# Wake Round 2

## 1NC

### T

#### Restrictions on authority prohibit- the aff is a condition

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

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

**Vote neg
limits and ground- anything can indirectly affect war powers--also makes the topic bidirectional because conditions can enhance executive power**

### Politics of Schmitt K

#### Politics is Schmittian – trying to fight the executive on their own battlefield is naïve – the aff is just a liberal knee-jerk reaction that swells executive power

Kinniburgh, 5/27 **–** (Colin, Dissent, 5-27, <http://www.dissentmagazine.org/blog/partial-readings-the-rule-of-law>)

Our thesis is that these modifications to liberal legalism fail. Either they do not go far enough to square with the facts, or they go so far as to effec­tively abandon the position they seek to defend. We live in a regime of executive-centered government, in an age after the separation of powers, and the legally constrained executive is now a historical curiosity. As against liberal constitutional theorists like Janies Madison, Bruce Acker­man,1 and Richard Epstein,2 and liberal theorists of the rule of law like ..Albert Venn Dicey3 and David Dyzenhaus,4 we argue that in the modern administrative state the executive governs, subject to legal constraints that are shaky in normal times and weak or nonexistent in times of crisis. Whereas Madison is an exemplar of liberal legalism, particularly in the domain of constitutional theory, we draw upon the thought of the Weimar legal theorist Carl Schmitt. We do not agree with all of Schmitt’s views, by any means. To the. extent Schmitt thought that democratic poli­tics do not constrain the executive, or thought that in the administrative state the executive is not only largely unconstrained by law but also uncon­strained tout court, we disagree. Indeed, to the extent that Schmitt thought this, he fell into a characteristic error of liberal legalism, which equates lack of legal constraint with unbounded power. But Schmitt’s critical arguments against liberal legalism seem to us basically correct, at least when demysti­fied and rendered into suitably pragmatic and institutional terms. A central theme in Schmitt s work, growing outof Weimar’s running economic and security crises in the 1920s and early 1930s, involves the relationship between the classical rule-of-law state, featuring legislative enactment of general rules enforced by courts, and the administrative state, featuring discretionary authority and ad hoc programs, administered by the executive, affecting particular individuals and firms. The nub of Schmitt s view is the idea that liberal lawmaking institutions frame, general norms that are essentially “oriented to the past,” whereas “the dictates of modern interventionist politics cry out for a legal system conducive to a present- and future-oriented ‘steering’ of complex, ever-changing eco­nomic scenarios.”3 Legislatures and courts, then, are continually behind the pace of events in the administrative state; they play an essentially reac­tive and marginal role, modifying and. occasionally blocking executive policy initiatives, but rarely taking the lead. And in crises, the executive governs nearly alone, at least so far as law is concerned. In our view, the major constraints on the executive, especially in crises, do not arise from law or from the separation-of-powers framework defended by liberal legalists, but from politics and public opinion. Law and politics are hard to separate and lie on a continuum—elections, for example, are a complicated mix: of legal rules and political norms—but the poles are clear enough for our purposes, and the main constraints on the executive arise from the political end of the continuum. A central fallacy of liberal legalism, we argue, is the equation of a constrained executive with an executive constrained by law. The pressures of the administrative state loosen legal constraints, causing liberal legalists to develop tyrannophobia, or unjustified fear of dictatorship. They overlook the de facto political con­straints that have grown up and, to some degree, substituted for legal constraints on the executive.6 As the bonds of law have loosened, the bonds of politics have tightened their grip. The executive, “unbound” from the standpoint of liberal legalism, is in some ways more constrained than ever before. We do not claim that these political constraints necessarily cause the executive to pursue the public interest, however defined, or that they pro­duce optimal executive decision-making. We do claim that politics and public opinion at least block the most lurid forms of executive abuse, that courts and Congress can do no better, that liberal legalism goes wrong by assuming that a legally unconstrained executive is unconstrained overall, and that in any event there is no pragmatically feasible alternative to exec­utive government under current conditions. The last point has normative implications, because of the maxim “Ought implies can.” Executive gov­ernment is best in the thin sense that there is no feasible way to improve upon it, under the conditions of the administrative state.

#### Legality feeds a new form of muscular liberalism where these illusions cannot see how much they sustain it which legitimizes wars for democracies and doctrines of pre-emption

Motha 8 \*Stewart, Senior Lecturer, Kent Law School, University of Kent, Canterbury, Kent, Journal of Law, Culture, and Humanities Forthcoming 2008, Liberal Cults, Suicide Bombers, and other Theological Dilemmas

A universalist liberal ideology has been re-asserted. It is not only neo-con hawks or Blairite opportunists that now legitimise wars for democracy. Alarmingly, it is a generation of political thinkers who opposed the Nixonian logic of war (wars to show that a country can ‘credibly’ fight a war to protect its interests1), and those humbled by the anticolonial struggles of liberation from previous incarnations of European superiority that are renewing spurious civilizational discourses. This ‘muscular liberalism’ has found its voice at the moment of a global political debate about the legality and effectiveness of ‘just wars’ – so called ‘wars for democracy’ or ‘humanitarian war’. The new political alignment of the liberal left emerged in the context of discussions about the ‘use of force’ irrespective of UN Security Council endorsement or the sovereign state’s territorial integrity, such as in Kosovo – but gained rapid momentum in response to attacks in New York City and Washington on September 11, 2001. Parts of the liberal left have now aligned themselves with neoconservative foreign policies, and have joined what they believe is a new anti-totalitarian global struggle – the ‘war on terror’ or the battle against Islamist fundamentalism. One task of this essay, then, is to identify this new formation of the liberal left. Much horror and suffering has been unleashed on the world in the name of the liberal society which must endure. However, when suicide bombing and state-terror are compared, the retort is that there is no moral equivalence between the two. Talal Asad in his evocative book, On Suicide Bombing, has probed the horror that is felt about suicide bombing in contrast to state violence and terror.2 What affective associations are formed in the reaction to suicide bombing? What does horror about suicide bombing tell us about the constitution of inter-subjective relations? In this essay I begin to probe these questions about the relation between death, subjectivity, and politics. I want to excavate below the surface oppositions of good deaths and bad, justifiable killing and barbarism, which have been so central to left liberal arguments. As so much is riding on the difference between ‘our good war’ and ‘their cult of death’, it seems apt to examine and undo the opposition. The muscular liberal left projects itself as embodying the values of the ‘West’, a geo-political convergence that is regularly opposed to the ‘East’, ‘Muslims’, or the ‘Islamic World’. I undo this opposition, arguing that thanatopolitics, a convergence of death, sacrifice, martyrdom and politics, is common to left liberal and Islamist political formations. How does death become political for left liberals and Islamist suicide bombers? In the case of the latter, what is most immediately apparent is how little is known about the politics and politicization of suicide bombers. Suicide bombers are represented as a near perfect contrast to the free, autonomous, self-legislating liberal subject – a person overdetermined by her backward culture, oppressive setting, and yet also empty of content, and whose death can have no temporal political purchase. The ‘suicide bomber’ tends to be treated by the liberal left as a trans-historical ‘figure’, usually represented as the ‘Islamo-fascist’ or the ‘irrational’ Muslim.3 The causes of suicide bombing are often implicitly placed on Islam itself – a religion that is represented as devoid of ‘scepticism, doubt, or rebellion’ and thus seen as a favourable setting for totalitarianism.4 The account of the suicide bomber as neo-fascist assassin supplements a lack – that is, that the association of suicide bombing with Islam explains very little. The suicide bomber is thus made completely familiar as totalitarian fascist, or wholly other as “[a] completely new kind of enemy, one for whom death is not death”.5 So much that is written about the suicide bomber glosses over the unknown with political subjectivities, figures, and paradigms (such as fascism) which are familiar enough to be vociferously opposed. By drawing the suicide bomber into a familiar moral register of ‘evil’, political and historical relations between victim and perpetrator are erased.6 In the place of ethnographically informed research the ‘theorist’ or ‘public intellectual’ erases the contingency of the suicide bomber and reduces her death to pure annihilation, or nothingness. The discussion concludes by undoing the notion of the ‘West’, the very ground that the liberal left assert they stand for. The ‘West’ is no longer a viable representation of a geo-political convergence, if it ever was. Liberal discourse has regarded itself as the projection of the ‘West’ and its enlightenment. But this ignores important continuities between Islam, Christianity, and contemporary secular formations. The current ‘clash of monotheisms’, I argue after J-L Nancy, reveals a crisis of sense, authority, and meaning which is inherent to the monotheistic form. An increasingly globalised world is made up of political communities and juridical orders that have been ‘emptied’ of authority and certainty. This crisis of sense conditions the horror felt by the supposedly rational liberal in the face of Islamist terrorism. Horror at terrorism is then the affective bond that sustains a grouping that otherwise suffers the loss of a political project with a definite end. The general objective of this essay is to challenge the unexamined assumptions about politics and death that circulate in liberal left denunciations of Islamic fascism. The horror and fascination with the figure of the suicide bomber reveals an unacknowledged affective bond that constitutes the muscular liberal left as a political formation. This relies on disavowing the sacrificial and theological underpinnings of political liberalism itself – and ignores the continuities between what is called the ‘West’ and the theologico-political enterprise of monotheism. Monotheism is not the preserve of something called the ‘West’, but rather an enterprise that is common to all three Religions of the Book. The article concludes by describing how the writings of Jean-Luc Nancy on monotheism offer liberal left thinkers insights for rethinking the crisis of value that resulted from the collapse of grand emancipatory enterprises as well as the fragmentation of politics resulting from a focus on political identification through difference. I opened with a reference to the ‘liberal left’. Of course the ‘liberal left’ signifies a vast and varied range of political thinking and activism – so I must clarify how I am deploying this term. In this essay the terms ‘liberal left’ or ‘muscular liberal’ are used interchangeably. Paul Berman and Nick Cohen, whose writing I will shortly refer to, are exemplars of the new political alignment who self-identify as ‘democrats and progressives’, but whose writings feature bellicose assertions about the superiority of western models of democracy, and universal human rights.7 Among this liberal left, democracy and freedom become hemispheric and come to stand for the West. More generally, now, the ‘liberal left’ can be distinguished from political movements and thinkers who draw inspiration from a Marxist tradition of thought with a socialist horizon. The liberal left I am referring to would view the Marxist tradition as undervaluing democratic freedoms and human rights. Left liberals also tend to dismiss the so called post-Marxist turn in European continental philosophy as ‘postmodern relativism’.8 PostMarxists confronted the problem of the ‘collective’ – addressing the problem of masses and classes as the universal category or agent of historical transformation. This was a necessary correction to all the disasters visited on the masses in the name of a universal working class. The liberal state exploited these divisions on the left. It is true that a left fragmented through identity politics or the politics of difference were reduced to group based claims on the state. However, liberal multiculturalism was critiqued by anti-racist and feminist thinkers as early as the 1970s for ignoring the structural problems of class or as yet another nation-building device. The new formation of the muscular liberal left have only just discovered the defects of multiculturalism. The dismissal of liberal multiculturalism is now code for ‘too much tolerance’ of ‘all that difference’. The liberal left, or muscular liberal, as I use these terms, should not be conflated with the way ‘liberal’ is generally used in North America to denote ‘progressive’, ‘pro-choice’, open to a multiplicity of forms of sexual expression, generally ‘tolerant’, or ‘left wing’ (meaning socialist). It might be objected that it is not the liberal left, but ‘right wing crazies’ driven by Christian evangelical zeal combined with neo-liberal economic strategies that have usurped a post-9/11 crime and security agenda to mount a global hegemonic enterprise in the name of a ‘war on terror’. It might also be said that this is nothing new – global expansionist enterprises such as 18th and 19th century colonialism mobilised religion, science, and theories of economic development to secure resources and justify extreme violence where necessary. Global domination, it might be argued, has always been a thanatopolitical enterprise. So what’s different now? What is crucial, now, is that the entire spectrum of liberalism, including the ‘rational centre’, is engaged in the kind of mindset whereby a destructive and deadly war is justified in the name of protecting or establishing democracy, the rule of law, and human rights. It might then be retorted that this ‘rational centre’ of liberalism have ‘always’ been oriented in this way. That is partly true, but it is worth recalling that the liberal left I have in mind is the generation that came of age with opposition to the war in Vietnam, other Indo-Chinese conflagrations, and the undoing of empire. This is a left that observed the Cold War conducted through various ‘hot wars’ in Africa, Central and Latin America, and South East Asia and thus at least hoped to build a ‘new world order’ of international law and multilateralism. This is a left that was resolved, by the 1970s, not to repeat the error of blindly following a scientific discourse that promised to produce a utopia – whether this was ‘actually existing socialism’ or the purity of ‘blood and soil’. But now, a deadly politics, a thanatopolitics, is drawn out of a liberal horror and struggle against a monolithically drawn enemy called Islamic fundamentalism. What is new is that Islam has replaced communism/fascism as the new ‘peril’ against which the full spectrum of liberalism is mobilized. Islamist terrorism and suicide bombers, a clash between an apparently Islamic ‘cult of death’ versus modern secular rationality has come to be a central preoccupation of the liberal left. In the process, as Talal Asad has eloquently pointed out, horror about terrorism has come to be revealed as one way in which liberal subjectivity and its relation to political community can be interrogated and understood.9 Moreover, the potential for liberal principles to be deployed in the service of legitimating a doctrine of pre-emption as the ‘new internationalism’ is significant. The first and second Gulf Wars, according to the liberal left, are then not wars to secure control over the supply of oil, or regional and global hegemony, as others on the left might argue, but anti-fascist, anti-totalitarian wars of liberation fought in the name of ‘democracy’. Backing ‘progressive wars’ for ‘freedom and democracy’, those who self-identify as a left which is reasserting liberal democratic principles start by asking questions such as: “Are western freedoms only for westerners?”.10 In the process, freedom becomes ‘western’, and its enemy an amorphous legion behind an unidentifiable line between ‘west’ and the rest (the ‘Muslim world’). The ‘war for democracy’ waged against ‘Islamist terrorism’ and Muslim fundamentalism is the crucible on which the new alignment of the liberal left is forged.

#### The alt is to reject the aff in favor of building a culture of resilience

Vermeule and Posner 11 Adrian Vermeule, prof of Law at Harvard University Law School, Eric A Posner., prof of Law at the University of Chicago Law School, *Executive Unbound: After the Madisonian Republic*, Oxford University Press 2011

We do not yet live under a plebiscitary presidency. In such a system, the president has unchecked legal powers except for the obligation to submit to periodic elections. In our system, Congress retains the formal power to make law. It has subjected presidential lawmaking to complex procedures and bureaucratic checks,1 and it has created independent agencies over which the president in theory has limited control. The fed­eral courts can expect the executive to submit to their orders, and the Supreme Court retains certain quasi-lawmaking powers, which it exercises by striking down statutes and blocking executive actions. The federal system is still in place. State legal institutions retain considerable power over their populations. But these legal checks on executive authority (aside from the electoral constraint) have eroded considerably over the last two hundred years. Congress has delegated extensive powers to the executive. For new initia­tives, the executive leads and Congress follows. Congress can certainly slow down policymaking, and block bills proposed by the executive; but it cannot set the agenda. It is hard to quantify the extent of congressional control over regulatory agencies, but it is fair to say that congressional intervention is episodic and limited, while presidential control over both the executive and independent agencies is strong and growing stronger. The states increasingly exercise authority at the sufferance of the national government and hence the president. The federal courts have not tried to stop the erosion of congressional power and state power. Some commentators argue that the federal courts have taken over Con­gress’s role as an institutional check. It is true that the Supreme Court has shown little compunction about striking down statutes (although usually state statutes), and that it rejected some of the legal theories that the Bush administration used to justify its counterterrorism policies. However, the Court remains a marginal player. The Court ducked any legal rulings on counterterror policies until the 2004 Hamdi decision, and even after the Boumediene decision in 2008, no detainee has been released by final judicial order, from Guantanamo or elsewhere, except in cases where the government chose not to appeal the order of a district judge. The vast majority of detainees have received merely another round of legal process. Some speculate that judicial threats to release detainees have caused the administration to release them preemptively. Yet the judges would incur large political costs for actual orders to release suspected terrorists, and the government knows this, so it is unclear that the government sees the judi­cial threats as credible or takes them very seriously. The government, of course, has many administrative and political reasons to release detainees, quite apart from anything the courts do. So the executive submits to judi­cial orders in part because the courts are careful not to give orders that the executive will resist. In general, judicial opposition to the Bush administration’s counterter­rorism policies took the form of incremental rulings handed down at a gla­cial pace, none of which actually stopped any of the major counterterrorism tactics of that administration, including the application of military power against Al Qaeda, the indefinite detention of members of Al Qaeda, tar­geted assassinations, the immigration sweeps, even coercive interrogation. The (limited) modifications of those tactics that have occurred resulted not from legal interventions but from policy adjustments driven by changed circumstances and public opinion, and by electoral victory of the Obama administration. However, the Obama administration has mostly confirmed and in some areas even expanded the counterterrorism policies of the Bush administration. Strong executive government is bipartisan. The 9/11 attack provided a reminder of just how extensive the presi­dent’s power is. The executive claimed the constitutional authority to, in effect, use emergency powers. Because Congress provided redundant stat­utory authority, and the Supreme Court has steadfastly refused to address the ultimate merits of the executives constitutional claims, these claims were never tested in a legal or public forum. But it is worth trying to ima­gine what would have happened if Congress had refused to pass the Autho­rization for Use of Military Force and the Supreme Court had ordered the executive to release detainees in a contested case. We think that the execu­tive, backed up as it was by popular opinion, would have refused to obey. And, indeed, for just that reason, Congress would, never have refused its imprimatur and the Supreme Court would never have stood in the execu­tive’s way. The major check on the executives power to declare an emer­gency and to use emergency powers is—political. The financial crisis of 2008-2009 also revealed the extent of executive power. Acting together, the Fed, the Treasury, and other executive agencies spent hundreds of billions of dollars, virtually nationalizing parts of the financial system. Congress put up a fuss, but it could not make policy and indeed hardly even influenced policy. Congress initially refused to supply a blank check, then in world-record time changed its mind and gave the blank check, then watched helplessly as the administration adopted pol­icies different from those for which it said the legislation would be needed. Courts played no role in the crisis except to ratify executive actions in tension with the law.2 What, then, prevents the executive from declaring spurious emergencies and using the occasion to consolidate its power—or for that matter, consolidating its power during real emergencies so that it retains that power even after normal times return? In many countries, notably in Latin America, presidents have done just that. Citing an economic crisis, or a military threat, or congressional gridlock, executives have shut down independent media, replaced judges with their cronies, suppressed political opposition, and ruled by dictate. Could this happen in the United States? The answer is, very probably, no. The political check on the executive is real. Declarations of emergency not justified by publicly visible events would be met with skepticism. Actions said, to be justified by emergency would not be approved if the justification were not plausible. Separation of powers may be suffering through an enfeebled old age, but electoral democracy is alive and well. We have suggested that the historical developments that have under­mined separation of powers have strengthened democracy. Consider, for example, the communications revolution, which has culminated (so far) in the Internet Age. As communication costs decrease, the size of markets expand, and hence the scale of regulatory activity must increase. Localities and states lose their ability to regulate markets, and the national govern­ment takes over. Meanwhile, reduced communication costs increase the relative value of administration (monitoring firms and ordering them to change their behavior) and reduce the relative value of legislation (issuing broad-gauged rules), favoring the executive over Congress. At the same time, reduced communication costs make it easier for the public to mon­itor the executive. Today, whistleblowers can easily find an audience on the Internet,; people can put together groups that focus on a tiny aspect of the government s behavior; gigabytes of government data are uploaded onto the Internet and downloaded by researchers who can subject them to rigorous statistical analysis. It need not have worked out this way. Govern­ments can also use technology to monitor citizens for the purpose of suppressing political opposition. But this has not, so far, happened in the United States. Nixon fell in part because his monitoring of political enemies caused an overwhelming political backlash, and although the Bush administration monitored suspected terrorists, no reputable critic suggested that it targeted domestic political opponents. Our main argument has been methodological and programmatic: researchers should no longer view American political life through the Madisonian prism, while normative theorists should cease bemoaning the decline of Madisonianism and instead make their peace with the new political order. The center of gravity has shifted to the executive, which both makes policy and administers it, subject to weak constraints imposed by Congress, the judiciary, and the states. It is pointless to bewail these developments, and futile to argue that Madisonian structures should be reinvigorated. Instead, attention should shift to the political constraints on the president and the institutions through, which those political con­straints operate—chief among them elections, parties, bureaucracy, and the media. As long as the public informs itself and maintains a skeptical attitude toward the motivations of government officials, the executive can operate effectively only by proving over and over that it deserves the public s trust. The irony of the new political order is that the executive, freed from the bonds of law, inspires more distrust than in the past, and thus must enter ad hoc partnerships with political rivals in order to persuade people that it means well. But the new system is more fluid, allowing the executive to form those partnerships when they are needed to advance its goals, and not otherwise. Certain types of partnership have become recurrent pat­terns—for example, inviting a member of the opposite party to join the president’s cabinet. Others are likely in the future. In the place of the clockwork mechanism bequeathed to us by the Enlightenment thinking of the founders, there has emerged a more organic system of power sharing and power constraint that depends on shifting political alliances, currents of public opinion, and the particular exigencies that demand government action. It might seem that such a system requires more attention from the public than can reasonably be expected, but the old system of checks and balances always depended on public opinion as well. The centuries-old British parliamentary system, which operated in. just this way, should provide reason, for optimism. The British record on executive abuses, although hardly perfect, is no worse than the American record and arguably better, despite the lack of a Madisonian separation of legislative and executive powers

### CP

#### The Executive Branch of the United States should create a national security court housed within the executive branch prohibiting the offensive use of remotely piloted aircraft for targeted killing and “executive v. executive” divisions as per our Katyal evidence to promote internal separation of powers via separate and overlapping cabinet offices, mandatory review of government action by different agencies, civil-service protections for agency workers, reporting requirements to Congress, and an impartial decision-maker to resolve inter-agency conflicts.

#### Presidential veto power and executive deference mean external restraints fail – internal separation of powers constrains the president and leads to better decision making

Katyal ’6 Neal Katyal, Professor of Law @ Georgetown, The Yale Law Journal, “Internal Separation of Powers: Checking Today’s Most Dangerous Branch from Within” 115 Yale L.J. 2314, 2006

After all, Publius's view of separation of powers presumes three branches with equivalent ambitions of maximizing their powers, yet legislative abdication is the reigning modus operandi. It is often remarked that "9/11 changed everything"; 2 particularly so in the war on terror, in which Congress has been absent or content to pass vague, open-ended statutes. The result is an executive that subsumes much of the tripartite structure of government. Many commentators have bemoaned this state of affairs. This Essay will not pile on to those complaints. Rather, it begins where others have left off. If major decisions are going to be made by the President, then how might separation of powers be reflected within the executive branch? The first-best concept of "legislature v. executive" checks and balances must be updated to contemplate second-best "executive v. executive" divisions. And this Essay proposes doing so in perhaps the most controversial area: foreign policy. It is widely thought that the President's power is at its apogee in this arena. By explaining the virtues of internal divisions in the realm of foreign policy, this Essay sparks conversation on whether checks are necessary in other, domestic realms. That conversation desperately needs to center on how best to structure the ever-expanding modern executive branch. From 608,915 employees working in agencies in 1930, 3 to 2,649,319 individuals in 2004, 4 the growth of the executive has not generated a systematic focus on internal checks. We are all fond of analyzing checks on judicial activism in the post-Brown, post-Roe era. So too we think of checks on legislatures, from the filibuster to judicial review. But [\*2317] there is a paucity of thought regarding checks on the President beyond banal wishful thinking about congressional and judicial activity. This Essay aims to fill that gap. A critical mechanism to promote internal separation of powers is bureaucracy. Much maligned by both the political left and right, bureaucracy creates a civil service not beholden to any particular administration and a cadre of experts with a long-term institutional worldview. These benefits have been obscured by the now-dominant, caricatured view of agencies as simple anti-change agents. This Essay celebrates the potential of bureaucracy and explains how legal institutions can better tap its powers. A well-functioning bureaucracy contains agencies with differing missions and objectives that intentionally overlap to create friction. Just as the standard separation-of-powers paradigms (legislature v. courts, executive v. courts, legislature v. executive) overlap to produce friction, so too do their internal variants. When the State and Defense Departments have to convince each other of why their view is right, for example, better decision-making results. And when there is no neutral decision-maker within the government in cases of disagreement, the system risks breaking down. In short, the executive is the home of two different sorts of legitimacy: political (democratic will) and bureaucratic (expertise). A chief aim of this Essay's proposal is to allow each to function without undermining the other. This goal can be met without agency competition - overlapping jurisdiction is simply one catalyzing agent. Other ideas deserve consideration, alongside or independent of such competition, such as developing career protections for the civil service modeled more on the Foreign Service. Executives of all stripes offer the same rationale for forgoing bureaucracy-executive energy and dispatch. 5 Yet the Founders assumed that massive changes to the status quo required legislative enactments, not executive decrees. As that concept has broken down, the risks of unchecked executive power have grown to the point where dispatch has become a worn-out excuse for capricious activity. Such claims of executive power are not limited to the current administration, nor are they limited to politicians. Take, for example, Dean Elena Kagan's rich celebration of presidential administration. 6 Kagan, herself a former political appointee, lauded the President's ability to trump bureaucracy. Anticipating the claims of the current administration, Kagan argued that the [\*2318] President's ability to overrule bureaucrats "energizes regulatory policy" because only "the President has the ability to effect comprehensive, coherent change in administrative policymaking." 7 Yet it becomes clear that the Kagan thesis depends crucially on oversight by the coordinate legislative branch (typically controlled by a party in opposition to the President). Without that checking function, presidential administration can become an engine of concentrated power. This Essay therefore outlines a set of mechanisms that create checks and balances within the executive branch. The apparatuses are familiar - separate and overlapping cabinet offices, mandatory review of government action by different agencies, civil-service protections for agency workers, reporting requirements to Congress, and an impartial decision-maker to resolve inter-agency conflicts. But these restraints have been informally laid down and inconsistently applied, and in the wake of September 11 they have been decimated. 8 A general framework statute is needed to codify a set of practices. In many ways, the status quo is the worst of all worlds because it creates the facade of external and internal checks when both have withered. I. THE NEED FOR INTERNAL SEPARATION OF POWERS The treacherous attacks of September 11 gave Congress and the President a unique opportunity to work together. Within a week, both houses of Congress passed an Authorization for Use of Military Force (AUMF); 10 two months later they enacted the USA PATRIOT Act to further expand intelligence and law enforcement powers. 11 But Congress did no more. It passed no laws authorizing or regulating detentions for U.S. citizens. It did not affirm or regulate President Bush's decision to use military commissions to try unlawful belligerents. 12 It stood silent when President Bush accepted thinly reasoned legal views of the Geneva Conventions. 13 The administration was content to rely on vague legislation, and Congress was content to enact little else. 14 There is much to be said about the violation of separation of powers engendered by these executive decisions, but for purposes of this Essay, I want [\*2320] to concede the executive's claim - that the AUMF gave the President the raw authority to make these decisions. A democratic deficit still exists; the values of divided government and popular accountability are not being preserved. Even if the President did have the power to carry out the above acts, it would surely have been wiser if Congress had specifically authorized them. Congress's imprimatur would have ensured that the people's representatives concurred, would have aided the government's defense of these actions in courts, and would have signaled to the world a broader American commitment to these decisions than one man's pen stroke. Of course, Congress has not passed legislation to denounce these presidential actions either. And here we come to a subtle change in the legal landscape with broad ramifications: the demise of the congressional checking function. The story begins with the collapse of the nondelegation doctrine in the 1930s, which enabled broad areas of policymaking authority to be given to the President and to agencies under his control. That collapse, however, was tempered by the legislative veto; in practical terms, when Congress did not approve of a particular agency action, it could correct the problem. But after INS v. Chadha, 15 which declared the legislative veto unconstitutional, that checking function, too, disappeared. In most instances today, the only way for Congress to disapprove of a presidential decree, even one chock full of rampant lawmaking, is to pass a bill with a solid enough majority to override a presidential veto. The veto power thus becomes a tool to entrench presidential decrees, rather than one that blocks congressional misadventures. And because Congress ex ante appreciates the supermajority-override rule, its members do not even bother to try to check the President, knowing that a small cadre of loyalists in either House can block a bill. 16 For example, when some of the Senate's most powerful Republicans (John McCain, Lindsay Graham, and John Warner) tried to regulate detentions and trials at Guantanamo Bay, they were told that the President would veto any attempt to modify the AUMF. 17 The result is that once a court [\*2321] interprets a congressional act, such as the AUMF, to give the President broad powers, Congress often cannot reverse the interpretation, even if Congress never intended to give the President those powers in the first place. Senator McCain might persuade every one of the other ninety-nine Senators to vote for his bill, but that is of no moment without a supermajority in the House of Representatives as well. 18 At the same time, the executive branch has gained power from deference doctrines that induce courts to leave much conduct untouched - particularly in foreign affairs. 19 The combination of deference and the veto is especially insidious - it means that a President can interpret a vague statute to give himself additional powers, receive deference in that interpretation from courts, and then lock that decision into place by brandishing the veto. This ratchet-and-lock scheme makes it almost impossible to rein in executive power. All legislative action is therefore dangerous. Any bill, like Senator McCain's torture bill, can be derailed through compromise. A rational legislator, fearing this cascading cycle, is likely to do nothing at all. This expansion of presidential power is reinforced by the party system. When the political branches are controlled by the same party, loyalty, discipline, and self-interest generally preclude interbranch checking. That reluctance is exacerbated by a paucity of weapons that check the President. Post-Chadha, Congress only has weapons that cause extensive collateral damage. The fear of that damage becomes yet another reason why Congress is plagued with inertia. And the filibuster, the last big check in periods of single-party government, is useless against the host of problems caused by Presidents who take expansive views of their powers under existing laws (such as the AUMF). Instead of preserving bicameralism, Chadha has led to its subversion and "no-cameralism." A Congress that conducts little oversight provides a veneer of legitimacy to an adventurist President. The President can appeal to the historic sense of checks and balances, even if those checks are entirely compromised by modern political dynamics. With this system in place, it is no surprise that recent calls [\*2322] for legislative revitalization have failed. No successful action-forcing mechanisms have been developed; instead we are still in John Hart Ely's world of giving a "halftime pep-talk imploring that body to pull up its socks and reclaim its rightful authority." 20 It is time to consider second-best solutions to bring separation of powers into the executive. Bureaucracy can be reformed and celebrated (instead of purged and maligned), and neutral conflict-decision mechanisms can be introduced. Design choices such as these can help bring our government back in line with the principles envisioned by our Founders. 21

#### A “national security court” improve oversight, accountability, and congressional review of targeted killing – comparatively better than external restraints

Katyal ’13, Neal Katyal, Professor of Law @ Georgetown, NW Times “Who Will Mind the Drones?” February 20, 2013, <http://www.nytimes.com/2013/02/21/opinion/an-executive-branch-drone-court.html?_r=0>

In the wake of revelations about the Obama administration’s drone program politicians from both parties have taken up the idea of creating a “drone court” within the federal judiciary, which would review executive decisions to target and kill individuals. But the drone court idea is a mistake. It is hard to think of something less suitable for a federal judge to rule on than the fast-moving and protean nature of targeting decisions. Fortunately, a better solution exists: a “national security court” housed within the executive branch itself. Experts, not generalists, would rule; pressing concerns about classified information would be minimized; and speedy decisions would be easier to reach. There is, of course, a role for federal courts in national security. In 2006, I argued and won Hamdan v. Rumsfeld, a Supreme Court case that struck down President George W. Bush’s use of military tribunals at Guantánamo Bay. But military trials are a far cry from wartime targeting decisions. And the Foreign Intelligence Surveillance Court, which reviews administration requests to collect intelligence involving foreign agents inside the country and which some have advocated as a model for the drone court, is likewise appropriately housed within the judicial system — it rules on surveillance operations that raise questions much like those in Fourth Amendment “search and seizure” cases, a subject federal judges know well. But there is no true precedent for interposing courts into military decisions about who, what and when to strike militarily. Putting aside the serious constitutional implications of such a proposal, courts are simply not institutionally equipped to play such a role. There are many reasons a drone court composed of generalist federal judges will not work. They lack national security expertise, they are not accustomed to ruling on lightning-fast timetables, they are used to being in absolute control, their primary work is on domestic matters and they usually rule on matters after the fact, not beforehand. Even the questions placed before the FISA Court aren’t comparable to what a drone court would face; they involve more traditional constitutional issues — not rapidly developing questions about whether to target an individual for assassination by a drone strike. Imagine instead that the president had an internal court, staffed by expert lawyers to represent both sides. Those lawyers, like the Judge Advocate General’s Corps in the military, would switch sides every few years, to develop both expertise as repeat players and the ability to understand the other point of view. The adjudicator would be a panel of the president’s most senior national security advisers, who would issue decisions in writing if at all possible. Those decisions would later be given to the Congressional intelligence committees for review. Crucially, the president would be able to overrule this court, and take whatever action he thought appropriate, but would have to explain himself afterward to Congress. Such a court would embed accountability and expertise into the drone program. With a federal drone court, it would simply be too easy for a president or other executive-branch official to point his finger at a federal judge for the failure to act. With an internal court, it would be impossible to avoid blame. It’s true that a court housed within the executive branch might sound nefarious in today’s “Homeland” culture — if Alexander Hamilton celebrated the executive, in Federalist No. 70, for its “decision, activity, secrecy and dispatch,” some now look at those same qualities with skepticism, if not fear. In contrast, advocates of a drone court say it would bring independent, constitutional values of reasoned decision making to a process that is inherently murky. But simply placing a drone court in the judicial branch is not a guaranteed check. The FISA Court’s record is instructive: between 1979 and 2011 it rejected only 11 out of more than 32,000 requests — making the odds of getting a request rejected, around 1 in 3,000, approximately the same as those of being struck by lightning in one’s lifetime. What reason does the FISA Court give us to think that judges are better than specialists at keeping executive power in check? The written decisions of an internal national security court, in contrast, would be products of an adversarial system (unlike the FISA Court), and later reviewed by Congressional intelligence committees. If members of Congress saw troublesome trends developing, it could push legislation to constrain the executive. That is something a federal judge cannot do. One of our Constitution’s greatest virtues is that it looks to judges as a source of reasoned, practical, rights-minded decision making. But judges should be left to what they know. A national security court inside the executive branch may not be a perfect solution, but it is a better way to balance the demands of secrecy and speed with those of liberty and justice.

#### Internal checks comparatively solve better and don’t link to politics

Metzger ‘9, Gillian E. Metzger, Professor of Law @ Columbia Law School, “The Interdependent Relationship Between Internal and External Separation of Powers” 59 Emory L.J. 423, Emory Law Journal, 2009

Several bases exist for thinking that internal separation of powers mechanisms may have a comparative advantage. First, internal mechanisms [\*440] operate ex ante, at the time when the Executive Branch is formulating and implementing policy, rather than ex post. As a result, they avoid the delay in application that can hamper both judicial and congressional oversight. 76 Second, internal mechanisms often operate continuously, rather than being limited to issues that generate congressional attention or arise in the form of a justiciable challenge. 77 Third, internal mechanisms operate not just at the points at which policy proposals originate and are implemented but also at higher managerial levels, thus addressing policy and administration in both a granular and systemic fashion. In addition, policy recommendations generated through internal checks may face less resistance than those offered externally because the latter frequently arise after executive officials have already decided upon a policy course and are more likely to take an adversarial form. 78 Internal mechanisms may also gain credibility with Executive Branch officials to the extent they are perceived as contributing to more fully informed and expertise-based decisionmaking. 79

### Solvency

#### Congressional oversight means more secrecy

Greenwald 12THURSDAY, JUN 7, 2012 03:05 AM PDT Probing Obama’s secrecy games Will high-level Obama officials who leak for political gain be punished on equal terms with actual whistleblowers? BY GLENN GREENWALD

What all of this reflects is the wildly excessive, anti-democratic secrecy behind which the U.S. Government operates, and the solution in the face of this growing controversy ought to be serious attempts to increase transparency and dilute the wall of secrecy. But that’s highly unlikely to happen. When people like Dianne Feinstein, Carl Levin and John McCain start digging their hands into these controversies, they reflexively do the opposite: they are devoted to always-increasing levels of government secrecy. For Security State servants like these, secrecy is the currency on which their power, influence and self-importance depends: the more government actions which they know about but which are concealed from the citizenry, the more influential and unaccountable they are. So as is usually true when bipartisan groups of self-important Senators gather in common cause, they’re certain to make the core problem worse. In response to the genuine problem of selective leak-punishment by the Executive Branch, they will not try to increase transparency but will do the opposite: attempt to plug leaks, punish whistleblowers, and fortify U.S. Government secrecy powers even beyond where they are now.

#### The President can easily use the Covert Action Statute to justify any imminent threat

Lawfare 12 Legality of U.S. Government’s Targeted Killing Program under Domestic Law, http://www.lawfareblog.com/wiki/the-lawfare-wiki-document-library/targeted-killing/legality-of-targeted-killing-program-under-u-s-domestic-law/

Nevertheless, Bradley and Goldsmith explain, even if Congress did not authorize the U.S. government’s targeted killing program with the AUMF, the President could in theory act against terrorists presenting an imminent threat under the Covert Action Statute (CAS), 50 U.S.C. §413b. The CAS is potentially an important authorizing authority, as its scope extends beyond that of the AUMF, namely in that it is not limited to those terrorist groups linked to the September 11, 2001 attacks. In other ways, though, the CAS may be narrower than the AUMF. For instance, Robert Chesney sets forth the argument that the CAS merely authorizes that which is otherwise lawful under Article II, and thus does not expand the scope of the President’s authority.

#### The executive will give the Congress the finger – secrecy, media and lying

Branfman 13 Fred, Director of Project Air War, interviewed the first Lao refugees brought down to Vientiane from the Plain of Jars in northern Laos, visited U.S. airbases in Thailand and South Vietnam, talking with U.S. Embassy officials, Alternet, 6-9

Whatever his personal beliefs prior to becoming President Mr. Obama, as the Executive's titular leader, has necessarily signed up to support the secrecy, lying, and disinformation it employs to enjoy maximum flexibility from democratic oversight in order to pursue its policies of overt and covert violence. Two important new books - Jeremy Scahill's Dirty Wars and Mark Mazzetti's The Way of the Knife - describe how, in near-total secrecy, the U.S. Executive is a world of its own. Over the last 12 years, Executive officials have unilaterally and secretly launched, escalated or deescalated wars; installed and supported massively corrupt governments, savage warlords, or local paramilitary forces, and overthrown leaders that have displeased it; created the first unit of global American assassins and fleets of machines waging automated war; engaged in vicious turf wars for more money and budget; spied on Americans including the media and activists on a scale unmatched in U.S. history; compiled 3 different sets of global "kill lists" independently operated by the White House, CIA and Pentagon/JSOC; used police-state tactics while claiming to support democracy, e.g. when it fed retina scans, facial recognition features and fingerprints of over 3 million Iraqi and Afghani males into a giant data base; incarcerated and tortured, either directly or indirectly, tens of thousands of people without evidence or trial; and much more. All of these major activities are conducted entirely by the Executive Branch, without meaningful Congressional oversight or the knowledge of the American people. The foundational principle of the U.S. Constitution is that governments can only rule with the "informed consent" of the people. But the U.S. Executive Branch has not only robbed its people of this fundamental right. It has prosecuted those courageous whistleblowers who have tried to inform them. The U.S. mass media, dependent upon the Executive for their information and careers, and run by corporate interests benefiting from Executive largesse, predominately convey Executive Branch perspectives on an hourly basis to the American people. Even on the relatively few occasions when they publish information the Executive wishes to keep secret, it has little impact on Executive policies while maintaining the illusion that the U.S. has a "free press". The U.S. Executive is essentially free to conduct its activities as it wishes. In future articles in this space we will explore three key features of the U.S. Executive Branch: (1) Evil - If evil consists of murdering, maiming, and making homeless the innocent, and/or waging the “aggressive war” judged the “supreme international crime” at Nuremberg, the U.S. Executive Branch is today clearly the world’s most evil institution. It has killed, wounded or made refugees of an officially-estimated 21 million people in Iraq and Indochina alone, far more than any other institution since the time of Stalin and Mao. President Obama is the first U.S. President to acknowledge, in his recent "counterterrorism" speech, that this number has included killing "hundreds of thousands" of civilians in Vietnam whom it officially claimed it was trying to protect. Former Secretary of Defense Robert McNamara put the total number of Vietnamese killed at 3.4 million. [38] (2) Lawlessness - If illegality consists of refusing to obey the law, the Executive is clearly the most lawless institution in the world. It routinely violates even timid legislative attempts to control its unilateral war-making. And no nation on earth has signed fewer international laws, and so failed to observe even those it has signed. These include measures like those intended to clean up the tens of millions of landmines and cluster bombs [39] with which it has littered the world, refused to clean up, and which continue to murder and maim tens of thousands of innocent people until today. (3) Authoritarianism - And if "authoritarianism" consists of a governing body acting unilaterally, regularly deceiving its own citizenry, neutering its legislature ,and prosecuting those who expose its lies, the U.S. Executive is clearly the most undemocratic institution in America. Indeed its deceiving its own people - keeping its activities secret and then lying about and covering them up when caught - throws its very legitimacy into question.

#### Executive lawyers will teach the Executive how to blow off the plan

Shane 12 \*Peter M. Jacob E. Davis and Jacob E. Davis II Chair in Law, The Ohio State University Moritz School of Law. From 1978 to 1981, served in the Office of Legal Counsel, U.S. Department of Justice. Journal of National Security Law & Policy, 5 J. Nat'l Security L. & Pol'y 507

Yet, the ideological prism of presidentialism can bend the light of the law so that nothing is seen other than the claimed prerogatives of the sitting chief executive. Champions of executive power - even skilled lawyers who should know better - wind up asserting that, to an extraordinary extent, the President as a matter of constitutional entitlement is simply not subject to legal regulation by either of the other two branches of government. [\*511] Government attorneys must understand their unique roles as both advisers and advocates. In adversarial proceedings before courts of law, it may be fine for each of two contesting sides, including the government, to have a zealous, and not wholly impartial, presentation, with the judge acting as a neutral decisionmaker. But in their advisory function, government lawyers must play a more objective, even quasi-adjudicative, role. They must give the law their most conscientious interpretation. If they fail in that task, frequently there will be no one else effectively situated to do the job of assuring diligence in legal compliance. Government lawyers imbued with the ideology of presidentialism too easily abandon their professional obligations as advisers and too readily become ethically blinkered advocates for unchecked executive power. Jack Goldsmith headed the Office of Legal Counsel (OLC) for a little less than ten months in 2003-2004. Of the work done by some government attorneys and top officials after 9/11, he said they dealt with FISA limitations on warrantless surveillance by the National Security Agency (NSA) "the way they dealt with other laws they didn't like: they blew through them in secret based on flimsy legal opinions that they guarded closely so no one could question the legal basis for the operations." 7 He describes a 2003 meeting with David Addington, who was Counsel and later Chief of Staff to Vice President Dick Cheney, in which Addington denied the NSA Inspector General's request to see a copy of OLC's legal analysis in support of the NSA surveillance program. Before Goldsmith arrived at OLC, "not even NSA lawyers were allowed to see the Justice Department's legal analysis of what NSA was doing." 8

**Oversight of targeting killings causes a shift to signature strikes.**

Jens David Ohlin 13, Professor at Cornell Law School, http://www.liebercode.org/2013/02/would-federal-district-court-for-drones.html

One of the more interesting recent proposals for curing the "due process" deficit in the Administration's targeted killings program is for Congress to create a federal court to approve drone strikes. Senator Dianne Feinstein, among others, is championing this strategy. I don't think it will work. Here's why. First, the court would be modeled after the super-secret FISA court for approving government requests for surveillance in terrorism cases. Such courts impose a form of judicial review, yes, but there is little transparency and no adversarial process. But there are bigger problems. As some of my colleagues have already explained**,** it is unlikely and improbable that such a court could authorize specific operational strikes. That would be difficult to implement in real time, and might even be unconstitutional for infringing on the Executive Branch's commander-in-chief power. Rather, such a court would approve the administration's decision to place an individual's name on an approved target list. A court would review the legitimacy of this decision with the power to remove the name if the individual does not meet the standard for being a functional member of al-Qaeda. Although this is more plausible, I still don't think it will work. In the end, I think it would just push the administration to avoid targeted killings and would have the opposite effect. It would increase, not decrease, collateral damage. Let me explain. Suppose the government has previously used the kill list to govern the selection procedure for targeted killings**.** The list serves as a clearinghouse for debates and ultimately conclusions about who is a high-value target. If the administration decides that the individual should be pursued, he is placed on the list. If the administration decides that the individual is of marginal or no value, he is removed from the list or never placed on it to begin with. Now imagine that a court is requiring that the list be approved by a judicial process. Why would the administration have any incentive at all to keep adding names to the list? Why not stop using it entirely? It could then rely exclusively on signature strikes-- an important legal development well documented by Kevin Heller in his forthcoming JICJ article on the subject. Such strikes would not be banned by the court because the US would not know exactly who it is bombing. (I'm assuming for the sake of argument that the US is still engaged in an armed conflict with al-Qaeda and that the AUMF or some other statutory authorization for the President's pursuit of the conflict would still be in place.) Essentially, this would be a case of willful blindness -- a concept well known to criminal law scholars. The real benefit of targeted killings is that the administration knows the exact threat and only targets one individual. That has changed warfare tremendously. But the court system would push the military back towards the old system: target groups of individuals who are known terrorists or enemy combatants -- but you don't know exactly who they are. You just know they are the enemy. That's the system that reigned in all previous conflicts. And there would be a disincentive to ever acquire more specific information. Why have a drone hover over an area with known terrorists in order to determine, through surveillance, the exact identity of the individual's there? That would only trigger the jurisdiction of the drone court. So ignorance would maintain the legality of the strike. I don't think that is what Congressional staffers have in mind.

#### The executive will arbitrarily define words, they don’t care

Pollack, 13 -- MSU Guggenheim Fellow and professor of history emeritus [Norman, "Drones, Israel, and the Eclipse of Democracy," Counterpunch, 2-5-13, www.counterpunch.org/2013/02/05/drones-israel-and-the-eclipse-of-democracy/, accessed 9-1-13, mss]

Bisharat first addresses the transmogrification of international law by Israel’s military lawyers. We might call this damage control, were it not more serious. When the Palestinians first sought to join the I.C.C., and then, to receive the UN’s conferral of nonmember status on them, Israel raised fierce opposition. Why? He writes: “Israel’s frantic opposition to the elevation of Palestine’s status at the United Nations was motivated precisely by the fear that it would soon lead to I.C.C. jurisdiction over Palestinian claims of war crimes. Israeli leaders are unnerved for good reason. The I.C.C. could prosecute major international crimes committed on Palestinian soil anytime after the court’s founding on July 1, 2002.” In response to the threat, we see the deliberate reshaping of the law: Since 2000, “the Israel Defense Forces, guided by its military lawyers, have attempted to remake the laws of war by consciously violating them and then creating new legal concepts to provide juridical cover for their misdeeds.” (Italics, mine) In other words, habituate the law to the existence of atrocities; in the US‘s case, targeted assassination, repeated often enough, seems permissible, indeed clever and wise, as pressure is steadily applied to the laws of war. Even then, “collateral damage” is seen as unintentional, regrettable, but hardly prosecutable, and in the current atmosphere of complicity and desensitization, never a war crime. (Obama is hardly a novice atthis game of stretching the law to suit the convenience of, shall we say, the national interest? In order to ensure the distortion in counting civilian casualties, which would bring the number down, as Brennan with a straight face claimed, was “zero,” the Big Lie if ever there was one, placing him in distinguished European company, Obama redefined the meaning of “combatant” status to be any male of military age throughout the area (which we) declared a combat zone, which noticeably led to a higher incidence of sadism, because it allowed for “second strikes” on funerals—the assumption that anyone attending must be a terrorist—and first responders, those who went to the aid of the wounded and dying, themselves also certainly terrorists because of their rescue attempts.) These guys play hardball, perhaps no more than in using—by report—the proverbial baseball cards to designate who would be next on the kill list. But funerals and first responders—verified by accredited witnesses–seems overly much, and not a murmur from an adoring public.

#### The executive can easily manipulate Congressional oversight

Beutler 13 Brian, senior congressional reporter for Talking Points, TPM, 6-19, http://tpmdc.talkingpointsmemo.com/2013/06/snowden-revelations-cast-new-doubts-on-intelligence-oversight-process.php

“We’ve learned from the past that there’s a right way and a wrong way to give Congress the information we need to make decisions about our laws and policies, but I think we’re still a work in progress when it comes to the level of transparency needed for meaningful exchange about ongoing activities,” Sen. Jay Rockefeller (D-WV), who sits on and used to chair the Senate Intelligence Committee, told TPM last Thursday. “The Bush Administration launched programs without any legal authority at all and then would show just the Intelligence Committee chairs and vice chairs a few perfunctory flip-charts - which we weren’t allowed to discuss even with each other — just so they could later claim ‘Congress was briefed.’ That created a deep distrust, and for me some skepticism lingers. It took years of wrangling with the intelligence community to open briefings up to more Senators, and there is still a lot of resistance to sharing information more broadly and with the public. But the process works far better today than in the past. The FISA law we passed requires multiple regular reports from the agencies, so if we see irregularities or areas of concern, we can pursue those.” It’s unusual for a member of the committee — even one who’s skeptical of the intelligence community’s most controversial practices — to critique the oversight process, even mildly. But reports and briefings are only as accurate and thorough as briefers are forthright and comprehensive — a variable that has hampered oversight efforts for years, according to members, aides and former aides who spoke with TPM. Likewise the sometimes arbitrary and legally dubious restrictions on what senior congressional aides with top-secret clearance are given access to, and what and to whom elected officials are allowed to tell even each other, can hobble the legislative branch’s efforts to understand what our spy agencies are really up to, let alone fulfill the government’s statutory obligation to fully and currently inform the Congress. Like all people with security clearances, members of the House and Senate intelligence committees are briefed about classified information in SCIFs — Sensitive Compartmented Information Facilities. On Capitol Hill, they’re “vaults,” tucked away underground and closed to the press. According to multiple sources briefings are much more informal than typical oversight hearings, and quite often, because the information under discussion isn’t typically blockbuster in nature, the only people who show up are the committee chairs and vice chairs. What transpires in these facilities — who briefs, how candid they are, how technical their information is, etc. — determines whether members and their cleared staffers obtain accurate understandings of U.S. intelligence programs. That epistemological problem introduces a high degree of uncertainty at the outset of the oversight process, and compounds other problems, such as the fact that committee members only hear from self-interested actors, can’t discuss what they’ve heard with outside experts or colleagues, and can’t affect changes in law without buy-in from the committee chairs at the very least. “Sometimes these briefings are a game of 20 questions,” former Rep. Jane Harman (D-CA), who used to chair the House Permanent Select Committee on Intelligence, told Reuters. “If you don’t ask exactly the right question, you don’t get the answer.” On all issues, across Congress, members rely on staff for subject-area knowledge. Between politicking and fundraising and traveling, it’s unrealistic to expect that every member has mastered all of the nuances of the issues their committees address. But most issues don’t require top-secret clearance. And here, members of the committee run into problems. First, their lawyers or aides with clearance aren’t typically techies, and their aides with technical expertise don’t typically have clearance. So there’s a skills mismatch. Imagine a scientific paper undergoing peer review by law professors. The problem gets even bigger when staff is denied access, and manifests in different ways depending on whether or not the member serves on the committee or not. Senior aides to members of the intel committees have access to a great deal of the intelligence community’s operations — including, in theory, the sorts of collection programs revealed by Edward Snowden. But the executive branch can pressure Congress to exclude these aides, and because the executive branch controls the information, Congress often accedes. They do as a matter of course when the so-called Gang of Eight (the committee chairs and vice chairs, House and Senate Minority Leaders, House Speaker and Senate Majority) are briefed on covert actions.

### Norms

#### Drone arms race inevitable

USA Today 13 (1/9, http://www.usatoday.com/story/news/world/2013/01/08/experts-drones-basis-for-new-global-arms-race/1819091/, “Experts: Drones basis for new global arms race”, AB)

The success of U.S. drones in Iraq and Afghanistan has triggered a global arms race, raising concerns the remotely piloted aircraft could fall into unfriendly hands, military experts say. The number of countries that have acquired or developed drones expanded to more than 75, up from about 40 in 2005, according to the Government Accountability Office, the investigative arm of Congress. Iran and China are among the countries that have fielded their own systems. "People have seen the successes we've had," said Lt. Gen. Larry James, the Air Force's deputy chief of staff for intelligence, surveillance and reconnaissance. The U.S. military has used drones extensively in Afghanistan, primarily to watch over enemy targets. Armed drones have been used to target terrorist leaders with missiles that are fired from miles away.

#### Israel is the world’s largest exporter of drones

Allinson 12 Jamie, IR - University of Westminster, Necropolitics of the Cyborg Empire: Re-reading the Ethics of the Drone War, Millennium Annual Conference 2012, ‘Materialism and World Politics’ 10-20

Israel has thus been using drones for the best part of four decades, and remains the world’s largest exporter of drone technology, deployed and honed throughout the occupations of Gaza, South Lebanon and the West Bank . The US Predator drone, developed with the aid of Israeli expertise, was first used for reconnaissance over Bosnia in 1995 and in the NATO bombing campaign against Yugoslavia in 1999 . The drones remained at this point an instrument of surveillance rather than punishment. Drones were designed to provide the information used to launch air-strikes. It was not until the US invasion of Afghanistan in 2011 that the functions of killing and seeing were unified: on the 23rd of November, Mohammed Atef became the first person to be killed by a flying war-robot .

#### No impact to drone arms race – multiple checks

* Narrow application
* Diplomatic and political costs
* State defenses
* Deterrence checks

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

Bold predictions of a coming drones arms race are all the rage since the uptake in their deployment under the Obama Administration. Noel Sharkey, for example, argues in an August 3 op-ed for the Guardian that rapidly developing drone technology — coupled with minimal military risk — portends an era in which states will become increasingly aggressive in their use of drones. As drones develop the ability to fly completely autonomously, Sharkey predicts a proliferation of their use that will set dangerous precedents, seemingly inviting hostile nations to use drones against one another. Yet, the narrow applications of current drone technology coupled with what we know about state behavior in the international system lend no credence to these ominous warnings. Indeed, critics seem overly-focused on the domestic implications of drone use. In a June piece for the Financial Times, Michael Ignatieff writes that “virtual technologies make it easier for democracies to wage war because they eliminate the risk of blood sacrifice that once forced democratic peoples to be prudent.” Significant public support for the Obama Administration’s increasing deployment of drones would also seem to legitimate this claim. Yet, there remain equally serious diplomatic and political costs that emanate from beyond a fickle electorate, which will prevent the likes of the increased drone aggression predicted by both Ignatieff and Sharkey. Most recently, the serious diplomatic scuffle instigated by Syria’s downing a Turkish reconnaissance plane in June illustrated the very serious risks of operating any aircraft in foreign territory. States launching drones must still weigh the diplomatic and political costs of their actions, which make the calculation surrounding their use no fundamentally different to any other aerial engagement. This recent bout also illustrated a salient point regarding drone technology: most states maintain at least minimal air defenses that can quickly detect and take down drones, as the U.S. discovered when it employed drones at the onset of the Iraq invasion, while Saddam Hussein’s surface-to-air missiles were still active. What the U.S. also learned, however, was that drones constitute an effective military tool in an extremely narrow strategic context. They are well-suited either in direct support of a broader military campaign, or to conduct targeted killing operations against a technologically unsophisticated enemy. In a nutshell, then, the very contexts in which we have seen drones deployed. Northern Pakistan, along with a few other regions in the world, remain conducive to drone usage given a lack of air defenses, poor media coverage, and difficulties in accessing the region. Non-state actors, on the other hand, have even more reasons to steer clear of drones: – First, they are wildly expensive. At $15 million, the average weaponized drone is less costly than an F-16 fighter jet, yet much pricier than the significantly cheaper, yet equally damaging options terrorist groups could pursue. – Those alternatives would also be relatively more difficult to trace back to an organization than an unmanned aerial vehicle, with all the technical and logistical planning its operation would pose. – Weaponized drones are not easily deployable. Most require runways in order to be launched, which means that any non-state actor would likely require state sponsorship to operate a drone. Such sponsorship is unlikely given the political and diplomatic consequences the sponsoring state would certainly face. – Finally, drones require an extensive team of on-the-ground experts to ensure their successful operation. According to the U.S. Air Force, 168 individuals are needed to operate a Predator drone, including a pilot, maintenance personnel and surveillance analysts. In short, the doomsday drone scenario Ignatieff and Sharkey predict results from an excessive focus on rapidly-evolving military technology. Instead, we must return to what we know about state behavior in an anarchistic international order. Nations will confront the same principles of deterrence, for example, when deciding to launch a targeted killing operation regardless of whether they conduct it through a drone or a covert amphibious assault team. Drones may make waging war more domestically palatable, but they don’t change the very serious risks of retaliation for an attacking state. Any state otherwise deterred from using force abroad will not significantly increase its power projection on account of acquiring drones. What’s more, the very states whose use of drones could threaten U.S. security – countries like China – are not democratic, which means that the possible political ramifications of the low risk of casualties resulting from drone use are irrelevant. For all their military benefits, putting drones into play requires an ability to meet the political and security risks associated with their use. Despite these realities, there remain a host of defensible arguments one could employ to discredit the Obama drone strategy. The legal justification for targeted killings in areas not internationally recognized as war zones is uncertain at best. Further, the short-term gains yielded by targeted killing operations in Pakistan, Somalia and Yemen, while debilitating to Al Qaeda leadership in the short-term, may serve to destroy already tenacious bilateral relations in the region and radicalize local populations. Yet, the past decade’s experience with drones bears no evidence of impending instability in the global strategic landscape. Conflict may not be any less likely in the era of drones, but the nature of 21st Century warfare remains fundamentally unaltered despite their arrival in large numbers.

#### U.S. drone use doesn’t cause prolif – no international precedent.

Etzioni 13, Professor of International Relations @ George Washington University (Aimtai Etzioni, adviser to the Carter administration, “The Great Drone Debate”, Military Review, 4/2013, http://usacac.army.mil/CAC2/MilitaryReview/Archives/English/MilitaryReview\_20130430\_art004.pdf)

Other critics contend that by the United States ¶ using drones, it leads other countries into making and ¶ using them. For example, Medea Benjamin, the cofounder of the anti-war activist group CODEPINK ¶ and author of a book about drones argues that, “The ¶ proliferation of drones should evoke reﬂection on the ¶ precedent that the United States is setting by killing ¶ anyone it wants, anywhere it wants, on the basis of ¶ secret information. Other nations and non-state entities are watching—and are bound to start acting in ¶ a similar fashion.”60 Indeed scores of countries are ¶ now manufacturing or purchasing drones. There can ¶ be little doubt that the fact that drones have served ¶ the United States well has helped to popularize them. ¶ However, it does not follow that United States ¶ should not have employed drones in the hope that such a show of restraint would deter others. First ¶ of all, this would have meant that either the United ¶ States would have had to allow terrorists in hard-to-reach places, say North Waziristan, to either ¶ roam and rest freely—or it would have had to use ¶ bombs that would have caused much greater collateral damage. ¶ Further, the record shows that even when the ¶ United States did not develop a particular weapon, ¶ others did. Thus, China has taken the lead in the ¶ development of anti-ship missiles and seemingly ¶ cyber weapons as well. One must keep in mind ¶ that the international environment is a hostile ¶ one. Countries—and especially non-state actors—¶ most of the time do not play by some set of selfconstraining rules. Rather, they tend to employ ¶ whatever weapons they can obtain that will further ¶ their interests. The United States correctly does ¶ not assume that it can rely on some non-existent ¶ implicit gentleman’s agreements that call for the ¶ avoidance of new military technology by nation X ¶ or terrorist group Y—if the United States refrains ¶ from employing that technology. I am not arguing that there are no natural norms ¶ that restrain behavior. There are certainly some ¶ that exist, particularly in situations where all parties beneﬁt from the norms (e.g., the granting of ¶ diplomatic immunity) or where particularly horrifying weapons are involved (e.g., weapons of ¶ mass destruction). However drones are but one ¶ step—following bombers and missiles—in the ¶ development of distant battleﬁeld technologies. ¶ (Robotic soldiers—or future ﬁghting machines—¶ are next in line). In such circumstances, the role ¶ of norms is much more limited.

#### Even with the tech, China won’t use drones offensively

* Fear international backlash
* Don’t want to set precedent for US drone us in East Asia
* Domestic political constraints

Erickson and Strange 13 (Andrew Erickson, associate professor at the Naval War College, Associate in Research at Harvard University's Fairbank Centre, Austin Strange, researcher at the Naval War College's China Maritime Studies Institute, graduate student at Zhejiang University, “China Has Drones. Now How Will it Use Them?” Foreign Affairs, May 29, 2013, <http://www.nationmultimedia.com/opinion/China-has-drones-Now-how-will-it-use-them-30207095.html>)

Indeed, the time to fret about when China and other authoritarian countries will acquire drones is over: they have them. The question now is when and how they will use them. But as with its other, less exotic military capabilities, Beijing has cleared only a technological hurdle -- and its behavior will continue to be constrained by politics.¶ China has been developing a drone capacity for over half a century, starting with its reverse engineering of Soviet Lavochkin La-17C target drones that it had received from Moscow in the late 1950s. Today, Beijing’s opacity makes it difficult to gauge the exact scale of the program, but according to Ian Easton, an analyst at the Project 2049 Institute, by 2011 China’s air force alone had over 280 combat drones. In other words, its fleet of unmanned aerial vehicles is already bigger and more sophisticated than all but the United States’; in this relatively new field Beijing is less of a newcomer and more of a fast follower. And the force will only become more effective: the Lijian (“sharp sword” in Chinese), a combat drone in the final stages of development, will make China one of the very few states that have or are building a stealth drone capacity.¶ This impressive arsenal may tempt China to pull the trigger. The fact that a Chinese official acknowledged that Beijing had considered using drones to eliminate the Burmese drug trafficker, Naw Kham, made clear that it would not be out of the question for China to launch a drone strike in a security operation against a nonstate actor. Meanwhile, as China’s territorial disputes with its neighbors have escalated, there is a chance that Beijing would introduce unmanned aircraft, especially since India, the Philippines, and Vietnam distantly trail China in drone funding and capacity, and would find it difficult to compete. Beijing is already using drones to photograph the Senkaku/Diaoyu Islands it disputes with Japan, as the retired Chinese Major General Peng Guangqian revealed earlier this year, and to keep an eye on movements near the North Korean border.¶ Beijing, however, is unlikely to use its drones lightly. It already faces tremendous criticism from much of the international community for its perceived brazenness in continental and maritime sovereignty disputes. With its leaders attempting to allay notions that China's rise poses a threat to the region, injecting drones conspicuously into these disputes would prove counterproductive. China also fears setting a precedent for the use of drones in East Asian hotspots that the United States could eventually exploit. For now, Beijing is showing that it understands these risks, and to date it has limited its use of drones in these areas to surveillance, according to recent public statements from China's Defence Ministry. What about using drones outside of Chinese-claimed areas? That China did not, in fact, launch a drone strike on the Myanmar drug criminal underscores its caution. According to Liu Yuejin, the director of the anti-drug bureau in China's Ministry of Public Security, Beijing considered using a drone carrying a 20-kilogram TNT payload to bomb Kham's mountain redoubt in northeast Myanmar. Kham had already evaded capture three times, so a drone strike may have seemed to be the best option. The authorities apparently had at least two plans for capturing Kham. The method they ultimately chose was to send Chinese police forces to lead a transnational investigation that ended in April 2012 with Kham's capture near the Myanmar-Laos border. The ultimate decision to refrain from the strike may reflect both a fear of political reproach and a lack of confidence in untested drones, systems, and operators. The restrictive position that Beijing takes on sovereignty in international forums will further constrain its use of drones. China is not likely to publicly deploy drones for precision strikes or in other military assignments without first having been granted a credible mandate to do so. The gold standard of such an authorisation is a resolution passed by the UN Security Council, the stamp of approval that has permitted Chinese humanitarian interventions in Africa and anti-piracy operations in the Gulf of Aden. China might consider using drones abroad with some sort of regional authorisation, such as a country giving Beijing explicit permission to launch a drone strike within its territory. But even with the endorsement of the international community or specific states, China would have to weigh any benefits of a drone strike abroad against the potential for mishaps and perceptions that it was infringing on other countries' sovereignty - something Beijing regularly decries when others do it. The limitations on China's drone use are reflected in the country's academic literature on the topic. The bulk of Chinese drone research is dedicated to scientific and technological topics related to design and performance. The articles that do discuss potential applications primarily point to major combat scenarios -such as a conflagration with Taiwan or the need to attack a US aircraft carrier - which would presumably involve far more than just drones. Chinese researchers have thought a great deal about the utility of drones for domestic surveillance and law enforcement, as well as for non-combat-related tasks near China's contentious borders. Few scholars, however, have publicly considered the use of drone strikes overseas. Yet there is a reason why the United States has employed drones extensively despite domestic and international criticism: it is much easier and cheaper to kill terrorists from above than to try to root them out through long and expensive counterinsurgency campaigns. Some similar challenges loom on China's horizon. Within China, Beijing often considers protests and violence in the restive border regions, such as Xinjiang and Tibet, to constitute terrorism. It would presumably consider ordering precision strikes to suppress any future violence there. Even if such strikes are operationally prudent, China's leaders understand that they would damage the country's image abroad, but they prioritise internal stability above all else. Domestic surveillance by drones is a different issue; there should be few barriers to its application in what is already one of the world's most heavily policed societies. China might also be willing to use stealth drones in foreign airspace without authorisation if the risk of detection were low enough; it already deploys intelligence-gathering ships in the exclusive economic zones of Japan and the United States, as well as in the Indian Ocean. Still, although China enjoys a rapidly expanding and cutting-edge drone fleet, it is bound by the same rules of the game as the rest of the military's tools. Beyond surveillance, the other non-lethal military actions that China can take with its drones are to facilitate communications within the Chinese military, support electronic warfare by intercepting electronic communications and jamming enemy systems, and help identify targets for Chinese precision strike weapons, such as missiles. Beijing's overarching approach remains one of caution - something Washington must bear in mind with its own drone programme.

#### No causality between hegemony and peace

-this card is really good

Fettweis 11 Christopher, Professor of Political Science @ Tulane, Dangerous Times?: The International Politics of Great Power Peace, pg. 172-174

The primary attack on restraint, or justification of internationalism, posits that if the United States were to withdraw from the world, a variety of ills would sweep over key regions and eventually pose threats to U.S. security and/or prosperity. These problems might take three forms (besides the obvious if remarkably unlikely, direct threats to the homeland.). generalized chaos, hostile imbalances in Eurasia, and/or failed states. Historian Arthur Schlesinger was typical when he worried that restraint would mean "a chaotic, violent, and ever more dangerous planet." All of these concerns either implicitly or explicitly assume that the presence of the United States is the primary reason for international stability, and if that presence were withdrawn chaos would ensue. In other words, they depend upon hegemonic-stability logic. Simply stated, the hegemonic stability theory proposes that international peace is only possible when there is one country strong enough to make and enforce a set of rules. At the height of Pax Romana between 27 BC and 180 AD, for example, Rome was able to bring unprecedented peace and security to the Mediterranean. The Pax Britannica of the nineteenth century brought a level of stability to the high seas. Perhaps the current era is peaceful because the United States has established a de facto Pax Americana where no power is strong enough to challenge its dominance, and because it has established a set of rules that are generally in the interests of all countries to follow. Without a benevolent hegemon, some strategists fear, instability may break out around the globe.."'. Unchecked conflicts could cause humanitarian disaster and, in today's interconnected world, economic turmoil that would ripple throughout global financial markets. If the United States were to abandon its commitments abroad, argued Art, the world would "become a more dangerous place' and, sooner or later, that would 'redound to America's detriment."' If the massive spending that the United States engages in actually provides stability in the international political and economic systems, then perhaps internationalism is worthwhile. There are good theoretical and empirical reasons, however, to believe that U.S hegemony is not the primary cause of the current era of stability. First of all, the hegemonic-stability argument overstates the role that the United States plays in the system. No country is strong enough to police the world on its own. The only way there can he stability in the community of great powers is if self-policing occurs, if states have decided that their interests are served by peace. if no pacific normative shift had occurred among the great powers that was filtering down through the system, then no amount of international constabulary work by the United States could maintain stability. Likewise, if it is true that such a shift has occurred, then most of what the hegemon spends to bring stability would be wasted. The 5 percent of the world's population that live in the United States simply could not force peace upon an unwilling 95. At the risk of beating the metaphor to death, the United States maybe patrolling a neighborhood that has already rid itself of crime. Stability and unipolarity may be simply coincidental. In order for U.S. hegemony to he the reason for global stability, the rest of the world would have to expect reward for good behavior and fear punishment for bad. Since the end of the Cold War, the United States has not always proven to he especially eager to engage in humanitarian interventions abroad. Even rather incontrovertible evidence of genocide has not been sufficient to inspire action. Hegemonic stability can only take credit for influencing those decisions that would have ended in war without the presence, whether physical or psychological, of the United States. Ethiopia and Eritrea are hardly the only states that could go to war without the slightest threat of U.S. intervention. Since most of the world today is free to fight without U.S. involvement, something else must be at work. Stability exists in many places where no hegemony is present. Second, the limited empirical evidence we have suggests that there is little connection between the relative level of U.S. activism and international stability. 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 1990,72 To internationalists, defense hawks, and other 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 peac&'73 If the pacific trends were due not to U.S. hegemony but a strengthening norm against interstate war, however, 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 Pentagon, 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 mistrust and arms races; 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. The incidence and magnitude of global conflict declined while the United States cut its military spending under President Clinton, and it kept declining as the Bush Administration ramped spending back up. No complex statistical analysis should be necessary to reach the conclusion that the two are unrelated. It is also worth noting for our purposes that the United States was no less safe.

### Pakistan

#### Their ev says Pakistanis are fed up with the government – the plan doesn’t resolve that – here’s a card

Daniel Markey is senior fellow for India, Pakistan, and South Asia at the Council on Foreign Relations, 13 [“A New Drone Deal For Pakistan,” Foreign Affairs, July 16, http://www.foreignaffairs.com/articles/139584/daniel-markey/a-new-drone-deal-for-pakistan?page=show]

For all its successes, the U.S. drone program in Pakistan is unlikely to survive much longer in its current form. Less than a week after his election on May 11, Pakistan’s new prime minister, Nawaz Sharif, reportedly declared to his cabinet that “the policy of protesting against drone strikes for public consumption, while working behind the scenes to make them happen, is not on.” This fall, Pakistan’s national and provincial assemblies will elect a new president, likely a Sharif loyalist, and the prime minister will also select a new army chief. It is safe to say that these men are unlikely to follow their predecessors in offering tacit endorsements of the United States' expansive counterterrorism efforts. ¶ In other words, the United States is going to have to hammer out a new drone deal with Pakistan in the years ahead, one that is sensitive to Pakistan's own concerns and objectives. This will likely mean that Washington will face new constraints in its counterterrorism operations. But managed with care, a new agreement could put the targeted killing campaign against al Qaeda on firmer political footing without entirely eliminating its effectiveness.¶ Ever since its inception in 2004, the U.S. drone campaign in Pakistan has been stumbling along shaky legal and strategic ground. At various points in time, Washington and Islamabad constructed different fictions to enable the drone campaign. Before launching the first drone strike that killed Taliban leader Nek Muhammad in June 2004, Washington sought personal authorization from then President and army chief Pervez Musharraf. For several years thereafter, the Pakistani army claimed responsibility for all drone strikes, publicly denying (however implausibly) American intervention.¶ But the program’s remarkable success in killing al Qaeda and Taliban leaders, combined with the otherwise largely unaddressed problem of sanctuaries in Pakistan’s tribal areas, encouraged U.S. officials to expand their list of targets. As the program grew, and especially as Washington killed militants with suspected links to Pakistan’s own military and intelligence services, such as members of the Afghan Taliban–affiliated Haqqani Network, Pakistani officials shed the fiction that the strikes were their own. Islamabad instead bowed to what it perceived as a powerful domestic consensus against the drones and criticized the United States in increasingly shrill terms for violating Pakistan’s territorial sovereignty. Privately, however, Musharraf and his immediate successors -- including the civilian government led by the Pakistan People’s Party (PPP) and the army under General Kayani -- continued to greenlight the drone program.¶ As the drone strikes mounted, the hypocrisy of the official Pakistani position became ever more difficult to hide. Opposition politician and former cricket star Imran Khan made the criticism of drones a centerpiece of his Tehreek-e-Insaf (PTI) party’s election campaign in 2011 and 2012. And in early 2012, the Pakistani parliament unequivocally denounced the drone strikes and called for them to end. This unmistakable sovereign act called into question oft-repeated U.S. claims that Pakistan actually provides “tacit consent” for the drone campaign.¶ Pakistan's current and future leaders, starting with Nawaz Sharif, will have little reason to implicate themselves in the drone hypocrisy of their predecessors. Sharif is on sounder political footing than his predecessor, but -- as his top lieutenants are already signaling -- he cannot weather the political storm that is likely to result if the United States appears to blithely disregard his authority. Washington’s failure to shift its policy would lead Islamabad to escalate its diplomatic protests.¶ One step in this escalation has already happened, with Pakistan taking its case against drones to the international community by way of the United Nations. If Pakistani frustration mounts without yielding results, one can imagine Sharif’s new army chief threatening to shoot U.S. drones from the sky, just as past Pakistani leaders have threatened to take down helicopters that cross into the nation’s airspace. At that stage, Washington would likely pull the drones from normal operation rather than play a high-stakes game of chicken. (Indeed, Washington has a habit of taking extended breaks from drone strikes at sensitive periods: for instance, there were no strikes for over six weeks after the so-called Salala incident at the Afghan border.)¶ The question is whether Washington and Islamabad can find a deal that addresses Pakistani concerns without depriving the United States of a counterterrorism tool that has been more effective, at least in a tactical sense, than any other. Short of ending the drone program altogether, the only way that Pakistan’s leaders can credibly claim to assert their sovereign authority -- and thereby prove their nationalist credentials to political allies and adversaries alike -- is if Washington cedes to Islamabad a greater degree of control over the program, especially when it comes to target selection.¶ At one extreme, this would mean doing what a number of Pakistani leaders (including General Musharraf) have requested for years: placing the drones under Pakistani command. Of course, given the highly sensitive nature of drone technology, along with the fact that U.S. officials do not adequately trust their Pakistani counterparts to deploy the drones in ways that would effectively eliminate top terrorist leaders, this solution remains off the table in nearly any conceivable future.¶ Somewhat less pie-in-the-sky, if still unrealistic at this stage, would be the idea of disarming U.S. drones and leaving Pakistani forces to act as the “trigger pullers” whenever terrorist targets are identified. Strikes would then be launched by Pakistani Air Force jets, helicopters, or perhaps even artillery, and would use U.S. intelligence for target selection. This solution also has an assortment of practical problems, from the time lag between identifying targets and shooting at them to, once again, U.S. officials’ lack of faith in their Pakistani counterparts’ ability and desire to act on that intelligence in the first place.¶ Then there is the option of crafting a “dual-key” authority at the operational level, perhaps by informing Pakistani officers in real time as drone strikes are launched and by implementing a mutually acceptable mechanism through which Islamabad could veto a specific strike, or at least raise it up the chain of command in a timely manner. Versions of a dual-key approach have been tried in the past, with some success. But given the fraught terms of cooperation between Washington and Islamabad in recent years, it is hard to imagine U.S. officials accepting this sort of arrangement, at least not yet. The real-time nature of the decision process would limit the potential for unwanted leaks or tip-offs to targets, but U.S. officials would still be wary that Pakistani officials could acquire too much knowledge of the drone program and its capabilities. If political trust improves over time, however, this might be a useful model for cooperation.¶ A final option -- and the only realistic compromise at present -- would be for Washington to seek Islamabad’s pre-authorization for specific targets and zones for strikes. The United States would retain full operational control over drone missions, and unlike the earliest stage in the drone program, when Musharraf’s explicit approval was required to kill Nek Muhammad, this process could provide blanket authority for a much longer (mutually agreed, if not publicly disclosed) target list. In return, Pakistani leaders would acknowledge publicly the terms of the new arrangement. Accompanying this preauthorization regime, Washington and Islamabad could establish a mechanism for reviewing claims of civilian losses and providing appropriate compensation, as the United States has done in Afghanistan and Iraq. In bringing the program out of the shadows, U.S. operational authority for the drones would almost certainly have to shift from the CIA to the Pentagon, as the Obama administration has already said it plans to do in other countries.¶ Admittedly, this final compromise option would be painful for both Islamabad and Washington. Pakistani leaders would finally have to come clean to their people about authorizing drone strikes. That would eliminate even the thin veneer of deniability that past leaders have maintained to protect themselves from political fallout. It would also place Sharif’s party firmly on the blacklists of the Pakistani Taliban and other targeted groups, which to date have enjoyed slightly more ambiguous relationships.¶ For their part, U.S. counterterror officials would chafe at any preauthorization program. This would be especially true if the target list excluded individuals, such as senior Afghan Taliban commanders, with whom the Pakistanis would prefer to maintain ties. A preauthorization regime would also mean foregoing the controversial U.S. practice of signature strikes, in which drones have been used to attack individuals who fit the profile of terrorists -- for example, people who move about in armed convoys or visit known terrorist camps -- but whose identities are not yet known to U.S. officials.¶ The new drone deal would be premised on the assumption that the United States is prepared to accept less frequent drone strikes than it has become accustomed to. So one potentially insurmountable stumbling block to this compromise would be if Washington planned to use the drone campaign as a primary tool for shaping the battlefield in Afghanistan, for instance by intensifying strikes against the Haqqani Network in the FATA’s North Waziristan agency. Pakistani leaders would almost certainly reject this strategy**.** Under such conditions, however, it is hard to imagine anything other than a tense and conflict-prone relationship between Washington and Islamabad, whether or not any new drone deal has been negotiated.¶ But officials in Washington would be wise not to let relations with Pakistan deteriorate to that point. The United States faces potential challenges in Pakistan that are even more daunting than the war in Afghanistan or the fight against al Qaeda. Nuclear-armed and battling a hardened Islamist insurgency, Pakistan is on track to be the fourth most populous country in the world by midcentury. Pakistan, in short, is here to stay -- as is Nawaz Sharif, at least for the immediate future. Sharif may not be the man that the United States would choose to lead Pakistan, but he is one that Washington would be wise to learn how to bargain with.

#### Casualties are way down and drones are far more precise than alternatives---our ev uses the best data

Michael Cohen 13, Fellow at the Century Foundation, 5/23/13, “Give President Obama a chance: there is a role for drones,” The Guardian, http://www.theguardian.com/commentisfree/2013/may/23/obama-drone-speech-use-justified

Drone critics have a much different take. They are passionate in their conviction that US drones are indiscriminately killing and terrorizing civilians. The Guardian's own Glenn Greenwald argued recently that no "minimally rational person" can defend "Obama's drone kills on the ground that they are killing The Terrorists or that civilian deaths are rare". Conor Friedersdorf, an editor at the Atlantic and a vocal drone critic, wrote last year that liberals should not vote for President Obama's re-election because of the drone campaign, which he claimed "kills hundreds of innocents, including children," "terrorizes innocent Pakistanis on an almost daily basis" and "makes their lives into a nightmare worthy of dystopian novels". ¶ I disagree. Increasingly it appears that arguments like Friedersdorf makes are no longer sustainable (and there's real question if they ever were). Not only have drone strikes decreased, but so too have the number of civilians killed – and dramatically so. ¶ This conclusion comes not from Obama administration apologists but rather, Chris Woods, whose research has served as the empirical basis for the harshest attacks on the Obama Administration's drone policy. ¶ Woods heads the covert war program for the Bureau of Investigative Journalism (TBIJ), which maintains one of three major databases tabulating civilian casualties from US drone strikes. The others are the Long War Journal and the New America Foundation (full disclosure: I used to be a fellow there). While LWJ and NAJ estimate that drone strikes in Pakistan have killed somewhere between 140 and 300 civilians, TBIJ utilizes a far broader classification for civilians killed, resulting in estimates of somewhere between 411-884 civilians killed by drones in Pakistan. The wide range of numbers here speaks to the extraordinary challenge in tabulating civilian death rates. ¶ There is little local reporting done on the ground in northwest Pakistan, which is the epicenter of the US drone program. As a result data collection is reliant on Pakistani news reporting, which is also dependent on Pakistani intelligence, which has a vested interest in playing up the negative consequences of US drones. ¶ When I spoke with Woods last month, he said that a fairly clear pattern has emerged over the past year – far fewer civilians are dying from drones. "For those who are opposed to drone strikes," says Woods there is historical merit to the charge of significant civilian deaths, "but from a contemporary standpoint the numbers just aren't there." ¶ While Woods makes clear that one has to be "cautious" on any estimates of casualties, it's not just a numeric decline that is being seen, but rather it's a "proportionate decline". In other words, the percentage of civilians dying in drone strikes is also falling, which suggests to Woods that US drone operators are showing far greater care in trying to limit collateral damage. ¶ Woods estimates are supported by the aforementioned databases. In Pakistan, New America Foundation claims there have been no civilian deaths this year and only five last year; Long War Journal reported four deaths in 2012 and 11 so far in 2013; and TBIJ reports a range of 7-42 in 2012 and 0-4 in 2013. In addition, the drop in casualty figures is occurring not just in Pakistan but also in Yemen. ¶ These numbers are broadly consistent with what has been an under-reported decline in drone use overall. According to TBIJ, the number of drone strikes went from 128 in 2010 to 48 in 2012 and only 12 have occurred this year. These statistics are broadly consistent with LWJ and NAF's reporting. In Yemen, while drone attacks picked up in 2012, they have slowed dramatically this year. And in Somalia there has been no strike reported for more than a year. ¶ Ironically, these numbers are in line with the public statements of CIA director Brennan, and even more so with Senator Dianne Feinstein of California, chairman of the Select Intelligence Committee, who claimed in February that the numbers she has received from the Obama administration suggest that the typical number of victims per year from drone attacks is in "the single digits".¶ Part of the reason for these low counts is that the Obama administration has sought to minimize the number of civilian casualties through what can best be described as "creative bookkeeping". The administration counts all military-age males as possible combatants unless they have information (posthumously provided) that proves them innocent. Few have taken the White House's side on this issue (and for good reason) though some outside researchers concur with the administration's estimates.¶ Christine Fair, a professor at Georgetown University has long maintained that civilian deaths from drones in Pakistan are dramatically overstated. She argues that considering the alternatives of sending in the Pakistani military or using manned aircraft to flush out jihadists, drone strikes are a far more humane method of war-fighting.

#### Drones not the greatest threat for the people of the FATA

Rogers 13 Christopher Rogers, Pakistan Field Fellow with the Campaign for Innocent Victims in Conflict (CIVIC). Program Officer, Regional Policy Initiative, Open Society Foundations, Congressional Progressive Caucus Peace and Security Taskforce: Ad Hoc Hearing on Drones, 5-8

Having spoken to many people from this region, I have seen that drones are by no means the only, or even the greatest threat faced by the people of FATA. FATA is under siege, and has for decades been economically, socially, and politically isolated. Average income is less than 250 dollars per year. Less than one in five are literate. There are no courts, no elected local government. Militancy has filled this vacuum and the ensuing conflict has displaced hundreds of thousands, led to the detention of thousands more, and caused an untold number of civilian deaths. People in FATA are caught between militants and the Pakistani military, dealing with the destruction of their traditional tribal structures, and an absentee government. It is against this backdrop that the United States is conducting drone strikes, which have killed two to three thousand people over the past several years, in communities that already feel abandoned and extremely vulnerable.

#### Even after relations declined - Pakistan protests but it still clears its airspace

Gray 13 Christine Gray, Professor of International Law, University of Cambridge. *Current Legal Problems*, Targeted Killings: Recent US Attempts to Create a Legal Framework (2013), pp. 1–32

According to newspaper reports, the USA followed the practice of notifying Pakistan of its intention to carry out a targeted killing.70 The CIA would send a fax to the ISI (the Pakistan intelligence service) once a month, outlining areas and targets for drone attacks. The ISI would acknowledge receipt of the fax, without saying anything express about consent, but Pakistan would clear the airspace. However, after relations between the USA and Pakistan deteriorated following a series of incidents in 2011 and 2012, the practice changed. Today the ISI apparently no longer acknowledges receipt of the CIA faxes. But the USA says that Pakistan still clears its airspace. There are newspaper reports of divisions in the US administration on this issue. US State Department Legal Adviser Harold Koh is said to have expressed some concerns about the adequacy of the consent.71 In private there may have been consent, or possibly just acquiescence, by the Pakistani government, but the public picture is different.

#### No escalation- crises will be resolved through negotiations

Alagappa 9, Distinguished Senior Fellow at the East-West Center, PhD in International Affairs from the Fletcher School of Law and Diplomacy, 2009 (Muthiah, “Nuclear Weapons Reinforce Security and Stability in 21st Century Asia”, Vol 4 No 1)

The stabilizing effect of nuclear weapons may be better illustrated in India-Pakistan relations, as the crises between these two countries during the 1999–2002 period are often cited as demonstrating nuclear weapon-induced instability. Rather than simply attribute these crises to the possession of nuclear weapons, a more accurate and useful reading would ground them in Pakistan’s deliberate policy to alter the status quo through military means on the premise that the risk of escalation to nuclear war would deter India from responding with full-scale conventional retaliation; and in India’s response, employing compellence and coercive diplomacy strategies. In other words, particular goals and strategies rather than nuclear weapons per se precipitated the crises. Further, the outcomes of these two crises revealed the limited utility of nuclear weapons in bringing about even a minor change in the territorial status quo and highlighted the grave risks associated with offensive strategies. Recognition of these limits and the grave consequences in part contributed to the two countries’ subsequent efforts to engage in a comprehensive dialogue to settle the many disputes between them. The crises also led to bilateral understandings and measures to avoid unintended hostilities. Though it is too soon to take a long view, it is possible to argue that, like the Cuban missile crisis in 1962, the 1999 and 2001–02 crises between India and Pakistan mark a watershed in their strategic relations: the danger of nuclear war shifted their focus to avoiding a major war and to finding a negotiated settlement to bilateral problems. Large-scale military deployments along the common border, Pakistan-supported insurgent activities in India, and cross-border terrorism continue; and the two countries regularly conduct large-scale military exercises and test nuclear-capable missiles that have each other’s entire territory within range. Despite these activities, the situation has become relatively less tense; stability with the ability to absorb shocks even like that created by the November 26terrorist attack in Mumbai has begun to characterize the bilateral relationship.

#### Empirically denied – no ME conflict has escalated

Drum ‘7 (Kevin-, Political Blogger @ the Washington Monthly, Sept. 9, Washington Monthly, “The Chaos Hawks”, http://www. washingtonmonthly.com/archives/individual/2007\_09/012029.php )

Having admitted, however, that the odds of a military success in Iraq are almost impossibly long, Chaos Hawks nonetheless insist that the U.S. military needs to stay in Iraq for the foreseeable future. Why? Because if we leave the entire Middle East will become a bloodbath. Sunni and Shiite will engage in mutual genocide, oil fields will go up in flames, fundamentalist parties will take over, and al-Qaeda will have a safe haven bigger than the entire continent of Europe.

Needless to say, this is nonsense. Israel has fought war after war in the Middle East. Result: no regional conflagration. Iran and Iraq fought one of the bloodiest wars of the second half the 20th century. Result: no regional conflagration. The Soviets fought in Afghanistan and then withdrew. No regional conflagration. The U.S. fought the Gulf War and then left. No regional conflagration. Algeria fought an internal civil war for a decade. No regional conflagration. So where does this bogeyman come from? Hard to say. Probably a deep-seated unwillingness to confront the fact that the United States can't really influence a course of events we originally set in motion. But Iraq is already fighting a civil war, and that civil war will continue whether we stay or go. If we go it will likely become more intense, but also shorter lived. The eventual result, however, will almost certainly be the same: a de facto independent Kurdistan in the north and a Shiite theocracy in the south. The rest of the Middle East will, as usual, watch events unfold without doing much of anything about them, and will accept the inevitable results. The U.S., for its part, will remain in the north to protect Kurdistan, in the east in Afghanistan, in the west in the Mediterranean, and in the south in its bases in the Gulf. We'll hardly be absent from the region.

## 2NC

### K

#### All of our solvency arguments are *net offense*---legalism creates the façade that the executive is being constrained while allowing the government to do as it pleases under the guise of constraint---this swells executive power and turns the case

Osborn 8 Timothy Kaufman is the Baker Ferguson Professor of Politics and Leadership at Whitman College; from 2002-06 as president of the American Civil Liberties of Washington; and he recently completed a term on the Executive Council of the American Political Science Association. Theory & Event > Volume 11, Issue 2

The examples cited in this section suggest not the formation of an utterly lawless regime, but, rather, within an order that continues to understand itself in terms of the categories provided by liberal contractarianism, the more insidious creation, multiplication, and institutionalization of what David Dyzenhaus calls "grey holes." Such holes are "spaces in which there are some legal constraints on executive action...but the constraints are so insubstantial that they pretty well permit government to do as it pleases."40 As such, they are more harmful to the rule of law than are outright dictatorial usurpations, first, because the provision of limited procedural protections masks the absence of any real constraint on executive power; and, second, because location of the authority to create such spaces within the Constitution implies that, in the last analysis, they bear ex ante authorization by the people. When created, in other words, they may receive but they do not require ratification, whether by Congress or by those whom its members are said to represent. What this means in effect is that the second Bush administration has dispensed with Jefferson's stipulation that extra-constitutional executive acts (or, rather, acts that Jefferson deemed to be outside those constitutionally permitted) require ex post facto ratification; and, in addition, that it has dispensed with Locke's contention that, however unlikely, at least in principle, specific exercises of extra-legal prerogative power (or, rather, acts that Locke deemed to be outside those legally permitted) are properly subject to revolutionary rejection. What one finds in the second Bush administration, then, is a denial of both models of accountability, combined with an aggressive commitment to the constitution of a security state that is liberal only in name. As it extends its reach, perfection of that state renders the prospect of popular repudiation of prerogative power ever more chimerical, and, indeed, renders recognition of the problematic character of its exercise ever less likely.

#### Their method is bad – (1) it’s rooted in tyrannaphobia (2) the state is hijacked by elites who control decision making and normalize an authoritarian state that wages war on populations – debate should focus on how cultural elements combat normalization of violence

Giroux 13 Henry A. is a social critic and educator, and the author of many books. He currently holds the Global Television Network Chair in English and Cultural Studies at McMaster University, Ontario, Monthly Review, Volume 65, Issue 01 (May)

In addition, as the state is hijacked by the financial-military-industrial complex, the “most crucial decisions regarding national policy are not made by representatives, but by the financial and military elites.”53 Such massive inequality and the suffering and political corruption it produces point to the need for critical analysis in which the separation of power and politics can be understood. This means developing terms that clarify how power becomes global even as politics continues to function largely at the national level, with the effect of reducing the state primarily to custodial, policing, and punishing functions—at least for those populations considered disposable. The state exercises its slavish role in the form of lowering taxes for the rich, deregulating corporations, funding wars for the benefit of the defense industries, and devising other welfare services for the ultra-rich. There is no escaping the global politics of finance capital and the global network of violence it has produced. Resistance must be mobilized globally and politics restored to a level where it can make a difference in fulfilling the promises of a global democracy. But such a challenge can only take place if the political is made more pedagogical and matters of education take center stage in the struggle for desires, subjectivities, and social relations that refuse the normalizing of violence as a source of gratification, entertainment, identity, and honor. War in its expanded incarnation works in tandem with a state organized around the production of widespread violence. Such a state is necessarily divorced from public values and the formative cultures that make a democracy possible. The result is a weakened civic culture that allows violence and punishment to circulate as part of a culture of commodification, entertainment, distraction, and exclusion. In opposing the emergence of the United States as both a warfare and a punishing state, I am not appealing to a form of left moralism meant simply to mobilize outrage and condemnation. These are not unimportant registers, but they do not constitute an adequate form of resistance .What is needed are modes of analysis that do the hard work of uncovering the effects of the merging of institutions of capital, wealth, and power, and how this merger has extended the reach of a military-industrial-carceral and academic complex, especially since the 1980s. This complex of ideological and institutional elements designed for the production of violence must be addressed by making visible its vast national and global interests and militarized networks, as indicated by the fact that the United States has over 1,000 military bases abroad.54 Equally important is the need to highlight how this military-industrial-carceral and academic complex uses punishment as a structuring force to shape national policy and everyday life. Challenging the warfare state also has an important educational component. C. Wright Mills was right in arguing that it is impossible to separate the violence of an authoritarian social order from the cultural apparatuses that nourish it. As Mills put it, the major cultural apparatuses not only “guide experience, they also expropriate the very chance to have an experience rightly called ‘our own.’”55 This narrowing of experience shorn of public values locks people into private interests and the hyper-individualized orbits in which they live. Experience itself is now privatized, instrumentalized, commodified, and increasingly militarized. Social responsibility gives way to organized infantilization and a flight from responsibility. Crucial here is the need to develop new cultural and political vocabularies that can foster an engaged mode of citizenship capable of naming the corporate and academic interests that support the warfare state and its apparatuses of violence, while simultaneously mobilizing social movements to challenge and dismantle its vast networks of power. One central pedagogical and political task in dismantling the warfare state is, therefore, the challenge of creating the cultural conditions and public spheres that would enable the U.S. public to move from being spectators of war and everyday violence to being informed and engaged citizens.Unfortunately, major cultural apparatuses like public and higher education, which have been historically responsible for educating the public, are becoming little more than market-driven and militarized knowledge factories. In this particularly insidious role, educational institutions deprive students of the capacities that would enable them not only to assume public responsibilities, but also to actively participate in the process of governing. Without the public spheres for creating a formative culture equipped to challenge the educational, military, market, and religious fundamentalisms that dominate U.S. society, it will be virtually impossible to resist the normalization of war as a matter of domestic and foreign policy. Any viable notion of resistance to the current authoritarian order must also address the issue of what it means pedagogically to imagine a more democratically oriented notion of knowledge, subjectivity, and agency and what it might mean to bring such notions into the public sphere. This is more than what Bernard Harcourt calls “a new grammar of political disobedience.”56 It is a reconfiguring of the nature and substance of the political so that matters of pedagogy become central to the very definition of what constitutes the political and the practices that make it meaningful. Critical understanding motivates transformative action, and the affective investments it demands can only be brought about by breaking into the hardwired forms of common sense that give war and state-supported violence their legitimacy. War does not have to be a permanent social relation, nor the primary organizing principle of everyday life, society, and foreign policy. The war of all-against-all and the social Darwinian imperative to respond positively only to one’s own self-interest represent the death of politics, civic responsibility, and ethics, and set the stage for a dysfunctional democracy, if not an emergent authoritarianism. The existing neoliberal social order produces individuals who have no commitment, except to profit, disdain social responsibility, and loosen all ties to any viable notion of the public good. This regime of punishment and privatization is organized around the structuring forces of violence and militarization, which produce a surplus of fear, insecurity, and a weakened culture of civic engagement—one in which there is little room for reasoned debate, critical dialogue, and informed intellectual exchange. Patricia Clough and Craig Willse are right in arguing that we live in a society “in which the production and circulation of death functions as political and economic recovery.”57 The United States understood as a warfare state prompts a new urgency for a collective politics and a social movement capable of negating the current regimes of political and economic power, while imagining a different and more democratic social order. Until the ideological and structural foundations of violence that are pushing U.S. society over the abyss are addressed, the current warfare state will be transformed into a full-blown authoritarian state that will shut down any vestige of democratic values, social relations, and public spheres. At the very least, the U.S. public owes it to its children and future generations, if not the future of democracy itself, to make visible and dismantle this machinery of violence while also reclaiming the spirit of a future that works for life rather than death—the future of the current authoritarianism, however dressed up they appear in the spectacles of consumerism and celebrity culture. It is time for educators, unions, young people, liberals, religious organizations, and other groups to connect the dots, educate themselves, and develop powerful social movements that can restructure the fundamental values and social relations of democracy while establishing the institutions and formative cultures that make it possible. Stanley Aronowitz is right in arguing that: the system survives on the eclipse of the radical imagination, the absence of a viable political opposition with roots in the general population, and the conformity of its intellectuals who, to a large extent, are subjugated by their secure berths in the academy [and though] we can take some solace in 2011, the year of the protester…it would be premature to predict that decades of retreat, defeat and silence can be reversed overnight without a commitment to what may be termed “a long march” through the institutions, the workplaces and the streets of the capitalist metropoles.58 The current protests among young people, workers, the unemployed, students, and others are making clear that this is not—indeed, cannot be—only a short-term project for reform, but must constitute a political and social movement of sustained growth, accompanied by the reclaiming of public spaces, the progressive use of digital technologies, the development of democratic public spheres, new modes of education, and the safeguarding of places where democratic expression, new identities, and collective hope can be nurtured and mobilized. Without broad political and social movements standing behind and uniting the call on the part of young people for democratic transformations, any attempt at radical change will more than likely be cosmetic.

#### Sequencing DA – alt has to come first or movements get sapped

Nagin 5 Tomiko Brown, Visiting Associate Professor, University of Virginia School of Law, “ELITES, SOCIAL MOVEMENTS, AND THE LAW: THE CASE OF AFFIRMATIVE ACTION,” Columbia Law Review, 105 Colum. L. Rev. 1436

Those seeking to have an impact on the political and legal orders should not root a mass movement in the courts;instead, affirmative litigation about constitutional rights should be anchored upon and preceded by a mass movement.Efforts to achieve fundamental change shouldbegin with the target constituency and be waged initially outside of the confines of institutionalized politics.Law should be understood as a tactic in an ongoing political struggle, where the struggle is the main event and favorable legal outcomes are its byproducts. There is a crucially important temporal component to this view. Legal claims can be tactically useful in a political strategy for achieving change - butonly after social movements lay the groundworkfor legal change. Social movements must first create political pressure that frames issues in a favorable manner, creates cultural norm shifts, and affects public opinion; these norm shifts then increase the likelihood that courts will reach outcomes favored by lawyers. [437](http://www.lexis.com/research/retrieve?_m=b1b76c3bff33e7c7527182cc42568c87&docnum=11&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzz-zSkAl&_md5=b4841fe459fa752b47486b13d84385b6&focBudTerms=milliken%20w/150%20hispanic%20or%20latino&focBudSel=all#n437) Again, my claims find support in the history of the mid-twentieth-century civil rights movement. This narrative posits an intimate relationship between the sociopolitical dynamics within black client communities and the success (or failure) of civil rights lawyers' litigation campaigns for rights. The postwar civil rights movement confirms that the moral suasion of participatory democratic groups of nonlawyers, and typically nonelites, was integral to law's movement from a Jim Crow regime to a [\*1523] constitutional order in which formal equality was the norm. During the past three decades, historians who have analyzed social change have discovered that small groups of inexpert individuals can be the leading edge of a social movement, especially when they work in coalition with those who traditionally wield influence in society. [438](http://www.lexis.com/research/retrieve?_m=b1b76c3bff33e7c7527182cc42568c87&docnum=11&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzz-zSkAl&_md5=b4841fe459fa752b47486b13d84385b6&focBudTerms=milliken%20w/150%20hispanic%20or%20latino&focBudSel=all#n438)Through their commitment to a social cause, ordinary people with no insider knowledge of the technical aspects of the broad issue on which they are mobilizing can create circumstances in which those with actual power (political, economic, and, ultimately, legal power) are persuaded to act in their favor.

#### Aff gets lost in the details of specifics like \_\_\_\_\_ policy which ignores broader systemic criticism and normalizes war on terror

Saas, 12 \*\*William O. Pf Department of Communication Arts and Sciences at the Pennsylvania State University. symploke > Volume 20, Numbers 1-2

How might one critique this massive network of violence that has become so enmeshed in our contemporary geo-socio-political reality? Is there any hope for reversing the expansion of executive violence in the current political climate, in which the President enjoys minimal resistance to his most egregious uses of violence? How does exceptional violence become routine? Answers to these broad and difficult questions, derived as they are from the disorientingly vast and hyper-accelerated retrenchment of our current political situation, are best won through the broad strokes of what Slavoj Žižek calls "systemic" critique. For Žižek, looking squarely at interpersonal or subjective violences (e.g., torture, drone strikes), drawn as we may be by their gruesome and immediate appeal, distorts the critic's broader field of vision. For a fuller picture, one must pull one's critical focus back several steps to reveal the deep, objective structures that undergird the spectacular manifestations of everyday, subjective violence (Žižek 2008, 1-2). Immediately, however, one confronts the limit question of Žižek's mandate: how does one productively draw the boundaries of a system without too severely dampening the force of objective critique? For practical purposes, this essay leaves off discussion of neoliberal economic domination, vital as it may be to a full accounting for the U.S.' latest and most desperate expressions of state solvency.

### 2NC Prerequisite

#### Counterplan is a prerequisite – key to effective legislative and judicial oversight

Metzger ‘9, Gillian E. Metzger, Professor of Law @ Columbia Law School, “The Interdependent Relationship Between Internal and External Separation of Powers” 59 Emory L.J. 423, Emory Law Journal, 2009

Equally important, the relationship between internal and external separation of powers is reciprocal: Internal and external checks reinforce and operate in conjunction with one another. Congress needs information to conduct meaningful oversight of the Executive Branch. 94 Internal agency experts and watchdogs are important sources of that information, whether in the guise of [\*445] formal reports, studies, and testimony or informal conversations and leaks. 95 Procedural constraints within agencies can serve a similar function, alerting Congress to agency activities. 96 Internal mechanisms also reinforce congressional mandates by creating bodies of personnel within the Executive Branch who are committed to enforcing the governing statutory regime that sets out the parameters of their authority and regulatory responsibilities - and on whose expertise the functioning of these regulatory regimes often depends. 97 Courts equally depend on information and evidence compiled by agency personnel to review agency actions, and they have invoked this dependence to justify the requirement that agencies disclose underlying information and offer detailed explanations of their decisions. 98 Moreover, despite courts regularly intoning that "it [is] not the function of the court to probe the mental processes of Secretaries in reaching [their] conclusions," 99 judicial review of agency actions often appears to turn on judges' perceptions of the role politics played in decisionmaking by agency officials. 100 Evidence that decisions were made over the objections of career staff and agency professionals often triggers more rigorous review. 101 A particularly striking [\*446] suggestion of how internal checks can effect judicial review came in the recent Boumediene litigation. Just a few months after refusing to grant certiorari in order to allow the Combatant Status Review Tribunal process to proceed, the Court reversed course and granted review, apparently influenced by the concerns of military lawyers about how the tribunals were functioning. 102

### 2NC Politics NB

#### Executive action avoids politics

Sovacool 9 Dr. Benjamin K. Sovacool 2009 is a Research Fellow in the Energy Governance Program at the Centre on Asia and Globalization., Kelly E. Sovacool is a Senior Research Associate at the Lee Kuan Yew School of Public Policy at the National University of SingaporeArticle: Preventing National Electricity-Water Crisis Areas in the United States, Columbia Journal of Environmental Law 2009 34 Colum. J. Envtl. L. 333,

¶ Executive Orders also save time in a second sense. The President does not have to expend scarce political capital trying to persuade Congress to adopt his or her proposal. Executive Orders thus save ¶ ¶ presidential attention for other topics. Executive Orders bypass congressional debate and opposition, along with all of the horsetrading and compromise such legislative activity entails.¶ ¶ 292¶ ¶ Speediness of implementation can be especially important when challenges require rapid and decisive action. After the September ¶ ¶ 11, 2001 attacks on the Pentagon and World Trade Center, for ¶ ¶ instance, the Bush Administration almost immediately passed ¶ ¶ Executive Orders forcing airlines to reinforce cockpit doors and ¶ ¶ freezing the U.S. based assets of individuals and organizations ¶ ¶ involved with terrorist groups.¶ ¶ 293¶ ¶ These actions took Congress ¶ ¶ nearly four months to debate and subsequently endorse with ¶ ¶ legislation. Executive Orders therefore enable presidents to ¶ ¶ rapidly change law without having to wait for congressional action ¶ ¶ or agency regulatory rulemaking.

### 2NC A2 Precedent

#### Legal norms fail and are not unique to congress – the WPR proves. Executive compliance with international norms SETS A LEGAL PRECEDENT

Twomey 13, Trinity College Dublin, (Laura, Setting a Global Precedent: President Obama's Codification of Drone Warfare, Cambridge Journal of International and Comparative Law, 14 March 2013, http://www.cjicl.org.uk/index.php/cjicl-blog/setting-a-global-precedent-president-obamas-codification-of-drone-warfare, da 7-31-13) PC

It is clear that, as the first State to deploy remote targeting technology in a non international armed conflict, the legal framework forged by the US during President Obama's second term will set significant precedent for the future practice of the estimated 40 States developing their own drone technology. On 7 March 2013, members of the European Parliament expressed deep concern about the “unwelcome precedent” the programme sets, citing its “destabilising effect on the international legal framework” that “destroys ... our common legal heritage.” This 'destabilising effect' arises from the classified and seemingly amorphous substantive legal basis for the programme and the apparent lack of procedural standards in place. It remains to be seen if the classified 'rulebook' will be released for public scrutiny, and allay these concerns. Reliance on international law in world order is based on consent, consensus, good faith and, crucially in this instance, reciprocity. The US programme may harbour short term gains in the pursuit of al-Qaeda operatives, however, if the aforementioned substantive legal justifications continue to be invoked, it risks engendering long term disadvantages. Pursuing this policy encourages other States to adopt similar policies. Administration officials have cited particular concern about setting precedent for Russia, Iran and China, all of which are developing their own remote targeting technology. It is therefore suggested that the Administration should take this opportunity to codify the rules, clarify terms where ambiguity may currently allow for broader interpretations, and to bring its regulations in line with the existing framework of international law. This legal framework should then be made available to the public, with covert operational necessities redacted. This could set a valuable legal precedent, of particular importance at this turning point wherein international law must adapt to the 21st century model of warfare, a model which lacks a clear enemy and a demarcated battlefield.

### 2NC A2 Credibility

#### Counterplan solves US credibility and soft power

Margulies 8 Peter, Professor of Law, Roger Williams University School of Law, Maryland Law Review, 68 Md. L. Rev. 1

This model rests on two elements: transparency and tailoring. Transparency calls for dialog between the branches, within the executive branch, and with the public, to develop a sense of stake and optimize the quality of decisions. Tailoring, like the equitable tailoring that courts do to take into account the interests of parties and the [\*68] public interest, 307 requires that the lawyer seek to accommodate both the rationale and content of proposed executive action within the constitutional scheme of overlapping authority among the branches. The role conception that drives the dialogic equipoise model stems not only from the logic of the separation of powers but also from the lawyer's function in representing collective entities and the historical function of the Attorney General. Under the Model Rules, lawyers representing collective entities such as corporations must act in the best interests of the organization. 308 On significant occasions, such as when a person, like a CEO, that the lawyer would ordinarily look to for direction on the organization's behalf acts against the entity's interests, the lawyer has an obligation to uphold those interests. This institutional obligation reduces the agency costs that flow from the self-dealing or myopia of particular managers, and promotes continuity within the organization. 309 The sense of institutional obligation within the dialogic equipoise model also echoes the background understanding that existed at the founding of the function of the Attorney General, derived from English law. 310 A minimum of objectivity was part and parcel of this understanding. 311 Edmund Randolph, the first Attorney General of the United States, set the tone with opinions on the establishment of the Bank of the United States that were measured, taking into account the most cogent arguments for and against the proposal. 312 Because the model seeks to reduce the agency costs of executive overreaching, it also preserves the long-term perspective that emergencies can sometimes obscure. Transparency can help prevent the loss of executive power and credibility that can follow in the wake of executive overreaching. Transparency also preserves the legitimacy and international reputation of the United States by displaying the executive's confidence that it can rally others to its cause and respond [\*69] to their concerns. This is what the drafters of the Declaration of Independence had in mind when they claimed "a decent Respect [for] the Opinions of Mankind." 313 Maintaining reputation allows the United States to exercise "soft power" 314 that will often be more effective than brute force. 315 In this fashion, a dialogic equipoise model enhances long-term stability and aids in refining current policies. Moreover, transparency does not necessarily frustrate timely action, including the use of force when that is necessary. In the Cuban Missile Crisis, for example, the Administration engaged in a wide and vigorous internal debate and subsequently consulted with foreign capitals and international organizations. 316 The destroyer deal between the United States and Britain featured a robust internal debate. Most recently, dialog with Congress and the United Nations preceded the decision by the United States to intervene militarily in Afghanistan after September 11. Government attorneys should urge dialog and advise the President of the adverse consequences attending a lack of transparency. Just as dialog yields results that preserve American leverage, tailoring an executive response will have similar benefits. Courts use tailoring to ensure that extraordinary remedies such as injunctions serve the public interest and respect the rights of the parties.

### A2 Rollback: Future Pres

#### XOs are binding on future administrations and cause follow-on

Duncan, Associate Professor of Law at Florida A&M, Winter 2010

(John C., “A Critical Consideration of Executive Orders,” 35 Vt. L. Rev. 333, Lexis)

Executive orders can serve the purpose of allowing the President to generate favorable publicity, such as when President Clinton signed an executive order on ethics, n493 and when President George W. Bush signed the first of a series of executive orders to launch his Faith-Based and Community Initiatives. n494 While these orders pay off political debts and thus may seem trivial, they nevertheless create bothinfrastructural and regulatory precedents for future administrations. Hence, they create an avenue for key constituencies of each administration to influence the executive structure as a whole without necessarily permitting that influence to extend to arenas of reserved for Congress. That is, while the President can act more swiftly and precisely to satisfy political commitments, the impact of his action will fall considerably short of analogous congressional action. This in turn serves to satisfy selected constituencies without giving them undue power via the presidency.

Executive orders have even served to create presidential commissions to investigate and research problems, and have been instrumental in solving remedial issues. n495 Commission reports that result from such orders can in [\*398] turn put pressure on Congress toenact legislation to respond to those problems. President Franklin Roosevelt pursued this process when he issued a report of the Committee on Economic Security studying financial insecurity due to "unemployment, old age, disability, and health." n496 This report led to the Social Security Act. n497

**Political barriers check – new, stronger constituencies**

**Branum 2** [Tara L Associate, Fulbright & Jaworski L.L.P “President or King? The Use and Abuse of Executive Orders in Modern America” Journal of Legislation

Congressmen and private citizens besiege the President with demands  [\*58]  that action be taken on various issues. [n273](http://www.lexisnexis.com/us/lnacademic/frame.do?tokenKey=rsh-20.689002.875983458&target=results_DocumentContent&reloadEntirePage=true&rand=1220903297496&returnToKey=20_T4511783216&parent=docview" \l "n273) To make matters worse, once a president has signed an executive order, he often makes it impossible for a subsequent administration to undo his action without enduring the political fallout of such a reversal. For instance, President Clinton issued a slew of executive orders on environmental issues in the weeks before he left office. [n274](http://www.lexisnexis.com/us/lnacademic/frame.do?tokenKey=rsh-20.689002.875983458&target=results_DocumentContent&reloadEntirePage=true&rand=1220903297496&returnToKey=20_T4511783216&parent=docview" \l "n274) Many werecontroversial and the needfor the policies he instituted was debatable. [n275](http://www.lexisnexis.com/us/lnacademic/frame.do?tokenKey=rsh-20.689002.875983458&target=results_DocumentContent&reloadEntirePage=true&rand=1220903297496&returnToKey=20_T4511783216&parent=docview" \l "n275) Nevertheless, President Bush found himself unable to reverse the orders without invoking the ire of environmentalists across the country. [n276](http://www.lexisnexis.com/us/lnacademic/frame.do?tokenKey=rsh-20.689002.875983458&target=results_DocumentContent&reloadEntirePage=true&rand=1220903297496&returnToKey=20_T4511783216&parent=docview" \l "n276) A policy became law by the action of one man without the healthy debate and discussion in Congress intended by the Framers. Subsequent presidents undo this policy and send the matter to Congress for such debate only at their own peril. This is not the way it is supposed to be.

### Norms

#### Even with the tech, China won’t use drones offensively

* Fear international backlash
* Don’t want to set precedent for US drone us in East Asia
* Domestic political constraints

Erickson and Strange 13 (Andrew Erickson, associate professor at the Naval War College, Associate in Research at Harvard University's Fairbank Centre, Austin Strange, researcher at the Naval War College's China Maritime Studies Institute, graduate student at Zhejiang University, “China Has Drones. Now How Will it Use Them?” Foreign Affairs, May 29, 2013, <http://www.nationmultimedia.com/opinion/China-has-drones-Now-how-will-it-use-them-30207095.html>)

Indeed, the time to fret about when China and other authoritarian countries will acquire drones is over: they have them. The question now is when and how they will use them. But as with its other, less exotic military capabilities, Beijing has cleared only a technological hurdle -- and its behavior will continue to be constrained by politics.¶ China has been developing a drone capacity for over half a century, starting with its reverse engineering of Soviet Lavochkin La-17C target drones that it had received from Moscow in the late 1950s. Today, Beijing’s opacity makes it difficult to gauge the exact scale of the program, but according to Ian Easton, an analyst at the Project 2049 Institute, by 2011 China’s air force alone had over 280 combat drones. In other words, its fleet of unmanned aerial vehicles is already bigger and more sophisticated than all but the United States’; in this relatively new field Beijing is less of a newcomer and more of a fast follower. And the force will only become more effective: the Lijian (“sharp sword” in Chinese), a combat drone in the final stages of development, will make China one of the very few states that have or are building a stealth drone capacity.¶ This impressive arsenal may tempt China to pull the trigger. The fact that a Chinese official acknowledged that Beijing had considered using drones to eliminate the Burmese drug trafficker, Naw Kham, made clear that it would not be out of the question for China to launch a drone strike in a security operation against a nonstate actor. Meanwhile, as China’s territorial disputes with its neighbors have escalated, there is a chance that Beijing would introduce unmanned aircraft, especially since India, the Philippines, and Vietnam distantly trail China in drone funding and capacity, and would find it difficult to compete. Beijing is already using drones to photograph the Senkaku/Diaoyu Islands it disputes with Japan, as the retired Chinese Major General Peng Guangqian revealed earlier this year, and to keep an eye on movements near the North Korean border.¶ Beijing, however, is unlikely to use its drones lightly. It already faces tremendous criticism from much of the international community for its perceived brazenness in continental and maritime sovereignty disputes. With its leaders attempting to allay notions that China's rise poses a threat to the region, injecting drones conspicuously into these disputes would prove counterproductive. China also fears setting a precedent for the use of drones in East Asian hotspots that the United States could eventually exploit. For now, Beijing is showing that it understands these risks, and to date it has limited its use of drones in these areas to surveillance, according to recent public statements from China's Defence Ministry. What about using drones outside of Chinese-claimed areas? That China did not, in fact, launch a drone strike on the Myanmar drug criminal underscores its caution. According to Liu Yuejin, the director of the anti-drug bureau in China's Ministry of Public Security, Beijing considered using a drone carrying a 20-kilogram TNT payload to bomb Kham's mountain redoubt in northeast Myanmar. Kham had already evaded capture three times, so a drone strike may have seemed to be the best option. The authorities apparently had at least two plans for capturing Kham. The method they ultimately chose was to send Chinese police forces to lead a transnational investigation that ended in April 2012 with Kham's capture near the Myanmar-Laos border. The ultimate decision to refrain from the strike may reflect both a fear of political reproach and a lack of confidence in untested drones, systems, and operators. The restrictive position that Beijing takes on sovereignty in international forums will further constrain its use of drones. China is not likely to publicly deploy drones for precision strikes or in other military assignments without first having been granted a credible mandate to do so. The gold standard of such an authorisation is a resolution passed by the UN Security Council, the stamp of approval that has permitted Chinese humanitarian interventions in Africa and anti-piracy operations in the Gulf of Aden. China might consider using drones abroad with some sort of regional authorisation, such as a country giving Beijing explicit permission to launch a drone strike within its territory. But even with the endorsement of the international community or specific states, China would have to weigh any benefits of a drone strike abroad against the potential for mishaps and perceptions that it was infringing on other countries' sovereignty - something Beijing regularly decries when others do it. The limitations on China's drone use are reflected in the country's academic literature on the topic. The bulk of Chinese drone research is dedicated to scientific and technological topics related to design and performance. The articles that do discuss potential applications primarily point to major combat scenarios -such as a conflagration with Taiwan or the need to attack a US aircraft carrier - which would presumably involve far more than just drones. Chinese researchers have thought a great deal about the utility of drones for domestic surveillance and law enforcement, as well as for non-combat-related tasks near China's contentious borders. Few scholars, however, have publicly considered the use of drone strikes overseas. Yet there is a reason why the United States has employed drones extensively despite domestic and international criticism: it is much easier and cheaper to kill terrorists from above than to try to root them out through long and expensive counterinsurgency campaigns. Some similar challenges loom on China's horizon. Within China, Beijing often considers protests and violence in the restive border regions, such as Xinjiang and Tibet, to constitute terrorism. It would presumably consider ordering precision strikes to suppress any future violence there. Even if such strikes are operationally prudent, China's leaders understand that they would damage the country's image abroad, but they prioritise internal stability above all else. Domestic surveillance by drones is a different issue; there should be few barriers to its application in what is already one of the world's most heavily policed societies. China might also be willing to use stealth drones in foreign airspace without authorisation if the risk of detection were low enough; it already deploys intelligence-gathering ships in the exclusive economic zones of Japan and the United States, as well as in the Indian Ocean. Still, although China enjoys a rapidly expanding and cutting-edge drone fleet, it is bound by the same rules of the game as the rest of the military's tools. Beyond surveillance, the other non-lethal military actions that China can take with its drones are to facilitate communications within the Chinese military, support electronic warfare by intercepting electronic communications and jamming enemy systems, and help identify targets for Chinese precision strike weapons, such as missiles. Beijing's overarching approach remains one of caution - something Washington must bear in mind with its own drone programme.

## 1NR

### OV

#### Comprehensive agreement key to competitiveness – piecemeal fails

Bolick and Bush 1/25

Mr. Bush, the Republican governor of Florida from 1999 to 2007, is chairman of the Foundation for Excellence in Education. Mr. Bolick is vice president for litigation at the Goldwater Institute. Their book, "Immigration Wars: Forging an American Solution," will be published in March by Threshold Editions/Simon & Schuster.

“Solving the Immigration Puzzle” http://www.hoover.org/news/daily-report/138811

The nation's capital is awash with ideas about how to fix America's immigration policy. The sudden ferment on this issue, which was largely dormant since efforts at comprehensive reform were torpedoed five years ago, is as welcome as it is overdue. The growing consensus on both sides of the political aisle that something needs to be done should not be squandered, for such opportunities are rare and fleeting.¶ Some policy makers are calling for piecemeal changes—such as issuing visas for high-skilled workers and investors, or conferring legal status on immigrants who were illegally brought into the country as children. Congress should avoid such quick fixes and commit itself instead to comprehensive immigration reform.¶ In some conservative circles, the word "comprehensive" in the context of immigration reform is an epithet—a code word for amnesty. People who oppose such reform declare that securing the United States border must come before moving toward broader reform.¶ Such an approach is shortsighted and self-defeating. Border security is inextricably intertwined with other aspects of immigration policy. The best way to prevent illegal immigration is to make sure that we have a fair and workable system of legal immigration. The current immigration system is neither.¶ The immigration system is like a jigsaw puzzle. If one or more pieces are out of whack, the puzzle makes no sense. To fix the system, Congress must make sure all of the pieces fit together, logically and snugly.¶ To do so, several realities must be faced squarely, including:¶ It is not law enforcement but the law itself that is broken. The nation has changed dramatically since the Immigration and Nationality Act of 1952, and that legislation has not held up well. It has been patched over so many times that it is hopelessly complex and incoherent. We need to start from scratch.¶ The nature of the border-security problem has evolved. The only tried-and-true method of reducing illegal immigration is a bad economy. Thus, with a dismal American economy and an improving Mexican one, the net immigration from Mexico is now zero: As many Mexicans are leaving the U.S. as are entering it.¶ The far greater border-security threat is paramilitaristic drug cartels that often are also involved in human smuggling, increasingly from Central American countries. The U.S. needs to coordinate closely with Mexico and focus its resources on defeating the cartels. The nation also needs to continue harnessing technology to identify risky foreign visitors and swiftly deport those who commit crimes or overstay their visas.¶ The driver of immigration policy is "chain migration." Since the 1960s, the vast majority of legal immigrants have come pursuant to a very broad definition of "family reunification"—which includes not only spouses and minor children but parents and siblings. Family preferences account for two-thirds of all legal immigrants, crowding out work-based immigration and placing increased pressure on social services.¶ When extended family members obtain legal status, they too are entitled to family preferences. This chain migration does not promote the nation's economic interests.¶ There is no "line." Critics of comprehensive reform often argue that illegal immigrants should return to their native countries and wait in line like everyone else who wants to come to America. But unless they have relatives in the U.S. or can fit within the limited number of work-based visas, no line exists for such individuals.¶ For most aspiring immigrants, the only means of legal admission to this country is an annual "diversity lottery" that randomly awards visas to 55,000 foreigners. There are roughly 250 applicants for each visa every year. The absence of a meaningful avenue of access increases the pressure for illegal immigration.¶ The U.S. needs workers of all types. The birthrate in this country has fallen below the level necessary to sustain the population at the very time that millions of Americans are leaving the workforce and expecting retirement benefits. The nation needs energetic young workers to spur the economy and support an ever-increasing social-welfare burden.¶ The only alternatives to increased immigration are mounting debts or reduced social services. A practicable system of work-based immigration for both high-skilled and low-skilled immigrants—a system that will include a path to citizenship—will help us meet workforce needs, prevent exportation of jobs to foreign countries and protect against the exploitation of workers.¶ America especially needs high-skill workers. The K-12 education system is not producing nearly enough graduates with the skills needed for a vibrant 21st-century economy. This country has attracted, and still does attract, the best and brightest from throughout the world to its universities and businesses. But once here, even the most talented students are not assured that they will receive visas enabling them to work following graduation, and high-skill workers and entrepreneurs have no sure path to citizenship.¶ Other nations—including Canada, New Zealand and even China—are luring away students, workers and entrepreneurs with more sensible and welcoming immigration policies. If we do not adapt, we will be increasingly unable to compete.¶ Amnesty promotes illegal immigration. The U.S. must find a fair way to deal with its 11 million illegal immigrants without sending the message that America's laws can be broken with impunity. Crossing the border illegally must have consequences. At the same time, we must recognize that children who were brought here illegally have committed no crime and in most instances know no other country.¶ Immigrants replenish the American spirit. Most immigrants come here to secure a better life for themselves and their families. They cherish the values of hard work, faith, family, enterprise and patriotism that have made this country great. Meanwhile, many who were lucky enough to have been born here have grown complacent or even disdainful of these values. America's immigration system should provide opportunities for people who share the country's core values to become citizens, thereby strengthening the nation as have countless immigrants have before them.¶ Despite a polarized polity, the country has a historic opportunity for bipartisan reform. It is time to seize the moment.

#### Turns heg and China – competitiveness biggest internal link

Khalilzad 11 – PhD, Former Professor of Political Science @ Columbia, Former ambassador to Iraq and Afghanistan

(Zalmay Khalilzad was the United States ambassador to Afghanistan, Iraq, and the United Nations during the presidency of George W. Bush and the director of policy planning at the Defense Department from 1990 to 1992. "The Economy and National Security" Feb 8 www.nationalreview.com/blogs/print/259024)

Today, economic and fiscal trends pose the most severe long-term threat to the United States’ position as global leader. While the United States suffers from fiscal imbalances and low economic growth, the economies of rival powers are developing rapidly. The continuation of these two trends could lead to a shift from **American primacy** toward a multi-polar global system, leading in turn to increased geopolitical rivalry and even war among the great powers. The current recession is the result of a deep financial crisis, not a mere fluctuation in the business cycle. Recovery is likely to be protracted. The crisis was preceded by the buildup over two decades of enormous amounts of debt throughout the U.S. economy — ultimately totaling almost 350 percent of GDP — and the development of credit-fueled asset bubbles, particularly in the housing sector. When the bubbles burst, huge amounts of wealth were destroyed, and unemployment rose to over 10 percent. The decline of tax revenues and massive countercyclical spending put the U.S. government on an unsustainable fiscal path. Publicly held national debt rose from 38 to over 60 percent of GDP in three years. **Without faster economic growth** and actions to reduce deficits, publicly held national debt is projected to reach dangerous proportions. If interest rates were to rise significantly, annual interest payments — which already are larger than the defense budget — would crowd out other spending or require substantial tax increases that would undercut economic growth. Even worse, if unanticipated events trigger what economists call a “sudden stop” in credit markets for U.S. debt, the United States would be unable to roll over its outstanding obligations, precipitating a sovereign-debt crisis that would almost certainly compel a radical retrenchment of the United States internationally. Such scenarios would reshape the international order. It was the economic devastation of Britain and France during World War II, as well as the rise of other powers, that led both countries to relinquish their empires. In the late 1960s, British leaders concluded that they lacked the economic capacity to maintain a presence “east of Suez.” Soviet economic weakness, which crystallized under Gorbachev, contributed to their decisions to withdraw from Afghanistan, abandon Communist regimes in Eastern Europe, and allow the Soviet Union to fragment. If the U.S. debt problem goes critical, the United States would be compelled to retrench, reducing its military spending and shedding international commitments. We face this domestic challenge while other major powers are experiencing rapid economic growth. Even though countries such as China, India, and Brazil have profound political, social, demographic, and economic problems, their economies are growing faster than ours, and this could alter the global distribution of power. These trends could in the long term produce a multi-polar world. If U.S. policymakers fail to act and other powers continue to grow, it is not a question of whether but when a new international order will emerge. The closing of the gap between the United States and its rivals could intensify geopolitical competition among major powers, increase incentives for local powers to play major powers against one another, and undercut our will to preclude or respond to international crises because of the higher risk of escalation. The stakes are high. In modern history, the longest period of peace among the great powers has been the era of U.S. leadership. By contrast, multi-polar systems have been unstable, with their competitive dynamics resulting in frequent crises and major wars among the great powers. Failures of multi-polar international systems produced both world wars. American retrenchment could have devastating consequences. Without an American security blanket, regional powers could rearm in an attempt to balance against emerging threats. Under this scenario, there would be a heightened possibility of arms races, miscalculation, or other crises spiraling into all-out conflict. Alternatively, in seeking to accommodate the stronger powers, weaker powers may shift their geopolitical posture away from the United States. Either way, hostile states would be emboldened to make aggressive moves in their regions.

#### CIR solves multiple internal links to the economy

Beadle 12/10 Amanda Peterson, Reporter/Blogger at ThinkProgress.org. She received her B.A. in journalism and Spanish from the University of Alabama, where she was editor-in-chief of the campus newspaper The Crimson White and graduated with honors. Before joining ThinkProgress, she worked as a legislative aide in the Maryland House of Delegates. “Top 10 Reasons Why The U.S. Needs Comprehensive Immigration Reform” http://thinkprogress.org/justice/2012/12/10/1307561/top-10-reasons-why-the-us-needs-comprehensive-immigration-reform-that-includes-a-path-to-citizenship/

The nation needs a comprehensive immigration plan, and it is clear from a recent poll that most Americans support reforming the U.S.’s immigration system. In a new poll, nearly two-thirds of people surveyed are in favor of a measure that allows undocumented immigrants to earn citizenship over several years, while only 35 percent oppose such a plan. And President Obama is expected to “begin an all-out drive for comprehensive immigration reform, including seeking a path to citizenship” in January.¶ Several top Republicans have softened their views on immigration reform following November’s election, but in the first push for reform, House Republicans advanced a bill last month that would add visas for highly skilled workers while reducing legal immigration overall. Providing a road map to citizenship for the millions of undocumented immigrants living in the U.S. would have sweeping benefits for the nation, especially the economy.¶ Here are the top 10 reasons why the U.S. needs comprehensive immigration reform:¶ 1. Legalizing the 11 million undocumented immigrants in the United States would boost the nation’s economy. It would add a cumulative $1.5 trillion to the U.S. gross domestic product—the largest measure of economic growth—over 10 years. That’s because immigration reform that puts all workers on a level playing field would create a virtuous cycle in which legal status and labor rights exert upward pressure on the wages of both American and immigrant workers. Higher wages and even better jobs would translate into increased consumer purchasing power, which would benefit the U.S. economy as a whole.¶ 2. Tax revenues would increase. The federal government would accrue $4.5 billion to $5.4 billion in additional net tax revenue over just three years if the 11 million undocumented immigrants were legalized. And states would benefit. Texas, for example, would see a $4.1 billion gain in tax revenue and the creation of 193,000 new jobs if its approximately 1.6 million undocumented immigrants were legalized.¶ 3. Harmful state immigration laws are damaging state economies. States that have passed stringent immigration measures in an effort to curb the number of undocumented immigrants living in the state have hurt some of their key industries, which are held back due to inadequate access to qualified workers. A farmer in Alabama, where the state legislature passed the anti-immigration law HB 56 in 2011, for example, estimated that he lost up to $300,000 in produce in 2011 because the undocumented farmworkers who had skillfully picked tomatoes from his vines in years prior had been forced to flee the state.¶ 4. A path to citizenship would help families access health care. About a quarter of families where at least one parent is an undocumented immigrant are uninsured, but undocumented immigrants do not qualify for coverage under the Affordable Care Act, leaving them dependent on so-called safety net hospitals that will see their funding reduced as health care reforms are implemented. Without being able to apply for legal status and gain health care coverage, the health care options for undocumented immigrants and their families will shrink.¶ 5. U.S. employers need a legalized workforce. Nearly half of agricultural workers, 17 percent of construction workers, and 12 percent of food preparation workers nationwide lacking legal immigration status. But business owners—from farmers to hotel chain owners—benefit from reliable and skilled laborers, and a legalization program would ensure that they have them.¶ 6. In 2011, immigrant entrepreneurs were responsible for more than one in four new U.S. businesses. Additionally, immigrant businesses employ one in every 10 people working for private companies. Immigrants and their children founded 40 percent of Fortune 500 companies, which collectively generated $4.2 trillion in revenue in 2010—more than the GDP of every country in the world except the United States, China, and Japan. Reforms that enhance legal immigration channels for high-skilled immigrants and entrepreneurs while protecting American workers and placing all high-skilled workers on a level playing field will promote economic growth, innovation, and workforce stability in the United States.¶ 7. Letting undocumented immigrants gain legal status would keep families together. More than 5,100 children whose parents are undocumented immigrants are in the U.S. foster care system, according to a 2011 report, because their parents have either been detained by immigration officials or deported and unable to reunite with their children. If undocumented immigrants continue to be deported without a path to citizenship enabling them to remain in the U.S. with their families, up to 15,000 children could be in the foster care system by 2016 because their parents were deported, and most child welfare departments do not have the resources to handle this increase.¶ 8. Young undocumented immigrants would add billions to the economy if they gained legal status. Passing the DREAM Act—legislation that proposes to create a roadmap to citizenship for immigrants who came to the United States as children—would put 2.1 million young people on a pathway to legal status, adding $329 billion to the American economy over the next two decades.¶ 9. And DREAMers would boost employment and wages. Legal status and the pursuit of higher education would create an aggregate 19 percent increase in earnings for young undocumented immigrants who would benefit from the DREAM Act by 2030. The ripple effects of these increased wages would create $181 billion in induced economic impact, 1.4 million new jobs, and $10 billion in increased federal revenue.¶ 10. Significant reform of the high-skilled immigration system would benefit certain industries that require high-skilled workers. Immigrants make up 23 percent of the labor force in high-tech manufacturing and information technology industries, and immigrants more highly educated, on average, than the native-born Americans working in these industries. For every immigrant who earns an advanced degree in one of these fields at a U.S. university, 2.62 American jobs are created.

#### Global economic crisis causes nuclear war

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

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

#### CIR is key to Latin American relations – our Lopez Levy evidence says that FOREIGN policy implications of tourism, remittances, and investment solve the path to citizenship.

### UQ

#### It’s not dead, only been delayed

Rubin, 11-14-’13 (Jennifer, “Immigration reform outlook” Washington Post, http://www.washingtonpost.com/blogs/right-turn/wp/2013/11/14/immigration-reform-outlook/)

There were some theatrics on Wednesday from liberal immigration reform advocates, claiming the speaker of the House was now refusing to go to conference with the Senate on immigration reform. Immigration reform dead! Really? No. In fact, this morning at the U.S. Chamber of Commerce Headquarters, a collection of conservatives — Thomas J. Donohue, president and chief executive of the U.S. Chamber of Commerce; Dr. Russell Moore, president of the Ethics and Religious Liberty Commission of the Southern Baptist Convention; Grover Norquist, president of Americans for Tax Reform; Jay Timmons, president and chief executive of the National Association of Manufacturers; Bishop John C. Wester, bishop of Salt Lake City; and Greg Zoeller, the attorney general of Indiana (R) — will be holding a press conference to push for further action on immigration reform. As for Speaker John Boehner, those familiar with his thinking tell Right Turn that he still supports taking up discrete immigration issues (border security, internal enforcement, visas, undocumented etc.) for debate and passage. This has been his position for some time. Whether the Senate will be willing to break up its bill into separate legislative chunks (passed in succession) is an open question, but Boehner is not going to engage on one massive bill. As for the prospects of those separate bills getting through this year, House leadership is realistic that months have now been chewed up on the shutdown and Obamacare. Boehner and other Republicans nevertheless maintain that whether taken up in December or after the first of the year, something will come out of the House. Politico quoted Boehner yesterday as saying, “I’ve made it clear since the day after the election that it’s time to get this done.” His spokesman clarified, according to the report, that he was referring to his “taking up reform with a collection of bills, not a sweeping comprehensive bill like the Senate passed in June.” From my vantage point, there really isn’t time in the next month and a half to get immigration done. But immigration reform opponents are mistaken if they think the issue is dead as of December 31. Immigration reform is still doable, albeit not in as sweeping a fashion as the Senate bill attempted.

#### Comprehensive reform will pass in early 2014 – elections

Quaife, 11-14-’13 (Tom, “Immigration reform: The next big thing after farm bill” http://www.dairyherd.com/dairy-news/latest/Immigration-reform-The-next-big-thing-after-the-farm-bill-231942031.html)

A top official at the National Milk Producers Federation is optimistic that reform will occur. “I believe that by 2014 we are going to have comprehensive immigration reform,” says Jamie Castaneda, senior vice president of strategic initiatives and trade policy at NMPF. Although it may be a challenge to win over conservative Republicans, Castaneda says the Republican Party also sees immigration reform as an important element for success in the 2016 elections. “When they’re going to do it, I can’t tell you whether it will be the first six months (of 2014) or a lame-duck session” after the November congressional elections, Castaneda said. A worker visa program, allowing workers to stay on a dairy for upwards of six years, may be part of the reform measure. If the focus does shift to immigration reform by the early part of 2014, Castaneda says it will be important for dairy producers to speak up and let their elected representatives know where they stand.

#### Obama pushing immigration with the business lobby

Kaplan 11-5. [Rebecca, Political reporter, "Obama: House has votes to pass immigration reform" CBS News -- www.cbsnews.com/8301-250\_162-57610933/]

In a meeting with business leaders to discuss immigration reform, President Obama predicted that there are enough votes in the House to pass the contentious issue.¶ "Although right now there's been some resistance from House Republicans, what's been encouraging is that there are a number of House Republicans who have said we think this is the right thing to do as well," Mr. Obama said Tuesday at the White House. "It's my estimation that we actually have the votes to get comprehensive immigration reform done in the House right now. The politics are challenging for [Speaker Boehner] and others, and we want to make it as easy for them as possible. This is not an issue where we're looking for a political win, this is one where we're looking for a substantive win for the U.S. economy and the American people and the businesses that are represented here."¶ Mr. Obama met with CEOs from Evercore Partners, Motorola Solutions, Deloitte, Lockheed Martin, State Farm, Marriott, Blackstone and McDonalds to discuss ways to move forward on immigration reform. Business leaders have been part of a coalition that includes labor, faith, high-tech and agriculture leaders to push for legislation.

#### Presumptions CIR is dead only assume 2013, the landscape will change

Roll Call, 11-15-’13 (“Immigration Reform Will Happen ‘Later Next Year,’ Walden Says” Free Republic, http://www.freerepublic.com/focus/f-bloggers/3091767/posts)

An immigration overhaul in the House isn’t dead, but it won’t happen this year, the chairman of the National Republican Congressional Committee said Friday. Rep. Greg Walden, R-Ore., said the House would likely pass legislation to fix the nation’s broken immigration system by the end of next year. He made the comments at a Friday breakfast briefing with reporters that was sponsored by The Christian Science Monitor. “The speaker has said on more than one occasion that this is a federal problem. I’ve said this is a federal problem. It needs to be dealt with by the federal government, so I think you’ll see it come,” the first-term NRCC chairman said. “It’s a matter of timing, in part because of everything else that hasn’t been done yet with the whole government funding issue and all of that has eaten up a lot of time. So my guess is it will happen later next year.” Conventional wisdom had been that if the House was going to address immigration, it would have to be before the end of 2013 to avoid narrowing in the 2014 elections. But some House Republicans have been worried that moving anything as controversial as immigration legislation might imperil members facing right-wing primary challenges.

#### Will pass – insider optimism

Gomez 11-14. [Alan, Immigration reporter, "Is immigration overhaul dead in the House?" USA Today -- www.usatoday.com/story/news/politics/2013/11/14/immigration-reform-house-republicans/3533455/]

House Speaker John Boehner startled immigration advocates this week when he said his chamber would never consider a sweeping immigration bill passed by the Senate and wouldn't commit to voting on House immigration proposals by the end of the year.¶ But despite a rush to write the obituary for an overhaul of immigration, Boehner has not closed the door on the issue entirely. The latest lifeline came when Boehner asked Rep. Jeff Denham, R-Calif., to gauge the interest of House Republicans on taking up the contentious issue.¶ Denham was the first Republican to co-sponsor a Democratic immigration bill that provides a pathway to citizenship for the nation's 12 million undocumented immigrants. Now Denham is asking for signatures from his GOP colleagues on a letter of support for immigration overhaul and is initially targeting a group of 40-45 Republicans who he believes could sign on.¶ "The speaker basically said, 'Show me how much support there is to bring this up,'" Denham said Thursday. "So we're circulating the letter to show him how many members are pushing hard to get immigration to the floor."¶ Roy Beck, president of NumbersUSA, a group that helped defeat a similar immigration effort in 2007 and is fighting hard against this year's efforts, said Boehner and other Republican leaders are still looking for ways to pass some kind of immigration overhaul. He said they feel a political need to do so to win over the ever-growing Hispanic electorate.¶ "I have no question in my mind that Boehner and (Majority Leader Eric Cantor, R-Va.) still believe the storyline that politically you have to do something and you have to pass some kind of amnesty," Beck said. "That's why you can't declare this thing dead."¶ The Senate got things started this year when it passed a sweeping immigration bill in June that would allow the nation's 12 million undocumented immigrants to apply for citizenship, bolster the border and revamp the legal immigration system to bring in more high-tech and low-skilled workers. Boehner said this week that he has "no intention of ever going to conference on the Senate bill," meaning he would not allow his chamber to negotiate with the Senate over their proposal.¶ Instead, Boehner and Republican leaders are pushing a piecemeal approach. House committees have approved five smaller immigration bills — three that enhance immigration enforcement and two that would increase the number of visas for foreign workers — and Boehner wants to continue that process. Republicans also continue crafting bills that would address the fate of the nation's undocumented immigrants.¶ While many have been disheartened because of the slow pace on immigration in the House, supporters have turned up the pressure this week in a variety of ways to get the House GOP moving.¶ Five people started a hunger strike Tuesday inside a tent on the National Mall, vowing to continue until Congress passes an immigration overhaul. They are fasting across from the Capitol and are being visited by members of Congress, clergy and other supporters.¶ A group of immigrant children marched on the Capitol earlier in the week, even cornering Boehner at his regular breakfast restaurant to share their stories of relatives who have been deported and urging him to overhaul immigration.¶ In another facet of the immigration push, 22 immigrants were arrested outside an Immigration and Customs Enforcement office in New Orleans on Thursday after protesting the record pace of deportations under President Obama.¶ And back in Washington, leaders of the U.S. Chamber of Commerce, the Southern Baptist Convention, Americans for Tax Reform and law enforcement leaders said they were actually encouraged by Boehner's recent statements. Pointing to his assurances that he was still pushing for immigration overhaul in the House, the leaders said they remained confident that something would get done.¶ "There has never been a confusion or a frustration about thinking the House was going to do the same kind of comprehensive bill that the Senate did," said chamber president Tom Donohue. "The dance of how you do it in the House, how you do it in the Senate, who goes first, who goes second, who gets credit, who doesn't get credit...that's the normal course of business here."

### PC Is Key

#### PC key

Jones, 11-11-’13 (Allie, “Obama Administration Doesn't Know How to Pass Immigration Reform” The Atlantic Wire, http://www.theatlanticwire.com/politics/2013/11/obama-administration-still-not-sure-how-pass-immigration-reform/71460/)

But perhaps the White House is just reaching out to the wrong Republicans. At least two Texas congressmen rejected invitations to meet about reform. Rep. Sam Johnson, who worked on a bipartisan measure for nearly four years, quit back in September after pressure from other conservatives. At the time, he blamed Obama: "We want to be clear. The problem is politics. Instead of doing what’s right for America, President Obama time and again has unilaterally disregarded the U.S. Constitution, the letter of the law and bypassed the Congress – the body most representative of the people – in order to advance his political agenda." Rep. McCaul called immigration reform a "political trap." Yet the White House reached out to both these congressmen while ignoring more immigration-friendly representatives like Jeff Denham, David Valadao, and Mario Diaz-Balart. Obama will need to isolate and encourage pro-reform conservatives to move the needle in the House before the 2014 elections. And those Republicans will fight an uphill battle — most conservatives in the House don't care if reform ever happens. Some see reform as being contingent on how the next round of budget negotiations play out. Rep. Aaron Schock was pretty clear in October: "I know the president has said, well, gee, now this is the time to talk about immigration reform. He ain't gonna get a willing partner in the House until he actually gets serious about ... his plan to deal with the debt." Even Sen. Marco Rubio has stopped talking about reform, echoing Johnson by claiming that Obama "undermined" any kind of deal. Steve Munisteri, chairman of the Texas Republican Party, sums up the issue for the Dallas Morning News: "I don’t think any of the current congressmen are feeling pressure from primary voters to do something. They’re feeling pressure not to screw it up." He continued, "If you think the alternative of inaction is not as bad as the alternative of action, you’re going to take inaction."

#### Obama’s push key to comprehensive agreement

Politico, 11-10-’13 (“White House seeks Republican immigration help” http://www.politico.com/story/2013/11/white-house-seeks-gop-immigration-help-99640.html)

President Barack Obama hasn’t given up on immigration reform, but he still needs a way to break through with House Republicans. The White House has reached out to former George W. Bush administration officials, conservative business leaders and selected House members, all in search of a way to hone a message that can move House leaders without scaring them off. In closed-door meetings, they have urged the White House to find a way to reach out to the GOP that doesn’t center on Obama banging the podium telling Speaker John Boehner to bring a bill to the floor. During the Senate debate, Obama mostly stayed out of the limelight, for fear his involvement would end any hope of a bipartisan success. But his staffers were heavily involved behind the scenes. White House aides recognize the situation with the House is similar, but participants in the meetings say the president’s team simply doesn’t know where to start with an inside game. On Tuesday, Obama met with the chief executives of eight companies to press his immigration case. The CEOs were circumspect after the meeting about what the president asked of them. “Everyone wants to see immigration reform occur, so the question is simply the best way to do that,” said Roger Altman, chairman of investment banking firm Evercore Partners who served in the Treasury Department during the Carter and Clinton administrations. Time is running out this year. House Majority Whip Kevin McCarthy (R-Calif.) indicated to immigration advocates that there will be no House votes on immigration bills this year, according to The Associated Press, citing the dwindling clock left on the congressional calendar this year. Conservatives sympathetic to the immigration reform effort, including former Bush Cabinet secretaries Michael Chertoff and Carlos Gutierrez; Carl Thorsen, former general counsel to ex-House Majority Leader Tom DeLay who is now working for New York Mayor Michael Bloomberg’s immigration group; and representatives from the U.S. Chamber of Commerce and the National Association of Manufacturers, met last month with White House chief of staff Denis McDonough and domestic policy adviser Cecilia Munoz. Conservatives in the White House meeting said one suggestion was to reach out to Budget Committee Chairman Paul Ryan (R-Wis.), but White House officials were blank. “It didn’t come across that they were really clear on who they should talk to,” one of the meeting participants said. “They didn’t say anything that would lead us to believe they have a plan.” When the White House sought a meeting with House Republicans to discuss immigration reform strategy last month, it didn’t invite Reps. Jeff Denham and David Valadao of California, among the most vocal advocates in the conference for comprehensive immigration reform. The pair have been working privately with other GOP lawmakers on legalization bills. It later rescinded an invitation to one pro-reform Republican eager to meet with the White House, Rep. Mario Diaz-Balart of Florida, and that meeting has yet to be rescheduled, according to his office. And at least two Texas Republicans rejected the White House overtures: Homeland Security Committee Chairman Michael McCaul and, according to a GOP source, Rep. Sam Johnson, who quit working on an immigration bill citing his lack of trust with the Obama administration. McCaul said on a conservative radio show that he viewed the meeting as a “political trap.” The White House says it’s holding the series of meetings with business leaders not so much to plan or reveal strategy but to get them to buy into the Obama immigration push and hope the visitors put pressure on the recalcitrant House GOP leadership. “The president and his team have met and will continue to meet with the broad range of stakeholders that are vested in seeing immigration reform signed into law, most of whom backed the bipartisan bill that passed the Senate,” White House spokesman Bobby Whithorne said. “That includes Democrats and Republicans, current and former lawmakers, business leaders, religious leaders, law enforcement officials and anyone else that can help us make the case to House leadership that immigration reform is a no-brainer for our economy and that the bipartisan Senate bill or something like it deserves a vote.” But White House involvement won’t be limited to behind-the-scenes discussions. Obama will do periodic events and interviews with the Spanish-language press to offer a subtle reminder to Republicans that the issue won’t go away before the 2014 midterm elections. After the government shutdown ended, Obama renewed his push for immigration reform and said the only way it will happen is through a public effort. “Keep putting the pressure on all of us to get this done,” Obama said last month. “There are going to be moments — and there are always moments like this in big efforts at reform — where you meet resistance, and the press will declare something dead, it’s not going to happen, but that can be overcome.” Business leaders and conservatives meeting at the White House say they want the administration’s involvement on some level. “I was surprised about how aggressive people in that room were, how aggressive they were on saying, ‘We need White House leadership, we need a plan, we need for you to be driving this thing,’” said a person in the room with McDonough and Munoz. “One of the things that is comforting to us is that when we do talk to them and they ask us for advice, they are asking from the frame of, ‘We know that a lot of stuff we do isn’t going to be helpful, so how can we be helpful?’” said Jeremy Robbins, executive director of the Partnership for a New American Economy, the pro-reform group backed by Bloomberg and News Corp. CEO Rupert Murdoch.

### Link

#### GOP hates the aff—support for broad targeted killing powers

Savage 11 [Charlie Savage, newspaper reporter in Washington, D.C., with the New York Times, “In G.O.P. Field, Broad View of Presidential Power Prevails”, Herald Tribune, December 20, 2011, http://www.heraldtribune.com/article/20111229/ZNYT02/112293016/-1/news?Title=In-G-O-P-Field-Broad-View-of-Presidential-Power-Prevails]

WASHINGTON — Even as they advocate for limited government, many of the Republican presidential candidates hold expansive views about the scope of the executive powers they would wield if elected — including the ability to authorize the targeted killing of United States citizens they deem threats and to launch military attacks without Congressional permission.

#### Obama fights the plan and sparks controversial battles in Congress – targeted killing is heavily criticized

Radsan and Murphy 12 (Afsheen John – Professor, William Mitchell College of Law; Assistant General Counsel at the Central Intelligence Agency from 2002 to 2004, and Richard – AT&T Professor of Law, Texas Tech University School of Law, “The Evolution of Law and Policy for CIA Targeted Killing”, 2012, 5 J. Nat'l Security L. & Pol'y 439, lexis)

This scenario emphasizes a simple point: President Obama, a Harvard Law School graduate, a former teacher of constitutional law at the University of Chicago and a Nobel Peace Laureate, must believe that he has the authority to order the CIA to fire missiles from drones to kill suspected terrorists. Not everyone agrees with him, though. For almost a decade now, the United States has been firing missiles from unmanned drones to kill people identified as leaders of al Qaeda and the Taliban. This "targeted killing" has engendered controversy in policymaking and legal circles, spilling into law review articles, op-ed pieces, congressional hearings, and television programs. n2 On one level, this [\*441] controversy is curious. A state has considerable authority in war to kill enemy combatants - whether by gun, bomb, or cruise missile - so long as those attacks obey basic, often vague, rules (e.g., avoidance of "disproportionate" collateral damage). So what is so different about targeted killing by drone? Some of the concerns about a CIA drone campaign relate to the personalized nature of targeted killing. All attacks in an armed conflict must, as a matter of basic law and common sense, be targeted. To attack something, whether by shooting a gun at a person or dropping a bomb on a building, is to target it. "Targeted killing," however, refers to a premeditated attack on a specific person. President Franklin D. Roosevelt, for instance, ordered Admiral Yamamoto killed not because he was any Japanese sailor, but because he was the author of "tora, tora, tora" on Pearl Harbor. President Obama, more recently, ordered Osama bin Laden killed not because the Saudi was any member of al Qaeda, but because he was the author of 9/11 who continued to command the terrorist organization. Targeted killing is psychologically disturbing because it is individualized. It is easier for a U.S. operator to kill a faceless soldier in a uniform than someone whom the operator has been tracking with photographs, videos, voice samples, and biographical information in an intelligence file. There is also concern that drones will attack improperly identified targets or cause excessive collateral damage. Targets who hide among peaceful civilians heighten these dangers. Of course, drone strikes should be far more precise than bombs dropped from a piloted aircraft. The lower [\*442] "costs" of drone strikes, however, encourage governments to resort to deadly force more quickly - a trend that may accelerate as drone technology rapidly improves and perhaps becomes fully automated through advances in artificial intelligence. Paradoxically, improved precision could lead to an increase in deadly mistakes. Another concern relates to granting an intelligence agency trigger authority. Entrusting drones to the CIA, an intelligence agency with a checkered history as to the use of force whose activities are largely conducted in secret, heightens concerns in some quarters that strikes may sometimes kill the wrong people for the wrong reasons. If applied sloppily or maliciously, targeted killing by drones could amount to nothing more than advanced death squads. For these and related reasons, the use of killer drones merits serious thought and criticism. Along these lines, many opponents of the reported CIA program have decried it as illegal. Without questioning their sincerity, one can acknowledge the soundness of their tactics. "Law talk" offers them a strong weapon. How could anyone, without shame or worse, support an illegal killing campaign? Illegality is for gangsters, drug dealers, and other outlaws - not the Oval Office.

#### Case-specific card

Berger 8/12/13 (Judson, Fox, “Yemen drone strikes may revive war-powers battle between administration, Congress”, <http://www.foxnews.com/politics/2013/08/12/yemen-drone-strikes-could-revive-war-powers-battle-between-administration/>)

The escalation of drone strikes in Yemen, presumably in response to the ongoing Al Qaeda threat, and other technology-based military options could fuel calls to re-write laws that govern such actions to give Congress greater oversight over the administration's remote-controlled warfare. "Some of these campaigns by the administration clearly constitute an act of war," said Jonathan Turley, an attorney and professor at George Washington University Law School. To date, the administration has claimed broad latitude in its authority to launch limited military operations -- including drone strikes -- without congressional authorization. There's no indication this time will be any different. A total of nine suspected drone strikes reportedly have been recorded in Yemen since late July, taking out dozens of alleged Al Qaeda operatives and other militants. The most recent strike was on Saturday. The Washington Post reported last week that the strikes were authorized by the Obama administration in connection with the ongoing terror threat. If challenged on the strikes, the president is likely to argue that the operation is contained and does not require congressional authorization. He has in the past. This debate flared during the 2011 operation in Libya, when the administration launched a series of air and drone strikes in support of the campaign against Muammar Qaddafi.

#### It’s normal means – president is agenda setter – he’d get backlash

Edwards and Barrett 2k (George C. Edwards, Professor of Political Science at Texas A&M University and director of the Center for Presidential Studies in the Bush School and Andrew W. Barrett, Assistant Lecturer and Ph.D. candidate in political science at Texas A&M University, 2000, Polarized Politics: Congress and the President in a Partisan Era, Ed. by Bond and Flesicher)

For decades, scholars have maintained that the president has a signifi-cant—indeed, the most significant—role in setting the policy-making agenda in Washington (see, for example, Huntington 1973). John King-don’s careful study of the Washington agenda found that “no other sin-gle actor in the political system has quite the capability of the president to set agendas…the president can single handedly set the agendas, not only of people in the executive branch, but also of people in Congress and out-side the government” (1995, 23). Frank Baumgartner and Bryan Jones, in their broad examination of agenda setting, concluded that “no other single actor can focus attention as clearly, or change the motivations of such a great number of other actors, as the president” (1993, 241). Jon Bond and Richard Fleisher argue that “the president’s greatest influence over policy comes from the agenda he pursues and the way it is packaged” (1990, 23).

## 2NR

### Royal

#### Statistical studies go neg

Royal 10 Jedediah Royal, Director of Cooperative Threat Reduction at the U.S. Department of Defense, 2010, “Economic Integration, Economic Signaling and the Problem of Economic Crises,” in Economics of War and Peace: Economic, Legal and Political Perspectives, ed. Goldsmith and Brauer, p. 213-214

Less intuitive is how periods of economic decline may increase the likelihood of external conflict. Political science literature has contributed a moderate degree of attention to the impact of economic decline and the security and defence behaviour of interdependent states. Research in this vein has been considered at systemic, dyadic and national levels. Several notable contributions follow. First, on the systemic level, Pollins (2008) advances Modelski and Thompson’s (1996) work on leadership cycle theory, finding that rhythms in the global economy are associated with the rise and fall of pre-eminent power and the often bloody transition from one pre-eminent leader to the next. As such, exogenous shocks such as economic crises could usher in a redistribution of relative power (see also Gilpin, 10981) that leads to uncertainty about power balances, increasing the risk of miscalculation (Fearon, 1995). Alternatively, even a relatively certain redistribution of power could lead to a permissive environment for conflict as a rising power may seek to challenge a declining power (Werner, 1999). Seperately, Polllins (1996) also shows that global economic cycles combined with parallel leadership cycles impact the likelihood of conflict among major, medium, and small powers, although he suggests that the causes and connections between global economic conditions and security conditions remain unknown. Second, on a dyadic level, Copeland’s (1996,2000) theory of trade expectations suggests that ‘future expectation of trade’ is a significant variable in understanding economic conditions and security behavior of states. He argues that interdependent states are likely to gain pacific benefits from trade so long as they have an optimistic view of future trade relations. However, if the expectation of future trade declines, particularly for difficult to replace items such as energy resources, the likelihood for conflict increases , as states will be inclined to use force to gain access to those resources. Crises could potentially be the trigger for decreased trade expectations either on its own or because it triggers protectionist moves by interdependent states. Third, others have considered the link between economic decline and external armed conflict at a national level. Blomberg and Hess (2002) find a strong correlation between internal conflict and external conflict, particularly during periods of economic downturn. They write, The linkages between internal and external conflict and prosperity are strong and mutually reinforcing. Economic conflict tends to spawn internal conflict, which in turn returns the favour. Moreover, the presence of a recession tends to amplify the extent to which international and external conflicts self-reinforce each other. (Blomberg & Hess, 2002, p.89). Economic decline has also been linked with an increase in the likelihood of terrorism (Blomberg, Hess, & Weerapana, 2004), which has the capacity to spill across borders and lead to external tensions. Furthermore, crises generally reduce the popularity of a sitting government. ‘Diversionary theory’ suggests that, when facing unpopularity arising from economic decline, sitting governments have increased incentives to create a ‘rally round the flag’ effect. Wang (1996), DeRouen (1995), and Blomberg, Hess and Thacker (2006) find supporting evidence showing that economic decline and use of force are at least indirectly correlated. Gelpi (1997) Miller (1999) and Kisanganie and Pickering (2009) suggest that the tendency towards diversionary tactics are greater for democratic states than autocratic states, due to the fact that democratic leaders are generally more susceptible to being removed from office due to lack of domestic support. DeRouen (2000) has provided evidence showing that periods of weak economic performance in the United States, and thus weak presidential popularity, are statistically linked to an increase in the use of force..