intelligence community.180 The United States has developed a formal voting process which allows members of agencies from across the government to comment on the validity of the target intelligence and any concerns related to targeting an individual. At a minimum, the vetting considers the following factors: target identification, significance, collateral damage estimates, location issues, impact on the enemy, environmental concerns, and intelligence gain/loss concerns.181 An important part of the analysis also includes assessing the impact of not conducting operations against the target.182 Vetting occurs at multiple points in the kill-list creation process, as targets are progressively refined within particular agencies and at interagency meetings.

A validation step follows the vetting step. It is intended to ensure that all proposed targets meet the objectives and criteria outlined in strategic guidance.183 The term strategic is a reference to national level objectives—the assessment is not just whether the strike will succeed tactically (i.e. will it eliminate the targeted individual) but also whether it advances broader national policy goals.184 Accordingly, at this stage there is also a reassessment of whether the killing will comport with domestic legal authorities such as the AUMF or a particular covert action finding.185 At this stage, participants will also resolve whether the agency that will be tasked with the strike has the authority to do so.186 Individuals participating at this stage analyze the mix of military, political, diplomatic, informational, and economic consequences that flow from killing an individual. Other questions addressed at this stage are whether killing an individual will comply with the law of armed conflict, and rules of engagement (including theater specific rules of engagement). Further bolstering the evidence that these are the key questions that the U.S. government asks is the clearly articulated target validation considerations found in military doctrine (and there is little evidence to suggest they are not considered in current operations). Some of the questions asked are:

• Is attacking the target lawful? What are the law of war and rules of engagement considerations?

• Does the target contribute to the adversary's capability and will to wage war?

• Is the target (still) operational? Is it (still) a viable element of a target system? Where is the target located?

• Will striking the target arouse political or cultural “sensitivities”?

• How will striking the target affect public opinion? (Enemy, friendly, and neutral)?

• What is the relative potential for collateral damage or collateral effects, to include casualties?

• What psychological impact will operations against the target have on the adversary, friendly forces, or multinational partners?

• What would be the impact of not conducting operations against the target?187

As the preceding criteria highlight, many of the concerns that critics say should be weighed in the targeted killing process are considered prior to nominating a target for inclusion on a kill-list.188 For example, bureaucrats in the kill-list development process will weigh whether striking a particular individual will improve world standing and whether the strike is worth it in terms of weakening the adversary's power.189 They will analyze the possibility that a strike will adversely affect diplomatic relations, and they will consider whether there would be an intelligence loss that outweighs the value of the target.190 During this process, the intelligence community may also make an estimate regarding the likely success of achieving objectives (e.g. degraded enemy leadership, diminished capacity to conduct certain types of attacks, etc.) associated with the strike. Importantly, they will also consider the risk of blowback (e.g. creating more terrorists as a result of the killing).191

#### Dear god Mcneal is just so much better than your authors

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

To date scholars have lacked a thorough understanding of the U.S. government’s targeted killing practices. As such, their commentary is oftentimes premised on easily describable issues, and fails to grapple with the multiple levels of intergovernmental accountability present in current practice. When dealing with the theoretical and normative issues associated with targeted killings, scholars have failed to specify what they mean when they aver that targeted killings are unaccountable. Both trends have impeded legal theory, and constrained scholarly discourse on a matter of public import.

This article is a necessary corrective to the public and scholarly debate. It has presented the complex web of bureaucratic, legal, professional, and political accountability mechanisms that exert influence over the targeted killing process. It has demonstrated that many of the critiques of targeted killings rest upon poorly conceived understandings of the process, unclear definitions, and unsubstantiated speculation. The article’s reform recommendations, grounded in a deep understanding of the actual process, reflect an assumption that transparency, performance criteria, and politically grounded independent review can enhance the already robust accountability mechanisms embedded in current practice.

### Drones Key---General---2NC

#### Lol – this evidence just says that CT isn’t as effective as COIN in eliminating the root causes of terror --- who cares --- our internal link is about the ability to resolve large-scale plots, not minor resentment on the ground

#### Prefer our evidence---critics are wrong---drones are highly effective at CT, and don’t cause high civilian casualties or blowback

Alex Young 13, Associate Staff, Harvard International Review, 2/25/13, “A Defense of Drones,” Harvard International Review, http://hir.harvard.edu/a-defense-of-drones

The War on Terror is no longer a traditional conflict. The diffuse, decentralized nature of terrorist organizations had already made this an unconventional war; now, the use of unmanned aircraft has added another non-traditional layer. Conventional military strategies have failed in Iraq and Afghanistan: the United States has, in many cases, stopped sending people into combat, opting instead for airstrikes by unmanned aerial vehicles. Over the past decade, US military and intelligence agencies have expanded their use of unmanned Predator and Reaper drones; these robotic aircraft are generally used to carry out targeted strikes against known members of terrorist groups. US reliance on drones in Afghanistan, Pakistan, Yemen, and other countries has changed the nature of the war on terror.

This strategy is not without controversy. The Obama administration’s heavy use of unmanned drones in the War on Terror has come under fire from a variety of opponents, including human rights groups, think tanks, and even foreign governments. Critics claim that drone strikes cause civilian casualties, incorrectly target only the most prominent leaders of terrorist groups, and create backlash against the US. To hear some tell it, the use of drones exacerbates, rather than solves, the problem of terrorism.

The reality is not so bleak: drones are very good at what they do. Unmanned attacks are highly effective when it comes to eliminating specific members of terrorist organizations, disrupting terrorist networks without creating too much collateral damage. Their effectiveness makes drone strikes a vital part of US counterterrorism strategy.

Predator and Reaper drones are not the indiscriminate civilian-killers that some make them out to be: strikes are targeted and selective. This has become increasingly true as drone technology has improved, and as the military has learned how best to use them. A confluence of factors has made drone strikes much better at eliminating enemy militants while avoiding civilians: drones now carry warheads that produce smaller blast radiuses, and the missiles carrying those warheads are guided using laser, millimeter-wave, and infrared seekers. The result has been less destructive drone strikes that reach their intended target more reliably. A number of non-technological shifts have also made drones a more useful tool: Peter Bergen, a national security analyst for CNN, summarized on July 13th, 2012 that more careful oversight, a deeper network of local informants, and better coordination between the US and Pakistani intelligence communities have also contributed to better accuracy. Data gathered by the Long War Journal indicates that the civilian casualty rate for 2012 and the beginning of 2013 is only 4.5 percent. Even Pakistani Major General Ghayur Mehmood acknowledges that, “most of the targets [of drone strikes] are hard-core militants.” Imprecise drone strikes that cause many civilian casualties are now a thing of the past. This improved accuracy may also help to mitigate anti-American sentiment that stems from civilian casualties.

#### Targeted killings play several irreplaceable functions in CT:

#### 1) Leadership decapitation

#### a) Drones are key---militants can’t replace senior leaders

Patrick B. Johnston 13, Associate Political Scientist, RAND Corporation, and Anoop Sarbahi, postdoctoral scholar in the Department of Political Science at the University of California, Los Angeles, July 2013, “The Impact of U.S. Drone Strikes on Terrorism in Pakistan and Afghanistan,” <http://patrickjohnston.info/materials/drones.pdf>

We expect drone strikes that kill terrorist leaders will be associated with reductions in terrorist attacks. Previous research convincingly demonstrates that conducting effective terrorist attacks requires skilled individuals, many of whom are well-educated and come from upper middle- class backgrounds. 21 Indeed, captured documents containing detailed biographical data on foreign al Qa’ida militants in Iraq illustrate that among the foreign terrorists—who are conventionally known to be more sophisticated than local fighters—their most commonly listed “occupation” prior to arriving in Iraq was that of “student.” For militants for whom information on “experience” was available, “computers” was the most commonly listed experience type, just ahead of “weapons.”22

In the context of northwest Pakistan, where militant freedom of movement is limited by the threat of drone strikes, we expect that militant groups will be unable to replace senior leaders killed in drone strikes because recruiting and deploying them, perhaps from a foreign country with a Salafi jihadist base, will be costly and difficult. This is not to say that leaders killed in drone strikes are irreplaceable. On the contrary, other militants are likely to be elevated within their organization to replace them. But we also anticipate that those elevated to replace killed leaders will be, on average, of lower quality to the organization than their predecessors. Thus, we predict that the loss of leaders will be associated with the degradation of terrorists’ ability to produce violence. This logic implies Hypothesis 3:

H3: All else equal, drone strikes that kill one or mor e terrorist leader(s) will lead to a decrease in terrorist violence.

#### b) Data supports our decapitation args

Patrick B. Johnston 13, Associate Political Scientist, RAND Corporation, and Anoop Sarbahi, postdoctoral scholar in the Department of Political Science at the University of California, Los Angeles, July 2013, “The Impact of U.S. Drone Strikes on Terrorism in Pakistan and Afghanistan,” <http://patrickjohnston.info/materials/drones.pdf>

Given that killing terrorist leaders or HVIs in terrorist organizations is the purpose of drone strikes, we evaluate whether patterns of militant attacks differ following strikes in which a militant leader was killed. Table 3 provides tests of Hypotheses 3 and 4 against the four metrics of militant violence examined here using the same 2FESL specifications as in table 2. The results are largely consistent with Hypothesis 3—that killing militant leaders is associated with decreased violence. There is little support for Hypothesis 4, that killing HVIs has counterproductive effects on violence. Controlling for the number of drone strikes per agency-week, the first column of table 3 shows that drone strikes that kill a HVI are associated with reductions in the number of militant incidents that occur. This result is statistically significant at the one-percent level. There is, however, weaker evidence that HVI removals reduce militant lethality and IED attacks.45

Overall, the evidence is somewhat consistent with the argument that individuals matter for a terrorist organization’s ability to produce violence at sustained rates. Along with other evidence from macro-level studies of leadership decapitation, the present results suggest that critics who argue against the efficacy of removing key figures may be overemphasizing the extent to which such individuals can be readily replaced.46

#### b) Signaling resolve’s key to deterrence

Gabriella Blum 10, Assistant Professor of Law, Harvard Law School, and Philip Heymann, the James Barr Professor of Law, Harvard Law School, June 27, 2010, “Law and Policy of Targeted Killing,” Harvard National Security Journal, http://harvardnsj.org/wp-content/uploads/2010/06/Vol-1\_Blum-Heymann\_Final.pdf

At the most basic level, targeted killings, which are generally undertaken with less risk to the attacking force than are arrest operations, may be effective. According to some reports, the killing of leaders of Palestinian armed groups weakened the will and ability of these groups to execute suicide attacks against Israelis. By deterring the leaders of terrorist organizations and creating in some cases a structural vacuum, waves of targeted killing operations were followed by a lull in subsequent terrorist attacks, and in some instances, brought the leaders of Palestinian factions to call for a ceasefire. The Obama administration embraced the targeted killing tactic, holding it to be the most effective way to get at Al-Qaeda and Taliban members in the ungoverned and ungovernable tribal areas along the Afghanistan-Pakistan border or in third countries.

Despite the adverse effects such operations may have on the attitudes of the local population toward the country employing targeted killings, the demonstration of superiority in force and resolve may also dishearten the supporters of terrorism.

Publicly acknowledged targeted killings are furthermore an effective way of appeasing domestic audiences, who expect the government “to do something” when they are attacked by terrorists. The visibility and open aggression of the operation delivers a clearer message of “cracking down on terrorism” than covert or preventive measures that do not yield immediate demonstrable results. The result in Israel has been to make a vast majority of citizens supportive of targeted killings, despite the latter’s potential adverse effects. And, perhaps surprisingly, of all the coercive counterterrorism techniques employed by the United States, targeted killings have so far attracted the least public criticism.

### Link---2NC---Drone Court

#### The link threshold is low---entire operations open and close in vanishingly small time periods---ex ante review collapses the usefulness of TKs---and judges don’t have the competence

Steve Vladeck 13, professor of law and the associate dean for scholarship at American University Washington College of Law, 2/10/13, “Why a “Drone Court” Won’t Work–But (Nominal) Damages Might…,” http://www.lawfareblog.com/2013/02/why-a-drone-court-wont-work/

In my view, the adversity issue is the deepest legal flaw in “drone court” proposals. But the idea of an ex ante judicial process for signing off on targeted killing operations may also raise some serious separation of powers concerns insofar as such review could directly interfere with the Executive’s ability to carry out ongoing military operations…

First, and most significantly, even though I am not a particularly strong defender of unilateral (and indefeasible) presidential war powers, I do think that, if the Constitution protects any such authority on the part of the President (another big “if”), it includes at least some discretion when it comes to the “defensive” war power, i.e., the President’s power to use military force to defend U.S. persons and territory, whether as part of an ongoing international or non-international armed conflict or not. And although the Constitution certainly constrains how the President may use that power, it’s a different issue altogether to suggest that the Constitution might forbid him for acting at all without prior judicial approval–especially in cases where the President otherwise would have the power to use lethal force.

This ties together with the related point of just how difficult it would be to actually have meaningful ex ante review in a context in which time is so often of the essence. If, as I have to think is true, many of the opportunities for these kinds of operations are fleeting–and often open and close within a short window–then a requirement of judicial review in all cases might actually prevent the government from otherwise carrying out authority that most would agree it has (at least in the appropriate circumstances). This possibility is exactly why FISA itself was enacted with a pair of emergency provisions (one for specific emergencies; one for the beginning of a declared war), and comparable emergency exceptions in this context would almost necessarily swallow the rule. Indeed, the narrower a definition of imminence that we accept, the more this becomes a problem, since the time frame in which the government could simultaneously demonstrate that a target (1) poses such a threat to the United States; and (2) cannot be captured through less lethal measures will necessarily be a vanishing one. Even if judicial review were possible in that context, it’s hard to imagine that it would produce wise, just, or remotely reliable decisions.

That’s why, even though I disagree with the DOJ white paper that ex ante review would present a nonjusticiable political question, I actually agree that courts are ill-suited to hear such cases–not because, as the white paper suggests, they lack the power to do so, but because, in most such cases, they would lack the competence to do so.

#### A “limited” drone court links to all our offense because the criteria for placing individuals on the kill list relies on evaluations of the fundamental legal principles behind the entire program---and the plan inspires calls for more expansive judicial review that snowball to collapse the entire thing

Steven Groves 13, the Bernard and Barbara Lomas Senior Research Fellow at the Heritage Foundation, 4/10/13, “Drone Strikes: The Legality of U.S. Targeting Terrorists Abroad,” http://www.heritage.org/research/reports/2013/04/drone-strikes-the-legality-of-us-targeting-terrorists-abroad

A Drone Court? Certain former Obama Administration officials, the editorial board of The New York Times, and at least one U.S. Senator have called for the establishment of a special oversight panel or court to review the Administration’s targeting determinations, particularly in instances in which a U.S. citizen is targeted.[49] Essentially, such a court would scrutinize the Administration’s targeting decisions, presumably including its decisions to place individuals on the “disposition matrix.” The court would apparently have the authority to overrule and nullify targeting decisions. The creation of such a court is ill advised and of doubtful constitutionality.

The proponents of a drone court apparently do not appreciate the potential unintended consequences of establishing such an authority. The idea is wrongheaded and raises more questions than it answers. For instance, could the drone court decide as a matter of law that a targeted strike is not justified because the United States is not engaged in an armed conflict with al-Qaeda? Could the drone court rule that members of a force associated with al-Qaeda (e.g., AQAP) may not be targeted because AQAP was not directly involved in the September 11 attacks and therefore the strike is not authorized under the AUMF? The proposed drone court cannot avoid these fundamental questions since the justification for the targeted strikes is dependent on the answers to these questions.

Even if the proposed drone court attempts to eschew intervention into foundational questions such as the existence of an armed conflict, it still would not be in a position to rule on the “easy” questions involved in each and every drone strike. Does the target constitute an “imminent threat” to the United States? When civilian casualties may occur as a result of the strike, does the drone court have the authority to overrule the targeting decision as a violation of the principle of proportionality? Is the target an innocent civilian or a civilian “directly participating in hostilities”? Should U.S. forces attempt to capture the target before resorting to a drone strike? Is capture feasible? Any drone court, even if constituted with former military and intelligence officials, is ill suited to weigh all of the competing factors that go into a decision to target an al-Qaeda operative and make a timely decision, particularly when there is often only a short window of time to order a strike.

Regardless, creating a judicial or quasi-judicial review process will not ameliorate, much less resolve, objections to U.S. targeted killing practices. Critics will continue to demand more judicial process, including appeals from the proposed drone court, and additional transparency no matter what kind of forum is established to oversee targeting decisions.

#### The “limited” drone court would only approve whether individual names should be placed on a kill list---but that determination necessarily relies on answering questions of imminence and capture feasibility---means all our broad links apply despite their attempt to narrow the scope of the plan

Bloomberg 13, “Why a ‘Drone Court’ Won’t Work,” 2/18/13, http://www.bloomberg.com/news/2013-02-18/why-a-drone-court-won-t-work.html

Hence the interest in putting the program under some sort of judicial scrutiny. Unfortunately, as good as that idea sounds, it runs into insurmountable practical and constitutional hurdles.

As loosely proposed by Senator Angus King of Maine at John Brennan’s confirmation hearings to lead the Central Intelligence Agency, the U.S. could create a system similar to that involving the Foreign Intelligence Surveillance Act, under which a secret court hears government warrant requests for electronic surveillance of suspected foreign intelligence agents in the U.S.

Given the ticking-time-bomb nature of drone strikes, seeking judicial approval for an individual strike is impractical. More likely, a judge would have to sign off on adding an individual to the administration’s “kill list” of targets. To get approval, the administration would be obligated to make a case that the person is an imminent threat and that capture wouldn’t be possible. (It’s unclear whether the protocol would apply to all targeted people or just to U.S. citizens such as Anwar al-Awlaki.)

Such a system would ostensibly have two benefits: increasing the legitimacy of the drone war and placing a check on the executive branch’s power to decide life and death. On closer examination, both advantages prove illusory.

First, few outraged Pakistanis would be assuaged by the distinction of judicial scrutiny, and civil libertarians would point out that the target is never given a chance to make a case before the judge. This lack of an “adversarial setting” for the subject might be defensible in the case of FISA warrants, but the stakes here are far higher than a simple wiretap.

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.

#### Court immanence rulings end all TK’s

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

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

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

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

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

#### They would answer geographical questions---that means the plan bans drones everywhere outside of Afghanistan because other strikes aren’t technically part of our war

Milena Sterio 12, Associate Professor of Law, Cleveland-Marshall College of Law, Fall 2012, “Presidential Powers and Foreign Affairs: Rendition and Targeted Killings of Americans: The United States' Use of Drones in the War on Terror: The (Il)legality of Targeted Killings Under International Law,” Case Western Reserve Journal of International Law, 45 Case W. Res. J. Int'l L. 197

After the terrorist attacks of 9/11, President George W. Bush, in his capacity as Commander-in-Chief, authorized the use of drones against leaders of al-Qaeda forces, pursuant to Congress' Authorization for Use of Military Force (AUMF). n1 Pursuant to AUMF, drones could be utilized against al-Qaeda forces to target or to kill enemies. It has been reported that the United States possesses two types of drones: smaller ones, which predominantly carry out surveillance missions, and larger ones, which can carry hellfire missiles and have been used to conduct strikes and targeted killings. n2 Drone strikes have been carried out by both the military as well as the CIA. As Jane Mayer famously noted in her article:

The U.S. government runs two drone programs. The military's version, which is publicly acknowledged, operates in the recognized war zones of Afghanistan and Iraq, and targets enemies of U.S. troops stationed there. As such, it is an extension of conventional warfare. The C.I.A.'s program is aimed at terror suspects around the world, including in countries where U.S. troops are not based. n3

 [\*199]

Moreover, although the President had designated Afghanistan and its airspace as a combat zone, the United States has used drones in other areas of the world, such as Yemen, where al-Qaeda forces have been targeted and killed. n4 In fact, the U.S. approach for the use of drones is that members of al-Qaeda forces may be targeted anywhere in the world: that the battlefield follows those individuals who have been designated as enemies due to their affiliation with al-Qaeda. n5 While many in the international community have criticized the United States' expansive geographical use of drones against al-Qaeda forces, n6 officials in the Bush Administration have defended the drone program as consistent and conforming to international law. n7 President Obama has continued this approach and has expanded the use of drones in the war on terror. n8 Moreover, high-level officials in the Obama Administration have offered detailed legal justifications for the legality of the American drone program.

Harold Koh, State Department Legal Advisor, justified the use of drones at the American Society of International Law Annual Meeting on March 25, 2010, arguing "it is the considered view of this Administration . . . that U.S. targeting practices, including lethal operations conducted with the use of unmanned aerial vehicles, comply with all applicable law, including the laws of war." n9 In his speech, Koh cited both domestic law (AUMF) and international law as proof that the United States is engaged in armed conflict with al-Qaeda, the Taliban, and "associated forces." n10 Targeted killings, according to Koh, are justified because they are performed in [\*200] accordance with the laws of war. n11 In other words, the United States conducts targeted strikes consistent with the well-known principles of distinction and proportionality to ensure that the targets are legitimate and collateral damage minimized. n12

Koh offered four reasons supporting the legality of targeted drone killings. First, enemy leaders are legitimate targets because they are belligerent members of an enemy group in a war with the United States. n13 Second, drones can constitute appropriate instruments for such missions, so long as their use conforms to the laws of war. n14 Third, enemy targets are selected through "robust" procedures; as such, they require no legal process and are not "unlawful extrajudicial" killings. n15 Finally, Koh argued that using drones to target "high level belligerent leaders" does not violate domestic law banning assassinations. n16

The Obama Administration has continued to use drones in Pakistan, as well as in Yemen. Increasingly, however, the American drone program has been run by the CIA. n17 Leon Panetta, the CIA Director, has praised the drone program stating that drones were "the only game in town." n18 On September 30, 2011, a CIA-operated drone targeted and killed an American citizen in Yemen, Anwar al-Awlaki. n19 Al-Awlaki had been accused of holding prominent roles within the ranks of al-Qaeda and had been placed on a hit list, authorized by President Obama. n20 His assassination marked the first time in history an American citizen had been targeted abroad without any judicial involvement or proceedings to determine guilt of any crime.

In a subsequent speech, Attorney General Eric Holder confirmed the Obama Administration's view on the legality of targeted killings, including killings of American citizens. On March 5, 2012, in a speech at Northwestern University, Holder claimed targeted killings of American citizens are legal if the targeted citizen is located abroad, a [\*201] senior operational leader of al-Qaeda or associated forces, actively engaged in planning to kill Americans, poses an imminent threat of violent attack against the United States (as determined by the U.S. government), and cannot be captured; such operations must be conducted in a manner consistent with applicable law of war principles. n21

Despite Koh's and Holder's justifications, many have questioned the legality of the American use of drones to perform targeted killings of al-Qaeda members and of U.S. citizens. Philip Alston, UN Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, has famously stated his concerns that drones "are being operated in a framework which may well violate international humanitarian law and international human rights law." n22 This article highlights some of the most relevant issues surrounding the (il)legality of targeted killings under the current approach of the Obama Administration. This article concludes that most targeted killings are illegal under international law; only a very small number of such killings, performed under carefully crafted circumstances, could potentially comply with the relevant rules of jus ad bellum and jus in bello, and only if one accepts the premise that the United States is engaged in an armed conflict against al-Qaeda. This article discusses the following issues related to the use of drones to perform targeted killings: the definition of the battlefield and the applicability of the law of armed conflict (Part II); the identity of targetable individuals and their status as combatants or civilians under international law (Part III); the legality of targeted killings under international humanitarian law (Part IV); and the location and status of drone operators (Part V).

II. What and Where is the Battlefield? Which Laws Apply?

Under the Bush Administration approach, the United States post 9/11 was engaged in a global war against terrorists. Under this expansive approach, the war had no geographic constraints, and the battlefield was of a global nature. n23 In other words, the war followed [\*202] the terrorist enemies, and wherever they were located was where the battlefield could be temporarily situated. According to the Bush Administration, as well as the U.S. Supreme Court case Hamdan v. Rumsfeld, the United States was at war against al-Qaeda and Taliban forces, and the applicable laws were the laws of war. n24 Thus, military force, including the use of drones, could be used if consistent with the laws of war.

Under the Obama Administration, the rhetoric has slightly changed: the United States is no longer engaged in a global war on terror but rather, in a war against al-Qaeda, the Taliban, and associated forces. n25 However, the Obama Administration, by conducting drone strikes in a variety of locations, including Pakistan and Yemen, has followed the Bush Administration view of the global battlefield. The Obama Administration believes, like the Bush Administration, that the laws of war apply to the use of drone strikes because the United States is engaged in an armed conflict. n26 Moreover, the Obama Administration has claimed drones can be used in countries that harbor terrorist enemies and are unwilling or unable to control territory where such enemies are located. n27 This rationale would likely exclude places like England and France from the possible definition and localization of the battlefield, but would purport to justify the use of drones in places like Pakistan and Yemen, where remote territories are hard to control and where central governments cannot claim to possess effective control. n28 [\*203]

The above described terminology ("global war on terror" and "war against al-Qaeda, the Taliban, and associated forces") is vastly important, as it designates the applicable legal framework surrounding targeted killings and drone strikes. If one accepts the premise that the United States is engaged in armed conflict against al-Qaeda terrorists, then one has to conclude that laws of war apply. n29 If laws of war apply, then the rules of jus ad bellum determine whether military force is utilized in a lawful way. In fact, laws of war permit targeted killings if two particular requirements of jus ad bellum are satisfied: the use of force is necessary and the use of force is proportionate.

First, a state resorting to force must prove its decision to resort to force was a result of an armed attack and necessary to respond to such attack. n30 It is possible to argue that al-Qaeda's campaign of terrorist attacks against the United States, including 9/11, corresponded to an armed attack. However, it is also possible to argue that "al Qaeda's campaign against the United States does not trigger the right of self-defensive force . . . because al Qaeda has not launched a full scale military offensive." n31 Another difficulty in this context is that al-Qaeda is not a state, and under traditional international law, only states could initiate armed attack against states, thus triggering the right to self-defense. n32 While some commentators have argued that the use of force in self-defense against a non-state actor should be [\*204] permissible, "in an era where non-state groups project military-scale power," n33 this view remains controversial. n34

Second, a state resorting to the use of force must prove its use of force was proportionate to the military campaign's objective. n35 The proportionality test of jus ad bellum should "be applied contextually, to determine whether the overall goal of a use of force . . . is a proportionate objective." n36 Because the CIA operates the drone program in Pakistan in secrecy, it is impossible to determine conclusively whether the program meets the proportionality requirement of jus ad bellum. It is possible to argue the resort to targeted killings through the use of drones is at least sometimes necessary and proportionate (for example, when a U.S. military commander possesses information that a high-value al-Qaeda operative, engaged in planning armed attacks against Americans, is located in a specific location which is relatively easily reachable via drones, and the commander decides that neutralization of the al-Qaeda target is necessary to prevent attacks against Americans). It is probable that many drone strikes do not meet the requirements of jus ad bellum, but it is nonetheless difficult to conclude, under this approach, that the entire drone program is per se illegal. Should the U.S. government--specifically the CIA--release more facts regarding the drone program, it may become plausible to assess the lawfulness of this type of force through the jus ad bellum prism.

If, however, one rejects the conclusion that the United States is engaged in armed conflict, then the legality of the entire drone program becomes questionable. One could logically conclude the United States is not fighting a true war, but chasing terrorists. Under this view, the law of armed conflict would no longer apply, and the United States could use force against such terrorists only under a law enforcement paradigm--only when the use of force is absolutely necessary. Moreover, if the laws of war do not apply, then international human rights law dictates that targeted killings are legal only if a threat imminent and the reaction necessary, because under human rights law, "it is never permissible for killing to be the sole [\*205] objective of an operation." n37 "A killing is only legal to prevent a concrete and imminent threat to life, and, additionally, if there is no other non-lethal means of preventing that threat to life." n38 The International Covenant on Civil and Political Rights (ICCPR) prohibits "arbitrary" killing, as well as punitive or deterrent killings of terrorists. n39 The very nature of the American drone program, where targeted killings are utilized to neutralize al-Qaeda operatives, even though such killings are not absolutely necessary, is contrary to international human rights law. Under this paradigm, one must conclude that the drone program is illegal.

### AT: Johnson (“Only Small Effect on the Program”)

#### Johnson thinks the only viable drone court is limited to citizens---he thinks ex ante review of all targeting outside conflict zones is insane---the plan goes even further beyond that to require review of all targeting, period, inside conflict zones and out

Jeh Johnson 13, Partner, Paul, Weiss, Rifkind, Wharton & Garrison LLP, former Pentagon General Counsel, 3/18/13, “A “Drone Court”: Some Pros and Cons,” <http://jnslp.com/wp-content/uploads/2013/08/Johnson-Drone-Court.pdf>

Next, the advisability of a national security court depends in very large part on the scope of what it is that court will review and approve. I suspect the constitutionality of such a court depends on that as well.

Here are three permutations, though there are more:

First, a court to review and approve all targeted lethal force by the U.S. government away from any so-called "hot battlefield" against a terrorist, including in the course of a congressionally-authorized armed conflict conducted by the U.S. military;

Second, a court to review and approve targeted lethal force by the U.S. government away from the "hot battlefield," but only against a terrorist who is also U.S. citizen, again including in the course of a congressionally-authorized armed conflict conducted by the US military; and

Third, a court to review and approve targeted lethal force by the U.S. government away from any "hot battlefield," against a terrorist who is a U.S. citizen, but only in instances not part of a congressional-authorized armed conflict conducted by the U.S. military.

Logistically, if this proposed court's jurisdiction is limited to U.S. citizens, then applications should be very rare, hopefully not even one a year. It is also the case that, as a result of FISA and other things. Article III judges can receive highly sensitive classified information ex parte; in Washington, DC, the infrastructure for doing this already exists.

But, of course, limiting the court's jurisdiction to U.S. citizens leads to the inevitable question from other nations: why do our citizens deserve less from your government?

On the other hand, if the proposal is to include all targeted lethal force off the "hot battlefield." that is a different matter. In that event, in the current world environment, the judge will have supplanted the senior legal official of a national security agency from a large part of his or her job. To do that conscientiously and effectively, one judge or another on this court should consider getting an office in the Pentagon or other agency, and plan on spending a lot of time there, be continually available, ever vigilant, and have continual, around-the-clock access to secure communications, counterterrorism personnel and executive branch lawyers, to hear presentations, receive intelligence, probe intelligence officers for weaknesses in the intelligence, and ask lots of other questions. This is not something to be done "on the papers," as they say in court.

#### Johnson definitely votes neg---the article’s called “A Drone Court---Some Pros and Cons”---his conclusion is con, particularly given the scope of the plan

Jeh Johnson 13, Partner, Paul, Weiss, Rifkind, Wharton & Garrison LLP, former Pentagon General Counsel, 3/18/13, “A “Drone Court”: Some Pros and Cons,” <http://jnslp.com/wp-content/uploads/2013/08/Johnson-Drone-Court.pdf>

Here is my bottom line: Like others, I believe the idea of a national security court is worth serious consideration, for the sake of our democratic process. I see certain advantages, but also a number of legal and practical problems. As I said before, the advisability of the idea also depends in very large part on the scope of what such a court is to review. If I must be labeled one way or another, I guess I belong in the category of "skeptic."

**Yes Nuke Terror---Top Level**

#### High risk of nuclear terror --- they have the motivation and capability --- default to consensus of experts

Bunn et al. 10/2/13 ("Steps to Prevent Nuclear Terrorism," Paper, Belfer Center for Science and International Affairs, Harvard Kennedy School, October 2, 2013, Matthew Bunn. Professor of the Practice of Public Policy at Harvard Kennedy School and Co-Principal Investigator of Project on Managing the Atom at Harvard University’s Belfer Center for Science and International Affairs. • Vice Admiral Valentin Kuznetsov (retired Russian Navy). Senior research fellow at the Institute for U.S. and Canadian Studies of the Russian Academy of Sciences, Senior Military Representative of the Russian Ministry of Defense to NATO from 2002 to 2008. • Martin Malin. Executive Director of the Project on Managing the Atom at the Belfer Center for Science and International Affairs. • Colonel Yuri Morozov (retired Russian Armed Forces). Professor of the Russian Academy of Military Sciences and senior research fellow at the Institute for U.S. and Canadian Studies of the Russian Academy of Sciences, chief of department at the Center for Military-Strategic Studies at the General Staff of the Russian Armed Forces from 1995 to 2000. • Simon Saradzhyan. Fellow at Harvard University’s Belfer Center for Science and International Affairs, Moscow-based defense and security expert and writer from 1993 to 2008. • William Tobey. Senior fellow at Harvard University’s Belfer Center for Science and International Affairs and director of the U.S.-Russia Initiative to Prevent Nuclear Terrorism, deputy administrator for Defense Nuclear Nonproliferation at the U.S. National Nuclear Security Administration from 2006 to 2009. • Colonel General Viktor Yesin (retired Russian Armed Forces). Leading research fellow at the Institute for U.S. and Canadian Studies of the Russian Academy of Sciences and advisor to commander of the Strategic Missile Forces of Russia, chief of staff of the Strategic Missile Forces from 1994 to 1996. • Major General Pavel Zolotarev (retired Russian Armed Forces). Deputy director of the Institute for U.S. and Canadian Studies of the Russian Academy of Sciences, head of the Information and Analysis Center of the Russian Ministry of Defense from1993 to 1997, section head - deputy chief of staff of the Defense Council of Russia from 1997 to 1998,<http://belfercenter.ksg.harvard.edu/publication/23430/steps_to_prevent_nuclear_terrorism.html>)

I. Introduction In 2011, Harvard’s Belfer Center for Science and International Affairs and the Russian Academy of Sciences’ Institute for U.S. and Canadian Studies published “The U.S. – Russia Joint Threat Assessment on Nuclear Terrorism.” The assessment analyzed the means, motives, and access of would-be nuclear terrorists, and concluded that the threat of nuclear terrorism is urgent and real. The Washington and Seoul Nuclear Security Summits in 2010 and 2012 established and demonstrated a consensus among political leaders from around the world that nuclear terrorism poses a serious threat to the peace, security, and prosperity of our planet. For any country, a terrorist attack with a nuclear device would be an immediate and catastrophic disaster, and the negative effects would reverberate around the world far beyond the location and moment of the detonation. Preventing a nuclear terrorist attack requires international cooperation to secure nuclear materials, especially among those states producing nuclear materials and weapons. As the world’s two greatest nuclear powers, the United States and Russia have the greatest experience and capabilities in securing nuclear materials and plants and, therefore, share a special responsibility to lead international efforts to prevent terrorists from seizing such materials and plants. The depth of convergence between U.S. and Russian vital national interests on the issue of nuclear security is best illustrated by the fact that bilateral cooperation on this issue has continued uninterrupted for more than two decades, even when relations between the two countries occasionally became frosty, as in the aftermath of the August 2008 war in Georgia. Russia and the United States have strong incentives to forge a close and trusting partnership to prevent nuclear terrorism and have made enormous progress in securing fissile material both at home and in partnership with other countries. However, to meet the evolving threat posed by those individuals intent upon using nuclear weapons for terrorist purposes, the United States and Russia need to deepen and broaden their cooperation. The 2011 “U.S. - Russia Joint Threat Assessment” offered both specific conclusions about the nature of the threat and general observations about how it might be addressed. This report builds on that foundation and analyzes the existing framework for action, cites gaps and deficiencies, and makes specific recommendations for improvement. “The U.S. – Russia Joint Threat Assessment on Nuclear Terrorism” (The 2011 report executive summary): • Nuclear terrorism is a real and urgent threat. Urgent actions are required to reduce the risk. The risk is driven by the rise of terrorists who seek to inflict unlimited damage, many of whom have sought justification for their plans in radical interpretations of Islam**;** by the spread of information about the decades-old technology of nuclear weapons; by the increased availability of weapons-usable nuclear materials; and by globalization, which makes it easier to move people, technologies, and materials across the world. • Making a crude nuclear bomb would not be easy, but is potentially within the capabilities of a technically sophisticated terrorist group, as numerous government studies have confirmed. Detonating a stolen nuclear weapon would likely be difficult for terrorists to accomplish, if the weapon was equipped with modern technical safeguards (such as the electronic locks known as Permissive Action Links, or PALs). Terrorists could, however, cut open a stolen nuclear weapon and make use of its nuclear material for a bomb of their own. • The nuclear material for a bomb is small and difficult to detect, making it a major challenge to stop nuclear smuggling or to recover nuclear material after it has been stolen. Hence, a primary focus in reducing the risk must be to keep nuclear material and nuclear weapons from being stolen by continually improving their security, as agreed at the Nuclear Security Summit in Washington in April 2010. • Al-Qaeda has sought nuclear weapons for almost two decades. The group has repeatedly attempted to purchase stolen nuclear material or nuclear weapons, and has repeatedly attempted to recruit nuclear expertise. Al-Qaeda reportedly conducted tests of conventional explosives for its nuclear program in the desert in Afghanistan. The group’s nuclear ambitions continued after its dispersal following the fall of the Taliban regime in Afghanistan. Recent writings from top al-Qaeda leadership are focused on justifying the mass slaughter of civilians, including the use of weapons of mass destruction, and are in all likelihood intended to provide a formal religious justification for nuclear use. While there are significant gaps in coverage of the group’s activities, al-Qaeda appears to have been frustrated thus far in acquiring a nuclear capability; it is unclear whether the the group has acquired weapons-usable nuclear material or the expertise needed to make such material into a bomb. Furthermore, pressure from a broad range of counter-terrorist actions probably has reduced the group’s ability to manage large, complex projects, but has not eliminated the danger. However, there is no sign the group has abandoned its nuclear ambitions. On the contrary, leadership statements as recently as 2008 indicate that the intention to acquire and use nuclear weapons is as strong as ever.

## Case

### 1NC No war

#### No Sino-Japanese war [over the Senkakus]---economic ties and the US check

Richard Katz 13 Richard Katz is the editor of the semiweekly Oriental Economist Alert, a report on the Japanese economy. “Mutual Assured Production,” Foreign Affairs, July/August, Vol. 92, Issue 4, EBSCO

Why Trade Will Limit Conflict Between China and Japan¶ During the Cold War, the United States and the Soviet Union carefully avoided triggering a nuclear war because of the assumption of "mutual assured destruction": each knew that any such conflict would mean the obliteration of both countries. Today, even though tensions between China and Japan are rising, an economic version of mutual deterrence is preserving the uneasy status quo between the two sides.¶ Last fall, as the countries escalated their quarrel over an island chain that Japan has controlled for more than a century, many Chinese citizens boycotted Japanese products and took to the streets in anti-Japanese riots. This commotion, at times encouraged by the Chinese government, led the Japanese government to fear that Beijing might exploit Japan's reliance on China as an export market to squeeze Tokyo into making territorial concessions. Throughout the crisis, Japan has doubted that China would ever try to forcibly seize the islands -- barren rocks known in Chinese as the Diaoyu Islands and in Japanese as the Senkaku Islands -- if only because the United States has made it clear that it would come to Japan's defense. Japanese security experts, however, have suggested that China might try other methods of intimidation, including a prolonged economic boycott.¶ But these fears have not materialized, for one simple reason: China needs to buy Japanese products as much as Japan needs to sell them. Many of the high-tech products assembled in and exported from China, often on behalf of American and European firms, use advanced Japanese-made parts. China could not boycott Japan, let alone precipitate an actual conflict, without stymieing the export-fueled economic miracle that underpins Communist Party rule.¶ For the moment, the combination of economic interdependence and Washington's commitment to Japan's defense will likely keep the peace. Still, an accidental clash of armed ships around the islands could lead to an unintended conflict. That is why defense officials from both countries have met with an eye to reducing that particular risk. With no resolution in sight, those who fear an escalation can nonetheless take solace in the fact that China and Japan stand to gain far more from trading than from fighting.

## CP

### CP Solves

#### Disclosing target criteria builds credibility, enacts accountability, and doesn’t link to the DA

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

Related to defending the process, and using performance data is the possibility that the U.S. government could publish the targeting criteria it follows. That criteria need not be comprehensive, but it could be sufficiently detailed as to give outside observers an idea about who the individuals singled out for killing are and what they are alleged to have done to merit their killing. As Bobby Chesney has noted, "Congress could specify a statutory standard which the executive branch could then bring to bear in light of the latest intelligence, with frequent reporting to Congress as to the results of its determinations."521 What might the published standards entail? First, Congress could clarify the meaning of associated forces, described in Part I and II. In the alternative, it could do away with the associated forces criteria altogether, and instead name each organization against which force is being authorized,522 such an approach would be similar to the one followed by the Office of Foreign Assets Control when it designates financial supporters of terrorism for sanctions.523¶ The challenge with such a reporting and designation strategy is that it doesn’t fit neatly into the network based targeting strategy and current practices outlined in Parts I-III. If the U.S. is seeking to disrupt networks, then how can there be reporting that explains the networked based targeting techniques without revealing all of the links and nodes that have been identified by analysts? Furthermore, for side payment targets, the diplomatic secrecy challenges identified in Part I remain --- there simply may be no way the U.S. can publicly reveal that it is targeting networks that are attacking allied governments. These problems are less apparent when identifying the broad networks the U.S. believes are directly attacking American interests, however publication of actual names of targets will be nearly impossible (at least ex ante) under current targeting practices.¶ As was discussed above, the U.S. government and outside observers may simply be using different benchmarks to measure success. Some observers are looking to short term gains from a killing while others look to the long term consequences of the targeted killing policy. Should all of these metrics and criteria be revealed? Hardly. However, the U.S. should articulate what strategic level goals it is hoping to achieve through its targeted killing program. Those goals certainly include disrupting specified networks. Articulating those goals, and the specific networks the U.S. is targeting may place the U.S. on better diplomatic footing, and would certainly engender mechanisms of domestic political accountability.

### AT: Their Args

#### They say judicial review is key but their authors vote neg:

#### 2) Zenko recommends the CP, not the aff

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

Much like policies governing the use of nuclear weapons, offensive cyber capabilities, and space, developing rules and frameworks for innovative weapons systems, much less reaching a consensus within the U.S. government, is a long and arduous process. In its second term, the Obama administration has a narrow policy window of opportunity to pursue reforms of the targeted killings program. The Obama administration can proactively shape U.S. and international use of armed drones in nonbattlefield settings through transparency, self-restraint, and engagement, or it can continue with its current policies and risk the consequences. To better secure the ability to conduct drone strikes, and potentially influence how others will use armed drones in the future, the United States should undertake the following specific policy recommendations.¶ Executive Branch¶ The president of the United States should¶ ■■ limit targeted killings to individuals who U.S. officials claim are being targeted—the leadership of al-Qaeda and affiliated forces or individuals with a direct operational role in past or ongoing terrorist plots against the United States and its allies—and bring drone strike practices in line with stated policies;¶ ■■ either end the practice of signature strikes or provide a public accounting of how it meets the principles of distinction and proportionality that the Obama administration claims;¶ ■■ review its current policy whereby the executive authority for drone strikes is split between the CIA and JSOC, as each has vastly different legal authorities, degrees of permissible transparency, and oversight;¶ ■■ provide information to the public, Congress, and UN special rapporteurs— without disclosing classified information—on what procedures exist to prevent harm to civilians, including collateral damage mitigation, investigations into collateral damage, corrective actions based on those investigations, and amends for civilian losses; and never conduct nonbattlefield targeted killings without an accountable human being authorizing the strike (while retaining the potential necessity of autonomous decisions to use lethal force in warfare in response to ground-based antiaircraft fire or aerial combat).

#### Disclosing targeting standards leads to public scrutiny and reform---solves better than a drone court

Gabor Rona 13, International Legal Director, Human Rights First, 2/27/13, “The pro-rule of law argument against a 'drone court',” http://thehill.com/blogs/congress-blog/judicial/285041-the-pro-rule-of-law-argument-against-a-drone-court#ixzz2dlSUsFz1

So if a drone court isn’t the answer, what is?

Congress should require the executive to disclose the targeting standards it’s adopted so as to expose its rationale to scrutiny. The leaking of a single document — a “white paper” laying out the administration’s legal case for killing U.S. citizens — has triggered unprecedented criticism and pushback from Congress and the media. Scrutiny begets scrutiny and can lead to meaningful reform. That’s surely one of the reasons the White House has refused to release most information about the targeted killing program.

Congress should also ensure that victims of unlawful targeting — or their survivors — have the right to claim compensation, creating a deterrent to government abuse. That right already exists in theory but time and again courts have prohibited such cases from moving forward, buying without question the government’s claim that allowing them would threaten national security. Congress should limit the executive’s ability to hide unlawful killings behind this claim.

These are just a few of the steps Congress could take to rein in the unbridled power of this administration any future ones to clandestinely kill individuals suspected of participating in terrorism. Creating a new secret court to secretly review secretly planned killings is not the way to go.

### AT: Maxwell

#### CP solves warrant in Maxwell --- has Congress confirm the limits set by the executive regarding when and how we can use TK’s --- clearly clarifies the situation for other countries

Mark David Maxwell, Colonel, Judge Advocate with the U.S. Army, Winter 2012, TARGETED KILLING, THE LAW, AND TERRORISTS, Joint Force Quarterly, http://www.ndu.edu/press/targeted-killing.html

The weakness of this theory is that it is not codified in U.S. law; it is merely the extrapolation of international theorists and organizations. The only entity **under the Constitution that can frame and settle Presidential power** regarding the enforcement of international norms **is Congress**. As the check on executive power, Congress must amend the AUMF to give the executive a statutory roadmap that articulates when force is appropriate and under what circumstances the President can use targeted killing. **This would be the** needed endorsement from Congress, the other political branch of government, **to clarify the U.S. position on its use of force regarding targeted killing**. For example, it would spell out the limits of American lethality once an individual takes the status of being a member of an organized group. Additionally, statutory clarification will give other states a roadmap for the contours of what constitutes anticipatory self-defense and the proper conduct of the military under the law of war.

#### Combo of planks means it’s sufficient --- Congress just needs to speak-out, not write new legislation

Maxwell 12 - Colonel and Judge Advocate, U.S. Army, 1st Quarter 2012, “TARGETED KILLING, THE LAW, AND TERRORISTS: FEELING SAFE?,” Joint Force Quarterly, p. 123-130, Mark David Maxwell.

In the wake of the attacks by al Qaeda on September 11, 2001, an analogous phenomenon of feeling safe has occurred in a recent U.S. national security policy: America’s explicit use of targeted killings to eliminate terrorists, under the legal doctrines of self-defense and the law of war. Legal scholars define targeted killing as the use of lethal force by a state4 or its agents with the intent, premeditation, and deliberation to kill individually selected persons who are not in the physical custody of those targeting them.5 In layman’s terms, targeted killing is used by the United States to eliminate individuals it views as a threat.6 Targeted killings, for better or for worse, have become “a defining doctrine of American strategic policy.”7 Although many U.S. Presidents have reserved the right to use targeted killings in unique circumstances, making this option a formal part of American foreign policy incurs risks that, unless adroitly controlled and defined in concert with Congress, could drive our practices in the use of force in a direction that is not wise for the long-term health of the rule of law. This article traces the history of targeted killing from a U.S. perspective. It next explains how terrorism has traditionally been handled as a domestic law enforcement action within the United States and why this departure in policy to handle terrorists like al Qaeda under the law of war—that is, declaring war against a terrorist organization—is novel. While this policy is not an ill-conceived course of action given the global nature of al Qaeda, there are practical limitations on how this war against terrorism can be conducted under the orders of the President. Within the authority to target individuals who are terrorists, there are two facets of Presidential power that the United States must grapple with: first, how narrow and tailored the President’s authority should be when ordering a targeted killing under the rubric of self-defense; and second, whether the President must adhere to concepts within the law of war, specifically the targeting of individuals who do not don a uniform. The gatekeeper of these Presidential powers and the prevention of their overreach is Congress. The Constitution demands nothing less, but thus far, Congress’s silence is deafening.

### Solves – Legitimacy

#### Public doesn’t care---no backlash

John Kaag 13, Associate Professor, Director of Global Studies PhD. Program, University of Massachusetts-Lowell, and Sarah Kreps, assistant professor in the Department of Government at Cornell, co-director of the Cornell Law School International Law-International Relations Colloquium, and affiliate of the Einaudi Center for International Studies’ Foreign Policy Initiative, 10/4/13, “See No Evil: Drones and Public Opinion,” http://www.ethicsandinternationalaffairs.org/2013/see-no-evil-drones-and-public-opinion/

In 2012, U.S. drone strikes occured most often in which nation?

If you don’t know, don’t feel too bad. You’re not alone. You could just admit it and join the 27 percent of Americans who report that they haven’t a clue. Or you could guess, give the wrong answer, and join the 60 percent of Americans who just plain get it wrong.

Many people know this answer first-hand, but they tend not to be Americans, and for them the answer has a non-trivial significance.

A large majority (65 percent) of Americans claim that they have heard a lot about the U.S. drone program in recent months. This is a significant increase from a year ago. But what they’ve heard hasn’t furnished the answer to this most basic question about the purpose and nature of targeted killings. This makes sense, since the media often focuses on what is most important to its readers: namely, themselves. This is why the death of Americans in targeted killings dominated the Brennan hearings and why the mere prospect of domestic surveillance has taken center stage in the drone debate. But this means that most of us remain ill-equipped to explain the when and where of U.S. drone strikes as they currently take place.

It would be convenient to blame this ignorance on government secrecy, on the rise of a new Orwellian state. But this would understate the freedom that the average American citizen still has over what she reads and what she thinks. Citizens are still free to read widely and inform themselves about the drone campaign, but they simply choose not to. This is probably because such willful ignorance plays an important role in the maintenance of our moral and political worldviews and the cognitive dissonance that tends to define them.

When it comes to drone strikes, Americans often have to juggle two mutually exclusive beliefs. On the one hand, only a quarter of respondents believe that drone strikes are legal. On the other, an astounding majority of people still approve of these targeting practices. This may indicate something important about the power of laws when they go unenforced, but more clearly suggests that the legality of actions tend to matter much less to people who do not face the consequences when these laws are broken.

#### Executive transparency combined with Congressional expressions of support for the process demonstrates accountability for the overall program---solves legitimacy

Jack Goldsmith 12, Harvard Law professor and a member of the Hoover Task Force on National Security and Law, 3/19/12, “Fire When Ready,” http://www.foreignpolicy.com/articles/2012/03/19/fire\_when\_ready

There are at least two separate issues about what information should be disclosed. The first concerns the legal basis for the targeted killing program. In addition to the New York Times leak, four senior Obama administration officials -- Attorney General Holder, Defense Department General Counsel Jeh Johnson, State Department Legal Advisor Harold Koh, and senior counterterrorism advisor John Brennan -- have given major speeches outlining this legal basis. These speeches go far beyond the usual public explanations for actions of this sort. But, as Charlie Savage of the New York Times said of Holder's Northwestern talk, they "fell far short of the level of detail contained in the Office of Legal Counsel memo." After Holder's speech, the nation has a general explanation of the constitutional and international law bases for the administration's actions. But the speech also shows that the legal rationale for targeted killing can be discussed without disclosing operations, targets, means of fire, or countries, and without revealing means and methods of intelligence gathering. The Holder speech, in short, weakens the rationale against disclosing more detail and analysis about the legal basis for (and limitations on) targeted killings.

A second disclosure issue concerns the process by which targeting decisions are made and the factual basis for those decisions (including the evidence of ties to al Qaeda, the imminence of the threat posed by the target, the extent of cooperation with other nations, and the reasons capture is not feasible). This is the most legitimate concern of critics and even some supporters of the president's targeted killing campaign, especially when that campaign involves a U.S. citizen. There is every reason to think that the government was super careful and extra scrupulous in the process preceding the Awlaki killing. But despite the elaborate system of deliberation, scrutiny, and legitimation supporting U.S. targeting practices, the U.S. government can and sometimes does make mistakes about its targets. There is simply no way to wring all potential error from the system and still carry on a war. Even full-blown ex ante judicial review of targeting would not guarantee the elimination of errors.

The government needs a way to credibly convey to the public that its decisions about who is being targeted -- especially when the target is a U.S. citizen -- are sound. The government did provide this kind of information when there was public uncertainty about whether Awlaki was an operational leader of al Qaeda in the Arabian Peninsula or merely an inspirational figure. In its sentencing memorandum for "underwear bomber" Umar Farouk Abdulmutallab, the government revealed details about Awlaki meeting with Abdulmutallab and providing assistance for the planned attack on a U.S.-bound plane on Christmas Day 2009. This disclosure is credible because it is based on Abdulmutallab's debriefing statements. And because it is based on those statements, it does not reveal the sensitive intelligence that originally informed the government's conclusion that Awlaki was an operational leader. Outside this unusual context, however, it is hard for the executive branch to disclose more than it has about the factual basis for its high-value targeting decisions without disclosing and thus destroying its intelligence-gathering techniques or its arrangements with foreign governments. And that, in turn, leaves the government in the unattractive position of asking the public to trust its controversial targeting decisions without any outside confirmation of the facts.

I can think of only two ways to improve the current arrangement. First, the government can and should tell us more about the process by which it reaches its high-value targeting decisions. It should answer a number of questions, such as: How many layers of bureaucracy are involved? How many people, from how many agencies, typically weigh in on such decisions? How long do the deliberations generally take? What, in general, are the intelligence review processes like? How long does a typical congressional briefing on such an issue take? How many members of the relevant congressional committees show up? Does the administration show committee members legal analyses? Do committee staffers, including committee lawyers, participate? How much sharing is there, if any, between the intelligence and armed services committees? Are targets or operations sometimes, frequently, or always revised by these processes? Are they sometimes, or frequently, aborted? The more the government tells us about the eyeballs on the issue and the robustness of the process, the more credible will be its claims about the accuracy of its factual determinations and the soundness of its legal ones. All of this information can be disclosed in some form without endangering critical intelligence.

Second, the government should take advantage of the separation of powers. Military detention at Guantánamo Bay, Cuba has become more legitimate and less controversial in part because another branch of government, the judiciary, has looked at the detentions and agreed with the executive's assessment. Such judicial review is inappropriate for targeting decisions and, in any event, not available. But a different adversarial branch of government -- Congress -- can play an analogous role. The congressional intelligence and arms services committees know a lot about the president's targeting policies, and have gone along with the president's actions. These committees could (without revealing sensitive information) do more to enhance the president's credibility by stating publicly -- and preferably in a bipartisan fashion -- that they have monitored the president's high-value targeting decisions and find them, and the facts and processes on which they are based, to be sound. Congress does not typically like the responsibility (or the hard work) that such an endorsement would entail. But especially when courts are not available to review the president's actions, it should step up its public involvement in scrutinizing and vouching for (or criticizing) the president's targeting decisions. Indeed, the president should insist on it.

### AT: PDB

#### Perm links to the terror DA – their shielding arg doesn’t make sense since it was about politics – all of our links are about judicial review

### AT: Groupthink

#### No groupthink---there are several different checkpoints on the way to a targeting decision and objection at any point stops the entire op

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

Based on this information, we can sketch a general picture of the kill-list approval process.210 First, military and intelligence officials from various agencies compile data and make recommendations based on internal vetting and validation standards.211 Second, those recommendations go through the NCTC, which further vets and validates rosters of names and other variables that are further tailored to meet White House standards for lethal targeting.212 Third, the president’s designee (currently the counterterrorism adviser) convenes a NSC deputies meeting to get input from senior officials, including top lawyers from the appropriate agencies and departments (i.e. CIA, FBI, DOD, State Department, NCTC, etc.).213 At this step is where the State Department’s Legal Adviser (previously Harold Koh) and the Department of Defense General Counsel (previously Jeh Johnson) along with other top lawyers would have an opportunity to weigh in with their legal opinions on behalf of their respective departments.214 Objections to a strike from top lawyers might prevent the decision from climbing further up the ladder absent more deliberation.215 In practice, an objection from one of these key attorneys almost certainly causes the president’s designee in the NSC process to hesitate before seeking final approval from the president. Finally, if the NSC gives approval, the president’s counterterrorism advisor shapes the product of the NSC’s deliberations and seeks final approval from the president.216 At this stage, targets are evaluated again to ensure that target information is complete and accurate, targets relate to objectives, the selection rationale is clear and detailed, and collateral damage concerns are highlighted.217 By this point in the bureaucratic process, just as in prior conflicts like Kosovo,218 there will be few targeting proposals that will reach the approval authority (the president) that will prompt absolute prohibitions under the law of armed conflict. Rather most decisions at this point will be judgment calls regarding the application of law to facts, or intelligence and analytic judgments regarding facts and expected outcomes.219

### AT: Executive Mistrust

#### Transparency solves allied perception and blowback while maintaining the CT benefits of targeted killings

Michael Aaronson 13, Professorial Research Fellow and Executive Director of cii – the Centre for International Intervention – at the University of Surrey, and Adrian Johnson, Director of Publications at RUSI, the book reviews editor for the RUSI Journal, and chair of the RUSI Editorial Board, “Conclusion,” in Hitting the Target?: How New Capabilities are Shaping International Intervention, ed. Aaronson & Johnson, http://www.rusi.org/downloads/assets/Hitting\_the\_Target.pdf

The Obama administration faces some tough dilemmas, and analysts should be careful not to downplay the security challenges it faces. It must balance the principles of justice and accountability with a very real terrorist threat; and reconcile the need to demonstrate a credibly tough security policy with the ending of a long occupation of Afghanistan while Al-Qa’ida still remains active in the region. Nevertheless, more transparency would provide demonstrable oversight and accountability without sacrificing the necessary operational secrecy of counter-terrorism. It might also help assuage the concern of allies and their publics who worry about what use the intelligence they provide might be put to. A wise long-term vision can balance the short-term demands to disrupt and disable terrorist groups with a longer-term focus to resolve the grievances that give rise to radicalism, and also preclude inadvertently developing norms of drone use that sit uneasily with the civilised conduct of war. Drones are but one kinetic element of a solution to terrorism that is, ultimately, political.

## Backlash

### AT: Transition Wars

#### No transition wars---best empirics and theory – that’s MacDonald, finishing it

In particular, periods of hegemonic transition do not appear more conflict prone than those of acute decline. The last reversal at the pinnacle of power was the Anglo-American transition, which took place around 1872 and was resolved without armed confrontation. The tenor of that transition may have been influenced by a number of factors: both states were democratic maritime empires, the United States was slowly emerging from the Civil War, and Great Britain could likely coast on a large lead in domestic capital stock. Although China and the United [End Page 41] States differ in regime type, similar factors may work to cushion the impending Sino-American transition. Both are large, relatively secure continental great powers, a fact that mitigates potential geopolitical competition.93 China faces a variety of domestic political challenges, including strains among rival regions, which may complicate its ability to sustain its economic performance or engage in foreign policy adventurism.94

Most important, the United States is not in free fall. Extrapolating the data into the future, we anticipate the United States will experience a "moderate" decline, losing from 2 to 4 percent of its share of great power GDP in the five years after being surpassed by China sometime in the next decade or two.95 Given the relatively gradual rate of U.S. decline relative to China, the incentives for either side to run risks by courting conflict are minimal. The United States would still possess upwards of a third of the share of great power GDP, and would have little to gain from provoking a crisis over a peripheral issue. Conversely, China has few incentives to exploit U.S. weakness.96 Given the importance of the U.S. market to the Chinese economy, in addition to the critical role played by the dollar as a global reserve currency, it is unclear how Beijing could hope to consolidate or expand its increasingly advantageous position through direct confrontation.

In short, the United States should be able to reduce its foreign policy commitments in East Asia in the coming decades without inviting Chinese expansionism. Indeed, there is evidence that a policy of retrenchment could reap potential benefits. The drawdown and repositioning of U.S. troops in South Korea, for example, rather than fostering instability, has resulted in an improvement in the occasionally strained relationship between Washington and Seoul. 97 U.S. moderation on Taiwan, rather than encouraging hard-liners in Beijing, resulted in an improvement in cross-strait relations and reassured U.S. allies that Washington would not inadvertently drag them into a Sino-U.S. conflict. 98 Moreover, Washington’s support for the development of multilateral security institutions, rather than harming bilateral alliances, could work to enhance U.S. prestige while embedding China within a more transparent regional order. 99 A policy of gradual retrenchment need not undermine the credibility of U.S. alliance commitments or unleash destabilizing regional security dilemmas. Indeed, even if Beijing harbored revisionist intent, it is unclear that China will have the force projection capabilities necessary to take and hold additional territory. 100 By incrementally shifting burdens to regional allies and multilateral institutions, the United States can strengthen the credibility of its core commitments while accommodating the interests of a rising China. Not least among the benefits of retrenchment is that it helps alleviate an unsustainable financial position. Immense forward deployments will only exacerbate U.S. grand strategic problems and risk unnecessary clashes. 101

### AT: Lashout

#### No lashout---best studies

Paul K. MacDonald 11, Assistant Professor of Political Science at Williams College, and Joseph M. Parent, Assistant Professor of Political Science at the University of Miami, Spring 2011, “Graceful Decline?: The Surprising Success of Great Power Retrenchment,” International Security, Vol. 35, No. 4, p. 7-44

How do great powers respond to acute decline? The erosion of the relative power of the United States has scholars and policymakers reexamining this question. The central issue is whether prompt retrenchment is desirable or probable. Some pessimists counsel that retrenchment is a dangerous policy, because it shows weakness and invites attack. Robert Kagan, for example, warns, "A reduction in defense spending . . . would unnerve American allies and undercut efforts to gain greater cooperation. There is already a sense around the world, fed by irresponsible pundits here at home, that the United States is in terminal decline. Many fear that the economic crisis will cause the United States to pull back from overseas commitments. The announcement of a defense cutback would be taken by the world as evidence that the American retreat has begun."1 Robert Kaplan likewise argues, "Husbanding our power in an effort to slow America's decline in a post-Iraq and post-Afghanistan world would mean avoiding debilitating land entanglements and focusing instead on being more of an offshore balancer. . . . While this may be in America's interest, the very signaling of such an aloof intention may encourage regional bullies. . . . [L]essening our engagement with the world would have devastating consequences for humanity. The disruptions we witness today are but a taste of what is to come should our country flinch from its international responsibilities."2 The consequences of these views are clear: retrenchment should be avoided and forward defenses maintained into the indefinite future.3

Other observers advocate retrenchment policies, but they are pessimistic [End Page 7] about their prospects.4 Christopher Layne, for instance, predicts, "Even as the globe is being turned upside down by material factors, the foreign policies of individual states are shaped by the ideas leaders hold about their own nations' identity and place in world politics. More than most, America's foreign policy is the product of such ideas, and U.S. foreign-policy elites have constructed their own myths of empire to justify the United States' hegemonic role."5 Stephen Walt likewise advocates greater restraint in U.S. grand strategy, but cautions, "The United States . . . remains a remarkably immature great power, one whose rhetoric is frequently at odds with its conduct and one that tends to treat the management of foreign affairs largely as an adjunct to domestic politics. . . . [S]eemingly secure behind its nuclear deterrent and oceanic moats, and possessing unmatched economic and military power, the United States allowed its foreign policy to be distorted by partisan sniping, hijacked by foreign lobbyists and narrow domestic special interests, blinded by lofty but unrealistic rhetoric, and held hostage by irresponsible and xenophobic members of Congress."6 Although retrenchment is a preferable policy, these arguments suggest that great powers often cling to unprofitable foreign commitments for parochial reasons of national culture or domestic politics.7

These arguments have grim implications for contemporary international politics. With the rise of new powers, such as China, the international pecking order will be in increasing flux in the coming decades.8 Yet, if the pessimists are correct, politicians and interests groups in the United States will be unwilling or unable to realign resources with overseas commitments. Perceptions of weakness and declining U.S. credibility will encourage policymakers to hold on to burdensome overseas commitments, despite their high costs in blood and treasure.9 Policymakers in Washington will struggle to retire from profitless military engagements and restrain ballooning current accounts and budget deficits.10 For some observers, the wars in Iraq and Afghanistan represent the ill-advised last gasps of a declining hegemon seeking to bolster its plummeting position.11

In this article, we question the logic and evidence of the retrenchment pessimists. To date there has been neither a comprehensive study of great power retrenchment nor a study that lays out the case for retrenchment as a practical or probable policy. This article fills these gaps by systematically examining the relationship between acute relative decline and the responses of great powers. We examine eighteen cases of acute relative decline since 1870 and advance three main arguments.

First, we challenge the retrenchment pessimists' claim that domestic or international constraints inhibit the ability of declining great powers to retrench. In fact, when states fall in the hierarchy of great powers, peaceful retrenchment is the most common response, even over short time spans. Based on the empirical record, we find that great powers retrenched in no less than eleven and no more than fifteen of the eighteen cases, a range of 61-83 percent. When international conditions demand it, states renounce risky ties, increase reliance on allies or adversaries, draw down their military obligations, and impose adjustments on domestic populations.

Second, we find that the magnitude of relative decline helps explain the extent of great power retrenchment. Following the dictates of neorealist theory, great powers retrench for the same reason they expand: the rigors of great power politics compel them to do so.12 Retrenchment is by no means easy, but [End Page 9] necessity is the mother of invention, and declining great powers face powerful incentives to contract their interests in a prompt and proportionate manner. Knowing only a state's rate of relative economic decline explains its corresponding degree of retrenchment in as much as 61 percent of the cases we examined.

Third, we argue that the rate of decline helps explain what forms great power retrenchment will take. How fast great powers fall contributes to whether these retrenching states will internally reform, seek new allies or rely more heavily on old ones, and make diplomatic overtures to enemies. Further, our analysis suggests that great powers facing acute decline are less likely to initiate or escalate militarized interstate disputes. Faced with diminishing resources, great powers moderate their foreign policy ambitions and offer concessions in areas of lesser strategic value. Contrary to the pessimistic conclusions of critics, retrenchment neither requires aggression nor invites predation. Great powers are able to rebalance their commitments through compromise, rather than conflict. In these ways, states respond to penury the same way they do to plenty: they seek to adopt policies that maximize security given available means. Far from being a hazardous policy, retrenchment can be successful. States that retrench often regain their position in the hierarchy of great powers. Of the fifteen great powers that adopted retrenchment in response to acute relative decline, 40 percent managed to recover their ordinal rank. In contrast, none of the declining powers that failed to retrench recovered their relative position.