### Acct

#### Strikes in Pakistan will not decrease

Johnthomas Didymus 8/4/13, reporter at AllVoices, “John Kerry gaffes, no end to US drone war in Pakistan,”

http://www.allvoices.com/contributed-news/15129851-john-kerry-gaffes-no-end-to-us-drone-war-in-pakistan

Hours after Kerry told the Pakistani people on Thursday that the US government has a "time table" to end the drone war in their country, the State Department issued a statement denying there was a "timetable" to end the strikes.¶ Pakistani civilians were delighted to hear the US Secretary of State John Kerry, saying on national TV that the US has a "timetable" to end the drone war.¶ Kerry spoke after meetings with the country's Prime Minister Nawaz Sharif and the national security adviser Sartaj Aziz. In the meetings, the US and Pakistan agreed to revive talks on several issues of security affecting both countries.¶ Kerry said: "I think the program will end as we have eliminated most of the threat and continue to eliminate it. I think the president has a very real timeline and we hope it's going to be very, very soon. I think it depends really on a number of factors, and we're working with your government with respect to that."¶ Aziz, supporting Kerry's statement, said: "In light of today's discussion, we will continue this dialogue on how to stop this policy of drone attacks as far as US is concerned."¶ No timetable to end drone war¶ The US State Department contradicted Kerry the same day, saying there was no "timetable" to end the drone strikes.¶ A State Department spokeswoman Jen Psaki, said: "Today, the secretary referenced the changes that we expect to take place in that program over the course of time, but there is no exact timeline to provide."¶ Marie Harf was even more emphatic: "In no way would we ever deprive ourselves of a tool to fight a threat if it arises."¶ Although, Obama announced two months ago, in a speech that was touted as outlining a new US counter-terrorism doctrine, that his administration would scale down the drone program, there are still no signs that the deadly strike operations are being reduced.¶ According to reports, there have been more drone strikes in Pakistan last month that any other month since January this year.¶ Views¶ Experts have weighed in on the contradiction between promises by the administration to end the drone war and its actions.¶ According to 4 News, Kat Craig, legal director at Reprieve, said: "While Mr Kerry may have sought to reassure Pakistan with empty words, the reality is that the secretive drone war is spreading around the world. Yesterday, a US drone killed four Yemenis on the very day that Yemen's President Hadi met with Obama."¶ Micah Zenko of the Council of Foreign Relations, told The New York Times: "There’s nothing that indicates this administration is going to unilaterally end drone strikes in Pakistan or Yemen for that matter."

### T---Restriction/General

#### We meet – the AUMF and LOAC are not being applied to targeted killing now, we create an enforcement mech

Berger 1Justice Opinion, INDUSTRIAL RENTALS, INC., ISAAC BUDOVITCH and FLORENCE BUDOVITCH, Appellants Below, Appellants, v. NEW CASTLE COUNTY BOARD OF ADJUSTMENT and NEW CASTLE COUNTY DEPARTMENT OF LAND USE, Appellees Below, Appellees. No. 233, 2000SUPREME COURT OF DELAWARE776 A.2d 528; 2001 Del. LEXIS 300April 10, 2001, Submitted July 17, 2001, Decided lexis

We disagree. Statutes must be read as a whole and all the words must be given effect. 3 The word "restriction" means "a limitation (esp. in a deed) placed on the use or enjoyment of property." 4 If a deed restriction has been satisfied, and no longer limits the use or enjoyment of the property, then **it no longer is a deed restriction** -- **even though the paper on which it was written remains**. [\*\*6] Thus, the phrase "projects containing deed restrictions requiring phasing…," in Section 11.130(A)(7) means presently existing deed restrictions. As of June 1988, the Acierno/Marta Declaration contained no remaining deed restrictions requiring phasing to coincide with improvements to the transportation system. As a result, the Acierno/Marta projects should not have been included in the scope of the Budovitches' TIS.

#### We meet – the prez has sole authority to sign off on targeted killing – 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---includes conditions on action

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

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

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

#### 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).

#### Key to ground – ex ante review is illegal

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

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

#### Authority 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.

### K---Security

#### Public debate over the costs of TKs is key to solve the aff and the K

Anna Goppel 13, Assistant Professor, Department of Philosophy, University of Zurich, 2013, Killing Terrorists: A Moral and Legal Analysis, p. 1-2

Israel and the United States may be the only states that have publicly admitted to the use of targeted killings, but they are not the only states to make targeted killings part of their counter-terrorist strategies. Today, as in the past, these and other states have applied targeted killings in their fight against alleged terrorists. Provided the use of targeted killings has become public, states have been criticized for their conduct by politicians, in media statements, in the scholarly literature, and, though only in the case of Israel, in court. Targeted killings, however, have been defended equally forcefully. This lack of consensus as to whether states may resort to it is only one reason that demands a thorough assessment of the practice. It demands an analysis of the arguments with which the practice has been defended or attacked as well as of the principles and regulations governing state use of lethal force, on the grounds on which it may be accepted or condemned. The urgency of such an analysis is even more due to the nature of the practice itself, its disturbing consequences, which concern the existence of individual human beings as such, the personal integrity of those ordering, planning, and carrying out the killings, and the political credibility of states engaging in the practice. The analysis is all the more crucial because the public, without having comprehensively discussed and analysed the practice, appears to be increasingly comfortable with its application. Cases of targeted killings of alleged terrorists are reported in the press, but they generally do not trigger intense public discussion or criticism. And this is despite an absence of agreement on the justifiability of the practice.

#### Perm---endorse the aff and the alternative---we provide a specific opportunity to resist the cycle of overreaction to threats---disproves their “reform fails” arguments

Colm O’Cinneide 8, Senior Lecturer in Law at University College London, “Strapped to the Mast: The Siren Song of Dreadful Necessity, the United Kingdom Human Rights Act and the Terrorist Threat,” Ch 15 in Fresh Perspectives on the ‘War on Terror,’ ed. Miriam Gani and Penelope Mathew, http://epress.anu.edu.au/war\_terror/mobile\_devices/ch15s07.html

This ‘symbiotic’ relationship between counter-terrorism measures and political violence, and the apparently inevitable negative impact of the use of emergency powers upon ‘target’ communities, would indicate that it makes sense to be very cautious in the use of such powers. However, the impact on individuals and ‘target’ communities can be too easily disregarded when set against the apparent demands of the greater good. Justice Jackson’s famous quote in Terminiello v Chicago [111] that the United States Bill of Rights should not be turned into a ‘suicide pact’ has considerable resonance in times of crisis, and often is used as a catch-all response to the ‘bleatings’ of civil libertarians.[112] The structural factors discussed above that appear to drive the response of successive UK governments to terrorist acts seem to invariably result in a depressing repetition of mistakes.¶ However, certain legal processes appear to have some capacity to slow down the excesses of the counter-terrorism cycle. What is becoming apparent in the UK context since 9/11 is that there are factors at play this time round that were not in play in the early years of the Northern Irish crisis. A series of parliamentary, judicial and transnational mechanisms are now in place that appear to have some moderate ‘dampening’ effect on the application of emergency powers.¶ This phrase ‘dampening’ is borrowed from Campbell and Connolly, who have recently suggested that law can play a ‘dampening’ role on the progression of the counter-terrorism cycle before it reaches its end. Legal processes can provide an avenue of political opportunity and mobilisation in their own right, whereby the ‘relatively autonomous’ framework of a legal system can be used to moderate the impact of the cycle of repression and backlash. They also suggest that this ‘dampening’ effect can ‘re-frame’ conflicts in a manner that shifts perceptions about the need for the use of violence or extreme state repression.[113] State responses that have been subject to this dampening effect may have more legitimacy and generate less repression: the need for mobilisation in response may therefore also be diluted.

#### Including the aff breaks the link between security and unrestrained sovereign power

Joao Reis Nunes 7, Marie Curie Fellow and PhD Candidate in International Politics at the University of Wales, Aberystwyth, September 2007, “Politics, Security, Critical Theory: A Contribution to Current Debates on Security,” http://archive.sgir.eu/uploads/Nunes-joaonunes-politicssecuritycriticaltheory.pdf

This section wishes to draw from Huysmans’ work on security as a signifier, particularly from his conception of the signifier as eminently historical. It argues that we must radicalize this historicity and come to see the meaning of security as the result of a contingent crystallization, and not an ineluctable condition. In other words, there is no fixed ‘politics of the signifier’ of security (1998:232); as Rothschild (1995) and Wæver (2004) have shown, the meaning of security – and the set of understandings and practices that this wide order of meaning entails – have changed through time. ¶ This section argues that the critique of the current meaning of security must be complemented with the definition of alternative meanings. In other words, the aim is to go beyond current understandings of security as the suspension of politics, not by arguing for the substitution of security with other supposedly autonomous signifier (i.e. politics), but rather by working within the signifier and attempting to release its transformative potential. ¶ The theoretical reflection undertaken in the previous section can be seen as the first step of this departure from reified assumptions about the ‘politics of the signifier’ of security. By showing that Schmitt’s transcendental conception of sovereign power is problematic and can be criticized at both the philosophical (Benjamin) and the social-economic-legal level (Neumann), it opened the way for the definition of alternative normative principles of politics. In other words, it demonstrated the possibility of conceiving different modalities for dealing with the problem of the exception, thereby allowing for a denaturalization of the connection between security and an extreme conception of politics based on the ‘fear of the enemy’ and on unrestrained sovereign power. It is interesting to note that Huysmans’ himself engaged with the work of Neumann and argued that it is possible to conceive exceptionalism in different ways, according to ‘the energetic principles of politics upon which support for exceptionalism is based’ (2004:338). This section argues that it is possible to follow from this insight whilst retaining the signifier of security.

#### Threats real – addressing them concretely is key to solve

Knudsen 1– PoliSci Professor at Sodertorn (Olav, Post-Copenhagen Security Studies, Security Dialogue 32:3)

Moreover, I have a problem with the underlying implication that it is unimportant whether states 'really' face dangers from other states or groups. In the Copenhagen school, threats are seen as coming mainly from the actors' own fears, or from what happens when the fears of individuals turn into paranoid political action. In my view, this emphasis on the subjective is a misleading conception of threat, in that it discounts an independent existence for what- ever is perceived as a threat. Granted, political life is often marked by misperceptions, mistakes, pure imaginations, ghosts, or mirages, but such phenomena do not occur simultaneously to large numbers of politicians, and hardly most of the time. During the Cold War, threats - in the sense of plausible possibilities of danger - referred to 'real' phenomena, and they refer to 'real' phenomena now. The objects referred to are often not the same, but that is a different matter. Threats have to be dealt with both ín terms of perceptions and in terms of the phenomena which are perceived to be threatening. The point of Waever’s concept of security is not the potential existence of danger somewhere but the use of the word itself by political elites. In his 1997 PhD dissertation, he writes, ’One can View “security” as that which is in language theory called a speech act: it is not interesting as a sign referring to something more real - it is the utterance itself that is the act.’24 The deliberate disregard of objective factors is even more explicitly stated in Buzan & WaeVer’s joint article of the same year.” As a consequence, the phenomenon of threat is reduced to a matter of pure domestic politics.” It seems to me that the security dilemma, as a central notion in security studies, then loses its foundation. Yet I see that Waever himself has no compunction about referring to the security dilemma in a recent article." This discounting of the objective aspect of threats shifts security studies to insignificant concerns. What has long made 'threats' and ’threat perceptions’ important phenomena in the study of IR is the implication that urgent action may be required. Urgency, of course, is where Waever first began his argument in favor of an alternative security conception, because a convincing sense of urgency has been the chief culprit behind the abuse of 'security' and the consequent ’politics of panic', as Waever aptly calls it.” Now, here - in the case of urgency - another baby is thrown out with the Waeverian bathwater. When real situations of urgency arise, those situations are challenges to democracy; they are actually at the core of the problematic arising with the process of making security policy in parliamentary democracy. But in Waever’s world, threats are merely more or less persuasive, and the claim of urgency is just another argument. I hold that instead of 'abolishing' threatening phenomena ’out there’ by reconceptualizing them, as Waever does, we should continue paying attention to them, because situations with a credible claim to urgency will keep coming back and then we need to know more about how they work in the interrelations of groups and states (such as civil wars, for instance), not least to find adequate democratic procedures for dealing with them.

#### No prior questions

Owen 2 [David Owen, Reader of Political Theory at the Univ. of Southampton, Millennium Vol 31 No 3 2002 p. 655-7]

Commenting on the ‘philosophical turn’ in IR, Wæver remarks that ‘[a] frenzy for words like “epistemology” and “ontology” often signals this philosophical turn’, although he goes on to comment that these terms are often used loosely.4 However, loosely deployed or not, it is clear that debates concerning ontology and epistemology play a central role in the contemporary IR theory wars. In one respect, this is unsurprising since it is a characteristic feature of the social sciences that periods of disciplinary disorientation involve recourse to reflection on the philosophical commitments of different theoretical approaches, and there is no doubt that such reflection can play a valuable role in making explicit the commitments that characterise (and help individuate) diverse theoretical positions. Yet, such a philosophical turn is not without its dangers and I will briefly mention three before turning to consider a confusion that has, I will suggest, helped to promote the IR theory wars by motivating this philosophical turn. The first danger with the philosophical turn is that it has an inbuilt tendency to prioritise issues of ontology and epistemology over explanatory and/or interpretive power as if the latter two were merely a simple function of the former. But while the explanatory and/or interpretive power of a theoretical account is not wholly independent of its ontological and/or epistemological commitments (otherwise criticism of these features would not be a criticism that had any value), it is by no means clear that it is, in contrast, wholly dependent on these philosophical commitments. Thus, for example, one need not be sympathetic to rational choice theory to recognise that it can provide powerful accounts of certain kinds of problems, such as the tragedy of the commons in which dilemmas of collective action are foregrounded. It may, of course, be the case that the advocates of rational choice theory cannot give a good account of why this type of theory is powerful in accounting for this class of problems (i.e., how it is that the relevant actors come to exhibit features in these circumstances that approximate the assumptions of rational choice theory) and, if this is the case, it is a philosophical weakness—but this does not undermine the point that, for a certain class of problems, rational choice theory may provide the best account available to us. In other words, while the critical judgement of theoretical accounts in terms of their ontological and/or epistemological sophistication is one kind of critical judgement, it is not the only or even necessarily the most important kind. The second danger run by the philosophical turn is that because prioritisation of ontology and epistemology promotes theory-construction from philosophical first principles, it cultivates a theory-driven rather than problem-driven approach to IR. Paraphrasing Ian Shapiro, the point can be put like this: since it is the case that there is always a plurality of possible true descriptions of a given action, event or phenomenon, the challenge is to decide which is the most apt in terms of getting a perspicuous grip on the action, event or phenomenon in question given the purposes of the inquiry; yet, from this standpoint, ‘theory-driven work is part of a reductionist program’ in that it ‘dictates always opting for the description that calls for the explanation that flows from the preferred model or theory’.5 The justification offered for this strategy rests on the mistaken belief that it is necessary for social science because general explanations are required to characterise the classes of phenomena studied in similar terms. However, as Shapiro points out, this is to misunderstand the enterprise of science since ‘whether there are general explanations for classes of phenomena is a question for social-scientific inquiry, not to be prejudged before conducting that inquiry’.6 Moreover, this strategy easily slips into the promotion of the pursuit of generality over that of empirical validity. The third danger is that the preceding two combine to encourage the formation of a particular image of disciplinary debate in IR—what might be called (only slightly tongue in cheek) ‘the Highlander view’—namely, an image of warring theoretical approaches with each, despite occasional temporary tactical alliances, dedicated to the strategic achievement of sovereignty over the disciplinary field. It encourages this view because the turn to, and prioritisation of, ontology and epistemology stimulates the idea that there can only be one theoretical approach which gets things right, namely, the theoretical approach that gets its ontology and epistemology right. This image feeds back into IR exacerbating the first and second dangers, and so a potentially vicious circle arises.’

#### Security reps key to change policy

Robert Naiman 10, Policy Director at Just Foreign Policy, President of the Board of Truthout, former policy analyst and researcher at the Center for Economic and Policy Research and Public Citizen's Global Trade Watch, “Why Peaceniks Should Care About the Afghanistan Study Group Report,” The Seminal—a FireDogLake blog, September 10th, http://seminal.firedoglake.com/diary/70379

From the point of view of official Washington, this speaks to the core of the argument against the war. Continuing the war is not promoting the national security interests of the United States, and in fact is counterproductive to those interests.¶ This is also the part of the argument that is most likely to stick in the craw of many peace activists, in part because they have a well-grounded allergy to efforts to promote the purported "national security interests of the United States," and in part because the report, if implemented, still envisions a potential role for U.S. military force in the region.¶ However, a bit of realism about prospects in the near-term future is in order. If you look around the world, the U.S. is currently deploying military force in a lot of places. In the places where the U.S. is deploying military force without the presence of a significant number of U.S. ground troops, this activity goes on without occasioning significant public debate in the U.S. There is essentially zero public debate over what the U.S. is doing in the Philippines, almost zero about what the U.S. is doing in Somalia, very little about what the U.S. is doing in Yemen, not very much about what the U.S. is doing in Pakistan. Following the blip occasioned by President Obama’s announcement of the so-called "end of combat mission" in Iraq, it is likely that public debate about what the U.S. is doing in Iraq will fall back towards Pakistan levels.¶ That these things are true, of course, does not make them just. However, as I wrote at the outset, it is not enough to be right; one has the moral obligation to also try to be effective. And part of being effective is understanding where the adversary is vulnerable, and where the adversary is not, at present, very vulnerable. The permanent war apparatus is currently politically vulnerable over the war in Afghanistan primarily because U.S. troops are currently dying there in significant numbers for no apparent reason, so it makes sense for this to be a central point of attack.

### CP

#### Courts alone don’t solve

Taylor 13 [Paul Taylor, Senior Fellow at the Center for Policy & Research, JD from Seton Hall Law School, “A FISC for Drones?” Feb 9 2013, http://transparentpolicy.org/2013/02/a-fisc-for-drones/]

Judges would likely be much more comfortable with ex post review. Ex post review would free them from any implication that they are issuing a “death warrant” and would place them in a position that they are much more comfortable with: reviewing executive uses of force after the fact. While there are clearly parallels that could be drawn between the ex ante review proposed here and the search and seizure warrants that judges routinely deal with, there are also important differences. First and foremost is that this implicates not the executive’s law enforcement responsibility but its war-making and foreign relations responsibilities, with which courts are loath to interfere, but are sometimes willing to review for abuse.¶ Additionally, in search and seizure warranting, there an ex post review will eventually be available. That will likely not be the case in drone strikes and other targeted killings unless such a process is specifically created. There are simply too many hurdles to judicial review (including state secrets, political questions, discovery problems, etc) for the courts to create such an opportunity without congressional action.

#### Links to politics

**Samuel 09** (Terence Samuel, Deputy Editor – The Root and Senior Correspondent - Prospect, “Obama's Honeymoon Nears Its End”, American Prospect, 5/29, http://www.prospect.org/cs/articles?article=obamas\_honeymoon\_nears\_its\_end**)**

This week, Barack Obama named his first nominee to the Supreme Court, then headed west to Las Vegas and Los Angeles to raise money for Democrats in the 2010 midterms. Taken together, these two seemingly disparate acts mark the end of a certain period of innocence in the Obama administration: The "blame Bush" phase of the Obama administration is over, and the prolonged honeymoon that the president has enjoyed with the country and the media will soon come to an end as well. Obama is no longer just the inheritor of Bush's mess. This is now his presidency in his own right. The chance to choose a Supreme Court justice is such a sui generis exercise of executive power -- it so powerfully underscores the vast and unique powers of a president -- that blame-shifting has become a less effective political strategy, and less becoming as well. Obama's political maturation will be hastened by the impending ideological fight that is now virtually a guarantee for Supreme Court nominations. Old wounds will be opened, and old animosities will be triggered as the process moves along. Already we see the effect in the polls. While Obama himself remains incredibly popular, only 47 percent of Americans think his choice of Judge Sonia Sotomayor is an excellent or good choice for the Court, according to the latest Gallup poll. The stimulus package scored better than that. The prospect of a new justice really seems to force people to reconsider their culture warrior allegiances in the context of the party in power. This month, after news of Justice David Souter's retirement, a Gallup poll showed that more Americans considered themselves against abortion rights than in favor: 51 percent to 42 percent. Those number were almost exactly reversed a year ago when Bush was in office and Obama was on the verge of wrapping up the Democratic nomination. "This is the first time a majority of U.S. adults have identified themselves as pro-life since Gallup began asking this question in 1995," according to the polling organization. Is this the same country that elected Obama? Yes, but with his overwhelmingly Democratic Senate, the public may be sending preemptory signals that they are not interested in a huge swing on some of these cultural issues that tend to explode during nomination hearings. Even though Obama will win the Sotomayor fight, her confirmation is likely to leave him less popular in the end because it will involve contentious issues -- questions of race and gender politics like affirmative action and abortion -- that he managed to avoid or at least finesse through his campaign and during his presidency so far.

#### Perm do both---shields the link

Perine, 6/12/2008 (Katherine – staff at CQ politics, Congress unlikely to try to counter Supreme Court detainee ruling, CQ Politics, p. http://www.cqpolitics.com/wmspage.cfm?docID=news-000002896528&cpage=2)

Thursday’s decision, from a Supreme Court dominated by Republican appointees, gives Democrats further cover against GOP sniping. “This is something that the court has decided, and very often the court gives political cover to Congress,” said Ross K. Baker, a Rutgers University political science professor. “You can simply point to a Supreme Court decision and say, ‘The devil made me do it.’ ”

#### No grounds, and only Congress can create them

Richard D. Rosend 11, Professor of Law and Director of the Center for Military Law & Policy at Texas School of Law, “Drones and the U.S. Courts,” W. Mitchell L. Rev. Vol. 37:5, pp. 5280-5293, http://repository.law.ttu.edu/bitstream/handle/10601/1918/Drones%20and%20the%20U.S.%20Courts.pdf?sequence=1

Second, some have suggested the possibility of Bivens actions76 for the victims of drone attacks; that is, a damages claim against federal officials for violating constitutional rights.77 Constitutional tort claims are specifically excepted from the Westfall Act;78 nevertheless, these lawsuits face several barriers. As an initial matter, noncitizen victims of overseas drone strikes have no constitutional rights.79 While the Supreme Court in Boumediene v. Bush80 held that the Suspension Clause reaches alien detainees confined at Guantanamo Bay, a territory over which the United States exercises de facto sovereignty,81 its decision was carefully circumscribed and neither extended the reach of habeas corpus beyond Guantanamo82 nor recognized that aliens outside the United States (including Guantanamo) enjoy substantive constitutional protections.83 Nor did the Court “disturb existing law governing the extraterritorial reach of any constitutional provisions, other than the Suspension Clause.”84¶ Even if the Constitution has universal extraterritorial application, a Bivens remedy for constitutional violations connected with the use of drones would still be unavailable. In Bivens, the Court recognized limits on the remedy, most notably the existence of special factors that may counsel hesitation against such a remedy in the absence of affirmative action by Congress.85 The lower courts have found special factors to exist in Bivens lawsuits against “military and foreign policy officials for allegedly unconstitutional treatment of foreign subjects causing injury abroad.”86 Given the Supreme Court’s “reluctan[ce] to extend Bivens liability ‘to any new context or new category of defendants,”’87 it is highly unlikely that the Court will recognize constitutional tort claims by foreign nationals who are victims of drone strikes in the nation’s war with al Qaeda and the Taliban.88

#### That means no precedent

Martha J. Dragich, Associate Professor of Law at Missouri-Columbia, 2-1995 44 Am. U.L. Rev. 757

Perhaps the most troublesome manner in which selective publication, summary dispositions, and vacatur weaken the development of the law is their failure to provide guidance for future conduct and for resolving future disputes. That is, even if a relevant decision can be located, and its precedential value ascertained, it may provide insufficient information about the facts of the case, the relevant rules, and the reasoning behind the rules' application. 260 Judges, no less than attorneys, must be able to evaluate prior decisions based upon a sophisticated understanding of what the court actually decided. Failing to provide sufficient guidance for future decisions jeopardizes the courts' ability to decide cases consistently and according to the law. 261 [\*798] Two examples illustrate the practical difficulties judges face in applying summary dispositions and unpublished opinions. In Burgin v. Henderson, 262 a district judge dismissed the complaint, relying on a previous, unreported decision that had been orally affirmed by the Second Circuit. 263 On appeal, the Second Circuit remanded Burgin for a factual hearing. 264 The appellate court stated that the question was still open because its affirmance of the district judge's earlier opinion was of no precedential value. 265 Thus, even though affirmance indicates that the lower court reached the correct result in the earlier case, it is impossible to know whether the lower court's analysis was sound. In future cases the trial judge cannot rely with confidence on the rationale previously employed.

### -Prez DA

#### Oversight stops arbitrariness but not flex

Stephen Holmes 9, Walter E. Meyer Professor of Law, New York University School of Law, “The Brennan Center Jorde Symposium on Constitutional Law: In Case of Emergency: Misunderstanding Tradeoffs in the War on Terror”, April, California Law Review, 97 Calif. L. Rev. 301, Lexis

Concerted efforts to shirk and deflect responsibility, moreover, provide an illuminating context in which to reconsider Vice President Dick Cheney's mantra, "The risks of inaction are far greater than the risk of action." n41 The risks of inaction, in Cheney's worldview, are the risks of being "strangled by law," n42 in Jack Goldsmith's phrase, of being hamstrung by due process of law and constitutional checks and balances. Cheney's warnings about the hazards of failing to act, therefore, suggest that the metaphor of a tradeoff between liberty and security is not as anti-dogmatic and anti-hysterical as one might have initially thought. Behind the associated images of balances and scales, we find in fact that a spurious urgency is being invoked to justify a psychological or ideological unwillingness to submit proposed policies to a nonpartisan and professionally conducted cost-benefit analysis. This is the ultimate paradox of the anti-liberal approach to national security. The misleading hypothesis of a tradeoff between liberty and security has been used, surreptitiously, to prevent the application of cost-benefit thinking to alternative proposals for managing [\*321] the risk of terrorism, including nuclear terrorism.¶ Cheney's maxim about the risks of inaction escapes being false only by being meaningless. Given the scarcity of resources, every action is an inaction; heightening security in one respect opens up security vulnerabilities along other dimensions. For example, assigning the majority of the CIA's Arabic speakers to Iraq means withdrawing them from other missions; if the attention of high-level officials is devoted to one problem, it will not be devoted to another.¶ And here is another familiar example. American intelligence agencies reportedly hesitate to hire native Farsi-or Pashto-or Arabic-speaking agents because the best-qualified candidates have relatives in Muslim countries, where reliable background checks are difficult to carry out. n43 This is a serious problem because only CIA and FBI agents fluent in these languages are capable of recruiting and handling informants. n44 This example, too, illustrates that the real tradeoffs in the war on terror do not involve a sacrifice of liberty for security, but rather a willingness to increase one risk in order to reduce another risk. In this case, American intelligence has to run the risk of hiring compromised personnel n45 in order to reduce the risk of failing to understand the enemy. The tradeoffs necessary in the war on terror, as I have been arguing, almost always involve this sort of gamble. The question is: who has the right to choose the set of security risks that we, as a country, would be better off running?¶ Policymakers misunderstand worst-case reasoning when they use it to hide from themselves and others the opportunity costs of their risky choices. The commission of this elementary fallacy by Vice President Cheney and other architects of the U.S. response to 9/11 has been extensively documented by Ron Suskind. n46 Allocating national-security resources without paying attention to opportunity costs is equivalent to spending binges under soft budget constraints, an arrangement notorious for its unwelcome consequences. One cannot reasonably multiply "the magnitude of possible harm from an attack" (for example, a nuclear sneak attack by al Qaeda using WMD supplied by Saddam Hussein) by the low "probability of such an attack" n47 and then conclude that one must act immediately to preempt that remote threat without [\*322] first scanning the horizon and inquiring about other low-probability catastrophic events that are equally likely to occur. One cannot say that a one-percent possibility of a terrifying Saddam-Osama WMD handoff justifies placing seventy percent of our national-security assets in Iraq. But this seems to be how the Bush administration actually "reasoned," perhaps because of its go-it-alone fantasies, as if scarce resources were not a problem. Or, perhaps those responsible for national security during the Bush years succumbed to commission bias, namely, the overpowering feeling, in the wake of a devastating attack, that inaction is intolerable. This uncontrollable urge to act is often experienced in emergencies, namely, in situations where decision makers need to do something but do not know what to do.¶ Among President Bush's many unfortunate bequests to President Obama is the desperate "readiness" problem that afflicts the American military, overstretched in Iraq and Afghanistan and therefore unprepared to meet a third crisis elsewhere in the world. This problem was a direct result of the Bush administration's failure to take scarcity of resources and opportunity costs into account. What secret and unaccountable executive action made possible, it turns out, was not flexible adaptation to the demands of the situation but rather profligacy, arbitrariness and a failure to set priorities in a semi-rational way. Defenders of the half-truth that the capacity to adapt is increased when rules are bent or broken seem to have a weak grasp of the elementary distinction between flexibility and arbitrariness.¶ The Founders, by contrast, understood quite well the difference between the flexible and the arbitrary. The ground rules for decision making that they built into the American constitutional structure were meant to maximize the first while minimizing the second. From their perspective, therefore, the question "Can there be too much power to fight terrorism?" is poorly formulated. The right question to ask is: can there be too much arbitrary executive action in the United States' armed struggle with al Qaeda, potentially wasting scarce resources that could be more usefully deployed in another way? And the answer to this second question is obviously "yes."

#### Judicial review enhances expert decision-making---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.

#### Oversight solves dogmatism---causes better policy

Stephen Holmes 9, Walter E. Meyer Professor of Law, New York University School of Law, “The Brennan Center Jorde Symposium on Constitutional Law: In Case of Emergency: Misunderstanding Tradeoffs in the War on Terror”, April, California Law Review, 97 Calif. L. Rev. 301, Lexis

Rules that provide incentives for decision makers to consider counter-evidence and counterarguments are liberating rather than constricting. Promoters of extralegal executive discretion, in other words, have made things easy for themselves by associating rules with rigidity and discretion with flexibility, ignoring the equal plausibility of the opposite alignment. Adversarial process can increase the flexibility of collective decision making, compensating for the psychological and ideological rigidity that individuals regularly display when making decisions behind closed doors and with the blinds drawn, that is to say, in the kind of unnatural isolation fostered by a near-hysterical fear of spies and leaks. Contrariwise, assigning all power to an unchecked executive risks exposing the collectivity to one man's, or one clique's, peculiar cognitive rigidities, emotional hang-ups, and behavioral obstinacies.¶ Second-order rules, governing the way first-order rules as well as policies and ad hoc decisions are made, can facilitate self-correction. To return briefly to our medical example above, the second-order rule, "always get a second opinion," suggests that pragmatically designed decision-making procedures can be just as compulsory as first-order rules like "always wash your hands." Given observable regularities in human decision making, adversarial process can compel policymakers to focus on pitfalls and opportunities of which they had [\*326] been only vaguely aware. This is why choices governed by relatively-unchanging second-order rules can sometimes be more adaptive and sensitive to context than purely unregulated discretion.¶ Hostile to checks and balances and devoted to unmonitored executive discretion, the Bush administration came to be known less for its flexibility than for its intransigence and extreme reluctance to shift gears. Its abhorrence of legislative and judicial oversight seems to have produced not pragmatism but dogmatism. In retrospect, this is not surprising. By stonewalling external critics and stifling internal dissenters, the Bush administration was able to prolong the natural life span of false certainties that are now widely believed, with the benefit of hindsight, to have seriously damaged national security. n52

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#### 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

#### Obama losses pound the link

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

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

#### 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:

#### 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.

#### Long shutdown inevitable

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

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

####  Obama won’t fight the plan---he’s open to judicial review

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 shutdown impact---empirically proven

Andrew Taylor 9-19, Associated Press, “Here's the truth: The government doesn't shut down,” http://www.tri-cityherald.com/2013/09/19/2581831/heres-the-truth-the-government.html

WASHINGTON — Here's the truth about a government "shutdown." The government doesn't shut down.¶ So the world won't end if a dysfunctional Washington can't find a way to pass a funding bill before the new budget year begins on Oct. 1.¶ Social Security checks will still go out. Troops will remain at their posts. Doctors and hospitals will get their Medicare and Medicaid reimbursements. In fact, virtually every essential government agency,

 like the FBI, the Border Patrol and the Coast Guard, will remain open. Furloughed federal workers probably would get paid, eventually. Transportation Security Administration officers would continue to man airport checkpoints.¶ But lurking around the corner is far bigger danger: Sometime in late October or early November the government could run out of cash. The U.S. would be unable to pay all of its bills in full and on time for the first time in history if it couldn't borrow more money.¶ While the Treasury Department probably would make interest payments to bondholders to prevent a catastrophic default on the debt, it wouldn't be able to make other payments on time, which would mean delays in Social Security benefits and in paychecks for federal workers and troops in the field.¶ Americans would feel the pain.¶ To prevent a "shutdown," Congress must pass a temporary spending bill before Oct. 1. To prevent a default, it must raise the $16.7 trillion cap on government borrowing.¶ Averting a shutdown is supposed to be easy. There hasn't been one since the 1995-96 battle in which President Bill Clinton bested Newt Gingrich and his band of budget-slashing conservatives. This time, the conservatives want to hold government-funding hostage in order to derail the implementation of President Barack Obama's law to make people buy health insurance. GOP leaders want to avoid a shutdown and are trying to finesse a solution.¶ Raising the debt limit is typically more difficult, but it has always been done because the possible consequences of default are so dire: upheaval in financial markets, a spike in U.S. borrowing costs and a host of delayed payments to both individual Americans and businesses. Under current estimates, the "X date" by which the government can't meet all of its payments would come in the latter half of October or early November. So Congress needs to act by mid-October to be safe.¶ In the separate case of a shutdown, fewer than half of the 2.1 million federal workers subject to it would be forced off the job if the Obama administration follows the rules followed by previous Presidents Ronald Reagan, George H.W. Bush and Clinton. That's not counting about 500,000 Postal Service employees or 1.4 million uniformed military personnel who would be exempt.¶ The rules for who works and who doesn't date back to the early 1980s and haven't been significantly modified since. The Obama administration re-issued the guidance on Wednesday.¶ The air traffic control system, food inspection, Medicare, veterans' health care and many other essential government programs would run as usual. The Social Security Administration would not only send out benefits but would continue to take applications. The Postal Service, which is self-funded, would keep delivering the mail. The Federal Emergency Management Agency could continue to respond to disasters at the height of hurricane season.¶ The Washington Monument would be closed. But it's been closed anyway since an earthquake in 2011.¶ Museums along the National Mall would close, too. National parks would be closed to visitors, a loss often emphasized in shutdown discussions.¶ The Capitol would remain open, however. Congress is deemed essential, despite its abysmal poll ratings.¶ From a practical perspective, shutdowns usually aren't that big a deal. They happened every year when Jimmy Carter was president, averaging 11 days each. During President Reagan's two terms, there were six shutdowns, typically just one or two days apiece. Deals got cut. Everybody moved on.¶ In 1995-96, however, shutdowns morphed into political warfare, to the dismay of Republicans who thought they could use them to drag Clinton to the negotiating table on a balanced budget plan.¶ Republicans took a big political hit, but most Americans suffered relatively minor inconveniences like closed parks and delays in processing passport applications. Some 2,400 workers cleaning up toxic waste sites were sent home, and there were short delays in processing veterans' claims.¶ Under a precedent-setting memorandum by Reagan budget chief David Stockman, federal workers are exempted from furloughs if their jobs are national security-related or if they perform essential activities that "protect life and property."