# 1NC

## Off

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#### Security is a psychological construct—the aff’s scenarios for conflict are products of paranoia that project our violent impulses onto the other

**Mack 91** – Doctor of Psychiatry and a professor at Harvard University (John, “The Enemy System” http://www.johnemackinstitute.org/eJournal/article.asp?id=23 \*Gender modified)

The threat of nuclear annihilation has stimulated us to try to understand what it is about (hu)mankind that has led to such self-destroying behavior. Central to this inquiry is an exploration of the adversarial relationships between ethnic or national groups. It is out of such enmities that war, including nuclear war should it occur, has always arisen. Enmity between groups of people stems from the interaction of psychological, economic, and cultural elements. These include fear and hostility (which are often closely related), competition over perceived scarce resources,[3] the need for individuals to identify with a large group or cause,[4] a tendency to disclaim and assign elsewhere responsibility for unwelcome impulses and intentions, and a peculiar susceptibility to emotional manipulation by leaders who play upon our more savage inclinations in the name of national security or the national interest. A full understanding of the "enemy system"[3] requires insights from many specialities, including psychology, anthropology, history, political science, and the humanities. In their statement on violence[5] twenty social and behavioral scientists, who met in Seville, Spain, to examine the roots of war, declared that there was no scientific basis for regarding (hu)man(s) as an innately aggressive animal, inevitably committed to war. The Seville statement implies that we have real choices. It also points to a hopeful paradox of the nuclear age: threat of nuclear war may have provoked our capacity for fear-driven polarization but at the same time it has inspired unprecedented efforts towards cooperation and settlement of differences without violence. The Real and the Created Enemy Attempts to explore the psychological roots of enmity are frequently met with responses on the following lines: "I can accept psychological explanations of things, but my enemy is real. The Russians [or Germans, Arabs, Israelis, Americans] are armed, threaten us, and intend us harm. Furthermore, there are real differences between us and our national interests, such as competition over oil, land, or other scarce resources, and genuine conflicts of values between our two nations. It is essential that we be strong and maintain a balance or superiority of military and political power, lest the other side take advantage of our weakness". This argument does not address the distinction between the enemy threat and one's own contribution to that threat-**by distortions of perception**, provocative words, and actions. In short, the enemy is real, but we have not learned to understand how we have created that enemy, or how the threatening image we hold of the enemy relates to its actual intentions. "We never see our enemy's motives and we never labor to assess his will, with anything approaching objectivity".[6] Individuals may have little to do with the choice of national enemies. Most Americans, for example, know only what has been reported in the mass media about the Soviet Union. We are largely unaware of the forces that operate within our institutions, affecting the thinking of our leaders and ourselves, and which determine how the Soviet Union will be represented to us. Ill-will and a desire for revenge are transmitted from one generation to another, and we are not taught to think critically about how our assigned enemies are selected for us. In the relations between potential adversarial nations there will have been, inevitably, real grievances that are grounds for enmity. But the attitude of one people towards another is usually determined by leaders who manipulate the minds of citizens for domestic political reasons which are generally unknown to the public. As Israeli sociologist Alouph Haveran has said, in times of conflict between nations historical accuracy is the first victim.[8] The Image of the Enemy and How We Sustain It Vietnam veteran William Broyles wrote: "War begins in the mind, with the idea of the enemy."[9] But to sustain that idea in war and peacetime a nation's leaders must maintain public support for the massive expenditures that are required. Studies of enmity have revealed susceptibilities, though not necessarily recognized as such by the governing elites that provide raw material upon which the leaders may draw to sustain the image of an enemy.[7,10] Freud[11] in his examination of mass psychology identified the proclivity of individuals to surrender personal responsibility to the leaders of large groups. This surrender takes place in both totalitarian and democratic societies, and without coercion. Leaders can therefore designate outside enemies and take actions against them with little opposition. Much further research is needed to understand the psychological mechanisms that impel individuals to kill or allow killing in their name, often with little questioning of the morality or consequences of such actions. Philosopher and psychologist Sam Keen asks why it is that in virtually every war "The enemy is seen as less than human? He's faceless. He's an animal"." Keen tries to answer his question: "The image of the enemy is not only the soldier's most powerful weapon; it is society's most powerful weapon. It enables people en masse to participate in acts of violence they would never consider doing as individuals".[12] National leaders become skilled in presenting the adversary in dehumanized images. The mass media, taking their cues from the leadership, contribute powerfully to the process.

#### Our response is to interrogate the psychological underpinnings of enemy creation–prevents war

Byles 3—English, U Cyprus (Joanna, Psychoanalysis and War: The Superego and Projective Identification, http://www.clas.ufl.edu/ipsa/journal/articles/art\_byles01.shtml)

The problem of warfare which includes genocide, and its most recent manifestation, international terrorism, brings into focus the need to understand how the individual is placed in the social and the social in the individual. Psychoanalytic theories of superego aggression, splitting, projection, and projective identification may be useful in helping us to understand the psychic links involved. It seems vital to me writing in the Middle East in September 2002 that we examine our understanding of what it is we understand about war, including genocide and terrorism. Some psychoanalysts argue that war is a necessary defence against psychotic anxiety (Fornari xx; Volkan), and Freud himself first advanced the idea that war provided an outlet for repressed impulses. ("Why War?"197). The problematic of these views is the individual's need to translate internal psychotic anxieties into real external dangers so as to control them. **It suggests** that culturally **warfare** and its most recent manifestation, international terrorism and the so-called ''war on terrorism," **may be a necessary object for internal aggression and not a pathology.** Indeed, Fornari suggests that "war could be seen as an attempt at therapy, carried out by a social institution which, precisely by institutionalizing war, increases to gigantic proportions what is initially an elementary defensive mechanism of the ego in the schizo-paranoid phase" (xvii-xviii). In other words, **the history of war might represent the externalization** and articulation **of shared unconscious fantasies**. This idea would suggest that the culture of war, genocide, and international terrorism provides objects of psychic need. If this is so, with what can we replace them? If cultural formations and historical events have their sources in our psychic functioningthat is to say, in our unconscious fears and desires, and culture itself provides a framework for expressing, articulating, and coming to terms with these fears and desires, then **psychoanalysis may help to reveal why war seems to be an inevitable and ineradicable part of human history.** Superego as an Agent of Aggression In "The Ego and the Id," Freud formulated a seemingly insoluble dilemma in the very essence of the human psyche; the eternal conflict between the dual instincts of eros, the civilizing life instinct, and the indomitable death instinct (thanatos). He also identified some aspects of the death instinct with superego aggression, suggesting that the superego was the agent of the death instinct in its cruel and aggressive need for punishment and that its operative feeling was frequently a punitive hatred, while other aspects of the superego were protective. As we know, Freud thought the source of the superego was the internalization of the castrating Oedipal father. In chapter seven of Civilization and its Discontents, he theorized that when de-fusion or separation of the dual instincts occurred, aspects of aggression frequently dominated and that it was the purpose of the ego to find objects for eros and/or aggression either in phanta sv or reality. The role phantasy plays in projective identification is something to which I shall return. Other theorists, such as Melanie Klein, trace the beginning of the superego back to early (infant) oral phantasies of self-destruction, which is a direct manifestation of the death instinct. Klein transformed the oedipal drama by making the mother its central figure and thus playing a vital role in object-relations theory, about which I shall say more later in this essay. Although Klein's work relied on the dual instinct theory postulated by Freud, she re-defined the drives by emphasizing the way in which the destructive instincts attached themselves to the object, in particular the good-bad breast. Thus for Klein, the site of the superego is derived from oral Incorporation of the good/bad breast, contrary to Freud, for whom the site of the superego is the paternal law. Although the formation of the superego is grounded on the renunciation ofloving and hostile Oedipal wishes, it is subsequently refined, by the contributions of social and cultural requirements (education, religion, morality). My argument in this paper is three-fold: (1) These social and cultural requirements in which the superego is grounded may be used by the superego of the state and/or its leader to mobilize aspects of the individual's aggression during war-time in a way that does not happen in peace-time. (2) Klein's theory of splitting and projective identification plays an important role in the concept of difference and otherness as enemy. (3) Bion's development of Klein's theory into what he called the "container" and the "contained" may offer some way out of the psychic dangers of projective identification by suggesting that we may be able to access our internal psychic world as a transformative power to combat violence both internal and external. In an early attempt to define war neuroses, or how war mentally traumatizes the psyche, Freud wrote of the conflict "between the soldier's old peaceful ego and his new warlike one" becoming acute as soon as the peace-ego realizes what danger it runs in losing its own life to the rashness of its newly formed parasitic double" (SE 17 209). Accepting the violence that is within ourselves as well as in the other, the so-called enemy, is a difficult lesson to learn, and learning to displace our instinctual destructive aggression peacefully is enormously more difficult. To the extent the individual superego is connected to society, which assumes its functions particularly in wartime, the problem of war brings into focus the psychoanalytic problem of the partial defusion (separation) of eros and psychic aggression brought about by war through specifically social processes. These social processes involve the mechanisms by which aspects of the violent and aggressive social superego of the State mobilizes and appropriates some of the dynamic aspects of the individual's superego aggression: the need to hate, and to punish, for its own purposes, such as genocide or so-called "ethnic cleansing," and for territorial and economic reasons. Many of these actions are often masked as defending civilization, or an idealized State and/or its leader. This is also true of the "holy jihads" that are rapidly becoming an enormous threat to the world. In his book Enemies and Allies, Vamik Volkan suggests that the individual may see the superego of the State as his/her own idealized superego. And indeed, this may in turn help to explain how during war-time the social superego is placed in the individual and how in turn the individual is positioned in the social. In Civilization and its Discontents, to which I have already referred, Freud wrote about the ways in which the regulations and demands of a civilized society harbor the risk of the death instinct (aggression) being released at any favorable opportunity, especially when combined with Eros i.e., under the pretext of idealism and patriotism. This is especially true when t here is a leader who elicits strong emotional attachments from a group or nation. Of course, I am not arguing that there are not some important aspects of the social superego that are beneficial, for example the ethical and moral laws which shape society and protect its citizens; nevertheless, in wartime and its most recent manifestation, international terrorism, it is precisely these civilizing aspects of the social superego that are ignored or repressed. It seems to me that the **failure of civilization historically to control** the aggression, cruelty, and hatred that characterize **war** urgently **requires a psychoanalytic explanation**. Of course, I am speaking of psychic, not biological (survival of the fittest), aggression. In wartime the externalized superego of the state sanctions killing and violence that is not allowed in peace-time (in fact, such violence against others during peacetime would be considered criminal) sanctions, in fact, the gratification of warring aggression, thus ensuring that acts of violence need not incur guilt. Why do we accept this? Psychoanalysis posits the idea that aggression is not behavioral but instinctual; not social but psychological. To quote Volkan, who follows Freud, "It is man's very nature itself." Obviously, it is vital that humanity find more mature, less primitive ways of dealing with our hatred and aggression than war, genocide, and international terrorism. The most characteristic thing about this kind of violence and cruelty is its collective mentality: war requires group co-operation, organization, and approval. Some theorists argue that one of the primary cohesive elements binding individuals into institutionalized human association is defence against psychotic anxiety. In Group Psychology Freud writes that "in a group the individual is brought under conditions which allow him to throw off the repressions of his unconscious instinctual impulses. The apparently new characteristics he then displays are in fact the manifestation of this unconscious, **in which all that is evil in the human mind is contained as a predisposition**" (74). Later in the same essay, when speaking of the individual and the group mind, Freud quotes Le Bon : "Isolated, he may be a cultivated individual; in a crowd, he is a barbarian that is, a creature acting by instinct. He possesses the spontaneity, the violence, the ferocity, and also the enthusiasm and heroism of primitive beings" (77). War is a collective phenomenon that mobilizes our anxieties and allows our **original sadistic fantasies of destructive omnipotence to be re-activated and projected onto "the enemy."** Some critics have argued that we "need" enemies as external stabilizers of our sense of identity and inner control. It has also been argued that the militancy a particular group shows toward its enemies may partly mask the personal internal conflicts of each member of the group, and that they may therefore have **an emotional investment in** the maintenance of the **enmity**. In other words, **they need the enemy and are unconsciously afraid to lose it**. **This fits in with the** well known **phenomenon of inventing an enemy when there is not one readily available**. The individual suicide bomber, or suicide pilot, is just as much part of this group psychology each bomber, each terrorist, is acting for his/her group, or even more immediately his or her family, from whom he/she derives enormous psychic strength and support. Just as importantly, she/he is acting in the name of his/her leader. All of these identifications require strong emotional attachments. Freud writes, "The mutual tie between members of a group is in the nature of an identification, based upon an important emotional common quality. . . . This common quality lies in the nature of the tie to the leader" (Group 1078). In Learning from Experience, Bion theorizes that a social groupfunctions to establish a fixed social order of things (the establishm ent), and that the individual has to be contained by the establishment of the group. Sometimes the rigidity of me system crushes the individual's creativity; alternatively, certain special individuals erupt in the group, which goes to pieces under their influence (Bion cites Jesus within the constraints of Israel). A final possibility is the mutual adaptation of one to the other, with a development of both the individual and the group. The development of a sense of self, its integration, its separation, and its protection all begin, or course, in early childhood. Psychoanalyses like Klein, Winnicott, and Bion have explored these ideas in what is known as object relations theory. Volkan writes that the concepts of enemy and ally and the senses of ethnicity and nationality are largely bound up with the individual's sense of self, and that individuals within an ethnic or national group tend to see their group as a privileged "pseudo-species" (Erikson) and enemy groups as subhuman (262). Of course enemies are threatening and do generate a reactive need for defenses; however, a basic psychoanalytic question might be to what extent the degree of defensiveness characteristic of **war behavior represents personal**, emotional **needs of individuals for an enemy to hate**, **so that they can keep their conflicted selves together**, and to what extent the State superego plays a role here. Our capacity for splitting and projection plays an important part in how we see others and feel about others, and through the process of projective identification, how we make others feel about ourselves and themselves. Projective identification involves a deep split, displacing onto and into others the hateful, bad parts of ourselves, and frequently making them feehateful to themselves through their own introjection of our hatred. This hatred is often racial or religious, frequently both. Moreover, in the process of projective identification, parts of the self are put into the other, thus depleting the ego. (This process can be a vicious circle, and it is a profoundly disturbing and characteristic pathology, often involving envy and/or rivalry, both corrosive, poisonous forces.) These Kleinian ideas, developed by other theorists, such as Winnicott and Bion, are hugely relevant to the problem of war and genocide, and most recently, of terrorism. Klein argues that in the paranoid schizoid position there is a splitting of good and bad objects, with the good being introjected and the bad being externalized and projected out into someone or onto something else. As with the infant and child, so with the adult, mechanisms of splitting and protection play upon negative and feared connotations of the other, of the enemy, and of difference; projection prevents warring nations from exploring and thus understanding what it is that actually divides them; it prevents mutual response and recognition by promoting exclusivity. As already mentioned, analysts such as Volkan and Erikson have written about the processes by which an enemy is dehumanized so as to provide the distance a group needs from its perceived enemy. First the group becomes preoccupied with the enemy according to the psychology of minor differences. Then mass regression occurs to permit the group to recover and reactivate more primitive methods. What they then use in this regressed state tends to contain aspects of childish (pre-oedipal) fury. The enemy is perceived more and more as a stereotype of bad and negative qualities. The use of **denial allows a group to ignore the fact that its own externalizations and projections are involved in this process**. The stereotyped enemy may be so despised as to be no longer human, and it will then be referred to in non-human terms. History teaches us that it was in this way that the Nazis perceived the Jews as vermin to be exterminated. As I write, Al Qaeda terrorist groups view all Americans as demons and infidels to be annihilated, and many Americans are comforted by demonizing all of bearded Islam. Many Israelis consider most Palestinians as dirt beneath their feet subhuman and most Palestinians think of most Israelis as despoilers of the land they are supposed to share. In other words, the problem of the mentality of war and of terrorism mobilizes our anxieties in such a way so as to **prevent critical reality testing**. If we could learn the enormously difficult and painful task of re-introjection, of taking back our projections, our hatreds, anxieties, and fears of the other and of difference, long before they harm the other, there might be a transition, a link, from the state sanctioned violence of war back to individual violence. We might learn to subvert negative projective identification into a positive identification as a means of empathizing with the other and thus containing difference. The violence of the individual could then be contained and sublimated in peaceful ways, such as reconciling and balancing competing interests by asking what exactly these opposing interests are and exploring what the dynamics, conscious and unconscious, are for the hatred of deep war-like antagonisms. In other words, we would need to change our relationship with the other, giving up the dangerously irresponsible habit of splitting, projective identification, and exclusivity by recognizing difference not antagonistically but through an inclusive process that recognises the totalitv of human relationships in a peaceful world. We might substitute for the libidinal object-ties involved in projective identification the re-introjection of the object into the ego, and thus reach a common feeling of sharing, of being part of the other, of empathy, in short. As Freud pointed our, the ego is altered bv introjection, as suggested by his memorable formulation: " The shadow of the object has fallen on the ego." In his book Second Thoughts, Bion theorizes that in the infant as in the adult, re-introjection can be dangerous if the dominance of projective identification confuses the distinction between s elf and the external object, since this awareness depends on the recognition of a distinction between subject and object. But Bion's theory of the pairing group, or the container and the contained, provides a way out of this predicament, suggesting that the outcome of such pairing is either detrimental to the contained, or to the container, or mutually developing to both. This idea is germane to my argument in this paper that the reciprocity of the container and the contained relationship, through both positive projective identification (empathy) and introjection or re-introjection, results in a positive allowance of difference in other words, a healthy acceptance of and adaptation to the other within the self and the self within the other.

### 1NC

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

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

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

#### Plan wrecks PC

Vladeck 13 (Steve – professor of law and the associate dean for scholarship at American University Washington College of Law, “Drones, Domestic Detention, and the Costs of Libertarian Hijacking”, 3/14, http://www.lawfareblog.com/2013/03/drones-domestic-detention-and-the-costs-of-libertarian-hijacking/)

The same thing appears to be happening with targeted killings. Whether or not Attorney General Holder’s second letter to Senator Paul actually answered the relevant question, it certainly appeared to mollify the junior Senator from Kentucky, who declared victory and withdrew his opposition to the Brennan nomination immediately upon receiving it. Thus, as with the Feinstein Amendment 15 months ago, the second Holder letter appears to have taken wind out of most of the libertarian critics’ sails, many of whom (including the Twitterverse) have now returned to their regularly scheduled programming. It seems to me that both of these episodes represent examples of what might be called “libertarian hijacking”–wherein libertarians form a short-term coalition with progressive Democrats on national security issues, only to pack up and basically go home once they have extracted concessions that don’t actually resolve the real issues. Even worse, in both cases, such efforts appeared to consume most (if not all) of the available oxygen and political capital, obfuscating, if not downright suppressing, the far more problematic elements of the relevant national security policy. Thus, even where progressives sought to continue the debate and/or pursue further legislation on the relevant questions (for an example from the detention context, consider Senator Feinstein’s Due Process Guarantee Act), the putative satisfaction of the libertarian objections necessarily arrested any remaining political inertia (as Wells cogently explained in this post on Senator Paul and the DPGA from November).

#### Obama’s PC is key

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

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

#### Collapses economy

Adam Davidson 9/10/13, economy columnist for The New York Times, co-founder of Planet Money, NPR’s team of economics reporters, “Our Debt to Society,” NYT, http://www.nytimes.com/2013/09/15/magazine/our-debt-to-society.html?pagewanted=all&\_r=0

If the debt ceiling isn’t lifted again this fall, some serious financial decisions will have to be made. Perhaps the government can skimp on its foreign aid or furlough all of NASA, but eventually the big-ticket items, like Social Security and Medicare, will have to be cut. At some point, the government won’t be able to pay interest on its bonds and will enter what’s known as sovereign default, the ultimate national financial disaster achieved by countries like Zimbabwe, Ecuador and Argentina (and now Greece). In the case of the United States, though, it won’t be an isolated national crisis. If the American government can’t stand behind the dollar, the world’s benchmark currency, then the global financial system will very likely enter a new era in which there is much less trade and much less economic growth. It would be, by most accounts, the largest self-imposed financial disaster in history.¶ Nearly everyone involved predicts that someone will blink before this disaster occurs. Yet a small number of House Republicans (one political analyst told me it’s no more than 20) appear willing to see what happens if the debt ceiling isn’t raised — at least for a bit. This could be used as leverage to force Democrats to drastically cut government spending and eliminate President Obama’s signature health-care-reform plan. In fact, Representative Tom Price, a Georgia Republican, told me that the whole problem could be avoided if the president agreed to drastically cut spending and lower taxes. Still, it is hard to put this act of game theory into historic context. Plenty of countries — and some cities, like Detroit — have defaulted on their financial obligations, but only because their governments ran out of money to pay their bills. No wealthy country has ever voluntarily decided — in the middle of an economic recovery, no less — to default. And there’s certainly no record of that happening to the country that controls the global reserve currency.¶ Like many, I assumed a self-imposed U.S. debt crisis might unfold like most involuntary ones. If the debt ceiling isn’t raised by X-Day, I figured, the world’s investors would begin to see America as an unstable investment and rush to sell their Treasury bonds. The U.S. government, desperate to hold on to investment, would then raise interest rates far higher, hurtling up rates on credit cards, student loans, mortgages and corporate borrowing — which would effectively put a clamp on all trade and spending. The U.S. economy would collapse far worse than anything we’ve seen in the past several years.¶ Instead, Robert Auwaerter, head of bond investing for Vanguard, the world’s largest mutual-fund company, told me that the collapse might be more insidious. “You know what happens when the market gets upset?” he said. “There’s a flight to quality. Investors buy Treasury bonds. It’s a bit perverse.” In other words, if the U.S. comes within shouting distance of a default (which Auwaerter is confident won’t happen), the world’s investors — absent a safer alternative, given the recent fates of the euro and the yen — might actually buy even more Treasury bonds. Indeed, interest rates would fall and the bond markets would soar.¶ While this possibility might not sound so bad, it’s really far more damaging than the apocalyptic one I imagined. Rather than resulting in a sudden crisis, failure to raise the debt ceiling would lead to a slow bleed. Scott Mather, head of the global portfolio at Pimco, the world’s largest private bond fund, explained that while governments and institutions might go on a U.S.-bond buying frenzy in the wake of a debt-ceiling panic, they would eventually recognize that the U.S. government was not going through an odd, temporary bit of insanity. They would eventually conclude that it had become permanently less reliable. Mather imagines institutional investors and governments turning to a basket of currencies, putting their savings in a mix of U.S., European, Canadian, Australian and Japanese bonds. Over the course of decades, the U.S. would lose its unique role in the global economy.¶ The U.S. benefits enormously from its status as global reserve currency and safe haven. Our interest and mortgage rates are lower; companies are able to borrow money to finance their new products more cheaply. As a result, there is much more economic activity and more wealth in America than there would be otherwise. If that status erodes, the U.S. economy’s peaks will be lower and recessions deeper; future generations will have fewer job opportunities and suffer more when the economy falters. And, Mather points out, no other country would benefit from America’s diminished status. When you make the base risk-free asset more risky, the entire global economy becomes riskier and costlier.

#### Nuclear war

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

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

### 1NC

#### The United States Federal Government should condition the use of the President’s authority for targeted killings as a first resort to response to attack by a non-state actor located within a state has consented to the United States’ carrying out targeted killing missions within its borders, or that is unwilling or unable to prosecute or neutralize such actors.

#### The standard of “unable or unwilling” should require offering notice, when feasible, to the targeted state and allowance of time for a good-faith effort to neutralize the threat to the United States. “Ability” should be defined by analysis of the level of sovereign control the state exercises over the territory in which the relevant non-state groups are located.

#### Competes---it’s functionally distinct from the plan because it makes no reference to active hostilities or geographical limits on targeted killing authority.

#### Solves the case---no other legal model will ever achieve status as a norm---the plan forfeits the ability to shape that norm by clarifying its criteria

Ashley S. Deeks 12, Academic Fellow, Columbia Law School, Spring 2012, “ARTICLE: "Unwilling or Unable": Toward a Normative Framework for Extraterritorial Self-Defense,” Virginia Journal of International Law, 52 Va. J. Int'l L. 483

In an August 2007 speech, then-Presidential candidate Barack Obama asserted that his administration would take action against high-value leaders of al-Qaida in Pakistan if the United States had actionable intelligence about them and President Musharraf would not act. n1 He later clarified his position, stating, "What I said was that if we have actionable intelligence against bin Laden or other key al-Qaida officials ... and Pakistan is unwilling or unable to strike against them, we should." n2

On May 2, 2011, the United States put those words into operation. Without the consent of Pakistan's government, U.S. forces entered Pakistan to capture or kill Osama bin Laden. In the wake of the successful U.S. military operation, the Government of Pakistan objected to the "unauthorized unilateral action" of the United States. n3 U.S. officials, on the other hand, suggested that the United States declined to provide Pakistan with advance knowledge of the raid because it was concerned that doing so might have compromised the mission. n4 This failure to notify suggests that the United States determined that Pakistan was indeed "unwilling or unable" to suppress the threat posed by bin Laden. n5 Unfortunately, international law currently gives the United States (or any state in a similar position) little guidance about what factors are relevant when making such [\*486] a determination. Yet the stakes are high: the U.S.-Pakistan relationship has come under serious strain as a result of the operation. If, in the future, a state in Pakistan's position deems another state's use of force in its territory pursuant to an "unwilling or unable" determination to be unlawful, the territorial state could use force in response. The lack of guidance therefore has the potential to be costly.

President Obama's speech invoked an important but little understood legal standard governing the use of force. More than a century of state practice suggests that it is lawful for State X, which has suffered an armed attack by an insurgent or terrorist group, to use force in State Y against that group if State Y is unwilling or unable to suppress the threat. n6 Yet there has been virtually no discussion, either by states or scholars, of what that standard means. What factors must the United States consider when evaluating Pakistan's willingness or ability to suppress the threats to U.S. (as well as NATO and Afghan) forces? Must the United States ask Pakistan to take measures itself before the United States lawfully may act? How much time must the United States give Pakistan to respond? What if Pakistan proposes to respond to the threat in a way that the United States believes may not be adequate?

Many states agree that the "unwilling or unable" test is the correct standard by which to assess the legality of force in this context. For example, Russia used force in Georgia in 2002 against Chechen rebels who had conducted violent attacks in Russia, based on Russia's conclusion that Georgia was unwilling or unable to suppress the rebels' attacks. n7 Israel has invoked the "unwilling or unable" standard periodically in justifying its use of force in Lebanon against Hezbollah and the Palestine Liberation Organization, noting, "Members of the [Security] Council need scarcely be reminded that under international law, if a State is unwilling or unable to prevent the use of its territory to attack another State, that latter State is entitled to take all necessary measures in its own defense." n8 Similarly, [\*487] Turkey defends its use of force in Iraq against the Kurdish Workers' Party (PKK) by claiming that Iraq is unable to suppress the PKK. n9 Several U.S. administrations have stated that the United States will inquire whether another state is unwilling or unable to suppress the threat before using force without consent in that state's territory. n10

Given that academic discussion of the test has been limited thus far, we may describe what "unwilling or unable" means only at a high level of generality. n11 In its most basic form, a state (the "victim state") suffers an armed attack from a nonstate group operating outside its territory and concludes that it is necessary to use force in self-defense to respond to the continuing threat that the group poses. The question is whether the state in which the group is operating (the "territorial state") will agree to suppress the threat on the victim state's behalf. The "unwilling or unable" test requires a victim state to ascertain whether the territorial state is willing and able to address the threat posed by the nonstate group before using force in the territorial state's territory without consent. If the territorial state is willing and able, the victim state may not use force in the territorial state, and the territorial state is expected to take the appropriate steps against the nonstate group. If the territorial state is unwilling or unable to take those steps, however, it is lawful for the victim state to use [\*488] that level of force that is necessary (and proportional) to suppress the threat that the nonstate group poses.

A test constructed at this level of generality offers insufficient guidance to states. Although many inquiries in the use of force area lack precision, including questions about what constitutes an "armed attack" and when force is proportional, states and commentators have discussed the possible meanings of these terms at length and in great detail. n12 The same is not true for the "unwilling or unable" test; strikingly little attention has been paid to the nature and consequences of -- or solutions to -- the imprecision surrounding the "unwilling or unable" test.

The test's lack of content undermines the legitimacy of the test as it currently is framed and suggests that it is not, in its current form, imposing effective constraints on a state's use of force. n13 To address this flaw, this Article first identifies the test's historical parentage in the law of neutrality and then conducts an original analysis of two centuries of state practice in order to develop normative factors that define what it means for a territorial state to be "unwilling or unable" to suppress attacks by a nonstate actor.

Identifying the test's pedigree demonstrates the legitimacy of the core test and helps to frame the relevant law that should inform the test's content. As Thomas Franck has noted, "Pedigree ... pulls toward rule compliance by emphasizing the deep rootedness of the rule." n14 Embedded in this argument is an assumption that states are reasonable actors, that they develop particular rules for good reasons, and that rules with a long pedigree may be seen as particularly instructive because they draw from the collective wisdom of states over time. While following precedent and tradition does not always result in the ideal normative outcome, n15 this Article will demonstrate why it is useful to consider the historical development and applications of the test in ascertaining what its meaning should be.

It is worth noting that this test is not the only standard around which states could have coalesced. Although it is possible to imagine a range of [\*489] alternative regimes, it is beyond the scope of this Article to explore those other regimes in detail. n16 Instead, this Article takes as a given that states currently view the "unwilling or unable" test as the proper test. The fact that states currently are acclimated to using the "unwilling or unable" test suggests that any other test would have to overcome a high bar to become the preferred test, a hurdle no other option is poised to meet.

In considering the appropriate content of the test, I argue that the "unwilling or unable" test, properly conceived, should advance three goals, derived from Abram Chayes's articulation of how international law can influence foreign policy decisions. n17 First, the "unwilling or unable" test should constrain victim state action by reducing the number of situations [\*490] in which a victim state resorts to force. Second, the test should be clear and detailed enough to serve to justify or legitimate a victim state's use of force when that force is consistent with the test. Third, the test should establish procedures that will improve the quality of decision-making by the victim and territorial states and by those international bodies that are seized with use of force issues. In considering these goals, I identify the relevance of the "rules versus standards" debate and discuss why, in this context, we should favor a more precise rule over a less determinate standard. A test that promotes the goals I have described within the framework of the UN Charter is likely to be seen as a credible international legal norm. It therefore will legitimize those uses of force that are consistent with the test's requirements and delegitimize (and possibly reduce the frequency of) those that stand in tension with the test.

### 1NC

#### Legally codifying the plan loses the war on terrorism---sends a signal that terrorists can have safe havens outside conflict zones and grants immunity to terror groups that hop borders---it’s unique because the rules’ current status as non-binding policy doesn’t link

Geoffrey Corn 13, Professor of Law and Presidential Research Professor, South Texas College of Law, 5/16/13, Statement before the Senate Armed Services Committee, CQ Congressional Testimony, lexis

3. What is the geographic scope of the AUMF and under what circumstances may the United States attack belligerent targets in the territory of another country?

In my opinion, there is no need to amend the AUMF to define the geographic scope of military operations it authorizes. On the contrary, I believe doing so would fundamentally undermine the efficacy of U.S. counter-terror military operations by overtly signaling to the enemy exactly where to pursue safe-haven and de facto immunity from the reach of U.S. power. This concern is similar to that associated with explicitly defining co- belligerents subject to the AUMF, although I believe it is substantially more significant. It is an operational and tactical axiom that insurgent and non-state threats rarely seek the proverbial "toe to toe" confrontation with clearly superior military forces. Al Qaeda is no different. Indeed, their attempts to engage in such tactics in the initial phases of Operation Enduring Freedom proved disastrous, and ostensibly caused the dispersion of operational capabilities that then necessitated the co-belligerent assessment. Imposing an arbitrary geographic limitation of the scope of military operations against this threat would therefore be inconsistent with the strategic objective of preventing future terrorist attacks against the United States.

I believe much of the momentum for asserting some arbitrary geographic limitation on the scope of operations conducted to disrupt or disable al Qaeda belligerent capabilities is the result of the commonly used term "hot battlefield." This notion of a "hot" battlefield is, in my opinion, an operational and legal fiction. Nothing in the law of armed conflict or military doctrine defines the meaning of "battlefield." Contrary to the erroneous assertions that the use of combat power is restricted to defined geographic locations such as Afghanistan (and previously Iraq), the geographic scope of armed conflict must be dictated by a totality assessment of a variety of factors, ultimately driven by the strategic end state the nation seeks to achieve. The nature and dynamics of the threat -including key vulnerabilities - is a vital factor in this analysis. These threat dynamics properly influence the assessment of enemy capabilities and vulnerabilities, which in turn drive the formulation of national strategy, which includes determining when, where, and how to leverage national power (including military power) to achieve desired operational effects. Thus, threat dynamics, and not some geographic "box", have historically driven and must continue to drive the scope of armed hostilities. The logic of this premise is validated by (in my opinion) the inability to identify an armed conflict in modern history where the scope of operations was legally restricted by a conception of a "hot" battlefield. Instead, threat dynamics coupled with policy, diplomatic considerations and, in certain armed conflicts the international law of neutrality, dictate such scope. Ultimately, battlefields become "hot" when persons, places, or things assessed as lawful military objectives pursuant to the law of armed conflict are subjected to attack.

I do not, however, intend to suggest that it is proper to view the entire globe as a battlefield in the military component of our struggle against al Qaeda, or that threat dynamics are the only considerations in assessing the scope of military operations. Instead, complex considerations of policy and diplomacy have and must continue to influence this assessment. However, suggesting that the proper scope of combat operations is dictated by a legal conception of "hot" battlefield is operationally irrational and legally unsound. Accordingly, placing policy limits on the scope of combat operations conducted pursuant to the legal authority provided by the AUMF is both logical and appropriate, and in my view has been a cornerstone of U.S. use of force policy since the enactment of the AUMF. In contrast, interpreting the law of armed conflict to place legal limits on the scope of such operations to "hot" battlefields, or imposing such a legal limitation in the terms of the AUMF, creates a perverse incentive for the belligerent enemy by allowing him to dictate when and where he will be subject to lawful attack.

#### Codifying current target policy as law signals a legal abandonment of the Law of Armed Conflict framework outside of explicitly declared conflict zones---that collapses CT

Geoffrey Corn 9-30, The Presidential Research Professor of Law at South Texas College of Law, Lieutenant Colonel (Retired), U.S. Army, was formerly the Army’s senior law of war expert advisor, 9/30/13, “Debate (Round 1): The Military Component of Counter-Terror Operations,” http://justsecurity.org/2013/09/30/military-component-counter-terror-operations/

Twelve years after the September 11th terrorist attacks, however, highly informed experts both within and outside the government call into question the continuing validity of this characterization. Within the U.S. government, the debate has largely shifted from if the struggle against al Qaeda may properly be classified as an armed conflict, to whether that classification remains factually supportable. The President’s own statements that al Qaeda ‘core’ has been decimated and that U.S. actions have disabled its capacity to conduct large scale attacks on U.S. interests have fueled this debate. Additional uncertainty has resulted from administration statements regarding its policy towards executing future operations against al Qaeda. Some argue that recent administration statements regarding operations conducted beyond the geography of the ongoing hostilities in Afghanistan indicate a transition from conduct of hostilities to law enforcement norms: limiting attacks to high ranking al Qaeda officials based on a determination of imminent threat and employing deadly combat power only after exhausting less hostile means. However, these arguments misconstrue statements of policy restraint for declarations of a shift in legal interpretation.

The imposition of policy-based constraints on LOAC authorities is certainly unremarkable. This is a routine process that occurs at every level of military operations – strategic, operational, and tactical – normally reflected in mission specific rules of engagement. However, the President and his administration have not always been clear on the basis for the self-imposed limitations on attack authority. This has only served to fuel arguments that continuing to classify counter-terror military operations against al Qaeda is simply invalid.

But beyond the interesting debate over whether transnational armed conflict is or is not consistent with the 1949 law triggering articles of the Conventions, it is equally important to assess the pragmatic merit of treating the struggle with al Qaeda as an armed conflict. This assessment must begin with a candid acknowledgment of the binary legal authority framework applicable to any government response to a terrorist threat. Outside the context of armed conflict, government forces – to include military forces – must conduct operations pursuant to rules that comply with a pure human rights based response framework. This means that the methods and means used to disable the transnational terrorist threat must mirror those utilized in normal peacetime law enforcement operations: deadly force may only be employed in response to an imminent threat of death or grievous bodily harm, deadly force may employed only as a measure of last resort, and captured terrorist operatives must be promptly charged and brought to trial before a civilian criminal court, and released if prosecution is not feasible or trial results in acquittal. As noted above, LOAC based response authority is far more robust.

This binary operational response framework arguably reveals why the United States has and continues to characterize the struggle against al Qaeda as an armed conflict: the nature of the threat—an organized, militarily armed and trained force under the direction and control of hostile leadership that had engaged in a series of escalating deadly attacks—cannot be efficiently and effectively addressed pursuant to a pure law enforcement legal framework. According to both Presidents Bush and Obama (and perhaps even Clinton, although not nearly as the result of overt evidence), al Qaeda was and remains a threat at a level of organization, capability, and magnitude justifying this conclusion. Both the legislative and judicial branches have endorsed this conclusion. Furthermore, the transnational nature of the threat and its process of ‘metastycizing’ by expanding to affiliates in areas beyond it’s original safe haven in Afghanistan necessitate an expansive geographic scope of operations in order to ‘take the fight’ to the enemy and deny the enemy functional geographic safe haven.

Reverting back to a pure law enforcement response will therefore seriously undermine the efficacy of U.S. counter-terror operations, and is not, at this juncture, legally compelled. While it is almost certainly true that an enemy like al Qaeda will never be brought to total submission in the way a more conventional enemy can be, it is also clear that the meaning of ‘defeat’ in the context of counter-terror operations – the ultimate military objective when fighting any enemy – is not analogous to the meaning of that term when fighting a conventional enemy. Defeat of a terrorist threats, like that posed by al Qaeda, is normally achieved by disrupting and disabling the efficacy of their operations, not be destruction of all capability. Indeed, a disruptive effect is likely the only feasible operational and strategic objective a state can hope to achieve against such a threat (consider the Israeli experience as an example).

Maximizing operational and tactical flexibility to strike high value terrorist targets – command, control, and communications; logistics; training centers; access to weapons – is essential to achieving this disruptive effect. Limiting response authority to law enforcement norms would undermine the ability of the United States to achieve this strategic objective, and would cede the initiative to the terrorist enemy by providing them functional immunity unless and until their efforts to attack the United States and our interests reach a point of law enforcement imminence. While the overall effectiveness of Article III prosecutions for terrorist related offenses indicates that abandoning the armed conflict characterization would be less significant with regard to post capture incapacitation than for pre-capture disruption, there always remains the possibility that a captured terrorist operative cannot be effectively prosecuted. In such cases, should the government possess compelling evidence that the individual represents an ongoing threat of terrorist activities – even if that evidence is incompetent for use at trial – release seems illogical. This, however, would be the result outside the context of armed conflict.

None of this is intended to suggest that the armed conflict characterization makes executing counter-terror operations ‘easier.’ There are and will remain highly complex issues even within this framework, to include how to define terrorist belligerent operative, the permissible geographic scope of counter-terror military operations, when captured operatives should be subjected to trial by civilian courts, where such captives should be detained, and if, when, and why the expanded scope of LOAC attack authority should be restricted as a matter of policy. In our view, the limitations on LOAC authority implemented to date by President Obama do not indicate an inherent invalidity of the armed conflict response framework, but that this response authority must always be adjusted in response to policy, diplomatic, and political considerations. In contrast, a total abandonment of LOAC authority would produce a significant disruptive effect on our counter-terror operations, not on the enemy.

### 1NC

#### 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 declaring that, in the normal process of its oversight of United States targeted killing operations, it is satisfied that current Executive branch policy regarding the use of targeted killing as a first resort outside zones of active hostilities satisfies all relevant United States legal obligations that apply to such operations.

#### The counterplan clarifies the legality of the current approach to TKs---unites Congress and the executive

Geoffrey Corn 13, Professor of Law and Presidential Research Professor, South Texas College of Law, 5/16/13, Statement before the Senate Armed Services Committee, CQ Congressional Testimony, lexis

15.What is the role of Congress in overseeing the use of lethal force pursuant to the AUMF, and can the process be made more transparent without compromising operational security?

As noted in several prior questions, I believe Congress has an essential role in ensuring that ongoing military operations fall within the proper scope of the AUMF. Central to this role is the need to ensure consistency between the scope of authority provided by the AUFM and principles of international law related to the use of military force to protect vital U.S. national interests, principles that have guided such uses of force by our nation from inception. Accordingly, Congress must respond cautiously and judiciously to any call for expanding the scope of the AUMF, and must be animated by analogous prudence in response to calls to revoke this statute.

Furthermore, Congress must ensure that any expansion to the scope of the AUMF is consistent with principles of international law, and therefore only consider such expansion to cover terrorist groups that present a level threat sufficient to reasonably justify characterizing the U.S. response as an armed conflict.

I also believe Congress, through close coordination and collaboration with the Executive, must contribute to dialogue regarding when the nature of the al Qaeda threat has been degraded sufficiently to justify reversion back to a pure law enforcement modality for addressing this threat. However, I do not believe that Congressional oversight extends to review of specific targeting decisions or imposing any type of oversight mechanism that would require congressional endorsement of these decisions. In short, Congress should allow the Executive, acting principally through the Department of Defense, to continue to plan and execute operations for the purpose of disrupting and/or disabling the al Qaeda threat, but should also periodically review such operations, and the process associated with them, to ensure the AUMF is being faithfully executed.

## Case

## Terrorism

### Allied Coop Now

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

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

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

### Alt-Cause – Laundry List

#### PRISM and detention are massive alt-causes

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

Although the United States and the EU both recognize the importance of sharing information in an effort to track and disrupt terrorist activity, data privacy has been and continues to be a key U.S.-EU sticking point. As noted previously, the EU considers the privacy of personal data a basic right; EU data privacy regulations set out common rules for public and private entities in the EU that hold or transmit personal data, and prohibit the transfer of such data to countries where legal protections are not deemed “adequate.” In the negotiation of several U.S.-EU informationsharing agreements, from those related to Europol to SWIFT to airline passenger data, some EU officials have been concerned about whether the United States could guarantee a sufficient level of protection for European citizens’ personal data. In particular, some Members of the European Parliament (MEPs) and many European civil liberty groups have long argued that elements of U.S.-EU information-sharing agreements violate the privacy rights of EU citizens. In light of the public revelations in June 2013 of U.S. National Security Agency (NSA) surveillance programs and news reports alleging that U.S. intelligence agencies have monitored EU diplomatic offices and computer networks, many analysts are worried about the future of U.S.-EU information-sharing arrangements. As discussed in this section, many of these U.S.-EU information-sharing agreements require the approval of the European Parliament, and many MEPs (as well as many officials from the European Commission and the national governments) have been deeply dismayed by the NSA programs and other spying allegations. In response, the Parliament passed a resolution expressing serious concerns about the U.S. surveillance operations and established a special working group to conduct an in-depth investigation into the reported programs.17 In addition, led by the European Commission and the U.S. Department of Justice, the United States and the EU have convened a joint expert group on the NSA’s surveillance operations, particularly the so-called PRISM program (in which the NSA reportedly collected data from leading U.S. Internet companies), to assess the “proportionality” of such programs and their implications for the privacy rights of EU citizens.18 U.S. officials have sought to reassure their EU counterparts that the PRISM program and other U.S. surveillance activities operate within U.S. law and are subject to oversight by all three branches of the U.S. government. Some observers note that the United States has been striving to demonstrate that it takes EU concerns seriously and is open to improving transparency, in part to maintain European support for existing information-sharing accords, such as SWIFT (which will be up for renewal in 2015), and the U.S.-EU Passenger Name Record agreement (up for renewal in 2019). Nevertheless, many experts predict that the revelations of programs such as PRISM will make the negotiation of future U.S.-EU information-sharing arrangements more difficult, and may make the European Parliament even more cautious and skeptical about granting its approval.

### Allies Not Key

#### US anti-terror intel is fine on its own – outstrips everybody else

Barton Gellman and Greg Miller, 8-29-2013, “Top secret ‘black budget’ reveals US spy agencies’ spending,” LA Daily News, http://www.dailynews.com/government-and-politics/20130829/top-secret-black-budget-reveals-us-spy-agencies-spending

“The United States has made a considerable investment in the Intelligence Community since the terror attacks of 9/11, a time which includes wars in Iraq and Afghanistan, the Arab Spring, the proliferation of weapons of mass destruction technology, and asymmetric threats in such areas as cyber-warfare,” Director of National Intelligence James Clapper said in response to inquiries from The Post. “Our budgets are classified as they could provide insight for foreign intelligence services to discern our top national priorities, capabilities and sources and methods that allow us to obtain information to counter threats,” he said. Among the notable revelations in the budget summary: Spending by the CIA has surged past that of every other spy agency, with $14.7 billion in requested funding for 2013. The figure vastly exceeds outside estimates and is nearly 50 percent above that of the National Security Agency, which conducts eavesdropping operations and has long been considered the behemoth of the community. The CIA and NSA have launched aggressive new efforts to hack into foreign computer networks to steal information or sabotage enemy systems, embracing what the budget refers to as “offensive cyber operations.” The NSA planned to investigate at least 4,000 possible insider threats in 2013, cases in which the agency suspected sensitive information may have been compromised by one of its own. The budget documents show that the U.S. intelligence community has sought to strengthen its ability to detect what it calls “anomalous behavior” by personnel with access to highly classified material. U.S. intelligence officials take an active interest in foes as well as friends. Pakistan is described in detail as an “intractable target,” and counterintelligence operations “are strategically focused against [the] priority targets of China, Russia, Iran, Cuba and Israel.” In words, deeds and dollars, intelligence agencies remain fixed on terrorism as the gravest threat to national security, which is listed first among five “mission objectives.” Counterterrorism programs employ one in four members of the intelligence workforce and account for one-third of all spending. The governments of Iran, China and Russia are difficult to penetrate, but North Korea’s may be the most opaque. There are five “critical” gaps in U.S. intelligence about Pyongyang’s nuclear and missile programs, and analysts know virtually nothing about the intentions of North Korean leader Kim Jong Un. Formally known as the Congressional Budget Justification for the National Intelligence Program, the “Top Secret” blueprint represents spending levels proposed to the House and Senate intelligence committees in February 2012. Congress may have made changes before the fiscal year began on Oct 1. Clapper is expected to release the actual total spending figure after the fiscal year ends on Sept. 30. The document describes a constellation of spy agencies that track millions of individual surveillance targets and carry out operations that include hundreds of lethal strikes. They are organized around five priorities: combating terrorism, stopping the spread of nuclear and other unconventional weapons, warning U.S. leaders about critical events overseas, defending against foreign espionage and conducting cyber operations. In an introduction to the summary, Clapper said the threats now facing the United States “virtually defy rank-ordering.” He warned of “hard choices” as the intelligence community — sometimes referred to as the “IC” — seeks to rein in spending after a decade of often double-digit budget increases. This year’s budget proposal envisions that spending will remain roughly level through 2017 and amounts to a case against substantial cuts. “Never before has the IC been called upon to master such complexity and so many issues in such a resource-constrained environment,” Clapper wrote. The summary provides a detailed look at how the U.S. intelligence community has been reconfigured by the massive infusion of resources that followed the Sept. 11 attacks. The United States has spent more than $500 billion on intelligence during that period, an outlay that U.S. officials say has succeeded in its main objective: preventing another catastrophic terrorist attack in the United States. The result is an espionage empire with resources and reach beyond those of any adversary, sustained even now by spending that rivals or exceeds the levels reached at the height of the Cold War.

### Allies Won’t Backlash

#### Allies agree that TKs are appropriate as a first resort even outside of conflict zones

Geoffrey S. Corn 12, Professor of Law and Presidential Research Professor, South Texas College of Law, 2012, “Blurring the Line Between the Jus ad Bellum and the Jus in Bello,” in Non-International Armed Conflict in the Twenty-First Century, p. 75-76

The statement by Legal Advisor Koh following the Bin Laden raid addressing U.S. legal authority for the mission and for killing Bin Laden is perhaps as clear an articulation of a legal basis for a military action ever provided by the Department of State.175 Indeed, the fact that Koh articulated an official U.S. interpretation of both the jus ad helium and jus in bello makes his use of a website titled Opinio Juris176 especially significant (as such a statement by a government official in Koh's position is clear evidence of opinio juris). Unlike his earlier statement at a meeting of the American Society of International Law,'77 Koh did not restrict his invocation of law to the jus ad helium. Instead, he asserted the U.S. position that the mission was justified pursuant to the inherent right of self-defense, but also that Bin Laden's killing was lawful pursuant to the jus in bello. Koh properly noted that as a mission executed in the context of the armed conflict with al Qaeda, the LOAC imposed no obligation on U.S. forces to employ minimum necessary force. Instead, Bin Laden's status as an enemy belligerent justified the use of deadly force as a measure of first resort, and Bin Laden bore the burden of manifesting his surrender in order to terminate that authority. Hence, U.S. forces were in no way obligated to attempt to capture Bin Laden before resorting to deadly force.178

A recent statement made by John Brennan, Deputy National Security Advisor for Homeland Security and Counterterrorism, further clarifies the current administration's justification for using deadly force as a first resort against al Qaeda operatives:

The United States does not view our authority to use military force against al-Qa'ida as being restricted solely to "hot" battlefields like Afghanistan. Because we are engaged in an armed conflict with al-Qa'ida, the United States takes the legal position that... we have the authority to take action against al-Qa'ida and its associated forces without doing a separate self-defense analysis each time----

This Administration's counterterrorism efforts outside of Afghanistan and Iraq are focused on those individuals who are a threat to the United States, whose removal would cause a significant—even if only temporary—disruption of the plans and capabilities of al-Qa'ida and its associated forces. Practically speaking, then, the question turns principally on how you define "imminence."

We are finding increasing recognition in the international community that a more flexible understanding of "imminence" may be appropriate when dealing with terrorist groups, in part because threats posed by non-state actors do not present themselves in the ways that evidenced imminence in more traditional conflicts… Over time, an increasing number of our international counterterrorism partners have begun to recognize that the traditional conception of what constitutes an "imminent" attack should be broadened in light of the modern-day capabilities, techniques, and technological innovations of terrorist organizations.1'9

### No Program Collapse

#### Drone program sustainable

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.

## Norms

### 1NC 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.

### 1NC Precedent Answers

#### U.S. drone use doesn’t set a precedent, restraint doesn’t solve it, and norms don’t apply to drones at all in the first place

Amitai Etzioni 13, professor of international relations at George Washington University, March/April 2013, “The Great Drone Debate,” Military Review, <http://usacac.army.mil/CAC2/MilitaryReview/Archives/English/MilitaryReview_20130430_art004.pdf>

Other critics contend that by the United States using drones, it leads other countries into making and using them. For example, Medea Benjamin, the cofounder of the anti-war activist group CODEPINK and author of a book about drones argues that, “The proliferation of drones should evoke reﬂection on the precedent that the United States is setting by killing anyone it wants, anywhere it wants, on the basis of secret information. Other nations and non-state entities are watching—and are bound to start acting in a similar fashion.”60 Indeed scores of countries are now manufacturing or purchasing drones. There can be little doubt that the fact that drones have served the United States well has helped to popularize them. However, it does not follow that United States should not have employed drones in the hope that such a show of restraint would deter others. First of all, this would have meant that either the United States would have had to allow terrorists in hardto-reach places, say North Waziristan, to either roam and rest freely—or it would have had to use bombs that would have caused much greater collateral damage.

Further, the record shows that even when the United States did not develop a particular weapon, others did. Thus, China has taken the lead in the development of anti-ship missiles and seemingly cyber weapons as well. One must keep in mind that the international environment is a hostile one. Countries—and especially non-state actors— most of the time do not play by some set of self constraining rules. Rather, they tend to employ whatever weapons they can obtain that will further their interests. The United States correctly does not assume that it can rely on some non-existent implicit gentleman’s agreements that call for the avoidance of new military technology by nation X or terrorist group Y—if the United States refrains from employing that technology.

I am not arguing that there are no natural norms that restrain behavior. There are certainly some that exist, particularly in situations where all parties beneﬁt from the norms (e.g., the granting of diplomatic immunity) or where particularly horrifying weapons are involved (e.g., weapons of mass destruction). However drones are but one step—following bombers and missiles—in the development of distant battleﬁeld technologies. (Robotic soldiers—or future ﬁghting machines— are next in line). In such circumstances, the role of norms is much more limited.

#### Zero chance that U.S. self-restraint causes any other country to give up their plans for drones

Max Boot 11, the Jeane J. Kirkpatrick Senior Fellow in National Security Studies at the Council on Foreign Relations, 10/9/11, “We Cannot Afford to Stop Drone Strikes,” Commentary Magazine, <http://www.commentarymagazine.com/2011/10/09/drone-arms-race/>

The New York Times engages in some scare-mongering today about a drone ams race. Scott Shane notes correctly other nations such as China are building their own drones and in the future U.S. forces could be attacked by them–our forces will not have a monopoly on their use forever. Fair enough, but he goes further, suggesting our current use of drones to target terrorists will backfire:

If China, for instance, sends killer drones into Kazakhstan to hunt minority Uighur Muslims it accuses of plotting terrorism, what will the United States say? What if India uses remotely controlled craft to hit terrorism suspects in Kashmir, or Russia sends drones after militants in the Caucasus? American officials who protest will likely find their own example thrown back at them.

“The problem is that we’re creating an international norm” — asserting the right to strike preemptively against those we suspect of planning attacks, argues Dennis M. Gormley, a senior research fellow at the University of Pittsburgh and author of Missile Contagion, who has called for tougher export controls on American drone technology. “The copycatting is what I worry about most.”

This is a familiar trope of liberal critics who are always claiming we should forego “X” weapons system or capability, otherwise our enemies will adopt it too. We have heard this with regard to ballistic missile defense, ballistic missiles, nuclear weapons, chemical and biological weapons, land mines, exploding bullets, and other fearsome weapons. Some have even suggested the U.S. should abjure the first use of nuclear weapons–and cut down our own arsenal–to encourage similar restraint from Iran.

The argument falls apart rather quickly because it is founded on a false premise: that other nations will follow our example. In point of fact, Iran is hell-bent on getting nuclear weapons no matter what we do; China is hell-bent on getting drones; and so forth. Whether and under what circumstances they will use those weapons remains an open question–but there is little reason to think self-restraint on our part will be matched by equal self-restraint on theirs. Is Pakistan avoiding nuking India because we haven’t used nuclear weapons since 1945? Hardly. The reason is that India has a powerful nuclear deterrent to use against Pakistan. If there is one lesson of history it is a strong deterrent is a better upholder of peace than is unilateral disarmament–which is what the New York Times implicitly suggests.

Imagine if we did refrain from drone strikes against al-Qaeda–what would be the consequence? If we were to stop the strikes, would China really decide to take a softer line on Uighurs or Russia on Chechen separatists? That seems unlikely given the viciousness those states already employ in their battles against ethnic separatists–which at least in Russia’s case already includes the suspected assassination of Chechen leaders abroad. What’s the difference between sending a hit team and sending a drone?

While a decision on our part to stop drone strikes would be unlikely to alter Russian or Chinese thinking, it would have one immediate consequence: al-Qaeda would be strengthened and could regenerate the ability to attack our homeland. Drone strikes are the only effective weapon we have to combat terrorist groups in places like Pakistan or Yemen where we don’t have a lot of boots on the ground or a lot of cooperation from local authorities. We cannot afford to give them up in the vain hope it will encourage disarmament on the part of dictatorial states.

### AT: China

#### The idea that China wouldn’t have realized it could use drones to carry out strikes internationally absent the U.S. doing so, is stupid

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>

It is indeed likely that the future will see more instances of uses of force at a much smaller, often less attributable, more discrete level than conventional war. Those uses will be most easily undertaken against non-state actors, rather than states, though the difference is likely to erode. The idea that it would not have occurred to China or Russia that drones could be used to target non-state actors across borders in safe havens, or that they would not do so because the United States had not done so is far-fetched. That is so not least because the United States has long held that it, or other states threatened by terrorist non-state actors in safe havens across sovereign borders, can be targeted if the sovereign is unable or unwilling to deal with them. There’s nothing new in this as a US view of international law; it goes back decades, and the US has not thought it some special rule benefiting the US alone. So the idea that the US has somehow developed this technology and then changed the rules regarding cross-border attack on terrorists is just wrong; the US has believed this for a long time and thinks it is legally and morally right.

#### 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.

### AT: SCS

#### SCS tension inevitable but won’t escalate, even if they win a huge internal link

Michal Meidan 12, China Analyst at the Eurasia Group, 8/7/12, “Guest post: Why tensions will persist, but not escalate, in the South China Sea,” <http://blogs.ft.com/beyond-brics/2012/08/07/guest-post-why-tensions-will-persist-but-not-escalate-in-the-south-china-sea/#axzz2Cbw54ORc>

These tensions are likely to persist. And Beijing is not alone in perpetuating them. Vietnam and the Philippines, concerned with the shifting balance of powers in the region, are pushing their maritime claims more aggressively and increasing their efforts to internationalise the question by involving both ASEAN and Washington. Attempts to come up with a common position in ASEAN have failed miserably but as the US re-engages Asia, it is drawn into the troubled waters of the South China Sea.¶ Political dynamics in China – with a once in a decade leadership transition coming up, combined with electoral politics in the US and domestic constraints for both Manila and Hanoi – all augur that the South China Sea will remain turbulent. No government can afford to appear weak in the eyes of domestic hawks or of increasingly nationalistic public opinions. The risk of a miscalculation resulting in prolonged standoffs or skirmishes is therefore higher now than ever before. But there are a number of reasons to believe that even these skirmishes are unlikely to escalate into broader conflict.¶ First, despite the strong current of assertive forces within China, cooler heads are ultimately likely to prevail. While a conciliatory stance toward other claimants is unlikely before the leadership transition, China’s top brass will be equally reluctant to significantly escalate the situation, since this will send southeast Asian governments running to Washington. Hanoi and Manila also recognize that despite their need for assertiveness to appease domestic political constituencies, a direct confrontation with China is overly risky.¶ Second, military pundits in China also realize that the cost of conflict is too high, since it will strengthen Washington’s presence in the region and disrupt trade flows. And even China’s oil company CNOOC, whose portfolio of assets relies heavily on the South China Sea, is diversifying its interests in other deepwater plays elsewhere, as its attempted takeover of Nexen demonstrates.

### AT: Turkey Model

#### Turkey model fails

Soner Cagaptay 11, Senior Fellow and Director of the Turkish Reseaerch Program – Washington Institute for Near East Policy, “Turkey's Future Role in the 'Arab Spring',” inFocus Quarterly, 5(4), Winter, http://www.jewishpolicycenter.org/2814/turkey-arab-spring

Turkey ruled the Arab Middle East until World War I, and it must now be careful about how its messages are perceived there. Arabs might be drawn to fellow Muslims; the Turks are also former imperial masters. Arabs are pressing for democracy, and if Turkey behaves like a new imperial power, this approach will backfire. Arab liberals and Islamists alike regularly suggest that Turkey is welcome in the Middle East but should not dominate it. Then, there is the problem of transferring the "Turkish model" to Arab countries. In September 2011, when Turkish Prime Minister Recep Tayyip Erdogan landed at Cairo's new airport terminal (built by Turkish companies), he was warmly met by joyous millions, mobilized by the Muslim Brotherhood. However, he soon upset his pious hosts by preaching about the importance of a secular government that provides freedom of religion, using the Turkish word "laiklik"—derived from the French word for secularism. In Arabic, this term translates as "irreligious." Mr. Erdogan's message may have been partly lost in translation, yet the incident illustrates the limits of Turkey's influence in countries that are far more socially conservative than it is. What is more, Ankara also faces domestic challenges that could hamper its influence in the "Arab Spring." At the moment, Turkey is debating chartering its first civilian-made constitution. If Turkey wants to become a true beacon of democracy in the Middle East, its new constitution must provide broader individual rights for the country's citizens, as well as lifting limits on freedoms, such as curbs on the media. Turkey will also need to fulfill Foreign Minister Ahmet Davutoglu's vision of a "no problems" foreign policy. This means moving past the 2010 flotilla episode to rebuild strong ties with Israel and getting along with the Greek Cypriots who live on the southern part of the divided island of Cyprus (Turkish Cypriots control the north).

### No Iran Prolif

#### No impact to Iranian prolif

Kenneth Waltz 12, senior research scholar @ Saltzman, Poly Sci Prof @ Columbia, September/October 2012, “Iran and the Bomb – Waltz Replies,” Foreign Affairs, Vol. 91, No. 5, p. 157-162

In arguing that a nuclear-armed Iran would represent an unacceptable threat to the United States and its allies, Colin Kahl rejects my contention that states tend to become more cautious once they obtain nuclear weapons and claims that I minimize the potential threat of an emboldened Islamic Republic. He accuses me of misreading history and suggests that I overestimate the stability produced by nuclear deterrence. In fact, it is Kahl who misunderstands the historical record and who fails to grasp the ramifications of nuclear deterrence.¶ In Kahl's view, new nuclear states do not necessarily behave as status quo powers and can instead be highly revisionist. Seeking a precedent, he highlights the fact that the Soviet Union encouraged North Korea to launch a potentially risky invasion of South Korea in 1950, shortly after the Soviets had tested their first nuclear bomb. But Kahl neglects to explain the context of that decision. Some time before, U.S. Secretary of State Dean Acheson had publicly identified the United States' security commitments in Asia; defending South Korea was not among them. The United States had also signaled its lack of interest in protecting the South Koreans by declining to arm them with enough weapons to repel a Soviet-backed invasion by the North. The Soviet Union therefore had good reason to assume that the United States would not respond if the North Koreans attacked. In light of these facts, it is difficult to see Stalin's encouragement of the invasion as an example of bold, revisionist behavior. Contrary to Kahl's claims, the beginning of the Korean War hardly supplies evidence of Soviet nuclear adventurism, and therefore it should not be understood as a cautionary tale when considering the potential impact that possessing a nuclear arsenal would have on Iranian behavior.¶ Kahl seems to accept that nuclear weapons create stability -- or a form of stability, at least. But he notes -- as do most scholars of nuclear matters, myself included -- that nuclear stability permits lower-level violence. Taking advantage of the protection that their atomic arsenals provide, nuclear-armed states can feel freer to make minor incursions, deploy terrorism, and engage in generally annoying behavior. But the question is how significant these disruptive behaviors are compared with the peace and stability that nuclear weapons produce.¶ Kahl points to the example of Pakistan, whose nuclear weapons have probably increased its willingness to wage a low-intensity fight against India, which makes the subcontinent more prone to crises. As Kahl correctly argues, Pakistan's increased appetite for risk probably played a role in precipitating the so-called Kargil War between India and Pakistan in 1999. But the Kargil War was the fourth war fought by the two countries, and it paled in comparison to the three wars they fought before they both developed nuclear weapons. In fact, the Kargil conflict was a war only according to social scientists, who oddly define "war" as any conflict that results in 1,000 or more battlefield deaths. By historical standards, that casualty rate constitutes little more than a skirmish. Far from proving that new nuclear states are not swayed by the logic of deterrence, the Kargil War supports the proposition that nuclear weapons prevent minor conflicts from becoming major wars. Indeed, nuclear weapons are the only peace-promoting weapons that the world has ever known, and there is no reason to believe that things would be different if Iran acquired such arms.¶ Kahl also frets that a nuclear-armed Iran would step up its support for terrorist groups. Terrorism is tragic for those whose lives it destroys and unnerving for countries that suffer from it. But the number of annual fatalities from international terrorism is vanishingly small compared with the casualties wrought by major wars. Of course, like Kahl, I would not welcome increased Iranian support for Hezbollah or an increased supply of more potent Iranian arms to Palestinian militants. And I, too, hope for a peaceful resolution of the Israeli-Palestinian conflict and the disputes between Israel and its neighbors. But the last several decades have not offered much reason to believe those goals can be easily attained, and I would rather see the possibility of major war reduced through nuclear stability, even if the price is an increase in disruptive activities and low-level conflict.¶ Just a few months ago in these pages, Kahl eloquently expressed his opposition to a proposed preventive strike on suspected Iranian nuclear facilities, warning that it could spark a regional war ("Not Time to Attack Iran," March/April 2012). I agree. But Kahl and I differ on what the United States can achieve in its showdown with the Islamic Republic. Kahl appears to believe that it is possible for the United States to forgo risky military action and still prevent Iran from obtaining nuclear weapons through a combination of sanctions and diplomacy. I strongly doubt that. Short of using military force, it is difficult to imagine how Iran could be prevented from acquiring nuclear weapons if it is determined to do so. That outcome would produce a lamentable possible increase in terrorism and lower-level conflict. But the many benefits of regional stability would far outweigh the costs.

# Block

## DA

### 2nc links

#### Our link destroys all their spin about the plan merely codifying current policy---the current approach makes limits on first-resort killings part of the rules of engagement, not a legal restriction on authority---legally codifying them would destroy flexibility

Geoffrey Corn 13, Professor of Law and Presidential Research Professor, South Texas College of Law, 2013, “Geography of Armed Conflict: Why it is a Mistake to Fish for the Red Herring,” International Legal Studies, 89 INT’L L. STUD. 77 (2013)

Ironically, when Professor Gabrielle Blum proposed such a limitation in her article The Dispensable Lives of Soldiers,76 I was quite skeptical. However, my skepticism focused primarily on two considerations. First, her proposal extended to “hot zones”. I remain opposed to such an extension, as I believe it would inject a dangerous dilution of tactical initiative into the ex-ecution of combat operations.77 Second, it was unclear whether Professor Blum was proposing a legal norm, or a policy constraint on permissible legal authority. Once it was clear that we shared opposition to modifying the existing legal authority to attack even an inoffensive enemy belligerent operative (such as an enemy soldier sleeping in a barracks or assembly area or attempting to retreat from an ongoing attack), and that she was in fact proposing consideration of policy limits on that authority, we were much more closely aligned in our views.78

This latter aspect of the “capture or kill” debate is critical, and in my opinion, if such a limitation on targeting authority is justified, it must be framed as a policy limit on otherwise lawful authority: a rule of engagement.79 This is because there may be situations, even where these conditions are satisfied, when an attack is justified because of the influence it will produce on enemy leadership and other belligerent operatives. It is this corporate, as opposed to individualized, approach to attack justification that distinguishes targeting belligerent operatives from targeting civilians taking a direct part in hostilities. It therefore requires strictly limiting any “capture or kill” obligation to a policy applique restricting underlying legal authority. In short, even when capture is a completely feasible option to incapacitate an enemy belligerent operative, there still are times when attack is preferred because of the shock effect it will produce on the corporate enemy capability.80

#### The disad turns the entire case---legally codifying geographic limits causes the U.S. to circumvent the ban by relying on even worse legal justifications---that’s clearly net worse for both norms and allied perception

Geoffrey Corn 13, Professor of Law and Presidential Research Professor, South Texas College of Law, 2013, “Geography of Armed Conflict: Why it is a Mistake to Fish for the Red Herring,” International Legal Studies, 89 INT’L L. STUD. 77 (2013)

**\*\*NOTE**: “Sub rosa” denotes secrecy or confidentiality – Wikipedia

The law of conflict regulation is arguably at a critical crossroads. If threat drives strategy, and strategy drives the existence of armed conflict, the concept of TAC seems an unavoidable reality in the modern strategic environment. Opponents of TAC will continue to argue for limiting armed conflict to the well–accepted inter–State or intra–State hostilities frame-works, but this would only drive States to adopt sub rosa uses of the same type of power under the guise of legal fictions. Concepts such as self–defense targeting, or internationalized law enforcement, might avoid the armed conflict characterization, but they would do little to resolve the underlying uncertainties associated with TAC. Even worse, they would inject regulatory uncertainty into the planning and execution of military counter-terror operations, and expose those called upon to put themselves in harm’s way to protect the State to legal liabilities based on inapposite legal norms.

#### The plan causes massive resistance and backlash by the executive:

#### a) The U.S. views itself as in an armed conflict with al-Qaeda, regardless of the geographical zone of combat

Laurie R. Blank 10, Director, International Humanitarian Law Clinic, Emory Law School, 9/16/10, “DEFINING THE BATTLEFIELD IN CONTEMPORARY CONFLICT AND COUNTERTERRORISM: UNDERSTANDING THE PARAMETERS OF THE ZONE OF COMBAT,” Georgia Journal of International and Comparative Law, Vol. 39, No. 1, 2010, <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1677965>

This Article will focus on a related question, but one that has not yet been asked: where can we conduct an armed conflict against terrorist groups? Questions of whether the law of armed conflict applies to conflicts with al Qaeda or other terrorist groups are beyond the scope of this Article. Rather, accepting that the United States views itself as engaged “in an armed conflict with al-Qaeda, as well as the Taliban and associated forces,”16 this Article will focus on two hitherto unexamined issues—when and for how long is an area part of the zone of combat, and how far does this designation extend geographically. Although questions of applicable law have been central to legal and policy discussions for the past several years, these issues have remained below the surface and in the shadows. These questions of where and when with regard to the zone of combat are critical foundational questions that bear directly on the applicable law within (and without) the zone of combat.

#### b) The plan applies the human rights law framework to areas that the U.S. currently understands as governed by the law of armed conflict---that causes military backlash against both the plan and any broader effort to make battlefield conduct comply with human rights law---that’s net offense against both advantages

Geoffrey Corn 10, Professor of Law and Presidential Research Professor, South Texas College of Law, 2010, “Mixing Apples and Hand Grenades: The Logical Limit of Applying Human Rights Norms to Armed Conﬂict,” International Humanitarian Legal Studies 1 (2010) 52–94

Perhaps the most critical premise of this article is that failing to recognize the existence of a logical boundary for the complementary application 8 of these two bodies of law leads to a distortion of this historic authority/restraint balance inherent in the LOAC 9 ; a distortion that will almost inevitably be perceived as operationally illogical by armed forces. 10 This, in turn, will produce one of three outcomes. The ﬁrst would be the routine disregard of purported human rights obligations during armed conﬂict. The second would be an absolute resistance to any application of human rights norms in relation to any issues arising during armed conﬂict. The third would be the application of regulatory norms derived from operationally inapposite human rights instruments based on a perceived necessity to comply with human rights during armed conﬂ ict. This third outcome is actually far from hypothetical, but instead is increasingly apparent in the conduct of operations by many NATO member armed forces, and is a trend that seems to be gaining substantial momentum with very little critical analysis of whether it will produce results that are consistent with the very nature of armed conﬂict. 11

Each of these outcomes is problematic. In the ﬁ rst instance, noncompliance inevitably discredits the law; in the second the outright rejection of application of the law disables its eﬀectiveness in situations where its application is logical and pragmatic. 12 Th e third instance might appear to be ideal to many human rights advocates. However, without careful and critical assessment of when and where human rights norms are logically applicable during armed conﬂ ict and where that logic dissipates, the risk of overbroad application creates the potent to disable the eﬃcacy of military operations.

### Codification

#### Retaining legal authority to revert back from current policy restrictions as the threat changes is key to counter-terror

[Italics in original]

Geoffrey Corn 10-1, The Presidential Research Professor of Law at South Texas College of Law, Lieutenant Colonel (Retired), U.S. Army, was formerly the Army’s senior law of war expert advisor, 10/1/13, “Debate (Round 2): A Reply to Rona and Jinks,” http://justsecurity.org/2013/10/01/debate-round-ii-reply-corn/

Professor Jinks assertion of a complementary role for IHL and IHR suggests certain human rights based constraints on authority to disable or defeat an opponent in what we might call a “low level” armed conflict – operations that straddle the line between war and law enforcement. I think this is an almost inevitable reality for issues related to post-capture treatment of opposition personnel (such as detention and trial). But I do not believe that authority to use force against such individuals is, *as a matter of law*, subject to human rights based limitations. However, as noted in my own post, *as a matter of policy*, it is routine to impose analogous limits on the authority to employ force during armed conflict. The reasons for such rule of engagement based policy constraints are as varied as the operational missions they are imposed upon. Of course, the policy nature of these constraints preserves the flexibility to revert to more robust uses of force based on operational and tactical necessities. In my view, use of such ROE limitations is operationally and strategically logical when dealing with highly unconventional threats, and must continue to be the order of the day. But we should be extremely cautious about the increasingly common assertion that these policy limitations are in fact reflections of legal obligation. Ultimately, at some point the complementarity principle must yield to the core logic of armed conflict, and no place is this more compelling than in the targeting process.

#### The option to use lethal force as a first resort is key to the entire conduct of hostilities---the plan requires individualized assessments of immediate personal danger to our troops before deadly force can be used---that collapses battlefield effectiveness---and the link is all specific to their distinction between Obama policy in the squo and legal requirements after the plan

Geoffrey Corn 10, Professor of Law and Presidential Research Professor, South Texas College of Law, 2010, “Mixing Apples and Hand Grenades: The Logical Limit of Applying Human Rights Norms to Armed Conﬂict,” International Humanitarian Legal Studies 1 (2010) 52–94

The most profound distinction between regulating government power in armed conﬂict versus peacetime exists in relation to the application of deadly force by government actors in both contexts. From a military operations perspective, conceding state actors are prohibited in both contexts from arbitrary deprivations of life is not particularly troubling, so long as the most critical distinction between peacetime and wartime authority is recognized: the legitimate application of deadly force as a measure of ﬁrst resort against operational opponents during armed conﬂict, a distinction reﬂ ected in the regulatory norms of the LOAC. ¶ Th is is not to suggest that the LOAC permits belligerents to employ methods or means of warfare that make death an inevitable result. Prohibition against such action was one of the ﬁ rst developments in this body of law. 84 However, this prohibition does not, as is asserted by some, establish that attempting to kill an opponent as a measure of ﬁrst resort is also prohibited. Th ere is an important distinction between these two propositions. Use of deadly force as a measure of ﬁrst resort does indicate that death is the intended outcome of the engagement, but it does not make death inevitable. Instead, it is a method of warfare intended to maximize the probability of disabling an opponent. ¶ Achieving this eﬀect is central to military operations, and is reﬂ ected in the consistent practice of states as evidenced by combat operations, training, and the type of weapons provided to armed forces. Th is reality has been emphasized by W. Hays Parks, one of the most respected experts on the relationship between the LOAC and military weaponry. In his 2006 article Conventional Weapons and Weapons Review, Parks criticizes reliance by the International Committee of the Red Cross on the principle of unnecessary suﬀ ering as a basis to assert the LOAC imposes an obligation to use the least deadly means possible to subdue a belligerent opponent:¶ [Th e ICRC document, Weapons that May Cause Unnecessary Suﬀ ering or Have Indiscriminate Eﬀ ects ,] suggests that the prohibition of unnecessary suﬀ ering or superﬂ uous injury meant “if combatant can be put out of action by taking him prisoner, he should not be injured; if he can be put out of action by injury, he should not be killed; and if he can be put out of action by light injury, grave injury should be avoided. Th is argument is not consistent with state practice or the practical nature of the battleﬁeld, much less the domestic law of most nations with regard to law enforcement use of deadly force against its own citizens. Subsequent negotiations in the CCW process did not support this argument as a deﬁnition of what constitutes unnecessary suﬀering or superﬂuous injury. 85¶ Use of deadly force as a measure of ﬁrst resort is, contrary to the improper assertion challenged by Parks, reﬂected in the combined eﬀect of the customary principle of military necessity 86 and the positive rule of military objective. 87 Military necessity justiﬁ es the use of all means not otherwise prohibited by international law which are necessary to bring about the prompt submission of an opponent. 88 Th e rule of military objective deﬁnes enemy forces as lawful military objectives, thereby rendering them legitimate objects of attack. 89 Accordingly, deliberate targeting of enemy personnel is permitted by the LOAC based not on a manifestation of actual threat, but instead on a presumption of necessity derived from the determination of status as ‘enemy’. 90 Once that status is determined, the law permits armed forces to use the most eﬃcient means to subdue the enemy personnel, which in operational terms is synonymous with the use of deadly force as a measure of ﬁrst resort. ¶ This legal standard for depriving someone of life is diametrically opposed to the authority of state actors to employ deadly force in a peacetime context. Use of deadly force against individuals who are not operational opponents in an armed conﬂ ict is strictly cause based: there must be a causal connection between the conduct of the object of force and the use of deadly force. 91 Accordingly, deadly force is presumptively invalid unless and until the state actor determines that a genuine individual necessity to employ force exists. 92 In addition, even when such necessity exists, the degree of force may be only that which is necessary to restore the status quo ante. Th us, the state actor is only permitted to employ deadly force when no lesser means will eﬀ ectively reduce a direct and speciﬁ c threat, producing a use of deadly force as a last resort requirement. 93¶ Th ere are, of course, situations when state actors must resort to such use without ﬁ rst exhausting lesser means. However, the legitimacy of such use of force in these situations is contingent on a determination that the threat can only be reduced by deadly force, thereby justifying the bypass of less harmful means. 94 Perhaps even more important is the reality that during peacetime, the law does not tolerate employment of any force, let alone deadly force, based on conclusive presumptions. Th us, unlike the armed conﬂ ict context, there is never a conclusive presumption of hostility and the accordant necessity to employ deadly force based on status determinations in peacetime. Use of force must instead always be responsive to the conduct manifested by the object of state power. 95 Only such a paradigm ensures that the objects of force are protected from overbroad applications of authority, or, arbitrary deprivations of life. 96¶ This is instructive on a critical substantive distinction between human rights norms and LOAC norms: the LOAC assumes and tolerates a degree of overbreadth that is inconsistent with human rights law. For example, because application of deadly force is justiﬁed based on status instead of conduct – which itself is based on a conclusive presumption that operational opponents pose a constant threat of deadly force – the LOAC allows the inﬂiction of death on enemy personnel irrespective of the actual risk they present (of course, once the enemy is subdued and rendered hors de combat the justiﬁ cation terminates). Human rights law tolerates no such overbreadth. It would simply be absurd to suggest that police could lawfully employ deadly force against suspected criminals based solely on a determination an individual was a member of a criminal group. ¶ Th is distinction may seem axiomatic to many LOAC practitioners and scholars. However, the increasing call for application of human rights norms during armed conﬂict is leading to the inevitable ‘mixing’ of these diametrically opposed standards for a legitimate use of deadly force. This was most visibly apparent in the Targeted Killing decision of the Israeli High Court of Justice. 97 After endorsing the government’s contention that operations against Hamas personnel qualiﬁ ed as an armed conﬂ ict, thereby triggering LOAC application, 98 the Court turned to the authority to kill as a ﬁ rst resort. Logical consistency should have dictated that the Court endorse such authority when directed towards individuals determined to qualify as enemy operatives; however, the Court adopted a diﬀ erent approach. Deprivation of life would only be justiﬁ ed when lesser means for reducing the threat were ineﬀ ective. 99 Th us, the Court apparently imposed a peacetime human rights standard for subduing an identiﬁ ed operational opponent in the context of an armed conﬂ ict. ¶ Th is might be explicable due to the unique nature of the territory in which the operations were conducted. Th e Court noted the special obligations of Israel when conducting operations in the administered (occupied) territories: Th e law of belligerent occupation recognizes the authority of the military commander to maintain security in the area and to thus protect the security of his country and its citizens. However, it imposes upon the use of this authority the condition of a proper balance between that security and the rights, needs, and interests of the local population. ¶ Arrest, investigation, and trial are not means which can always be used. At times the possibility does not exist whatsoever; at times it involves a risk so great to the lives of the soldiers, that it is not required. However, it is a possibility which should always be considered. It might actually be particularly practical under the conditions of belligerent occupation, in which the army controls the area in which the operation takes place, and in which arrest, investigation, and trial are at times realizable possibilities. 100¶ However, what was striking about the opinion was the overall absence of qualiﬁ cation to the ruling. Th us, the opinion might be seen as a broader endorsement of extending human rights norms to the context of armed conﬂ ict. ¶ Another potentially more expansive example of this mixing of legal standards is reﬂ ected in the position of the International Committee of the Red Cross on the limitations applicable to armed forces vis–à-vis disabling their enemies during armed conﬂ ict in the recently published Direct Participation in Hostilities Study. 101 Th e ICRC asserts that the LOAC imposes an obligation on combatants to refrain from employing deadly force when an enemy can be subdued with a less severe degree of force. According to the Study:¶ In sum, while operating forces can hardly be required to take additional risks for themselves or the civilian population in order to capture an armed adversary alive, it would defy basic notions of humanity to kill an adversary or to refrain from giving him or her an opportunity to surrender where there manifestly is no necessity for the use of lethal force. In such situations, the principles of military necessity and of humanity play an important role in determining the kind and degree of permissible force against legitimate military targets. 102¶ It is noteworthy that although this assertion appears in the Direct Participation in Hostilities study, it is not conﬁ ned to civilians who lose their immunity from being made the objects of attack as the result of such direct participation (a qualiﬁ er which would have arguably limited the potential signiﬁ cance of the interpretation). To be clear, what is proposed is that when engaging an enemy combatant during armed conﬂ ict – an individual who by virtue of his or her status qualiﬁ es as a lawful military objective – the engaging force bears an obligation to refrain from the use of deadly force if some lesser degree of violence would produce submission. 103¶ Th at the ICRC would have an interest in advancing an interpretation of the law that operates to protect combatants from death when injury or capture is a possible alternative is unsurprising considering the historic mandate of that organization. 104 It is also undoubtedly in the eyes of some admirable. Nonetheless, the suggested interpretation of the law represents a dangerous confusion between law and policy. Even the ICRC acknowledges the lack of consensus on this interpretation:¶ It is in this sense that Pictet’s famous statement should be understood that “[i]f we can put a soldier out of action by capturing him, we should not wound him; if we can obtain the same result by wounding him, we must not kill him. If there are two means to achieve the same military advantage, we must choose the one which causes the lesser evil”. During the expert meetings, it was generally recognized that the approach proposed by Pictet is unlikely to be operable in classic battleﬁ eld situations involving large scale confrontations and that armed forces operating in situations of armed conﬂ ict, even if equipped with sophisticated weaponry and means of observation, may not always have the means or opportunity to capture rather than kill. 105 ¶ Th is acknowledgment reveals that the LOAC establishes the outer limits of permissible conduct; it has never established a mandate that combatants employ the full scope of authority granted by the law to subdue an enemy. Put more simply, authority is not synonymous with obligation. As a result, how commanders choose to exercise the authority they are granted by the LOAC is and has always been a choice dictated by operational considerations. Th us, it is certainly true that there have been and will undoubtedly continue to be many instances where a commander who could employ deadly force against an enemy chooses not to do so, but to instead employ a lesser degree of force to bring the enemy into submission. However, by characterizing the exercise of such operational restraint as a LOAC requirement, the ICRC is transforming an exercise of command discretion into a legal obligation that is unsupported by treaty law, custom, or historic operational practice. ¶ There are countless logical operational explanations for exercising such restraint, from the desire to capture the enemy as a means of obtaining intelligence to the eﬀ ort to demonstrate to other enemy personnel the wisdom of submission. However, it is critical to understand is that contrary to the ICRC suggestion, such restraint is not legally mandated. On the contrary, the only pre-submission protection aﬀorded to enemy personnel by the LOAC is the prohibition against the inﬂ iction of unnecessary suﬀ ering. 106 Even here, there is controversy related to the extent of the constraint. 107 As a matter of sheer military logic, it is diﬃcult to contest the proposition that the deliberate inﬂiction of death on an enemy operative when some lesser degree of force might produce submission is generally not considered suﬃcient to run afoul of this very limited protective rule, because attacking the enemy with deadly combat power is customarily considered necessary to force an opponent into submission. 108 Instead, the prohibition against inﬂicting unnecessary suﬀ ering requires the use of a method or means of warfare that is so attenuated from the goal of achieving this submission that it cannot rationally be considered necessary (which in eﬀ ect produces and inference of genuine malice). 109 Ironically, based on this customary understanding of the prohibition, there may be situations when causing death might actually be considered more humane than causing an injury that is particularly painful or diﬃ cult to heal, particularly where the inﬂ iction of injury is motivated by a calculation to impose a greater logistical burden on the enemy force. ¶ Th e ICRC interpretation of this prohibition distorts what a commander may do with what he must. Nothing in the LOAC obligates foregoing resort to deadly force as a measure of ﬁrst resort vis à vis an enemy when injury and/or capture would subdue that enemy. 110 If such a rule were to gain momentum, it would fundamentally alter the presumptions of permissible conduct that have guided combatant behavior since the inception of organized warfare. What is most troubling about this distortion is that it reﬂects a fundamental shift from a LOAC based analysis of authority to a human rights based analysis. Underlying the proposal is a rejection of the consequence of identifying an enemy as a ‘military objective’: the conclusive presumption that until rendered hors de combat the threat inherent in that designation/determination justiﬁes immediate resort to deadly force. In contrast, the ICRC interpretation makes the authority to employ deadly force contingent on assessment of actual threat, and thereby denies such authority when that actual threat is insuﬃcient to justify the use of that level of force. ¶ Linking the authority to employ deadly force against an operational opponent during armed conﬂict to determinations of actual threat may appeal to some. After all, why should it be permissible to kill enemy personnel whose conduct seems relatively non-threatening, such as a cook or a clerk? Th e answer to question lies in the very nature of armed conﬂ ict itself. The LOAC is based on the presumption that all members of an enemy force represent a threat suﬃcient to justify the use of deadly force as a means to produce enemy submission. 111 This must be a presumption, because by placing enemy armed forces into the category of lawful military objectives, the law eliminates any obligation to assess whether each enemy soldier represents an actual threat to the attacking force. ¶ It is undeniable that this presumption can at times be factually overbroad; however, it is equally undeniable that this overbreadth is tolerated by the LOAC. Furthermore, this overbreadth is oﬀ set by the inverse presump - tion applicable to civilians. Unlike combatants, civilians are presumed nonthreatening, and therefore presumptively immune from being made the object of attack. 112 Both these presumptions are powerful, but neither is irrebuttable. For the civilian, the presumption is rebutted when and for such time as he takes a direct part in hostilities 113 ; for the operational opponent, the presumption is rebutted when, and only when he is rendered hors de combat by surrender, wounds, sickness. 114¶ Th ese presumptions and their rebuttal requirements can never be absolutely consistent with ground truth. For example, a civilian may perform a function that is essential to providing a combat capability to an enemy, such as working as an expert in a critical defense industry. A combatant, in contrast, may perform a function that posses virtually no actual threat to an opponent, such as a cook or a clerk. As a result the civilian may be far more ‘dangerous’ to opposing armed forces than the combatant. However, the presumptions related to who and who may not be made the deliberate object of attack evolved to satisfy the reality of armed conﬂ ict – the need to promptly and eﬃ ciently bring an opponent into submission by providing a degree of operational clarity that has historically been considered essential by both the profession of arms and the international legal community. ¶ No analogous overbreadth is tolerated by human rights law. Instead, conduct is the only justiﬁ able basis for employing such force. 115 Of course, when connected with other facts and circumstances, the possession of a deadly weapon may establish a justiﬁ able inference that the citizen is going to act in a manner that creates a necessity for the use of deadly force by the oﬃ cer. However, this is diﬀ erent from the calculus engaged in by a combatant during armed conﬂ ict, for the presence of the weapon remains an indicator of conduct, and in no way creates a status that justiﬁ es the use of deadly force. ¶ Attempting to extend human rights based use of force standards into the realm of armed conﬂict is therefore not only illogical, it is operationally debilitating. The operational clarity provided by these presumptions is an essential component for developing a warrior ethos. 116 Soldiers are not police oﬃcers, and while it is certainly possible to train soldiers to operate with the type of restraint incumbent in the police function, 117 asking them to operate under such a framework during armed conﬂ ict is inconsistent with their fundamental purpose: to be ready, willing, and able to kill on demand. Showing mercy or restraint is, as noted above, always an option available to a commander who chooses not to exercise the full scope of his or her authority against an enemy. However, once the law requires assessment of the actual threat posed by an enemy combatant, the eﬀectiveness of combat capability will inevitably be diluted. 118

### \*Link---First Resort

#### Outside of “hot” battlefields it’s drones or nothing---other first resort options aren’t politically viable

Rosa Brooks 13, Professor of Law, Georgetown University Law Center and Bernard L. Schwartz Senior Fellow, New America Foundation, 4/23/13, “The Constitutional and Counterterrorism Implications of Targeted Killing,” <http://www.judiciary.senate.gov/pdf/04-23-13BrooksTestimony.pdf>

This increasing use of drone strikes to go after individuals with more and more tenuous links to Al Qaeda and the 9/11 attacks pushes the furthest boundaries of Congress’ 2011 Authorization for use of Military Force. The AUMF authorized the President to “[U]se all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations, or persons.”

The AUMF’s language appears to restrict the use of force both with regard to who can be targeted (those with some culpability for the 9/11 attacks) and with regard to the purpose for which force is used (to prevent future attacks against the U.S.). As drone strikes expand beyond Al Qaeda targets (to go after, for instance, suspected members of Somalia’s al Shabaab), it grows increasingly difficult to justify such strikes under the AUMF. Do we believe al Shabaab was in any way culpable for the 9/11 attacks? Do we believe al Shabaab, an organization with primarily local and regional ambitions, has the desire or capability to engage in acts of international terrorism against the United States?

3. The true costs of current US drone policy

When we come to rely excessively on drone strikes as a counterterrorism tool, this has potential costs of its own. Drones strikes enable a "short-term fix" approach to counterterrorism, one that relies excessively on eliminating specific individuals deemed to be a threat, without much discussion of whether this strategy is likely to produce long-term security gains.

Most counter-terrorism experts agree that in the long-term, terrorist organizations are rarely defeated militarily. Instead, terrorist groups fade away when they lose the support of the populations within which they work. They die out when their ideological underpinnings come undone – when new recruits stop appearing—when the communities in which they work stop providing active or passive forms of assistance—when local leaders speak out against them and residents report their activities and identities to the authorities.

A comprehensive counterterrorist strategy recognizes this, and therefore relies heavily on activities intended to undermine terrorist credibility within populations, as well as on activities designed to disrupt terrorist communications and financing. Much of the time, these are the traditional tools of intelligence and law enforcement. Kinetic force undeniably has a role to play in counterterrorism in certain circumstances, but it is rarely a magic bullet.

In addition, overreliance on kinetic tools at the expense of other approaches can be dangerous. Drone strikes -- lawful or not, justifiable or not – can have the unintended consequence of increasing both regional instability and anti-American sentiment. Drone strikes sow fear among the "guilty" and the innocent alike,24 and the use of drones in Pakistan and Yemen has increasingly been met with both popular and diplomatic protests. Indeed, drone strikes are increasingly causing dismay and concern within the US population.

As the Obama administration increases its reliance on drone strikes as the counterterrorism tool of choice, it is hard not to wonder whether we have begun to trade tactical gains for strategic losses. What impact will US drone strikes ultimately have on the stability of Pakistan, Yemen, or Somalia? 25 To what degree -- especially as we reach further and further down the terrorist food chain, killing small fish who may be motivated less by ideology than economic desperation -- are we actually creating new grievances within the local population – or even within diaspora populations here in the United States? 26 As Defense Secretary Donald Rumsfeld asked during the Iraq war, are we creating terrorists faster than we kill them?27

At the moment, there is little evidence that US drone policy – or individual drone strikes—result from a comprehensive assessment of strategic costs and benefits, as opposed to a shortsighted determination to strike targets of opportunity, regardless of long-term impact. As a military acquaintance of mine memorably put it, drone strikes remain “a tactic in search of a strategy.”

4. Drones and the rule of law

Mr. Chairman, I would like to turn now to the legal framework applicable to US drone strikes. Both the United States and the international community have long had rules governing armed conflicts and the use of force in national self-defense. These rules apply whether the lethal force at issue involves knives, handguns, grenades or weaponized drones. When drone technologies are used in traditional armed conflicts—on “hot battlefields” such as those in Afghanistan, Iraq or Libya, for instance – they pose no new legal issues. As Administration officials have stated, their use is subject to the same requirements as the use of other lawful means and methods of warfare.28

But if drones used in traditional armed conflicts or traditional self-defense situations present no “new” legal issues, some of the activities and policies enabled and facilitated by drone technologies pose significant challenges to existing legal frameworks.

As I have discussed above, the availability of perceived low cost of drone technologies makes it far easier for the US to “expand the battlefield,” striking targets in places where it would be too dangerous or too politically controversial to send troops. Specifically, drone technologies enable the United States to strike targets deep inside foreign states, and do so quickly, efficiently and deniably. As a result, drones have become the tool of choice for so-called “targeted killing” – the deliberate targeting of an individual or group of individuals, whether known by name or targeted based on patterns of activity, inside the borders of a foreign country. It is when drones are used in targeted killings outside of traditional or “hot” battlefields that their use challenges existing legal frameworks.

#### New detentions are politically impossible---requiring capture before killing means we won’t do either

Lisa Hajjar 12, chair of the Law and Society Program at the University of California, Santa Barbara, Fall 2012, “Anatomy of the US Targeted Killing Policy,” Middle East Report, No. 264, http://www.merip.org/mer/mer264/anatomy-us-targeted-killing-policy?ip\_login\_no\_cache=fe0d21bdc1a90052f29270e6930e1752

These uncertain answers in the spring of 2011 highlighted the lack of a clear detention policy. Harvard law professor Jack Goldsmith, who served in the Defense and Justice Departments under the Bush administration, summed up the dilemma: “We are all obsessed with Gitmo, but I don’t think that’s where the important action is. The important action is who we are not detaining because Gitmo has become this black-eye place where we can’t have future detentions.” [7] The reason, as he explained, stems from domestic politics: Congress has restricted the president’s ability to move people out of Guantánamo, whether for trials in federal courts, which are now prohibited by legislation, or through transfers to other countries because of the burdensome assurances that the secretary of defense would have to provide Congress that anyone exiting would pose no future threat to national security. The barriers to getting people out of Guantánamo function as a political deterrent to moving anyone new in; the last detainee arrived there in 2008. According to Goldsmith, “The lack of a detention policy and the inability to detain members of the enemy going forward creates a heightened incentive to kill people.”

#### Targeted killings using drones are literally incapable of offering surrender---means the plan results in banning drones everywhere outside Afghanistan

Michael W. Lewis 12, Associate Professor of Law at Ohio Northern University Pettit College of Law, Spring 2012, “ARTICLE: SYMPOSIUM: THE 2009 AIR AND MISSILE WARFARE MANUAL: A CRITICAL ANALYSIS: Drones and the Boundaries of the Battlefield,” Texas International Law Journal, p. lexis

The legal determination of what constitutes "the battlefield" has particular significance for the use of drones, particularly armed drones. This is because "the battlefield" is used to effectively define the scope of IHL's application. n31 In situations outside the scope of IHL, international human rights law (IHRL) n32 applies. For the [\*300] purposes of this Article, the salient difference between these two bodies of law lies in their disparate provisions regarding the use of lethal force. IHL allows for lethal force to be employed based upon the status of the target. n33 A member of the enemy's forces may be targeted with lethal force based purely on his status as a member of those forces. n34 That individual does not have to pose a current threat to friendly forces or civilians at the time of targeting. n35 In contrast, IHRL permits lethal force only after a showing of dangerousness. n36 Under IHRL (the law enforcement model), lethal force may only be employed if the individual poses an imminent threat to law enforcement officers attempting arrest or to other individuals. n37 Further, IHRL requires that an opportunity to surrender be offered before lethal force is employed. n38

Because drones are incapable of offering surrender before utilizing lethal force, armed drones may not be legally employed in situations governed by IHRL. n39 This absolute prohibition does not apply to other forces commonly used in counterinsurgency or counterterrorism operations, such as special forces units, because it is possible for them to operate within the parameters of IHRL. Although the use of special forces in law enforcement operations has the potential to be legally problematic, n40 appropriately clear and restrictive rules of engagement that include the requirement of a surrender offer can allow special forces to operate under an IHRL regime. n41 Similarly, almost any other part of the armed forces, from regular army units to military police to Coast Guard and naval forces, can adapt their operating procedures to comply with IHRL's requirements. Armed drones cannot.

[\*301] As a result, the debate about what constitutes the legal boundaries of the battlefield has a particularly significant impact on the use and development of drones. Because their operational limitations prevent drones from being employed outside of the permissive environments found in counterterrorism or counterinsurgency operations, their usefulness as a weapons system is strongly tied to the scope of IHL's application. If the strict geographic approach to defining IHL's scope (described in more detail below) is accepted, then drone use would be considered illegal everywhere outside Afghanistan.

### 1NC/2NC SOF Stuff Combined

#### Retaining the legal option of first resort killing is key to military training---breaking that paradigm collapses operational effectiveness

Geoffrey Corn 10, Professor of Law and Presidential Research Professor, South Texas College of Law, 2010, “Mixing Apples and Hand Grenades: The Logical Limit of Applying Human Rights Norms to Armed Conﬂict,” International Humanitarian Legal Studies 1 (2010) 52–94

Furthermore, while it might be tempting to assume that shifting from one use of force paradigm to another is a simple task, those familiar with the relationship between training and operational eﬀectiveness know this is a highly complex process. As a result, eﬀective training must be mission driven, which means that preparation for armed conﬂict must focus primarily on developing a warrior ethos derived from the armed conﬂict use of force paradigm: deadly force as a measure of ﬁrst resort. 134 Therefore, soldiers are trained to employ deadly force against such targets, irrespective of the conduct they encounter. Furthermore, based on the relative clarity provided by the rule of military objective pursuant to which operational opponents are subject to attack with maximum lethality and all other individuals are the object of protection, it is the minimization of the harmful eﬀects of lawful targeting of military objectives that is the focus or proportionality analysis.

#### Specifically, special forces conduct first-resort targeted killings outside of armed conflict zones

Sascha-Dominik Bachmann 13, Reader in International Law (University of Lincoln), 2013, “Targeted Killings: Contemporary Challenges, Risks and Opportunities,” Journal of Conflict and Security Law, doi: 10.1093/jcsl/krt007

Targeted killing has also been used by the USA in theatres of actual combat operations, such as Afghanistan and Iraq, as well as outside these theatres of war and as part of CIA and US military run covert operations in Pakistan. The USA is using drone strikes and Special Forces there to conduct pre-emptive as well as defensive targeted killing operations against Al-Qaeda and the Taliban. The argument is brought forward that such operations are necessary to protect US forces and its allies in Afghanistan and to disrupt the existent terrorist infrastructure. The focus of such operations is on the so-called ‘Tribal Areas’ of Pakistan, Waziristan, where the Taliban have effectively established an autonomous sphere of influence to the exclusion of the central government in Peshawar.32 Other such covert operations have seen CIA operated drone strikes in Yemen, Somalia as well Sudan, where a lack of cooperation and/or relative capabilities of the respective governments have created areas which are outside effective state control.33

#### Special forces readiness is key to counter-prolif---solves nuclear war

Jim Thomas 13, Vice President and Director of Studies at the Center for Strategic and Budgetary Assessments, and Chris Dougherty is a Research Fellow at the Center for Strategic and Budgetary Assessments, 2013, “BEYOND THE RAMPARTS THE FUTURE OF U.S. SPECIAL OPERATIONS FORCES,” http://www.csbaonline.org/wp-content/uploads/2013/05/SOF-Report-CSBA-Final.pdf

WMD do not represent new threats to U.S. security interests, but as nascent nuclear powers grow their arsenals and aspirants like Iran continue to pursue nuclear capabilities, the threat of nuclear proliferation, as well as the potential for the actual use of nuclear weapons, will increase. Upheaval in failing or outlaw states like Libya and Syria, which possess chemical weapons and a range of missiles, highlights the possibility that in future instances of state collapse or civil war, such weapons could be used by failing regimes in an act of desperation, fall into the hands of rebel forces, or be seized by parties hostile to the United States or its interests. SOF can contribute across the spectrum of counter-WMD efforts, from stopping the acquisition of WMD by hostile states or terrorist groups to preventing their use. The global CT network SOF have built over the last decade could be repurposed over the next decade to become a global counter-WMD network, applying the same logic that it takes a network to defeat a network. Increasing the reach and density of a global counter-WMD network will require expanding security cooperation activities focused on counter-proliferation. Finally, SOF may offer the most viable strategic option for deposing WMD-armed regimes through UW campaigns should the need arise.

#### Special forces are key to disarm rogues’ nuclear programs---the alternative is U.S. counterforce nuclear strikes which cause extinction

Jim Thomas 13, Vice President and Director of Studies at the Center for Strategic and Budgetary Assessments, and Chris Dougherty is a Research Fellow at the Center for Strategic and Budgetary Assessments, 2013, “BEYOND THE RAMPARTS THE FUTURE OF U.S. SPECIAL OPERATIONS FORCES,” http://www.csbaonline.org/wp-content/uploads/2013/05/SOF-Report-CSBA-Final.pdf

Finally, if the United States goes to war with a nuclear-armed adversary, SOF may offer the least-worst option for regime change. In 2011, former Secretary of Defense Robert Gates famously said that, “…future defense secretary who advises the president to again send a big American land army into Asia or into the Middle East or Africa should ‘have his head examined,’ as General MacArthur so delicately put it.” 209 While current and future American political leaders may be reluctant to dispatch large-scale forces to conduct regime change operations akin to Operation Iraqi Freedom, SOF offer a viable strategic option for deposing WMD-armed regimes through UW campaigns should the need arise. Using UW may represent the best alternative to using nuclear weapons or large ground forces to invade and occupy a country possessing WMD. The traditional downside of UW is that preparations for such campaigns could take years to put in place, if not longer. The United States would do well to begin developing limited UW options in advance - by using SOF and intelligence assets to build relationships with groups that could threaten WMD-armed regimes - so that future presidents have a viable unconventional regime-change option when confronting WMD-armed adversaries.

## Case

### Kris

**That solves safe havens and extradition to the US court system**

David S. Kris 11 – Former Assistant Attorney General for National Security at the U.S. Department of Justice, Law Enforcement as a Counterterrorism Tool, Assistant Attorney General for National Security at the U.S. Department of Justice, from March 2009 to March 2011, Journal of Security Law & Policy, Vol5:1. 2011, http://jnslp.com//wp-content/uploads/2011/06/01\_David-Kris.pdf

Finally, the **c**riminal **j**ustice **s**ystem may help us **obtain important cooperation from other countries**. That **cooperation may be necessary** if we want to detain suspected terrorists¶ or otherwise accomplish our national¶security objectives. Our federal courts are well-respected internationally.¶ They are well-established, formal legal mechanisms that allow the transfer of terrorism suspects to the United States¶ for trial in federal court, and for¶ the provision of information to assist¶ in law enforcement investigations –¶ i.e., extradition and mutual legal assistance treaties (MLATs). **Our allies around the world are comfortable with these mechanisms**, as well as with more informal procedures that are often used to provide assistance to the United States in law enforcement matters, whether relating to terrorism or¶ other types of cases. Such cooperation can be critical to the success of a prosecution, and in some cases can be **the only way in which we will gain** **custody of a suspected terrorist** who has broken our laws.¶ 184¶ In contrast, many of our **key** **allies around the world** are **not willing to cooperate** with or support our efforts to hold suspected terrorists in **law of war detention** or to **prosecute them in military commissions**. While we hope that over time they will grow more supportive of these legal¶ mechanisms, at present many countries would not extradite individuals to the United States for military commission proceedings or law of war¶ detention. Indeed, some of our extradition treaties explicitly forbid extradition to the United States where the person will be tried in a forum other than a criminal court. For example, our treaties with Germany¶ (Article 13)¶ 185¶ and with Sweden (Article V(3))¶ 186¶ expressly forbid extradition¶ when the defendant will be tried in¶ an “extraordinary” court, and the¶ understanding of the Indian government pursuant to its treaty with the¶ United States is that extradition is available only for proceedings under the¶ ordinary criminal laws of the requesting state.¶ 187¶ More generally, the¶ doctrine of dual criminality – under which extradition is available only for¶ offenses made criminal in both countries – and the relatively common¶ exclusion of extradition for military offenses not also punishable in civilian¶ court may also limit extradition outside the criminal justice system.¶ 188¶ Apart¶ from extradition, even where we already have the terrorist in custody, many countries will not provide testimony, other information, or assistance in support of law of war detention or a military prosecution, either as a matter¶ of national public policy or under other provisions of some of our MLATs.¶ 189¶ These concerns are not hypothetical. During the last Administration,¶ the United States was obliged to give¶ assurances against the use of military¶ commissions in order to obtain extradition of several terrorism suspects to¶ the United States.¶ 190¶ There are a number of terror suspects currently in foreign custody who **likely would not be extradited** to the United States by¶ foreign nations if they faced military tribunals.¶ 191¶ In some of these cases, it might be necessary for the foreign nation **to release these suspects** if they cannot be extradited because they do¶ not face charges pending in the¶ foreign nation.

### Coop Inevitable – Self-Interest

#### EU cooperation on terrorism intel high and inevitable – in their self interest

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

As part of its drive to bolster its counterterrorism capabilities, the EU has also made promoting law enforcement and intelligence cooperation with the United States a top priority. Washington has largely welcomed these efforts, recognizing that they may help root out terrorist cells both in Europe and elsewhere, and prevent future attacks against the United States or its interests abroad. U.S.-EU cooperation against terrorism has led to a new dynamic in U.S.-EU relations by fostering dialogue on law enforcement and homeland security issues previously reserved for bilateral discussions. Contacts between U.S. and EU officials on police, judicial, and border control policy matters have increased substantially since 2001. A number of new U.S.-EU agreements have also been reached; these include information-sharing arrangements between the United States and EU police and judicial bodies, two new U.S.-EU treaties on extradition and mutual legal assistance, and accords on container security and airline passenger data. In addition, the United States and the EU have been working together to curb terrorist financing and to strengthen transport security.

### Allies not key

#### Allied coop on law enforcement is unnecessary and has lots of barriers

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

Despite these growing U.S.-EU ties and agreements in the law enforcement area, some U.S. critics continue to doubt the utility of collaborating with EU-wide bodies given good existing bilateral relations between the FBI and CIA (among other agencies) and national police and intelligence services in EU member states. Many note that Europol lacks enforcement capabilities, and that its effectiveness to assess and analyze terrorist threats and other criminal activity largely depends on the willingness of national services to provide it with information. Meanwhile, European officials complain that the United States expects intelligence from others, but does not readily share its own. Others contend that European opposition to the U.S. death penalty or resistance to handing over their own nationals may still slow or prevent the timely provision of legal assistance and the extradition of terrorist suspects in some cases.

### Resilient/High 1NC

#### No Pakistani collapse

Sunil Dasgupta '13 Ph.D. in political science and the director of UMBC's Political Science Program and a senior fellow at Brookings, 2/25/13, "How will India respond to civil war in Pakistan," East Asia Forum, http://www.eastasiaforum.org/2013/02/25/how-will-india-respond-to-civil-war-in-pakistan/

Bill Keller of the New York Times [has described Pakistani president Asif Ail Zardari](http://www.nytimes.com/2011/12/18/magazine/bill-keller-pakistan.html?pagewanted=all&_r=0) as overseeing ‘a ruinous kleptocracy that is spiraling deeper into economic crisis’. But in contrast to predictions of an unravelling nation, British journalist-scholar [Anatol Lieven argues](http://www.anu.edu.au/vision/videos/6291/) that the Pakistani state is likely to continue muddling through its many problems, unable to resolve them but equally predisposed against civil war and consequent state collapse. Lieven finds that the strong bonds of family, clan, tribe and the nature of South Asian Islam prevent modernist movements — propounded by the government or by the radicals — from taking control of the entire country.¶ Lieven’s analysis is more persuasive than the widespread view that Pakistan is about to fail as a state. The formal institutions of the Pakistani state are surprisingly robust given the structural conditions in which they operate. Indian political leaders recognise Pakistan’s resilience. Given the bad choices in Pakistan, they would rather not have anything to do with it. If there is going to be a civil war, why not wait for the two sides to exhaust themselves before thinking about intervening? The 1971 war demonstrated India’s willingness to exploit conditions inside Pakistan, but to break from tradition requires strong, countervailing logic, and those elements do not yet exist. [Given the current conditions](http://www.eastasiaforum.org/2012/12/30/pakistans-bleak-outlook-lightened-by-the-game-changer-with-india/) and those in the foreseeable future, India is likely to sit out a Pakistani civil war while covertly coordinating policy with the United States.

## Executive

### Overview

#### The combo solves every possible deficit

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."

### Solves---Allies

#### Transparency solves allied perception, blowback, and drone norms while maintaining the counter-terror 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.

### Solves Norms

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

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

But even without raising standards, tightening up drone-specific restrictions in the standing control regime, or creating a new control agreement (which is never easy to pull off absent a bad-state actor threatening attack), just the process of lining up U.S. policy with U.S. practice would go a long way toward establishing the kind of precedent on use of this technology that America—in five, 10, or 15 years—might find helpful in arguing against another’s actions.

A not-insignificant faction of U.S. defense and intelligence experts, Dennis Blair among them, thinks norms play little to no role in global security. And they have evidence in support. The missile-technology regime, for example, might be credited with slowing some program development, but it certainly has not stopped non-signatories—North Korea and Iran—from buying, building, and selling missile systems. But norms established by technology-leading countries, even when not written into legal agreements among nations, have shown success in containing the use and spread of some weapons, including land mines, blinding lasers, and nuclear bombs.

Arguably more significant than spotty legal regimes, however, is the behavior of the United States. “History shows that how states adopt and use new military capabilities is often influenced by how other states have—or have not—used them in the past,” Zenko argued. Despite the legal and policy complexity of this issue, it is something the American people have, if slowly, come to care about. Given the attention that Rand Paul’s filibuster garnered, it is not inconceivable that public pressure on drone operations could force the kind of unforeseen change to U.S. policy that it did most recently on “enhanced interrogation” of terrorists.

The case against open, transparent rule-making is that it might only hamstring American options while doing little good elsewhere—as if other countries aren’t closely watching this debate and taking notes for their own future policymaking. But the White House’s refusal to answer questions about its drone use with anything but “no comment” ensures that the rest of the world is free to fill in the blanks where and when it chooses. And the United States will have already surrendered the moment in which it could have provided not just a technical operations manual for other nations but a legal and moral one as well.

#### Only the CP solves the case---moving too fast to restrict targeted killing’s ineffective---starting with the CP’s legal transparency’s more effective

Afsheen John Radsan 12, Professor, William Mitchell College of Law, Assistant General Counsel at the Central Intelligence Agency from 2002 to 2004; and Richard Murphy, the AT&T Professor of Law, Texas Tech University School of Law, 2012, “The Evolution of Law and Policy for CIA Targeted Killing,” Journal of National Security Law & Policy, Vol. 5, p. 439-463

A thorough review of the arguments against the CIA drone campaign, however, shows that most critics invoke laws that do not bind American officials or laws that are vague. In a zone of ambiguity, one expects those responsible for protecting the United States to interpret their authority broadly. The President and his advisers – notably Harold Koh, the Dean of Yale Law School, currently the State Department Legal Adviser and a human rights specialist of the first order – have argued and concluded that CIA drone strikes are legal.3 The rules of armed conflict and the laws of interstate force permit the United States reasonably to assert the right to use the CIA to fire missiles from unmanned drones to kill “fighting” members of al Qaeda and the Taliban located in countries that are unable (or perhaps unwilling) to control the threat these armed groups pose.

Although critics of the CIA drone program do not demonstrate that its strikes are clearly illegal, some raise important points on how the law, drifting into policy, should constrain drone strikes. As noted, the CIA drone campaign and any similar campaigns pose acute dangers of mistakes and abuses. The law, in response to this type of problem, seeks to ensure accuracy, fairness, and accountability by insisting on regular, responsible procedures. Yet the laws of war, generally speaking, merely require reasonable precautions before striking.4 A simple rule-of-reason seems inadequate for targeted killing that, by its terms, demands “intelligence-driven use of force.”5

To facilitate the evolution of a “due process” of targeted killing, in two earlier pieces, we have attempted to tease controls from the U.S. Constitution and from international humanitarian law’s insistence on reasonable precautions.6 Whether for us or for other commentators, creating fine-grained constraints will not be straightforward. If the constraints are to evolve at all, they are likely to come from a long dialogue among many interested parties. The United States could add to this conversation by publicly adopting standards for its use of drones that ensure accuracy and accountability. The CIA, accordingly, could acknowledge a general role in the drone program without mentioning the names of any participating countries. By giving up a thin veil of secrecy, the CIA would benefit from more informed public scrutiny and might receive more support from some American citizens and allies. But that increased transparency could carry costs, including offending those concerned about the level of collateral damage. Residents of foreign countries closest to the locations of CIA strikes are likely to be the most sensitive. Take Pakistan as one possible example.

We do not expect opponents of CIA drones to give up their rhetorical weapon claiming illegality. Their rhetoric, however, tends to obscure how the law should evolve to result in good policy. The relevant substantive law governing resort to deadly force by states is and necessarily will remain vague. In contrast, the specific procedures for CIA targeted killing cry out for scrutiny and improvement. At the level of specificity that matters to actual drone operators, good law blurs into good policy. At this level, all of the President’s national security team, lawyers and non-lawyers alike, are welcome to advise him on drones.

### AT: CP Not Durable

#### It’s durable

Adrian Johnson 13, Director of Publications, Royal United Services Institute, 5/3/13, “Mr Emmerson Takes on Washington,” http://www.rusi.org/publications/newsbrief/ref:A5183D24D108B9/#.UizUn9L\_l8E

It is difficult to assess the conduct of the drone campaign with reasonable certainty, Foust points out, if the debate relies on anecdote and data smuggled out of areas in which the traditional organs of civil society, like journalists and NGOs, cannot easily operate. And without more clarity on the administration’s targeting criteria, it is hard to reach definitive judgements on whether it is indeed respecting the principles of proportionality, discrimination and imminence.

### Solves Signal---2NC

#### The CP signals restraint of the “global battlefield” paradigm---current policy incorporates U.S. legal obligations under the law of armed conflict---the CP ensures that remains the case while preserving the executive’s overall flexibility

Geoffrey Corn 13, Professor of Law and Presidential Research Professor, South Texas College of Law, 5/16/13, Statement before the Senate Armed Services Committee, CQ Congressional Testimony, lexis

The authority for, scope of, and means used to prosecute the armed conflict with al Qaeda are all critically important questions for our nation, our armed forces, and elected officials responsible for establishing U.S. national security policy. As in the prosecution of any armed conflict, each of these issues is impacted by complex considerations of law, policy, strategy, intelligence, and diplomacy. The Authorization for the Use of Military Force (AUMF) enacted by Congress in response to the attacks of September 11, 2001 has served and continues to serve as the key source of constitutional authority for the conduct of military operations directed against these belligerent opponents. This Joint Resolution expressly manifests the combined will of our nation's political branches to include the full might of the U.S. Armed Forces within the range of available options for addressing this threat. It does not, however, explicitly define the scope of such military operations, nor limitations on the methods or means of warfare utilized during the course of such operations. This is consistent with past practice of providing similar authorizations for the conduct of armed hostilities, and is therefore unsurprising.

The undefined scope does not, however, suggest an unlimited grant of authority, or what some have characterized as a "blank check" to wage war anywhere in the world against any group (or perhaps individual) deemed by the President to present a threat of future terrorist attacks. Instead, as I will explain in more detail below, the scope, methods, and means are all rationally framed by both the authorization's language and its implicit incorporation of the law of armed conflict. Because I do not believe there is sufficient indication of any inconsistency between the nature of U.S. military operations conducted pursuant to the AUMF and these inherent limitations, I respectfully oppose any effort to modify the Joint Resolution. Instead, I believe that Congress should work with both the Executive and the Department of Defense to remain fully appraised of the strategic, operational, and at times tactical decision-making process that results in the employment of U.S. combat power pursuant to the AUMF. This will enable Congress to ensure that these operations continue to fall within the scope of an authorization targeted at al Qaeda, the specific terrorist belligerent group assessed as responsible for the September 11th terrorist attacks, and that these operations reflect unquestioned commitment to the principles of international law that regulate the use of military force, namely the law of armed conflict.

## Norms

### AT: Senkaku

#### 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.

### No Caucases Impact

Empirically denied

#### Structural barriers prevent instability

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Social disorder in Tunisia, Egypt, Libya, and other Arab countries has invariably led observers to regard Central Asia’s autocracies as potentially vulnerable to similar upheaval. Some Central Asian leaders have been in power for many years, and only Kyrgyzstan, the most impoverished of the five, has developed a competitive multi-party political system. Elsewhere, political parties are weak or are tools of the regime. But other factors make the Arab scenario less plausible in Central Asia.

­­Security forces are more closely aligned with ruling elites; independent political groups and social-media networks are less well developed; economic performance remains high in some countries; and a previous wave of revolutions produced disappointing results in Ukraine and Kyrgyzstan.