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#### Iran strategy working—Congressional rebuke to command in chief flexibility spoils negotiations—results in Iran strikes and prolif

Joel Rubin, Politico, 10/20/13, Iran’s diplomatic thaw with the West, dyn.politico.com/printstory.cfm?uuid=FBFABC3B-C9A8-47F8-A9AC-BC886BCE0552

Congratulations, Congress. Your Iran strategy is working. Now what?

The diplomatic thaw between Iran and the West is advancing, and faster than most of us had imagined. This is the result of years of painstaking efforts by the Obama administration and lawmakers to pressure the Islamic Republic into deciding whether it’s in Iran’s interest to pursue diplomacy or to continue suffering under crushing economic sanctions and international isolation.

Now that Iran has made a clear decision to engage seriously in diplomatic negotiations with the West over its nuclear program, its intentions should be tested. Members of Congress should be open to seizing this opportunity by making strategic decisions on sanctions policy.

The economic sanctions against Iran that are in place have damaged the Iranian economy. A credible military threat — with more than 40,000 American troops in the Persian Gulf — stands on alert. International inspectors are closely monitoring Iran’s every nuclear move. Iran has not yet made a decision to build a bomb, does not have enough medium-enriched uranium to convert to weapons grade material for one bomb and has neither a workable nuclear warhead nor a means to deliver it at long ranges. If Iran were to make a dash for a bomb, the U.S. intelligence community estimates that it would take roughly one to two years to do so.

Congress, with its power to authorize sanctions relief, plays a crucial role in deciding whether a deal will be achieved. This gives Congress the opportunity to be a partner in what could potentially be a stunning success in advancing our country’s security interests without firing a shot.

Consider the alternative: If the administration negotiates a deal that Congress blocks, and Congress becomes a spoiler, Iran will most likely continue to accelerate its nuclear program. Then lawmakers would be left with a stark choice: either acquiesce to an unconstrained Iranian nuclear program and a potential Iranian bomb or endorse the use of force to attempt to stop it. Most military experts rate the odds of a successful bombing campaign low and worry that failed strikes would push Iran to get the bomb outright.

Iran and the United States need a political solution to this conflict. Now is the time to test the Iranians at the negotiating table, not push them away.

Congress is also being tested, but the conventional wisdom holds that lawmakers won’t show the flexibility required to make a deal. Such thinking misses the political volatility just beneath the surface: Americans simply don’t support another war in the Middle East, as the congressional debate over Syria made crystal clear. Would they back much riskier military action in Iran?

Fortunately for Congress, President Barack Obama was agile enough to seize the diplomatic route and begin to eliminate Syria’s chemical weapons. These results are advancing U.S. security interests. And members of Congress breathed a collective sigh of relief as well as they didn’t have to either vote to undercut the commander in chief on a security issue or stick a finger in the eye of their constituents.

The same can happen on Iran. By pursuing a deal, Obama can provide Congress with an escape hatch, where it won’t have to end up supporting unpopular military action or have to explain to its constituents why it failed to block an Iranian bomb. A verifiable deal with Iran that would prevent it from acquiring a nuclear weapon would require sanctions relief from Congress. But that’s an opportunity to claim victory, not a burden. And it would make Congress a partner with the president on a core security issue. Congress could then say, with legitimacy, that its tough sanctions on Iran worked — and did so without starting another unpopular American war in the Middle East.

#### Iran proliferation causes nuclear war

Edelman, distinguished fellow – Center for Strategic and Budgetary Assessments, ‘11

(Eric S, “The Dangers of a Nuclear Iran,” *Foreign Affairs*, January/February)

The reports of the Congressional Commission on the Strategic Posture of the United States and the Commission on the Prevention Of Weapons of Mass Destruction Proliferation and Terrorism, as well as other analyses, have highlighted the risk that a nuclear-armed Iran could trigger additional nuclear proliferation in the Middle East, even if Israel does not declare its own nuclear arsenal. Notably, Algeria, Bahrain, Egypt, Jordan, Saudi Arabia,Turkey, and the United Arab Emirates— all signatories to the Nuclear Nonproliferation Treaty (npt)—have recently announced or initiated nuclear energy programs. Although some of these states have legitimate economic rationales for pursuing nuclear power and although the low-enriched fuel used for power reactors cannot be used in nuclear weapons, these moves have been widely interpreted as hedges against a nuclear-armed Iran. The npt does not bar states from developing the sensitive technology required to produce nuclear fuel on their own, that is, the capability to enrich natural uranium and separate plutonium from spent nuclear fuel. Yet enrichment and reprocessing can also be used to accumulate weapons-grade enriched uranium and plutonium—the very loophole that Iran has apparently exploited in pursuing a nuclear weapons capability. Developing nuclear weapons remains a slow, expensive, and di⁄cult process, even for states with considerable economic resources, and especially if other nations try to constrain aspiring nuclear states’ access to critical materials and technology. Without external support, it is unlikely that any of these aspirants could develop a nuclear weapons capability within a decade.

There is, however, at least one state that could receive significant outside support: Saudi Arabia. And if it did, proliferation could accelerate throughout the region. Iran and Saudi Arabia have long been geopolitical and ideological rivals. Riyadh would face tremendous pressure to respond in some form to a nuclear-armed Iran, not only to deter Iranian coercion and subversion but also to preserve its sense that Saudi Arabia is the leading nation in the Muslim world. The Saudi government is already pursuing a nuclear power capability, which could be the first step along a slow road to nuclear weapons development. And concerns persist that it might be able to accelerate its progress by exploiting its close ties to Pakistan. During the 1980s, in response to the use of missiles during the Iran-Iraq War and their growing proliferation throughout the region, Saudi Arabia acquired several dozen css-2 intermediate-range ballistic missiles from China. The Pakistani government reportedly brokered the deal, and it may have also oªered to sell Saudi Arabia nuclear warheads for the css-2s, which are not accurate enough to deliver conventional warheads eªectively. There are still rumors that Riyadh and Islamabad have had discussions involving nuclear weapons, nuclear technology, or security guarantees. This “Islamabad option” could develop in one of several diªerent ways. Pakistan could sell operational nuclear weapons and delivery systems to Saudi Arabia, or it could provide the Saudis with the infrastructure, material, and technical support they need to produce nuclear weapons themselves within a matter of years, as opposed to a decade or longer. Not only has Pakistan provided such support in the past, but it is currently building two more heavy-water reactors for plutonium production and a second chemical reprocessing facility to extract plutonium from spent nuclear fuel. In other words, it might accumulate more fissile material than it needs to maintain even a substantially expanded arsenal of its own. Alternatively, Pakistan might oªer an extended deterrent guarantee to Saudi Arabia and deploy nuclear weapons, delivery systems, and troops on Saudi territory, a practice that the United States has employed for decades with its allies. This arrangement could be particularly appealing to both Saudi Arabia and Pakistan. It would allow the Saudis to argue that they are not violating the npt since they would not be acquiring their own nuclear weapons. And an extended deterrent from Pakistan might be preferable to one from the United States because stationing foreign Muslim forces on Saudi territory would not trigger the kind of popular opposition that would accompany the deployment of U.S. troops. Pakistan, for its part, would gain financial benefits and international clout by deploying nuclear weapons in Saudi Arabia, as well as strategic depth against its chief rival, India. The Islamabad option raises a host of difficult issues, perhaps the most worrisome being how India would respond. Would it target Pakistan’s weapons in Saudi Arabia with its own conventional or nuclear weapons? How would this expanded nuclear competition influence stability during a crisis in either the Middle East or South Asia? Regardless of India’s reaction, any decision by the Saudi government to seek out nuclear weapons, by whatever means, would be highly destabilizing. It would increase the incentives of other nations in the Middle East to pursue nuclear weapons of their own. And it could increase their ability to do so by eroding the remaining barriers to nuclear proliferation: each additional state that acquires nuclear weapons weakens the nonproliferation regime, even if its particular method of acquisition only circumvents, rather than violates, the NPT.

n-player competition

Were Saudi Arabia to acquire nuclear weapons, the Middle East would count three nuclear-armed states, and perhaps more before long. It is unclear how such an n-player competition would unfold because most analyses of nuclear deterrence are based on the U.S.- Soviet rivalry during the Cold War. It seems likely, however, that the interaction among three or more nuclear-armed powers would be more prone to miscalculation and escalation than a bipolar competition. During the Cold War, the United States and the Soviet Union only needed to concern themselves with an attack from the other. Multipolar systems are generally considered to be less stable than bipolar systems because coalitions can shift quickly, upsetting the balance of power and creating incentives for an attack. More important, emerging nuclear powers in the Middle East might not take the costly steps necessary to preserve regional stability and avoid a nuclear exchange. For nuclear-armed states, the bedrock of deterrence is the knowledge that each side has a secure second-strike capability, so that no state can launch an attack with the expectation that it can wipe out its opponents’ forces and avoid a devastating retaliation. However, emerging nuclear powers might not invest in expensive but survivable capabilities such as hardened missile silos or submarinebased nuclear forces. Given this likely vulnerability, the close proximity of states in the Middle East, and the very short flight times of ballistic missiles in the region, any new nuclear powers might be compelled to “launch on warning” of an attack or even, during a crisis, to use their nuclear forces preemptively. Their governments might also delegate launch authority to lower-level commanders, heightening the possibility of miscalculation and escalation. Moreover, if early warning systems were not integrated into robust command-and-control systems, the risk of an unauthorized or accidental launch would increase further still. And without sophisticated early warning systems, a nuclear attack might be unattributable or attributed incorrectly. That is, assuming that the leadership of a targeted state survived a first strike, it might not be able to accurately determine which nation was responsible. And this uncertainty, when combined with the pressure to respond quickly,would create a significant risk that it would retaliate against the wrong party, potentially triggering a regional nuclear war.

### 2

#### The President of the United States should request his Counsel and the Office of Legal Counsel for coordination over his war powers authority. The President should determine that the United States authorization to use force is for zones of active hostilities.

#### CP is competitive and solves the case ---- Coordination with OLC can ensure executive action

Trevor Morrison 11, Professor of Law at Columbia Law School, “LIBYA, ‘HOSTILITIES,’ THE OFFICE OF LEGAL COUNSEL, AND THE PROCESS OF EXECUTIVE BRANCH LEGAL INTERPRETATION,” Harvard Law Review Forum Vol.124:42, http://www.harvardlawreview.org/media/pdf/vol124\_forum\_morrison.pdf

Deeply rooted traditions treat the Justice Department’s Office of Legal Counsel (OLC) as the most important source of legal advice wit h- in the executive branch. A number of important norms guide the provision and handling of that advice. OLC bases its answers on its best view of the law, not merely its sense of what is plausible or arguable. 6 To ensure that it takes adequate account of competing perspectives within the executive branch, it typically requests and fully considers the views of other affected agencies before answering the questions put to it. Critically, once OLC arrives at an answer, it is treated as binding within the executive branch unless overruled by the Attorney General or the President. That power to overrule, moreover, is wielded extremely rarely — virtually never. As a result of these and related norms, and in spite of episodes like the notorious “torture memos,” OLC has earned a well-deserved reputation for providing credible, authoritative, thorough and objective legal analysis. The White House is one of the main beneficiaries of that reputation. When OLC concludes that a government action is lawful, its conclusion carries a legitimacy that other executive offices cannot so readily provide. That legitimacy is a function of OLC’s deep traditions and unique place within the executive branch. Other executive offices — be they agency general counsels or the White House Counsel’s Office — do not have decades-long traditions of providing legal advice based on their best view of the law after fully considering the competing positions; they have not generated bodies of authoritative precedents to inform and constrain their work; and they do not issue legal opinions that, whether or not they favor the President , are treated as presumptively binding within the executive branch. (Nor should those other offices mimic OLC; that is not their job.) Because the value of a favorable legal opinion from OLC is tied inextricably to these aspects of its work, each successive presidential administration has a strong incentive to respect and preserve them.

### 3

#### CIR will pass now but it will be tough

Nowicki, 10-30 -- Arizona Republic's national political reporter

[Dan, and Erin Kelly, "Fleeting Hopes for Immigration Reform," AZ Central, 10-30-13, www.azcentral.com/news/politics/articles/20131029fleeting-hopes-immigration-reform.html?nclick\_check=1, accessed 10-31-13, mss]

However, reform backers point to encouraging signs in addition to the intense push by the business lobby. Key House Republicans, including Reps. Paul Ryan of Wisconsin, Mario Diaz-Balart of Florida and Darrell Issa of California, reportedly are working on proposals to address the status of the estimated 11 million undocumented immigrants who already have settled in the United States, which is the central issue for Democrats and immigration activists. The Democrat-controlled Senate on June 27 passed a sweeping reform bill that included a 13-year pathway to citizenship for immigrants who pass background checks, pay assessed taxes and fines and take other steps to get right with the law, as well as a massive investment in border security. There are indications that some Republicans are becoming impatient with the House inaction on piecemeal bills that have been talked about since the Senate bill passed. Two House Republicans — Reps. Jeff Denham of California and Ileana Ros-Lehtinen of Florida — have become the first two GOP lawmakers to sign onto a comprehensive immigration bill offered by House Democrats. Rep. Joe Heck, R-Nev., last week said in a written statement that the growing possibility that the House might punt on immigration reform in 2013 reflects “the leadership vacuum in Washington that rightly has so many people frustrated with this dysfunctional Congress.” Sen. Jeff Flake, R-Ariz., a former 12-year House member who helped negotiate the Senate bill, said Monday on Twitter that momentum appears to be building in the House. “That’s good news for Arizona, and the country,” he said in the message. For their part, Boehner and his fellow House Republican leaders have not yet publicly declared immigration reform dead, which even the most pessimistic reform supporters say means there is still a chance the House could act in November or early December. House committees so far have approved five bills, including legislation to strengthen border security and require employers to use a federal database to ensure they are hiring people who are legally eligible to work in the United States. “The speaker said last week, ‘I still think immigration reform is an important subject that needs to be addressed. And I’m hopeful,’ ” Boehner spokesman Michael Steel told The Arizona Republic on Tuesday via e-mail. “He added that he supports a step-by-step immigration process.” Businesses speak out Hoping to make sure immigration reform gets on the House’s 2013 agenda, more than 600 business, law-enforcement, religious and political leaders from Arizona and nearly 40 other states flooded Capitol Hill on Tuesday. The fly-in was organized by the U.S. Chamber of Commerce and other groups, including FWD.us, which was founded by leaders of high-tech companies. The activists, mostly self-described conservatives, met with more than 100 members of Congress to urge them to take action on broad legislation that includes a way for most undocumented immigrants in the U.S. to earn citizenship. “In every corner of the Capitol, the energy these farmers, tech leaders, police chiefs and pastors brought to the Hill was palpable,” said Ali Noorani, executive director of the National Immigration Forum. “They brought a new perspective to the debate, one informed by what they see every day in their local businesses, churches and police stations — a broken system that has a negative impact on local communities nationwide.” Peoria Vice Mayor Tony Rivero is a conservative Republican who urged Arizona’s GOP congressmen to support reform this year. His city needs more farmworkers who are legally authorized to work, and it needs its undocumented residents to come out of the shadows, he said. “My message to our congressional delegation is that, as a constituent and a conservative Republican, I support a solution to this problem,” Rivero said. “We need to secure the border, identify the people who are here illegally and put them on a path to legality and put enforcement measures in place to make sure we aren’t here again in 10 years.” Former Phoenix Police Chief Jack Harris said he told members of Arizona’s congressional delegation that the current immigration system makes police officers’ jobs more complicated. “Every community is trying to solve the problem in a different way,” he said. “In some places, you (an undocumented immigrant) can get a driver’s license. In some places, you can’t. Some places are very liberal and report almost no crimes (committed by undocumented immigrants). Others deport you for just minor infractions. There’s great confusion among the law-enforcement community about what the rules are and what their authority is.” ‘I do care about them’ The conservative lobbying efforts are in conjunction with efforts from more liberal immigration-advocacy groups. Last week, a contingent of 44 undocumented immigrants and their supporters traveled from Phoenix by bus to Washington, D.C., and Ohio in hope of meeting with Boehner to persuade him to schedule a vote on a bill that includes a pathway to citizenship. The group, which included many “dreamers,” or undocumented immigrants brought to the United States as children, never got the opportunity to talk with Boehner. However, the immigration activists from the advocacy group Promise Arizona who camped outside Franks’ house did get the chance to talk with the representative for more than 25 minutes. They initially were buoyed by his response, which they interpreted as support for a pathway to citizenship. However, Franks later clarified to The Republic that he would not support a special pathway to citizenship. Franks said he would support legalizing undocumented immigrants under certain conditions but would not allow them to subsequently seek citizenship. Or the undocumented immigrants could return to their home countries and apply for green cards and citizenship that way, he said. Franks said he didn’t fully articulate his position to the activists because he felt compassion for their pleas. “Sometimes, in any situation, you don’t hit people in the face with the worst of it,” Franks said. “I wanted them to know, while maybe we didn’t agree on everything, there were some things we do agree on. I do care about them.” Proponents are positive Glenn Hamer, president and CEO of the Arizona Chamber of Commerce and Industry, said the group of Arizonans that flew in as part of the U.S. Chamber-led D.C. visit were going to meet with all nine House members from Arizona. After morning meetings with Republican Reps. Paul Gosar, Matt Salmon and David Schweikert, Hamer said the sessions were positive. “There is complete agreement that we have a busted immigration system,” he said. “It’s fair to say that there is an understanding that we need immigration reform. It’s very clear that the House is going to pass its vision for immigration reform. If it’s simply the Senate bill or bust, then nothing will happen.” Flake said he believes the methodical and strategic lobbying by the business community, faith groups and activist organizations will **help** motivate the House. He said he is OK with House Republicans taking a step-by-step strategy rather than passing a comprehensive bill like the one he helped craft in the Senate. “My position is, if you can move it piecemeal or sequentially, that’s fine,” Flake said. “If you have to go comprehensive, that’s fine. Let’s get something to the president’s desk.” Frank Sharry, executive director of the pro-reform organization America’s Voice, said the two House Republicans who signed on to the alternative Democratic bill also are examples of **momentum**. “When that bill was first introduced, it was widely panned as a Democratic ‘message bill’ that was going nowhere and was setting up the blame game in a run toward 2014,” Sharry said. “But because Democrats made the smart move of making sure every policy in the bill was passed with bipartisan support either in the Senate or the House, it has become a serious offering and a **place where Republicans can go.** I think you will see more Republicans getting on board.” Because of Boehner’s leadership style and uneasy relationship with many of his rank-and-file members, Sharry said, it may take “a convergence and emergence of a critical mass of Republicans to convince leadership to go forward.” Hamer said he believes there is still a possibility for compromise between the House and Senate. “I don’t want to be too Pollyannaish,” he said. “Passing immigration reform is not like renaming a post office. It’s going to be tough.”

#### The plan reverses these dynamics—sparks an inter-branch fight derailing the agenda

Douglas Kriner, Assistant Profess of Political Science at Boston University, 2010, After the Rubicon: Congress, Presidents, and the Politics of Waging War, p. 67-69

Raising or Lowering Political Costs by Affecting Presidential Political Capital

Shaping both real and anticipated public opinion are two important ways in which Congress can raise or lower the political costs of a military action for the president. However, focusing exclusively on opinion dynamics threatens to obscure the much broader political consequences of domestic reaction—particularly congressional opposition—to presidential foreign policies. At least since Richard Neustadt's seminal work Presidential Power, presidency scholars have warned that **costly political battles in one policy arena frequently have significant ramifications for presidential power in other realms**. Indeed, two of Neustadt's three "cases of command"—Truman's seizure of the steel mills and firing of General Douglas MacArthur—explicitly discussed the broader political consequences of stiff domestic resistance to presidential assertions of commander-in-chief powers. In both cases, Truman emerged victorious in the case at hand—yet, Neustadt argues, each victory cost Truman dearly in terms of his future power prospects and leeway in other policy areas, many of which were more important to the president than achieving unconditional victory over North Korea."

While congressional support leaves the president's reserve of political capital intact, congressional criticism saps energy from other initiatives on the home front by forcing the president to expend energy and effort defending his international agenda. **Political capital spent shoring up support for a president's foreign policies is capital that is unavailable for his future policy initiatives**. Moreover, any weakening in the president's political clout may have immediate ramifications for his reelection prospects, as well as indirect consequences for congressional races." Indeed, Democratic efforts to tie congressional Republican incumbents to President George W. Bush and his war policies paid immediate political dividends in the 2006 midterms, particularly in states, districts, and counties that had suffered the highest casualty rates in the Iraq War.6°

In addition to boding ill for the president's perceived political capital and reputation, such partisan losses in Congress only further imperil his programmatic agenda, both international and domestic. Scholars have long noted that President Lyndon Johnson's dream of a Great Society also perished in the rice paddies of Vietnam. Lacking both the requisite funds in a war-depleted treasury and the political capital needed to sustain his legislative vision, Johnson gradually let his domestic goals slip away as he hunkered down in an effort first to win and then to end the Vietnam War. In the same way, many of President Bush's **highest second-term domestic priorities**, such as Social Security and immigration reform, **failed** perhaps in large part **because the administration had to expend so much energy** and effort **waging a rear-guard action against congressional critics** of the war in Iraq.

When making their cost-benefit calculations, presidents surely consider these wider political costs of congressional opposition to their military policies. If **congressional opposition in the military arena stands to** derail other elements of his agenda, all else being equal, the president will be more likely to judge the benefits of military action insufficient to its costs than if Congress stood behind him in the international arena

#### Obama’s push locks-up a House vote, but the window is narrow

Bill Scher, The Week, 10/18/13, How to make John Boehner cave on immigration, theweek.com/article/index/251361/how-to-make-john-boehner-cave-on-immigration

Speaker John Boehner (R-Ohio) generally adheres to the unwritten Republican rule that bars him from allowing votes on bills opposed by a majority of Republicans, even if they would win a majority of the full House.

But he's caved four times this year, allowing big bills to pass with mainly Democratic support. They include repealing the Bush tax cuts for the wealthiest Americans; providing Hurricane Sandy relief; expanding the Violence Against Women act to better cover immigrants, Native Americans, and LGBT survivors of abuse; and this week's bill raising the debt limit and reopening the federal government.

Many presume the Republican House is a black hole sucking President Obama's second-term agenda into oblivion. But the list of Boehner's past retreats offers a glimmer of hope, especially to advocates of immigration reform. Though it has languished in the House, an immigration overhaul passed with bipartisan support in the Senate, and was given a fresh push by Obama in the aftermath of the debt limit deal.

The big mystery that immigration advocates need to figure out: What makes Boehner cave? Is there a common thread? Is there a sequence of buttons you can push that forces Boehner to relent?

Two of this year's caves happened when Boehner was backed up against hard deadlines: The Jan. 1 fiscal cliff and the Oct. 17 debt limit. Failure to concede meant immediate disaster. Reject the bipartisan compromise on rolling back the Bush tax cuts, get blamed for jacking up taxes on every taxpayer. Reject the Senate's three-month suspension of the debt limit, get blamed for sparking a global depression. Boehner held out until the absolute last minute both times, but he was not willing to risk blowing the deadline.

A third involved the response to an emergency: Hurricane Sandy. Conservative groups were determined to block disaster relief because — as with other federal disaster responses — the $51 billion legislative aid package did not include offsetting spending cuts. Lacking Republican votes, Boehner briefly withdrew the bill from consideration, unleashing fury from New York and New Jersey Republicans, including Gov. Chris Christie. While there wasn't a hard deadline to meet, disaster relief was a time-sensitive matter, and the pressure from Christie and his allies was unrelenting. Two weeks after pulling the bill, Boehner put it on the floor, allowing it to pass over the objections of 179 Republicans.

The fourth cave occurred in order to further reform and expand a government program: The Violence Against Women Act. The prior version of the law had been expired for over a year, as conservatives in the House resisted the Senate bill in the run-up to the 2012 election. But after Mitt Romney suffered an 18-point gender gap in his loss to Obama, and after the new Senate passed its version again with a strong bipartisan vote, Boehner was unwilling to resist any longer. Two weeks later, the House passed the Senate bill with 138 Republicans opposed.

Unfortunately for immigration advocates, there is no prospect of widespread pain if reform isn't passed. There is no immediate emergency, nor threat of economic collapse.

But there is a deadline of sorts: The 2014 midterm elections.

If we've learned anything about Boehner this month, it's that he's a party man to the bone. He dragged out the shutdown and debt limit drama for weeks, without gaining a single concession, simply so his most unruly and revolutionary-minded members would believe he fought the good fight and stay in the Republican family. What he won is party unity, at least for the time being.

What Boehner lost for his Republicans is national respectability. Republican Party approval hit a record low in both the most recent NBC/Wall Street Journal poll and Gallup poll.

Here's where immigration advocates have a window of opportunity to appeal to Boehner's party pragmatism. Their pitch: The best way to put this disaster behind them is for Republicans to score a big political victory. You need this.

A year after the Republican brand was so bloodied that the Republican National Committee had to commission a formal "autopsy," party approval is the worst it has ever been. You've wasted a year. Now is the time to do something that some voters will actually like.

There's reason to hope he could be swayed. In each of the four cases in which he allowed Democrats to carry the day, he put the short-term political needs of the Republican Party over the ideological demands of right-wing activists.

Boehner will have to do another round of kabuki. He can't simply swallow the Senate bill in a day. There will have to be a House version that falls short of activists' expectations, followed by tense House-Senate negotiations. Probably like in the most formulaic of movies, and like the fiscal cliff and debt limit deals, there will have to be an "all-is-lost moment" right before we get to the glorious ending. Boehner will need to given the room to do all this again.

But he won't do it without a push. A real good push.

#### Immigration reform necessary to sustain the economy and competitiveness

Javier Palomarez, Forbes, 3/6/13, The Pent Up Entrepreneurship That Immigration Reform Would Unleash, www.forbes.com/sites/realspin/2013/03/06/the-pent-up-entrepreneurship-that-immigration-reform-would-unleash/print/

The main difference between now and 2007 is that today the role of immigrants and their many contributions to the American economy have been central in the country’s national conversation on the issue. Never before have Latinos been so central to the election of a U.S. President as in 2012. New evidence about the economic importance of immigration reform, coupled with the new political realities presented by the election, have given reform a higher likelihood of passing. As the President & CEO of the country’s largest Hispanic business association, the U.S. Hispanic Chamber of Commerce (USHCC), which advocates for the interests of over 3 million Hispanic owned businesses, I have noticed that nearly every meeting I hold with corporate leaders now involves a discussion of how and when immigration reform will pass. The USHCC has long seen comprehensive immigration reform as an economic imperative, and now the wider business community seems to be sharing our approach. It is no longer a question of whether it will pass. Out of countless conversations with business leaders in virtually every sector and every state, a consensus has emerged: our broken and outdated immigration system hinders our economy’s growth and puts America’s global leadership in jeopardy. Innovation drives the American economy, and without good ideas and skilled workers, our country won’t be able to transform industries or to lead world markets as effectively as it has done for decades. Consider some figures: Immigrant-owned firms generate an estimated $775 billion in annual revenue, $125 billion in payroll and about $100 billion in income. A study conducted by the New American Economy found that over 40 percent of Fortune 500 companies were started by immigrants or children of immigrants. Leading brands, like Google, Kohls, eBay, Pfizer, and AT&T, were founded by immigrants. Researchers at the Kauffman Foundation released a study late last year showing that from 2006 to 2012, one in four engineering and technology companies started in the U.S. had at least one foreign-born founder — in Silicon Valley it was almost half of new companies. There are an estimated 11 million undocumented workers currently in the U.S. Imagine what small business growth in the U.S. would look like if they were provided legal status, if they had an opportunity for citizenship. Without fear of deportation or prosecution, imagine the pent up entrepreneurship that could be unleashed. After all, these are people who are clearly entrepreneurial in spirit to have come here and risk all in the first place. Immigrants are twice as likely to start businesses as native-born Americans, and statistics show that most job growth comes from small businesses. While immigrants are both critically-important consumers and producers, they boost the economic well-being of native-born Americans as well. Scholars at the Brookings Institution recently described the relationship of these two groups of workers as complementary. This is because lower-skilled immigrants largely take farming and other manual, low-paid jobs that native-born workers don’t usually want. For example, when Alabama passed HB 56, an immigration law in 2012 aimed at forcing self-deportation, the state lost roughly $11 billion in economic productivity as crops were left to wither and jobs were lost. Immigration reform would also address another important angle in the debate – the need to entice high-skilled immigrants. Higher-skilled immigrants provide talent that high-tech companies often cannot locate domestically. High-tech leaders recently organized a nationwide “virtual march for immigration reform” to pressure policymakers to remove barriers that prevent them from recruiting the workers they need. Finally, and perhaps most importantly, fixing immigration makes sound fiscal sense. Economist Raul Hinojosa-Ojeda calculated in 2010 that comprehensive immigration reform would add $1.5 trillion to the country’s GDP over 10 years and add $66 billion in tax revenue – enough to fully fund the Small Business Administration and the Departments of the Treasury and Commerce for over two years. As Congress continues to wring its hands and debate the issue, lawmakers must understand what both businesses and workers already know: The American economy needs comprehensive immigration reform.

**Extinction**

**Auslin 9**

(Michael, Resident Scholar – American Enterprise Institute, and Desmond Lachman – Resident Fellow – American Enterprise Institute, “The Global Economy Unravels”, Forbes, 3-6, http://www.aei.org/article/100187)

What do these trends mean in the short and medium term? The Great Depression showed how social and **global chaos** followed hard on economic collapse. The mere fact that parliaments across the globe, from America to Japan, are unable to make responsible, economically sound recovery plans suggests that they do not know what to do and are simply hoping for the least disruption. Equally worrisome is the adoption of more statist economic programs around the globe, and the concurrent decline of trust in free-market systems. The threat of instability is a pressing concern. China, until last year the world's fastest growing economy, just reported that 20 million migrant laborers lost their jobs. Even in the flush times of recent years, China faced upward of 70,000 labor uprisings a year. A sustained downturn poses grave and possibly immediate threats to Chinese internal stability. The regime in Beijing may be faced with a choice of repressing its own people or diverting their energies outward, leading to conflict with China's neighbors. Russia, an oil state completely dependent on energy sales, has had to put down riots in its Far East as well as in downtown Moscow. Vladimir Putin's rule has been predicated on squeezing civil liberties while providing economic largesse. If that devil's bargain falls apart, then wide-scale repression inside Russia, along with a continuing threatening posture toward Russia's neighbors, is likely. Even apparently stable societies face increasing risk and the threat of internal or possibly external conflict. As Japan's exports have plummeted by nearly 50%, one-third of the country's prefectures have passed emergency economic stabilization plans. Hundreds of thousands of temporary employees hired during the first part of this decade are being laid off. Spain's unemployment rate is expected to climb to nearly 20% by the end of 2010; Spanish unions are already protesting the lack of jobs, and the specter of violence, as occurred in the 1980s, is haunting the country. Meanwhile, in Greece, workers have already taken to the streets. Europe as a whole will face dangerously increasing tensions between native citizens and immigrants, largely from poorer Muslim nations, who have increased the labor pool in the past several decades. Spain has absorbed five million immigrants since 1999, while nearly 9% of Germany's residents have foreign citizenship, including almost 2 million Turks. The xenophobic labor strikes in the U.K. do not bode well for the rest of Europe. A prolonged global downturn, let alone a collapse, would **dramatically raise tensions** inside these countries. Couple that with possible protectionist legislation in the United States, unresolved ethnic and territorial disputes in **all regions of the globe** and a loss of confidence that world leaders actually know what they are doing. The result may be a series of small explosions that coalesce **into a big bang**.

#### Solves US-India relations --- builds trade relationships

LA Times 12, 11/9/2012 (Other countries eagerly await U.S. immigration reform, p. http://latimesblogs.latimes.com/world\_now/2012/11/us-immigration-reform-eagerly-awaited-by-source-countries.html)

"Comprehensive immigration reform will see expansion of skilled labor visas," predicted B. Lindsay Lowell, director of policy studies for the Institute for the Study of International Migration at Georgetown University. A former research chief for the congressionally appointed Commission on Immigration Reform, Lowell said he expects to see at least a fivefold increase in the number of highly skilled labor visas that would provide "a significant shot in the arm for India and China."¶ There is widespread consensus among economists and academics that skilled migration fosters new trade and business relationships between countries and enhances links to the global economy, Lowell said.¶ "Countries like India and China weigh the opportunities of business abroad from their expats with the possibility of brain drain, and I think they still see the immigration opportunity as a bigger plus than not," he said.

#### US/India relations are key to prevent South Asian nuclear war

Schaffer 2, Spring 2002 (Teresita – Director of the South Asia Program at the Center for Strategic and International Security, Washington Quarterly, p. Lexis)

Washington's increased interest in India since the late 1990s reflects India's economic expansion and position as Asia's newest rising power. New Delhi, for its part, is adjusting to the end of the Cold War. As a result, both giant democracies see that they can benefit by closer cooperation. For Washington, the advantages include a wider network of friends in Asia at a time when the region is changing rapidly, as well as a stronger position from which to help calm possible future nuclear tensions in the region. Enhanced trade and investment benefit both countries and are a prerequisite for improved U.S. relations with India. For India, the country's ambition to assume a stronger leadership role in the world and to maintain an economy that lifts its people out of poverty depends critically on good relations with the United States.

### 4

#### Interperatation - Restrictions are prohibitions on action --- the aff is not

Jean Schiedler-Brown 12, Attorney, Jean Schiedler-Brown & Associates, Appellant Brief of Randall Kinchloe v. States Dept of Health, Washington, The Court of Appeals of the State of Washington, Division 1, http://www.courts.wa.gov/content/Briefs/A01/686429%20Appellant%20Randall%20Kincheloe%27s.pdf

3. The ordinary definition of the term "restrictions" also does not include the reporting and monitoring or supervising terms and conditions that are included in the 2001 Stipulation.

Black's Law Dictionary, 'fifth edition,(1979) defines "restriction" as;

A limitation often imposed in a deed or lease respecting the use to which the property may be put. The term "restrict' is also cross referenced with the term "restrain." Restrain is defined as; To limit, confine, abridge, narrow down, restrict, obstruct, impede, hinder, stay, destroy. To prohibit from action; to put compulsion on; to restrict; to hold or press back. To keep in check; to hold back from acting, proceeding, or advancing, either by physical or moral force, or by interposing obstacle, to repress or suppress, to curb.

In contrast, the terms "supervise" and "supervisor" are defined as; To have general oversight over, to superintend or to inspect. See Supervisor. A surveyor or overseer. . . In a broad sense, one having authority over others, to superintend and direct. The term "supervisor" means an individual having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but required the use of independent judgment.

Comparing the above definitions, it is clear that the definition of "restriction" is very different from the definition of "supervision"-very few of the same words are used to explain or define the different terms. In his 2001 stipulation, Mr. Kincheloe essentially agreed to some supervision conditions, but he did not agree to restrict his license.

#### Restrictions on authority are distinct from conditions

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" upon 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.

#### Increase means from a baseline

Rogers 5 Judge, STATE OF NEW YORK, ET AL., PETITIONERS v. U.S. ENVIRONMENTAL PROTECTION AGENCY, RESPONDENT, NSR MANUFACTURERS ROUNDTABLE, ET AL., INTERVENORS, 2005 U.S. App. LEXIS 12378, \*\*; 60 ERC (BNA) 1791, 6/24, lexis

 [\*\*48]  Statutory Interpretation. [HN16](http://www.lexis.com/research/retrieve?_m=1fe428155fdfc9074f3623f0dae9d78a&docnum=14&_fmtstr=FULL&_startdoc=1&wchp=dGLbVlz-zSkAW&_md5=0ebd338d6a7793de8561db53b915effd&focBudTerms=term%20increase&focBudSel=all#clscc16)While the CAA defines a "modification" as any physical or operational change that "increases" emissions, it is silent on how to calculate such "increases" in emissions. [42 U.S.C. § 7411(a)(4)](http://www.lexis.com/research/buttonTFLink?_m=8541fbf7a7f5554ca588059b132acd17&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b367%20U.S.%20App.%20D.C.%203%5d%5d%3e%3c%2fcite%3e&_butType=4&_butStat=0&_butNum=103&_butInline=1&_butinfo=42%20U.S.C.%207411&_fmtstr=FULL&docnum=14&_startdoc=1&wchp=dGLbVlz-zSkAW&_md5=1f89a0e47b1996a5400e8d865d8da08a). According to government petitioners, the lack of a statutory definition does not render the term "increases" ambiguous, but merely compels the court to give the term its "ordinary meaning." See [Engine Mfrs.Ass'nv.S.Coast AirQualityMgmt.Dist., 541 U.S. 246, 124 S. Ct. 1756, 1761, 158 L. Ed. 2d 529(2004)](http://www.lexis.com/research/buttonTFLink?_m=8541fbf7a7f5554ca588059b132acd17&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b367%20U.S.%20App.%20D.C.%203%5d%5d%3e%3c%2fcite%3e&_butType=3&_butStat=2&_butNum=104&_butInline=1&_butinfo=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b541%20U.S.%20246%5d%5d%3e%3c%2fcite%3e&_fmtstr=FULL&docnum=14&_startdoc=1&wchp=dGLbVlz-zSkAW&_md5=48f016ea3eabfdb898b67b348b11662c); [Bluewater Network, 370 F.3d at 13](http://www.lexis.com/research/buttonTFLink?_m=8541fbf7a7f5554ca588059b132acd17&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b367%20U.S.%20App.%20D.C.%203%5d%5d%3e%3c%2fcite%3e&_butType=3&_butStat=2&_butNum=105&_butInline=1&_butinfo=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b370%20F.3d%201%2cat%2013%5d%5d%3e%3c%2fcite%3e&_fmtstr=FULL&docnum=14&_startdoc=1&wchp=dGLbVlz-zSkAW&_md5=78fdfe9d48c7b91d7659b90c0198707e); [Am. Fed'n of Gov't Employees v. Glickman, 342 U.S. App. D.C. 7, 215 F.3d 7, 10 [\*23]  (D.C. Cir. 2000)](http://www.lexis.com/research/buttonTFLink?_m=8541fbf7a7f5554ca588059b132acd17&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b367%20U.S.%20App.%20D.C.%203%5d%5d%3e%3c%2fcite%3e&_butType=3&_butStat=2&_butNum=106&_butInline=1&_butinfo=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b342%20U.S.%20App.%20D.C.%207%5d%5d%3e%3c%2fcite%3e&_fmtstr=FULL&docnum=14&_startdoc=1&wchp=dGLbVlz-zSkAW&_md5=fb18ff0b92931ac00621d88dae997e67). Relying on two "real world" analogies, government petitioners contend that the ordinary meaning of "increases" requires the baseline to be calculated from a period immediately preceding the change. They maintain, for example, that in determining whether a high-pressure weather system "increases" the local temperature, the relevant baseline is the temperature immediately preceding the arrival of the weather system, not the temperature five or ten years ago. Similarly,  [\*\*49]  in determining whether a new engine "increases" the value of a car, the relevant baseline is the value of the car immediately preceding the replacement of the engine, not the value of the car five or ten years ago when the engine was in perfect condition.

#### Vote neg-

#### 1- limits- none preexisting restrictions open the floodgates to infinite mechanisms to restrict the executive that don’t currently exist

#### 2- ground- DA links are predicted off current mechanisms for restriction- they will always be a step ahead on the specificity

### 5

The affirmative re-inscribes the primacy of liberal legalism as a method of restraint

Margulies ‘11

Joseph, Joseph Margulies is a Clinical Professor, Northwestern University School of Law. He was counsel of record for the petitioners in Rasul v. Bush and Munaf v. Geren. He now is counsel of record for Abu Zubaydah, for whose torture (termed harsh interrogation by some) Bush Administration officials John Yoo and Jay Bybee wrote authorizing legal opinions. Earlier versions of this paper were presented at workshops at the American Bar Foundation and the 2010 Law and Society Association Conference in Chicago., Hope Metcalf is a Lecturer, Yale Law School. Metcalf is co-counsel for the plaintiffs/petitioners in Padilla v. Rumsfeld, Padilla v. Yoo, Jeppesen v. Mohammed, and Maqaleh v. Obama. She has written numerous amicus briefs in support of petitioners in suits against the government arising out of counterterrorism policies, including in Munaf v. Geren and Boumediene v. Bush., “Terrorizing Academia,” http://www.swlaw.edu/pdfs/jle/jle603jmarguilies.pdf

In an observation more often repeated than defended, we are told that the attacks of September 11 “changed everything.” Whatever merit there is in this notion, it is certainly true that 9/11—and in particular the legal response set in motion by the administration of President George W. Bush—left its mark on the academy. Nine years after 9/11, it is time to step back and assess these developments and to offer thoughts on their meaning. In Part II of this essay, we analyze the post-9/11 scholarship produced by this “emergency” framing. We argue that legal scholars writing in the aftermath of 9/11 generally fell into one of three groups: unilateralists, interventionists, and proceduralists. Unilateralists argued in favor of tilting the allocation of government power toward the executive because the state’s interest in survival is superior to any individual liberty interest, and because the executive is best able to understand and address threats to the state. Interventionists, by contrast, argued in favor of restraining the executive (principally through the judiciary) precisely to prevent the erosion of civil liberties. Proceduralists took a middle road, informed by what they perceived as a central lesson of American history.1 Because at least some overreaction by the state is an inevitable feature of a national crisis, the most one can reasonably hope for is to build in structural and procedural protections to preserve the essential U.S. constitutional framework, and, perhaps, to minimize the damage done to American legal and moral traditions. Despite profound differences between and within these groups, legal scholars in all three camps (as well as litigants and clinicians, including the authors) shared a common perspective—viz., that repressive legal policies adopted by wartime governments are temporary departures from hypothesized peacetime norms. In this narrative, metaphors of bewilderment, wandering, and confusion predominate. The country “loses its bearings” and “goes astray.” Bad things happen until at last the nation “finds itself” or “comes to its senses,” recovers its “values,” and fixes the problem. Internment ends, habeas is restored, prisoners are pardoned, repression passes. In a show of regret, we change direction, “get back on course,” and vow it will never happen again. Until the next time, when it does. This view, popularized in treatments like All the Laws but One, by the late Chief Justice Rehnquist,2 or the more thoughtful and thorough discussion in Perilous Times by Chicago’s Geoffrey Stone,3 quickly became the dominant narrative in American society and the legal academy. **This narrative also figured heavily in the many challenges to Bush-era policies,** including by the authors. The narrative permitted litigators and legal scholars to draw upon what elsewhere has been referred to as America’s “civic religion”4 and to cast the courts in the role of hero-judges5 **whom we hoped would restore legal order.**6 But by framing the Bush Administration’s response as the latest in a series of regrettable but temporary deviations from a hypothesized liberal norm, the legal academy ignored the more persistent, and decidedly illiberal, authoritarian tendency in American thought to demonize communal “others” during moments of perceived threat. Viewed in this light, what the dominant narrative identified as a brief departure caused by a military crisis is more accurately seen as part of a recurring process of intense stigmatization tied to periods of social upheaval, of which war and its accompanying repressions are simply representative (and particularly acute) illustrations. It is worth recalling, for instance, that the heyday of the Ku Klux Klan in this country, when the organization could claim upwards of 3 million members, was the early-1920s, and that the period of greatest Klan expansion began in the summer of 1920, almost immediately after the nation had “recovered” from the Red Scare of 1919–20.7 Klan activity during this period, unlike its earlier and later iterations, focused mainly on the scourge of the immigrant Jew and Catholic, and flowed effortlessly from the anti-alien, anti-radical hysteria of the Red Scare. Yet this period is almost entirely unaccounted for in the dominant post-9/11 narrative of deviation and redemption, which in most versions glides seamlessly from the madness of the Red Scare to the internment of the Japanese during World War II.8 And because we were studying the elephant with the wrong end of the telescope, we came to a flawed understanding of the beast. In Part IV, we argue that the interventionists and unilateralists came to an incomplete understanding by focusing almost exclusively on what Stuart Scheingold called “the myth of rights”—the belief that if we can identify, elaborate, and secure judicial recognition of the legal “right,” **political structures and policies will adapt their behavior to the requirements of the law** and change will follow more or less automatically.9 Scholars struggled to define the relationship between law and security primarily through exploration of structural10 and procedural questions, and, to a lesser extent, to substantive rights. And they examined the almost limitless number of subsidiary questions clustered within these issues. Questions about the right to habeas review, for instance, generated a great deal of scholarship about the handful of World War II-era cases that the Bush Administration relied upon, including most prominently Johnson v. Eisentrager and Ex Parte Quirin. 11 Regardless of political viewpoint, a common notion among most unilateralist and interventionist scholars was that when law legitimized or delegitimized a particular policy, **this would have a direct and observable effect on actual behavior**. The premise of this scholarship, in other words, was that policies “struck down” by the courts, or credibly condemned as lawless by the academy, would inevitably be changed—and that this should be the focus of reform efforts. Even when disagreement existed about the substance of rights or even which branch should decide their parameters, it reflected shared acceptance of the primacy of law, often to the exclusion of underlying social or political dynamics. Eric Posner and Adrian Vermeule, for instance, may have thought, unlike the great majority of their colleagues, that the torture memo was “standard fare.”12 But their position nonetheless accepted the notion that if the prisoners had a legal right to be treated otherwise, then the torture memo authorized illegal behavior and must be given no effect.13 Recent developments, however, cast doubt on two grounding ideas of interventionist and unilateralist scholarship—viz., that post-9/11 policies were best explained as responses to a national crisis (and therefore limited in time and scope), and that the problem was essentially legal (and therefore responsive to condemnation by the judiciary and legal academy). One might have reasonably predicted that in the wake of a string of Supreme Court decisions limiting executive power, apparently widespread and bipartisan support for the closure of Guantánamo during the 2008 presidential campaign, and the election of President Barack Obama, which itself heralded a series of executive orders that attempted to dismantle many Bush-era policies, the nation would be “returning” to a period of respect for individual rights and the rule of law. Yet the period following Obama’s election has been marked by an increasingly retributive and venomous narrative surrounding Islam and national security. **Precisely when the dominant narrative would have predicted change** and redemption, we have seen retreat and retrenchment. This conundrum is not adequately addressed by dominant strands of post-9/11 legal scholarship. In retrospect, it is surprising that much post-9/11 scholarship appears to have set aside critical lessons from previous decades as to the relationship among law, society and politics.14 Many scholars have long argued in other contexts that rights—or at least the experience of rights—are subject to political and social constraints, particularly for groups subject to historic marginalization. Rather than self-executing, rights are better viewed as contingent political resources, capable of mobilizing public sentiment and generating social expectations.15 From that view, a victory in Rasul or Boumediene no more guaranteed that prisoners at Guantánamo would enjoy the right to habeas corpus than a victory in Brown v. Board16 guaranteed that schools in the South would be desegregated.17 Rasul and Boumediene, therefore, should be seen as part (and probably only a small part) of a varied and complex collection of events, including the fiasco in Iraq, the scandal at the Abu Ghraib prison, and the use of warrantless wiretaps, as well as seemingly unrelated episodes like the official response to Hurricane Katrina. These and other events during the Bush years merged to give rise to a powerful social narrative critiquing an administration committed to lawlessness, content with incompetence, and engaged in behavior that was contrary to perceived “American values.”18 Yet the very success of this narrative, culminating in the election of Barack Obama in 2008, produced quiescence on the Left, even as it stimulated massive opposition on the Right. The result has been the emergence of a counter-narrative about national security that has produced a vigorous social backlash such that most of the Bush-era policies will continue largely unchanged, at least for the foreseeable future.19 Just as we see a widening gap between judicial recognition of rights in the abstract and the observation of those rights as a matter of fact, there appears to be an emerging dominance of proceduralist approaches, which take as a given that rights dissolve under political pressure, and, thus, are best protected by basic procedural measures. But that stance falls short in its seeming readiness to trade away rights in the face of political tension. First, it accepts the tropes du jour surrounding radical Islam—namely, that it is a unique, and uniquely apocalyptic, threat to U.S. security. In this, proceduralists do not pay adequate heed to the lessons of American history and sociology. And second, it endorses too easily the idea that procedural and structural protections will protect against substantive injustice in the face of popular and/or political demands for an outcome-determinative system that cannot tolerate acquittals. Procedures only provide protection, however, if there is sufficient political support for the underlying right. Since the premise of the proceduralist scholarship is that such support does not exist, it is folly to expect the political branches to create meaningful and robust protections. In short, a witch hunt does not become less a mockery of justice when the accused is given the right to confront witnesses. And a separate system (especially when designed for demonized “others,” such as Muslims) cannot, by definition, be equal. In the end, we urge a fuller embrace of what Scheingold called “the politics of rights,” which recognizes the contingent character of rights in American society. We agree with Mari Matsuda, who observed more than two decades ago that rights are a necessary but not sufficient resource for marginalized people with little political capital.20 To be effective, therefore, we must look beyond the courts and grapple with the hard work of long-term change with, through and, perhaps, in spite of law. These are by no means new dilemmas, but the post-9/11 context raises difficult and perplexing questions that deserve study and careful thought as our nation settles into what appears to be a permanent emergency.

That causes endless violence – extinction

The alternative is to vote negative to endorse political, rather than legal restrictions on Presidential war powers authority

Dossa ‘99

Shiraz, Department of Political Science, St. Francis Xavier University, Antigonish, Nova Scotia, “Liberal Legalism: Law, Culture and Identity,” The European Legacy, Vol. 4, No. 3, pp. 73-87,1

No discipline in the rationalized arsenal of modernity is as rational, impartial, objective as the province of law and jurisprudence, in the eyes of its liberal enthusiasts. Law is the exemplary countenance of the conscious and calculated rationality of modern life, **it is the** emblematic face of liberal civilization. Law and legal rules symbolize the spirit of science, the march of human progress. As Max Weber, the reluctant liberal theorist of the ethic of rationalization, asserted: judicial formalism enables the legal system to operate like a technically **rational machine**. Thus it guarantees to individuals and groups within the system a relative of maximum of freedom, and greatly increases for them the possibility of predicting the legal consequences of their action. In this reading, law encapsulates the western capacity to bring order to nature and human beings, to turn the ebb and flow of life into a "rational machine" under the tutelage of "judicial formalism".19 Subjugation of the Other races in the colonial empires was motivated by power and rapacity, but it was justified and indeed rationalized, by an appeal to the civilizing influence of religion and law: western Christianity and liberal law. To the imperialist mind, "the civilizing mission of law" was fundamental, though Christianity had a part to play in this program.20 Liberal colonialists visualized law, civilization and progress as deeply connected and basic, they saw western law as neutral, universally relevant and desirable. The first claim was right in the liberal context, the second thoroughly false. In the liberal version, the mythic and irrational, emblems of thoughtlessness and fear, had ruled all life-forms in the past and still ruled the lives of the vast majority of humanity in the third world; in thrall to the majesty of the natural and the transcendent, primitive life flourished in the environment of traditionalism and lawlessness, hallmarks of the epoch of ignorance. By contrast, liberal ideology and modernity were abrasively unmythic, rational and controlled. Liberal order was informed by knowledge, science, a sense of historical progress, a continuously improving future. But this canonical, secular, bracing self-image, is tendentious and substantively illusory: it blithely scants the bloody genealogy and the extant historical record of liberal modernity, liberal politics, and particularly liberal law and its impact on the "lower races" (Hobson). In his Mythology of Modern Law, Fitzpatrick has shown that the enabling claims of liberalism, specifically of liberal law, are not only untenable but implicated in canvassing a racist justification of its colonial past and in eliding the racist basis of the structure of liberal jurisprudence.21 Liberal law is mythic in its presumption of its neutral, objective status. Specifically, the liberal legal story of its immaculate, analytically pure origin obscures and veils not just law's own ruthless, violent, even savage and disorderly trajectory, but also its constitutive association with imperialism and racism.22 In lieu of the transcendent, divine God of the "lower races", modern secular law postulated the gods of History, Science, Freedom. Liberal law was to be the instrument for realizing the promise of progress that the profane gods had decreed. Fitzpatrick's invasive surgical analysis lays bare the underlying logic of law's self-articulation in opposition to the values of cultural-racial Others, and its strategic, continuous reassertion of liberalism's superiority and the civilizational indispensability of liberal legalism. Liberal law's self-presentation presupposes a corrosive, debilitating, anarchic state of nature inhabited by the racial Others and lying in wait at the borders of the enlightened modern West. This mythological, savage Other, creature of raw, natural, unregulated fecundity and sexuality, justified the liberal conquest and control of the racially Other regions.23 Law's violence and resonant savagery on behalf of the West in its imperial razing of cultures and lands of the others, has been and still is, justified in terms of the necessary, beneficial spread of liberal civilization. Fitzpatrick's analysis parallels the impassioned deconstruction of this discourse of domination initiated by Edward Said's Orientalism, itself made possible by the pioneering analyses of writers like Aime Cesaire and Frantz Fanon. Fitzpatrick's argument is nevertheless instructive: his focus on law and its machinations unravels the one concrete province of imperial ideology that is centrally modern and critical in literally transforming and refashioning the human nature of racial Others. For liberal law carries on its back the payload of "progressive", pragmatic, **instrumental modernity**, its ideals of order and rule of law, its articulation of human rights and freedom, its ethic of procedural justice, its hostility to the sacred, to transcendence or spiritual complexity, its recasting of politics as the handmaiden of the nomos, its valorization of scientism and rationalization in all spheres of modern life. Liberal law is not synonymous with modernity tout court, but it is the exemplary voice of its rational spirit, **the custodian of its civilizational ambitions.** For the colonized Others, no non-liberal alternative is available: a non-western route to economic progress is inconceivable in liberal-legal discourse. For even the truly tenacious in the third world will never cease to be, in one sense or another, the outriders of modernity: their human condition condemns them to **playing perpetual catch-up**, eternally subservient to Western economic and technological superiority in a epoch of self-surpassing modernity.24 If the racially Other nations suffer exclusion globally, the racially other minorities inside the liberal loop enjoy the ambiguous benefits of inclusion. As legal immigrants or refugees, they are entitled to the full array of rights and privileges, as citizens (in Canada, France, U.K., U.S—Germany is the exception) they acquire civic and political rights as a matter of law. Formally, they are equal and equally deserving. In theory liberal law is inclusive, but concretely it is routinely **partial and invidious**. Inclusion is conditional: it depends on how robustly the new citizens wear and deploy their cultural difference. Two historical facts account for this phenomenon: liberal law's role in western imperialism and the Western claim of civilizational superiority that pervades the culture that sustains liberal legalism. Liberal law, as the other of the racially Other within its legal jurisdiction, differentiates and locates this other in the enemy camp of the culturally raw, irreducibly foreign, making him an unreliable ally or citizen. Law's suspicion of the others socialized in "lawless" cultures is instinctive and undeniable. Liberal law's constitutive bias is in a sense incidental: the real problem is racism or the racist basis of liberal ideology and culture.25 The internal racial other is not the juridical equal in the mind of liberal law but the juridically and humanly inferior Other, the perpetual foreigner.

### 6

#### US winning the war on terror- no WMD attacks

Oswald 5/30, Rachel Oswald, staff editor for the National Journal and the Global Security Newswire, “Despite WMD fears, terrorists are focused on conventional attacks,” May 30, 2013, <http://www.nationaljournal.com/nationalsecurity/despite-wmd-fears-terrorists-are-focused-on-conventional-attacks-20130417?page=1&utm_source=feedly>

WASHINGTON – The United States has spent billions of dollars to prevent terrorists from obtaining a weapon of mass destruction even as this week’s [bombings in Boston](http://www.nti.org/gsn/article/police-scrutinize-remnants-boston-blasts/) further show that a nuclear weapon or lethal bioagent is not necessary for causing significant harm.¶ Organized group plots against the U.S. homeland since Sept. 11, 2001 have all involved conventional means of attack. Beyond that have been a handful of instances in which individuals used the postal system to deliver disease materials -- notably [this week’s ricin letters](http://www.nti.org/gsn/article/lab-confirms-ricin-letter-sent-senator/) to President Obama and at least one senator and the 2001 anthrax mailings.¶ Terrorism experts offer a range of reasons for why al-Qaida or other violent militants have never met their goal of carrying out a biological, chemical, nuclear or radiological attack on the United States or another nation. These include:¶ -- substantive efforts by the United States and partner nations to secure the most lethal WMD materials;¶ -- improved border security and visa checks that deny entry to possible foreign-born terrorists;¶ -- a lack of imagination and drive on the part of would-be terrorists to pursue the kind of novel but technically difficult attacks that could lead to widespread dispersal of unconventional materials;¶ -- a general haplessness on the part of the native-born U.S. extremists who have pursued WMD attacks, specifically involving weaponized pathogens;¶ -- elimination of most of al-Qaida’s original leadership, notably those members with the most experience orchestrating large-scale attacks abroad; and¶ -- the Arab Spring uprisings have likely drawn down the pool of terrorists with the proper training and focus to organize WMD attacks abroad as they have opted instead to join movements to overthrow governments in places such as Syria and Yemen.¶ “We killed a lot of people. That was one thing,” said Randall Larsen, founding director of the Bipartisan WMD Terrorism Research Center, referring to the deaths in recent years of al-Qaida chief Osama bin Laden and any number of his direct or philosophical adherents.¶ Bin Laden is known to have exhorted his followers to seek weapons of mass destruction for use in attacks against the West. Leading al-Qaida propagandist Anwar al-Awlaki of the group’s Yemen affiliate, who was killed in a 2011 U.S. drone strike, used his Inspire magazine to [encourage sympathizers](http://www.nti.org/gsn/article/al-qaeda-magazine-urges-chemical-biological-strikes-us/) to develop and carry out their own chemical and biological attacks.¶ Al-Qaida also had separate efforts in [Afghanistan](http://www.nti.org/gsn/article/al-qaeda-operatives-discussed-wmd-attacks-while-training-prior-to-911-report-says/) and [Malaysia](http://www.nti.org/gsn/article/us-officials-worried-by-release-of-al-qaeda-bioweapons-operative/) that worked on developing anthrax for use in attacks before they were broken up or abandoned following the September 2001 attacks.¶ In the last decade, the technological means to carry out new kinds of improvised WMD attacks such as those involving [laboratory-engineered pathogens](http://www.nti.org/gsn/article/synthetic-pathogens-might-pose-bioterror-threat-scientists-warn/) has become much more available. However, it can take some time for bad actors to recognize how these new technologies can open the doorway to heretofore unseen massively disruptive terrorist attacks, according to Larsen.¶ Passenger airplanes were flying across the United States for decades before any terrorists realized that they would make a highly destructive improvised weapon when flown at high speeds into skyscrapers filled with thousands of people, Larsen noted.¶ A 2012 analysis by terrorism experts at the New America Foundation detailed a number of disrupted unconventional weapon plots against the country that counterintuitively were much more likely to involve home-grown antigovernment groups and lone-wolf actors than Muslim extremists. "In the past decade, there is no evidence that jihadist extremists in the United States have acquired or attempted to acquire material to construct CBRN weapons," according to authors Peter Bergen and Jennifer Rowland.¶ They documented a [number of failed domestic plots](http://homegrown.newamerica.net/), often involving cyanide or ricin. Only former Army microbiologist Bruce Ivins was successful in actually carrying out such an effort, killing five people with anthrax spores in 2001.¶ “Right-wing and left-wing extremist groups and individuals have been far more likely to acquire toxins and to assemble the makings of radiological weapons than al-Qaida sympathizers,” they said.

#### Geographic restrictions reverse this- create safe heavens that make attacks inevitable

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[Laurie, "Defining the Battlefield in Contemporary Conflict and Counterterrorism: Understanding the Parameters of the Zone of Combat," Georgia Journal of International and Comparative Law, Vol. 39, No. 1, 9-16-10, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=1677965, accessed 8-19-13, mss]

The ramifications of including areas within the zone of combat, such as the accompanying authority to use lethal force as a first resort, raise a variety of policy considerations. The two primary considerations weigh directly against each other and perhaps, as a result, lend credence to the need for a middle ground in defining the zone of combat. First, some argue that creating geographic limits to the battlefield has the problematic effect of granting terrorists a safe haven. For example, a member of al Qaeda can be a legitimate target as a result of continuous participation in hostilities, thus losing any immunity from attack he might have had by dint of being a civilian.105 If the zone of combat is limited geographically to certain areas, then this member of al Qaeda can avoid being targeted—and thus regain civilian immunity, in essence—simply by crossing an international border even while remaining active in a terrorist organization engaged in a conflict with the U.S.106 Geographic limits designed to curtail the use of governmental military force thus effectively grant terrorists a safe haven and extend the conflict by enabling them to regroup and continue their attacks.

#### Terrorism causes extinction- retaliation

Ayson 10 - Professor of Strategic Studies and Director of the Centre for Strategic Studies: New Zealand at the Victoria University of Wellington (Robert, July. “After a Terrorist Nuclear Attack: Envisaging Catalytic Effects.” Studies in Conflict & Terrorism, Vol. 33, Issue 7. InformaWorld.)

But these two nuclear worlds—a non-state actor nuclear attack and a catastrophic interstate nuclear exchange—are not necessarily separable. It is just possible that some sort of terrorist attack, and especially an act of nuclear terrorism, could precipitate a chain of events leading to a massive exchange of nuclear weapons between two or more of the states that possess them. In this context, today’s and tomorrow’s terrorist groups might assume the place allotted during the early Cold War years to new state possessors of small nuclear arsenals who were seen as raising the risks of a catalytic nuclear war between the superpowers started by third parties. These risks were considered in the late 1950s and early 1960s as concerns grew about nuclear proliferation, the so-called n+1 problem. It may require a considerable amount of imagination to depict an especially plausible situation where an act of nuclear terrorism could lead to such a massive inter-state nuclear war. For example, in the event of a terrorist nuclear attack on the United States, it might well be wondered just how Russia and/or China could plausibly be brought into the picture, not least because they seem unlikely to be fingered as the most obvious state sponsors or encouragers of terrorist groups. They would seem far too responsible to be involved in supporting that sort of terrorist behavior that could just as easily threaten them as well. Some possibilities, however remote, do suggest themselves. For example, how might the United States react if it was thought or discovered that the fissile material used in the act of nuclear terrorism had come from Russian stocks,40 and if for some reason Moscow denied any responsibility for nuclear laxity? The correct attribution of that nuclear material to a particular country might not be a case of science fiction given the observation by Michael May et al. that while the debris resulting from a nuclear explosion would be “spread over a wide area in tiny fragments, its radioactivity makes it detectable, identifiable and collectable, and a wealth of information can be obtained from its analysis: the efficiency of the explosion, the materials used and, most important … some indication of where the nuclear material came from.”41 Alternatively, if the act of nuclear terrorism came as a complete surprise, and American officials refused to believe that a terrorist group was fully responsible (or responsible at all) suspicion would shift immediately to state possessors. Ruling out Western ally countries like the United Kingdom and France, and probably Israel and India as well, authorities in Washington would be left with a very short list consisting of North Korea, perhaps Iran if its program continues, and possibly Pakistan. But at what stage would Russia and China be definitely ruled out in this high stakes game of nuclear Cluedo? In particular, if the act of nuclear terrorism occurred against a backdrop of existing tension in Washington’s relations with Russia and/or China, and at a time when threats had already been traded between these major powers, would officials and political leaders not be tempted to assume the worst? Of course, the chances of this occurring would only seem to increase if the United States was already involved in some sort of limited armed conflict with Russia and/or China, or if they were confronting each other from a distance in a proxy war, as unlikely as these developments may seem at the present time. The reverse might well apply too: should a nuclear terrorist attack occur in Russia or China during a period of heightened tension or even limited conflict with the United States, could Moscow and Beijing resist the pressures that might rise domestically to consider the United States as a possible perpetrator or encourager of the attack? Washington’s early response to a terrorist nuclear attack on its own soil might also raise the possibility of an unwanted (and nuclear aided) confrontation with Russia and/or China. For example, in the noise and confusion during the immediate aftermath of the terrorist nuclear attack, the U.S. president might be expected to place the country’s armed forces, including its nuclear arsenal, on a higher stage of alert. In such a tense environment, when careful planning runs up against the friction of reality, it is just possible that Moscow and/or China might mistakenly read this as a sign of U.S. intentions to use force (and possibly nuclear force) against them. In that situation, the temptations to preempt such actions might grow, although it must be admitted that any preemption would probably still meet with a devastating response. As part of its initial response to the act of nuclear terrorism (as discussed earlier) Washington might decide to order a significant conventional (or nuclear) retaliatory or disarming attack against the leadership of the terrorist group and/or states seen to support that group. Depending on the identity and especially the location of these targets, Russia and/or China might interpret such action as being far too close for their comfort, and potentially as an infringement on their spheres of influence and even on their sovereignty. One far-fetched but perhaps not impossible scenario might stem from a judgment in Washington that some of the main aiders and abetters of the terrorist action resided somewhere such as Chechnya, perhaps in connection with what Allison claims is the “Chechen insurgents’ … long-standing interest in all things nuclear.”42 American pressure on that part of the world would almost certainly raise alarms in Moscow that might require a degree of advanced consultation from Washington that the latter found itself unable or unwilling to provide. There is also the question of how other nuclear-armed states respond to the act of nuclear terrorism on another member of that special club. It could reasonably be expected that following a nuclear terrorist attack on the United States, bothRussia and China would extend immediate sympathy and support to Washington and would work alongside the United States in the Security Council. But there is just a chance, albeit a slim one, where the support of Russia and/or China is less automatic in some cases than in others. For example, what would happen if the United States wished to discuss its right to retaliate against groups based in their territory? If, for some reason, Washington found the responses of Russia and China deeply underwhelming, (neither “for us or against us”) might it also suspect that they secretly were in cahoots with the group, increasing (again perhaps ever so slightly) the chances of a major exchange. If the terrorist group had some connections to groups in Russia and China, or existed in areas of the world over which Russia and China held sway, and if Washington felt that Moscow or Beijing were placing a curiously modest level of pressure on them, what conclusions might it then draw about their culpability.

### 1NC – Solvo

#### Circumvention is easy- zone of active hostility/hot battlefield is a legal fiction

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[Geoffrey, former JAG officer and chief of the law of war branch of the international law division of the US Army, Lieutenant Colonel, U.S. Army (Retired), Senate Armed Services Committee Hearing, "The law of armed conflict, the use of military force, and the 2001 Authorization for Use of Military Force," Congressional Documents and Publications, 6-16-13, l/n, accessed 8-23-13, mss]

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

### 1NC Global Warfare

#### US legal modeling fails- can’t shape norms

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The appeal of American constitutionalism as a model for other countries appears to be waning in more ways than one. Scholarly¶ attention has thus far focused on global judicial practice: There is a¶ growing sense, backed by more than purely anecdotal observation,¶ that foreign courts cite the constitutional jurisprudence of the U.S.¶ Supreme Court less frequently than before.247 But the behavior of¶ those who draft and revise actual constitutions exhibits a similar pattern.¶ Our empirical analysis shows that the content of the U.S.¶ Constitution is becoming increasingly atypical by global standards.¶ Over the last three decades, other countries have become less likely to¶ model the rights-related provisions of their own constitutions upon¶ those found in the U.S. Constitution. Meanwhile, global adoption of key structural features of the Constitution, such as federalism, presidentialism, and a decentralized model of judicial review, is at best¶ stable and at worst declining. In sum, rather than leading the way for¶ global constitutionalism, the U.S. Constitution appears instead to be losing its appeal as a model for constitutional drafters elsewhere. The¶ idea of adopting a constitution may still trace its inspiration to the¶ United States, but the manner in which constitutions are written¶ increasingly does not.¶ If the U.S. Constitution is indeed losing popularity as a model for¶ other countries, what—or who—is to blame? At this point, one can¶ only speculate as to the actual causes of this decline, but five possible hypotheses suggest themselves: (1) the advent of a superior or more¶ attractive competitor; (2) a general decline in American hegemony;¶ (3) judicial parochialism; (4) constitutional obsolescence; and (5) a creed of American exceptionalism.¶ With respect to the first hypothesis, there is little indication that¶ the U.S. Constitution has been displaced by any specific competitor.¶ Instead, the notion that a particular constitution can serve as a dominant¶ model for other countries may itself be obsolete. There is an¶ increasingly clear and broad consensus on the types of rights that a¶ constitution should include, to the point that one can articulate the¶ content of a generic bill of rights with considerable precision.248 Yet it is difficult to pinpoint a specific constitution—or regional or international¶ human rights instrument—that is clearly the driving force¶ behind this emerging paradigm. We find only limited evidence that global constitutionalism is following the lead of either newer national¶ constitutions that are often cited as influential, such as those of¶ Canada and South Africa, or leading international and regional¶ human rights instruments such as the Universal Declaration of¶ Human Rights and the European Convention on Human Rights.¶ Although Canada in particular does appear to exercise a quantifiable¶ degree of constitutional influence or leadership, that influence is not¶ uniform and global, but more likely reflects the emergence and evolution¶ of a shared practice of constitutionalism among common law¶ countries.249 Our findings suggest, instead, that the development of¶ global constitutionalism is a polycentric and multipolar process that is¶ not dominated by any particular country.250 The result might be likened¶ to a global language of constitutional rights, but one that has¶ been collectively forged rather than modeled upon a specific¶ constitution.¶ Another possibility is that America’s capacity for constitutional¶ leadership is at least partly a function of American “soft power” more¶ generally.251 It is reasonable to suspect that the overall influence and appeal of the United States and its institutions have a powerful spillover¶ effect into the constitutional arena. The popularity of American¶ culture, the prestige of American universities, and the efficacy of¶ American diplomacy can all be expected to affect the appeal of¶ American constitutionalism, and vice versa. All are elements of an¶ overall American brand, and the strength of that brand helps to determine¶ the strength of each of its elements. Thus, any erosion of the¶ American brand may also diminish the appeal of the Constitution for¶ reasons that have little or nothing to do with the Constitution itself.¶ Likewise, a decline in American constitutional influence of the type¶ documented in this Article is potentially indicative of a broader decline in American soft power.¶ There are also factors specific to American constitutionalism that¶ may be reducing its appeal to foreign audiences. Critics suggest that¶ the Supreme Court has undermined the global appeal of its own jurisprudence¶ by failing to acknowledge the relevant intellectual contributions of foreign courts on questions of common concern252 and by¶ pursuing interpretive approaches that lack acceptance elsewhere.253¶ On this view, the Court may bear some responsibility for the declining¶ influence of not only its own jurisprudence, but also the actual U.S.¶ Constitution: One might argue that the Court’s approach to constitutional¶ issues has undermined the appeal of American constitutionalism¶ more generally, to the point that other countries have become¶ unwilling to look either to American constitutional jurisprudence or¶ to the U.S. Constitution itself for inspiration.254¶ It is equally plausible, however, that responsibility for the¶ declining appeal of American constitutionalism lies with the idiosyncrasies¶ of the Constitution itself rather than the proclivities of the¶ Supreme Court. As the oldest formal constitution still in force and one of the most rarely amended constitutions in the world,255 the U.S.¶ Constitution contains relatively few of the rights that have become¶ popular in recent decades.256 At the same time, some of the provisions¶ that it does contain may appear increasingly problematic, unnecessary,¶ or even undesirable with the benefit of two hundred years of¶ hindsight.257 It should therefore come as little surprise if the U.S.¶ Constitution strikes those in other countries—or, indeed, members of¶ the U.S. Supreme Court258—as out of date and out of line with global¶ practice.259 Moreover, even if the Court were committed to interpreting¶ the Constitution in tune with global approaches, it would still¶ lack the power to update the actual text of the document. Indeed,¶ efforts by the Court to update the Constitution via interpretation may¶ actually reduce the likelihood of formal amendment by rendering such¶ amendment unnecessary as a practical matter.260 As a result, there is¶ only so much that the U.S. Supreme Court can do to make the U.S.¶ Constitution an attractive formal template for other countries. The¶ obsolescence of the Constitution, in turn, may undermine the appeal¶ of American constitutional jurisprudence. Foreign courts have little¶ reason to follow the Supreme Court’s lead on constitutional issues if¶ the Supreme Court is saddled with the interpretation of an unusual¶ and obsolete constitution.261 No amount of ingenuity or solicitude for¶ foreign law on the part of the Court can entirely divert attention from¶ the fact that the Constitution itself is an increasingly atypical¶ document. One way to put a more positive spin on the U.S. Constitution’s¶ status as a global outlier is to emphasize its role in articulating and¶ defining what is unique about American national identity. Many¶ scholars have opined that formal constitutions serve an expressive¶ function as statements of national identity.262 This view finds little¶ support in our own empirical findings, which suggest instead that constitutions¶ tend to contain relatively standardized packages of rights.263¶ Nevertheless, to the extent that constitutions do serve such a function,¶ the distinctiveness of the U.S. Constitution may reflect the uniqueness¶ of America’s national identity. In this vein, various scholars have¶ argued that the U.S. Constitution lies at the very heart of an¶ “American creed of exceptionalism,” which combines a belief that the¶ United States occupies a unique position in the world with a commitment¶ to the qualities that set the United States apart from other countries.¶ 264 From this perspective, the Supreme Court’s reluctance to¶ make use of foreign and international law in constitutional cases¶ amounts not to parochialism, but rather to respect for the exceptional¶ character of the nation and its constitution.265¶ Unfortunately, it is clear that the reasons for the declining influence¶ of American constitutionalism cannot be reduced to anything as¶ simple or attractive as a longstanding American creed of exceptionalism.¶ Historically, American exceptionalism has not prevented other¶ countries from following the example set by American constitutionalism.¶ The global turn away from the American model is a relatively recent development that postdates the Cold War. If the U.S.¶ Constitution does in fact capture something profoundly unique about¶ the United States, it has surely been doing so for longer than the last¶ thirty years.¶ A complete explanation of the declining influence of American¶ constitutionalism in other countries must instead be sought in more¶ recent history, such as the wave of constitution making that followed¶ the end of the Cold War.266 During this period, America’s newfound¶ position as lone superpower might have been expected to create¶ opportunities for the spread of American constitutionalism. But this¶ did not come to pass.¶ Once global constitutionalism is understood as the product of a¶ polycentric evolutionary process, it is not difficult to see why the U.S.¶ Constitution is playing an increasingly peripheral role in that process.¶ No evolutionary process favors a species that is frozen in time. At¶ least some of the responsibility for the declining global appeal of¶ American constitutionalism lies not with the Supreme Court, or with a¶ broader penchant for exceptionalism, but rather with the static character¶ of the Constitution itself. If the United States were to revise the¶ Bill of Rights today—with the benefit of over two centuries of experience,¶ and in a manner that addresses contemporary challenges while¶ remaining faithful to the nation’s best traditions—there is no guarantee¶ that other countries would follow its lead. But the world would¶ surely pay close attention.

#### Drone prolif doesn’t escalate or cause terrorism

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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.

#### China won’t use drones aggressively- rationality checks

**Erickson and Strange 5-29**-13 [Andrew Erickson is an associate professor at the Naval War College and an Associate in Research at Harvard University's Fairbank Centre, Austin Strange is a researcher at the Naval War College's China Maritime Studies Institute, “China has drones. Now how will it use them?” <http://www.nationmultimedia.com/opinion/China-has-drones-Now-how-will-it-use-them-30207095.html>]

Drones, able to dispatch death remotely, without human eyes on their targets or a pilot's life at stake, make people uncomfortable - even when they belong to democratic governments that presumably have some limits on using them for ill. (On May 23, in a major speech, US President Barack Obama laid out what some of those limits are.) An even more alarming prospect is that unmanned aircraft will be acquired and deployed by authoritarian regimes, with fewer checks on their use of lethal force.¶ Those worried about exactly that tend to point their fingers at China. In March, after details emerged that China had considered taking out a drug trafficker in Myanmar with a drone strike, a CNN blog post warned, "Today, it's Myanmar. Tomorrow, it could very well be some other place in Asia or beyond." Around the same time, a National Journal article entitled "When the Whole World Has Drones" teased out some of the consequences of Beijing's drone programme, asking, "What happens if China arms one of its remote-piloted planes and strikes Philippine or Indian trawlers in the South China Sea?"¶ 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 behaviour 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 programme, but according to Ian Easton, an analyst at the Project 2049 Institute, an American think-tank devoted to Asia-Pacific security matters, 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 Myanmar drug trafficker, Naw Kham, makes clear that it would not be out of the question for China to launch a drone strike in a security operation against a non-state actor. Meanwhile, as China's territorial disputes with its neighbours 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.

#### Allies won’t bail- cooperation resilient, empirics prove

**Walt ‘11**[Stephen, the Robert and Renée Belfer professor of international relations at Harvard University, December 5, 2011, “Does the U.S. still need to reassure its allies?” <http://walt.foreignpolicy.com/posts/2011/12/05/us_credibility_is_not_our_problem>]

A perennial preoccupation of U.S. diplomacy has been the perceived need to reassure allies of our reliability. Throughout the Cold War, U.S. leaders worried that any loss of credibility might cause dominoes to fall, lead key allies to "bandwagon" with the Soviet Union, or result in some form of "Finlandization." Such concerns justified fighting so-called "credibility wars" (including Vietnam), where the main concern was not the direct stakes of the contest but rather the need to retain a reputation for resolve and capability. Similar fears also led the United States to deploy thousands of nuclear weapons in Europe, as a supposed counter to Soviet missiles targeted against our NATO allies. The possibility that key allies would abandon us was almost always exaggerated, but U.S. leaders remain overly sensitive to the possibility. So Vice President Joe Biden has been out on the road this past week, telling various U.S. allies that "the United States isn't going anywhere." (He wasn't suggesting we're stuck in a rut, of course, but saying that the imminent withdrawal from Iraq doesn't mean a retreat to isolationism or anything like that.) There's nothing really wrong with offering up this sort of comforting rhetoric, but I've never really understood why U.S. leaders were so worried about the credibility of our commitments to others. For starters, given our remarkably secure geopolitical position, whether U.S. pledges are credible is first and foremost a problem for those who are dependent on U.S. help. We should therefore take our allies' occasional hints about realignment or neutrality with some skepticism; they have every incentive to try to make us worry about it, but in most cases little incentive to actually do it.

#### Syria proves intel cooperation is strong

RT News 9/17- With its first channel launched in December 2005, the RT network now consists of three global news channels broadcasting in English, Spanish and Arabic, RT America broadcasting from a Washington, DC studio and a documentary channel RTDoc. RT has 22 bureaus in 19 countries and territories, with a presence in Washington, New York, London, Berlin, Gaza, Cairo, Baghdad and other key cities and employs over 1000 media professionals around the globe. (“Yes, we can: Obama waives anti-terrorism provisions to arm Syrian rebels”, <http://rt.com/usa/obama-terrorist-arms-supply-966/>)

The Obama administration waived provisions of a federal law which ban the supply of weapons and money to terrorists. The move is opening doors to supplying Syrian opposition with protection from chemical weapons.The Arms Export Control Act (AECA) allows theUS president to waive provisions in Sections 40 and 40A, which forbid providing munitions, credit and licenses to countries supporting acts of terrorism. But those prohibitions can be waived "if the President determines that the transaction is essential to the national security interests of the United States."President Barrack Obama ordered such a waiver for supplying chemical weapons-related assistance to "select vetted members" of Syrian opposition forces, the administration announced on Monday.The announcement came after a UN report, which confirmed that sarin gas was indeed used in Syria on August 21, but didn’t point to either the Syrian army or the rebel forces as the culprits.US ambassador to the UN Samantha Power said she was convinced that details of the report “make clear that only the regime could have carried out this large-scale chemical weapons attack.”But Power’s counterpart from Russia VitalyChurkin said the report has no “airtight proof or conclusions” pointing to the Assad government and that it allows “everyone to draw their own conclusions, hopefully professional and not affected by political pressure.”The US plan to provide chemical weapons-related assistance to Syrian opposition was in the works before the August attack a senior administration official said as cited by NBC News. Under the AEC rules, it will take at least 15 days before any of the materials can be officially shipped to Syria.The Syrian opposition groups are increasingly dominated by radical Islamists, many of them foreign fighters who, the UN says, are involved in numerous crimes committed in Syria. According to estimates of defense consultancy IHS Jane's, more than a half of the forces fighting to topple President Bashar Assad government are jihadists. The US explicitly listed Al-Nusra Front, a powerful Al-Qaeda-linked part of the Syrian opposition, as a terrorist organization.Still, US politicians believe national intelligence community can ensure that the military assistance goes to the right hands."Our intelligence agencies, I think, have a very good handle on who to support and who not to support," Senator Bob Corker said on CBS on Sunday. "And there's going to be mistakes. We understand some people are going to get arms that should not be getting arms. But we still should be doing everything we can to support the free Syrian opposition."The US, France and UK announced their intention to provide more help to the Syrian opposition after a Monday meeting of foreign ministers in Paris. US Secretary of State said the US pursuits a political solution of the Syrian crisis, which would deliver a future Syria without Bashar Assad.The US in the past provided non-lethal aid to the Syrian opposition, like vehicles, night goggles and body armor. CIA also reportedly helped countries like Saudi Arabia and Qatar to smuggle weapons to the rebels.Damascus denied any responsibility for the August sarin attack. But it agreed to dismantle its chemical weapons stockpile after a call from Russia. The move put on hold US plan to use military force against Syria in retaliation for the alleged use of chemical weapons.

### 1NC Europe

#### They have strategically cut the Levanti evidence-

#### First, she concedes that TTIP talks will not cover terrorism

**Levanti ‘13** [Natasha, Masters in European Public Affairs @ Maastricht University, “The Transatlantic Journey – TTIP & Cautious Optimism,” Bursting the Bubble, 2 September 2013, pg. <http://www.europeanpublicaffairs.eu/the-transatlantic-journey-ttip-cautious-optimism/>]

The fight against terror and the future of NATO are not likely to be discussed at the trade talks; however these two issues need to be considered when looking at the current level of general cooperation between Europe and the United States. Both have been led by joint U.S. / European forces and since September 11, 2001, there has most assuredly been a deeper level of communication and cooperation. This is linked in part to other issues such as cybersecurity and data protection, and was, at least in part, some of the reasoning behind recent developments in those two sectors.

#### Second, the conclusion says cooperation on counter-terror is increasing despite multiple alt causes

**Levanti ‘13** [Natasha, Masters in European Public Affairs @ Maastricht University, “The Transatlantic Journey – TTIP & Cautious Optimism,” Bursting the Bubble, 2 September 2013, pg. <http://www.europeanpublicaffairs.eu/the-transatlantic-journey-ttip-cautious-optimism/>]

The Euro-crisis greatly concerns the U.S., given how interconnected, even without the TTIP, the two economies are. Despite the U.S. administration encouraging European leaders to find a workable solution, the U.S. has been unable to play a part in planning for recovery. Many in the United States talk about the trade pact as a way that the U.S. can be allowed involvement in the European economic recovery process. While it still remains highly unlikely that the United States will be allowed involvement in things such as the establishment of a regulatory body for the monetary union present in the E.U., it may increase the power that the U.S. has on those decisions due to the high level of economic dependence between the two within the upcoming TTIP.¶ Two other areas of regulations that appear as touchy subjects on both sides, are that of Sanitary regulations and Phytosanitary regulations. In these two areas in particular, at this point, it seems as if both sides are reluctant to bend regarding the standards that are currently maintained. The regulations under dispute here concern issues such as Genetically Modified Organisms (GMOs), hormone treated meats, and the qualifications for being organic, amongst other issues. It is unlikely that this will be a major rift in the negotiations themselves, but it is an area of anticipated concern.¶ One of the things integral to the economic policies in Europe as well as the United States is Agricultural subsidies. Both have sectors dependent on these economic incentives, which makes their viability better within the internal market, yet it remains to be seen, in order to increase or support forms of transatlantic agricultural trade, if the two very different systems can be integrated. The integration of these two systems, if attempted, could potentially be the biggest challenge of transatlantic trade talks.¶ Another point that could prove to be ‘tough’ at the negotiation table is that of licensing and qualification requirements. In order to increase the work flow across the Atlantic, these requirements need to be somewhat standardized. Since there are licensing or qualification requirements for nearly everything, the discussion of every detail will be time consuming. Of course, here it must then be pointed out that the current trade discussions are intended to be broad based. Yet even if one engages in a broad based discussion of this matter, it will, undeniably, still be complex.¶ THE UNITED STATES AND THE E.U. ALREADY HAS ONE OF THE LARGEST TRADE AND INVESTMENT RELATIONSHIPS IN THE WORLD¶ All these issues aside, it is important for us to bear in mind that the United States and the E.U. already has one of the largest trade and investment relationships in the world. The pact is estimated to boost jobs and growth on both sides of the Atlantic by significant amounts. Every day the E.U. and U.S. trade of goods and services is ~2.7 billion dollars (U.S.). It is also estimated that transatlantic trade supports around 15 million jobs. The ongoing TTIP is estimated to increase these numbers, benefiting both sides. Not only is the European Union and the United States already close on economic issues, but they also have increased their international cooperation and coordination in addressing international security problems, such as counter-terrorism. Despite the challenges that these upcoming talks present, increased transatlantic cooperation concerning trade and investment could potentially be beneficial to all involved on both sides of the Atlantic. So with a little bit of patience, perseverance, and well-mannered negotiations, we all will soon be affected by an ever closer tie between the United States of America and the European Union.

#### Structural factors mean the transatlantic partnership will inevitably fall – and that’s ok – the plan can’t change this

Walt 11 (Stephen M. Walt, professor of international affairs at Harvard University's John F. Kennedy School of Government, October 18, 2011, “The coming erosion of the European Union,” http://walt.foreignpolicy.com/posts/2011/08/18/the\_coming\_erosion\_of\_the\_european\_union///TS)

Third, I argued that the glory days of transatlantic security cooperation also lie in the past, and we will see less cooperative and intimate security partnership between Europe and America in the future. Why do I think so? One obvious reason is the lack of common external enemy. Historically, that is the only reason why the United States was willing to commit troops to Europe, and it is therefore no surprise that America's military presence in Europe has declined steadily ever since the Soviet Union broke up. Simply put: there is no threat to Europe that the Europeans cannot cope with on their own, and thus little role for Americans to play. In addition, the various imperial adventures that NATO has engaged in since 1992 haven't worked out that well. It was said in the 1990s that NATO had to "go out of area or out of business," which is one reason it started planning for these operations, but most of the missions NATO has taken on since then have been something of a bust. Intervention in the Balkans eventually ended the fighting there, but it took longer and cost more than anyone expected and it's not even clear that it really worked (i.e., if NATO peacekeepers withdrew from Kosovo tomorrow, fighting might start up again quite soon). NATO was divided over the war in Iraq, and ISAF's disjointed effort in Afghanistan just reminds us why Napoleon always said he liked to fight against coalitions. The war in Libya could produce another disappointing result, depending on how it plays out. Transatlantic security cooperation might have received a new lease on life if all these adventures had gone swimmingly; unfortunately, that did not prove to be the case. But this raises the obvious question: If the United States isn't needed to protect Europe and there's little positive that the alliance can accomplish anywhere else, then what's it for? Lastly, transatlantic security cooperation will decline because the United States will be shifting its strategic focus to Asia. The central goal of US grand strategy is to maintain hegemony in the Western hemisphere and to prevent other great powers from achieving hegemony in their regions. For the foreseeable future, the only potential regional hegemon is China. There will probably be an intense security competition there, and the United States will therefore be deepening its security ties with a variety of Asian partners. Europe has little role to play in this competition, however, and little or no incentive to get involved. Over time, Asia will get more and more attention from the U.S. foreign policy establishment, and Europe will get less. This trend will be reinforced by demographic and generational changes on both sides of the Atlantic, as the percentage of Americans with strong ancestral connections to Europe declines and as the generation that waged the Cold War leaves the stage. So in addition to shifting strategic interests, some of the social glue that held Europe and America together is likely to weaken as well. It is important not to overstate this trend -- Europe and America won't become enemies, and I don't think intense security competition is going to break out within Europe anytime soon. Europe and the United States will continue to trade and invest with each other, and we will continue to collaborate on a number of security issues (counter-terrorism, intelligence sharing, counter-proliferation, etc.). But Europe won't be America's "go-to" partner in the decades ahead, at least not the way it once was. This will be a rather different world than the one we've been accustomed to for the past 60 years, but that's not necessarily a bad thing. Moreover, because it reflects powerful structural forces, there's probably little we can do to prevent it. Instead, the smart response -- for both Americans and Europeans -- is to acknowledge these tendencies and adapt to them, instead of engaging in a futile effort to hold back the tides of history.

**Miniscule risk of war – multiple warrants**

**Moss 2-10**-2013 (Trefor Moss is an independent journalist based in Hong Kong. He covers Asian politics, defence and security, and was Asia-Pacific Editor at Jane’s Defence Weekly until 2009. “7 Reasons China and Japan Won’t Go To War” http://thediplomat.com/2013/02/10/7-reasons-china-and-japan-wont-go-to-war/?all=true) BW

Rather than attempting to soothe the tensions that built between Beijing and Tokyo in 2012, Abe has struck a combative tone, especially concerning their dispute over the Senkaku/Diaoyu Islands – a keystone for nationalists in both countries. Each time fighter aircraft are scrambled or ships are sent to survey the likely flashpoint, we hear more warnings about the approach of a war that China and Japan now seem almost eager to wage. The Economist, for example,recently observed that, “China and Japan are sliding towards war,” while Hugh White of the Australian National University warned his readers: “Don't be too surprised if the U.S. and Japan go to war with China [in 2013].” News this week of another reckless act of escalation – Chinese naval vessels twice training their radars on their Japanese counterparts – will only have ratcheted up their concerns.

These doomful predictions came as Abe set out his vision of a more hard-nosed Japan that will no longer be pushed around when it comes to sovereignty issues. In his December op-ed on Project Syndicate Abe accused Beijing of performing “daily exercises in coercion” and advocated a “democratic security diamond” comprising Australia, India, Japan and the U.S. (rehashing a concept from the 2007 Quadrilateral Security Dialogue). He then proposed defense spending increases – Japan’s first in a decade – and strengthened security relations with the Philippines and Vietnam, which both share Tokyo’s misgivings about China’s intentions. An alliance-affirming trip to the U.S.is expected soon, and there is talk of Japan stationing F-15s on Shimojijima, close to the disputed Senkaku/Diaoyu islands.

However, Abe would argue that he is acting to strengthen Japan in order to balance a rising China and prevent a conflict, rather than creating the conditions for one.And he undoubtedly has a more sanguine view of the future of Sino-Japanese relations than those who see war as an ever more likely outcome. Of course, there is a chance that Chinese and Japanese ships or aircraft will clash as the dispute over the Senkaku/Diaoyu islands rumbles on; and, if they do, there is a chance that a skirmish could snowball unpredictably into a wider conflict.

But if Shinzo Abe is gambling with the region’s security, he is at least playing the odds. He is calculating that Japan can pursue a more muscular foreign policy without triggering a catastrophic backlash from China, based on the numerous constraints that shape Chinese actions, as well as the interlocking structure of the globalized environment which the two countries co-inhabit. Specifically, there are seven reasons to think that war is a very unlikely prospect, even with a more hawkish prime minister running Japan:

1. Beijing’s nightmare scenario. China might well win a war against Japan, but defeat would also be a very real possibility. As China closes the book on its “century of humiliation” and looks ahead to prouder times, the prospect of a new, avoidable humiliation at the hands of its most bitter enemy is enough to persuade Beijing to do everything it can to prevent that outcome (the surest way being not to have a war at all). Certainly, China’s new leader, Xi Jinping, does not want to go down in history as the man who led China into a disastrous conflict with the Japanese. In that scenario, Xi would be doomed politically, and, as China’s angry nationalism turned inward, the Communist Party probably wouldn’t survive either.

2. Economic interdependence. Win or lose, a Sino-Japanese war would be disastrous for both participants. The flagging economy that Abe is trying to breathe life into with a $117 billion stimulus package would take a battering as the lucrative China market was closed off to Japanese business. China would suffer, too, as Japanese companies pulled out of a now-hostile market, depriving up to 5 million Chinese workers of their jobs, even as Xi Jinping looks to double per capita income by 2020. Panic in the globalized economy would further depress both economies, and potentially destroy the programs of both countries’ new leaders.

**3.** Question marks over **the PLA’s operational effectiveness**. The People’s Liberation Army is rapidly modernizing, but there are concerns about how effective it would prove if pressed into combat today – not least within China’s own military hierarchy. New Central Military Commission Vice-Chairman Xu Qiliang recently told the PLA Daily that too many PLA exercises are merely for show, and that new elite units had to be formed if China wanted to protect its interests. CMC Chairman Xi Jinping has also called on the PLA to improve its readiness for “real combat.” Other weaknesses within the PLA, such as endemic corruption, would similarly undermine the leadership’s confidence in committing it to a risky war with a peer adversary.

4. Unsettled politics. China’s civil and military leaderships remain in a state of flux, with the handover initiated in November not yet complete. As the new leaders find their feet and jockey for position amongst themselves, they will want to avoid big foreign-policy distractions – war with Japan and possibly the U.S. being the biggest of them all.

**5. The unknown quantity of U.S. intervention**

. China has its hawks, such as Dai Xu, who think that the U.S. would never intervene in an Asian conflict on behalf of Japan or any other regional ally. But this view is far too casual. U.S. involvement is a real enough possibility to give China pause, should the chances of conflict increase.

6. China’s policy of avoiding military confrontation. China has always said that it favors peaceful solutions to disputes, and its actions have tended to bear this out. In particular, it continues to usually dispatch unarmed or only lightly armed law enforcement ships to maritime flashpoints, rather than naval ships. There have been calls for a more aggressive policy in the nationalist media, and from some military figures; but Beijing has not shown much sign of heeding them. The PLA Navy made a more active intervention in the dispute this week when one of its frigates trained its radar on a Japanese naval vessel. This was a dangerous and provocative act of escalation, but once again the Chinese action was kept within bounds that made violence unlikely (albeit, needlessly, more likely than before).

7. China’s socialization. China has spent too long telling the world that it poses no threat to peace to turn around and fulfill all the China-bashers’ prophecies. Already, China’s reputation in Southeast Asia has taken a hit over its handling of territorial disputes there. If it were cast as the guilty party in a conflict with Japan –which already has the sympathy of many East Asian countries where tensions China are concerned – China would see regional opinion harden against it further still. This is not what Beijing wants: It seeks to influence regional affairs diplomatically from within, and to realize “win-win” opportunities with its international partners.

In light of these constraints, Abe should be able to push back against China – so long as he doesn’t go too far. He was of course dealt a rotten hand by his predecessor, Yoshihiko Noda, whose bungled nationalization of the Senkaku/Diaoyu islands triggered last year’s plunge in relations. Noda’s misjudgments raised the political temperature to the point where neither side feels able to make concessions, at least for now, in an attempt to repair relations.

However, Abe can make the toxic Noda legacy work in his favor. Domestically, he can play the role of the man elected to untangle the wreckage, empowered by his democratic mandate to seek a new normal in Sino-Japanese relations. Chinese assertiveness would be met with a newfound Japanese assertiveness, restoring balance to the relationship. It is also timely for Japan to push back now, while its military is still a match for China’s. Five or ten years down the line this may no longer be the case, even if Abe finally grows the stagnant defense budget.

Meanwhile, Abe is also pursuing diplomatic avenues. It was Abe who mended Japan’s ties with China after the Koizumi years, and he is now trying to reprise his role as peacemaker, having dispatched his coalition partner, Natsuo Yamaguchi, to Beijing reportedly to convey his desire for a new dialogue. It is hardly surprising, given his daunting domestic laundry list, that Xi Jinping should have responded encouragingly to the Japanese olive branch.

In the end, Abe and Xi are balancing the same equation: They will not give ground on sovereignty issues, but they have no interest in a war – in fact, they must dread it. Even if a small skirmish between Chinese and Japanese ships or aircraft occurs, the leaders will not order additional forces to join the battle unless they are boxed in by a very specific set of circumstances that makes escalation the only face-saving option. The escalatory spiral into all-out war that some envisage once the first shot is fired is certainly not the likeliest outcome, as recurrent skirmishes elsewhere – such as in Kashmir, or along the Thai-Cambodian border – have demonstrated.

#### Zero evidence saying Europe stops cooperating on terrorism- their cards just say it’s an area of friction, not potential collapse

#### US-EU cooperation is resilient despite controversies

**Mix ’13** [Derek E. Mix, Analyst in European Affairs at the Congressional Research Service, “The United States and Europe: Current Issues,” March 30, <http://www.fas.org/sgp/crs/row/RS22163.pdf>]

Due to extensive cooperation on a wide range of issues, the relationship between the United ¶ States and Europe is often called the transatlantic partnership. The two sides have many common ¶ values and concerns, and have grown increasingly interdependent in terms of security and ¶ prosperity. The transatlantic relationship and the main areas of U.S.-European cooperation and ¶ shared interest are likely to have continuing implications for U.S. policy during the 113th¶ Congress. Members of Congress may have an interest in considering the dimensions and ¶ dynamics of current issues in U.S.-European relations in the course of oversight or legislative ¶ activities, or in the context of direct interactions with European legislators and officials. ¶ According to most observers, the overall tone of transatlantic relations during the Obama ¶ Administration has been largely positive. At the same time, a constructive tone does not ¶ necessarily translate into tangible results with regard to foreign policy objectives or other goals. ¶ With respect to certain issues, such as terrorist detainee policy or climate change, U.S. and ¶ European policies have often been at odds and have generated frictions in the relationship from time to time. ¶ This report selects a number of issues that both illustrate the nature of U.S.-European cooperation ¶ based on shared interests and present challenges in terms of the efficacy of such cooperation: ¶ • The United States and the European Union (EU) have the largest trade and ¶ investment relationship in the world. Over the past several years, the Eurozone ¶ crisis has posed a danger to economic recovery and financial stability worldwide. ¶ Members of Congress and Administration officials have been concerned about ¶ the potential effects of the crisis, but avenues for U.S. involvement in resolving it ¶ have remained limited. In early 2013, the United States and the EU announced ¶ their intention to begin negotiations on a comprehensive Transatlantic Trade and ¶ Investment Partnership aimed at boosting jobs and growth on both sides. ¶ • The United States and Europe continue to cooperate closely on a wide range of ¶ foreign policy and international security issues. Many of these challenges are in ¶ the wider Middle East region: countering Iran’s nuclear ambitions, seeking to halt ¶ the violence in Syria, adjusting to the regional transitions of the so-called “Arab ¶ Spring,” and managing the transfer and withdrawal of U.S. and European troops ¶ in Afghanistan. Managing difficult relations with Russia also remains a priority ¶ and common interest of both the United States and Europe. Additionally, in the ¶ context of the pending conclusion of operations in Afghanistan and low defense ¶ spending in many European countries, officials and analysts continue to debate a ¶ number of on-going questions about the future role and capabilities of NATO. ¶ • Europe remains both a primary target of radical Islamist terrorists and a potential ¶ base for those seeking to carry out attacks against the United States. Transatlantic ¶ counterterrorism cooperation has been strong since the terrorist attacks of 9/11, ¶ although U.S.-EU differences regarding data privacy have posed some key ¶ information-sharing challenges. ¶ • Cybersecurity issues have received growing attention and emphasis on both sides ¶ of the Atlantic. Although some differences exist regarding regulation of the ¶ Internet, the United States and the EU have pursued initiatives to deepen ¶ cybersecurity cooperation and counter cybercrime. • In 2012, the U.S. Congress passed legislation prohibiting U.S. aircraft operators ¶ from participating in the EU Emissions Trading System (ETS). Airlines ¶ participating in the ETS must purchase carbon allowances in order to offset CO2 ¶ emissions. The EU has delayed implementing the international application of the ¶ ETS for aviation pending negotiations on a broader multilateral agreement. ¶ • Concerned by Europe’s reliance on Russian energy, many U.S. officials and ¶ analysts regard European energy security as a U.S. interest. With its energy ¶ import needs expected to rise, Europe has had mixed success in seeking ways to ¶ diversify its energy supplies and consolidate its internal energy market. ¶ As the United States and Europe face a changing geopolitical environment, some ¶ observers assert that the global influence of the Euro-Atlantic partnership is in decline. In ¶ addition, the Obama Administration’s announced “re-balancing” toward Asia has caused ¶ some anxiety among Europeans. Overall, however, most analysts maintain that the ¶ United States and Europe are likely to remain one another’s closest partner, and that U.S.-¶ European cooperation is likely to remain the foundation of international action on a wide ¶ range of critical issues.

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## Solvo Inter

#### OLC opinions bind executive action and are perceived internationally

Harris 5 (George C., Professor of Law – University of the Pacific McGeorge School of Law, “The Professional Responsibilities of Executive Branch Lawyers in the Wake of 9/11,” Journal of National Security Law & Policy, 1 J. Nat'l Security L. & Pol'y 409, Lexis)

C. The Role of Government Lawyers in Formulating the Unlawful Enemy Combatant Doctrine

In the months following 9/11, the OLC responded to requests from the White House and the Department of Defense for interpretation of domestic and international law bearing on the detention and treatment of terrorism suspects. OLC lawyers surely understood not only the urgency and significance of those requests, but also the profound implications of the issues raised for international relations and the rule of law itself.

[\*428] If those lawyers consulted the professional canons at this historic moment, they found, as demonstrated above, somewhat varied and equivocal guidance. Even approaching their responsibilities in the narrowest possible way, however, as parallel to the duties of a private lawyer asked by an organizational client for guidance regarding the limits of legal conduct, certain guiding principles should have been uncontroversial.

As expressed in Model Rules 1.2 and 2.1, they were obligated: (1) to provide advice, not advocacy - an honest and objective assessment of the actual legal and other consequences likely to result from any proposed courses of conduct, including the risks associated with those courses of conduct; (2) not to confine themselves to technical legal advice, if broader moral and ethical considerations were relevant; and (3) not to counsel any criminal conduct or recommend any means by which a crime might be committed with impunity. Whether or not those lawyers had broader, constitutional duties in light of their high office and oath, as a simple matter of competence and diligence n89 they were obligated to consider: (1) relevant executive branch as well as judicial precedent, including any history of prior executive branch opinions on related topics; and (2) likely responses to any proposed course of conduct by other government officials or parties that would be of consequence to the client.

The OLC lawyers who authored the Opinion Memos were not, however, merely lawyers for a private organizational client. The Assistant Attorney General in charge of the OLC was himself a high government official, appointed by the President and confirmed by the Senate. He and all of his deputies had taken oaths to uphold the Constitution and laws of the United States. n90 In preparing opinion memos for the President and other executive branch officials, they were exercising authority, given to the Attorney General by Congress in the Judiciary Act of 1789 and delegated by the Attorney General to the OLC, to determine the legal boundaries of executive power and discretion under the Constitution and laws. They knew that their opinions would likely guide the conduct of the President and bind the rest of the executive branch.

As noted above, commentators with OLC experience have differed regarding if and when the OLC's role should be quasi-judicial rather than client-centered. Unlike many of the opinion requests routinely discharged by the OLC that are subject to immediate judicial testing through the adversary [\*429] process - such as, for example, the constitutionality and effect of proposed legislation or the soundness of the government's proposed litigation posture-OLC lawyers understood that the requests addressed by the post-9/11 Opinion Memos had immediate implications for executive action that would be reviewed, if ever, only after the implementation of executive policies with potentially far-reaching impact on domestic and international affairs. Indeed, the Opinion Memos opined that the President's determination of some of these matters would never be subject to judicial review. n91

In this context, the quasi-judicial model championed by former OLC chief Randolph Moss a year before the 9/11 attacks n92 seems particularly appropriate. Guardianship of the rule of law itself lay conspicuously in the OLC's in-box. Advising the President on whether he could unilaterally suspend or disregard treaty obligations or customary international law would be reckless on anything but the "best view" of the law arrived at after full consideration of relevant executive branch as well as judicial precedent.

McGinnis 93 (John O., Assistant Professor – Benjamin N. Cardozo School of Law, “Models of the Opinion Function of the Attorney General: A Normative, Descriptive, and Historical Prolegomenon,” Cardozo Law Review, October, 15 Cardozo L. Rev. 375, Lexis)

The judiciary is not the only branch of government that offers authoritative constructions of the Constitution and other federal laws. Since the beginning of the Republic, the executive branch has made [\*376] formal pronouncements on constitutional and statutory issues of such a substantial scope and variety that they rival the opinions of the Supreme Court. A public recording of the executive branch's most authoritative legal voice is contained in forty-three volumes of published opinions of the Attorney General and sixteen volumes of published opinions of the Office of Legal Counsel ("OLC") - the office to which the Attorney General now delegates the great majority of his legal opinion writing. n1 These published opinions are only the tip of the iceberg. In OLC's library sit at least five filing cabinets of largely unpublished opinions dating from the time of OLC's creation in 1932. Biographies of former Attorneys General also report the existence of important unpublished opinions and memoranda of advice from past Attorneys General. n2

These opinions comprise the largest body of official interpretation of the Constitution and statutes outside the volumes of the federal court reporters. Moreover, many of the opinions are the final word on the law because judicial resolution of the legal issue is unavailable. Yet, while the Supreme Court's work has been subjected to detailed and disparate analysis by historians, political scientists, and law professors, the opinion work of the Attorney General and his modern principal delegate - the OLC - has never been systematically addressed.

**POSNER & VERMEULE 2006** --- \*Prof of Law at U Chicago, AND \*\* Prof of Law at Harvard (9/19/2006, Eric A. Posner & Adrian Vermeule, “The Credible Executive,” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=931501)>)

IV. Executive Signaling: Law and Mechanisms

We suggest that the executive’s credibility problem can be solved by second-order mechanisms of executive signaling. In the general case, well-motivated executives send credible signals by taking actions that are more costly for ill-motivated actors than for well-motivated ones, thus distinguishing themselves from their ill-motivated mimics. Among the specific mechanisms we discuss, an important subset involve executive self-binding, whereby executives commit themselves to a course of action that would impose higher costs on ill-motivated actors. Commitments themselves have value as signals of benign motivations.

This departs from the usual approach in legal scholarship. Legal theory has often discussed self-binding by “government” or government officials. In constitutional theory, it is often suggested that constitutions represent an attempt by “the people” to bind “themselves” against their own future decisionmaking pathologies, or relatedly that constitutional prohibitions represent mechanisms by which governments commit themselves not to expropriate investments or to exploit their populations.71 Whether or not this picture is coherent,72 it is not the question we examine here, although some of the relevant considerations are similar.73 We are not concerned with binding the president so that he cannot abuse his powers, but with how he might bind himself or take other actions that enhance his credibility, so that he can generate support from the public and other members of the government.

Furthermore, our question is subconstitutional; it is whether a well-motivated executive, acting within an established set of constitutional and statutory rules, can use signaling to generate public trust. Accordingly we proceed by assuming that no constitutional amendments or new statutes will be enacted. Within these constraints, what can a well-motivated executive do to bootstrap himself to credibility? The problem for the well-motivated executive is to credibly signal his benign motivations; in general, the solution is to engage in actions that are less costly for good types than for bad types.

We begin with some relevant law; then examine a set of possible mechanisms, emphasizing both the conditions under which they might succeed and the conditions under which they might not; and then examine the costs of credibility.

A. A Preliminary Note on Law and Self-Binding

Many of our mechanisms are unproblematic from a legal perspective, as they involve presidential actions that are clearly lawful. But a few raise legal questions; in particular, those that involve self-binding.74 Can a president bind himself to respect particular first-order policies? With qualifications, the answer is “yes, at least to the same extent that a legislature can.” Formally, a duly promulgated executive rule or order binds even the executive unless and until it is validly abrogated, thereby establishing a new legal status quo.75 The legal authority to establish a new status quo allows a president to create inertia or political constraints that will affect his own future choices. In a practical sense, presidents, like legislatures, have great de facto power to adopt policies that shape the legal landscape for the future**.** A president might commit himself to a long-term project of defense procurement or infrastructure or foreign policy, narrowing his own future choices and generating new political coalitions that will act to defend the new rules or policies.

More schematically, we may speak of formal and informal means of self-binding:

(1) The president might use formal means to bind himself. This is possible in the sense that an executive order, if otherwise valid, legally binds the president while it is in effect and may be enforced by the courts. It is not possible in the sense that the president can always repeal the executive order if he can bear the political and reputational costs of doing so.

(2) The president might use informal means to bind himself. This is not only possible but frequent and important. Issuing an executive rule providing for the appointment of special prosecutors, as Nixon did, is not a formal self-binding.76 However, there may be large political costs to repealing the order. This effect does not depend on the courts’ willingness to enforce the order, even against Nixon himself. Court enforcement makes the order legally binding while it is in place, but only political and reputational enforcement can protect it from repeal. Just as a dessert addict might announce to his friends that he is going on a no-dessert diet in order to raise the reputational costs of backsliding and thus commit himself, so too the repeal of an executive order may be seen as a breach of faith even if no other institution ever enforces it.

In what follows, we will invoke both formal and informal mechanisms. For our purposes, the distinction between the authority to engage in de jure self-binding (legally limited and well-defined) and the power to engage in de facto self-binding (broad and amorphous) is secondary. So long as policies are deliberately chosen with a view to generating credibility, and do so by constraining the president’s own future choices in ways that impose greater costs on ill-motivated presidents than on well-motivated ones, it does not matter whether the constraint is formal or informal.

B. Mechanisms

What signaling mechanisms might a well-motivated executive adopt to credibly assure voters, legislators and judges that his policies rest on judgments about the public interest, rather than on power-maximization, partisanship or other nefarious motives? Intrabranch separation of powers. In an interesting treatment of related problems, Neal Katyal suggests that the failure of the Madisonian system counsels “internal separation of powers” within the executive branch.77 Abdication by Congress means that there are few effective checks on executive power; second-best substitutes are necessary. Katyal proposes some mechanisms that would be adopted by Congress, such as oversight hearings by the minority party, but his most creative proposals are for arrangements internal to the executive branch, such as redundancy and competition among agencies, stronger civil-service protections and internal adjudication of executive controversies by insulated “executive” decisionmakers who resemble judges in many ways.78Katyal’s argument is relevant because the mechanisms he discusses might be understood as signaling devices, but his overall approach is conceptually flawed, on two grounds. First, the assumption that second-best constraints on the executive should reproduce the Madisonian separation of powers within the executive branch is never defended. The idea seems to be that this is as close as we can get to the first-best, while holding constant everything else in our constitutional order. But the general theory of second-best states that approaching as closely as possible to the first-best will not necessarily be the preferred strategy;79 the best approach may be to adjust matters on other margins as well, in potentially unpredictable ways. If the Madisonian system has failed in the ways Katyal suggests, the best compensating adjustment might be, for all we know, to switch to a parliamentary system. (We assume that no large-scale changes of this sort are possible, whereas Katyal seemingly assumes that they are, or at least does not make clear his assumptions in this regard). Overall, Katyal’s view has a kind of fractal quality – each branch should reproduce within itself the very same separation of powers structure that also describes the whole system – but it is not explained why the constitutional order should be fractal.

Second, Katyal’s proposals for internal separation of powers are self-defeating: the motivations that Katyal ascribes to the executive are inconsistent with the executive adopting or respecting the prescriptions Katyal recommends.80 Katyal never quite says so explicitly, but he clearly envisions the executive as a power-maximizing actor, in the sense that the president seeks to remove all constraints on his current choices.81 Such an executive would not adopt or enforce the internal separation of powers to check himself. Executive signaling is not, even in principle, a solution to the lack of constraints on a power-maximizing executive in the sense Katyal implicitly intends. Although an illmotivated executive might bind himself to enhance his strategic credibility, as explained above, he would not do so in order to restore the balance of powers. Nor is it possible, given Katyal’s premise of legislative passivity or abdication, that Congress would force the internal separation of powers on the executive. In what follows, we limit ourselves to proposals that are consistent with the motivations, beliefs, and political opportunities that we ascribe to the well-motivated executive, to whom the proposals are addressed. This limitation ensures that the proposals are not self-defeating, whatever their costs.

The contrast here must not be drawn too simply. A well-motivated executive, in our sense, might well attempt to increase his power. The very point of demonstrating credibility is to encourage voters and legislators to increase the discretionary authority of the executive, where all will be made better off by doing so. Scholars such as Katyal who implicitly distrust the executive, however, do not subscribe to this picture of executive motivations. Rather, they see the executive as an unfaithful agent of the voters; the executive attempts to maximize his power even where fully-informed voters would prefer otherwise. An actor of that sort will have no incentive to adopt proposals intended to constrain that sort of actor.

Independent commissions. We now turn to some conceptually coherent mechanisms of executive signaling. Somewhat analogously to Katyal’s idea of the internal separation of powers, a well-motivated executive might establish independent commissions to review policy decisions, either before or after the fact. Presidents do this routinely, especially after a policy has had disastrous outcomes, but sometimes beforehand as well. Independent commissions are typically blue-ribbon and bipartisan.82

We add to this familiar process the idea that the President might gain credibility by publicly committing or binding himself to give the commission authority on some dimension. The president might publicly promise to follow the recommendations of such a commission, or to allow the commission to exercise de facto veto power over a policy decision before it is made, or might promise before the policy is chosen that the commission will be given power to review its success after the fact. To be sure, there will always be some wiggle room in the terms of the promise, but that is true of almost all commitments, which raise the costs of wiggling out even if they do not completely prevent it.

Consider whether George W. Bush’s credibility would have been enhanced had he appointed a blue-ribbon commission to examine the evidence for weapons of mass destruction in Iraq before the 2003 invasion, and publicly promised not to invade unless the commission found substantial evidence of their existence. Bush would have retained his preexisting legal authority to order the invasion even if the commission found the evidence inadequate, but the political costs of doing so would have been large. Knowing this, and knowing that Bush shared that knowledge, the public could have inferred that Bush’s professed motive – elimination of weapons of mass destruction – was also his real motive. Public promises that inflict reputational costs on badly motivated behavior help the well-motivated executive to credibly distinguish himself from the ill-motivated one.

The more common version of this tactic is to appoint commissions after the relevant event, as George W. Bush did to investigate the faulty reports by intelligence agencies that Iraq possessed weapons of mass destruction.83 If the president appoints after-the-fact commissions, the commissions can enhance his credibility for the next event—by showing that he will be willing, after that event, to subject his statements to scrutiny by public experts. Here, however, the demonstration of credibility is weaker, because there is no commitment to appoint any after-the-fact commissions in the future – merely a plausible inference that the president’s future behavior will track his past behavior.

Bipartisan appointments. In examples of the sort just mentioned, the signaling arises from public position-taking. The well-motivated executive might produce similar effects through appointments to office.84 A number of statutes require partisan balance on multimember commissions; although these statutes are outside the scope of our discussion, we note that presidents might approve them because they allow the president to commit to a policy that legislators favor, thus encouraging legislators to increase the scope of the delegation in the first place.85 For similar reasons, presidents may consent to restrictions on the removal of agency officials, because the restriction enables the president to commit to giving the agency some autonomy from the president’s preferences.86

Similar mechanisms can work even where no statutes are in the picture. As previously mentioned, during World War II, FDR appointed Republicans to important cabinet positions, making Stimson his Secretary of War. Clinton appointed William Cohen, a moderate Republican, as Secretary of Defense in order to shore up his credibility on security issues. Bipartisanship of this sort might improve the deliberation that precedes decisions, by impeding various forms of herding, cascades and groupthink;87 however, we focus on its credibility-generating effects. By (1) expanding the circle of those who share the president’s privileged access to information, (2) ensuring that policy is partly controlled by officials with preferences that differ from the president’s, and (3) inviting a potential whistleblower into the tent, bipartisanship helps to dispel the suspicion that policy decisions rest on partisan motives or extreme preferences, which in turn encourages broader delegations of discretion from the public and Congress.

A commitment to bipartisanship is only one way in which appointments can generate credibility. Presidents might simply appoint a person with a reputation for integrity, as when President Nixon appointed Archibald Cox as special prosecutor (although plausibly Nixon did so because he was forced to do so by political constraints, rather than as a tactic for generating credibility). A person with well-known preferences on a particular issue, even if not of the other party or widely respected for impartiality, can serve as a credible whistleblower on that issue. Thus presidents routinely award cabinet posts to leaders of subsets of the president’s own party, leaders whose preferences are known to diverge from the president’s on the subject; one point of this is to credibly assure the relevant interest groups that the president will not deviate (too far) from their preferences.

The Independent Counsel Statute institutionalized the special prosecutor and strengthened it. But the statute proved unpopular and was allowed to lapse in 1999.88 This experience raises two interesting questions. First, why have presidents confined themselves to appointing lawyers to investigate allegations of wrongdoing; why have they not appointed, say, independent policy experts to investigate allegations of policy failure? Second, why did the Independent Counsel Statute fail? Briefly, the statute failed because it was too difficult to control the behavior of the prosecutor, who was not given any incentive to keep his investigation within reasonable bounds.89 Not surprisingly, policy investigators would be even less constrained since they would not be confined by the law, and at the same time, without legal powers they would probably be ignored on partisan grounds. A commission composed of members with diverse viewpoints is harder to ignore, if the members agree with each other.

More generally, the decision by presidents to bring into their administrations members of other parties, or persons with a reputation for bipartisanship and integrity, illustrates the formation of domestic coalitions of the willing. Presidents can informally bargain around the formal separation of powers90 by employing subsets of Congress, or of the opposing party, to generate credibility while maintaining a measure of institutional control. FDR was willing to appoint Knox and Stimson, but not to give the Republicans in Congress a veto. Truman was willing to ally with Arthur Vandenbergh but not with all the Republicans; Clinton was willing to appoint William Cohen but not Newt Gingrich. George W. Bush likewise made a gesture towards credibility by briefing members of the Senate Intelligence Committee – including Democrats – on the administration’s secret surveillance program(s), which provided a useful talking point when the existence of the program(s) was revealed to the public.

Counter-partisanship. Related to bipartisanship is what might be called counterpartisanship: presidents have greater credibility when they choose policies that cut against the grain of their party’s platform or their own presumed preferences.91 Only Nixon could go to China, and only Clinton could engineer welfare reform. Voters and publics rationally employ a political heuristic: the relevant policy, which voters are incapable of directly assessing, must be highly beneficial if it is chosen by a president who is predisposed against it by convictions or partisan loyalty.92 Accordingly, those who wish to move U.S. terrorism policy towards greater security and less liberty might do well to support the election of a Democrat.93 By the same logic, George W. Bush is widely suspected of nefarious motives when he rounds up alleged enemy combatants, but not when he creates a massive prescription drug benefit.

Counter-partisanship can powerfully enhance the president’s credibility, but it depends heavily on a lucky alignment of political stars. A peace-loving president has credibility when he declares a military emergency but not when he appeases; a belligerent president has credibility when he offers peace but not when he advocates military solutions. A lucky nation has a well-motivated president with a belligerent reputation when international tensions diminish (Ronald Reagan) and a president with a pacific reputation when they grow (Abraham Lincoln, who opposed the Mexican War). But a nation is not always lucky.

Transparency. The well-motivated executive might commit to transparency, as a way to reduce the costs to outsiders of monitoring his actions.94 The FDR strategy of inviting potential whistleblowers from the opposite party into government is a special case of this; the implicit threat is that the whistleblower will make public any evidence of partisan motivations. The more ambitious case involves actually exposing the executive’s decisionmaking processes to observation. To the extent that an ill-motivated executive cannot publicly acknowledge his motivations or publicly instruct subordinates to take them into account in decisionmaking, transparency will exclude those motivations from the decisionmaking process. The public will know that only a well-motivated executive would promise transparency in the first place, and the public can therefore draw an inference to credibility.

Credibility is especially enhanced when transparency is effected through journalists with reputations for integrity or with political preferences opposite to those of the president. Thus George W. Bush gave Bob Woodward unprecedented access to White House decisionmaking, and perhaps even to classified intelligence,95 with the expectation that the material would be published. This sort of disclosure to journalists is not real-time transparency – no one expects meetings of the National Security Council to appear on CSPAN – but the anticipation of future disclosure can have a disciplining effect in the present. By inviting this disciplining effect, the administration engages in signaling in the present through (the threat of) future transparency.

There are complex tradeoffs here, because transparency can have a range of harmful effects. As far as process is concerned, decisionmakers under public scrutiny may posture for the audience, may freeze their views or positions prematurely, and may hesitate to offer proposals or reasons for which they can later be blamed if things go wrong.96 As for substance, transparency can frustrate the achievement of programmatic or policy goals themselves. Where security policy is at stake, secrecy is sometimes necessary to surprise enemies or to keep them guessing. Finally, one must take account of the incentives of the actors who expose the facts—especially journalists who might reward presidents who give them access by portraying their decisionmaking in a favorable light.97

We will take up the costs of credibility shortly.98 In general, however, the existence of costs does not mean that the credibility-generating mechanisms are useless. Quite the contrary: where the executive uses such mechanisms, voters and legislators can draw an inference that the executive is well-motivated, precisely because the existence of costs would have given an ill-motivated executive an excuse not to use those mechanisms.

## AT links to ptx

Flow

#### No opposition to the CP

POSNER 2011 - Kirkland & Ellis Professor, University of Chicago Law School (Eric A. Posner, “Deference To The Executive In The United States After September 11: Congress, The Courts, And The Office Of Legal Counsel”, http://www.harvard-jlpp.com/wp-content/uploads/2012/01/PosnerFinal.pdf)

In such a case, a favorable advisory opinion from a neutral legal body that has credibility with Congress will help the President. 49 OLC approval of Policy L would cause political opposition (to the extent that it is based on the mistaken belief that Policy L is unlawful) to melt away. Thus, the OLC enables the President to engage in Policy L, when without OLC participation that might be impossible. True, the OLC will not enable the President to engage in Policy I, assuming OLC is neutral. Indeed, OLC’s negative reaction to Policy I might stiffen Congress’s resistance. Nevertheless, the President will use the OLC only because he believes that on average, the OLC will strengthen his hand.

#### Obama can do it – their author is a neg card says cp solves signaling

Zenko, CFR Fellow, 13 (Micah, is the Douglas Dillon fellow in the Center for Preventive Action (CPA) at the Council on Foreign Relations (CFR)., “Reforming U.S. Drone Strike Policies,” http://www.cfr.org/wars-and-warfare/reforming-us-drone-strike-policies/p29736)

In his Nobel Peace Prize acceptance speech, President Obama declared: “Where force is necessary, we have a moral and strategic interest in binding ourselves to certain rules of conduct. Even as we confront a vicious adversary that abides by no rules, I believe the United States of America must remain a standard bearer in the conduct of war.”63 Under President Obama drone strikes have expanded and intensified, and they will remain a central component of U.S. counterterrorism operations for at least another decade, according to U.S. officials.64 But much as the Bush administration was compelled to reform its controversial counterterrorism practices, it is likely that the United States will ultimately be forced by domestic and international pressure to scale back its drone strike policies. The Obama administration can preempt this pressure by clearly articulating that the rules that govern its drone strikes, like all uses of military force, are based in the laws of armed conflict and international humanitarian law; by engaging with emerging drone powers; and, most important, by matching practice with its stated policy by limiting drone strikes to those individuals it claims are being targeted (which would reduce the likelihood of civilian casualties since the total number of strikes would significantly decrease). The choice the United States faces is not between unfettered drone use and sacrificing freedom of action, but between drone policy reforms by design or drone policy reforms by default. Recent history demonstrates that domestic political pressure could severely limit drone strikes in ways that the CIA or JSOC have not anticipated. In support of its counterterrorism strategy, the Bush administration engaged in the extraordinary rendition of terrorist suspects to third countries, the use of enhanced interrogation techniques, and warrantless wiretapping. Although the Bush administration defended its policies as critical to protecting the U.S. homeland against terrorist attacks, unprecedented domestic political pressure led to significant reforms or termination. Compared to Bush-era counterterrorism policies, drone strikes are vulnerable to similar—albeit still largely untapped—moral outrage, and they are even more susceptible to political constraints because they occur in plain sight. Indeed, a negative trend in U.S. public opinion on drones is already apparent. Between February and June 2012, U.S. support for drone strikes against suspected terrorists fell from 83 percent to 62 percent—which represents less U.S. support than enhanced interrogation techniques maintained in the mid-2000s.65 Finally, U.S. drone strikes are also widely opposed by the citizens of important allies, emerging powers, and the local populations in states where strikes occur.66 States polled reveal overwhelming opposition to U.S. drone strikes: Greece (90 percent), Egypt (89 percent), Turkey (81 percent), Spain (76 percent), Brazil (76 percent), Japan (75 percent), and Pakistan (83 percent).67 This is significant because the United States cannot conduct drone strikes in the most critical corners of the world by itself. Drone strikes require the tacit or overt support of host states or neighbors. If such states decided not to cooperate—or to actively resist—U.S. drone strikes, their effectiveness would be immediately and sharply reduced, and the likelihood of civilian casualties would increase. This danger is not hypothetical. In 2007, the Ethiopian government terminated its U.S. military presence after public revelations that U.S. AC-130 gunships were launching attacks from Ethiopia into Somalia. Similarly, in late 2011, Pakistan evicted all U.S. military and intelligence drones, forcing the United States to completely rely on Afghanistan to serve as a staging ground for drone strikes in Pakistan. The United States could attempt to lessen the need for tacit host-state support by making significant investments in armed drones that can be flown off U.S. Navy ships, conducting electronic warfare or missile attacks on air defenses, allowing downed drones to not be recovered and potentially transferred to China or Russia, and losing access to the human intelligence networks on the ground that are critical for identifying targets. According to U.S. diplomats and military officials, active resistance— such as the Pakistani army shooting down U.S. armed drones— is a legitimate concern. In this case, the United States would need to either end drone sorties or escalate U.S. military involvement by attacking Pakistani radar and antiaircraft sites, thus increasing the likelihood of civilian casualties.68 Beyond where drone strikes currently take place, political pressure could severely limit options for new U.S. drone bases. For example, the Obama administration is debating deploying armed drones to attack al-Qaeda in the Islamic Maghreb (AQIM) in North Africa, which would likely require access to a new airbase in the region. To some extent, anger at U.S. sovereignty violations is an inevitable and necessary trade-off when conducting drone strikes. Nevertheless, in each of these cases, domestic anger would partially or fully abate if the United States modified its drone policy in the ways suggested below.

#### Internal constraints are key neg ground – it matches the academic debate

Sinnar, assistant professor of law at Stanford Law School, May 2013

(Shirin, “Protecting Rights from Within? Inspectors General and National Security Oversight,” 65 Stan. L. Rev. 1027, Lexis)

More than a decade after September 11, 2001, the debate over which institutions of government are best suited to resolve competing liberty and national security concerns continues unabated. While the Bush Administration's unilateralism in detaining suspected terrorists and authorizing secret surveillance initially raised separation of powers concerns, the Obama Administration's aggressive use of drone strikes to target suspected terrorists, with little oversight, demonstrates how salient these questions remain. Congress frequently lacks the [\*1029] information or incentive to oversee executive national security actions that implicate individual rights. Meanwhile, courts often decline to review counterterrorism practices challenged as violations of constitutional rights out of concern for state secrets or institutional competence. n1

These limitations on traditional external checks on the executive - Congress and the courts - have led to increased academic interest in potential checks within the executive branch. Many legal scholars have argued that executive branch institutions supply, or ought to supply, an alternative constraint on executive national security power. Some argue that these institutions have comparative advantages over courts or Congress in addressing rights concerns; others characterize them as a second-best option necessitated by congressional enfeeblement and judicial abdication.

## Conod

**Multiple condo options are good –**

**Logical decision making – if there are multiple costs to a policy then we can’t just ignore some of them – the terminal impact to debate is to create good decision makers who can determine what is a cost to a policy**

**2AC strategic thinking – condo forces the 2ac to tailor their straight turns to what the CP can’t solve – this is linear, the more condo options the more it increases analytic education**

**Structural bias justifies – the persuasive value of the 2AR outweighs the benefit of the block and they get to pick the focus of the debate – multiple options are key to overwhelm their specificity bias – if potential abuse is an impact, then we need multiple condo options against new affs because we don’t know what tricks the 2AC will have**

**[No argument irresponsibility]:**

1. **It’s no different than choosing not to go for a link turn on politics**
2. **We’ll inevitably research for the sake of better evidence and new arguments**
3. **1 condo doesn’t solve – it’s still a no risk option to introduce the option**

**[No strat skew]:**

1. **No solvency deficit or add-on against the CP will hurt them – if we revert to the status quo they get back 8 minutes of offense the CP might have captured**
2. **1 condo doesn’t solve contradictions – we could read an econ DA and cap K**
3. **It’s inevitable – we could read more DAs or T violations and some teams are just faster**
4. **2nr checks – collapsing our strategy allows the 2AR to frame the debate in response**

**Theory interpretations are illegitimate – they allow the affirmative to arbitrarily allow practices that are *slightly* better for them, creating a race to the bottom that incentivizes going for theory over substance – if they get interpretations we’ll only allow 2 condo worlds (justification)**

**Not a voting issue – worst case you stick us with the advocacy**

## Terror DA

## 2NC – Geo Restriction

#### Geographic restrictions means that terror groups can circumvent the us drone opps by border hoping – gaining immunity means that loclas support them and the us cant drone them. This has a few implications

#### Makes terror effecitive – where they are operating does not matter, search for safe havens means that a place to coordinate is all they need. Turns the case and makes terror inev – there are already terrorists who want to kill us, going back would just make their job easier

#### Safe havens key to global operations

CRT, 6 [Country Reports on Terrorism, annual report published by the U.S. Department of State, "Chapter 3 -- Terrorist Safe Havens," 4-28-6, www.state.gov/j/ct/rls/crt/2005/, accessed 8-19-13, mss]

Physical safe havens provide security for many senior terrorist leaders, allowing them to plan and to inspire acts of terrorism around the world. The presence of terrorist safe havens in a nation or region is not necessarily related to state sponsorship of terrorism. In most instances cited in this chapter, areas or communities serve as terrorist safe havens despite the government’s best efforts to prevent this. Denying terrorists safe haven plays a major role in undermining terrorists’ capacity to operate effectively, and thus forms a key element of U.S. counterterrorism strategy as well as the cornerstone of UN Security Council Resolution 1373 that was adopted in September 2001. UNSCR 1373 specifically targets terrorists’ ability to move across international borders and find safe haven, to solicit and move funds, and to acquire weapons; it also calls on states that do not have laws criminalizing terrorist activity and support to enact such laws.

#### Geographic limits cause terror safe havens and cedes control to I-law violators

**Lewis ’12** [Michael W., Associate Professor of Law at Ohio Northern University Pettit College of Law, “Drones and the Boundaries of the Battlefield,” <http://www.tilj.org/content/journal/47/num2/Lewis293.pdf>]

The legal support for applying strict geographical limitations on the scope of ¶ IHL to all non-international armed conflicts, rather than just internal civil wars, is ¶ based upon a misapplication of the Tadic test. As explained earlier, consideration of ¶ the Tadic factors makes sense in internal conflicts and civil wars where the violence is ¶ often episodic and geographically concentrated in one area of the country.114 Broadly ¶ applying the laws of war throughout a nation during a time of rebellion is often ¶ unnecessary and likely to lead to improper deprivations of life and liberty, which has ¶ led courts to resist such sweeping applications of the laws of war.115 However, ¶ applying the Tadic factors to determine whether IHL applies to a transnational ¶ armed conflict within a given geographical area is nonsensical. ¶ The existence of an armed conflict between, for example, al-Qaeda and the ¶ United States, or between Hezbollah and Israel, should be based upon the degree of ¶ violence exchanged between those two parties, not on the level of violence that exists ¶ between al-Qaeda and the nation of Afghanistan where it resides, or between ¶ Hezbollah and Lebanon where it is based. Yet it is this latter test that is being ¶ proposed by the ACLU and commentators supporting strict geographical limitations ¶ on the scope of IHL.116 ¶ Such an application of the Tadic factors to determine whether IHL applies in a ¶ given geographical area to transnational armed conflicts confers a tremendous ¶ strategic advantage upon the very same organizations that IHL otherwise strongly ¶ disfavors. By limiting IHL to territory on which the threshold of violence for an ¶ armed conflict is currently occurring, IHL would effectively create sanctuaries for ¶ terrorist organizations in any state not currently involved in a domestic insurgency in ¶ which law enforcement is known to be ineffective. Nations such as Yemen,117 Somalia, Sudan, and the FATA-area of Pakistan, in which law enforcement actions ¶ against organizations like al-Qaeda are either ineffective or intentionally not ¶ pursued, would become safe havens if IHL were not applied there.118 Al-Qaeda ¶ members fulfilling a continuous combat function could effectively reacquire their ¶ civilian immunity by crossing an international boundary rather than being required ¶ to disavow al-Qaeda, IHL’s preferred result. ¶ This limitation on IHL’s scope in transnational armed conflicts would ¶ effectively cede the initiative in a conflict between a state actor that abides by IHL ¶ and a non-state terrorist organization, which IHL disfavors in every other way ¶ because of its conduct during an armed conflict, to the terrorist organization. ¶ Members of the disfavored terrorist organization would be able to remain in these ¶ safe areas beyond the reach of law enforcement and immune from any attack that ¶ employed the tools of armed conflict, while they continued training, recruiting, and ¶ planning their next attack. They alone would be allowed to decide the next ¶ battlefield’s location, whether it is New York, London, Madrid, Washington, D.C., ¶ Mumbai, Detroit, or Bali, and when the next confrontation would take place. IHL ¶ should not be read to privilege such a group that it actively disfavors in so many ¶ other ways. Employing neutrality law to determine IHL’s scope and the boundaries ¶ of the battlefield in transnational armed conflicts is the best way of avoiding such an ¶ anomalous interpretation of IHL.120 Significantly, neutrality law (or something very much like it) has already been ¶ employed in the conflict between the United States and al-Qaeda. After the attacks ¶ of September 11, Afghanistan was put to much the same choice as Uruguay was in ¶ 1939:121 Become an ally of the United States in the conflict with al-Qaeda and allow ¶ the use of force against al-Qaeda on Afghan territory. Maintain neutrality in the ¶ conflict between the United States and al-Qaeda by prohibiting U.S. action against ¶ al-Qaeda in Afghanistan while ensuring that al-Qaeda leaves Afghanistan and does¶ not use Afghan territory as a sanctuary. Or, become an enemy of the United States ¶ by refusing to uphold its duties as a neutral nation by allowing al-Qaeda to use ¶ Afghan territory as a sanctuary.122 Afghanistan chose the third option and the United ¶ States and its NATO allies used force against both Afghan and al-Qaeda forces in ¶ Afghanistan with broad international support.123¶ CONCLUSION¶ The AMW Manual makes it clear that drones are legitimate weapons platforms ¶ whose use is effectively governed by current IHL applicable to aerial bombardment. ¶ Like other forms of aircraft they may be lawfully used to target enemy forces, ¶ whether specifically identifiable individuals or armed formations, if they comply with ¶ IHL’s requirements of proportionality, necessity, and distinction. ¶ Because drones are only able to operate effectively in permissive environments, ¶ the most significant legal challenges facing their development and employment have ¶ been based upon where they may be employed. Attempts to apply the strict ¶ geographical restrictions that govern the scope of IHL in internal non-international ¶ armed conflicts to all non-international armed conflicts, including transnational ¶ armed conflicts, threaten to significantly limit the usefulness of drones. ¶ When IHL’s core principles are considered, it becomes clear that the ¶ application of strict geographical limitations on IHL’s scope in the context of ¶ transnational armed conflicts cannot be defended. The determination of whether the ¶ Tadic threshold for an armed conflict is met on the territory of a non-party to the ¶ conflict should have no bearing on whether IHL may be applied to the parties to the ¶ conflict. In other words, the fact that there is no local violence occurring in Yemen ¶ or Somalia should not be used to provide a sanctuary for non-state actors who are ¶ involved in an armed conflict with another state. ¶ The answer for how the boundaries of the battlefield and the scope of IHL’s ¶ application can be properly determined is found in neutrality law. This is historically ¶ how geographical limitations have been imposed upon IHL’s scope in international ¶ armed conflicts. It was applied in the aftermath of the 9/11 attacks, with at least tacit ¶ international approval, to the situation involving the United States, al-Qaeda, and ¶ Afghanistan. Its application is checked by the consent of the sovereign states ¶ involved, making an escalating spiral of violence less, rather than more, likely. And ¶ perhaps most importantly, neutrality law’s application to transnational armed ¶ conflicts does not lead to the anomalous results that are produced when strict ¶ geographical limitations are applied to transnational armed conflicts in which IHL is ¶ read to favor its otherwise most disfavored groups.

#### CBW terror causes extinction- multiple reasons

**Kellman ‘8** (Barry Kellman is the director of the International Weapons Control Center, “Bioviolence: A Growing Threat”, The Futurist, May-June 2008, http://www.wfs.org/March-April09/MJ2008\_Kellman.pdf)

A looming danger confronts the world—the threat of bioviolence. It is a danger that will only grow in the future, yet we are increasingly failing to confront it. With every passing day, committing a biocatastrophe becomes a bit easier, and this condition will perpetuate for as long as science progresses. Biological warfare is as old as conflict, of course, but in terms of the objectives of traditional warfare— gaining territory or resources, compelling the surrender of an opposing army—biological weapons weren’t very effective. If the objective is to inflict mass death and panic on a mixed population, however, emerging bioweapons offer remarkable potential. We would be irresponsible to presume that radical jihadists like al Qaeda have ignored said potential. What’s New in Bioviolence? Bioviolence refers to the many ways to inflict disease as well as the many people who might choose to do so, whether heads of states, criminals, or fanatics. Fortunately, doing bioviolence is technically far more difficult than using conventional explosives. Natural pathogens like anthrax are difficult to weaponize. Smallpox remains unavailable (presumably); plague is readily treatable; Ebola k i l l s t o o q u i c k l y t o i g n i t e a p a ndemic. But emerging scientific disciplines—notably genomics, nanotechnology, and other microsciences— could alter these pathogens for use as weapons. These scientific disciplines offer profound benefits for humanity, yet there is an ominous security challenge in minimizing the danger of their hostile application. For exampl e , highly dangerous agents can be made resistant to vaccines or antibiotics. In Australia, scientists introduced a gene into mousepox (a cousin of smallpox) to reduce pest populations—it worked so well that it wiped out 100% of affected mice, even those that had immunity against the disease. Various bacterial agents, such as plague or tularemia (rabbit fever), could be altered to increase their lethality or to evade antibiotic treatment. Diseases once thought to be eradicated can now be resynthesized, enabling them to spread in reg ions where there is no natural immunity. The polio virus has been synthesized from scratch; its creators called it an “animate chemical.” Soon, it may be resynthesized into a form that is contagious even among vaccinated popu l a t i o n s . Recreation of long eradicated livestock diseases could ravage herds severely lacking in genetic diversity, damage food supplies , and cause devastating economic losses. Perhaps the greatest biothreat is the manipulation of the flu and other highly contagious viruses, such as Ebola. Today, scientists can change parts of a virus’s genetic material so that it can perform specific functions. The genomic sequence of the Spanish flu virus that killed upwards of 40 million people nearly a century ago has been widely published; any savvy scientist could reconstruct it. The avian flu is even more lethal, albeit not readily contagious via casual aerosol delivery. A malevolent bioscientist might augment its contagiousness. The Ebola virus might be manipulat ed so that i t ki l l s more slowly, allowing it to be spread farther before its debilitating effects altogether consume its carrier. A bit further off is genetic manipulation of the measles virus—one of the great killers in human history—rendering useless the immunizations that most of us receive in early childhood. Soon , laboratory resynthesis of smallpox may be possible. Advanced drug delivery systems can be used to disseminate lethal agent s to broad populations . Bioregulators — small organic compounds that modify body systems— could enhance targeted delivery technologies. Some experts are concerned that new weapons could be aimed at the immune, neurological, and neuroendocrine systems. Nanotechnology that lends itself to mechanisms for advanced disease detection and drug delivery—such as gold nanotubes that can administer drugs directly into a tumor—could also deliver weaponized agents deep into the body, substantially raising the weapon’s effectiveness. Altogether, techniques that were on the frontiers of science only a decade or two ago are rapidly mutating as progress in the biological sciences enables new ways to produce lethal catastrophe. Today, they are on the horizon. Within a decade, they will be pedestrian. According to the National Academies of Science, “The threat spectrum is broad and evolving—in some ways predictably, in other ways unexpectedly. In the future, genetic engineering and other technologies may lead to the development of pathogenic organisms with unique, unpredictable characteristics.” For as far into the future as we can possibly see, every passing day it becomes slightly easier to commit a violent catastrophe than it was the day before. Indeed, the rapid pace of advancing science helps explain why policies to prevent such a catastrophe are so complicated. Bioviolence Jihad? Some experts argue that terrorists and fanatics are not interested in bioviolence and that the danger might therefore be overblown. Since there have been no catastrophic bioviolence attacks, these experts argue, terrorists lack the intention to make bioweapons. Hopefully, they are correct. But an enormous amount of evidence suggests they are wrong. From the dawn of biology’s ability to isolate pathogens, people have pursued hostile applications of biological agents. It is perilous to ignore this extensive history by presuming that today’s villains are not fervent about weaponizing disease. Not a single state admits to having a bioweapons program, but U.S. int e l l i g e n c e o f f i c i a l s a s s e r t t h a t a s many as 10 states might have active programs, including North Korea, Iran, and Syria. Moreover, many terrorist organizations have expressed interest in acquiring biological weapons. Whatever weight the taboo against inflicting disease might have for nation-states, it is obviously irrelevant to terrorists, criminals, and lunatics. Deterrence by threat of retaliation is essentially meaningless for groups with suicidal inclinations who are likely to intermingle with innocent civilians. Al -Qaeda and aff i l iat ed I s lami c fundamentalist organizations have overtly proclaimed their intention to develop and use bioweapons. The 11th volume of al-Qaeda’s Encyclopedia of Jihad is devoted to chemical and biological weapons. Indeed, alQaeda has acknowledged that “biological weapons are considered the least complicated and easiest to manufacture of all weapons of mass destruction.” Al-Qaeda is widely reported to have acquired legal pathogens via publicly available scientific sources. Before 9/11, al-Qaeda operatives reportedly purchased anthrax and plague from arms dealers in Kazakhstan, and the group has repeatedly urged followers to recruit microbiology and biotechnology experts. Follow ing th e Ta l iban ’ s fa l l , f iv e a l Qaeda biologi cal weapons labs in Afghanistan tested positive for anthrax. Documents calculating aerial dispersal methods of anthrax via balloon were discovered in Kabul, along with anthrax spore concentrate at a nearby vaccine laboratory. According to a lengthy fatwa commissioned by Osama bin Laden, jihadists are entitled to use weapons of mass destruction against the infidels, even if it means killing innocent women, children, and Muslims. No matter that these weapons cannot be specifically targeted. “[N]othing is a greater duty, after faith itself, than repelling an enemy attacker who sows corruption to religion and the world.” According to the fatwa, “No conditions limit this: one repels the enemy however one can.” The sentiment might be reprehen sible, but it is certainly not irrational. Even the most passionate terrorists must realize that conventional attacks are not bringing the West to its knees. The 9/11 strikes, the bombing of the Madrid and London subways, and numerous smaller attacks have all put civilization on edge, but history marches inexorably forward. A few thousand people can be killed, yet Western armies still traverse the world, and Western economies still determine winners and losers. From this perspective, the stakes must be raised. Bioviolence is perhaps the most dire, easiest means to execute existential danger. What Might Bioviolence Accomplish? Envision a series of attacks against capitals of developing states that have close diplomatic linkages with the United States. The attacks would carry a well-publicized yet simple warning: “If you are a friend of the United States, receive its officials, or suppo r t i t s po l i c i e s , thou sand s o f y o u r p e o p l e wi l l g e t s i c k . ” How many a t ta ck s in how many c i t i e s would it take before international diplomacy, to say nothing of international transit, comes to a crashing halt? In comparison to use of conventional or chemical weapons, the potential death toll of a bioattack could be huge . Al though the numbe r of victims would depend on where an attack takes place, the type of pathogen, and the sophistication of the weapons maker, there is widespread consensus among experts that a heightened attack would inflict casualties exceedable only by nuclear weapons. In comparison to nuclear weapons, bioweapons are far easier and cheaper to make and transport, and they can be made in facilities that are far more difficult to detect. The truly unique characteristic of c e r t a i n bioweapons t h a t d i s t i nguishes them from every other type of weapon is contagion. No other type of weapon can replicate itself and spread. Any other type of attack, no matter how severe, occurs at a certain moment in time at an identifiable place. If you aren’t there, you are angry and upset but not physically injured by the attack. An attack with a contagious agent can uniquely spread, potentially imperiling target populations far from where the agents are released. A b i o - o ff e n d e r c o u l d i n f e c t h i s minions with a disease and send them across borders before symptoms are obvious. Carriers will then spread it to other unsuspecting victims who would themselves become extended bioweapons, carrying the disease indiscriminately. There are challenges in executing such an attack, but fanatical terrorist organizations seem to have an endless supply of willing suicide attackers. All this leads to the most important characteristic of bioviolence: It raises incomparable levels of panic. Contagious bioviolence means that planes fly empty or perhaps don’t fly at all. People cancel vacation and travel plans and refuse to interact with each other for fear of unseen affliction. Public entertainment events are canceled; even going to a movie becomes too dangerous. Ultimately, bioviolence is about hiding our children as everyone becomes vulnerable to our most fundamental terror: the fear of disease. For people who seek to rattle the pillars of modern civilization and perhaps cause it to collapse, effective use of disease would set in motion political, economic, and health consequences so severe as to call into question the ability of existing governments to maintain their citizens’ security. In an attack’s wake, no one would know when it is over, and no government could credibly tell an anxious population where and when it is safe to resume normal life. While it is difficult to specify when this danger will strike, there should be no doubt that we are vulnerable to a rupture. Just as planes flying into the Twin Towers on September 11, 2001, instantly became a historical marker dividing strategic perspectives before from after, the day that disease is effectively used as an instrument of hate will profoundly change everything. If you want to stop modern civilization in its tracks, bioviolence is the way to go. The notion that no one will ever commit catastrophic bioviolence is simply untenable. What Can We Do? How can we confront these growing dangers? First, we must appreciate the global nature of the problem. Perpetrators from anywhere can get p a t h o g e n s f ro m v i r t u a l l y e v e r ywhe re . Biore s earch labs that onc e were concentrated in about two dozen developed states are proliferating, expanding the risk that lethal agents could be diverted and misused. The knowledge needed to weaponize pathogens is available on the Internet. An attack can be prep a r e d t h ro u g h e a s y n e tw o r k s o f transnational communication. Once a bioweapon is prepared, terrorists or other perpetrators from anywhere can slide across national boundaries and release disease anonymously. Once released, a contagious agent would spread without regard for boundaries, race, religion, or nationality. Public health responses would have to be internationally coordinated. New modes of international l egal coope rat ion would immediately be needed to investigate the crime. Thus, bioviolence dangers shrink the planet into an interdependent neighborhood. It makes no sense for any particular country to try to insulate its homeland from these dangers. No missile defense system will p ro t e c t u s f rom b i o v i o l e n c e . Improved border security will not keep disease at bay. National efforts to enhan c e m ed i ca l p repa redn e s s hav e virtues, but these defenses can be readily circumvented. To prevent bioviolence requires policies that focus on humanity as a species and that are implemented everywhere with centralized governance. Antibioviolence policies must be global. Ye t , advanc ing ant i -bioviol enc e policies is what the international community does worst. Bioviolence dangers are unnecessarily high because national and international antibioviolence strategies are gap-ridden, often incoherent, and not globally observed. As a result, we are all virtually naked in the face of unacceptable dangers. No ot her t hreat pre s ent s such a s tark cont ras t between severity of harm and a failure of leadership to reduce risks. Most important, existing institutional arrangements are inadequate. In sharp contrast to most other global security challenges, there is no responsible international authority that defines relevant prohibitions and responsibilities, implements policies over time, or evaluates whether obligations are being fulfilled. With regard to global bioviolence prevent i o n p o l i c i e s , t h e r e ’ s n o b o d y i n charge. No one is responsible; no one is accountable. The absence of authority is profoundly dangerous. Bioviolence prevention and preparedness requires a sizable orchestra, made up of various instruments, to play complicated music in harmony. Today, there is not a bad “conductor”, there is no conductor at all. The result is cacophony. Simply stated, bioviolence is the dark s ide of global izat ion, ye t int e rna tional alarms of bioviolence ring nowhere! We need a comprehensive national and international strategy for bioviol enc e prevent ion . [Se e box: “Five S t r a t e g i e s f o r P r e v e n t i n g B i oviolence,” page 30.] Policies should be pursued within an integrated approach that enables each policy to gain strength from all the others. Such policies are potentially available and effective, but they demand progressive changes in our global order. The Security Mission Global bioviolence prevention and preparedness policies are imperative, but also imperative is recognition that the world faces natural disease horrors. Where mass public health challenges are daily phenomena, the risks of terrorists using pathogens must be weighed against more tangible natural threats. Simply stated, it is illegitimate to insist that every nation adopt policies for preventing human-inflicted disease without acknowledging the silent genocide of natural disease that is responsible for millions of deaths. But neither is it legitimate to view bioviolence dangers as distractions from efforts to combat natural disease and therefore to put off beneficial measures until those afflictions are defeated. To do so frustrates forward movement on cost-effective initiatives that could help build an international security architecture for advancing science and health. Thus, bioviolence prevention must be a facet of a broad international commitment to: 1. Prevent the spread of disease ( e .g. , through publ i c -heal th measures). 2. Enhance protection against and cures for disease (e.g., through vaccination and drug therapies). 3. Supervise the conduct of biological science. 4. Criminalize unauthorized or improper use of pathogens. From this foundation should flow a policy commitment to the growth of bioscience as a global public good. Policies to encourage its worldwide spread deserve vigorous support. This governance mission should, therefore, be conceived as a global covenant . As bios c i enc e goe s forward as a fundamental pillar of human progress, all nations must undertake common responsibilities to prevent bioviolence even as the burdens associated with those responsibilities are differentiated according to wealth and capability. From everyone according to their abilities—to all for the benefit of all. The United Nations’ Importance The United Nations represents the b e s t venu e fo r a new gove rnanc e platform that can accommodate the need for an integrated global strategy agains t bioviol enc e . Only the United Nations has the necessary in ternational legitimacy, and only the Uni t ed Nat ions can int egrat e the many sectors—health, law enforcement, science, military, emergency preparedness—that must devote expertise and resources. A primary consideration here is to minimize any bureaucratic reshuffling. There is certainly no need to modify or replicate existing capabilities. Many relevant governance tasks are already addressed by one or more international organizations. For example, the World Health Organization should continue to be responsible for addressing the health implications of a pandemic, whether natural or malevolent. Interpol should continue to be responsible for a d d re s s i n g b i o v i o l e n c e ’ s l aw e nforcement implications. Indeed, the UN’s role should be only to coordinate the performance of these tasks. Broadly viewed, the United Nations should be able to undertake three functions: First, a specific UN agency should stimulate bioscience development by incorporating security concerns into the fabric of scientific undertakings and by assisting countries in using bioscience in ways that are consistent with policies for preventing bioviolence. Because science, development, and security can and must be mutually reinforcing, this agency’s primary responsibilities would be to promote and distribute knowledge and build capacity to fulfill obligations, especially in developing nations. Second, a UN office should coordinate activities among the relevant international/regional organizations, professional networks, and expert bodies. For example, three major international organizations focus on health (World Health Organization, Animal Health Organization, and the Food and Agriculture Organization); Interpol and Europol both focus on law enforcement; a large array of organizations focus on conveyance of dangerous items (e.g., International Maritime Organization, International Civil Aviation Organization). This UN office should be a steering mechanism to engage each of these orga nizations’ specialized expertise and to identify synergies. Third, a Security Council Committee should be authorized to investigate bioviolence preparations as well as respond and coordinate assistance to a bioviolence attack. Situations that call for investigation or response arise rarely, but they carry disproportionate significance for international peace and security. The Security Council Committee should not advance programmatic agendas, but it should be able to wield expertise and political muscle in volatile situations. Its primary mission would be to enable the international community to sustain global order in the face of a bioviolence challenge. Ever since someone harnessed a new technology to create a weapon with more devastating effects, there has been a link—a double helix—between the progress of science and the pursuit of security. This is inevitable. These dangers of bioviolence do not a rg u e f o r re l i n q u i s h i n g s c i e n t i f i c progress, but they disprove notions tha t n ew cha l l eng e s can b e e ff e ct ive ly addre s s ed wi th ye s t e rday’ s policies. At bottom is a condition unique to this historical era: Scientific progress is intertwined with escalating malevolence threatening human security. Progressing capabilities improve our l ive s and ye t , inext r i cably, enable truly harmful weapons against humanity. Here are the challenges to international peace and security at the beginning of the third millennium. Failing to do the right thing in response to these challenges could have dire consequences for all humanity.

## AT Daskal

#### Self-interest makes coop inevitable- Iraq proves

Boot, 4 -- CFR senior fellow

[Max, Jeane J. Kirkpatrick Senior Fellow in National Security Studies at the Council on Foreign Relations, "Less Respect, More Success," CFR, 9-6-4, www.cfr.org/terrorism/less-respect-more-success/p7304, accessed 8-18-13, mss]

Where Kerry is dead wrong, demonstrably wrong, is in suggesting that this unpopularity is taking a heavy toll on America's efforts to win the war on terrorism. Actually, by all indications, the United States is now getting significantly more cooperation in fighting terrorists than it ever did in the balmy days of Bill Clinton, who did all the sweet multilateral things that Kerry endorses— trying to broker an Israeli-Palestinian accord, signing the Kyoto global warming treaty, not offending "Old Europe" or threatening the power of Middle Eastern autocrats. Early last week, Pakistan announced the arrest of a dozen Islamist radicals who had been plotting attacks on the U.S. embassy and other targets. This comes shortly after the capture of some 25 other jihadists, including a computer expert, Muhammad Naeem Noor Khan, whose arrest led to the exposure of an al Qaeda cell in Britain that was said to be plotting attacks on New York, Newark, and Washington. Recall that until 9/11 Pakistan was a leading supporter of Islamist militants. Portions of its intelligence service and military maintain their links with these fanatics, but Islamabad has become much more responsive to U.S. concerns. Meanwhile, Saudi Arabia, which turned a blind eye to Islamist terrorism in the 1990s, has been capturing and killing many leading al Qaeda members. In 2002, a Council on Foreign Relations task force rapped the Saudis for not cracking down on terrorist financing. This June, the task force released a follow-up study that found the Saudis, while still far from perfect, had greatly improved: "Saudi Arabia has taken important actions to disrupt domestic al Qaeda cells and has improved and increased tactical law enforcement and intelligence cooperation with the United States, though important questions of political will remain." Europe, too, is offering unprecedented cooperation with the United States in the fight against terrorism, even though many Europeans disagree with U.S. actions in Iraq and elsewhere. Many European countries have passed tough laws that enable them to prosecute or expel supporters of terrorism even if they are not directly implicated in any attacks. French and German forces are serving alongside the U.S. military in Afghanistan and in the waters off Africa and the Arabian peninsula. Both France and Germany, along with many other countries, are also cooperating with the United States in the Proliferation Security Initiative designed to stop nuclear smuggling. This effort paid big dividends with the discovery last year that Abdul Khadeer Khan, the father of Pakistan's atomic bomb, was selling nuclear secrets to Libya, Iran, and North Korea. The exposure of Libya's nuclear program led Muammar Qaddafi to renounce all support of terrorism and weapons of mass destruction— one of the biggest victories ever in the fight against nuclear proliferation. What's going on here? Why are countries from Pakistan to Portugal doing so much to help the United States if George W. Bush has purportedly done so much to alienate them? Chalk it up to **pure self-interest**. Many nations have come to realize, as they never did in the past, that Islamist terrorists pose a mortal threat to them. Saudi Arabia has significantly boosted its fight against al Qaeda since two attacks in Riyadh in May 2003. Pakistan has done much more since President Pervez Musharraf was almost killed in two assassination attempts in December 2003. Europe has boosted its cooperation since the March 11 bombing of the commuter trains in Madrid. When countries face a mega-threat like this, it doesn't make any difference how popular or unpopular the United States may be. They are happy to cooperate with the U.S. government, any U.S. government, even if it's led by a tough-talking Texan. Or perhaps especially if it's led by a tough-talking Texan.

## Case

## Solvo

#### Only ev specific to the aff- Obama wants to strike terrorists wherever he can

Xinhua, 9 ["U.S. targets terrorists "wherever they take root": Obama," news.xinhuanet.com/english/2009-10/07/content\_12189089.htm, accessed 9-22-13, mss]

The U.S. anti-terror efforts are not restricted in Afghanistan and Pakistan, and terrorists will be targeted "wherever they take root," U.S. President Barack Obama said Tuesday. "The United States and our partners have sent an unmistakable message: We will target al-Qaida **wherever** they take root," he said during a tour of the National Counterterrorism Center in McLean, Virginia, near Washington D.C.. "It should now be clear," he added. The president noted that terror threats to the United States not only come from Afghanistan and Pakistan, but from places around the world, including East Africa, Southeast Asia, Europe and the Persian Gulf. He said the United States is determined to fight terrorism "relentlessly." "We **will not yield** in our pursuit; and we are developing the capacity and the cooperation to deny a safe haven to any who threaten America and its allies."

**The executive will redefine the law to violate and ignore the plan**

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 at** this 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.

## Drones

### =/= war

#### Prolif doesn’t cause wars- restraint wins out

**Goure ’12** [ Daniel Goure, PhD in international relations and Russian studies from the Johns Hopkins University, is a vice president of the Lexington Institute, was a member of the Defense Department’s Transition Team, served as director of the Office of Strategic Competitiveness for the Secretary of Defense and was a senior analyst with the Center for Naval Analyses, Science Applications International Corporation, SRS Technologies, R&D Associates and System Planning Corporation, has been a consultant for the Departments of State, Defense, and Energy, has been an adjunct professor in graduate programs at the Center for Peace and Security Studies at Georgetown University, and an adjunct professor at National Defense University, “Drones and the Changing Nature of Warfare: Hold the Presses!” <http://www.cato-unbound.org/2012/01/13/daniel-goure/drones-changing-nature-warfare-hold-presses>]

Despite the proliferation of drones, particularly by the United States, at best it can be argued that the proliferation of unmanned aerial systems (UASs) is changing tactics, particularly with respect to operations on land. The predominant mission of drones today is to collect information, primarily electro-optical data in the form of pictures and full motion video. The overwhelming majority of drone flying hours are conducted by systems such as Aerovironment’s Wasp, Puma, and Raven; Insitu’s ScanEagle; and Textron’s Shadow for the purpose of providing overwatch for maneuvering Army and Marine Corps units. Even the vaunted Predator, a variant of which, the MQ-9 Reaper, is the platform employed for armed strikes, is predominantly employed for intelligence, surveillance, and reconnaissance missions. The larger systems such as Northrop Grumman’s Global Hawk and Lockheed Martin’s stealthy RQ-170 Sentinel are intended solely to gather intelligence.¶ Armed drones serve a niche function. They are useful in situations where real-time tactical intelligence is required in order to launch a weapon and the operating environment is extremely benign. Because they can loiter in the area of a suspected target, waiting for positive identification and the proper time to strike with the least possibility of inflicting collateral damage, they are far less lethal than any other aerial weapons system.¶ Attempts to connect an increased tendency to use force are supported neither by the evidence nor by logic. The frequency and intensity of conflicts has declined even as the ability to conduct remote combat has increased exponentially. There were only a handful of drones available to the U.S. military when Operations Enduring Freedom and Iraqi Freedom began. The lack of unmanned systems appears to have posed no obstacle to the decision to initiate either operation.¶ It is difficult to accord any serious influence over the conduct of air operations in past or current conflicts to the presence of armed drones. In the era before drones, the U.S. imposed ten year long no-fly zones over northern and southern Iraq. In addition, the number of drone sorties in total is but a tiny fraction of all aerial sorties. Armed drone sorties constitute only a small fraction of total drone missions. Cortright notes that since 2009 there have been 239 drone strikes into Pakistan. However, for the month of January 2011, Coalition forces in Afghanistan flew 387 sorties in which guns were fired or munitions expended.[2] These statistics suggest a clear preference on the part of the military for manned aerial systems and not drones in the conduct of tactical air operations. Cortright also reports that 145 drone strikes were conducted during Operation Odyssey Dawn—the liberation of Libya. Actually this is an incorrect statement. While drones were used over Libya, these were not armed flights, hence they were sorties and not strikes. But this is good example of the breathless quality of much of the analysis today of the implications of drones for warfare. Look at the numbers. The U.S. alone conducted some 3,500 sorties during Operation Odyssey Dawn. So drones amounted to 4% of the total. By the way, the United States and United Kingdom also launched 228 Tomahawk cruise missiles during this operation, 112 on the first night of the conflict. If we are to accord to weapon systems influence over the decision to use force, then in the case of Libya, precedence must be given based simply on the number of sorties conducted to cruise missiles, aerial refueling tankers, tactical fighters, and even cargo planes before we come to the little-used drone.¶ The availability of unmanned aerial systems in no way makes conflict more likely or more brutal. Quite the opposite, in fact, seems to be the case. The presumption that were it not for the availability of drones, the U.S. would refrain from conducting military operations against terrorists based in Pakistan is highly dubious. We have an example of an alternative military option: Operation Enduring Freedom. As Joshua Goldstein pointed out in a recent article, the use of armed drones in Pakistan may have prevented the use of far bloodier means. “Armed drones now attack targets that in the past would have required an invasion with thousands of heavily armed troops, displacing huge numbers of civilians and destroying valuable property along the way.”[3] According to Robert Woodward’s reporting on President Obama’s decision to deploy additional forces to Afghanistan in 2009, a number of senior advisors proposed a lower-cost, smaller deployment based on increased use of special operations forces and unmanned aerial vehicles.

#### Prolif impacts are hype- won’t cause war

**Trombly ‘12** [Dan, B.A. in International Affairs from George Washington University, Associate at Caerus Analytics, LLC, former Open Source Intelligence Analyst for GS5, LLC, former Research Assistant/Writer at the Foundation for Defense of Democracies, “Don't Fear Their Reapers,” June 13, <http://www.cnas.org/blogs/abumuqawama/2012/06/dont-fear-their-reapers.html>]

One of the most misleading ideas in commentary on modern weapons and warfare is that of the karmic theory of new weapons technology, particularly with regard to drones. Despite the many legitimate concerns about the legality, morality, and efficacy of targeted killing programs, commentators and analysts all too often engage in threatmongering about unmanned systems proliferation. We see it most often in articles like this one by Michael Ignatieff, or this by Steve Clemons asking ominous questions such as “What Happens When They Get Drones?” Adam has noted similar veins of commentary about cyberweapons. These arguments are doubly aggravating because they misunderstand both the nature of the platforms they discuss and the logic of strategic behavior in international relations, leading to a conclusion that cannot distinguish blowback or proliferation from karma, replacing what should be a debate centered on policy and empirical assessment with prophecy centered on instruments and unrealistic hypotheticals.¶ Many - and not just Clemons or Ignatieff - have worried about the proliferation of military technologies, and for good reasons. Some advantages are structural, but technological advantages are dynamic and impossible to preserve. In the case of drones, commentators and analysts have feared a coming “drone arms race” where someday Americans might face rival fleets of foreign drones, and concerns that U.S. policies policies of using drones to conduct targeted killings might somehow result in rival powers unleashing it on us.¶ But what does the U.S. really have to fear from Russian or Chinese drones, or a new norm of targeted killing? Whatever it does, it certainly won’t resemble what we’ve meted out to the rest of the world in the past decade, contrary to Ignatieff’s and others’ portentous warnings. I’ll venture a bold prediction here: in our lifetimes, no foreign power will ever deploy drones in a targeted killing campaign against the United States as it has employed drones in Pakistan or Yemen. To believe they would first requires misunderstanding the technology.¶ Firstly, drones capable of launching armed attacks from over-the-horizon are not extremely cheap, they are about as expensive as manned strike craft, as Winslow Wheeler has noted. Why AQ would want to spend dozens or hundreds of millions of dollars on a drone when they could furnish a martyr with a Cessna or bring in enormous quantities of operatives, firearms, or explosives in for the same price is completely beyond me. We’ve seen the face of the day when “the enemy has drones,” and it’s a nincompoop who thinks he can collapse the Pentagon with RC planes, not a technothriller antihero.¶ Secondly, when rival states get drones, they still won’t be able to conduct a targeted killing campaign in the U.S. without massively enhancing their conventional power projection. American drones operate from airbases in-theater, and they’ve never operated in airspace that wasn’t either cleared of hostile air defenses or under the control of a government granting tacit acquiescence to the strike program. The U.S. would have no compunctions shooting down hostile drones or laying waste to whatever facilities and governments were hosting or commanding them. In other words, outside of the context of a broader conventional operation against U.S. forces, it’s difficult to see the logic in another country launching drone strikes against the U.S.¶ Even in areas where the geographic and logistical constraints were conquerable, under what kind of scenario would a hostile state be able to launch drone strikes against U.S. interests and simply sit idly by and take it? To prevent America from retaliating would require destroying its conventional military capability, which means a general war. Drones do not create impunity. Diplomatic and military power to deter retaliation or noncompliance create impunity¶ Nor is there really a sensible reason a hostile power would need drones to conduct assassinations or bombings inside the U.S., if they chose that policy. As for the norm of “targeted killing,” many countries have used assassination as a method of dealing with enemies of the state - whether they be terrorists, criminals, or even just dissidents. Targeted killings predated drones, after all, and so have covert attacks inside U.S. borders. Proxy, terrorist, and criminal groups have already pioneered technologies and TTPs for killing Americans in foreign borders without a conventional ground invasion - they’re the ones that al Qaeda, the IRGC and Qods Force, the Soviet-era intelligence services, and others have been using for decades.¶ Other countries have even assassinated targets on American soil before - Pinochet’s DINA car bombed a Chilean dissident in Washington, DC, and revolutionary Iran had a counterrevolutionary activist shot in Bethesda. Why use drones when these simpler and more effective methods exist? The era of irregular assassinations and bombings against U.S. interests isn’t coming - it’s come and gone and come again, because drones are just a means to targeted killing that happened to be convenient for a wealthy superpower to employ against soft targets in permissive airspace, not the sine qua non of targeted killing itself.¶ The same conventional, geographical, and logistical constraints that prevent hostile aircraft from running rampant across the Western world, and the same prudential considerations that discourage rival powers from wantonly assassinating American citizens inside U.S. borders, will prevent drones from doing the same. Russia and China are far more likely to employ these aircraft against hostile non-state actors rather than fruitlessly dispatching them against the U.S. or its allies, except as part of a broader conventional conflict. Drones could proliferate to Russia, China, Pakistan, Iran, and whatever other states and Americans would never need to fear Ignatieff’s ludicrous threat of “the same heaven-sent vengeance” it inflicts upon foreign populations, because no power will ever have the geographical and strategic superiority the U.S. maintains over weak states and the militants operating within them.¶ There are merits to creating legal frameworks that clarify the use of targeted killings, but framing the problem as controlling the technology is absurd. An arms control framework on drones is a hollow thing, it protects Americans from weapons our enemies neither need nor would use in any plausible scenario. Threat assessments from technology proliferation should be based on plausible scenarios and strategic logic, not Kantian assumptions of moral equivalence divorced from the context of how the technology is actually used.

### NM

#### No reverse modeling- norms can’t solve

**Saunders 5-4**-13 [Paul J. Saunders is executive director of The Center for the National Interest and associate publisher of The National Interest. He served in the State Department from 2003 to 2005, “We Won't Always Drone Alone,” <http://nationalinterest.org/commentary/we-wont-always-drone-alone-8177>]

A broader and deeper challenge is how others—outside the United States—will use drones, whether armed or unarmed, and what lessons they will draw from Washington’s approach. Thus far, the principal lesson may well be that drones can be extremely effective in killing your opponents, wherever they are, without risking your own troops and without sending soldiers or law enforcement personnel across another country’s borders. It seems less likely that others will adopt U.S.-style legal standards and oversight procedures, or that they will always ask other governments before sending drones into their airspace.¶ Based on their actions, it is almost as if Obama administration officials believe that the United States and its allies will have a long-term monopoly on drones. How else can one explain their exuberant confidence in launching drone attacks? However, the administration’s dramatic expansion in drone strikes—and their apparent effectiveness—will only further shorten Washington’s reign as the drone capital of the world by increasing the incentives to others eager to develop, refine or buy the technology.¶ Have Obama administration officials given any thought to what the world might look like when armed drones are more widespread and when Americans or U.S. allies and partners could become targets? To an outsider, there is little evidence of this kind of thinking in the administration’s use of drones.¶ This is a serious problem. According to an unclassified July 2012 report by the Government Accountability Office, at least 76 countries already have acquired unmanned aerial vehicles, known as UAVs or drones; the report also states that “countries of concern” are attempting to acquire advanced UAVs from foreign suppliers as well as seeking illegal access to U.S. technology. And a 2012 special report by the United Kingdom’s Guardian newspaper indicated that China has 10 or more models, though not all are armed. Other sources identify additional varieties in China. At least 50 countries are trying to build 900 different types of drones, the GAO writes.¶ More generally, the administration’s expanding use of drones is a powerful endorsement of not only the technology, but of the practice of targeted killing as an instrument of foreign and security policy. Having provided this powerful impetus, the United States should not be surprised if others—with differing legal standards and more creative efforts at self-justification—seize upon it once they have the necessary capabilities. According to the GAO, this is already happening—in government-speak, “while only a limited number of countries have fielded lethal or weaponized UAVs, this threat is anticipated to grow.” From this perspective, it is ironic that a president so critical of his predecessor’s unilateralism would practice it himself—particularly in a manner that other governments will find much easier to emulate than the Bush administration’s larger-scale use of force. How does the Obama administration plan to respond if and when China or Russia uses armed UAVs to attack groups they define as terrorists?

#### Restrictions won’t be modeled- precedent already set

**Jacobson 2-12**-13 [Mark R. Jacobson is a senior transatlantic fellow at the German Marshall Fund of the United States. From 2009 to 2011, he served with NATO’s International Security Assistance Force in Afghanistan, “Column: Key Assumptions About Drones Are Based on Misconceptions,” <http://www.vnews.com/opinion/4393278-95/drones-drone-armed-civilian>]

Armed drones are neither as simple as model airplanes nor as complex as high-performance fighter jets. Of course, a remote-controlled helicopter that you can build in your garage is certainly not as capable as the $26.8 million MQ-9 Reaper, the primary U.S. hunter-killer drone. But drones are much less expensive than fighter aircraft, and in an age of increasing austerity, it is tempting for nations to consider replacing jets with drones. More than 50 countries operate surveillance drones, and armed drones will quickly become standard in military arsenals. The challenge is to consider what international rules, if any, should govern the use of armed drones. The United States is setting the precedent; our approach may define the global rules of engagement. Of course, we cannot expect other nations to adopt the oversight and restrictions we have. What doors are we opening for other nations’ use of drones? What happens when terrorist groups acquire them? The United States must prepare for being the prey, not just the predator.

#### Social science proves no modeling- US signals are dismissed

Zenko ‘13 [Micah, Council on Foreign Relations Center for Preventive Action Douglas Dillon fellow, "The Signal and the Noise," Foreign Policy, 2-2-13, www.foreignpolicy.com/articles/2013/02/20/the\_signal\_and\_the\_noise, accessed 6-12-13, mss]

Later, Gen. Austin observed of cutting forces from the Middle East: "Once you reduce the presence in the region, you could very well signal the wrong things to our adversaries." Sen. Kelly Ayotte echoed his observation, claiming that President Obama's plan to withdraw 34,000 thousand U.S. troops from Afghanistan within one year "leaves us dangerously low on military personnel...it's going to send a clear signal that America's commitment to Afghanistan is going wobbly." Similarly, during a separate House Armed Services Committee hearing, Deputy Secretary of Defense Ashton Carter ominously warned of the possibility of sequestration: "Perhaps most important, the world is watching. Our friends and allies are watching, potential foes -- all over the world." These routine and unchallenged assertions highlight what is perhaps the most widely agreed-upon conventional wisdom in U.S. foreign and national security policymaking: the inherent power of signaling. This psychological capability rests on two core assumptions: All relevant international audiences can or will accurately interpret the signals conveyed, and upon correctly comprehending this signal, these audiences will act as intended by U.S. policymakers. Many policymakers and pundits fundamentally believe that the Pentagon is an omni-directional radar that uniformly transmits signals via presidential declarations, defense spending levels, visits with defense ministers, or troop deployments to receptive antennas. A bit of digging, however, exposes cracks in the premises underlying signaling theories. There is a half-century of social science research demonstrating the cultural and cognitive biases that make communication difficult between two humans. Why would this be any different between two states, or between a state and non-state actor? Unlike foreign policy signaling in the context of disputes or escalating crises -- of which there is an extensive body of research into types and effectiveness -- policymakers' claims about signaling are merely made in a peacetime vacuum. These signals are never articulated with a precision that could be tested or falsified, and thus policymakers cannot be judged misleading or wrong. Paired with the faith in signaling is the assumption that policymakers can read the minds of potential or actual friends and adversaries. During the cycle of congressional hearings this spring, you can rest assured that elected representatives and expert witnesses will claim to know what the Iranian supreme leader thinks, how "the Taliban" perceives White House pronouncements about Afghanistan, or how allies in East Asia will react to sequestration. This self-assuredness is referred to as the illusion of transparency by psychologists, or how "people overestimate others' ability to know them, and...also overestimate their ability to know others." Policymakers also conceive of signaling as a one-way transmission: something that the United States does and others absorb. You rarely read or hear critical thinking from U.S. policymakers about how to interpret the signals from others states. Moreover, since U.S. officials correctly downplay the attention-seeking actions of adversaries -- such as Iran's near-weekly pronouncement of inventing a new drone or missile -- wouldn't it be safer to assume that the majority of U.S. signals are similarly dismissed? During my encounters with foreign officials, few take U.S. government pronouncements seriously, and instead assume they are made to appease domestic audiences.

## Europe

#### If they win that the aff solves – proves the squo is sufficient and the coop on terror inev

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

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

### Coop Inev

#### Cooperation overcomes controversies- Bush and Gitmo prove

**Archick 9-4**-13 [Kristin Archick, Specialist in European Affairs for the Congressional Research Service, “U.S.-EU Cooperation Against Terrorism,” <http://www.fas.org/sgp/crs/row/RS22030.pdf>]

U.S. and European officials alike maintain that the imperative to provide freedom and security at ¶ home should not come at the cost of sacrificing core principles with respect to civil liberties and ¶ upholding common standards on human rights. Nevertheless, the status and treatment of ¶ suspected terrorist detainees has often been a key point of U.S.-European tension. Especially ¶ during the former George W. Bush Administration, a number of U.S. policies were subject to ¶ widespread criticism in Europe; these included the U.S.-run detention facility at Guantánamo ¶ Bay, Cuba; U.S. plans to try enemy combatants before military commissions; and the use of ¶ “enhanced interrogation techniques.” The U.S. practice of “extraordinary rendition” (or ¶ extrajudicial transfer of individuals from one country to another, often for the purpose of ¶ interrogation) and the possible presence of CIA detention facilities in Europe also gripped ¶ European media attention and prompted numerous investigations by the European Parliament, ¶ national legislatures, and judicial bodies, among others. Some individuals held at Guantánamo ¶ and/or allegedly subject to U.S. rendition have been European citizens or residents. ¶ Many European leaders and analysts viewed these U.S. terrorist detainee and interrogation ¶ policies as being in breach of international and European law, and as degrading shared values ¶ regarding human rights and the treatment of prisoners. Moreover, they feared that such U.S. policies weakened U.S. and European efforts to win the battle for Muslim “hearts and minds,” ¶ considered by many to be a crucial element in countering terrorism. The Bush Administration, ¶ however, defended its detainee and rendition polices as important tools in the fight against ¶ terrorism, and vehemently denied allegations that such policies violated U.S. human rights ¶ commitments. Bush Administration officials acknowledged European concerns about ¶ Guantánamo and sought agreements with foreign governments to accept some Guantánamo ¶ detainees, but maintained that certain prisoners were too dangerous to be released. ¶ U.S.-EU frictions over terrorist detainee policies have subsided to some degree since the start of the Obama Administration. EU and other European officials welcomed President Obama’s ¶ announcement in January 2009 that the United States intended to close the detention facility at ¶ Guantánamo within a year. They were also pleased with President Obama’s executive order banning torture and his initiative to review Bush Administration legal opinions regarding ¶ detention and interrogation methods. In March 2009, the U.S. State Department appointed a ¶ special envoy to work on closing the detention facility, tasked in particular with persuading ¶ countries in Europe and elsewhere to accept detainees cleared for release but who could not be ¶ repatriated to their country of origin for fear of torture or execution. Some EU members accepted ¶ small numbers of released detainees, but others declined. ¶ At the same time, the Obama Administration has faced significant challenges in its efforts to close ¶ Guantánamo. Some observers contend that U.S. officials have been frustrated by the reluctance of ¶ other countries, including some in Europe, to take in more detainees. Congressional opposition to ¶ elements of the Administration’s plan for closing Guantánamo, and certain restrictions imposed ¶ by Congress (including on the Administration’s ability to transfer detainees to other countries ¶ amid concerns that some released detainees were engaging in terrorist activity), have also ¶ presented obstacles. Consequently, the Obama Administration has not fulfilled its promise to shut ¶ down Guantánamo. In March 2011, President Obama signed an executive order that in effect ¶ creates a formal system of indefinite detention for those detainees at Guantánamo not charged or ¶ convicted but deemed too dangerous to free. The Administration also announced in March 2011 ¶ an end to its two-year freeze on new military commission trials for Guantánamo detainees.52¶ Some European policymakers continue to worry that as long as Guantánamo remains open, it helps serve as a recruiting tool for Al Qaeda and its affiliates. Some European officials have also ¶ voiced concern about those detainees at Guantánamo who began hunger strikes in early 2013 to ¶ protest their ongoing incarceration. In May 2013, the European Parliament adopted a resolution ¶ that expresses concern for those on hunger strike, and again calls upon the United States to close ¶ the detention facility.53¶ The Obama Administration asserts that it is still committed to closing Guantánamo. In late May ¶ 2013, President Obama renewed his pledge to work toward this goal; as a first step, he announced ¶ that U.S. authorities would restart the process of sending home or resettling in third countries ¶ those detainees already cleared for transfer. In August 2013, the Administration released two ¶ Algerian detainees (the first such releases in nearly a year), after certifying to Congress that they no longer posed a threat to U.S. national security. Press reports indicate that 164 detainees ¶ currently remain at Guantánamo.54¶ European concerns also linger about the past role of European governments in U.S. terrorist ¶ detainee policies and practices. In September 2012, the European Parliament passed a nonbinding resolution (by 568 votes to 34, with 77 abstentions) calling upon EU member states to ¶ investigate whether CIA detention facilities had existed on their territories.55 The resolution urged ¶ Lithuania, Poland, and Romania in particular to open or resume independent investigations, and ¶ called on several other member states to fully disclose all relevant information related to ¶ suspected CIA flights on their territory.Meanwhile, some U.S. and European officials worry that ¶ allegations of U.S. wrongdoing and rendition-related criminal proceedings against CIA officers in ¶ some EU states (stemming from the Bush era) continue to cast a long shadow and could put vital ¶ U.S.-European intelligence cooperation against terrorism at risk.56¶ U.S. Perspectives and Issues for Congress ¶ Successive U.S. administrations and many Members of Congress have supported efforts to ¶ enhance U.S.-EU cooperation against terrorism since the 2001 terrorist attacks. Although some ¶ skeptics initially worried that such U.S.-EU collaboration could weaken strong U.S. bilateral law ¶ enforcement relationships with EU member states, the George W. Bush Administration essentially ¶ determined that the political benefits of engaging the EU as an entity on police and judicial ¶ matters outweighed the potential risks given Europe’s role as a key U.S. law enforcement partner. ¶ They also hoped that improved U.S.-EU cooperation on border controls and transport security ¶ would help authorities on both sides keep better track of suspected terrorists and prevent them ¶ from entering the United States or finding sanctuary in Europe. ¶ At the same time, some observers note that U.S.-EU counterterrorism cooperation is complicated ¶ by different EU and member state competencies, and U.S. policy preferences. An increasing ¶ number of policy areas relevant to counterterrorism—including data protection, customs, and ¶ visas—fall under the competence of the Union (i.e., EU members adopt a common policy, agree ¶ to abide by its terms, and negotiate collectively with other countries). However, at times, the ¶ United States continues to prefer to negotiate on some issues—such as the VWP—bilaterally, and ¶ observers assert that this disconnect can lead to frictions in the U.S.-EU relationship. ¶ Nevertheless, both the United States and the EU appear committed to fostering closer cooperation in the areas of counterterrorism, law enforcement, border controls, and transport security. As ¶ noted above, the Obama Administration has largely continued the Bush Administration’s policy ¶ of engagement with the EU in these areas. Congressional decisions related to improving U.S. travel security and border controls, in particular, may affect how future U.S.-EU cooperation evolves. Data privacy, aviation and cargo security, and visa policy will continue to be salient ¶ issues for Congress in this respect.

### AT Taiwian

**No escalation – China won’t use nuclear weapons**

**Pike 04** (John, Global Security, China’s Options in the Taiwan Confrontation, http://www.globalsecurity.org/military/ops/taiwan-prc.htm)

China would almost certainly not contemplate a nuclear strike against Taiwan, nor would Beijing embark on a course of action that posed significant risks of the use of nuclear weapons. The mainland's long term goal is to liberate Taiwan, not to obliterate it, and any use of nuclear weapons by China would run a substantial risk of the use of nuclear weapons by the United States. An inability to control escalation beyond "demonstrative" detonations would cause utterly disproportionate destruction.

# 1NR

### Overview

#### Most probable

James A. **Russell,** Senior Lecturer, National Security Affairs, Naval Postgraduate School, **‘9** (Spring) “Strategic Stability Reconsidered: Prospects for Escalation and Nuclear War in the Middle East” IFRI, Proliferation Papers, #26, http://www.ifri.org/downloads/PP26\_Russell\_2009.pdf

Strategic stability in the region is thus undermined by various factors: (1) asymmetric interests in the bargaining framework that can introduce unpredictable behavior from actors; (2) the presence of non-state actors that introduce unpredictability into relationships between the antagonists; (3) incompatible assumptions about the structure of the deterrent relationship that makes the bargaining framework strategically unstable; (4) perceptions by Israel and the United States that its window of opportunity for military action is closing, which could prompt a preventive attack; (5) the prospect that Iran’s response to pre-emptive attacks could involve unconventional weapons, which could prompt escalation by Israel and/or the United States; (6) the lack of a communications framework to build trust and cooperation among framework participants. These systemic weaknesses in the coercive bargaining framework all suggest that escalation by any the parties could happen either on purpose or as a result of miscalculation or the pressures of wartime circumstance. Given these factors, it is disturbingly easy to imagine scenarios under which a conflict could quickly escalate in which the regional antagonists would consider the use of chemical, biological, or nuclear weapons. It would be a mistake to believe the nuclear taboo can somehow magically keep nuclear weapons from being used in the context of an unstable strategic framework. Systemic asymmetries between actors in fact suggest a certain increase in the probability of war – a war in which escalation could happen quickly and from a variety of participants. Once such a war starts, events would likely develop a momentum all their own and decision-making would consequently be shaped in unpredictable ways. The international community must take this possibility seriously, and muster every tool at its disposal to prevent such an outcome, which would be an unprecedented disaster for the peoples of the region, with substantial risk for the entire world.

**Iran prolif wrecks U.S. alliances**

Kroenig 12 – Assistant Professor of Government at Georgetown University and a Stanton Nuclear Fellow at the Council on Foreign Relations, author of Exporting the Bomb: Technology Transfer and the Spread of Nuclear Weapons (Matthew, 05/26, “The History of Proliferation Optimism: Does It Have A Future?” http://npolicy.org/article.php?aid=1182&tid=30)

Undermines alliances: The spread of nuclear weapons also complicates U.S. alliance relationships. Washington uses the promise of military protection as a way to cement its alliance structures. U.S. allies depend on America’s protection, giving Washington influence over allied states’ foreign policies. Historically, the United States has offered, and threatened to retract, the security guarantee carrot to prevent allied states from acting contrary to its interests. As nuclear weapons spread, however, alliances held together by promises of military protection are **undermined** in two ways. First, U.S. allies may doubt the credibility of Washington’s commitments to provide a military defense against nuclear-armed states, leading them to weaken ties with their patron. As Charles de Gaulle famously asked about the U.S. commitment to defend France from the Soviet Union during the Cold War, would Washington be willing to trade New York for Paris? Similarly, if Iran acquires nuclear weapons, U.S. partners in the Middle East, such as Israel and Gulf States, will question Washington’s resolve to defend them from Iran. After all, if the United States proves unwilling to use force to prevent Iran from acquiring nuclear weapons, would it really be willing to fight a war against a nuclear-armed Iran? Qatar, for example, already appears to be hedging its bets, loosening ties to Washington and warming to Tehran.

**Iran prolif sparks Turkish prolif**

Tertrais 12 – Senior Research Fellow, Foundation for Strategic Research (Bruno, 03/07, “A Nuclear-Armed Iran Would Not ‘Stabilize’ Anything,” http://www.realite-eu.org/site/apps/nlnet/content3.aspx?c=9dJBLLNkGiF&b=2315291&ct=11938777)

Second, optimists overlook a fundamental difference with the East-West or South Asian context: its poly-nuclear character. The Middle East already presents a complex strategic scene which would not easily lend itself to stable nuclear deterrence relationships. It involves not one, but four nuclear powers: the United States (with nuclear weapons in Turkey), Pakistan and Russia in addition to Israel. One other nuclear power, France, has a permanent military presence in the Gulf. Most importantly, it is almost **inconceivable** that proliferation in the Middle East will stop at Iran. Contrary to what intuition may suggest, the Arab world will tolerate a nuclear-armed Iran much less (or even less) than it tolerates a nuclear Israel. For reasons ranging from acute security concerns to Shi’a-Sunni rivalry and nationalist pride, a nuclear Iran will almost inevitably trigger proliferation one way or another on the Arabian Peninsula and in Northern Africa (as well as perhaps in Turkey). Of course, this would not happen overnight. But to discount this scenario is to **fundamentally misread** the current strategic dynamics of the region as well as the blow to the Non-Proliferation Treaty that would result from an Iranian Bomb.

**Turns regional war**

Kibaroglu 5 – Professor at Bilikent University (Mustafa, February 9, “http://www.iranwatch.org/privateviews/WINEP/perspex-winep-beyondiran-rapporteur-021505.htm)

An additional factor is the perceived weakness of NATO, which is seen as being in a protracted process of soul searching since the end of the Cold War. Moreover, NATO, which used to be the international organization most trusted by the Turks, turned down Turkey's request to enact Article 4 of the North Atlantic Treaty in the days leading up to the United States war in Iraq. Furthermore, a huge number of Turks are unhappy with the policies of the United States toward the Kurdish groups in northern Iraq, a region that was ruled by the Turks for centuries and then lost to the British after the demise of the Ottoman Empire. Many believe that the United States is helping the Kurds build an independent state, regardless of what the American diplomats are asserting publicly. Some even argue that a confrontation with the United States over northern Iraq is a scenario, if a far-fetched one. Having heard what was said and written in U.S. media after the failure of the troop-basing resolution in the Turkish Parliament on March 1, 2003, many that Turks maintain Turkey must be powerful against the United States. Turkey should not develop a nuclear weapons capability. Turkey does not need to possess nuclear weapons to protect itself from its rivals. A Turkish nuclear weapons capability would lead to the closure of NATO's **nuclear umbrella**, which is still a credible deterrent. Also, such an eventuality could, in the future, bring more trouble to Turkey in the form of war by proxy by the country's neighbors.

### Spillover

#### Iran is looking to compromise on its nuclear program – Obama’s perceived flexibility is key

Benen, writer for MSNBC and producer of the Rachel Maddow show, 9/20/2013

(Steve, “When crises become opportunities,” http://maddowblog.msnbc.com/\_news/2013/09/20/20599445-when-crises-become-opportunities?lite)

When it comes to the Middle East, progress has never moved in a straight line. There are fits and starts, ebbs and flows. There are heartening breakthroughs and crushing disappointments, occasionally at the same time.

That said, while the domestic political establishment's attention seems focused elsewhere, there's reason to believe new opportunities are materializing in the region in ways that were hard to even imagine up until very recently.

This morning, for example, the Organization for the Prohibition of Chemical Weapons (OPCW) announced that Syria has taken its first steps towards detailing its stockpiles. Michael Luhan, a spokesperson for the Hague-based chemical weapons regulator, said in a statement, "The OPCW has received an initial disclosure from the Syrian Government of its chemical weapons programme, which is now being examined by the Technical Secretariat of the Organisation."

Meanwhile, Iranian President Hasan Rouhani has a new op-ed in the Washington Post arguing that the United States and the rest of the world "must work together to end the unhealthy rivalries and interferences that fuel violence and drive us apart" through a policy of "constructive engagement."

The New York Times added that Iranian leaders, "seizing on perceived flexibility in a private letter from President Obama, have decided to gamble on forging a swift agreement over their nuclear program with the goal of ending crippling sanctions."

David Sanger summarized the bigger picture nicely.

Only two weeks after Washington and the nation were debating a unilateral military strike on Syria that was also intended as a forceful warning to Iran about its nuclear program, President Obama finds himself at the opening stages of two unexpected diplomatic initiatives with America's biggest adversaries in the Middle East, each fraught with opportunity and danger.

Without much warning, diplomacy is suddenly alive again after a decade of debilitating war in the region. After years of increasing tension with Iran, there is talk of finding a way for it to maintain a face-saving capacity to produce a very limited amount of nuclear fuel while allaying fears in the United States and Israel that it could race for a bomb.

The surprising progress has come so suddenly that a senior American diplomat described this week's developments as "head spinning."

So what happens next?

The consensus among many foreign policy observers is that developments in Syria and Iran are linked in ways that may or may not be helpful to the United States. Max Fisher explained well yesterday that President Obama's pragmatism "has sent exactly the right signals to Iran, particularly at this very sensitive moment."

Obama has been consistently clear, even if some members of his administration were not, that his big overriding goal is for Syrian leader Bashar al-Assad to stop using chemical weapons. First he was going to do that with strikes, meant to coerce Assad. Then, in response to the Russian proposal, Obama signaled he would back off the strikes if Assad gave up his chemical weapons, which is exactly what Obama has always said he wants. He's been consistent as well as flexible, which gave Assad big incentives to cooperate when he might have otherwise dug in his heels.

There are some awfully significant -- and promising -- parallels here with the U.S. standoff with Iran. Obama has been clear that he wants Iran to give up its rogue uranium-enrichment program and submit to the kind of rigorous inspections that would guarantee that its nuclear program is peaceful. He's also been clear that the United States is using severe economic sanctions to coerce Tehran to cooperate and that it would use military force if necessary. The implicit (and sometimes explicit) message to Iran has been: If you abandon your enrichment program, we'll make it worth your while by easing off.

Here's where the parallel with Syria is really important: Iranian leaders distrust the United States deeply and fear that Obama would betray them by not holding up his end of the bargain. That's been a major hurdle to any U.S.-Iran nuclear deal. But seeing Assad's deal with Obama work out (so far) sends the message to Iran that it can trust the United States. It also sends the message that making concessions to the United States can pay off. Iran's supreme leader has been talking a lot lately about flexibility and diplomacy toward the West. So it's an ideal moment for Obama to be demonstrating flexibility and diplomacy toward the Middle East.

### Syria

Effective negotiations likely—this postdates and is more conclusive

Susanne Maloney, Senior Fellow, Saban Center for Middle East Policy, Brookings Institution, 10/18/13, Time Ripe for Iranian Nuclear Accord?, [www.cfr.org/arms-control-disarmament-and-nonproliferation/time-ripe-iranian-nuclear-accord/p31660?cid=rss-analysisbriefbackgroundersexp-time\_ripe\_for\_iranian\_nuclear\_-101813](http://www.cfr.org/arms-control-disarmament-and-nonproliferation/time-ripe-iranian-nuclear-accord/p31660?cid=rss-analysisbriefbackgroundersexp-time_ripe_for_iranian_nuclear_-101813)

Predictions with Iran are incredibly dangerous, as I think you know. But I'm very optimistic. I'm not irrationally exuberant. There has been just a little bit too much adoration of the new tone that we've heard from Iran, and I think that it's important to remember that we're only beginning to see the first real tangible signs of change within the country.

But it's quite clear that Rouhani was elected with a mission and a mandate to find some way out of the nuclear mess and rehabilitate Iran's role in the world and fix its economy. The only way that he can do this is to come to an agreement with the international community. The negotiators and the officials that we have seen in New York and Geneva have made very clear that they are empowered, prepared, and willing. I think it's also clear that the [Obama] administration sees the opportunity before it and is attempting to seize that opportunity.

#### Syria was a strategic ploy ---- only risk of a link

WSJ 9/5/13 (“Obama's Curbs on Executive Power Draw Fire”, September 5, 2013, http://online.wsj.com/article/SB10001424127887323893004579057463262293446.html)

The president's moves on national-security issues reflect a mix of political pragmatism as well as personal principles, and exactly how much power Mr. Obama actually has given up is the subject of debate. He has walked a fine line on Syria, for example, saying he wasn't required to seek sign-off from lawmakers for a military strike but asking for their approval anyway.

A senior administration official said that while the new drone-strike policy does rein in executive authority, the NSA and Syria proposals weren't a reduction of power but an effort to increase transparency and build public confidence.

Still, the president, who was criticized for seizing too much power through recess appointments and other steps that some said circumvented Congress, now is being criticized by veterans of past Republican administrations for weakening the presidency.

John Yoo, a Justice Department official in the George W. Bush administration, said Mr. Obama had unnecessarily limited his own authority. He noted that it is rare to see a president restrict his powers.

Mr. Obama "has been trying to reduce the discretion of the president when it comes to national security and foreign affairs," said Mr. Yoo, now a law professor at the University of California at Berkeley. "These proposals that President Obama is making really run counter to why we have a president and a constitution."

Others, though, said the president had given up a modicum of authority in an effort to protect presidential power and guard against congressional action.

The question of the extent of executive power has been long debated in Washington. President Lyndon Johnson was accused of using a narrow congressional resolution to vastly and illegally expand the Vietnam War, for example, and President Richard Nixon was accused of creating an "imperial presidency" before his resignation.

More recently, Mr. Obama's predecessor, Mr. Bush, was accused by Democrats of having inappropriately expanded executive powers in combating terrorism.

Jack Quinn, who served as White House counsel for President Bill Clinton, said Mr. Obama's recent moves amount to threading a needle to reach agreements and avoid larger setbacks for executive power. "Sometimes, it's important to show tolerance for others in order to preserve the power that you have," he said. "I don't think anyone can say that he is a shrinking violet when it comes to his use of power as president."

A.B. Culvahouse, White House counsel under Ronald Reagan, agreed that the president imposing constraints on executive authority is the preferable course if it helps dissuade Congress from stepping in to impose the same or more onerous limitations. Lawmakers retain the power of the purse, he noted, and also could codify restrictions in statute.

**Obama power-played Syrian intervention – their thumper is wrong**

Balkin 9/3/13 - law professor at Yale University (Jack, What Congressional Approval Won't Do: Trim Obama's Power or Make War Legal, [www.theatlantic.com/politics/archive/2013/09/what-congressional-approval-wont-do-trim-obamas-power-or-make-war-legal/279298/](http://www.theatlantic.com/politics/archive/2013/09/what-congressional-approval-wont-do-trim-obamas-power-or-make-war-legal/279298/))

One of the most misleading metaphors in the discussion of President Obama’s Syria policy is that the president has “boxed himself in” or has “painted himself into a corner.” These metaphors treat a president’s available actions as if they were physical spaces and limits on action as if they were physical walls. Such metaphors would make sense only if we also stipulated that Obama has the power to snap his fingers and create a door or window wherever he likes. The Syria crisis has not created a new precedent for limiting presidential power. To the contrary, it has offered multiple opportunities for increasing it. If Congress says no to Obama, it will not significantly restrain future presidents from using military force. At best, it will preserve current understandings about presidential power. If Congress says yes, it may bestow significant new powers on future presidents -- and it will also commit the United States to violating international law. For Obama plans to violate the United Nations Charter, and he wants Congress to give him its blessing. People who believe Obama has painted himself into a corner or boxed himself in might not remember that the president always has the option to ask Congress to authorize any military action he proposes, thus sharing the responsibility for decision if the enterprise goes sour. If Congress refuses, Obama can easily back away from any threats he has made against Syria, pointing to the fact that Congress would not go along. There is no corner. There is no box. Wouldn’t congressional refusal make the United States look weak, as critics including Senator John McCain warn loudly? Hardly. The next dictator who acts rashly will face a different situation and a different calculus. The UN Security Council or NATO may feel differently about the need to act. There may be a new threat to American interests that lets Obama or the next president offer a different justification for acting. It just won’t matter very much what Obama said about red lines in the past. World leaders say provocative things all the time and then ignore them. Their motto is: That was then, and this is now. If Congress turns him down, won’t Obama be undermined at home, as other critics claim? In what sense? It is hard to see how the Republicans could be less cooperative than they already are. And it’s not in the interest of Democrats to fault a president of their own party for acceding to what Congress wants instead of acting unilaterally. Some commentators argue (or hope) that whatever happens, Obama’s request for military authorization will be an important precedent that will begin to restore the constitutional balance between the president and Congress in the area of war powers. Don’t bet on it. By asking for congressional authorization in this case, Obama has not ceded any authority that he ­or any other president ­has previously asserted in war powers. Syria presents a case in which previous precedents did not apply. There is no direct threat to American security, American personnel, or American interests. There is no Security Council resolution to enforce. And there is no claim that America needs to shore up the credibility of NATO or another important security alliance. Nor does Obama have even the feeble justification that the Clinton Administration offered in Kosovo­: that congressional appropriations midway through the operation offered tacit and retroactive approval for the bombings. It is naive to think that the next time a president wants to send forces abroad without congressional approval, he or she will be deterred by the fact that Barack Obama once sought congressional permission to bomb Syria. If a president can plausibly assert that any of the previous justifications apply -- ­including those offered in the Libya intervention -- the case of Syria is easily distinguishable.

**Obama’s Syria maneuver has maximized presidential war powers because it’s on his terms**

**Posner 9/3**, Law Prof at University of Chicago

(Eric, Obama Is Only Making His War Powers Mightier, www.slate.com/articles/news\_and\_politics/view\_from\_chicago/2013/09/obama\_going\_to\_congress\_on\_syria\_he\_s\_actually\_strengthening\_the\_war\_powers.html)

President Obama’s surprise announcement that he will ask Congress for approval of a military attack on Syria is being hailed as a vindication of the rule of law and a revival of the central role of Congress in war-making, even by critics. But all of this is wrong. Far from breaking new legal ground, President Obama has reaffirmed the primacy of the executive in matters of war and peace. The war powers of the presidency remain as mighty as ever. It would have been different if the president had announced that only Congress can authorize the use of military force, as dictated by the Constitution, which gives Congress alone the power to declare war. That would have been worthy of notice, a reversal of the ascendance of executive power over Congress. But the president said no such thing. He said: “I believe I have the authority to carry out this military action without specific congressional authorization.” Secretary of State John Kerry confirmed that the president “has the right to do that”—launch a military strike—“no matter what Congress does.” Thus, the president believes that the law gives him the option to seek a congressional yes or to act on his own. He does not believe that he is bound to do the first. He has merely stated the law as countless other presidents and their lawyers have described it before him. The president’s announcement should be understood as a political move, not a legal one. His motive is both self-serving and easy to understand, and it has been all but acknowledged by the administration. If Congress now approves the war, it must share blame with the president if what happens next in Syria goes badly. If Congress rejects the war, it must share blame with the president if Bashar al-Assad gases more Syrian children. The big problem for Obama arises if Congress says no and he decides he must go ahead anyway, and then the war goes badly. He won’t have broken the law as he understands it, but he will look bad. He would be the first president ever to ask Congress for the power to make war and then to go to war after Congress said no. (In the past, presidents who expected dissent did not ask Congress for permission.) People who celebrate the president for humbly begging Congress for approval also apparently don’t realize that his understanding of the law—that it gives him the option to go to Congress—maximizes executive power vis-à-vis Congress. If the president were required to act alone, without Congress, then he would have to take the blame for failing to use force when he should and using force when he shouldn’t. If he were required to obtain congressional authorization, then Congress would be able to block him. But if he can have it either way, he can force Congress to share responsibility when he wants to and avoid it when he knows that it will stand in his way.

### Impact

**Your authors analysis of Iran prolif is selective – he ignores empirics and polarization between nuclear actors**

NAPF 12 – The Nuclear Age Peace Foundation is a non-profit, non-partisan international education and advocacy organization, it has consultative status to the United Nations Economic and Social Council and is recognized by the UN as a Peace Messenger Organization (06/29, “Nuclear Iran Does Not Increase Stability: 8 Reasons,” http://wagingpeacetoday.blogspot.com/2012/06/nuclear-iran-does-not-increase.html)

In the July issue of Foreign Affairs, international relations scholar and founder of neorealism, Kenneth Waltz, published a column not only defending nuclear deterrence theory, but also supporting the Iran obtaining a nuclear weapon (part of the column can be found on the website of USA Today). Waltz identifies three possible futures that could be had depending on the actions of Iran’s nuclear enrichment program. I find his analysis **selective** and the publishing of such opinions as legitimate in both the academic and mainstream press, without acknowledging the **disastrous consequences** that are possible in the case that his presumptions are false, to be reprehensible. I thus write this response. One of the biggest issues with Waltz’s analysis is his complete dismissal of the incomprehensible dangers of nuclear weapons. He writes, “A palpable sense of crisis still looms,” and then dismisses it by saying, “It should not.”1 In the words of Nuclear Age Peace Foundation president David Krieger, “fear is a healthy mechanism when one is confronted by something fearful.”2 The Hiroshima and Nagasaki bombs killed 200,000 initially and many more in the months and years after. The current warheads are much larger than those two, plus new reports discuss how the nuclear famine that would follow a limited nuclear exchange between Pakistan and India could kill over 1 billion human beings.3 Luckily for us, Mr. Waltz is not worried. He thinks, “A nuclear-armed Iran would probably be the best possible result of the standoff and the one most likely to restore stability to the Middle East.” I beg to differ. The basis of Waltz’s argument is that there are only three possible futures for the Iranian nuclear program. I will be addressing them out of their original order. One outcome that is not often discussed in the international theater “is that Iran stops short of testing a nuclear weapon but develops a breakout capability, the capacity to build and test one quite quickly.” I believe that Waltz correctly identifies that while this position would be acceptable to Iranian leadership, Israel (and most likely the United States) would not find this acceptable. The increased hostility, both in the level of sanctions and potential tangible conflict, would not only spiral the region into more instability, but could also propel Iran to proliferate fully operational nuclear weapons as a response. Either way, if this path was selected it would not remain the status quo for long. Waltz believes that because Iran could not stop just short of a nuclear weapon, for reasons listed above, it will follow through with a weapons proliferating trajectory, resulting in greater regional and global stability. I disagree that, “New nuclear states generally produce more regional and international stabilitly.” First, this is empirically not true and a prime example of selectivity on the part of Waltz. Following the Pakistani nuclear test in 1998 was the Indo-Pakistani war of 1999, caused by the emboldening Pakistan received from its nuclear weapons program.4 North Korea has become increasingly belligerent since its proliferation. Israeli has acted as though it had impunity evermore so as greater numbers of individuals accept their role as an unofficial nuclear power. When Chechen rebels obtained a dirty bomb with seventy pounds of cesium-137 inside, it did not improve or stabilize their relations with Russia.5 While this last example is not of the relationship between states, it still depicts the way all parties, including states, interact. **Waltz is incorrect** when he says that nuclear powers are more cautious than they were before their proliferation. Characteristically, there also is less dialogue between nuclear actors in hostile regions as communications become increasingly **polarized**. This divide in communications creates an “us vs. them” mentality in which bilateralism and partisanship are not possible. Not only does this act as a roadblock for peace and humanitarian efforts, but also creates a state of exile in which the state can easily be pushed to the outside. This creates greater levels of conflict and furthers current patterns of **instability**. Waltz asserts power “begs to be balanced.” This is the right direction of thought, but I would go a step further and argue that power seeks not to be balance, but to secure superiority. Nuclear powers utilize their status as a tool to manipulate other actors into actions which benefit the nuclear power. If a nuclear power wishes to assert superiority then there will be, and empirically has been (Cuban Missile Crisis for example) tensions between the forces. The crust of the earth is always in tension with itself, and every once in a while there is an earthquake as the tensions rise to uncontrollable levels. The proliferation of nuclear weapons by Iran is a dangerous new tension to add to a very fragile balance of power. Nuclear detonation is one ‘earthquake’ that we can not afford.

#### Iran is proliferating- most recent IAEA inspections prove

**Borger ’12** (Julian, The Guardian Diplomat Editor, 2/22, “UN nuclear inspectors declare Iran mission a disappointment”, <http://www.guardian.co.uk/world/2012/feb/22/un-nuclear-inspectors-iran-mission>, JD)

The diplomatic options for a solution to the Iranian nuclear crisis narrowed on Wednesday after a team of UN nuclear inspectors returned from Tehran without agreement on visiting a suspect site. The International Atomic Energy Agency (IAEA) is due to issue its latest report on the Iranian nuclear programme on Friday, but took the unusual step of criticising Tehran's approach in a statement issued while the inspectors were still flying back to its headquarters in Vienna. The main stumbling block was Iran's refusal to allow the IAEA team to visit a military site at Parchin, where the last agency report, issued in November, said there was a steel chamber which could have been used for testing explosives of a type performed in the development of a nuclear warhead. "It is disappointing that Iran did not accept our request to visit Parchin during the first or second meetings," said the agency's director general, Yukiya Amano. "We engaged in a constructive spirit, but no agreement was reached." Herman Nackaerts, the IAEA deputy director general and head of the safeguards department, who headed the mission, had made a Parchin visit the main litmus test for its success, according to diplomatic sources, but was rebuffed by the Iranians. Speaking at Vienna airport on his return, Nackaerts said his team "could not find a way forward". A Vienna-based diplomat briefed on the visit said Iran had sought to focus the talks on a work-plan circumscribing the conduct of IAEA inspections. "It was very hard work. The Iranians focused exclusively on process and they tried to get the team to sign a document which governed the ways they would work," the diplomat said. "My reading is, what happened was that the meetings were monopolised by a lot of unproductive discussions on the wording of the agreement and practical questions put forward by the agency were put to the side." The IAEA said: "Intensive efforts were made to reach agreement on a document facilitating the clarification of unresolved issues in connection with Iran's nuclear programme, particularly those relating to possible military dimensions. Unfortunately, agreement was not reached on this document." In the wake of the collapse of the mission, Friday's report will almost certainly give a negative assessment of Iranian co-operation while noting the progress of the country's nuclear programme and uranium enrichment, which the UN security council has demanded Tehran suspend. Iran insists it has a right to enrich uranium and the country's supreme leader, Ali Khamenei, put on a show of defiance on Wednesday with a rare meeting with Iranian nuclear scientists, insisting their work was peaceful, that Iran had no intention of building a bomb and vowing the programme would continue in the face of mounting international pressure. "With God's help, and without paying attention to propaganda, Iran's nuclear course should continue firmly and seriously," Khamenei said on Iranian state television. "Pressures, sanctions and assassinations will bear no fruit. No obstacles can stop Iran's nuclear work." Doubts have now been cast over tentative plans to hold a new round of talks between Iran and a six-nation group of major powers, including the five permanent members of the UN security council together with Germany. The group, known as the P5+1, had been waiting for the new IAEA report before deciding whether to proceed with the talks. It was also seeking clarification on whether Iran had dropped its earlier preconditions for negotiations, which included an immediate end to sanctions and a guarantee that uranium enrichment was a non-negotiable Iranian right. There had been hopes that the P5+1 meeting could agree confidence-building measures, possibly including an exchange of Iranian low enriched uranium for French-made fuel rods. Diplomats said the group would now have to reassess if there would be any purpose in a meeting. Some western capitals are pushing instead for Iran to be referred to the UN security council by the IAEA board of member states, with the aim of imposing further sanctions. An EU oil embargo is already planned for 1 July, at about the same time of US financial sanctions against the Iranian global oil trade.

**Iran prolif spills over globally – causes fast extinction**

Economist 12 (02/25, “Nuclear proliferation: Bombing Iran,” http://www.economist.com/node/21548233)

Make no mistake, an Iran armed with the bomb would pose a deep threat. The country is insecure, ideological and meddles in its neighbours' affairs. Both Iran and its proxies—including Hizbullah in Lebanon and Hamas in Gaza—might act even more brazenly than they do now. The danger is keenly felt by Israel, surrounded by threats and especially vulnerable to a nuclear bomb because it is such a small land. Iran's Supreme Leader, Ayatollah Ali Khamenei, recently called the “Zionist regime” a “cancerous tumour that must be cut out”. Jews, of all people, cannot just dismiss that as so much rhetoric. Even if Iran were to gain a weapon only for its own protection, others in the region might then feel they need weapons too. Saudi Arabia has said it will arm—and Pakistan is thought ready to supply a bomb in exchange for earlier Saudi backing of its own programme. Turkey and Egypt, the other regional powers, might conclude they have to join the nuclear club. Elsewhere, countries such as Brazil might see nuclear arms as vital to regional dominance, or fear that their neighbours will. Some experts argue that nuclear-armed states tend to behave responsibly. But imagine a Middle East with five nuclear powers riven by rivalry and sectarian feuds. **Each would have its fingers permanently twitching over the button**, in the belief that the one that pressed first would be left standing. Iran's regime gains legitimacy by demonising foreign powers. The cold war seems stable by comparison with a nuclear Middle East—and yet America and the Soviet Union were sometimes scarily close to **Armageddon**.