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#### The authority to authorize without judicial permission is a war powers authority---we restrict it---FISA proves

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

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

#### Restriction means a limit or qualification---it includes conditions

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

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

#### Prefer it

#### a) Aff ground – only process-based affs can beat the executive CP

#### b) Topic education – it’s the “authority” topic not the “conduct” topic – only we allow a discussion of decision-making procedures

#### Restrictions can happen after the fact

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

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

#### Authority is what the president may do not what the president can do

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

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

#### Competing interpretations is a race to the bottom---default to reasonability---T should be a check on abuse not a strategy

### CP 1

#### Discretion DA---Leaving executive discretion intact eviscerates the imminence requirement and legitimizes preventive war---that’s Brooks

#### Verification DA---lack of credible verification ensures an anything-goes standard instead of restrictive norms---that’s Bashir and Plaw

#### Accountability DA---internal decisions suffer groupthink and bias that let them rationalize bad targeting decisions---that’s Chehab

#### Voluntary restraint doesn’t set a precedent

Anthony Dworkin 12, Senior Policy Fellow at the European Council on Foreign Relations, Executive Director of the Crimes of War Project, 19 June 2012, “Obama’s Drone Attacks: How the EU Should Respond,” http://ecfr.eu/content/entry/commentary\_obamas\_drone\_attacks\_how\_the\_eu\_should\_respond

Over time, the United States and its European allies might be able move closer to a common understanding of the concept of imminence through a process of discussion. But in any case there is an independent reason why the Obama administration’s policy of claiming expansive legal powers, while limiting them in practice on a voluntary basis, is a dangerous one. Precisely because he has greater international credibility than President Bush, the claims that Obama makes are likely to be influential in setting global standards for the use of the use of this new and potentially widely available technology. The United States is currently the only country that uses armed drones for targeted killing outside the battlefield, but several other countries already have remotely controlled pilotless aircraft or are in the process of acquiring them. The United States is unlikely to remain alone in this practice for long. At the same time, there have been several other examples in recent years of countries engaging in military campaigns against non-state groups outside their borders – as with Israel in Lebanon and Ethiopia in Somalia. For this reason, there is a strong international interest in trying to establish clear and agreed legal rules (not merely a kind of pragmatic best practice) to govern the use of targeted killing of non-state fighters.

#### Exec fiat is a voting issue---our authors take squo Prez policies as given which makes aff offense impossible---and there’s no comparative lit

Richard H. Pildes 13, J.D. candidate at NYU school of law, and Samuel Issacharoff, J.D. candidate at NYU school of law, June 1st, 2013, "Drones and the Dilemma of Modern Warfare,"lsr.nellco.org/cgi/viewcontent.cgi?article=1408&context=nyu\_plltwp

As with all use of lethal force, there must be procedures in place to maximize the likelihood of correct identification and minimize risk to innocents. In the absence of form al legal processes, sophisticated institutional entities engaged in repeated, sensitive actions – including the military – will gravitate toward their own internal analogues to legal process, even without the compulsion or shadow of formal judicial review. This is the role of bureaucratic legalism 63 in developing sustained institutional practices, even with the dim shadow of unclear legal commands. These forms of self- regulation are generated by programmatic needs to enable the entity’s own aims to be accomplished effectively; at times, that necessity will share an overlapping converge with humanitarian concerns to generate internal protocols or process-like protections that minimize the use of force and its collateral consequences, in contexts in which the use of force itself is otherwise justified. But because these process-oriented protections are not codified in statute or reflected in judicial decisions, they typically are too invisible to draw the eye of constitutional law scholars who survey these issues from much higher levels of generality.

#### Perm---do both---shields the link because all branches acting in concert would avoid backlash here and abroad

#### Internal fixes aren’t credible

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

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

#### Reforming congressional procedures is insufficient---there’s no will to engage in effective oversight

Philip Alston 11, John Norton Pomeroy Professor of Law at the NYU School of Law, former UN Special Rapporteur on extrajudicial, summary or arbitrary executions, “The CIA and Targeted Killings Beyond Borders,” 2011, 2 Harv. Nat'l Sec. J. 283, lexis

Much has been written about the type of reforms that might have enhanced congressional oversight of the intelli-gence community. The most striking aspect is the extent to which they are predicated upon a belief that the situation can be radically improved through adjustments to the institutional design of the oversight arrangements. But various authors have exposed the fallacy of this approach, n381 and it is difficult to disagree with Johnson who has consist-ently made the point that structural or design factors are less important than the motivations of those who are asked to conduct the oversight. n382 It should be added that examples from other jurisdictions are more encouraging, but hard-ly inspiring, in this regard. n383 The difference, however, between those other jurisdictions and the United States is that in the case of the latter the stakes are much higher, especially in human rights terms, since what is in need of oversight is a rapidly expanding global program of state-directed killings.

### CP 2

#### No solvency evidence for the BMD plank---we’ll answer it when they explain it

#### Prev war DA---asserts self-d everywhere which is even worse about institutionalizing the norms

#### Acct DA---reducing strikes is key to solve

#### Cross-apply answers to the other counterplan---they apply equally here

#### Drones trade off with other CIA ops

Jeremy Scahill 12, Puffin Foundation Writing Fellow at The Nation Institute, national security correspondent for The Nation magazine, Nov 14 2012, “The Petraeus Legacy: A Paramilitary CIA?” http://www.thenation.com/article/171247/petraeus-legacy-paramilitary-cia#

“I would not say that CIA has been taken over by the military, but I would say that the CIA has become more militarized,” Philip Giraldi, a retired career CIA case officer, told The Nation. “A considerable part of the CIA budget is now no longer spying; it’s supporting paramilitaries who work closely with JSOC to kill terrorists, and to run the drone program.” The CIA, he added, “is a killing machine now.”¶ As head of US Central Command in 2009, Petraeus issued execute orders that significantly broadened the ability of US forces to operate in a variety of countries, including Yemen, where US forces began conducting missile strikes later that year. During Petraeus’s short tenure at the CIA, drone strikes conducted by the agency, sometimes in conjunction with JSOC, escalated dramatically in Yemen; in his first month in office, he oversaw a series of strikes that killed three US citizens, including 16-year-old Abdulrahman Awlaki. In some cases, such as the raid that killed Osama bin Laden in Pakistan, commandos from the elite JSOC operated under the auspices of the CIA, so that the mission could be kept secret if it went wrong.¶ One current State Department liaison who has also worked extensively with JSOC describes the CIA as becoming “a mini-Special Operations Command that purports to be an intelligence agency.” For all the praise Petraeus won for his counterinsurgency strategy and the “surge” in Iraq, he says, his real legacy is as a “political tool,” an enabler of those within the national security apparatus who want to see a continuation of covert global mini-wars. Pointing to the “mystique that surrounds JSOC” and Adm. William McRaven, commander of the Special Operations Command, the liaison says, “Petraeus was trying to implement that kind of command climate at the CIA.”¶ “Petraeus wanted to be McRaven, and now that window has closed,” he said. “We are firmly in the age of McRaven. There is no other titular figure with the confidence of the president that is able to articulate strategies and hold their own in rooms where everyone else has the same or greater amount of intellectual heft. McRaven is everything that Petraeus is not.”¶ Retired Army Col. W. Patrick Lang, a former senior defense intelligence official, says that Petraeus’s arrogance—“smoothly concealed beneath the appearance of the warrior scholar”—made him deeply unpopular among the military’s high-ranking officers. Dismissing the media’s portrayal of Petraeus as a “super soldier” and great military leader as “phony bullshit,” Lang describes him as the product of a military promotion system that encourages generals to think of themselves as “divinely selected.” “In fact, he didn’t write the COIN manual, the surge was not the main thing in improving the situation in Iraq…. They sent him to Afghanistan to apply the COIN doctrine in the same glorious way he did in Iraq, and it hasn’t worked. So, if you look beneath the surface from all this stuff, it’s just a lot of hot air. There are great generals, but this guy is not one of them.” Arriving at the CIA, Lang says, Petraeus “wanted to drag them in the covert action direction and to be a major player.”¶ As for Petraeus’s future, the State Department liaison said, “There will be a lot of profits to be made by him and his immediate circle of advisers, as they’re given a soft landing, whether it’s in academia or within the nexus of the military-industrial complex.”¶ Giraldi, the former senior CIA officer, expressed concern that in these circumstances, the “CIA is going to forget how to spy.” He also noted the “long-term consequence” of the militarization of the CIA: “every bureaucracy in the world is best at protecting itself. So once the CIA becomes a paramilitary organization, there’s going to be in-built pressure to keep going in that direction. Because you’ll have people at the senior levels in the organization who have come up that way and are protective of what they see as their turf,” he told me. “That’s the big danger.”

#### Key to cyber-defense

Kevin Coleman 13, senior fellow with the Technolytics Institute, former chief strategist at Netscape, and an adviser on cyber warfare and security, 8/1/13, “Digital Conflict,” http://defensesystems.com/blogs/cyber-report/2013/08/cyber-intelligence.aspx

Cyber defense is gradually moving from a reactive to a proactive posture. Many observers have recognized this is absolutely required if we are to properly defend the massive information infrastructure that we have become so dependent on.¶ One question that comes up repeatedly is the growing need for cyber intelligence. Most organizations, besides those in the government/military intelligence community, concentrate on vulnerabilities and recently unleashed malware as a form of cyber intelligence. ¶ Cyber intelligence goes far beyond software and hardware vulnerabilities. While both are critical elements, many more are needed to paint an accurate and detailed picture of this threat environment. ¶ The Ponemon Institute released a new study that surveyed more than 700 respondents from 378 organizations. It found more organizations are moving toward what was termed "live threat intelligence.” I highlighted this expanded paradigm (near-real-time cyber intelligence) at the AFCEA Joint Warfighting conference. If you look at all the contributing factors that influence the cyber-threat environment, you will discover there are about 30 different categories directly associated with cyber intelligence. ¶ What we are seeing is a shift within the intelligence community to address the growing need for cyber intelligence. That means the Central Intelligence Agency may have to morph into something like a Cyber Intelligence Agency.¶ As we aggressively adopt new technologies, most of which are directly dependent on cyber communications, threats to this domain along with the growing number of activists, criminals, terrorists and rogue nation-states targeting this critical infrastructure will continue to grow. We have already seen a handful of universities develop degree programs addressing cyber intelligence.¶ As we are to keep pace with the growing threats of cyber aggression, we must increase the attention and resources devoted to cyber intelligence.

#### Nuke war

Tilford 12 Robert, Graduate US Army Airborne School, Ft. Benning, Georgia, "Cyber attackers could shut down the electric grid for the entire east coast" 2012, http://www.examiner.com/article/cyber-attackers-could-easily-shut-down-the-electric-grid-for-the-entire-east-coa

To make matters worse a cyber attack that can take out a civilian power grid, for example could also cripple the U.S. military.¶ The senator notes that is that the same power grids that supply cities and towns, stores and gas stations, cell towers and heart monitors also power “every military base in our country.”¶ “Although bases would be prepared to weather a short power outage with backup diesel generators, within hours, not days, fuel supplies would run out”, he said.¶ Which means military command and control centers could go dark.¶ Radar systems that detect air threats to our country would shut down completely.¶ “Communication between commanders and their troops would also go silent. And many weapons systems would be left without either fuel or electric power”, said Senator Grassley.¶ “So in a few short hours or days, the mightiest military in the world would be left scrambling to maintain base functions”, he said.¶ We contacted the Pentagon and officials confirmed the threat of a cyber attack is something very real.¶ Top national security officials—including the Chairman of the Joint Chiefs, the Director of the National Security Agency, the Secretary of Defense, and the CIA Director— have said, “preventing a cyber attack and improving the nation’s electric grids is among the most urgent priorities of our country” (source: Congressional Record).¶ So how serious is the Pentagon taking all this?¶ Enough to start, or end a war over it, for sure (see video: Pentagon declares war on cyber attacks http://www.youtube.com/watch?v=\_kVQrp\_D0kY&feature=relmfu ).¶ A cyber attack today against the US could very well be seen as an “Act of War” and could be met with a “full scale” US military response.¶ That could include the use of “nuclear weapons”, if authorized by the President.

#### Multiple worlds---reject them---destroys stable advocacy and argument responsibility key to defending real world proposals---killing 2AC strategic flex makes it impossible to be aff---removes the squo as a logical option and forces contradictory aff answers---1 conditional world solves

### Drone

#### Case turns Russia war---preventive war is a bigger risk

#### 1AC is an internal link turn---

#### Risk assessment---giving the courts a say causes more rational executive decisions and avoids foreign policy blunders---that’s Chehab

#### Overuse of force---unaccountable presidents use force even when it’s not useful---their disad ignores the risks of overreacting---that’s Farley

#### Link empirically denied and ex post solves

Pardiss Kebriaei 13, Senior Staff Attorney at the Center Constitutional Rights, adjunct lecturer at Brooklyn College, Feb 5 2013, PLAINTIFFS’ OPPOSITION TO DEFENDANTS’ MOTION TO DISMISS in al-Aulaqi vs Panetta, https://www.aclu.org/files/assets/tk2\_opposition\_filed\_plus\_declaration.pdf

Defendants’ “special factors” warnings of damage to military effectiveness, prestige, and decisionmaking are unconvincing. See Defs. Br. 25–27. Military and intelligence officers must obey the commands of the Constitution regardless of the context in which they act, even when exercising national-security and war powers.27 When those officers violate the constitutional rights of citizens, judicial review is not an “intrusion” into their affairs but rather the performance of the courts’ constitutional duty to ensure that the officers act “consistent with . . . the Constitution.” Parisi v. Davidson, 405 U.S. 34, 55 (1971) (Douglas, J., concurring); see id. (“When the military steps over [the] bounds [of constitutional civil liberties], it leaves the area of its expertise and forsakes its domain. The matter then becomes one for civilian courts to resolve . . . .” (footnote omitted)). ¶ And in the particular circumstances presented by Plaintiffs’ claims, Defendants’ “special factors” arguments ring particularly hollow. This is not a lawsuit that implicates real-time decisionmaking in war: Defendants’ decisions to authorize and direct the killings of the three deceased citizens have already been made; the intelligence Defendants relied upon in making those decisions has already been collected, evaluated, and acted upon; and the decisions have been publicly discussed and defended by Defendants and others in the government. See Compl. ¶¶ 32–33. If Defendants’ argument were correct, military defendants would never see the ink of a federal-pleading caption. Yet they regularly do, without any “profound implications on military effectiveness” or a notable “infus[ion of] . . . hesitation into the real-time, active-war decision-making of military officers,” Defs. Br. 26.28¶ Moreover, unlike other cases in which courts have dismissed Bivens claims, this lawsuit does not seek to delve into the “job risks and responsibilities of covert CIA agents” or “ongoing covert operations,” Wilson, 535 F.3d at 710 (quotation marks omitted).29 It does not seek to uncover future national-security plans. It is, instead, a suit of limited aim, asking the Court to determine whether Defendants acted in accordance with the Constitution when they took actions resulting in the deaths of three American citizens.30

#### Court review improves effectiveness---game theory proves

Tiberiu Dragu 13, Assistant Prof in the Dept of Politics at NYU, PhD in Poli Sci from Stanford University, and Oliver Board, associate in the Corporate Department of Wachtell, Lipton, Rosen & Katz, former Assistant Prof of Economics at the University of Pittsburgh, D.Phil. in Economics from the University of Oxford, J.D. from NYU School of Law, “On Judicial Review in a Separation of Powers System,” June 3 2013, https://files.nyu.edu/tcd224/public/papers/judicial.pdf

Our analysis has relevance for existing debates on the scope of judicial review in the context of terrorism prevention. The polemic whether drone strikes and other counterterrorism policies should be subjected to judicial oversight is framed as a tradeoff between the legal accountability benefits of judicial oversight and the public policy harms of reviewing expert counterterrorism policy by non-expert judges. But starting the debate on these terms already assumes that (non-expert) judicial review can only have a negative effect on (expert) governmental policy. As such, it glosses over the prior question of what is the effect of legal review on the information available for counterterrorism policy-making. To answer this question one needs to assess the counterfactual of how informed counterterrorism policy decisions are in the absence of judicial review as compared to the scenario in which a court can review the legality of those policies. Our game-theoretical analysis provides this counterfactual analysis, an otherwise difficult task to effect, and thus contributes to the current debates regarding the appropriateness of judicial review in the context of terrorism prevention. It suggests that judicial checks can lead to more informed counterterrorism policy-making if one considers the internal structure of the executive and the electoral incentives of the president, conditions which we discuss in more detail below.¶ First, the argument that judicial review of drone strikes, and counterterrorism policy more generally, has a detrimental effect on expert policy-making overlooks the internal ecology of the executive branch. When asserting the superior expertise of the executive branch, scholars and commentators treat the executive as a unitary actor, or perhaps consider its internal structure to be incidental to the expertise rationale for limiting judicial review. However, as the description of the drone policy suggests, there is a separation between expertise and policy-making: the president (and his closest advisers) decides on counterterrorism policy, while lower-level bureaucrats provide the expertise and intelligence to make informed decisions. This separation of expertise from policy-making is not unique to counterterrorism. Rather this is a general fact of modern-day government, and scholars of bureaucratic politics, going back to Max Weber, have attempted to unravel its myriad implications for democratic governance (Rourke 1976; Wilson 1991).¶ Second, the president, like all elected representatives, is a politician making choices under the pressure of re-election and public opinion, and such incentives are going to shape his counterterrorism choices. When it comes to the electoral incentives of public officials, scholars have noted that the political costs of not reacting aggressively enough in matters of terrorism prevention and national security are going to be higher than the costs of overreaction (Cole 2008; Fox and Stephenson 2011; Ignatieff 2004; Richardson 2006; Swire 2004). This observation implies that the president and other elected officials have an electoral bias to engage in counterterrorism policies that are more aggressive than what would be necessary on the basis of available information regarding the terrorist threat.36 Inside accounts of the decision-making process within executive branch (Goldsmith 2007), empirical analyses (Merolla and Zechmeister 2009), and newspaper reports,37 they all document such electoral incentives to appear tough on terrorism. The former Vice-President Dick Cheney forcefully depicts this electoral bias in his articulation of the so-called one percent doctrine, which states that if there was even a one percent chance of terrorists getting a weapon of mass destruction, then the executive must act as if it were a certainty (Suskind 2007). In Cheney's view, “it is not about analysis; it's about our response... making suspicion, not evidence, the new threshold for action."38 The run-up to the invasion in Iraq provides a stark illustration of the one percent doctrine in action, the conflict between intelligence officials and policy-makers, and the issue of politicized expertise in the context of national security (Pillar 2011).¶ Our results suggest that (non-expert) judicial review has the potential to induce more informed counterterrorism decisions when the president makes security policy under the veil of public expectations to respond forcefully to terrorist threats. Courts are not immune to public opinion, of course, but precisely because judges are not elected, they are more insulated from public opinion than elected officials. This implies that, all else equal, the courts are less likely to prefer counterterrorism measures that respond to public expectations to be tough on terrorism. Under these conditions,39 our theory suggests a mechanism by which counterterrorism policy-making with judicial oversight can be superior to counterterrorism policy-making without it, even if courts are relatively ill-equipped to review executive decisions. Judicial review can serve as a commitment device to better align the preferences of policymakers with their experts, with the effect of inducing more information for counterterrorism decisions. This observation is missing from current public and scholarly discussions about the role of judicial review in the context of drone strikes and other counterterrorism policies. As such, our analysis has policy implications for ongoing debates on how to design the institutional structure of liberal governments when the social objective is terrorism prevention.

#### Demonstrating legality is key to avoid foreign lawsuits

Philip Alston 11, John Norton Pomeroy Professor of Law at the NYU School of Law, former UN Special Rapporteur on extrajudicial, summary or arbitrary executions, “The CIA and Targeted Killings Beyond Borders,” 2011, 2 Harv. Nat'l Sec. J. 283, lexis

A more pragmatic reason is that judicial action against CIA personnel is certain to increase in the years ahead as the agency becomes more actively engaged at an operational level in targeted killings. The United States would be better placed to counter such actions if it could demonstrate that it is acting in compliance with the applicable international law.¶ Recent years have seen high-profile prosecutions in several countries in which the CIA has been operating. As noted above, Raymond Davis, a CIA official widely reported to have been involved in drone-based targeted killing operations, was accused in 2011 of two murders in Lahore. The United States indicated that diplomatic and other relations between the two countries would suffer greatly unless he was released. Although the local court system had insisted on proceeding to trial, blood money (diyya) was paid to the families of the two deceased and the case was closed, amid [\*440] allegations of coercion and bribery. n599 In 2007 courts in both Germany and Italy opened prosecutions against CIA agents. In Italy, an Egyptian cleric named Abu Omar was kidnapped on the streets of Milan, rendered to Egypt, and tortured and interrogated. Italian prosecutors charged 22 CIA officials. n600 In Germany, a Lebanese-born German national named Khaled el-Masri was seized in Macedonia and rendered to a CIA prison in Afghanistan where he was interrogated and tortured. Prosecutors issued arrest warrants for 13 CIA officers alleged to have been responsible. In both the German and Italian cases, United States diplomatic cables reveal strong and determined high-level lobbying by U.S. officials who warned their counterparts of extremely serious repercussions if the prosecutions went forward. In the German case, they were abandoned, n601 and in the Italian case the courts went ahead and convicted the CIA officers in absentia, but the Italian Government, responding to representations by the U.S. Secretary of Defense to the Italian Prime Minister, refrained from taking the steps necessary to pursue the convictions internationally. n602

#### The court would not ban drones---it would narrow imminence but recognize some strikes as legitimate [that’s Kwoka]

#### Drones don’t solve terrorism---scattering and new enemies outweigh the benefits

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

Yet the evidence that drones inhibit the operational latitude of terrorist groups and push them towards collapse is more ambiguous than these accounts suggest. 57 In Pakistan, the ranks of Al-Qaeda have been weakened significantly by drone strikes, but its members have hardly given up the fight. Hundreds of Al-Qaeda members have fled to battlefields in Yemen, Somalia, Iraq, Syria and elsewhere. 58 These operatives bring with them the skills, experience and weapons needed to turn these wars into fiercer, and perhaps longer-lasting, conflicts. 59 In other words, pressure from drone strikes may have scattered Al-Qaeda militants, but it does not neutralize them. Many Al-Qaeda members have joined forces with local insur - gent groups in Syria, Mali and elsewhere, thus deepening the conflicts in these states. 60 In other cases, drones have fuelled militant movements and reordered the alliances and positions of local combatants. Following the escalation of drone strikes in Yemen, the desire for revenge drove hundreds, if not thousands, of Yemeni tribesmen to join Al-Qaeda in the Arabian Peninsula (AQAP), as well as smaller, indigenous militant networks. 61 Even in Pakistan, where the drone strikes have weakened Al-Qaeda and some of its affiliated movements, they have not cleared the battlefield. In Pakistan, other Islamist groups have moved into the vacuum left by the absence of Al-Qaeda, and some of these groups, particularly the cluster of groups arrayed under the name Tehrik-i-Taliban Pakistan (TTP), now pose a greater threat to the Pakistani government than Al-Qaeda ever did. 62 Drone strikes have distinct political effects on the ecology of militant networks in these countries, leaving some armed groups in a better position while crippling others. It is this dynamic that has accounted for the US decision gradually to expand the list of groups targeted by drone strikes, often at the behest of Pakistan. Far from concentrating exclusively on Al-Qaeda, the US has begun to use drone strikes against Pakistan’s enemies, including the TTP, the Mullah Nazir group, the Haqqani network and other smaller Islamist groups. 63 The result is that the US has weakened its principal enemy, Al-Qaeda, but only at the cost of earning a new set of enemies, some of whom may find a way to strike back. 64 The cost of this expansion of targets came into view when the TTP inspired and trained Faisal Shahzad to launch his attack on Times Square. 65 Similarly, the TTP claimed to be involved, possibly with Al-Qaeda, in attacking a CIA outpost at Camp Chapman in the Khost region of Afghanistan on 30 December 2009.66

#### No nuclear terror

John J. Mearsheimer 14, R. Wendell Harrison Distinguished Service Professor of Political Science at the University of Chicago, “America Unhinged”, January 2, nationalinterest.org/article/america-unhinged-9639?page=show

Am I overlooking the obvious threat that strikes fear into the hearts of so many Americans, which is terrorism? Not at all. Sure, the United States has a terrorism problem. But it is a minor threat. There is no question we fell victim to a spectacular attack on September 11, but it did not cripple the United States in any meaningful way and another attack of that magnitude is highly unlikely in the foreseeable future. Indeed, there has not been a single instance over the past twelve years of a terrorist organization exploding a primitive bomb on American soil, much less striking a major blow. Terrorism—most of it arising from domestic groups—was a much bigger problem in the United States during the 1970s than it has been since the Twin Towers were toppled.¶ What about the possibility that a terrorist group might obtain a nuclear weapon? Such an occurrence would be a game changer, but the chances of that happening are virtually nil. No nuclear-armed state is going to supply terrorists with a nuclear weapon because it would have no control over how the recipients might use that weapon. Political turmoil in a nuclear-armed state could in theory allow terrorists to grab a loose nuclear weapon, but the United States already has detailed plans to deal with that highly unlikely contingency.¶ Terrorists might also try to acquire fissile material and build their own bomb. But that scenario is extremely unlikely as well: there are significant obstacles to getting enough material and even bigger obstacles to building a bomb and then delivering it. More generally, virtually every country has a profound interest in making sure no terrorist group acquires a nuclear weapon, because they cannot be sure they will not be the target of a nuclear attack, either by the terrorists or another country the terrorists strike. Nuclear terrorism, in short, is not a serious threat. And to the extent that we should worry about it, the main remedy is to encourage and help other states to place nuclear materials in highly secure custody.

#### Low-value targeting is counterproductive

Matthew Fricker 10, Lecturer of Political Science at UMass Dartmouth, and Avery Plaw, Associate Prof of Political Science at the University of Massachusetts at Dartmouth, “Sudden Justice? Evaluating the U.S. Predator Campaign in Pakistan,” <http://citation.allacademic.com//meta/p_mla_apa_research_citation/4/1/5/8/4/pages415840/p415840-25.php>

VII. The thrust of this paper has been that the Obama administration would be well- served to reconsider and reverse the acceleration and expansion of Predator drone campaign concentrated in the FATA, and concentrate on targeting the leaders of Al Qaeda and the Afghan and Pakistani Taliban. The first section showed that criticisms of the campaign as a whole were much exaggerated, especially in-so-far as it concentrated on senior leaders. The following six sections, however, offered reasons why the campaign should not be expanded to include low level Taliban fighters. Section II illustrated why such strikes would produce little impact by comparison with leadership strikes. Section III showed why expanding the range of targets is likely to prove counter- productive in terms of instigating increased international and local opposition. Section IV showed how the expanded campaign is likely to weaken to Pakistani civilian government while Section V demonstrates why that weakening is likely to undermine U.S. strategic objectives. Finally, Section VI indicated how the expanded campaign would interfere with other key strategic programs in the region. In short, while a focused campaign has been and will continue to be highly successful, the Obama administration should resist the temptation to massively intensify and expand the program, because the attacks will prove ineffective and the strategy massively counterproductive. It would be wisest to avoid a drone creep.

#### Pak card doesn’t answer legitimacy

#### Yemen card doesn’t answer our postdating uniqueness

### St Secrets

#### Congressional safeguards solve the link

Zach Rausnitz 13, Editor in the Government Publishing Group at FierceMarkets, 2/28/13, “Killings by police may offer framework for drone strikes,” http://www.fiercehomelandsecurity.com/story/killings-police-may-offer-framework-drone-strikes/2013-02-28

Stephen Vladeck, a law professor at American University, made a similar comparison. "To my mind, the only answer to the hard questions raised by targeted killings are for Congress to allow courts to intervene not beforehand, but afterwards, just as courts do when our law enforcement officers use lethal force," he said.¶ It wouldn't work to have a court approve of targeted killings in advance because the killings are only supposed to target imminent threats, he argued, saying that would be like forcing police officers to get a warrant before they use lethal force to defend themselves or others.¶ But he said lawmakers could devise a system where courts consider after-the-fact damages claimed by family members of the subjects of targeted killings. Congress could lay out procedures to ensure that state secrets are protected, as it did with the Classified Information Procedures Act, enacted in 1980.¶ A version of that approach used for Guantanamo Bay court cases has worked, Vladeck said. "The model for that is not to allow the individual litigants to always see the evidence, but to have security-cleared counsel, who so far as we know have to date not disclosed a single item of classified information," he said.

#### Courts don’t leak, but the executive does

D.A. Jeremy Telman 12 Associate Dean for Faculty Development and Professor of Law at Valparaiso University Law School, PhD from Cornell, 2/24/2012, “INTOLERABLE ABUSES:RENDITION FOR TORTURE AND THE STATE SECRETS PRIVILEGE,” Alabama Law Review Vol 63:3:429, http://www.law.ua.edu/pubs/lrarticles/Volume%2063/Issue%203/Telman.pdf

Moreover, in Tilden, neither the court, nor any other sources that I have been able to locate cite to a single example of a court being the source of a national security leak. Such leaks are much more likely to come from the Executive or Legislative Branch, as Wikileaks has now demonstrated.417 An argument can be made that courts are far better guardians of national security information than are either the Legislative418 or the Executive Branches.419¶ \*\*\*TO FOOTNOTES\*\*\*¶ 419. In the aftermath of the outing of Valerie Plame Wilson as a CIA agent, there was some discussion of the extent of leaks of such sensitive information by the Executive Branch. The consensus quickly emerged that there was no workable mechanism for controlling such leaks because they were often authorized by the persons responsible for the original classification of the information. See William E. Lee, Deep Background: Journalists, Sources, and the Perils of Leaking, 57 AM. U. L.REV. 1453, 1470 (2008) (observing that previous investigations into leaks of classified information by the Executive Branch often resulted in the discovery that the leaks were authorized by a White House or cabinet official).

#### Leaks inevitable

Andrea Peterson 13, Tech Reporter for ThinkProgress, June 25 2013, “How Technology Makes More Leaks Inevitable,” http://thinkprogress.org/justice/2013/06/25/2199391/tech-leaks-inevitable/

This week’s massive game of “Where In The World Is Edward Snowden?” may soon be a common occurrence, thanks to new technologies that make more leaks and more leak prosecutions virtually inevitable. Snowden is the eighth person the Obama administration has pursued for leaking information under the Espionage Act of 1917 — more than double the number charged by all previous administrations combined — and it is likely that America is on an unstoppable trajectory towards more and more leak prosecutions in future presidencies.¶ Certainly, the sheer increase in the amount of potentially leakable data is a part of this conversation: According to IBM, the world creates 2.5 quintillion bytes of data everyday and that pace means that ninety percent of the data that has ever existed was created within the last two years. And governments are adapting to this new reality.¶ Thanks to Snowden’s leaks, we now know that the National Security Agency (NSA) has been siphoning up call records and sniffing through internet data. And according to one 2007 Department of Defense report, the Pentagon is trying to expand its worldwide communications network to handle yottabytes of data with the Utah NSA data center being key to achieving that goal. A yottabyte is equal to about 500,000,000,000,000,000,000 pages of text. Yes, that is the correct number of zeros.¶ As a result of the expansion of the national security apparatus in general and the amount of intelligence that apparatus must sift through, there are now more than 4.9 million people with security clearance. That includes roughly 483,000 contractors with top secret clearance, like Snowden. Indirectly, this means that the expansion of government surveillance operations and the technological innovations driving that expansion have led to more and more people having access to the kind of documents that could result in a major intelligence leak.¶ Similarly, with digital storage it’s no longer a matter of sneaking out folders or filing cabinets worth of documents to expose a full extent of a program with national security and civil liberty implications. Now you just need a flash drive — or in the alleged case of Bradley Manning, a disc that appears to be a burnt Lady Gaga CD.

#### Their only link example is wrong

Richard B. Zabel 8, Partner at Akin Gump Strauss Hauer & Feld LLP, former Assistant U.S. Attorney for the Southern District of New York, and James J. Benjamin, Jr., Partner at Akin Gump Strauss Hauer & Feld LLP, former federal prosecutor in the U.S. Attorney’s Office for the Southern District of New York, May 2008, “In Pursuit of Justice: Prosecuting Terrorism Cases in the Federal Courts,” https://www.humanrightsfirst.org/wp-content/uploads/pdf/080521-USLS-pursuit-justice.pdf

Criticizing CIPA from the other end of the spectrum, proponents of a national security court or military tribunal for terrorism defendants claim that CIPA does not provide enough protection for sensitive information related to national security. See, e.g., Andrew C. McCarthy & Alykhan Velshi, We Need a National Security Court (July 16, 2007) (unpublished manuscript, on file with the Foundation for Defense of Democracies).271 It is true that, like any rule of law or procedure, CIPA is not foolproof and security breaches may sometimes occur. However, based on the public record, we are not aware of any important security breach in any terrorism case in which CIPA has been invoked. It has been reported that a breach occurred during trial of Sheikh Omar Abdel Rahman in Manhattan in the 1990s, when the government turned over to the defense a list of some 200 names of people, including Osama bin Laden, and entities who were alleged to be unindicted co-conspirators. See 9/11 Commission Report, at 427 n.8; McCarthy & Velshi, We Need a National Security Court, at fn.19; see also Michael B. Mukasey, Op-Ed., Jose Padilla Makes Bad Law, Wall St. J., Aug. 22, 2007, at A15.272 The reports claim that the list eventually reached Bin Laden in Khartoum, alerting him to the fact that his connection to the case had been discovered. See McCarthy & Velshi, We Need a National Security Court, at fn.19.273 However, in that case, it is our understanding that the government did not seek to invoke CIPA or other protections regarding the names on the list of unindicted coconspirators. Had the government sought a court order restricting dissemination of the list, perhaps it would not have been disseminated to Bin Laden. In fact, in later terrorism cases, such as the Embassy Bombings case, protective orders have been employed to restrict the dissemination of sensitive materials. See Protective Order, United States v. elHage, No. 98-cr-001023 (S.D.N.Y. Dec. 17, 1998) (Dkt. No. 27).274

#### Plan k2 power pprojec

Audrey Cronin 13, Distinguished Service Professor at the School of Public Policy, George Mason University, DPhil in IR from Oxford, “Why Drones Fail,” Foreign Affairs Vol 92 Issue 4, July/Aug 2013, ebsco

In this environment, it is understandable that Americans and the politicians they elect are drawn to drone strikes. But as with the fight against al Qaeda and the conservation of enemies, drones are undermining U.S. strategic goals as much as they are advancing them. For starters, devoting a large percentage of U.S. military and intelligence resources to the drone campaign carries an opportunity cost. The U.S. Air Force trained 350 drone pilots in 2011, compared with only 250 conventional fighter and bomber pilots trained that year. There are 16 drone operating and training sites across the United States, and a 17th is being planned. There are also 12 U.S. drone bases stationed abroad, often in politically sensitive areas. In an era of austerity, spending more time and money on drones means spending less on other capabilities -- and drones are not well suited for certain emerging threats.¶ Very easy to shoot down, drones require clear airspace in which to operate and would be nearly useless against enemies such as Iran or North Korea. They also rely on cyber-connections that are increasingly vulnerable. Take into account their high crash rates and extensive maintenance requirements, and drones start to look not much more cost effective than conventional aircraft.

#### Heg not key to peace

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

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

### Climate (impact d)

No extinction from climate change

NIPCC 11 – the Nongovernmental International Panel on Climate Change, an international panel of nongovernment scientists and scholars, March 8, 2011, “Surviving the Unprecedented Climate Change of the IPCC,” online: http://www.nipccreport.org/articles/2011/mar/8mar2011a5.html

In a paper published in Systematics and Biodiversity, Willis et al. (2010) consider the IPCC (2007) "predicted climatic changes for the next century" -- i.e., their contentions that "global temperatures will increase by 2-4°C and possibly beyond, sea levels will rise (~1 m ± 0.5 m), and atmospheric CO2 will increase by up to 1000 ppm" -- noting that it is "widely suggested that the magnitude and rate of these changes will result in many plants and animals going extinct," citing studies that suggest that "within the next century, over 35% of some biota will have gone extinct (Thomas et al., 2004; Solomon et al., 2007) and there will be extensive die-back of the tropical rainforest due to climate change (e.g. Huntingford et al., 2008)."

On the other hand, they indicate that some biologists and climatologists have pointed out that "many of the predicted increases in climate have happened before, in terms of both magnitude and rate of change (e.g. Royer, 2008; Zachos et al., 2008), and yet biotic communities have remained remarkably resilient (Mayle and Power, 2008) and in some cases thrived (Svenning and Condit, 2008)." But they report that those who mention these things are often "placed in the 'climate-change denier' category," although the purpose for pointing out these facts is simply to present "a sound scientific basis for understanding biotic responses to the magnitudes and rates of climate change predicted for the future through using the vast data resource that we can exploit in fossil records."

Going on to do just that, Willis et al. focus on "intervals in time in the fossil record when atmospheric CO2 concentrations increased up to 1200 ppm, temperatures in mid- to high-latitudes increased by greater than 4°C within 60 years, and sea levels rose by up to 3 m higher than present," describing studies of past biotic responses that indicate "the scale and impact of the magnitude and rate of such climate changes on biodiversity." And what emerges from those studies, as they describe it, "is evidence for rapid community turnover, migrations, development of novel ecosystems and thresholds from one stable ecosystem state to another." And, most importantly in this regard, they report "there is very little evidence for broad-scale extinctions due to a warming world."

In concluding, the Norwegian, Swedish and UK researchers say that "based on such evidence we urge some caution in assuming broad-scale extinctions of species will occur due solely to climate changes of the magnitude and rate predicted for the next century," reiterating that "the fossil record indicates remarkable biotic resilience to wide amplitude fluctuations in climate."

#### No link---plan isn’t a court striking down political question doctrine, it’s congress abrogating political question for only targeted killing---no reason that sets a precedent---this wouldn’t be a political question post-plan

#### Ex post doesn’t violate PQD

Paul Taylor 13, is a Senior Fellow, Center for Policy & Research. Focus on national security policy, international relations, targeted killings, and drone operations. March 23rd, 2013, “Former DOD Lawyer Frowns on Drone Court,” http://centerforpolicyandresearch.com/2013/03/23/former-dod-lawyer-frowns-on-drone-court/

Johnson also raised a very significant separation of powers concern. While the President’s duties and powers are not well enumerated in the Constitution, one thing is made clear: the President is the Commander in Chief of the Armed Forces. According to Johnson, the President therefore cannot abdicate his responsibilities as Commander in Chief to another branch of the government, nor can Congress remove those powers to itself or the Judiciary. While this is not an entirely settled question of law (note the War Powers Act and Congress’ power of the purse strings), it can be easily avoided by conducting the review ex post. After all, ex post review of the execution of nearly any of the President’s powers is fully within the authorities of the Judicial Branch. Johnson also notes that any requirement for ex ante review of a national security issue will require an exception for exigent circumstances. Johnson asks, “is it therefore worth it?” Without coming to a conclusion on this question, ex post review would obviate the concern. No exigent circumstances can occur after the the [sic] deed is done.

#### Ruling on war powers doesn’t affect PQD because it’s justified based on legal voids---and it prevents future judicial meddling---Boumediene proves

Lawyer Kristen L. Richer 11, graduated from University of California, Santa Barbara, B.A., 2006, Order of the Coif, Florence Allen Scholar New York University School of Law, J.D., 2010, Senior Notes Editor, New York University Law Review, is now employed by Patterson Belknap Webb & Tyler LLP, March 14th, 2011, "The Functional Political Question Doctrine and the Justiciability of Employee Tort Suits Against Military Service Contractors," New York University Law Review, Vol. 85, No. 2, 2010

B. The Legal Void Inquiry¶ As part of the political question analysis, courts analyze a matter to determine whether there is a regulatory gap that requires judicial intervention, that is, a legal void. A legal void might occur in one of two manners. The first occurs where the political branches have failed to regulate, whether through inadvertent omission or intentional design.38 In such instances, courts will step in to establish the rule of law. The second way, far more common, occurs where a coordinate branch has regulated a field, but courts find that regulation unconstitutional because it inadequately protects the relevant constitutional interests at stake or because it is beyond the scope of permissible regulation by that branch.¶ Often such inadequate regulation is present when the coordinate branches have perverse incentives to under-regulate or they are ill equipped to impose structural limitations. In these instances, judicial review serves two purposes. First, it can impose substantive standards that accord with constitutional requirements. Second, and more importantly, it can police the outer bounds of political power, thereby realigning the coordinate branches’ incentives to regulate according to constitutional standards and, in the long term, lessening the need for judicial review.¶ Consider, as an example, Justice Brennan’s majority opinion in Baker. The Tennessee apportionment scheme presented a canonical example of a legal void. Because the case involved the apportionment of legislative districts, a process crucial to the functioning of political elections, abstention would have left the issue in the hands of the Tennessee legislature, which had every incentive to gerrymander and disenfranchise certain populations in order to ensure its own reelection. The citizens dissatisfied with the system were sufficiently disenfranchised that neither an election nor an attempt at a constitutional amendment would afford any means of political remedy.39 While a formal or narrow institutional capacity–focused approach would have acknowledged that a political branch was better equipped to handle the matter, the Court recognized based on a functional analysis that a judicial remedy was a necessary structural check on the enforcement of constitutional voting interests under the Equal Protection Clause.40 To put it differently, concerns about manageability and standard setting aside, the Court held that prudence dictated that the judiciary intervene because it was the only branch with the proper incentives to do so. Thus, to Justice Brennan, functional concerns regarding the structural maintenance of the separation of powers and the system of checks and balances trumped concerns regarding the court’s institutional capacity to decide the matter.¶ Two more recent instances of the Court’s taking the Legal Void approach are the controversial decisions in Bush v. Gore41 and Boumediene v. Bush.42 Both cases present compelling examples of the sort of logistical manageability problems that could have implicated the Baker factors and barred justiciability. Yet, in both instances, the Court found no political question, recognizing the presence of a legal void and the need for judicial cure.¶ The Court’s 2000 decision in Bush v. Gore was shocking for many, largely because of what was at stake: the presidential election.43 The Court’s decision, which held that the Florida Supreme Court’s order to recount ballots was a violation of the Equal Protection Clause, decided the election in favor of George W. Bush and in so doing ignited academic debate across the country. Liberals wondered whether the Equal Protection Clause supported such a reading and whether the Court had any business involving itself in a case so fraught with politics.44 Many argued that Bush v. Gore was a classic instance in which formal delegation and functional concerns as to manageability and institutional capacity counseled against judicial intervention.45 A closer look, however, reveals that the Court’s actions can be more appropriately understood as an application of the Legal Void Inquiry.¶ Many acknowledged that there was a pressing need for some resolution of the election, whatever the outcome.46 For over a month, tensions had run high as the election stalled and the nation awaited announcement of its new president. Resolution from within the political branches was arguably unattainable, with Congress and the nation split so clearly along political lines. With the political branches at a standstill, only the Court was positioned to act quickly to resolve a political, structural defect that was paralyzing the nation and drawing increased attention in the international community.47 It was due to these circumstances that prudence gave way to necessity, and the Legal Void Inquiry model governed.¶ Seven years later, the Court again allowed necessity to overcome the Baker factors, filling the void left when Congress and the Executive failed to regulate adequately detainee treatment at Guantanamo Bay. In Boumediene v. Bush, the Court ruled that limiting detainees’ process to military commissions was a constitutionally inadequate alternative to the writ of habeas corpus, and that, as a result, access to the federal courts could not be denied.48 In doing so, the Court bypassed the functional considerations regarding manageability that might otherwise have militated against judicial involvement. The case was notable on two fronts. First, the fact that detainee treatment is so closely tied to the exercise of military discretion would normally have dictated judicial abstention in recognition of the coordinate branches’ superior expertise in the realm of military affairs and national security.49 Second, Congress had made it abundantly clear in the years preceding Boumediene that it did not want the judiciary involved in such determinations. Congress attempted to strip the Court of jurisdiction over detainees’ habeas claims through the Detainee Treatment Act of 200550 and the Military Commission Act of 2006.51 Indeed, it was only in the wake of a barrage of reports and testimony regarding the failings of the military commission system that Congress had set up as an alternative to habeas review that the Court acted.52 Boumediene presented the Court with a legal void— one that Congress and the Executive had intentionally created to evade Article III judicial review.53 In reasserting its power, the Court acted to ensure individual rights and to impose a structural check on the coordinate branches.**¶** In the wake of Bush v. Gore and Boumediene, many wondered whether the existence of a legal void was all the Court needed to decline review under the political question doctrine. In each case, the Court’s decision to grant review left unclear whether concerns about institutional capacity held any weight in the inquiry.54

#### Plan solves Central Asia stability

Alexander Cooley 12, Prof of Poli Sci at Barnett College, PhD in Poli Sci from Columbia University, “Great Games, Local Rules: The New Power Contest in Central Asia,” p 48-49, google books

The increase in U.S. forces in Afghanistan in 2010 under the United States’ surge strategy also increased the importance of NDN and all of the Central Asian logistical partnerships cultivated by the U.S. military.81 But growing dependency on the network also appears to be empowering Central Asian elites to drive harder bargains and ratchet up political and economic demands. Politically, the Uzbek governments has been using its critical role in the NDN to push back against criticism of its human rights record. In a leaked cable from March 2009, U.S. Ambassador Richard Norland described how President Karimov gave him a “tongue-lashing” when broaching the topic of human rights and then implicitly threatened to suspend cooperation on NDN transit.82 Economically, the Uzbek government twice increased transit fees for goods bound for Afghanistan in 2010, while in February 2011 Tashkent announced a “significant” hike in NDN tariffs.83¶ On September 22, 2011, the U.S. Senate Committee on Appropriations approved a waiver to lift restrictions, in place since 2004, on providing U.S. military assistance to Uzbekistan. The DOD and diplomats engaged in NDN negotations had long sought for the waiver, which appeared to be yet another concession made to Tashkent to obtain its cooperation on security matters. Tellingly, the Senate made the waiver contingent on the DOD providing reports on how Pentagon funds were being spent on NDN contracts, though these reports will be classified.84 The Senate report on the foreign aid bill included the statement, “The committee is concerned with reports of pervasive corruption [in] Uzbekistan and therefore expects to be informed of public and private entities that receive support, directly or indirectly, from United States Government funds used to pay the costs of Northern Distribution Network supply routes through that country.”¶ The rent seeking, hard bargaining, and allegations of corruption that have accompanied NDN expansion have created some inescapable paradoxes about U.S. policy in Central Asia that conflict with the U.S. mission in neighboring Afghanistan. On the one hand, most U.S. planners acknowledge that the greatest obstacle to building an effective and legitimate state in Afghanistan is the problem of corruption that continues to erode the legitimacy of the Karzai government and its political allies. At the same time, behind the scenes in neighboring Central Asia, the deals established by the NDN seem to be doling out private economic benefits and lucrative contracts to the Central Asian regimes to maintain their cooperation. Just as the United States has had to juggle its strategic interests and values agenda with respect to Central Asia’s promotion of democracy and human rights, it seems that maintaining U.S. operations in Afghanistan necessitates tolerating and actively contributing to Central Asia’s corruption and governance problems.

#### Nuclear war

Peimani 2 - Head of Energy Security and Geopolitics @ the Energy Studies Institute (Dr. Hooman, “Failed Transition and Bleak Future? War and Instability in Central Asia and the Caucasus,” Book, <http://www.questia.com/PM.qst?a=o&d=101331065>

If the existing negative trend continues, the entire Caucasus and Central Asia will likely head toward long-term tension and instability. The first and foremost victims of this undesirable future will obviously be the three Caucasian and five CA countries. Yet, this bleak future will also have major implications for a number of regional (Iran, China, Turkey, and Russia) and nonregional (United States) powers with long-term interests in the two regions most of which share borders with them. The deteriorating situation will create a suitable ground for the emergence and growth of political extremism among the peoples of the Caucasus and Central Asia, who are mostly dissatisfied with the status quo. These frustrated and disenchanted peoples will likely find the extremist political ideologies and programs more appealing and more convincing than those of their discredited rulers. The latter’s legitimacy is being questioned by a growing number of their nationals for a wide range of reasons, including incompetence, rampant corruption, and an antidemocratic style of government. ¶ In response to the rising internal threat, the ruling elites will likely resort to nationalism. In particular, they might promote extreme forms of nationalism, including chauvinism, as experienced in many other countries in different continents confronting the same situation. Creating an appealing alternative to that of the opposition extremist groups aimed at the dissatisfied people will be one of its major objectives. Extreme nationalism will be very attractive for the youth—the social stratum most vulnerable to extremist ideologies and the main targets of extremist groups. The ruling elites might also find their resort to extreme nationalism necessary for the sake of consolidating their challenged power apparatus. In this case, they could seek to manipulate the nationalist sentiment of their peoples as a means to increase their legitimacy and strengthen their social basis of support. However, using the nationalist card will have a negative backlash, with weakening and destabilizing effects on its users. Extreme nationalism could, and will likely, provoke ethnic conflicts within the multiethnic Caucasian and CA countries. It could therefore lead to civil wars. Moreover, it could spread fear in the neighboring countries. They might feel threatened by the surge of nationalism in their vicinity, which could easily take the form of expansionism in the Caucasian and CA countries characterized with territorial and border disputes. ¶ In addition to various external influences, many internal social, economic, and political factors will determine in what form and to what extent instability will surface in each Caucasian and CA country. Needless to say, based on the specific situation in each country there will be differences in its shape and in the extent of its initial emergence. Regardless of these differences, the logical and predictable outcome of the current trend will likely be instability in the form of civil, interstate, and regional wars in the Caucasus and Central Asia. The existence of unsettled, although currently inactive, violent conflicts (i.e., independence movements and civil wars) in these two regions have left no doubt about the feasibility of this scenario. To this list, one should also add the existence of many ethnic grievances and territorial and border disagreements, which will likely create a suitable ground for the instigation of new ethnic conflicts and territorial disputes in violent forms. For a number of reasons, there is a great possibility that many of them could escalate to civil wars and interstate wars, respectively. Among other factors, the ethnic makeup of the Caucasus and Central Asia and the existence of many sources of conflict between their regional states will pave the way for their further escalation to the level of regional wars, despite the intention of their initiators. ¶ The presence of certain regional (Iran, China, Turkey, and Russia) and nonregional (United States) powers with long-term interests in the two regions will have a certain impact on the development of the scenarios mentioned above and will likely contribute to the extent, intensity, and duration of wars of various forms. In particular, the presence of these powers will increase the possibility of their intentional or unintentional involvement in those wars in support of one side or another, while preserving their interests. Depending on the situation, whether this involvement takes a direct or indirect form will be determined by many factors, including the importance of the affected Caucasian or CA countries for each of the five states and the latter’s political, economic, and military capabilities. These factors also include the geographical realities, which, depending on the case, facilitate or impede their access to the affected countries, and the overall political environment in Central Asia and the Caucasus. The latter determines whether a foreign intervention in whatever form can take place at all. The possibility of some or all of the five states being dragged into any future military conflict will therefore strengthen the potential for the escalation and expansion of military conflicts in either of the two regions. War and instability in these energy-producing regions bordering regional and global powers with strong conventional military and/or nuclear capabilities will have long-term political, economic, and security implications. They will not be confined only to the countries directly involved in any future regional military conflict. In one way or another, they could affect the stability of the Caucasus and Central Asia as well as that of the Asian and/or European regions in their proximity. As a result, wars in whatever form in those two regions could escalate and affect the stability of the international system and global peace.

### DA---Farm Bill

#### Economic decline doesn’t cause war

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

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

#### Impact non-unique---US demand is still low and unemployment is still high---they haven’t read “recovery now” evidence

#### US not key to global

Peter Passell 12, Economics Editor of Foreign Policy’s Democracy Lab, Senior Fellow at the Milken Institute, 4/4/12, “Decoupling: Ties that No Longer Bind,” http://www.foreignpolicy.com/articles/2012/04/03/ties\_that\_no\_longer\_bind?print=yes&hidecomments=yes&page=full

Everybody knows that the global economy is becoming more tightly integrated -- that factors ranging from the collapse of ocean shipping costs, to the rise of multinational manufacturing, to the growth of truly international securities markets, have bound national economies to each other as never before. This, of course, must mean we're now all in it together. Booms and busts in rich countries will reverberate ever more strongly through developing and emerging market economies. Right? ¶ Sounds reasonable, but that's not what's happened. The big emerging market economies (notably, China, India and Brazil) took only modest hits from the housing finance bubble and subsequent recession in the U.S., Japan and Europe, then went back to growth-as-usual. ¶ Hence the paradox: Emerging-market and developing countries have somehow "decoupled" from the Western business cycle in an era of ever-increasing economic integration. But the experts have yet to agree on why. Here are the two contending explanations:

#### Not intrinsic---a logical policymaker could both do the plan and raise the debt ceiling---logical decision-making is a key portable skill

#### Plan key to the economy

Nathaniel Sheppard 11, correspondent for the Chicago Tribune and NYT, June 7 2011, “Why pint-sized Yemen has become a world player,” http://www.alarabiya.net/articles/2011/06/07/152204.html

That Yemen could fall into the abyss is of great geopolitical significance that has put the bean-size nation at center stage. About 11 percent of the world’s seaborne petroleum passes through the Gulf of Aden en route to the Suez Canal, regional refineries and points west. ¶ It is not the largest shipment by far but enough that disruptions in transit could spook world markets and set off a new spiral of inflation as the world tries to recover from four years of economic distress.¶ Yemen occupies the southwestern and southern end of the Arabian Peninsula. It is bordered by Saudi Arabia to the north, the Red Sea to the west and Oman to the east. ¶ West bound oil must transit the Gulf of Aden and Bab el Mandab, a narrow strait that passes between Yemen and Djibouti then past the pirates’ paradise, Somalia before reaching open water. It is one of seven strategic world oil shipping chokepoints. ¶ Moreover, the area may contain significant untapped oil reserves, more reason for US concern since Saudi reserves may be diminishing and America is doing little to wean itself from fossil fuel.¶ Should Yemen polity fall apart, the country would be up for grabs. One of the grabbing hands would be that of Al Qaeda in the Arabian Peninsula, one of the most notorious of Al Qaeda offshoots. Even before Osama Bin Laden was killed and his body dumped into the sea at the beginning of May, the Al Qaeda leader and best known symbol of world terror had lost control of Yemen’s Al Qaeda warriors. They marched to their own drum.¶ Able to operate freely in this poorest of poor, barely managed country with rugged, unforgiving terrain, Yemen’s Al Qaeda has been able to mount several attacks on the US from here. First there was the suicide bombing of the naval destroyer USS Cole while it refueled at the Yemeni port of Aden. Seventeen seamen were killed¶ Subsequent attacks launched from here included the failed Christmas Day bomb plot in 2009 and the parcel bomb plot of 2010, which also failed. ¶ In 2009, Nasir Al Wuhayshi, an Al Qaeda commander who trained under Bin Laden in Afghanistan and served as his secretary, announced the consolidation of Al Qaeda forces in the region as Al Qaeda in the Arabian Peninsula, under his command.¶ The US went after Al Qaeda elements in the region that same year but in lawless Somalia with disastrous consequences.¶ Commander Wuhayshi pledged to take jihad from the Arabian Peninsula to Israel, striking at Muslim leaders he decreed “criminal tyrants,” along the way, such as the Saudi royal, family, Yemen’s President Ali Abdullah Saleh and recently deposed Egyptian President Hosni Mubarak. ¶ Once in Israel he would “liberate” Gaza and Muslim holy sites such as Haram Ash-Sharif, known by Jews as Temple Mount, the holiest of sites in the Old City of Jerusalem. It was here that God chose the Divine Presence to rest; from which the world we know expanded; and that God gathered the dust to make man.¶ US Navy SEALs would love to meet Mr. Wuhayshi to discuss diabolical ambitions for any serious attempt to carry out his apocalyptic quest most certainly would plunge the world into war of world proportions. His agenda and the passion and persistence with which he and his followers pursue it are a reason for stepped up US engagement in Yemen.¶ Before the current uptick in violence as disparate forces seek to send President Saleh packing for good, the long reigning strongman had begun to cooperate with the US counter terrorism efforts in the region, obliging with a series of air strikes and ground assaults on suspected Al Qaeda targets in Yemen. That cooperation may now be in tatters and Mr. Wuhayshi stands to gain ground.¶ The US’ waltz with the strongman was not by choice. While Mr. Saleh’s cooperation was probably more to save his utterly corrupt regime, he was viewed by the US as the lesser of evils in Yemen. The attitude toward President Saleh was the same as toward Panamanian strongman Gen. Manuel Noriega, another US criminal client: “He may be an SOB but he’s our SOB.’’ ¶ With a bigger footprint and wider control in Yemen in the absence of a strong central authority, outright land grabs and possible alliances with Somalia warlords, it would be as if Al Qaeda had found its Holy Grail, a potential for disrupting the flow of oil to the west, and what it views as the devil incarnate, the US. ¶ Ships transiting the area already find the waters treacherous. Now it stands to get worse. They are frequently targeted by pirates from Somalia who kill or demand large ransoms if they are able to successfully board cargo-carrying vessels. Oil tankers are like crown jewels.¶ International forces, including the US, have treated the Somali pirates like flies at a picnic, swatting them away unscathed most of the time and sometimes killing them, but not enough times to make their confederates think about new careers. ¶ Hijacking or blowing up oil tankers and messing with the oil that powers the world is a different matter altogether. There is too much at stake to leave it to Yemen to handle its own affairs but overt meddling from the West would be unwelcome in the region.¶ No Western or Asian oil dependent nation would relish the idea of invading a Muslim nation at a time of such tensions with Muslims. The US is particularly reluctant, having already done so twice in Iraq and Afghanistan.¶ Oil is oil however. While it might not matter to Muslim fundamentalists who want to turn the hands of time back to the 17th century, oil dependent nations would not sit by idly while an already fractured world economy worsened. The situation would get ugly.¶ Thus the tail wags the dog, the pint-sized nation that offers so little has forced the powerful behemoths to consider so much, like their limited options for doing anything about frightening events unfolding before their eyes.

#### Farm bill won’t actually include Brazilian cotton payments – can’t solve the impact

Mark S. Langevin, PhD, dir. BrazilWorks, 12-30-2013, “Not too late to fix the farm bill and avoid trade retaliation,” The Hill, http://thehill.com/blogs/congress-blog/foreign-policy/194071-not-too-late-to-fix-the-farm-bill-and-avoid-trade

Congress finally seems on track to approve a farm bill in early 2014, but without offering a solution to the decade-old World Trade Organization (WTO) case that ruled U.S. cotton subsidies and export credits illegal. The subsidies, including government financed crop insurance, make Obamacare seem like a box of cheap band-aids. Yet, over the past decade these subsidies have cost hundreds of millions of dollars in lost revenue to Brazilian cotton growers. In 2009 the World Trade Organization appellate panel ruled that U.S. cotton subsidies and export credit programs distort and depress world cotton prices. The ruling authorized over $800 million in retaliatory cross measures, including intellectual property. In 2010 the Brazilian government agreed to suspend retaliation to provide the U.S. more time to pass a farm bill compliant with the WTO ruling while the U.S. government agreed to pay Brazilian farmers compensation for their losses during the interim. This bilateral accord was working well until the U.S. Department of Agriculture stopped payments in October of 2013 right in the midst of Brazilian President Dilma Rousseff’s decision to cancel her State visit to Washington after allegations that the National Security Agency was tapping her telephone. Today, bilateral relations are on the rocks just as the farm bill conference committee promises to move backwards by sweeping the WTO cotton dispute ruling under the rug. Indeed, Rep. Michael Conaway (R-Texas), head of the House Agricultural Subcommittee on Commodities, warned in his opening statement to the farm bill conference committee in late October, “waiting for a green light from Brazil is a fool’s errand.” Unfortunately, Conaway and many of his colleagues miss the point; failure to comply will degrade relations with one of the most important nation-states in the world today and undermine U.S. credibility in trade negotiations. Writing in The Hill's Congress blog in 2012, Burleigh Leonard reported that congressional refusal to comply with the WTO cotton dispute ruling would “invite retaliation from Brazil. Movie producers, record labels, book publishers, pharmaceutical companies, and the biotech industry will pay the price for Congressional intransigence — a price that will only increase with the proliferation of cross-retaliation in future trade disputes.”

#### We’ve got time – Brazil is still postponing retaliation

USAgNet, 1-3-2014, “Brazil Postpones Retaliation Decision in Cotton Case,” Wisconsin Ag Connection, http://www.wisconsinagconnection.com/story-national.php?Id=15&yr=2014

The Brazilian government announced last week that they will postpone their decision on whether or not to impose trade retaliation against certain U.S. exports, possibly including wheat, in a long-running dispute over U.S. cotton subsidies until February 28. Brazilian officials stated they wanted to give the U.S. more time to act to either make the necessary payments or to pass a new farm bill that would comply with the World Trade Organization's rules on subsidies.

#### Unemployment pounds the DA

David Jackson 1/7, "Obama's day: Pushing unemployment benefits", 2014, www.usatoday.com/story/theoval/2014/01/07/obama-unemployment-insurance-extension-senate-vote/4352303/

President Obama spends Tuesday on the first political fight of 2014 with congressional Republicans, a proposed extension of unemployment benefits.¶ Obama will discuss the issue at a late morning event that includes people who saw their jobless insurance lapse at the turn of the year.¶ "The president will talk about the toll that allowing these benefits to expire has had on 1.3 million Americans, and he'll warn of the negative consequences for the broader economy if Congress fails to act quickly on this urgent priority," the White House says.¶ Obama's speech comes after a key Senate vote on a proposed extension, and its prospects are uncertain.¶ Senate Republicans may block a final vote on the proposal, saying that a renewal of jobless benefits should be offset by cuts in other parts of the budget. That is also the position of the leadership in the Republican-run House.¶ "Spending $6.5 billion in three months without trying to find ways to pay for it, or improve the underlying policy, is irresponsible and takes us in the wrong direction," said Sen. Bob Corker, R-Tenn.

#### So do sanctions

Kahl, 12/31**/13 -** Colin H. Kahl is an associate professor in Georgetown University’s Edmund A. Walsh School of Foreign Service and a senior fellow and director of the Middle East Security Program at the Center for a New American Security. From 2009 to 2011, he was the Deputy Assistant Secretary of Defense for the Middle East (“The Danger of New Iran Sanctions” The National Interest,<http://nationalinterest.org/commentary/the-danger-new-iran-sanctions-9651>

The Geneva “interim” agreement reached in November between Iran and the so-called P5+1 (the United States, Britain, China, France, Germany, and Russia) freezes Tehran’s nuclear program in exchange for modest sanctions relief, with the goal of enabling further talks to comprehensively resolve one of the world's thorniest challenges. Yet despite the landmark accord, more than two dozen Senators introduced legislation on December 19 to impose new oil and financial sanctions on Iran. The Senate could vote on the measure soon after it returns from recess in January. Powerful lobby organizations are mobilized in support of the bill, and it could certainly pass.

#### Won’t pass---partisan divisions and earmark rule

Amy Mayer 12/30, "One thing that didn't happen in 2013: a Farm Bill", 2013, hppr.org/post/one-thing-didn-t-happen-2013-farm-bill

If it seems like Congress just can’t get the farm bill done, well… that’s because it can’t.¶ All year long, Washington lawmakers have been saying they want to pass a full five-year farm bill. But even though leaders of the House-Senate conference committee say they are close, they have acknowledged it just won’t get done this year. They’re pushing it off until January.¶ The inability to settle on a farm bill illustrates the deep divisions that have become the norm on Capitol Hill. The massive food and agriculture package used to be relatively easy thanks to bipartisan and urban-rural alliances. But this year, progress was a slow slog. ¶ A nine-month extension passed in January bought some time. This summer, the Senate passed its bill, but the House didn’t. Then the House sent two bills to the conference committee, one for agriculture and the other for food stamps. ¶ The conference committee charged with drafting a final bill met off and on for months. The main negotiators were the leaders from each party of the Agriculture Committees of each house – Sen. Debbie Stabenow and Sen. Thad Cochran from the Senate, and Rep. Colin Peterson and Rep. Frank Lucas from the House. Despite reporting progress, the four lawmakers were unable to finish the job before the House adjourned for the year on Friday.¶ There are three fundamental reasons today’s lawmakers have such a hard time getting the job done. Iowa State University political scientist David Peterson says one is the striking chasm separating today’s Washington politicians.¶ “We’ve seen an increasing polarization within Congress, in particular we’ve seen the modern Republican Party move further to the right,” Peterson said. “The Democrats have moved some to the left, but really what is driving it is the Republicans have moved further to the right.”¶ That leaves fewer players drawn toward the middle, where compromises are forged. And it takes a majority of both bodies, plus the president, to enact laws.¶ “The problem we’ve got right now is that the amount of things that a majority of the House, and in particular a majority of the Republicans—a majority of the majority party in the House—the Democratic Senate, and the Democratic president can agree on is vanishingly small,” Peterson said.¶ On top of polarization and gridlock, add the lack of earmarks. Peterson says in times past, Congressional leaders could use those small, very specific addendums to sway neutral lawmakers to their side of a bill. But in the last decade, he says, Congress got rid of earmarks. Now deadlines are a main driver pushing Congress to act, though they haven’t been very effective. To be sure, it’s not just the farm bill suffering from this. Everything in Congress is, but the farm bill’s history of wending its way through relatively easily makes the delay more striking. ¶ “This is a very, very visible policy that has really dramatic effects on a lot of people, particularly a lot of people in this area,” Peterson said. “And so it’s more visible. But it’s the same all around.”¶ The farm bill negotiations were full of stops and starts. Just before Thanksgiving, Iowa Republican Rep. Steve King, a conference committee member, remained optimistic a deal could be reached by Christmas.¶ “It’s more than 50/50 in my mind right now, the momentum of this,” King said at the time. “There really was a sincere effort to get it done by Thanksgiving, but we didn’t get there.”¶ Now Christmas and New Year’s Day are out, too.

#### Vote won’t be for weeks and negotiations don’t involve Obama

Chris Clayton 1/2, “New Year means New Farm Bill”, 2014, <http://www.kxlo-klcm.com/site/index.php?option=com_content&view=article&id=2269:new-year-means-new-farm-bill&catid=8:ag-news-pod&Itemid=115>

USDA will continue holding back on any effort to implement permanent law with expectations that Congress will move over the next few weeks to complete work on a farm bill.¶ Agriculture Secretary Tom Vilsack told DTN earlier this week he has high hopes Congress will follow through on conference negotiations between the House and Senate. Such efforts allow USDA to avoid buying milk products at twice the market price because of provisions in permanent law, the secretary said.¶ "I honestly think right now what we are seeing are positive signs from the leadership of the conference committee on the House and the Senate side and some indication from the House and Senate leadership that there is a desire and interest to get this done," Vilsack said.¶ The Senate returns to session Monday while the House returns Tuesday. Though no meeting time has been set, the House and Senate conferees on the farm bill could schedule a meeting later next week to vote on some contentious issues the principal negotiators have not been able to resolve in private talks.¶ "So at this point in time, our focus is on providing technical assistance, ideas and creative thought so whatever differences exist between the House and Senate can be resolved quickly and when they get back in a week or so they can finish up the conference report, have the conference committee vote on whatever issues divide them and present a conference report and hopefully get it passed," Vilsack said.

#### Healthcare and income fights pound the DA

Jules Witcover 1/1, Chicago Tribune, "After a fruitless year in Washington, New Year's blues ahead", 2014, www.chicagotribune.com/news/columnists/sns-201312311630--tms--poltodayctnyq-a20140101-20140101,0,2474617.column

Dampening down administration pleasure that a budget compromise was reached through the rare bipartisan teamwork of Republican Paul Ryan in the House and Democrat Patty Murray in the Senate, the opposition party has renewed and sustained its pushback against Obamacare.¶ The White House had hoped to pivot from this exhausting fight to such objectives as immigration reform and another try at stiffer gun controls. Instead, Obama must count on a more robust public response to the health care program, not at all guaranteed, to clear the political playing field.¶ Also, while trying to fire up lower-income support with a proposal to boost the federal minimum wage, the White House must attempt to extend long-term unemployment benefits to more than a million hard-strapped jobless beneficiaries who now face a cutoff.¶ Prominent economists warn that if Congress fails to extend those benefits, it will only hamper the still-struggling recovery. Nevertheless, the political universe seems mired again in the old ideological class warfare: the Republicans as beneficent creators of largess against the Democrats as extravagant redistributors of it to a nation of moochers.¶ It's a sad rerun of the final weeks of the 2012 presidential campaign, in which Mitt Romney sealed his doom with his witless declaration that the votes of "47 percent of Americans" were beyond his reach. The theme that they had been bought off by Democratic handouts through various social safety programs echoes again in the current debate.¶ Added to the old GOP insistence that Big Brother government has no right to require Americans to buy health insurance they don't want, more persuasive argument has blossomed that bureaucratic incompetence botched the heart of the Obama's domestic agenda.¶ Visions of a businessman's efficiency dance in the imaginations of the Republican faithful, if only one of their own were in charge. Yet, had they won the last election, Obamacare probably would be dead and buried by now, Romney having disavowed the law that was based, ironically, on his own health-care reform as Massachusetts governor.¶ In the midst of all this second-term gloom, the Democratic administration has sought to find political refuge and new energy by focusing on income inequality. The phenomenon is seen glaringly in the booming stock market and skyrocketing profits for big business, which is thriving on higher productivity from fewer workers, and its reluctance to hire more.¶ But the Democrats' effort to address this key issue also facilitates the old Republican ideological bromide of "socialistic" redistribution of wealth, which would make every conscientious attempt to heat up the economy sound like heated-up Karl Marx. Which apparently will be fine to the likes of the rabble-rousing Texas Sen. Ted Cruz and his merry tea party band, who are more than willing to fire up "class warfare" rhetoric.¶ In all, the outlook for Obama's fifth presidential year is neither bright nor hopeful for any positive resolution of current divisions, at least until the midterm congressional elections in November. Then, either one-party control will return on Capitol Hill, one way or the other, or divided government will likely slog on for the final two years of an Obama presidency born more of hope than of achievable aspirations.

#### Not intrinsic---a logical policymaker could both do the plan and raise the debt ceiling---logical decision-making is a key portable skill

#### Obama won’t fight the plan

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

In an October 2012 interview, Mr. Obama said of the drone program, "we've got to ... put a legal architecture in place, and we need Congressional help in order to do that, to make sure that not only am I reined in but any president's reined in, in terms of some of the decisions that we're making."¶ The president has not taken up the drone issue in public again but White House press secretary Jay Carney, asked Wednesday about the drone hearing, said, "We have been in regular contact with the committee. We will continue to engage Congress...to ensure our counterterrorism efforts are not only consistent with our laws and system of checks and balances, but even more transparent to the American people and the world."¶ And after the hearing, Brooks, too, sounded optimistic.¶ "My own sense is that the executive branch is open to discussion of some kind of judicial process," she said.¶ While some experts have argued for court oversight of drone strikes before they're carried out, Brooks sides with those who say that would be unwieldy and unworkable.¶ Brooks says however an administration that knows its strikes could face court review after the fact -- with possible damages assessed -- would be more responsible and careful about who it strikes and why.

#### No impact – empirically denied

The Gazette 12 – The Gazette, October 1st, 2012, "Expiration of farm bill should have little impact on Iowans" thegazette.com/2012/10/01/expiration-of-farm-bill-should-have-little-impact-on-iowans/

The expirationof the federal farm bill will be unpredictable for Iowa farmers. It will also be a hardship and an unnecessary burden.¶ But it won’t be new.¶ Twice before in recent history, in 1996 and 2007, Congress has failed to renew the bill, which expires every five years. The current bill expired on Sunday.¶ Congress adjourned Sept. 19 without renewing the bill, and won’t return to work until after the Nov. 6 election for a lame-duck session.¶ Congress had considered a short-term extension of the bill, between three months and a year, but the Republican-controlled House couldn’t even agree on that.

#### Even if farm bill doesn’t pass---temporary measures prevent the impact

Joe Nelson 12/31, "Concerns remain as farm bill expires", 2013, www.weau.com/home/headlines/Concerns-remain-as-farm-bill-expires-238311971.html

Chippewa County UW Extention agricultural agent Randy Knapp said he thinks a bill will get passed, but there's a lot at stake.¶ “Without knowing a farm bill, they don't know exactly like in the crop area, what type of insurance is going to be available.”¶ He said no new farm bill makes farmers less prepared for falling markets. If no bill was passed, the law would revert back to its 1949 version, with some projecting milk prices going to eight dollars a gallon. Knapp said that would take a few weeks to enact, making alternatives more likely.¶ “I see that the congress gets back working, that they're either going to work out these differences and pass a farm bill, probably mid to late Jan. Or they'll pass another continuing one-year resolution,” Knapp said.