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#### Accountability mechanisms that constrain the executive prevent drone overuse in Yemen---that’s key to stability

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

Use-of-force decisions that avoid accountability are problematic for both functional and normative reasons. Functionally, accountability avoidance yields increased risk-taking and increases the likelihood of policy failure. The constraints imposed by political, supervisory, fiscal, and legal accountability "make[] leaders reluctant to engage in foolhardy military expeditions... . If the caution about military adventure is translated into general risk-aversion when it comes to unnecessary military engagements, then there will likely be a distributional effect on the success rates of [democracies]." n205 Indeed, this result is predicted by the structural explanation of the democratic peace. It also explains why policies that rely on covert action - action that is necessarily less constrained by accountability mechanisms - carry an increased risk of failure. n206 Thus, although accountability avoidance seductively holds out the prospect of flexibility and freedom of action for policymakers, it may ultimately prove counterproductive.¶ In fact, policy failure associated with the overreliance on force - due at least in part to lowered barriers from drone-enabled accountability avoidance - may be occurring already. Airstrikes are deeply unpopular in both Yemen n207 and Pakistan, n208 and although the strikes have proven critical [\*421] to degrading al-Qaeda and associated forces in Pakistan, increased uses of force may be contributing to instability, the spread of militancy, and the failure of U.S. policy objectives there. n209 Similarly, the success of drone [\*422] strikes in Pakistan must be balanced against the costs associated with the increasingly contentious U.S.-Pakistani relationship, which is attributable at least in part to the number and intensity of drone strikes. n210 These costs include undermining the civilian Pakistani government and contributing to the closure of Pakistan to NATO supplies transiting to Afghanistan, n211 thus forcing the U.S. and NATO to rely instead on several repressive central Asian states. n212 Arguably the damage to U.S.-Pakistan relations and the destabilizing influence of U.S. operations in Yemen would be mitigated by fewer such operations - and there would be fewer U.S. operations in both Pakistan and Yemen if U.S. policymakers were more constrained by use-of-force accountability mechanisms.

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

Ahmad Chehab 12, Georgetown University Law Center, “RETRIEVING THE ROLE OF ACCOUNTABILITY IN THE TARGETED KILLINGS CONTEXT: A PROPOSAL FOR JUDICIAL REVIEW,” March 30 2012, available at https://docs.google.com/file/d/0B91bSAyxkYQWbktoTDRSWGJzNmc/edit?usp=sharing

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

#### In particular, current broad definitions of imminent threat guarantee blowback and collateral damage

Amos N. Guiora 12, Prof of Law at S.J. Quinney College of Law, University of Utah, Fall 2012, “Targeted Killing: When Proportionality Gets All Out of Proportion,” Case Western Reserve Journal of International Law, Vol 45 Issues 1 & 2, http://law.case.edu/journals/JIL/Documents/45CaseWResJIntlL1&2.13.Article.Guiora.pdf

Morality in armed conflict is not a mere mantra: it imposes significant demands on the nation state that must adhere to limits and considerations beyond simply killing “the other side.” For better or worse, drone warfare of today will become the norm of tomorrow. Multiply the number of attacks conducted regularly in the present and you have the operational reality of future warfare. It is important to recall that drone policy is effective on two distinct levels: it takes the fight to terrorists directly involved, either in past or future attacks, and serves as a powerful deterrent for those considering involvement in terrorist activity.53 However, its importance and effectiveness must not hinder critical conversation, particularly with respect to defining imminence and legitimate target. The overly broad definition, “flexible” in the Obama Administration’s words,54 raises profound concerns regarding how imminence is applied. That concern is concrete for the practical import of Brennan’s phrasing is a dramatic broadening of the definition of legitimate target. It is also important to recall that operators—military, CIA or private contractors—are responsible for implementing executive branch guidelines and directives.55 For that very reason, the approach articulated by Brennan on behalf of the administration is troubling.¶ This approach, while theoretically appealing, fails on a number of levels. First, it undermines and does a profound injustice to the military and security personnel tasked with operationalizing defense of the state, particularly commanders and officers. When senior leadership deliberately obfuscates policy to create wiggle room and plausible deniability, junior commanders (those at the tip of the spear, in essence) have no framework to guide their operational choices.56 The results can be disastrous, as the example of Abu Ghraib shows all too well.57 Second, it gravely endangers the civilian population. What is done in the collective American name poses danger both to our safety, because of the possibility of blow-back attacks in response to a drone attack that caused significant collateral damage, and to our values, because the policy is loosely articulated and problematically implemented.58 Third, the approach completely undermines our commitment to law and morality that defines a nation predicated on the rule of law. If everyone who constitutes “them” is automatically a legitimate target, then careful analysis of threats, imminence, proportionality, credibility, reliability, and other factors become meaningless. Self-defense becomes a mantra that justifies all action, regardless of method or procedure.¶ Accordingly, the increasing reliance on modern technology must raise a warning flag. Drone warfare is conducted using modern technology with the explicit assumption that the technology of the future is more sophisticated, more complex, and more lethal. Its sophistication and complexity, however, must not be viewed as a holy grail. While armed conflict involves the killing of individuals, the relevant questions must remain who, why, how, and when. Seductive methods must not lead us to reflexively conclude that we can charge ahead. Indeed, the more sophisticated the mechanism, the more questions we must ask. Capability cannot substitute for process and technology cannot substitute for analysis.¶ V. Conclusion¶ The state’s right to engage in pre-emptive self-defense must be subject to powerful restraints and conditions. A measured, cautious approach to targeted killing reflects the understanding that the state has the absolute, but not unlimited, right and obligation to protect its civilian population.¶ Targeted killing is a legal, legitimate, and effective form of active self-defense provided that it is conducted in accordance with international law, morality, and a narrow definition of legitimate target. Self-defense, according to international law, is subject to limits; otherwise, administration officials would not press for flexibility in defining imminent. The call for a flexible conception of imminence is a deeply troubling manifestation of a “slippery slope;” it opens the door to operational counterterrorism not conducted in accordance with international law or principles of morality. Therefore, analyzing the reliability of intelligence, assessing the threat posed, and determining whether the identified target is a legitimate target facilitates lawful, moral, and effective targeted killing.¶ Expansiveness and flexibility are at odds with a measured approach to targeted killing precisely because they eliminate our sense of what is proportional, in the broadest sense of the term. Flexibility with regard to imminence and threat-perception means that the identification of legitimate targets, the true essence of moral operational counterterrorism, becomes looser and less precise. In turn, broader notions of legitimate target and the right of self-defense introduce greater flexibility with regard to collateral damage—resulting in a wider understanding of who constitutes collateral damage and how much collateral damage is justified in the course of targeting a particular threat. Flexibility and the absence of criteria, process, and procedure result in notions of proportionality—which would normally guide decision making and operations— that are out of proportion. In the high-stakes world of operational counterterrorism, there is no room for imprecision and casual definitions; the risks, to innocent civilians on both sides and to our fundamental values, are just too high.

#### Overuse of targeted killings in Yemen strengthens AQAP and fuels instability

Danielle Wiener-Bronner 12/13/13, staff writer at the Wire and former Web Editor for Reuters, “Latest Drone Strikes Shows How U.S. Strategy in Yemen Is Backfiring,” http://www.thewire.com/global/2013/12/yemen-drones/356111/

Targeted drone killings are defended by the United States as means to combat al-Qaeda in the most effective way possible. If attacks are carried out correctly, they should minimize civilian casualties, eliminate risk to our own forces, and remove dangerous militant operatives, ideally dismantling terrorist groups from a safe distance.¶ But if the attacks are not carried out correctly, as they often aren't, the results can backfire, which is exactly what's been happening in Yemen, according to Reuters: ¶ Tribal leaders, who have a lot of influence within Yemen's complex social structure, warn of rising sympathy for al Qaeda. Awad Ahmed Mohsen from Majallah, a southern village hit by a drone strike that killed dozens in 2009, told Reuters that America had brought hatred with its drones. Asked if more people joined al Qaeda in the wake of attacks that killed civilians, Mohsen said: "Definitely. And even those who don't join, now sympathize with al Qaeda because of these strikes, these violations. Any American they see, they exact revenge, even if it's a civilian."¶ On Thursday, 14 Yemeni civilians were killed by a U.S. drone strike that mistakenly targeted a wedding convoy, according to Yemeni national security officials. Another official, however, said AQAP militants may have been traveling with the wedding party, but in either case it seems that civilians were not the original targets have been killed. The CIA didn't comment on the strike, per standard procedure. The attack threatens to undo the U.S.'s efforts to scale back its drone program, while making it more palatable to the countries it affects.¶ Reuters reports that al-Qaeda in the Arabian Peninsula (AQAP) has started traveling in smaller groups to avoid the aerial strikes, which may actually make it more difficult to track their motions. And the strikes are angering some Sunni Muslims upset about strikes that kill their supporters, rather than anti-government Shi'ite rebels, fueling sectarian tensions which are already high in the region.¶ If those killed in this week's attack are confirmed to be civilians, according to the Associated Press, it could mean a surge of anti-American sentiment in Yemen: ¶ Civilian deaths have bred resentments on a local level, sometimes undermining U.S. efforts to turn the public against the militants. The backlash in Yemen is still not as large as in Pakistan, where there is heavy pressure on the government to force limits on strikes — but public calls for a halt to strikes are starting to emerge.¶ In May, President Obama promised to increase transparency on the drone strike program and enhance guidelines on their use. But the Bureau of Investigative Journalism found in November that the six months following Obama's speech actually saw an increase of drone strike casualties in Yemen and Pakistan. ¶ Human Rights Watch and Amnesty International reported in October that civilian casualties of drone strikes are higher than the U.S. admits. Around the same time, a U.N. human rights investigator said 400-600 of the 2,200 people killed by drones in the past decade were noncombatants. And in 2012, reports emerged that the Yemeni government works to help the U.S. hide it deadly errors. ¶ Data on drone strikes, like all counter-terrorism efforts, is necessarily shrouded in mystery, making it difficult to measure success. But if drone strikes continue to indiscriminately kill civilians, moderates in Yemen may be driven towards more extremist positions. Even governments working with Washington to coordinate the strikes could turn against the U.S. if drone casualties are not scaled back or eliminated.

#### Civilian casualties mean the costs outweigh the benefits---we’re creating 40 AQAP recruits for every operative killed

Baraa Shiban 1/14, Yemen project co-ordinator for Reprieve, citing Nabeel Khoury, Senior Fellow for Middle East and National Security at the Chicago Council on Global Affairs, PhD in Poli Sci from SUNY Albany, “When will drones stop killing innocent people in Yemen?” http://edition.cnn.com/2014/01/14/opinion/yemen-drone-strikes-reprieve/index.html

The use of drones in Yemen might seem a simple, quick-fix option for Obama. But with every civilian death, al Qaeda's recruiting power increases. Nabeel Khoury, former U.S. Deputy Chief of Mission to Yemen, recently reminded us of just that. Asked whether the covert U.S. drone war in Yemen was creating more enemies than it removed, he concluded: "Drone strikes take out a few bad guys to be sure, but they also kill a large number of innocent civilians. Given Yemen's tribal structure, the U.S. generates roughly forty to sixty new enemies for every AQAP operative killed by drones."¶ Let me be clear: I, like the vast majority of my countrymen, reject terrorism. All of us were repulsed by footage of the gruesome al Qaeda attack on a Defence Ministry hospital that left dozens dead in December. We agree that our fight against extremist groups cannot be won without a variety of efforts, including robust law enforcement. But U.S. drone strikes are exacerbating our problem by leaving families bereaved and entire villages terrified. Drones destroy the fabric of Yemeni society. Wronged and angry men are just the sort extreme groups like al Qaeda in the Arab Peninsula find easiest to recruit.

#### Safe haven in Yemen lets AQAP carry out attacks on India

Shankar Roychowdhury 11, former Indian Chief of Army Staff and a former member of Parliament, Sept 6 2011, “India needs a 360° terror appraisal,” http://archive.asianage.com/columnists/india-needs-360-terror-appraisal-391

In this context, Al Qaeda and its emerging connections in Yemen have become very relevant for India.¶ Yemen’s predominantly tribal culture and harsh inaccessible terrain create an inherent insularity which, in many ways, makes the country an ideal sanctuary for terrorists. Yemen has, in fact, reportedly become the principal new destination for Pashtun and Punjabi Taliban fleeing intensifying attacks by American drones.¶ Al Qaeda in the Arabian Peninsula (AQAP) has gradually established itself here through a web of alliances with the local tribes, including some by intermarriages, particularly in the inaccessible mountains of the Shabwa province, and has now become a strong presence within the country.¶ There is every likelihood that Pakistan’s ISI has established contacts with the AQAP, though the organisation has been targeted by Saudi and Yemeni intelligence and military who consider Al Qaeda a threat to the ruling establishments.¶ Yemen was in the news because of reports that the AQAP was attempting to procure large quantities of castor beans for manufacturing ricin powder, an extremely lethal poison; it’s swiftly fatal if inhaled in even the most minute doses. These were then to be packed into small explosive dispenser packages and smuggled into the US and Europe, and exploded in crowded places like shopping malls, aircraft or subway stations. It would be a dirty chemical bomb from ingredients freely available in the open market, comparatively cheaper and much more accessible than even the smallest nuclear equivalent. Of course, there is much scepticism about the very feasibility of developing such a project in the primitive environments of Yemen, which is where the significance of a possible Pakistani connection with the AQAP comes in.¶ Consider this. Pakistan has already given a Dr A.Q. Khan to the illegal nuclear market.¶ Given the jihadi influence within the Pakistani scientific community, it is not at all impossible that another similar figure may emerge in that country in the illegal bio-chemical field as well.¶ The AQAP has demonstrated the capability to devise imaginative and ingenuous plans to carry out attacks in the heartlands of the US and western Europe, and some were even put into operation, but detected almost at the last minute.¶ In the past, numerous jihadi attacks have originated from Yemen, including suicide bombing of the US Navy warship USS Cole in Aden harbour in 2010, the attack on the French tanker Limburg, the failed attack on another US Navy warship The Sullivans in 2002, besides the attempted assassination of the Saudi anti-terrorist chief Prince Mohammad bin Nayef.¶ There was also the more bizarre case of an African passenger of Yemeni origin with plastic explosives sewn into his underwear who boarded an American commercial flight flying from Amsterdam and Detroit but failed to¶ set off the explosive when over American airspace. ¶ But fanciful or not, the US for one is certainly taking seriously the capabilities of the AQAP as a potential threat. American military aid and intelligence activities in Yemen, including strikes by American aircraft and drones, have been ramped up, and there are reports that a new American airbase for this purpose is under construction in a yet unspecified country in West Asia.¶ Threats to India’s national security can build up in any quarter, from any region of the world. India should have no doubts that it is very much on the AQAP’s target list, through local proxies like the LeT in Pakistan, including possible “ricin bomb” operations. So even as Mr Hazare wrestles with the threat of corruption to ensure good governance, India must take due note of other threats as well and exercise the requisite caution.

#### Causes Indo-Pak nuclear war

Juan C Zarate 11, senior adviser at the Center for Strategic and International Studies, visiting lecturer at Harvard University, Feb 20 2011, “An alarming South Asia powder keg,” http://www.washingtonpost.com/wp-dyn/content/article/2011/02/18/AR2011021805662.html

Significant terrorist attacks in India, against Parliament in 2001 and in Mumbai in 2008, brought India and Pakistan to the brink of war. The countries remain deeply distrustful of each other. Another major strike against Indian targets in today's tinderbox environment could lead to a broader, more devastating conflict.¶ The United States should be directing political and diplomatic capital to prevent such a conflagration. The meeting between Indian and Pakistani officials in Bhutan this month - their first high-level sit-down since last summer - set the stage for restarting serious talks on the thorny issue of Kashmir.¶ Washington has only so much time. Indian officials are increasingly dissatisfied with Pakistan's attempts to constrain Lashkar-i-Taiba and remain convinced that Pakistani intelligence supports the group. An Indian intelligence report concluded last year that Pakistan's Inter-Services Intelligence Directorate was involved in the 2008 Mumbai attacks, and late last year the Indian government raised security levels in anticipation of strikes. India is unlikely to show restraint in the event of another attack.¶ Lashkar-i-Taiba may also feel emboldened since the assassination in early January of a moderate Punjabi governor muted Pakistani moderates and underscored the weakness of the government in Islamabad. The group does not want peace talks to resume, so it might act to derail progress. Elements of the group may see conflict with India as in their interest, especially after months of unrest in Kashmir. And the Pakistani government may not be able to control the monster it created.¶ A war in South Asia would be disastrous not just for the United States. In addition to the human devastation, it would destroy efforts to bring stability to the region and to disrupt terrorist havens in western Pakistan. Many of the 140,000 Pakistani troops fighting militants in the west would be redeployed east to battle Indian ground forces. This would effectively convert tribal areas bordering Afghanistan into a playing field for militants. Worse, the Pakistani government might be induced to make common cause with Lashkar-i-Taiba, launching a proxy fight against India. Such a war would also fuel even more destructive violent extremism within Pakistan.¶ In the worst-case scenario, an attack could lead to a nuclear war between India and Pakistan. India's superior conventional forces threaten Pakistan, and Islamabad could resort to nuclear weapons were a serious conflict to erupt. Indeed, The Post reported that Pakistan's nuclear weapons and capabilities are set to surpass those of India.

#### Extinction

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

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

#### Collapses Middle East arms control

Lars Berger 12, Associate Professor in International Security at the University of Leeds and PhD in Poli Sci from the Friedrich-Schiller University of Jena in Germany, Dr Ahmed Saif, Executive Director of the Sheba Centre for Strategic Studies and Associate Professor of Politics at Sana’a University, Sven-Eric Fikenscher, Research Fellow, International Security Program/Project on Managing the Atom, May 2012, “Yemen and the Middle East Conference,” http://library.fes.de/pdf-files/iez/09607.pdf

Yemen’s ongoing domestic crisis has profound regional and global implica-tions. This is due to the country’s unique combination of a geostrategically sensitive location, the stubborn weakness of state institutions, linkages with transnational terrorism, a prominent role in the regional weapons market, and, crucially, the suspected existence and use of nerve gas. These inter-related challenges might constitute a serious impediment to the short-term success and long-term sustainability of the Middle East Conference (MEC). This gathering on the establishment of a regional zone free of weapons of mass destruction (WMD) and their delivery vehicles (DVs) was mandated by the 2010 Review Conference of the Nuclear Non-Proliferation Treaty (NPT).In this context, Yemen’s ongoing domestic crisis thus requires urgent attention by policy-makers in the region and beyond.¶ The Importance of Yemen in the Context of the Middle East Conference ¶ While in a geographical and political sense Yemen is far from being a central actor in the envisioned MEC, its political future could easily shape the gathering on several levels. First, the Middle East Conference aims at establishing a WMD/DVs Free Zone. On the one hand, Yemen is a party to all three legal documents banning weapons of mass destruction: the Nuclear Non-Proliferation Treaty, the Biological and Toxin Weapons Convention (BTWC), and the Chemical Weapons Convention (CWC).In addition, Sana’a has embraced the Gulf Cooperation Council’s (GCC) call for a Gulf WMD Free Zone, independent of Israeli nuclear policy. On the other hand, when it comes to the problématique of WMD and proliferation, Yemen might store chemical weapons, depending on whether rumors about the use of nerve gas against anti-government protesters in early 2011 turnout to be true. In addition, Yemen imported various WMD-capable aircraft and missiles and probably still operates most of them (see Table No. 1). In the aircraft realm, Yemeni decision-makers from the North, the South, and the unified country alike have mostly received Soviet/Russian fighter jets andbombers.1¶ The current level of instability and the threat of further deterioration could thus spoil any serious arms control effort in Yemen. This is particularly troublesome since the country, given its history and affiliation with the Arab League, will have to be part of far-reaching regional disarmament initiatives. The prospect of an Arab state with an uncon-trolled chemical arsenal is likely to affect Israeli and Iranian calculations with regard to the MEC. Both states are suspicious of the Arab League and tensions between Iran and Saudi Arabia, which is particularly influ-ential in Yemen, have recently worsened. ¶ Second, with a long history as one of the region’s eminent weapons markets, Yemen has the potential to serve as a major gateway for illicit weapons, both conventional and unconventional, entering the Arab peninsula and other parts of the Arab East. If the situation escalates, states with an interest in such technology might, for instance, try to obtain missiles and their spare parts or attempt to gain access to sensitive material from the country’s suspected chemical warheads. This could contribute to the prolif-eration of delivery systems as well as WMD thereby undermining the MEC. In 2011, protesters seized an army base in Sana’a, while Al-Qaeda in the Arab Peninsula (AQAP) has, on a frequent basis, been able to temporarily control several cities and launch deadly assaults on military bases in the southern province of Abyan. Such developments could offer AQAP the chance to use existing dual-use laboratories or even to build their own facilities capable of producing biological and chemical material in remote areas under their control.

#### Key to prevent WMD conflict

Nilsu Goren 13, Turkish PhD candidate at the University of Maryland’s School of Public Policy and graduate fellow at Center for International and Security Studies at Maryland, Aviv Melamud, research associate at the Peace Research Institute Frankfurt, Ibrahim Said, Egyptian Fellow of the United Nations Program on Disarmament, and Ariane Tabatabai, Stanton Nuclear Security Fellow at the Belfer Center and a researcher at the James Martin Center for Nonproliferation Studies, 8 Aug 13, “Anger Management in the Middle East,” http://guests.armscontrolwonk.com/archive/3932/anger-management-in-the-middle-east

The Middle East has provided an arena for different weapons of mass destruction (WMD) programs. Such weapons – nuclear, chemical, biological – are either being developed, acquired, stored, or contemplated throughout this highly-volatile and conflict-prone region. Most notably, there is the nuclear issue (Israel’s opaque nuclear posture and the controversial Iranian nuclear program), but the abundance of chemical and biological weapon programs throughout is arguably just as –according to some, more – dangerous and flammable.¶ This danger is, of course, even more disconcerting considering that the Middle East has provided the stage for several instances of actual use of WMD in the past decades. Chemical weapons have been allegedly employed in the region by Egypt in North Yemen in the 1960s, Saddam Hussein during and after the Iran-Iraq war against Iranian and Kurdish civilians, and allegedly most recently by the Assad Regime in the ongoing civilian conflict in Syria.¶ On top of that, a number of terrorist organizations and fragile states coexist in the region, which makes the presence of WMD particularly worrisome. Preventing the next WMD disaster in the Middle East is obviously an urgent and crucial endeavor. The establishment of a WMD Free Zone in the region would be most fitting to handle the danger, but the initiative has run into difficulties.¶ Despite these challenges, the creation of such a Free Zone in the Middle East is indeed pressing and of vital consequence for the entire region. Yet the majority of Middle Eastern populations are alienated from the debate. Transparency and a public discourse around the topic, as well as a greater understanding of issues of arms control, nonproliferation, and disarmament can therefore play a key role in preventing the next WMD disaster in a region that is already facing multiple security challenges.

### Prev War

#### US justifications for targeted killing will spill over to erode legal restraints on interstate conflict and legitimize preventive war

Craig Martin 11, Associate Professor of Law at Washburn University School of Law, “Going Medieval: Targeted Killing, Self-Defence, and the Jus Ad Bellum Regime,” Ch 8 in TARGETED KILLINGS: LAW & MORALITY IN AN ASYMMETRICAL WORLD, p. 223, available at http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=1956141

IV. The potential impact of the targeted killing policy on international law

The United States has been engaging in this practice of using drone-mounted missile systems to kill targeted individuals since at least 2002.98 An increasing number of countries have employed different methods of targeted killing that constitute a use of force under jus ad bellum.99 The evidence suggests that the United States intends to continue and indeed expand the program, and there is a growing body of scholarly literature that either defends the policy’s legality, or advocates adjustment in international law to permit such action. There is, therefore, a real prospect that the practice could become more widespread, and that customary international law could begin to shift to reflect the principles implicit in the U.S. justification and in accordance with the rationales developed to support it.¶ Some of the implications of such an adjustment in the jus ad bellum regime are obvious from the foregoing analysis. As discussed, there would be a rejection of the narrow principle of self-defense in favor of something much closer to the Grotian concept of defensive war, encompassing punitive measures in response to past attacks and preventative uses of force to halt the development of future threats. The current conditions for a legitimate use of force in self-defense, namely the occurrence or imminence of an armed attack, necessity, and proportionality, would be significantly diluted or abandoned. Not only the doctrine of self-defense, but other aspects of the collective security system would be relaxed as well. Harkening back to Grotian notions of law enforcement constituting a just cause for war, the adjusted jus ad bellum regime would potentially permit the unilateral use of force against and within states for the purpose of attacking NSAs as such, in effect to enforce international law in jurisdictions that were incapable of doing so themselves.100 This would not only further undermine the concept of self-defense, but would undermine the exclusive jurisdiction that the U.N. Security Council currently has to authorize the use of force for purposes of “law enforcement” under Chapter VII of the Charter. Thus, both of the exceptions to the Article 2(4) prohibition on the use of force would be expanded.¶ In addition, however, the targeted killing policy threatens to create other holes in the jus ad bellum regime. This less obvious injury would arise from changes that would be similarly required of the IHL regime, and the resulting modifications to the fundamental relationship between the two regimes. These changes could lead to a complete severance of the remaining connection between the two regimes. Indeed, Ken Anderson, a scholar who has testified more than once on this subject before the U.S. Congress,101 has advocated just such a position, suggesting that the United States should assert that its use of force against other states in the process of targeted killings, while justified by the right to self-defense, does not rise to such a level that it would trigger the existence of an international armed conflict or the operation of IHL principles.102 If customary international law evolved along such lines, reverting to gradations in the types of use of force the change would destroy the unity of the system comprised of the jus ad bellum and IHL regimes, and there would be legal “black holes” in which states could use force without being subject to the limitations and conditions imposed by the IHL regime.¶ The structure of Harold Koh’s two-pronged justification similarly implies a severance of this relationship between jus ad bellum and IHL, albeit in a different and even more troubling way. His policy justification consists of two apparently independent and alternative arguments—that the United States is in an armed conflict with Al Qaeda and associated groups; and that the actions are justified as an exercise of self-defense. The suggestion seems to be that the United States is entitled on either basis to use armed force not just against the individuals targeted, but also against states in which the terrorist members are located. In other words, the first prong of the argument is that the use of force against another sovereign state, for the purposes of targeting Al Qaeda members, is justified by the existence of an armed conflict with Al Qaeda. If this is indeed what is intended by the policy justification, it represents an extraordinary move, not just because it purports to create a new category of armed conflict (that is, a “transnational” armed conflict without geographic limitation),103 but because it also suggests that there need be no jus ad bellum justification at all for a use of force against another state. Rather, the implication of Koh’s rationale is that the existence of an armed conflict under IHL can by itself provide grounds for exemption from the prohibition against the threat or use of force under the jus ad bellum regime.¶ This interpretation of the justifications cannot be pressed too far on the basis of the language of Mr. Koh’s speech alone, which he hastened to explain at the time was not a legal opinion.104 The two justifications could be explained as being supplementary rather than independent and alternative in nature. But the conduct of the United States in the prosecution of the policy would appear to confirm that it is based on these two independent justifications.105 The strikes against groups and states unrelated to the 9/11 attacks could be explained in part by the novel idea that force can be used against NSAs as such, wherever they may be situated. But even assuming some sort of strict liability for states in which guilty NSAs are found, that explanation still does not entirely account for the failure to tie the use of force against the different groups to specific armed attacks launched by each such group. This suggests that the United States is also relying quite independently on the argument that it is engaged in an armed conflict with all of these groups, and that the existence of such an armed conflict provides an independent justification for the use of force against the states in which the groups may be operating.¶ While the initial use of force in jus ad bellum terms is currently understood to bring into existence an international armed conflict and trigger the operation of IHL, the changes suggested by the policy would turn this on its head, by permitting the alleged existence of a “transnational” armed conflict to justify the initial use of force against third states. Whereas the two regimes currently operate as two components of an overall legal system relating to war, with one regime governing the use of force and the other the conduct of hostilities in the resulting armed conflict, the move attempted by the U.S. policy would terminate these independent but inter-related roles within a single system, and expand the role and scope of IHL to essentially replace aspects of the jus ad bellum regime. This would not only radically erode the jus ad bellum regime’s control over the state use of force, but it could potentially undermine the core idea that war, or in more modern terms the use of force and armed conflict, constitutes a legal state that triggers the operation of special laws that govern the various aspects of the phenomenon. There is a risk of return to a pre-Grotian perspective in which “war” was simply a term used to describe certain kinds of organized violence, rather than constituting a legal institution characterized by a coherent system of laws designed to govern and constrain all aspects of its operation.¶ There is a tendency in the U.S. approach to the so-called “global war on terror” to cherry-pick principles of the laws of war and to apply them in ways and in circumstances that are inconsistent with the very criteria within that legal system that determine when and how it is to operate. This reflects a certain disdain for the idea that the laws of war constitute an internally coherent system of law.106 In short, the advocated changes to the jus ad bellum regime and to the relationship between it and the IHL regime, and thus to the laws of war system as a whole,107 would constitute marked departures from the trajectory the system has been on during its development over the past century, and would be a repudiation of deliberate decisions that were made in creating the U.N. system after the Second World War.108¶ The premise of my argument is not that any return to past principles is inherently regressive. A rejection of recent innovations in favor of certain past practices might be attractive to some in the face of new transnational threats. The argument here is not even to deny the idea that the international law system may have to adapt to respond to the transnational terrorist threat. The point, rather, is that the kinds of changes to the international law system that are implicit in the targeted killing policy, and which are advocated by its supporters, would serve to radically reduce the limitations and constraints on the use of force by states against states. The modern principles that are being abandoned were created for the purpose of limiting the use of force and thus reducing the incidence of armed conflict among nations. The rejection of those ideas and a return to older concepts relating to the law of war would restore aspects of a system in which war was a legitimate tool of statecraft, and international armed conflict was thus far more frequent and widespread.109¶ The entire debate on targeted killing is so narrowly focused on the particular problems posed by transnational terrorist threats, and how to manipulate the legal limitations that tend to frustrate some of the desired policy choices, that there is insufficient reflection on the broader context, and the consequences that proposed changes to the legal constraints would have on the wider legal system of which they are a part. It may serve the immediate requirements of the American government, in order to legitimize the killing of AQAP members in Yemen, to expand the concept of self-defense, and to suggest that states can use force on the basis of a putative “transnational” armed conflict with NSAs. The problem is that the jus ad bellum regime applies to all state use of force, and it is not being adjusted in some tailored way to deal with terrorism alone. If the doctrine of self-defense is expanded to include preventative and punitive elements, it will be so expanded for all jus ad bellum purposes. The expanded doctrine of self-defense will not only justify the use of force to kill individual terrorists alleged to be plotting future attacks, but to strike the military facilities of states suspected of preparing for future aggression. If the threshold for use of force against states “harboring” NSAs is significantly reduced, the gap between state responsibility and the criteria for use of force will be reduced for all purposes. If the relationship between jus ad bellum and IHL is severed or altered, so as to create justifications for the use of force that are entirely independent of the jus ad bellum regime, then states will be entitled to use force against other states under the pretext of self-proclaimed armed conflict with NSAs generally.¶ We may think about each of these innovations as being related specifically to operations against terrorist groups that have been responsible for heinous attacks, and applied to states that have proven uniquely unwilling or unable to take the actions necessary to deal with the terrorists operating within their territory. But no clear criteria or qualifications are in fact tied to the modifications that are being advanced by the targeted killing policy. Relaxing the current legal constraints on the use of force and introducing new but poorly defined standards, will open up opportunities for states to use force against other states for reasons that have nothing to do with anti-terrorist objectives. Along the lines that Jeremy Waldron argues in chapter 4 in this volume,110 more careful thought ought to be given to the general norms that we are at risk of developing in the interest of justifying the very specific targeted killing policy. Ultimately, war between nations is a far greater threat, and is a potential source of so much more human suffering than the danger posed by transnational terrorism. This is not to trivialize the risks that terrorism represents, particularly in an age when Al Qaeda and others have sought nuclear weapons. But we must be careful not to undermine the system designed to constrain the use of force and reduce the incidence of international armed conflict, in order to address a threat that is much less serious in the grand scheme of things.

#### That creates a reciprocal fear of surprise attacks---destabilizes the international system

Henry Shue 11, Senior Research Fellow and Professor of Politics and International Relations at Merton College, 13 Nov 2011, “Preemptive War,” The Encyclopedia of War, Wiley Online Library

The second reason for the prohibition is the systemic effects of the general acceptance of preventive war. Unless preventive war is somehow to be an extremely rare exception employed only in extraordinary circumstances—we focus on the question of exceptions in conclusion—it will be generally permitted. It is politically impossible to arrange the international arena so that only one, or only a special few, nations are permitted to engage in preventive wars. If the United States may attack Iraq when it thinks Iraq is a danger, why cannot Pakistan attack India when it thinks India is a danger, or Israel attack Iran when Israel thinks Iran is a danger? Preventive war must in practice be either generally acceptable or generally unacceptable for the agents in international affairs. An international system in which preventive war is generally acceptable will be a deeply unstable and dangerous system, subject to what Thomas Schelling beautifully characterized as “the reciprocal fear of surprise attack” (Schelling 1963): 205–229). When preventive war is generally prohibited, it is in one's own interest to assume that one's adversaries will not launch a surprise attack or preventive war against oneself. Of course they sometimes do, but if they generally do not, the safer bet is that they will not. And the same is true for them: while they must realize that one might launch a preventive war against them, the safer bet for them is that one will not. The general expectation that preventive wars will usually not be launched creates a stable situation, that is, a situation in which it is in every party's interest not to strike first. And this makes war in fact less likely. But a general expectation that preventive wars are likely to be launched creates the reciprocal fear of surprise attack. The situation is unstable because it is in one's interest to strike before being struck, and exactly the same is true for one's adversary: it is in its interest too to strike before being struck by you. So such a “rule of the game” makes preventive war in everyone's short-term interest. Therefore, it is in everyone's long-term interest for preventive war to be reliably prohibited in order to make the international arena less dangerous. An entrenched expectation that preventive attacks will not generally occur because they are generally accepted as being prohibited is a valuable norm, making the world safer. This is the second reason for the prohibition on preventive war.

#### Robust norms restricting the use of force empirically prevent conflict escalation among great powers

John Vasquez 9, Thomas B. Mackie Scholar of International Relations and Professor of Political Science at the University of Illinois at Urbana-Champaign, PhD in Poli Sci from Syracuse University, “Peace,” Chapter 8 in The War Puzzle Revisited, p 298-299, google books

Wallensteen’s examination of the characteristics of particularist periods provides significant additional evidence that the steps-to-war analysis is on the right track. Realist practices are associated with war, and peaceful systems are associated with an emphasis on other practices. Peaceful systems are exemplified by the use of practices like buffer states, compensation, and concerts of power that bring major states together to form a network of institutions that provide governance for the system. The creation of rules of the game that can handle certain kinds of issues – territorial and ideological questions – and/or keep them off the agenda seems to be a crucial variable in producing peace.¶ Additional evidence on the import of rules and norms is provided in a series of studies by Kegley and Raymond (1982, 1984, 1986, 1990) that are operationally more precise than Wallensteen’s (1984) analysis. Kegley and Raymond provide evidence that when states accept norms, the incidence of war and military confrontation is reduced. They find that peace is associated with periods in which alliance norms are considered binding and the unilateral abrogation of commitments and treaties illegitimate. The rules imposed by the global political culture in these periods result in fewer militarized disputes and wars between major states. In addition, the wars that occur are kept at lower levels of severity, magnitude, and duration (i.e. they are limited wars).¶ Kegley and Raymond attempt to measure the extent to which global cultural norms restrain major states by looking at whether international law and commentary on it sees treaties and alliances as binding. They note that there have been two traditions in international law – pacta sunt servanda, which maintains that agreements are binding, and clausa rebus sic stantibus, which says that treaties are signed “as matters stand” and that any change in circumstances since the treaty was signed permits a party to withdraw unilaterally. One of the advantages the Kegley-Raymond studies have over Wallensteen (1984) is that they are able to develop reliable measures of the extent to which in any given half-decade that tradition in international law emphasizes the rebus or pacta sunt servanda tradition. This indicator is important not only because it focuses in on the question of unilateral actions, but because it can serve as an indicator of how well the peace system is working. The pacta sunt servanda tradition implies a more constraining political system and robust institutional context which should provide an alternative to war.¶ Kegley and Raymond (1982: 586) find that in half-decades (from 1820 to 1914) when treaties are considered non-binding (rebus), wars between major states occur in every half-decade (100 percent), but when treaties are considered binding (pacta sunt servanda), wars between major states occur in only 50 percent of the half-decades. The Cramer’s V for this relationship is .66. When the sample is expanded to include all states in the central system, Cramer’s V is 0.44, indicating that global norms have more impact on preventing war between major states. Nevertheless, among central system states between 1820 and 1939, war occurred in 93 percent of the half-decades where the rebus tradition dominated and in only 60 percent of the half-decades where the pacta sunt sevanda tradition dominated.¶ In a subsequent analysis of militarized disputes from 1820 to 1914, Kegley and Raymond (1984: 207-11) find that there is a negative relationship between binding norms and the frequency and scope of disputes short of war. In periods when the global culture accepts the pacta sunt servanda tradition as the norm, the number of military disputes goes down and the number of major states involved in a dispute decreases. Although the relationship is of moderate strength, it is not eliminated by other variables, namely alliance flexibility. As Kegley and Raymond (1984: 213) point out, this means “that in periods when the opportunistic renunciation of commitments” is condoned, militarized disputes are more likely to occur and to spread. The finding that norms can reduce the frequency and scope of disputes is significant evidence that rules can permit actors to successfully control and manage disputes so that they are not contagious and they do not escalate to war. These findings are consistent with Wallensteen’s (1984) and suggest that one of the ways rules help prevent war is by reducing, limiting, and managing disputes short of war.

#### Specifically, executive discretion over the legitimacy of targets will eviscerate legal restrictions on self-defense

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

5. Setting Troubling International Precedents ¶ Here is an additional reason to worry about the U.S. overreliance on drone strikes: Other states will follow America's example, and the results are not likely to be pretty. Consider once again the Letelier murder, which was an international scandal in 1976: If the Letelier assassination took place today, the Chilean authorities would presumably insist on their national right to engage in “targeted killings” of individuals deemed to pose imminent threats to Chilean national security -- and they would justify such killings using precisely the same legal theories the US currently uses to justify targeted killings in Yemen or Somalia. We should assume that governments around the world—including those with less than stellar human rights records, such as Russia and China—are taking notice. ¶ Right now, the United States has a decided technological advantage when it comes to armed drones, but that will not last long. We should use this window to advance a robust legal and normative framework that will help protect against abuses by those states whose leaders can rarely be trusted. Unfortunately, we are doing the exact opposite: Instead of articulating norms about transparency and accountability, the United States is effectively handing China, Russia, and every other repressive state a playbook for how to foment instability and –literally -- get away with murder. ¶ Take the issue of sovereignty. Sovereignty has long been a core concept of the Westphalian international legal order.42 In the international arena, all sovereign states are formally considered equal and possessed of the right to control their own internal affairs free of interference from other states. That's what we call the principle of non-intervention -- and it means, among other things, that it is generally prohibited for one state to use force inside the borders of another sovereign state. There are some well-established exceptions, but they are few in number. A state can lawfully use force inside another sovereign state with that state's invitation or consent, or when force is authorized by the U.N. Security Council, pursuant to the U.N. Charter,43 or in self-defense "in the event of an armed attack." ¶ The 2011 Justice Department White Paper asserts that targeted killings carried out by the United States don't violate another state's sovereignty as long as that state either consents or is "unwilling or unable to suppress the threat posed by the individual being targeted." That sounds superficially plausible, but since the United States views itself as the sole arbiter of whether a state is "unwilling or unable" to suppress that threat, the logic is in fact circular. ¶ It goes like this: The United States -- using its own malleable definition of "imminent" -- decides that Person X, residing in sovereign State Y, poses a threat to the United States and requires killing. Once the United States decides that Person X can be targeted, the principle of sovereignty presents no barriers, because either 1) State Y will consent to the U.S. use of force inside its borders, in which case the use of force presents no sovereignty problems or 2) State Y will not consent to the U.S. use of force inside its borders, in which case, by definition, the United States will deem State Y to be "unwilling or unable to suppress the threat" posed by Person X and the use of force again presents no problem. ¶ This is a legal theory that more or less eviscerates traditional notions of sovereignty, and has the potential to significantly destabilize the already shaky collective security regime created by the U.N. Charter.44 If the US is the sole arbiter of whether and when it can use force inside the borders of another state, any other state strong enough to get away with it is likely to claim similar prerogatives. And, of course, if the US executive branch is the sole arbiter of what constitutes an imminent threat and who constitutes a targetable enemy combatant in an ill- defined war, why shouldn’t other states make identical arguments—and use them to justify the killing of dissidents, rivals, or unwanted minorities?

#### Now is key---US targeted killing is driving a global shift in strategic doctrines---results in nuclear war

Kerstin Fisk 13, visiting assistant professor in the Department of Political Science at Loyola Marymount University, PhD in Political Science from Claremont Graduate University, and Jennifer M. Ramos, Assistant Professor of Political Science at Loyola Marymount University, PhD in Political Science from UC Davis, April 15 2013, “Actions Speak Louder Than Words: Preventive Self-Defense as a Cascading Norm,” International Studies Perspectives, http://onlinelibrary.wiley.com.turing.library.northwestern.edu/doi/10.1111/insp.12013/full

Preventive self-defense entails waging a war or an attack by choice, in order to prevent a suspected enemy from changing the status quo in an unfavorable direction. Prevention is acting in anticipation of a suspected latent threat that might fully emerge someday. One might rightfully point out that preventive strikes are nothing new—the Iraq War is simply a more recent example in a long history of the preventive use of force. The strategic theorist Colin Gray (2007:27), for example, argues that “far from being a rare and awful crime against an historical norm, preventive war is, and has always been, so common, that its occurrence seems remarkable only to those who do not know their history.” Prevention may be common throughout history, but this does not change the fact that it became increasingly difficult to justify after World War II, as the international community developed a core set of normative principles to guide state behavior, including war as a last resort. The threshold for war was set high, imposing a stringent standard for states acting in self-defense. Gray concedes that there has been a “slow and erratic, but nevertheless genuine, growth of a global norm that regards the resort to war as an extraordinary and even desperate measure” and that the Iraq war set a “dangerous precedent” (44). Although our cases do not provide a definitive answer for whether a preventive self-defense norm is diffusing, they do provide some initial evidence that states are re-orienting their military and strategic doctrines toward offense. In addition, these states have all either acquired or developed unmanned aerial vehicles for the purposes of reconnaissance, surveillance, and/or precision targeting.¶ Thus, the results of our plausibility probe provide some evidence that the global norm regarding the use of force as a last resort is waning, and that a preventive self-defense norm is emerging and cascading following the example set by the United States. At the same time, there is variation among our cases in the extent to which they apply the strategy of self-defense. China, for example, has limited their adaption of this strategy to targeted killings, while Russia has declared their strategy to include the possibility of a preventive nuclear war. Yet, the preventive self-defense strategy is not just for powerful actors. Lesser powers may choose to adopt it as well, though perhaps only implementing the strategy against actors with equal or lesser power. Research in this vein would compliment our analyses herein.¶ With the proliferation of technology in a globalized world, it seems only a matter of time before countries that do not have drone technology are in the minority. While preventive self-defense strategies and drones are not inherently linked, current rhetoric and practice do tie them together. Though it is likely far into the future, it is all the more important to consider the final stage of norm evolution—internalization—for this particular norm. While scholars tend to think of norms as “good,” this one is not so clear-cut. If the preventive self-defense norm is taken for granted, integrated into practice without further consideration, it inherently changes the functioning of international relations. And unmanned aerial vehicles, by reducing the costs of war, make claims of preventive self-defense more palatable to the public. Yet a global norm of preventive self-defense is likely to be destabilizing, leading to more war in the international system, not less. It clearly violates notions of just war principles—jus ad bellum. The United States has set a dangerous precedent, and by continuing its preventive strike policy it continues to provide other states with the justification to do the same.

#### Credible external oversight is key to solve---the alternative is an anything-goes standard

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

#### Acceptance of preventive war causes global nuclear conflict

Ariel Colonomos 13, Director of Research at the French National Centre for Scientific Research, Ph.D. in political science from the Institut d'Etudes Politiques de Paris, “The Gamble of War: Is it Possible to Justify Preventive War?” p 72-75, google books

John Yoo holds that the American interventions in Afghanistan or Iraq fulfilled the criteria of necessity and proportionality. To support this argument (which was contested on the invasion of Iraq), he contends that technological change has a direct impact on the calculation of proportionality and the definition of what constitutes an emergency. The proliferation of WMDs, the networking potential of the United States’ enemies, involving also transnational movements, required the adoption of an anticipatory mode of use of force. This is a disturbing line of reasoning. On the one hand—and this is the case with many of the propositions advanced by these intellectuals—it sweeps away the contemporary model of international law, which is based on a cautious (though, it should also be said, ambiguous and hence fragile) interpretation of self-defense. On the other hand, the transition from the empirical to the normative is very abrupt here, with the argument that law depends on the “reality” specific to a particular moment of history. Insofar as WMDs are actually within the reach of a large number of the United States’ enemies today (the USSR and China are no longer the only threats), the world would, in this view, be constantly on tenterhooks at the possibility of a series of preventive wars. These would be triggered by provocations or hasty, contradictory declarations on the part of movements whose strategy is, at times, to draw Westerners—and particularly the American global policeman—into endless wars. This greatly increases instability. During the Cold War, the triggering of a nuclear clash depended on interactions between a limited number of states. Today, nuclear weapons—previously regarded by some as a factor of stability, particularly because of the supposed rationality of those who possessed them—have become grounds for war. More generally there is the whole question of WMDs. The players involved are more numerous, and there is great distrust, both on account of the lack of rationality attributed by the United States to its new enemies and of their greater number and dispersal.

#### Specifically causes a Chinese attack on US missile defense

Stephen Walt 4, Robert and Renee Belfer Professor of International Affairs at Harvard, PhD in Political Science from UC Berkeley, October 1 2004, “The Strategic Environment,” Panel Discussion at “Preemptive Use of Force: A Reassessment,” Conference held by the Fletcher Forum on International Affairs, <http://www.brookings.edu/views/papers/daalder/daalder_fletcher.pdf>

Finally, as Ivo has already noted, there is this precedent problem. By declaring that preventive war is an effective policy option for us, we make it easier for others to see it as an effective policy option for them. Why can’t India attack Pakistan before it develops more nuclear weapons? Why can’t Turkey attack Iraqi Kurdistan to prevent the emergence of an independent state there? Why was it wrong for Serbia to take preventive action against the Kosovars, given that there was a guerilla army attacking Serbs in Kosovo, and given that the Serbs could see a long term threat to their national security if the Kosovar-Albanians got more and more politically organized and tried to secede? Why couldn’t a stronger China decide that America’s national missile defense program was a direct threat to their nuclear deterrent capability, and therefore decide to order a preventive commando strike against American radar sites in Alaska? Now this sounds wildly far-fetched, of course, but imagine the situation being reversed. Imagine if another country threatened our second strike capability, wouldn’t we have looked for some way to prevent that from happening? Of course we would. So again, we’re creating a precedent here.

#### That goes nuclear

John W. Lewis 12, William Haas Professor of Chinese Politics, emeritus, at Stanford University, PhD from UCLA, and Xue Litai, research scholar at the Project on Peace and Cooperation in the Asian-Pacific Region at Stanford University’s Center for International Security and Cooperation, “Making China’s nuclear war plan,” Bulletin of the Atomic Scientists September/October 2012 vol. 68 no. 5 45-65, http://bos.sagepub.com/content/68/5/45.full

If the CMC authorizes a missile base to launch preemptive conventional attacks on an enemy, however, the enemy and its allies could not immediately distinguish whether the missiles fired were conventional or nuclear. From their perspective, the enemy forces could justifiably launch on warning and retaliate against all the command-and-control systems and missile assets of the Chinese missile launch base and even the overall command-and-control system of the central Second Artillery headquarters. In the worst case, a self-defensive first strike by Chinese conventional missiles could end in the retaliatory destruction of many Chinese nuclear missiles and their related command-and-control systems. That disastrous outcome would force the much smaller surviving and highly vulnerable Chinese nuclear missile units to fire their remaining missiles against the enemy’s homeland. In this quite foreseeable action-reaction cycle, escalation to nuclear war could become accelerated and unavoidable. This means that the double policies could unexpectedly cause, rather than deter, a nuclear exchange.

### Plan

#### The United States federal government should create a cause of action for damages for those unlawfully injured in targeted killing operations, their heirs, or their next friend.

### S

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

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

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

#### Congressional cause of deters abuse and overcomes legal barriers

Stephen I. Vladeck 14, Prof of Law and Associate Dean for Scholarship, American University Washington College of Law, “Targeted Killing and Judicial Review ,”

Once one accepts that neutral magistrates are competent to resolve certain issues in suits challenging targeted killings, the focus should shift to how such oversight can best be designed to maximize both the government’s interests in secrecy and expediency and the individual rights of the putative targets. I offered my critiques of Judge Gonzales’s proposal above. Although I have expressed my own views on this subject before,69 the following briefly lays out some of the key elements I consider necessary to any such regime. ¶ As noted above,70 such review is best provided after the fact, rather than ex ante, in a similar manner as the wrongful death actions recognized by virtually every jurisdiction.71 After-the-fact review avoids the serious logistical, prudential, and potentially constitutional concerns that ex ante review would raise because it does not stop the government from acting at its own discretion, and it allows for more comprehensive consideration of the issues “removed from the pressures of the moment and with the benefit of the dispassionate distance on which judicial review must rely.”72¶ Such review should be predicated on an express cause of action created by Congress. In designing such a remedy, Congress can borrow from the model created by FISA, which has provided since its inception that “[a]n aggrieved person, other than [one who is properly subject to surveillance under FISA], who has been subjected to an electronic surveillance . . . shall have a cause of action against any person who committed such violation.”73 An express cause of action would clarify Congress’s intent that such suits should be allowed to go forward, and it would also support arguments against otherwise available common law privileges and immunities. ¶ Further to that end, because review would be after the fact, such an action should be for damages, and, unlike FISA, should therefore contain an express waiver of the United States’ sovereign immunity to ensure that money damages will actually be available in such cases74—not so much to make the victim’s heirs whole, but to provide a meaningful deterrent for future government officers. Thus, although many will disagree with this particular aspect of my proposal, I suspect that such a cause of action could serve its purpose even if it only provided for nominal damages, insofar as such nominal damages still establish forward-looking principles of liability.75¶ Although no special jurisdictional provisions should be necessary (e.g., FISA does not require civil suits under FISA to be brought before the FISC),76 Congress could confer exclusive jurisdiction over such suits upon the U.S. District Court for the District of Columbia.77 This jurisdictional exclusivity would ensure that such cases were brought before federal judges with substantial and sustained experience handling high-profile (and often highly sensitive) national security cases. ¶ Borrowing from the model of the Federal Tort Claims Act (“FTCA”),78 as amended by the Federal Employees Liability Reform and Tort Compensation Act of 1988 (“Westfall Act”), 79 Congress can immunize potential officer-defendants by substituting the United States as the defendant on any claims arising under this cause of action in which the officer-defendant was acting within the scope of his employment.80 As is the case under the Westfall Act, such a move would also necessarily moot application of official immunity doctrines because it would confer absolute immunity upon the officer-defendants,81 and the United States may not invoke official immunity as a party. As under the Westfall Act, substitution would reinforce the idea that the goal is not to punish individual officers, but to establish the liability of the federal government writ large. ¶ As under the FTCA, Congress could bar jury trials in such cases, requiring instead that all factual and legal determinations be made by the presiding judge.82 Again, such a move would help to ensure that these suits could be heard expeditiously and with due regard for the government’s secrecy concerns. ¶ On that note, with regard to secrecy, Congress could look to both FISA83 and the provisions of the 1996 immigration laws establishing the Alien Terrorist Removal Court (“ATRC”)84 as models for how to allow for judicial proceedings that are both adversarial and largely secret. In this respect, both FISA and the ATRC contemplate litigation between the government and security-cleared counsel without regard to the state secrets privilege, which Congress could otherwise abrogate.85

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

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

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

#### Judicial review would narrow the use of self-defense to truly imminent threats

Lindsay Kwoka 11, JD from UPenn Law School, “TRIAL BY SNIPER: THE LEGALITY OF TARGETED KILLING IN THE WAR ON TERROR,” University of Pennsylvania Journal of Constitutional Law Vol 14:1, p 301-325, https://www.law.upenn.edu/journals/conlaw/articles/volume14/issue1/Kwoka14U.Pa.J.Const.L.301(2011).pdf

But this is not the end of the inquiry. Even if a targeted individual is not located on a field of battle, he may still be a threat, and tar-geted killing may potentially be necessary and appropriate in some circumstances. Applying the reasoning of Hamdi here, a court would likely find that the use of targeted killing is only “necessary and ap-propriate” if it is the only way to prevent someone like Al-Awlaki from engaging in terrorist activity or otherwise harming the United States. The Hamdi Court was concerned with assuring that the executive used the least intrusive means in achieving its objective of preventing the enemy combatant from returning to battle.72The Court made clear that the means used to achieve this objective should be no more intrusive than necessary.73 It is consistent with the Court’s concern to allow targeted killing only when it is the only means available to pre-vent harm to the United States. If the executive can demonstrate that an individual outside of a war zone will harm the United States unless he is killed, targeted kill-ing may be authorized. This is consistent with Hamdi, in which the main concern was preventing future harm to the United States while using the least intrusive means available. This is also consistent with U.S. criminal law, in which the executive branch is permitted to kill an individual if there is no peaceful means left to apprehend him.74¶ Such an approach is also consistent with the approach of the Su-preme Court. Even the most stalwart protectors of constitutional rights of alleged terrorists recognize that immediate action by the ex-ecutive is at times necessary to prevent attacks.75An approach that al-lows the executive to use deadly force when it is the only available means of preventing harm effectively balances the need to protect cit-izen’s constitutional rights while affording sufficient deference to theexecutive.

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

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

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

—a requirement whose fulfillment would best be assured through judicial oversight. The third issue calls for independent evaluation of operations to assure that standards of civilian protection are robustly upheld, a role that could be effectively performed by a court.

#### Courts allow verification without the costs of full disclosure

Avery Plaw 8, Associate Prof of Political Science at the University of Massachusetts at Dartmouth, PhD in Political Science from McGill University, “The Legality of Targeted Killing as an Instrument of War: The Case of Qaed Salim Sinan al-Harethi,” Prepared for the 5th Global Conference on War, Virtual War and Human Security, Budapest 2008

However, the analysis suggests two further points. The first point is that there is an urgent need for more extensive oversight of targeting operations. Since terrorists do not wear uniforms, it is difficulty for those outside the targeting government(s) to know when the targets are legitimate combatants under either of the last two legal paradigms. This concern is illustrated by the al-Harethi case in a number of ways. First, the legitimacy of the operation is at best suggested by the evidence publicly available. Moreover, it seems likely that the available evidence is incomplete – that is, that the state or states cooperating in the targeting have further material that is not available to the public. In addition, information essential to making a just determination includes not only targets’ past actions, but also current activities and, where they can be discerned, future plans, and the quality of evidence the state has on these latter subjects. Such information is typically not publicly available. It may be added that the available material on the al-Harethi targeting is extensive in comparison with other, more recent cases such as the US operations in Somalia in 2007. For these reasons it will often be difficult for those outside the targeting governments to come to a clear determination of the combat status of targets. There is therefore an urgent need for more extensive oversight of targeting operations. ¶ At the same time, targeting states can make a strong case against making all available evidence on future targets publicly available. To disseminate such information in advance could obviously tip off the target and scuttle the operation. Even after the fact, however, the governments may legitimately point out that making sensitive intelligence publicly available may threaten to expose sources and to hamper the continued accumulation of intelligence. In either case, the government may argue that it would be failing in its primary duty to protect its citizens. One possible means of reconciling the need for greater oversight and the need to protect key information would be the creation of independent and authoritative judicial bodies to review the combat status of potential targets in camera. (Plaw 2007: 23-5)¶ Second, there is an urgent need to clarify the criteria for the determination of legitimate targets, and more broadly which of the legal paradigms (or what combination thereof) properly applies to such cases. If the decisive argument in defense of the al-Harethi targeting is, as suggested above, an appeal to the self-defense framework, that would suggest some important limits to who could legitimately be targeted. For example, the condition of necessity would require evidence that further attacks were planned. The state would also have to be prepared to show that there was no alternative means to neutralize the threat posed by the terrorist target. Moreover, the state would have to be able to show that it had reason to believe that it could neutralize the terrorist without posing a disproportionate threat to civilians. These criteria look like they may have been met in the al-Harethi case, although it cannot be known be certainty, at least based on the information available. Again, this unavoidable uncertainty points to the urgent need for a credible and independent body, preferably a judicial body, to review such evidence. This is all the clearer in light of two issues that remain unresolved to date: whether a criterion of immediacy or imminence should be applied to such cases, and how exactly the pertinent criteria should be interpreted. Finally, the urgency of judicial oversight is clearer still because some recent targeting operations do not appear to have met even the criteria of necessity and proportionality. For example, an American targeting attack on 13 January 2006 in Damadola, Pakistan, killed 18 unintended victims. However, Ayman Zawahiri, the intended target of the attack, appears not to have even been present.

## 2AC

### Prev

#### Russian preventive nuke war escalates---causes US retal

Stephen J. Blank 11, Strategic Studies Institute expert on the post-Soviet world and the Soviet bloc, former Associate Professor of Soviet Studies at the Center for Aerospace Doctrine, Research and Education at Maxwell Air Force Base, Ph.D. in history from the University of Chicago, “RUSSIA AND NUCLEAR WEAPONS,” Ch 7 in Russian Nuclear Weapons: Past, Present, and future,” <http://www.strategicstudiesinstitute.army.mil/pdffiles/PUB1087.pdf>

Thus, nuclear weapons are warfighting weapons. Moscow’s threats from October 2009 not only follow previous doctrine, they expand on it by openly admitting that limited nuclear war is its option or ace in the hole. If Russia should decide to invade or seize one or more Baltic State, then that would mean it is prepared to wage nuclear war against NATO and the United States to hold onto that acquisition although it would prefer not to, or thinks it could get away without having to do so. The idea behind such a “limited nuclear war” is that Russia would seize control of the intra-war escalation process by detonating a first-strike even in a preventive or preemptive mode, and this would supposedly force NATO to negotiate a political solution that allows Russia to hold onto at least some of its gains. Apart from the immensity of Moscow’s gamble that NATO will not have the stomach to retaliate against Russian nuclear strikes, which will be carried out to inflict a “preset” amount of damage that Moscow believes will signal its “limited” intent. In essence, Moscow is essentially engaging in a game of nuclear chicken or blackmail. In fact, the real risk here is that the West will not acquiesce but rather that it will retaliate or even escalate, further adding to the inherent unpredictability of any conceivable nuclear war scenario.

### Act

#### AQAP will use bioweapons

CSARN 11, City Security and Resilience Networks group, a not-for-profit membership group of business and public sector security and emergency planning leaders, 9/2/11, “AQAP / Black Banners analysis,” http://worldreports.csarn.org/2011/09/aqap-black-banners-analysis-.html

On 12 August the New York Times reported leaked US intelligence assessments (which were likely provided by Saudi Arabia) suggesting that al-Qaeda in the Arabian Peninsula (AQAP) is experimenting with the use of the biological toxin ricin. We believe this to be credible as AQAP called for chemists and microbiologists to volunteer in its English language publication, Inspire, last year. Furthermore, at least one of its senior bomb-makers trained with al-Qaeda in Afghanistan before 9/11 – when the movement is known to have experimented with chemical and biological weapons. AQAP also has a reputation as the movement’s most innovative element.

#### Extinction

Matheny 7 Jason G. Matheny, research associate with the Future of Humanity Institute at Oxford University, 2007, “Reducing the Risk of Human Extinction,” http://www.upmc-biosecurity.org/website/resources/publications/2007/2007-10-15-reducingrisk.html

Of current extinction risks, the most severe may be bioterrorism. The knowledge needed to engineer a virus is modest compared to that needed to build a nuclear weapon; the necessary equipment and materials are increasingly accessible and because biological agents are self-replicating, a weapon can have an exponential effect on a population (Warrick, 2006; Williams, 2006).5 Current U.S. biodefense efforts are funded at $5 billion per year to develop and stockpile new drugs and vaccines, monitor biological agents and emerging diseases, and strengthen the capacities of local health systems to respond to pandemics (Lam, Franco, & Shuler, 2006).

### S

#### Prez would comply with the court

Stephen I. Vladeck 9, Professor of Law and Associate Dean for Scholarship at American University Washington College of Law, senior editor of the peer-reviewed Journal of National Security Law and Policy, Supreme Court Fellow at the Constitution Project, and fellow at the Center on National Security at Fordham University School of Law, JD from Yale Law School, 3-1-2009, “The Long War, the Federal Courts, and the Necessity / Legality Paradox,” http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1002&context=facsch\_bkrev

Moreover, even if one believes that suspensions are unreviewable, there is a critical difference between the Suspension Clause and the issue here: at least with regard to the former, there is a colorable claim that the Constitution itself ousts the courts from reviewing whether there is a “Case[ ] of Rebellion or Invasion [where] the public Safety may require” suspension––and even then, only for the duration of the suspension.179 In contrast, Jackson’s argument sounds purely in pragmatism—courts should not review whether military necessity exists because such review will lead either to the courts affirming an unlawful policy, or to the potential that the political branches will simply ignore a judicial decision invalidating such a policy.180 Like Jackson before him, Wittes seems to believe that the threat to liberty posed by judicial deference in that situation pales in comparison to the threat posed by judicial review. ¶ The problem is that such a belief is based on a series of assumptions that Wittes does not attempt to prove. First, he assumes that the executive branch would ignore a judicial decision invalidating action that might be justified by military necessity.181 While Jackson may arguably have had credible reason to fear such conduct (given his experience with both the Gold Clause Cases182 and the “switch in time”),183 a lot has changed in the past six-and-a-half decades, to the point where I, at least, cannot imagine a contemporary President possessing the political capital to squarely refuse to comply with a Supreme Court decision. But perhaps I am naïve.184

#### Observer effect solves

Ashley Deeks 13, Associate Prof of Law at the University of Virginia Law School, “The Observer Effect: National Security Litigation, Executive Policy Changes, and Judicial Deference,” Fordham Law Review Vol. 82, October 2013, <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2338667>

In another sense, though, much of substance has been decided since 2002—by the executive branch rather than the courts. This Article illustrated an important reason why the executive’s national security policies have changed significantly since 2001. Many of these changes are due not to the direct sunlight of court orders, but to the shadow cast by the threat or reality of court decisions on executive policymaking in related areas of activity. Court decisions, particularly in the national security realm, have a wider ripple effect than many recognize because the executive has robust incentives to try to preserve security issues as its sole domain. In areas where the observer effect shifts executive policies closer to where courts likely would uphold them, demands for deference by the executive turn out to be more modest than they might seem if considered from the isolated vantage of a single case at a fixed point in time. It remains critical for courts to police the outer bounds of executive national security policies, but they need not engage systematically to have a powerful effect on the shape of those policies and, consequently, the constitutional national security order.¶ A more detailed understanding of the observer effect has implications for national security developments on the horizon. In particular, the observer effect should have salience for those in Congress and the executive branch who are considering whether to create a new national security court that would review targeted killings.307 In this type of situation, the executive would have no jurisdictional uncertainty but ample substantive uncertainty, at least initially. This suggests that the observer effect might have a significant up-front effect on executive decisionmaking regarding targeted killings, shifting those decisions in a more rights-focused direction. As long as the court periodically challenged executive petitions, whether by rejecting a given petition or requiring additional information before approving it, we could predict that the executive would continue to make modest adjustments to its policies. Over time, as the court established baseline doctrine, that effect would flatten out, prompting fewer and fewer changes in executive policy, as with the Guantánamo habeas cases in the D.C. Circuit.

### T

#### Determining targets is part of TK authority

Alberto R. Gonzales 13, Doyle Rogers Distinguished Chair of Law at Belmont University College of Law, former United States Attorney General, “Drones: The Power to Kill,” December 2013, George Washington Law Review Vol 82:1, http://www.gwlr.org/wp-content/uploads/2014/02/GWN1011.pdfhttp://www.gwlr.org/wp-content/uploads/2014/02/GWN1011.pdf

B. The President’s Authority in Times of War¶ Determining the scope of the President’s power in a time of war or armed conflict is one of the most difficult separation of powers questions to answer in constitutional law.156 There are three possible sources of authority under domestic law guiding the President’s decision to unilaterally designate an American citizen as an enemy combatant and place him on the kill list: express constitutional authority, implied constitutional authority, and statutory authority from Congress.157

#### We meet---plan restricts Presidential authority to construe the legal limits on targeted killing---assassination ban proves

Jonathan Ulrich 5, associate in the International Arbitration Group of White & Case, LLP, JD from the University of Virginia School of Law, “NOTE: The Gloves Were Never On: Defining the President's Authority to Order Targeted Killing in the War Against Terrorism,” 45 Va. J. Int'l L. 1029, lexis

The discretionary authority to construe the limits of the assassination ban remains in the hands of the president. He holds the power, moreover, to amend or revoke the Executive Order, and may do so without publicly disclosing that he has done so; since the Order addresses intelligence activities, any modifications may be classified information. n24 The placement of the prohibition within an executive order, therefore, effectively "guarantees that the authority to order assassination lies with the president alone." n25 Congress has similar authority to revise or repeal the Order - though its failure to do so, when coupled with the three unsuccessful attempts to legislate a ban, may be read as implicit authority for the president to retain targeted killing as a [\*1035] policy option. n26 Indeed, in recent years, there have been some efforts in Congress to lift the ban entirely. n27

#### 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

#### Vladeck and Jeffries ignore that the ability to authorize without review is authority

### DA---Warfite

#### 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."

#### 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

#### Military power is 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.

#### Drones aren’t key to power projection but they trade off with capabilities that are.

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.

#### 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

### DA---TPA

#### Losers lose link is non-unique

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.

#### Normal means is Obama doesn’t veto

Dave Boyer 12, Washington Times, “For Obama, veto isn’t overriding concern,” http://www.washingtontimes.com/news/2012/dec/25/record-shows-obamas-veto-threats-carry-little-weig/?page=all

Lawmakers don’t expect Mr. Obama to veto the bill, and there is good reason for that view. The president has followed through on veto threats only twice in his first term, both on relatively inconsequential bills.¶ “With a lot of these veto threats, they’re just simply political statements,” said Gerhard Peters, co-founder of the American Presidency Project at the University of California at Santa Barbara. “It’s a way for the White House to distinguish itself from the Republicans in the House.”¶ By using the veto pen only twice in his first term, Mr. Obama ranks near the bottom among post-Watergate presidents. Republican George W. Bush didn’t use the veto once in his first term, when lawmakers were generally supportive of his initiatives in the wake of the Sept. 11 attacks. Mr. Bush did use the veto 12 times in his second term. Four were overridden.¶ President Reagan used the veto 78 times over eight years; Congress upheld 69. President George H.W. Bush vetoed legislation 44 times in his single term; all but one were sustained. President Clinton used the veto pen 37 times in eight years, with only two overridden. President Carter vetoed 31 pieces of legislation; only two were overridden.¶ A White House spokesman wouldn’t comment on Mr. Obama’s rare use of the veto. In some cases, the president has threatened a veto knowing that the risk of a real confrontation with Congress is low, such as the administration’s promise last week to veto House Republicans’ “Plan B” during the “fiscal cliff” negotiations. The proposal by House Speaker John A. Boehner, Ohio Republican, would have raised taxes on families earning $1 million or more, but Senate Democrats made it clear that the legislation would never reach the president’s desk.¶ Mr. Boehner decided not to hold a vote on the bill after realizing that Republicans lacked the votes to pass it in the House.¶ Mr. Peters said he doesn’t see “much of a coherent strategy” in Mr. Obama’s veto threats and that the role of the veto has evolved in an increasingly partisan Washington.¶ “The increased threat of the filibuster is constantly used,” Mr. Peters said. “That’s one thing that makes it difficult for things to get out of the Senate, even in the previous Congress when you had a Democratic House. It’s very indicative of the changing nature of American politics over the last three or four decades. The fact is that the parties have just become more polarized. Jimmy Carter had a much different Democratic Party to deal with in Congress than Barack Obama has today. That’s one of the reasons that Jimmy Carter had to veto more things.”¶ One of Mr. Obama’s most serious veto run-ins with lawmakers was the defense-authorization battle of December 2011, which hinged on the question of Guantanamo detainees.¶ The president objected to provisions of the military spending bill that would have forced the administration to try terrorism suspects in military courts. But Mr. Obama signed the legislation on New Year’s Eve, when it was likely to attract little attention, but said he didn’t agree with everything in the bill.

#### Trade doesn’t solve war

Martin 6—prof pol sci, U France. Chair in Economics at the Paris School of Economics. Former economist at the Federal Reserve Bank of New York. Former assistant professor at the Graduate Institute of International Studies. Visiting researcher at Princeton. PhD from Georgetown. (Phillipe, “Make Trade not War?,” 12 April 2006, http://www.ecore.be/Papers/1177063947.pdf)

Does globalization pacify international relations? The “liberal” view in political science argues that increasing trade flows, and the spread of free markets and democracy should limit the incentive to use military force in interstate relations. This vision, which can partly be traced back to Kant’s Essay on Perpetual Peace (1795), has been very influential: the main objective of the European trade integration process was to prevent the killing and destruction of the two World Wars from ever happening again1. Figure 1 suggests 2 however that on the 1870-2001 period, the correlation between trade openness and military conflicts is not a clear cut one. The first era of globalization, at the end of the XIXth century, was a period of rising trade openness and of multiple military conflicts, culminating with World War I. Then, the interwar period was characterized by a simultaneous collapse of world trade and conflicts. After World War II, world trade increased rapidly while the number of conflicts decreased (although the risk of a global conflict was obviously high). There is no clear evidence that the 1990s, during which trade flows increased dramatically, was a period of lower prevalence of military conflicts even taking into account the increase in the number of sovereign states.

#### 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

#### 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.

#### Democrats splintering from Obama now --- trade, energy, healthcare

WSJ 2/3, Janet Hook and Peter Nicholas, "Fractures Emerge Between Obama, Congressional Democrats", 2014, online.wsj.com/news/articles/SB10001424052702304851104579361340885310508

WASHINGTON—Democrats in Congress are parting ways with President Barack Obama on issues including trade, energy and health care as the gap widens between the political demands of keeping control of the Senate and advancing parts of the White House agenda.¶ A phalanx of Democrats, including Senate Majority Leader Harry Reid, have announced opposition to the president's top trade initiative. Many Democrats are clamoring for Mr. Obama to act soon to allow construction of the Keystone XL pipeline—a decision the White House is expected to make before midterm elections. Vulnerable Democrats are bluntly criticizing the rollout of the 2010 health-care law. Even an under-the-radar issue such as a flood-insurance bill has been a point of tension.¶ Against that backdrop, Mr. Reid met with the president in the Oval Office for about an hour Monday along with Sen. Michael Bennet (D., Colo.), who is chief strategist in his party's drive to keep control of the Senate after November. The meeting was to review the political landscape of the crucial midterm-election year.¶ A Democratic official familiar with the meeting said it was requested by Mr. Reid as a routine matter, unrelated to the rift between the Nevada senator and the president on trade policy that emerged last week.¶ "We don't stay on the same page through smoke signals," the official said. "We sit down and talk."¶ Despite those tensions, Democrats and White House officials say they remain united on major elements of the legislative and political agenda, such as the extension of unemployment benefits that lapsed late last year.¶ "There is far more that Democrats in Congress and the president agree on than there are areas where there might be differences," said Obama pollster Joel Benenson.¶ Republicans, too, are riven with deep divisions within their party—on immigration policy and how to handle the coming debt-limit increase. But Democrats are finding that a united front that was so durable through last year's budget battles has its limits in an election year. Action on Mr. Obama's trade policy could advance his economic plans but hurt Democratic candidates in the process.¶ "Our caucus would rather see this issue come up at another time because there are strong feelings on both sides of the issue, and you hate to be pushed into a decision that might be easier to make after an election," said Senate Majority Whip Dick Durbin (D., Ill.).¶ The White House and Senate Democrats share a powerful political interest in the fight to keep Republicans from picking up six seats they would need to take control of the Senate this year. Mr. Reid doesn't want to relinquish control of a chamber that has proved a bulwark against a Republican-controlled House and would be crucial to Mr. Obama's ability to have any sway in Congress during the last two years of his presidency.¶ Although he is unpopular in the states with the most fiercely contested Senate races—including Arkansas, Louisiana, Alaska and North Carolina—Mr. Obama remains a mighty asset in helping his party's candidates raise money. He participated in seven fundraising events for the Democratic Senatorial Campaign Committee last year, and Democrats are expecting more in 2014.¶ Some Senate races have become more competitive since the problems with the health law's rollout—and because of a big influx of ads spotlighting those hiccups by conservative outside groups. That has weakened some once-strong incumbents like Sen. Kay Hagan (D., N.C.) and made open seats like one in Michigan tougher to hold.¶ Vulnerable Democrats have made greater efforts to distance themselves from unpopular aspects of the health law. Late last year, Sen. Mary Landrieu of Louisiana introduced legislation to protect individuals whose policies were ended because they didn't meet the law's new standard. That added to pressure on the White House to propose an administrative fix.¶ The most striking fissure between the White House and Senate Democrats came last week when Mr. Reid, one of the president's most reliable allies on Capitol Hill, told reporters he opposed administration-backed legislation aimed at speeding passage of free-trade agreements, a vital component to advancing two major international trade deals. Bitterly opposed by many labor leaders, a vote on the fast-track trade bill would put Democrats in the difficult position of choosing between Mr. Obama and the unions who are a crucial source of campaign workers and cash.¶ "I think everyone would be well-advised just not to push this right now," Mr. Reid said. An official familiar with his thinking said it was "pretty unlikely" the majority leader would bring the bill to a vote before Election Day but that it was "possible" he would do so after November.¶ Mr. Durbin predicted the White House would be hearing from other Democrats beside Mr. Reid who would rather not vote on the issue anytime soon.¶ Sen. Jeanne Shaheen of New Hampshire, another Democrat with a potentially tough fight this fall, demurred when asked about the issue. "It does have pressures on both sides," she said. "We're taking a look at it."¶ Helping spotlight one of his most vulnerable incumbents, Mr. Reid last month called up a flood-insurance bill that was a signature initiative of Ms. Landrieu's. The bill, to delay scheduled flood-insurance-premium increases, passed easily. Ms. Landrieu expressed anger when, before the bill came to a vote, the White House issued a statement criticizing the bill because it believed it undercut the program's financing.¶ Some red-state Democrats have welcomed opportunities to stake out positions in opposition to the White House on issues like the Keystone XL pipeline, giving them ammunition to argue they are independent of the president. The pipeline project is opposed by environmentalists, but many Democrats in swing states support its construction as a way to create jobs—especially in a state like Louisiana, where refineries stand to benefit.¶ If Mr. Obama doesn't approve the pipeline soon, Senate Democrats could face repeated GOP efforts to force a vote on the issue. Senate Minority Leader Mitch McConnell (R., Ky.) said recently he would "continue to push for immediate consideration of bipartisan legislation…that will get the pipeline built."

#### Not spending PC

Kimberley A. Strassel 2/6, columnist @ WSJ, “How Politics May Sink Trade Deals,” http://online.wsj.com/news/articles/SB10001424052702303496804579367084197445494?mg=reno64-wsj&url=http%3A%2F%2Fonline.wsj.com%2Farticle%2FSB10001424052702303496804579367084197445494.html

Yet the iron rule of Washington is that TPA votes only succeed via ferocious and sustained White House lobbying. President George W. Bush spent two years speechifying, mobilizing, horse-trading, and unleashing his assembled business and administrative host on Congress to get TPA. "You couldn't walk down the hall to the bathroom without bumping into a Bush cabinet member or staffer demanding to talk about trade," reminisces one current GOP staffer. "And if you didn't, they'd follow you in." With all this, the House vote in July 2002 to pass TPA was 215-212.¶ Hurricane Obama has ambitions but not about trade. He is aiming to win the midterm election, and that means keeping the left flank happy. Union heavyweights have vowed a grass-roots assault on the trade deals, with enviros in tow. Mr. Obama only wants a trade victory if he doesn't have to commit political capital and upset his base. Since he'd have to do both to win TPA, he's doing little. Congressional pro-traders report no real trade push from the White House. They say Mr. Obama has so far limited himself to working this, ahem, behind the scenes. Not to worry, he keeps telling them. He's making a few calls.¶ One call that apparently hasn't gone out is to Typhoon Harry Reid, who has already announced that Mr. Obama's call for TPA is dead. The Senate Majority leader has a priority that far outranks job-creating trade deals, and it is called staying Majority Leader. He spends 99.999989% of his time protecting his vulnerable members from tough situations, and the thought of TPA makes his few nerve endings go numb.

#### TPA is dead---Senate Dems have electoral incentives to block it

John Nichols 2/3, Washington correspondent for The Nation and associate editor of The Capital Times, “Harry Reid Knows Opposing Fast Track Is Smart Policy and Smart Politics,” http://www.thenation.com/blog/178215/harry-reid-knows-opposing-fast-track-smart-policy-and-smart-politics

There are a lot of reasons Senate majority leader Harry Reid shot down President Obama’s State of the Union request for a congressional grant of fast-track trade promotion authority to negotiate new free-trade deals like the Trans-Pacific Partnership.¶ Reid has a history of skepticism when it comes to trade deals, having opposed the North American Free Trade Agreement, permanent normalization of trade relations with China and a host of other arrangements that were favored by Wall Street interests.¶ Reid has a skeptical caucus. Only one Senate Democrat is on record in favor of granting fast-track authority, which would allow the administration to negotiate the TPP deal without meaningful congressional oversight or amendments. And that senator, Montana’s Max Baucus, is preparing to exit the chamber to become US ambassador to China. Senators who are sticking around, like Ohio’s Sherrod Brown and Massachusetts’ Elizabeth Warren, are ardently opposed.¶ Yet Reid’s rejection of Obama’s request was not a show of skepticism. It was an expression of outspoken opposition.¶ The majority leader took his own stand, announcing, “I am against fast track.”¶ And he took a stand for the chamber, declaring, “Everyone would be well-advised to not push this right now.”¶ Reid was so firm that some congressional observers declared the president’s initiative to be finished, at least for 2014. The House, where top Republicans favor fast track, could still act. But widespread opposition among mainstream Democrats and Tea Party Republicans has raised doubts about whether Wall Street–allied leaders like Speaker John Boehner, R-Ohio, and Budget Committee chairman Paul Ryan, R-Wisconsin, would risk rejection on the issue.¶ Why did Reid say “no” so firmly, and so quickly, that he could be forcing the president to cross a major agenda item off the list?¶ It has a lot to do with policy.¶ But it also has to do with politics.¶ Reid is determined to maintain Democratic control of the Senate in the difficult 2014 election cycle. And he understands that the debate about free-trade policy has evolved to a point where it is a concern not just in traditionally Democratic industrial centers but in rural regions that will play a critical role in determining control of the Senate.¶ Twenty years ago, when Reid was casting a relatively lonely vote against NAFTA, then-President Bill Clinton could count on a lot of Senate support from farm-state Democrats. In those days, farmers were being told that free-trade pacts would yield tremendous benefits for American agriculture and rural communities.¶ But it did not work out that way.¶ Today, there is significant opposition to fast track among farm groups that take their cues from rural America, as opposed to Wall Street. And that matters because rural voters are an important factor in critical Senate contests. Indeed, they could be definitional in states that may decide which party controls the Senate, such as Montana, North Carolina and Iowa. Congressman Bruce Braley, the Democratic front-runner in the race to succeed retiring Iowa Senator Tom Harkin, signed a key letter last year opposing fast track and has termed trade deals that threaten working farmers and rural communities “simply unacceptable.”

#### Opposition is growing in both parties

William Mauldin 2/5, and Siobhan Hughes, WSJ, “Fast-Track Trade Bill's Path in Congress Gets Bumpier,” http://online.wsj.com/news/articles/SB10001424052702304851104579363163316877226?mg=reno64-wsj&url=http%3A%2F%2Fonline.wsj.com%2Farticle%2FSB10001424052702304851104579363163316877226.html

Opposition from the Senate's top Democrat to the White House's trade agenda has highlighted a broader reality: The quest for new overseas deals has a diminishing number of friends in Congress.¶ In the 12 years since the legislature last granted a president special trade powers, Capitol Hill has changed significantly. Republicans, especially many tea-party-backed newcomers, are increasingly leery on the trade front and reluctant to grant President Barack Obama negotiating powers known as fast track. The Senate also has lost many of its strongest pro-trade voices, and another—Max Baucus (D., Mont.)—is leaving the Senate. ¶ And within his own party, Mr. Obama may have to rally support without backup either from Senate Majority Leader Harry Reid, who announced his opposition last week, or Rep. Nancy Pelosi, the top Democrat in the House, who has expressed reservations.¶ Political obstacles in Washington are threatening to derail two sets of trade negotiations—the near-complete talks with Asian-Pacific nations, including Japan, and early-stage ones with the European Union.¶ "If the president is going to go after something that's this politically difficult, he's got to use a 2-by-4," said Bill Brock, former U.S. trade representative in the Reagan administration.¶ Smooth passage of overseas trade negotiations has depended for decades on fast-track powers. The authority allows an administration to submit trade deals to Congress for an up-or-down vote, without amendments, and it can reassure U.S. negotiating partners of broad Washington support.¶ The previous fast-track bill, in 2002, passed the House by three votes. That authority expired in 2007, but a bill introduced in January would reauthorize fast-track status for global trade negotiations for four years.¶ Mr. Obama's top trade adviser, Michael Froman, acknowledged the legislative challenges. "When I'm in town and Congress is in town, I'm spending basically every day up there, and have been for months," Mr. Froman said.¶ In 2002, 27 of 222 House Republicans voted "no" on whether to give President George W. Bush fast-track authority. This time, some 60 House Republicans might oppose the legislation, according to estimates from two people following the matter.¶ Republicans have traditionally backed trade measures, trumpeting what they say are broad benefits to business and the economy, while Democrats have tended to be more cautious, amid warnings from key union backers that expanded trade can mean jobs are shipped overseas.¶ House Speaker John Boehner (R., Ohio) has asked for the support of at least 50 House Democrats to move a bill to the floor, suggesting he is concerned about broad defections in his party.¶ Trade votes are usually easier in the Senate, but Mr. Reid's move to break with Mr. Obama last week showed that more Democrats are cooling to the legislation. Sens. Sherrod Brown of Ohio, Tammy Baldwin of Wisconsin and Sheldon Whitehouse of Rhode Island are among at least seven Senate Democrats who oppose fast-track power and hold seats that once belonged to lawmakers who voted in favor.¶ "The trade model isn't working," said Rep. Marcy Kaptur (D., Ohio), who confronted Mr. Obama at a Tuesday meeting with House Democrats about the process for approving trade deals. She is urging a "pro-American" trade policy that would make sure "we have more exports going out than imports coming in."¶ The Democratic skeptics are joined by a growing number of Republicans wary of international entanglements, including newer lawmakers like Sen. Rand Paul of Kentucky.

#### Reid blocks and PC doesn’t solve

Edward Luce 2/4, Washington columnist for the Financial Times, “Obama’s TPP agenda hangs on a thin Reid,” http://www.afr.com/p/business/companies/obama\_tpp\_agenda\_hangs\_on\_thin\_reid\_V3WfuLkMHda6QJQ3A4zHwI

In his State of the Union address the night before, Obama appealed to Reid and his colleagues to pass trade promotion authority, which enables a straight up-or-down vote on trade deals. Without TPA, the President will be unable to negotiate serious deals with America’s Pacific and Transatlantic partners. The deals, which are approaching crunch point, are the most ambitious items on Obama’s global economic agenda. Reid buried prospects of it passing this year. With friends like this, Obama has no need of the Tea Party.¶ Reid has one goal in mind: to retain his job as Senate majority leader in the November midterm elections. The hardscrabble Democrat from Searchlight, Nevada, has never met a trade deal he liked. Nor, more important, does he think the voters like them much either. In spite of the pick-up in US growth, most Americans say they are pessimistic about their economic prospects. Electoral forecasters say that the Senate could tip either way in November: Republicans need to win just six of the 36 seats up for grabs to regain the majority. By a quirk of the calendar, most of the seats in play are held by Democrats.¶ In the last midterm elections in 2010, when Reid defended Democratic control of the Senate, the Republicans fielded an eccentric range of Tea Party candidates. Among them was Sharron Angle, a far-right constitutionalist, whom Reid narrowly defeated to hold on to his seat in Nevada.¶ This time establishment Republicans are doing their utmost to lock the crazies in the attic and thus stand a better chance of putting Reid out of a job.¶ Passing TPA is just the kind of thing that would alienate the trade unions, whose financial support Reid needs for the six or seven states that will decide the Senate (pay close attention to the races in Alaska, North Carolina, Louisiana and Arkansas).¶ The senator is not the kind of man whose arm can be twisted easily – even by a president from his own party. The son of a goldminer who ended his life with a handgun and a mother who took in laundry from the local brothel to make ends meet, ascended to the top of America’s first branch of government in an almost Abraham Lincoln-like way.¶ CHASED MOB OUT OF LAS VEGAS¶ On the way up he headed Nevada’s gaming commission and was partly responsible for chasing the mob out of Las Vegas – earning a depiction in the movie Casino, as the guy who denies Robert De Niro’s character a gambling licence. On another occasion, he got the Federal Bureau of Investigation to wiretap the meeting where he suspected he would be offered a bribe and then tried to strangle the culprit: “I was in a rage,” he clarified helpfully.¶ Nor does he owe Obama any favours: more the other way round. Without Reid, the $US787 billion stimulus might not have gone through in 2009, nor Obamacare in 2010 – the two most important bills enacted since Obama came to office.¶ But it goes both ways. If Reid does not want TPA to pass, it will go nowhere. That would badly undermine Obama’s most important two global initiatives that do not involve the Middle East.¶ In particular, the Trans-Pacific Partnership is the cornerstone of Obama’s rebalancing to Asia. Although China is not part of TPP, the US aims to set up a new set of trade, investment and intellectual property protections that will bind its future behaviour. If Obama cannot persuade his own party in Congress to support the talks, then China’s neighbours will take their cue. They are already riddled with doubts about Washington’s readiness to take on its own vested interests – textiles and sugar among them.¶ Can Obama get Reid to change his mind? It is hard to see what the White House could offer that would satisfy Reid’s union allies and still enable the US to negotiate concessions from its trade partners.¶ The left wants to attach the kind of environmental and labour conditions that would wreck prospects of serious talks with Indonesia, Vietnam and others.

#### Preventive strike norm causes war with North Korea

Dominika Svarc 6, Researcher at the Institute for Comparative Law at the University of Ljubljana, LLM in Public International Law from the London School of Economics and Political Science, Fall 2006, “ARTICLE & ESSAY: REDEFINING IMMINENCE: THE USE OF FORCE AGAINST THREATS AND ARMED ATTACKS IN THE TWENTY-FIRST CENTURY,” 13 ILSA J Int'l & Comp L 171, lexis

Universal acceptance of the preventive strikes doctrine would create greater potential for violence, the effect of which on reducing the contemporary risks is highly questionable or even counter-productive. For example, highlighting the preventive option would likely encourage the allegedly hostile governments to accelerate development of precarious "launch-on-warning" weapons systems and increase their military preparedness. The conflict with North Korea and the recent escalation of the Iranian nuclear question expose exactly these concerns. On the other hand, others may arm offensively to "prevent the preventor" from eventually transferring them to the list of targets. n82¶ Accepting this doctrine as a part of international law would in principle enable that these two states to assert the right to attack the United States in order to prevent the preventor from striking first. Subsequently, this could fatally erode the already fragile norms and institutions designed to prevent proliferation of weapons of mass destruction.

#### Extinction

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The consequences of failing to address the proliferation threat posed by the North Korea developments, and related political and economic issues, are serious, not only for the Northeast Asian region but for the whole international community.¶ At worst, there is the possibility of nuclear attack1, whether by intention, miscalculation, or merely accident, leading to the resumption of Korean War hostilities. On the Korean Peninsula itself, key population centres are well within short or medium range missiles. The whole of Japan is likely to come within North Korean missile range. Pyongyang has a population of over 2 million, Seoul (close to the North Korean border) 11 million, and Tokyo over 20 million. Even a limited nuclear exchange would result in a holocaust of unprecedented proportions.¶ But the catastrophe within the region would not be the only outcome. New research indicates that even a limited nuclear war in the region would rearrange our global climate far more quickly than global warming. Westberg draws attention to new studies modelling the effects of even a limited nuclear exchange involving approximately 100 Hiroshima-sized 15 kt bombs2 (by comparison it should be noted that the United States currently deploys warheads in the range 100 to 477 kt, that is, individual warheads equivalent in yield to a range of 6 to 32 Hiroshimas).The studies indicate that the soot from the fires produced would lead to a decrease in global temperature by 1.25 degrees Celsius for a period of 6-8 years.3 In Westberg’s view:¶ That is not global winter, but the nuclear darkness will cause a deeper drop in temperature than at any time during the last 1000 years. The temperature over the continents would decrease substantially more than the global average. A decrease in rainfall over the continents would also follow…The period of nuclear darkness will cause much greater decrease in grain production than 5% and it will continue for many years...hundreds of millions of people will die from hunger…To make matters even worse, such amounts of smoke injected into the stratosphere would cause a huge reduction in the Earth’s protective ozone.4