## 1NC

### T

#### Restrictions are prohibitions

Northglenn 11 (City of Northglenn Zoning Ordinance, “Rules of Construction – Definitions”, http://www.northglenn.org/municode/ch11/content\_11-5.html)

Section 11-5-3. Restrictions. As used in this Chapter 11 of the Municipal Code, the **term "restriction**" shall mean a prohibitive regulation. Any use, activity, operation, building, structure or thing which is the subject of a restriction is prohibited, and no such use, activity, operation, building, structure or thing shall be **authorized by any permit or license**.

### Politics

**Obama’s pressuring the GOP with a strong display of Presidential strength and staying on message – the GOP will blink**

**Dovere, 10/1/13** (Edward, Politico, “Government shutdown: President Obama holds the line”

<http://www.politico.com/story/2013/10/government-shutdown-president-obama-holds-the-line-97646.html?hp=f3>)

President Barack Obama started September in an agonizing, extended display of how little sway he had in Congress. He ended the month with a display of resolve and strength that could redefine his presidency. All it took was a government shutdown. This was less a White House strategy than simply staying in the corner the House GOP had painted them into — to the White House’s surprise, Obama was forced to do what he so rarely has as president: he said no, and he didn’t stop saying no. For two weeks ahead of Monday night’s deadline, Obama and aides rebuffed the efforts to kill Obamacare with the kind of firm, narrow sales pitch they struggled with in three years of trying to convince people the law should exist in the first place. There was no litany of doomsday scenarios that didn’t quite come true, like in the run-up to the fiscal cliff and the sequester. No leaked plans or musings in front of the cameras about Democratic priorities he might sacrifice to score a deal. After five years of what’s often seen as Obama’s desperation to negotiate — to the fury of his liberal base and the frustration of party leaders who argue that he negotiates against himself. Even his signature health care law came with significant compromises in Congress. Instead, over and over and over again, Obama delivered the simple line: Republicans want to repeal a law that was passed and upheld by the Supreme Court — to give people health insurance — or they’ll do something that everyone outside the GOP caucus meetings, including Wall Street bankers, seems to agree would be a ridiculous risk. “If we lock these Americans out of affordable health care for one more year,” Obama said Monday afternoon as he listed examples of people who would enjoy better treatment under Obamacare, “if we sacrifice the health care of millions of Americans — then they’ll fund the government for a couple more months. Does anybody truly believe that we won’t have this fight again in a couple more months? Even at Christmas?” The president and his advisers weren’t expecting this level of Republican melee, a White House official said. Only during Sen. Ted Cruz’s (R-Texas) 21-hour floor speech last week did the realization roll through the West Wing that they wouldn’t be negotiating because they couldn’t figure out anymore whom to negotiate with. And even then, they didn’t believe the shutdown was really going to happen until Saturday night, when the House voted again to strip Obamacare funding. This wasn’t a credible position, Obama said again Monday afternoon, but rather, bowing to “extraneous and controversial demands” which are “all to save face after making some impossible promises to the extreme right wing of their political party.” Obama and aides have said repeatedly that they’re not thinking about the shutdown in terms of political gain, but the situation’s is taking shape for them. Congress’s approval on dealing with the shutdown was at 10 percent even before the shutters started coming down on Monday according to a new CNN/ORC poll, with 69 percent of people saying the House Republicans are acting like “spoiled children.” “The Republicans are making themselves so radioactive that the president and Democrats can win this debate in the court of public opinion” by waiting them out, said Jim Manley, a Democratic strategist and former aide to Senate Majority Leader Harry Reid who has previously been critical of Obama’s tactics. Democratic pollster Stan Greenberg said the Obama White House learned from the 2011 debt ceiling standoff, when it demoralized fellow Democrats, deflated Obama’s approval ratings and got nothing substantive from the negotiations. “They didn’t gain anything from that approach,” Greenberg said. “I think that there’s a lot they learned from what happened the last time they ran up against the debt ceiling.” While the Republicans have been at war with each other, the White House has proceeded calmly — a breakthrough phone call with Iranian President Hassan Rouhani Friday that showed him getting things done (with the conveniently implied juxtaposition that Tehran is easier to negotiate with than the GOP conference), his regular golf game Saturday and a cordial meeting Monday with his old sparring partner Israeli Prime Minister Benjamin Netanyahu. White House press secretary Jay Carney said Monday that the shutdown wasn’t really affecting much of anything. “It’s busy, but it’s always busy here,” Carney said. “It’s busy for most of you covering this White House, any White House. We’re very much focused on making sure that the implementation of the Affordable Care Act continues.” Obama called all four congressional leaders Monday evening — including Boehner, whose staff spent Friday needling reporters to point out that the president hadn’t called for a week. According to both the White House and Boehner’s office, the call was an exchange of well-worn talking points, and changed nothing. Manley advised Obama to make sure people continue to see Boehner and the House Republicans as the problem and not rush into any more negotiations until public outrage forces them to bend. “He may want to do a little outreach, but not until the House drives the country over the cliff,” Manley said Monday, before the shutdown. “Once the House has driven the country over the cliff and failed to fund the government, then it might be time to make a move.” The White House believes Obama will take less than half the blame for a shutdown – with the rest heaped on congressional Republicans. The divide is clear in a Gallup poll also out Monday: over 70 percent of self-identifying Republicans and Democrats each say their guys are the ones acting responsibly, while just 9 percent for both say the other side is. If Obama is able to turn public opinion against Republicans, the GOP won’t be able to turn the blame back on Obama, Greenberg said. “Things only get worse once things begin to move in a particular direction,” he said. “They don’t suddenly start going the other way as people rethink this.”

**Having to defend authority derails the current agenda**

Kriner 10 Douglas L. Kriner (assistant professor of political science at Boston University) “After the Rubicon: Congress, Presidents, and the Politics of Waging War”, University of Chicago Press, Dec 1, 2010, page 68-69.

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.59 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. 60 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 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 proprieties, 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.61 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.

**That takes Obama off-message – it undermines his constant pressure on the GOP**

**Milbank, 9/27/13** – Washington Post Opinion Writer (Dana, “Obama should pivot to Dubya’s playbook” Washington Post, <http://www.washingtonpost.com/opinions/dana-milbank-obama-should-try-pivoting-to-george-bushs-playbook/2013/09/27/c72469f0-278a-11e3-ad0d-b7c8d2a594b9_story.html>)

If President Obama can stick to his guns, he will win his October standoff with Republicans. That’s an awfully big “if.” This president has been consistently inconsistent, predictably unpredictable and reliably erratic. Consider the events of Thursday morning: Obama gave a rousing speech in suburban Washington, in defense of Obamacare, on the eve of its implementation. “We’re now only five days away from finishing the job,” he told the crowd. But before he had even left the room, his administration let slip that it was delaying by a month the sign-up for the health-care exchanges for small businesses. It wasn’t a huge deal, but it was enough to trample on the message the president had just delivered. Throughout his presidency, Obama has had great difficulty delivering a consistent message. Supporters plead for him to take a position — any position — and stick with it. His shifting policy on confronting Syria was the most prominent of his vacillations, but his allies have seen a similar approach to the Guantanamo Bay prison, counterterrorism and climate change. Even on issues such as gun control and immigration where his views have been consistent, Obama has been inconsistent in promoting his message. Allies are reluctant to take risky stands, because they fear that Obama will change his mind and leave them standing alone. Now come the budget showdowns, which could define the rest of his presidency. Republican leaders are trying to shift the party’s emphasis from the fight over a government shutdown to the fight over the debt-limit increase, where they have more support. A new Bloomberg poll found that Americans, by a 2-to-1 margin, disagree with Obama’s view that Congress should raise the debt limit without any conditions. But Obama has a path to victory. That poll also found that Americans think lawmakers should stop trying to repeal Obamacare. And that was before House Republicans dramatically overplayed their hand by suggesting that they’ll allow the nation to default if Obama doesn’t agree to their laundry list of demands, including suspending Obamacare, repealing banking reforms, building a new oil pipeline, easing environmental regulations, limiting malpractice lawsuits and restricting access to Medicare. To beat the Republicans, Obama might follow the example of a Republican, George W. Bush. Whatever you think of what he did, he knew how to get it done: by simplifying his message and repeating it, ad nauseam, until he got the result he was after. Obama instead tends to give a speech and move along to the next topic. This is why he is forever making “pivots” back to the economy, or to health care. But the way to pressure Congress is to be President One Note. In the debt-limit fight, Obama already has his note: He will not negotiate over the full faith and credit of the United States. That’s as good a theme as any; it matters less what the message is than that he delivers it consistently. The idea, White House officials explained to me, is to avoid getting into a back-and-forth over taxes, spending and entitlement programs. “We’re right on the merits, but I don’t think we want to argue on the merits,” one said. “Our argument is not that our argument is better than theirs; it’s that theirs is stupid.” This is a clean message: Republicans are threatening to tank the economy — through a shutdown or, more likely, through a default on the debt — and Obama isn’t going to negotiate with these hostage-takers. Happily for Obama, Republicans are helping him to make the case by being publicly belligerent. After this week’s 21-hour speech on the Senate floor by Sen. Ted Cruz (R-Tex.), the publicity-seeking Texan and Sen. Mike Lee (R-Utah) objected to a bipartisan request to move a vote from Friday to Thursday to give House Republicans more time to craft legislation avoiding a shutdown. On the Senate floor, Sen. Bob Corker (R-Tenn.) accused them of objecting because they had sent out e-mails encouraging their supporters to tune in to the vote on Friday. The Post’s Ed O’Keefe caught Cruz “appearing to snicker” as his colleague spoke — more smug teenager than legislator. Even if his opponents are making things easier for him, Obama still needs to stick to his message. As in Syria, the president has drawn a “red line” by saying he won’t negotiate with those who would put the United States into default. If he retreats, he will embolden his opponents and demoralize his supporters.

**Collapses the economy**

Adam Davidson 9/10/13, economy columnist for The New York Times, co-founder of Planet Money, NPR’s team of economics reporters, “Our Debt to Society,” NYT, http://www.nytimes.com/2013/09/15/magazine/our-debt-to-society.html?pagewanted=all&\_r=0

If the debt ceiling isn’t lifted again this fall, some serious financial decisions will have to be made. Perhaps the government can skimp on its foreign aid or furlough all of NASA, but eventually the big-ticket items, like Social Security and Medicare, will have to be cut. At some point, the government won’t be able to pay interest on its bonds and will enter what’s known as sovereign default, the ultimate national financial disaster achieved by countries like Zimbabwe, Ecuador and Argentina (and now Greece). In the case of the United States, though, it won’t be an isolated national crisis. If the American government can’t stand behind the dollar, the world’s benchmark currency, then the global financial system will very likely enter a new era in which there is much less trade and much less economic growth. It would be, by most accounts, the largest self-imposed financial disaster in history.¶ Nearly everyone involved predicts that someone will blink before this disaster occurs. Yet a small number of House Republicans (one political analyst told me it’s no more than 20) appear willing to see what happens if the debt ceiling isn’t raised — at least for a bit. This could be used as leverage to force Democrats to drastically cut government spending and eliminate President Obama’s signature health-care-reform plan. In fact, Representative Tom Price, a Georgia Republican, told me that the whole problem could be avoided if the president agreed to drastically cut spending and lower taxes. Still, it is hard to put this act of game theory into historic context. Plenty of countries — and some cities, like Detroit — have defaulted on their financial obligations, but only because their governments ran out of money to pay their bills. No wealthy country has ever voluntarily decided — in the middle of an economic recovery, no less — to default. And there’s certainly no record of that happening to the country that controls the global reserve currency.¶ Like many, I assumed a self-imposed U.S. debt crisis might unfold like most involuntary ones. If the debt ceiling isn’t raised by X-Day, I figured, the world’s investors would begin to see America as an unstable investment and rush to sell their Treasury bonds. The U.S. government, desperate to hold on to investment, would then raise interest rates far higher, hurtling up rates on credit cards, student loans, mortgages and corporate borrowing — which would effectively put a clamp on all trade and spending. The U.S. economy would collapse far worse than anything we’ve seen in the past several years.¶ Instead, Robert Auwaerter, head of bond investing for Vanguard, the world’s largest mutual-fund company, told me that the collapse might be more insidious. “You know what happens when the market gets upset?” he said. “There’s a flight to quality. Investors buy Treasury bonds. It’s a bit perverse.” In other words, if the U.S. comes within shouting distance of a default (which Auwaerter is confident won’t happen), the world’s investors — absent a safer alternative, given the recent fates of the euro and the yen — might actually buy even more Treasury bonds. Indeed, interest rates would fall and the bond markets would soar.¶ While this possibility might not sound so bad, it’s really far more damaging than the apocalyptic one I imagined. Rather than resulting in a sudden crisis, failure to raise the debt ceiling would lead to a slow bleed. Scott Mather, head of the global portfolio at Pimco, the world’s largest private bond fund, explained that while governments and institutions might go on a U.S.-bond buying frenzy in the wake of a debt-ceiling panic, they would eventually recognize that the U.S. government was not going through an odd, temporary bit of insanity. They would eventually conclude that it had become permanently less reliable. Mather imagines institutional investors and governments turning to a basket of currencies, putting their savings in a mix of U.S., European, Canadian, Australian and Japanese bonds. Over the course of decades, the U.S. would lose its unique role in the global economy.¶ The U.S. benefits enormously from its status as global reserve currency and safe haven. Our interest and mortgage rates are lower; companies are able to borrow money to finance their new products more cheaply. As a result, there is much more economic activity and more wealth in America than there would be otherwise. If that status erodes, the U.S. economy’s peaks will be lower and recessions deeper; future generations will have fewer job opportunities and suffer more when the economy falters. And, Mather points out, no other country would benefit from America’s diminished status. When you make the base risk-free asset more risky, the entire global economy becomes riskier and costlier.

**Decline goes nuclear**

Green and Schrage ‘9 (Michael J Green is Senior Advisor and Japan Chair at the Center for Strategic and International Studies (CSIS) and Associate Professor at Georgetown University. Steven P Schrage is the CSIS Scholl Chair in International Business and a former senior official with the US Trade Representative's Office, State Department and Ways & Means Committee, Asia Times, 2009 <http://www.atimes.com/atimes/Asian_Economy/KC26Dk01.html>)

Facing the worst economic crisis since the Great Depression, analysts at the World Bank and the US Central Intelligence Agency are just beginning to contemplate the ramifications for international stability if there is not a recovery in the next year. For the most part, the focus has been on fragile states such as some in Eastern Europe. However, the Great Depression taught us that a downward global economic spiral can even have jarring impacts on great powers. It is no mere coincidence that the last great global economic downturn was followed by the most destructive war in human history. In the 1930s, economic desperation helped fuel autocratic regimes and protectionism in a downward economic-security death spiral that engulfed the world in conflict. This spiral was aided by the preoccupation of the United States and other leading nations with economic troubles at home and insufficient attention to working with other powers to maintain stability abroad. Today's challenges are different, yet 1933's London Economic Conference, which failed to stop the drift toward deeper depression and world war, should be a cautionary tale for leaders heading to next month's London Group of 20 (G-20) meeting. There is no question the US must urgently act to address banking issues and to restart its economy. But the lessons of the past suggest that we will also have to keep an eye on those fragile threads in the international system that could begin to unravel if the financial crisis is not reversed early in the Barack Obama administration and realize that economics and security are intertwined in most of the critical challenges we face. A disillusioned rising power? Four areas in Asia merit particular attention, although so far the current financial crisis has not changed Asia's fundamental strategic picture. China is not replacing the US as regional hegemon, since the leadership in Beijing is too nervous about the political implications of the financial crisis at home to actually play a leading role in solving it internationally. Predictions that the US will be brought to its knees because China is the leading holder of US debt often miss key points. China's currency controls and full employment/export-oriented growth strategy give Beijing few choices other than buying US Treasury bills or harming its own economy. Rather than creating new rules or institutions in international finance, or reorienting the Chinese economy to generate greater long-term consumer demand at home, Chinese leaders are desperately clinging to the status quo (though Beijing deserves credit for short-term efforts to stimulate economic growth). The greater danger with China is not an eclipsing of US leadership, but instead the kind of shift in strategic orientation that happened to Japan after the Great Depression. Japan was arguably not a revisionist power before 1932 and sought instead to converge with the global economy through open trade and adoption of the gold standard. The worldwide depression and protectionism of the 1930s devastated the newly exposed Japanese economy and contributed directly to militaristic and autarkic policies in Asia as the Japanese people reacted against what counted for globalization at the time. China today is similarly converging with the global economy, and many experts believe China needs at least 8% annual growth to sustain social stability. Realistic growth predictions for 2009 are closer to 5%. Veteran China hands were watching closely when millions of migrant workers returned to work after the Lunar New Year holiday last month to find factories closed and jobs gone. There were pockets of protests, but nationwide unrest seems unlikely this year, and Chinese leaders are working around the clock to ensure that it does not happen next year either. However, the economic slowdown has only just begun and nobody is certain how it will impact the social contract in China between the ruling communist party and the 1.3 billion Chinese who have come to see President Hu Jintao's call for "harmonious society" as inextricably linked to his promise of "peaceful development". If the Japanese example is any precedent, a sustained economic slowdown has the potential to open a dangerous path from economic nationalism to strategic revisionism in China too. Dangerous states It is noteworthy that North Korea, Myanmar and Iran have all intensified their defiance in the wake of the financial crisis, which has distracted the world's leading nations, limited their moral authority and sown potential discord. With Beijing worried about the potential impact of North Korean belligerence or instability on Chinese internal stability, and leaders in Japan and South Korea under siege in parliament because of the collapse of their stock markets, leaders in the North Korean capital of Pyongyang have grown increasingly boisterous about their country's claims to great power status as a nuclear weapons state. The junta in Myanmar has chosen this moment to arrest hundreds of political dissidents and thumb its nose at fellow members of the 10-country Association of Southeast Asian Nations. Iran continues its nuclear program while exploiting differences between the US, UK and France (or the P-3 group) and China and Russia - differences that could become more pronounced if economic friction with Beijing or Russia crowds out cooperation or if Western European governments grow nervous about sanctions as a tool of policy. It is possible that the economic downturn will make these dangerous states more pliable because of falling fuel prices (Iran) and greater need for foreign aid (North Korea and Myanmar), but that may depend on the extent that authoritarian leaders care about the well-being of their people or face internal political pressures linked to the economy. So far, there is little evidence to suggest either and much evidence to suggest these dangerous states see an opportunity to advance their asymmetrical advantages against the international system. Challenges to the democratic model The trend in East Asia has been for developing economies to steadily embrace democracy and the rule of law in order to sustain their national success. But to thrive, new democracies also have to deliver basic economic growth. The economic crisis has hit democracies hard, with Japanese Prime Minister Aso Taro's approval collapsing to single digits in the polls and South Korea's Lee Myung-bak and Taiwan's Ma Ying Jeou doing only a little better (and the collapse in Taiwan's exports - particularly to China - is sure to undermine Ma's argument that a more accommodating stance toward Beijing will bring economic benefits to Taiwan). Thailand's new coalition government has an uncertain future after two years of post-coup drift and now economic crisis. The string of old and new democracies in East Asia has helped to anchor US relations with China and to maintain what former secretary of state Condoleezza Rice once called a "balance of power that favors freedom". A reversal of the democratic expansion of the past two decades would not only impact the global balance of power but also increase the potential number of failed states, with all the attendant risk they bring from harboring terrorists to incubating pandemic diseases and trafficking in persons. It would also undermine the demonstration effect of liberal norms we are urging China to embrace at home. Protectionism The collapse of financial markets in 1929 was compounded by protectionist measures such as the Smoot-Hawley tariff act in 1932. Suddenly, the economic collapse became a zero-sum race for autarkic trading blocs that became a key cause of war. Today, the globalization of finance, services and manufacturing networks and the World Trade Organization (WTO) make such a rapid move to trading blocs unlikely. However, protectionism could still unravel the international system through other guises. Already, new spending packages around the world are providing support for certain industries that might be perceived by foreign competitors as unfair trade measures, potentially creating a "Smoot-Hawley 2.0" stimulus effect as governments race to prop up industries. "Buy American" conditionality in the US economic stimulus package earlier this year was watered down somewhat by the Obama administration, but it set a tempting precedent for other countries to put up barriers to close markets.

### OLC CP

#### 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 increase statutory restrictions on the war powers authority of the President by requiring that the President acquire the approval of the Pakistani government for drone strikes within Pakistan

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

BORRELLI et al 2000 - Professor of Government Chair of the Government and International Relations Department, Connecticut College (Maryanne Borrelli, Karen Hult, Nancy Kassop, “The White House Counsel’s Office”, http://whitehousetransitionproject.org/files/counsel/Counsel-OD.PDF)

The White House Counsel’s Office is at the hub of all presidential activity. Its mandate is to be watchful for and attentive to legal issues that may arise in policy and political contexts in which the president plays a role. To fulfill this responsibility, it monitors and coordinates the presidency’s interactions with other players in and out of government. Often called “the president’s lawyer,” the Counsel’s Office serves, more accurately, as the “presidency’s lawyer,” with tasks that extend well beyond exclusively legal ones. These have developed over time, depending on the needs of different presidents, on the relationship between a president and a Counsel, and on contemporary political conditions. The Office carries out many routine tasks, such as vetting all presidential appointments and advising on the application of ethics regulations to White House staff and executive branch officials, but it also operates as a “command center” when crises or scandals erupt. Thus, the more sharply polarized political atmosphere in recent years has led to greater responsibility and demands, as well as heightened political pressure and visibility, on the traditionally low-profile Counsel’s Office. The high-stakes quality of its work has led to a common sentiment among Counsels and their staff that there is “zero tolerance” for error in this office.

In sum, the Counsel’s Office might be characterized as a monitor, a coordinator, a negotiator, a recommender, and a translator: it monitors ethics matters, it coordinates the president’s message and agenda with other executive branch units, it negotiates with a whole host of actors on the president’s behalf (not the least of which is Congress), it recommends myriad actions to the president, and it translates or interprets the law (whether it is the Constitution, federal rules and regulations, treaties or legislation) for all executive branch officials. Past Counsels have lamented that there is no job description for this office, while the opening quote from Peter Wallison makes clear that even if there was, it would be all-consuming and all-inclusive of everything that goes in and out of the president’s office.

In simple terms, the Counsel’s Office performs five basic categories of functions: (1) advising on the exercise of presidential powers and defending the president’s constitutional prerogatives; (2) overseeing presidential nominations and appointments to the executive and judicial branches; (3) advising on presidential actions relating to the legislative process; (4) educating White House staffers about ethics rules and records management and monitoring adherence; and (5) handling department, agency and White House staff contacts with the Department of Justice (see Functions section). In undertaking these responsibilities, the Counsel’s Office interacts regularly with, among others, the president, the Chief of Staff, the White House Office of Personnel, the Press Secretary, the White House Office of Legislative Affairs, the Attorney General, the Office of Management and Budget (on the legislative process), the General Counsels of the departments and agencies, and most especially, the Office of Legal Counsel in the Department of Justice (see Relationships section). In addition to the Counsel, the Office usually consists of one or two Deputy Counsels, a varying number of Associate and Assistant Counsels, a Special Counsel when scandals arise, a Senior Counsel in some administrations, and support staff. Tasks are apportioned to these positions in various ways, depending on the Counsel’s choices, though most Counsels expect all Office members to share the ongoing vetting for presidential appointments (see Organization and Operations section).

Certain responsibilities within the Office are central at the very start of an administration (e.g., vetting for initial nominations and shepherding the appointment process through the Senate), while others have a cyclical nature to them (e.g., the annual budget, the State of the Union message), and still others follow an electoral cycle (e.g., determining whether presidential travel and other activities are partisan/electoral/campaign or governmental ones) (see Organization and Operations). There is, of course, the always unpredictable (but almost inevitable) flurry of scandals and crises, in which all eyes turn to the Counsel’s Office for guidance and answers. Watergate, Iran-contra, Whitewater, the Clinton impeachment, and the FBI files and White House Travel Office matters were all managed from the Counsel’s Office, in settings that usually separated scandal management from the routine work of the Office, so as to permit ongoing operations to continue with minimal distraction. Among the more regular tasks that occur throughout an administration are such jobs as directing the judicial nomination process, reviewing legislative proposals (the president’s, those from departments and agencies, and bills Congress has passed that need the Counsel’s recommendation for presidential signature or veto), editing and clearing presidential statements and speeches, writing executive orders, and determining the application of executive privilege (see both Relationships and Organization and Operations sections).

Perhaps, the most challenging task for the Counsel is being the one who has the duty to tell the president “no,” especially when it comes to defending the constitutional powers and prerogatives of the presidency. Lloyd Cutler, Counsel for both Presidents Carter and Clinton, noted that, in return for being “on the cutting edge of problems,” the Counsel needs to be someone who has his own established reputation…someone who is willing to stand up t o the President, to say, “No, Mr. President, you shouldn’t do that for these reasons.” There is a great tendency among all presidential staffs to be very sycophantic, very sycophantic. It’s almost impossible to avoid, “This man is the President of the United States and you want to stay in his good graces,” even when he is about to do something dumb; you don’t tell him that. You find some way to put it in a very diplomatic manner. (Cutler interview, pp. 3-4)

LAW, POLITICS AND POLICY

A helpful way to understand the Counsel’s Office is to see it as sitting at the intersection of law, politics and policy. Consequently, it confronts the difficult and delicate task of trying to reconcile all three of these without sacrificing too much of any one. It is the distinctive challenge of the Counsel’s Office to advise the president to take actions that are both legally sound and politically astute. A 1994 article in Legal Times warned of the pitfalls: Because a sound legal decision can be a political disaster, the presidential counsel constantly sacrifices legal ground for political advantage. (Bendavid, 1994, p. 13) For example, A.B. Culvahouse recalled his experience upon arriving at the White House as counsel and having to implement President Reagan’s earlier decision to turn over his personal diaries to investigators during the Iran-contra scandal.

Ronald Reagan’s decision to turn over his diary - that sits at the core of the presidency. …You’re setting up precedents and ceding a little power. But politically, President Reagan wanted to get it behind him. (Bendavid, 1994, p. 13)

Nonetheless, Culvahouse added, the Counsel is “the last and in some cases the only protector of the President’s constitutional privileges. Almost everyone else is willing to give those away in part inch by inch and bit by bit in order to win the issue of the day, to achieve compromise on today’s thorny issue. So a lot of what I did was stand in the way of that process...” (Culvahouse interview, p. 28)

Because of this blend of legal, political and policy elements, the most essential function a Counsel can perform for a president is to act as an “early warning system” for potential legal trouble spots before **(**and, ultimately, after) they erupt. For this role, a Counsel must keep his or her “antennae” constantly attuned. Being at the right meetings at the right time and knowing which people have information and/or the necessary technical knowledge and expertise in specific policy or legal areas are the keys to insuring the best service in this part of the position. C. Boyden Gray, Counsel for President Bush, commented: “As Culvahouse said -- I used to say that the meetings I was invited to, I shouldn’t go to. …It’s the meetings I wasn’t invited to that I’d go to.” (Gray interview, p. 26) Lloyd Cutler noted that

….the White House Counsel will learn by going to the staff meetings, et cetera, that something is about to be done that has buried within it a legal issue which the people who are advocating it either haven’t recognized or push under the rug. He says, “Wait a minute. We’ve got to check this out,” and goes to the Office of Legal Counsel and alerts them and gets their opinion. But for the existence of the White House Counsel, the Office of Legal Counsel would never have learned about the problem until it was too late. (Cutler interview, p. 4)

One other crucial part of the job where the legal overlaps with the policy and the political -- and which can spell disaster for Counsels who disregard this -- is knowing when to go to the Office of Legal Counsel for guidance on prevailing legal interpretations and opinions on the scope of presidential authority. It is then up to the White House Counsel to sift through these legal opinions, and to bring into play the operative policy and political considerations in order to offer the president his or her best recommendation on a course of presidential action. Lloyd Cutler described how this process works:

They [OLC staffers] are where the President has to go or the President’s counsel has to go to get an opinion on whether something may properly be done or not. For example, if you wish to invoke an executive privilege not to produce documents or something, the routine now is you go to the Office of Legal Counsel and you get their opinion that there is a valid basis for asserting executive privilege in this case. ...You’re able to say [to the judge who is going to examine these documents] the Office of Legal Counsel says we have a valid basis historically for asserting executive privilege here. (Cutler interview, p. 4)

#### OLC deflects loss/blame on the President

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)

However, there is an important twist that complicates the analysis. The president may choose to publicize OLC’s opinions. Naturally, the president will be tempted to publicize only favorable opinions. When Congress 22 claims that a policy is illegal, the president can respond that his lawyers advised him that the policy is legal. This response at least partially deflects blame from the president. There are two reasons for this. First, the Senate consented to the appointment of these lawyers; thus, if the lawyers gave bad advice, the Senate is partly to blame, and so the blame must be shared. Second, OLC lawyers likely care about their future prospects in the legal profession, which will turn in part on their ability to avoid scandals and to render plausible legal advice; they may also seek to maintain the office’s reputation. When OLC’s opinions are not merely private advice, but are used to justify actions, then OLC takes on a quasi-judicial function. Presidents are not obliged to publicize OL C’s opinions, but clearly they see an advantage to doing so, and they have in this way given OLC quasi-judicial status.

### AUMF DA

#### Executive drone strike authority is authorized by AUMF

Crowley, 12 -- TIME Washington bureau chief and senior correspondent

[Michael, previously covered foreign policy for The New Republic, "Revisiting a Key Legal Basis for Obama’s Anti-Terrorism Drone Strikes," 6-12-12, swampland.time.com/2012/06/12/revisiting-a-key-legal-basis-for-obamas-anti-terror-drone-strikes/, accessed 9-23-13, mss]

Revisiting a Key Legal Basis for Obama’s Anti-Terrorism Drone Strikes

After I wrote a short piece for last week’s magazine that, among other things, chastised the Obama Administration for not doing more to discuss the pros and cons of its heavy reliance on drone strikes against suspected terrorists, an Administration official groused that I hadn’t credited public comments on the subject by various Obama officials. He specifically cited an April 30 speech by the White House’s counterterrorism point man, John Brennan, outlining the laws, rules and ethics that guide the drone campaign. It’s a pretty good speech and definitely worth reading if you care about these issues. But Brennan doesn’t really address the point of my article, which is the danger that drone strikes could have a counterproductive effect. The civilian casualties and general resentment they breed in places like Pakistan and Yemen clearly threaten to undermine long-term American interests in those countries, even if we are nailing some top al-Qaeda figures in the short term. But reading Brennan’s remarks drove home a point that virtually no one discusses, but that is a little startling when you step back and contemplate it. It is the Obama Administration’s heavy reliance on a law enacted by Congress three days after the Sept. 11 attacks that justified an extremely broad range of military action in the name of fighting terrorism. Here’s Brennan: First, these targeted strikes are legal. Attorney General Holder, Harold Koh and Jeh Johnson have all addressed this question at length. To briefly recap, as a matter of domestic law, the Constitution empowers the President to protect the nation from any imminent threat of attack. The Authorization for Use of Military Force — the AUMF — passed by Congress after the Sept. 11 attacks authorizes the President “to use all necessary and appropriate force” against those nations, organizations and individuals responsible for 9/11. There is nothing in the AUMF that restricts the use of military force against al-Qaeda to Afghanistan.

#### Decreasing AUMF authorizations snowballs- causes judicial rollback of the AUMF

Barnes, 12 -- J.D. Candidate, Boston University School of Law

[Beau, “Reauthorizing the ‘War on Terror’: The Legal and Policy Implications of the AUMF’s Coming Obsolescence,” Military Law Review, Vol 211, 2012, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2150874, accessed 8-21-13, mss]

**The scope of** the **AUMF is** also **important for** any **future judicial opinion** that might rely in part on Justice Jackson’s Steel Seizure concurrence.23 Support from Congress places the President’s actions in Jackson’s first zone, where executive power is at its zenith, because it “includes all that [the president]~~he~~ possesses in [their]~~his~~ own right plus all that Congress can delegate.”24 Express or **implied congressional disapproval, discernible by identifying the outer limits of** the **AUMF’s authorization, would place the President’s “power . . . at its lowest ebb**.”25 In this third zone, executive claims “must be scrutinized with caution, for what is at stake is the equilibrium established by our constitutional system.”26 Indeed, Jackson specifically rejected an overly powerful executive, observing that the Framers did not intend to fashion the President into an American monarch.27 Jackson’s concurrence has become the **most significant guidepost** in debates over the constitutionality of executive action in the realm of national security and foreign relations.28 Indeed, some have argued that it was given “the status of law”29 by then-Associate Justice William Rehnquist in Dames & Moore v. Regan.30 Speaking for the Court, Rehnquist applied Jackson’s tripartite framework to an executive order settling pending U.S. claims against Iran, noting that “[t]he parties and the lower courts . . . have all agreed that much relevant analysis is contained in [Youngstown].”31 More recently, Chief Justice John Roberts declared that “Justice Jackson’s familiar tripartite scheme provides the accepted framework for evaluating executive action in [the area of foreign relations law].”32 Should a future court adjudicate the nature or extent of the President’s authority to engage in military actions against terrorists, an applicable statute would confer upon such executive action “the strongest of presumptions and the widest latitude of judicial interpretation.”33 The AUMF therefore exercises a profound legal influence on the future of the United States’ struggle against terrorism, and its precise scope, authorization, and continuing vitality matter a great deal.

#### That shifts US doctrine to international self-defense- expanded *jus ad bellum* collapses global firebreak on use-of-force

Barnes, 12 -- J.D. Candidate, Boston University School of Law

[Beau, “Reauthorizing the ‘War on Terror’: The Legal and Policy Implications of the AUMF’s Coming Obsolescence,” Military Law Review, Vol 211, 2012, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2150874, accessed 9-19-13, mss]

In a world without a valid AUMF, the United States could base its continued worldwide counterterrorism operations on various alternative domestic legal authorities. All of these alternative bases, however, carry with them significant costs—detrimental to U.S. security and democracy. The foreign and national security policy of the United States should rest on “a comprehensive legal regime to support its actions, one that [has] the blessings of Congress and to which a court would defer as the collective judgment of the American political system about a novel set of problems.”141 Only then can the President’s efforts be sustained and legitimate. 2. Effect on the International Law of Self-Defense A failure to reauthorize military force would lead to significant negative consequences on the international level as well. Denying the Executive Branch the authority to carry out military operations in the armed conflict against Al Qaeda would force the President to find authorization elsewhere, most likely in the international law of selfdefense— the jus ad bellum.142 Finding sufficient legal authority for the United States’s ongoing counterterrorism operations in the international law of self-defense, however, is problematic for several reasons. As a preliminary matter, relying on this rationale usurps Congress’s role in regulating the contours of U.S. foreign and national security policy. If the Executive Branch can assert “self-defense against a continuing threat” to target and detain terrorists worldwide, it will almost always be able to find such a threat.143 Indeed, the Obama Administration’s broad understanding of the concept of “imminence” illustrates the danger of allowing the executive to rely on a self-defense authorization alone.144 This approach also would inevitably lead to dangerous “slippery slopes.” Once the President authorizes a targeted killing of an individual who does not pose an imminent threat in the strict law enforcement sense of “imminence,”145 there are few potential targets that would be off-limits to the Executive Branch. Overly malleable concepts are not the proper bases for the consistent use of military force in a democracy. Although the **Obama** Administration has **disclaimed** this manner of **broad authority because the AUMF “does not authorize** military **force** **against anyone** the Executive labels a ‘terrorist,’”146 **relying solely on** the **international** law of **self** **defense would** likely **lead to precisely such a result**. The slippery slope problem, however, is not just limited to the United States’s military actions and the issue of domestic control. The creation of international norms is an iterative process, one to which the United States makes significant contributions. Because of this outsized influence, the United States should not claim international legal rights that it is not prepared to see proliferate around the globe. Scholars have observed that the Obama Administration’s “expansive and open-ended interpretation of the right to self-defence threatens to destroy the prohibition on the use of armed force . . . .”147 Indeed, “[i]f other states were to claim the broad-based authority that the United States does, to kill people anywhere, anytime, **the result would be chaos**.”148

#### Causes global hotspots to go nuclear

Obayemi, 6 -- East Bay Law School professor

[Olumide, admitted to the Bars of Federal Republic of Nigeria and the State of California, Golden Gate University School of Law, "Article: Legal Standards Governing Pre-Emptive Strikes and Forcible Measures of Anticipatory Self-Defense Under the U.N. Charter and General International Law," 12 Ann. Surv. Int'l & Comp. L. 19, l/n, accessed 9-19-13, mss]

The United States must abide by the rigorous standards set out above that are meant to govern the use of preemptive strikes, because today's international system is characterized by a relative infrequency of interstate war. It has been noted that developing doctrines that lower the threshold for preemptive action could put that accomplishment at risk, and exacerbate regional crises already on the brink of open conflict. n100 This is important as O'Hanlon, Rice, and Steinberg have rightly noted: ...countries already on the brink of war, and leaning strongly towards war, might use the doctrine to justify an action they already wished to take, and the effect of the U.S. posture may make it harder for the international community in general, and the U.S. in particular, to counsel delay and diplomacy. Potential examples abound, ranging from Ethiopia and Eritrea, to China and Taiwan, to the Middle East. But perhaps the clearest case is the India-Pakistan crisis. n101 The world must be a safe place to live in. We cannot be ruled by bandits and rogue states. There must be law and order not only in the books but in enforcement as well. No nation is better suited to enforce international law than the United States. The Bush Doctrine will stand the test [\*42] of time and survive. Again, we submit that nothing more would protect the world and its citizens from nuclear weapons, terrorists and rogue states than an able and willing nation like the United States, acting as a policeman of the world within all legal boundaries. This is the essence of the preamble to the United Nations Charter.

### Haqqani PIC

#### Text: The United States federal government should increase statutory restrictions on the war powers authority of the President by requiring that the President acquire the approval of the Pakistani government for drone strikes within Pakistan, excluding those that target the Haqqani Network.

#### Still solves their cred internal links and maintains counterterror operation necessary to prevent Haqqani Network operations

Markey, their author, 13, Council on Foreign Relations, 7-16-13, (Daniel, “A New Drone Deal For Pakistan,” accessed 7-30-13, <http://troubledkashmir.com/kashmir/?p=5370>, LMM)

The new drone deal would be premised on the assumption that the United States is prepared to accept less frequent drone strikes than it has become accustomed to. So one potentially insurmountable stumbling block to this compromise would be if Washington planned to use the drone campaign as a primary tool for shaping the battlefield in Afghanistan, for instance by intensifying strikes against the Haqqani Network in the FATA’s North Waziristan agency. Pakistani leaders would almost certainly reject this strategy. Under such conditions, however, it is hard to imagine anything other than a tense and conflict-prone relationship between Washington and Islamabad, whether or not any new drone deal has been negotiated.

#### Continued drone operations prevent Haqqani takeover and nuclear terror – turns the case

Curtis, 13 -- member of the professional staff of the Senate Foreign Relations Committee for three years

[Lisa, former White House-appointed senior adviser to the assistant secretary of state for South Asian affairs, tracking India-Pakistan relations, she worked as an analyst for the Central Intelligence Agency in the late 1990s, "Pakistan Makes Drones Necessary," National Interest, 7-15-14, nationalinterest.org/commentary/pakistan-makes-drones-necessary-8725?page=1, accessed 8-26-13, mss]

But until Islamabad cracks down more aggressively on groups attacking U.S. interests in the region and beyond, drones will remain an essential tool for fighting global terrorism. Numbering over three hundred and fifty since 2004, drone strikes in Pakistan have killed more than two dozen Al Qaeda operatives and hundreds of militants targeting U.S. and coalition forces. President Obama made clear in his May 23 speech at the National Defense University that Washington would continue to use drones in Pakistan’s tribal border areas to support stabilization efforts in neighboring Afghanistan, even as it seeks to increase transparency and tighten targeting of the drone program in the future. Obama also defended the use of drones from a legal and moral standpoint, noting that by preemptively striking at terrorists, many innocent lives had been saved. The most compelling evidence of the efficacy of the drone program came from Osama bin Laden himself, who shortly before his death contemplated moving Al Qaeda operatives from Pakistan into forested areas of Afghanistan in an attempt to escape the drones’ reach, according to Peter Bergen, renowned author of Manhunt: The Ten-Year Search for Bin Laden from 9/11 to Abbottabad. How to Reduce the Need for Drones The continuation of drone strikes signals U.S. frustration with Pakistan’s unwillingness to crack down consistently and comprehensively on groups that find sanctuary in Pakistan’s tribal areas. There continue to be close ties between the Pakistan military and the Taliban-allied Haqqani Network, which attacks U.S. forces in Afghanistan and undermines the overall U.S. and NATO strategy there. The most recent U.S. drone attack inside Pakistani territory occurred last week against militants from the Haqqani Network located in North Waziristan, along the border with Afghanistan. In early June, drone missiles also targeted a group of fighters in Pakistan that were preparing to cross over into Afghanistan. On both occasions, the Pakistani Foreign Ministry condemned the attacks as counterproductive and said they raised serious questions about human rights. No doubt a better alternative to the drones would be Pakistani action against terrorist sanctuaries. But Pakistan has stonewalled repeated U.S. requests for operations against the Haqqani network. In addition to continuing drone strikes as necessary, the U.S. should further condition military aid to Pakistan based on its willingness to crack down on the Haqqani Network. In early June, the House of Representatives approved language in the FY 2014 National Defense Authorization Act that conditions reimbursement of Coalition Support Funds (CSF) pending Pakistani actions against the Haqqani network. Hopefully, the language will be retained in the final bill. The United States provides CSF funds to reimburse Pakistan for the costs associated with stationing some one hundred thousand Pakistani troops along the border with Afghanistan. Pakistan has received over $10 billion in CSF funding over the last decade. One must question the worth of having troops stationed in this region if they refuse to go after one of the most dangerous terrorist groups. Details of the relationship between the Pakistan military and the Haqqani Network are laid out in a recent book, Fountainhead of Jihad: The Haqqani Nexus, 1973–2012 by Vahid Brown and Don Rassler. The book highlights that Pakistan is actively assisting the Haqqani network the same way it has over the last twenty years, through training, tactical field advice, financing and material support. The assistance, the authors note, helps to sustain the Haqqani group and enhance its effectiveness on the battlefield. Drones Help Pakistan It is no secret that the drone strikes often benefit the Pakistani state. On May 29, for example, a drone missile strike killed the number two leader of the Pakistani Taliban (also referred to as the Tehrik-e-Taliban Pakistan or TTP), Waliur Rehman. The TTP has killed hundreds of Pakistani security forces and civilians in terrorist attacks throughout the country since its formation in 2007. Furthermore, the group conducted a string of suicide attacks and targeted assassinations against Pakistani election workers, candidates, and party activists in the run-up to the May elections, declaring a goal of killing democracy. Complicating the picture even further is the fact that Pakistan’s support for the Haqqani network indirectly benefits the Pakistani Taliban. The Haqqanis play a pivotal role in the region by simultaneously maintaining ties with Al Qaeda, Pakistani intelligence and anti-Pakistan groups like the TTP. With such a confused and self-defeating Pakistani strategy, Washington has no choice but to rely on the judicious use of drone strikes. The U.S. will need to keep a close eye on the tribal border areas, where there is a nexus of terrorist groups that threaten not only U.S. interests but also the stability of the Pakistani state. Given that Pakistan is home to more international terrorists than almost any other country and, at the same time, has one of the fastest growing nuclear arsenals, the country will remain of vital strategic interest for Washington for many years to come. Though the drone issue will continue to be a source of tension in the relationship, it is doubtful that it alone would derail ties. The extent to which the United States will continue to rely on drone strikes ultimately depends on Islamabad’s willingness to develop more decisive and comprehensive counterterrorism policies that include targeting groups like the Haqqani Network.

### solvency

#### Obama can circumvent the plan- covert loopholes are inevitable

**Lohmann 1-28**-13 [Julia, director of the Harvard Law National Security Research Committee, BA in political science from the University of California, Berkeley, “Distinguishing CIA-Led from Military-Led Targeted Killings,” <http://www.lawfareblog.com/wiki/the-lawfare-wiki-document-library/targeted-killing/effects-of-particular-tactic-on-issues-related-to-targeted-killings/>]

The U.S. military—in particular, the Special Operations Command (SOCOM), and its subsidiary entity, the Joint Special Operations Command (JSOC)—is responsible for carrying out military-led targeted killings.¶ Military-led targeted killings are subject to various legal restrictions, including a complex web of statutes and executive orders. For example, because the Covert Action Statute does not distinguish among institutions undertaking covert actions, targeted killings conducted by the military that fall within the definition of “covert action” set forth in 50 U.S.C. § 413(b) are subject to the same statutory constraints as are CIA covert actions. 50 U.S.C. § 413b(e). However, as Robert Chesney explains, many military-led targeted killings may fall into one of the CAS exceptions—for instance, that for traditional military activities—so that the statute’s requirements will not always apply to military-led targetings. Such activities are exempted from the CAS’s presidential finding and authorization requirements, as well as its congressional reporting rules.¶ Because such unacknowledged military operations are, in many respects, indistinguishable from traditional covert actions conducted by the CIA, this exception may provide a “loophole” allowing the President to circumvent existing oversight mechanisms without substantively changing his operational decisions. However, at least some military-led targetings do not fall within the CAS exceptions, and are thus subject to that statute’s oversight requirements. For instance, Chesney and Kenneth Anderson explain, some believe that the traditional military activities exception to the CAS only applies in the context of overt hostilities, yet it is not clear that the world’s tacit awareness that targeted killing operations are conducted (albeit not officially acknowledged) by the U.S. military, such as the drone program in Pakistan, makes those operations sufficiently overt to place them within the traditional military activities exception, and thus outside the constraints of the CAS.¶ Chesney asserts, however, that despite the gaps in the CAS’s applicability to military-led targeted killings, those targetings are nevertheless subject to a web of oversight created by executive orders that, taken together, largely mirrors the presidential authorization requirements of the CAS. But, this process is not enshrined in statute or regulation and arguably could be changed or revoked by the President at any time. Moreover, this internal Executive Branch process does not involve Congress or the Judiciary in either ex ante or ex post oversight of military-led targeted killings, and thus, Philip Alston asserts, it may be insufficient to provide a meaningful check against arbitrary and overzealous Executive actions.

### stability

#### Powers will cooperate – contains the impact

**Collins and Wohlforth 4** (Kathleen, Professor of Political Science – Notre Dame and William, Professor of Government – Dartmouth, “Defying ‘Great Game’ Expectations”, Strategic Asia 2003-4: Fragility and Crisis, p. 312-313)

Conclusion **The** popular **great game lens for analyzing Central Asia fails to capture the declared interests of the great powers as well as the best reading of their objective interests** **in security and economic growth**. Perhaps **more importantly, it fails to explain their actual behavior on the ground, as well the specific reactions of the Central Asian states themselves. Naturally, there are competitive elements** in great power relations. Each country’s policymaking community has slightly different preferences for tackling the challenges presented in the region, and the more influence they have the more able they are to shape events in concordance with those preferences. **But these clashing preferences concern the means to serve ends that all the great powers share.** To be sure, policy-makers in each capital would prefer that their own national firms or their own government’s budget be the beneficiaries of any economic rents that emerge from the exploitation and transshipment of the region’s natural resources. But the scale of these rents is marginal even for Russia’s oil-fueled budget. And for taxable profits to be created, the projects must make sense economically—something that is determined more by markets and firms than governments. Does it matter? The great game is an arresting metaphor that serves to draw people’s attention to an oft-neglected region. The problem is **the great-game lens can distort realities on the ground, and** therefore **bias analysis and policy**. For when great powers are locked in a competitive fight, the issues at hand matter less than their implication for the relative power of contending states. Power itself becomes the issue—one that tends to be nonnegotiable. **Viewing an essential positive-sum relationship through zero sum conceptual lenses will result in missed opportunities for cooperation** that leaves all players—not least the people who live in the region—poorer and more insecure. While cautious realism must remain the watchword concerning an impoverished and potentially unstable region comprised of fragile and authoritarian states, **our analysis yields** at least conditional and **relative optimism. Given the confluence** of **their** **chief strategic interests, the major powers are in a better position to serve as a stabilizing force than analogies to the Great Game** or **the Cold War** would **suggest**. It is important to stress that **the region’s response to the profoundly destabilizing shock of** coordinated **terror attacks was increased cooperation** between local governments and China and Russia, and—multipolar rhetoric notwithstanding—between both of them and the United States. If this trend is nurtured and if the initial signals about potential SCO-CSTO-NATO cooperation are pursued, **another destabilizing shock might generate more rather than less cooperation among the major powers**. **Uzbekistan, Kyrgyzstan, Tajikistan, and Kazakhstan [The Stans] are clearly on a trajectory that portends longer-term cooperation** with each of the great powers. **As** military and economic **security interests become more entwined, there are sound reasons to conclude that “great game” politics will not shape Central Asia’s future** in the same competitive and destabilizing way as they have controlled its past. **To the contrary, mutual interests** in Central Asia **may reinforce the broader positive developments** in the great powers’ relations that have taken place since September 11, **as well as reinforce regional and domestic stability in Central Asia.**

#### Impact is non-unique – military appointments

Menon 10/8, Meena Menon, correspondent for The Hindu, “Nawaz Sharif to make military appointments simultaneously,” October 8, 2013, <http://www.thehindu.com/news/international/south-asia/nawaz-sharif-to-make-military-appointments-simultaneously/article5210731.ece>

The controversy over the new appointments in Pakistan’s military refused to die down with Prime Minister Nawaz Sharif on Monday saying that he would announce the names for two key posts at the same time. He did not specify when he would do so.General Khalid Shameem Wynne, the outgoing Chairman Joint Chiefs of Staff Committee (CJCSC) was to retire on Monday after 42 years of service but there is no one named to replace him yet. On Sunday, army chief General Ashfaq Parvez Kayani created a sensation by scotching rumours about his future, announcing that he would retire on November 29 as scheduled. Speculation was rife that General Kayani would be the new head of the CJCSC which would be given more powers or that he would be given some other plum posting.According to the Prime Minister’s spokesperson at a meeting on the appointment of the new (CJCSC) on Monday, Mr. Sharif said that his government is fully cognizant of its constitutional obligations and he will take a decision keeping the interest of the country supreme.While there were expectations regarding the announcement of a successor to the outgoing CJCSC before October 8, and the retirement of the army Chief on November 29, both are reasonably important issues which need comprehensive considerations. The Prime Minister has therefore decided to announce the names for both the appointments at the same time, the spokesperson said.Meanwhile, most people have welcomed General Kayani’s decision to retire after two terms but Monday’s development has added a new dimension to the issue. “The government has been foxed by the sudden announcement by General Kayani who loves surprising others,” remarked Major-General (retired) Athar Abbas, former military spokesperson and ex- director general Inter Services Public Relations. He said the situation was quite unprecedented as these appointments are made well in advance. Now by deciding to announce both names together the government wants to gain time.

#### No warrant as to why a win on drones decreases military power. here is the conclusion of their article

Toosi, their author, 13, Nahal Toosi, AP reporter, “Pakistan Summons US Envoy Over Drones Strike,” June 8, 2013, [http://www.huffingtonpost.com/2013/06/08/pakistan-us-envoy-summoned\_n\_3407803.html?](http://www.huffingtonpost.com/2013/06/08/pakistan-us-envoy-summoned_n_3407803.html)

In its first drone strike in Pakistan after the country's recent election, the U.S. in late May killed Waliur Rehman, deputy leader of the Pakistani Taliban. The Pakistani Taliban, who have killed thousands of people in bombings and other attacks across the country, confirmed Rehman's death and promptly said they would not talk peace with Sharif. Sharif – while not naming Rehman or the Taliban – spoke out against that drone strike, and his party in a statement noted that it was "highly regrettable" that it came after Obama's speech. The drone strike Friday night struck a compound in Mangrothi village in the Shawal area, along the border dividing the North and South Waziristan tribal regions, two Pakistani intelligence officials said, speaking on condition of anonymity because they were not authorized to release the information on the record. The tribal regions are nearly impossible to access for foreign and many Pakistani journalists, so the report could not be independently confirmed. But North and South Waziristan are known to be havens for multiple militant groups, including the Pakistani Taliban. The U.S. has launched hundreds of drone strikes in Pakistan since 2008, though the frequency has fallen significantly in recent years. For all his rhetoric, it remains unclear if Sharif can actually stop the U.S. from using the drones to launch missiles at militants Washington believes are a threat. For one thing, despite his numbers in parliament, Sharif still has to contend with Pakistan's army for influence over security and foreign policies. And If he's unable to end the strikes in Pakistan as the months wear on, that could give more room to opposition politician Imran Khan, the former cricket star, to drain support from Sharif and his party. Khan has been especially strident in campaigning against the drone strikes.

#### Instability inevitable without military reform – here’s the beginning of their card

Rafiq, their author, 13, Arif Rafiq, editor of The Diplomat and adjunct scholar at the Middle East Institute, “Nawaz Sharif—How Will He Govern?” September 11, 2013, <http://thediplomat.com/2013/06/17/nawaz-sharif-3-0-how-will-he-govern/3/?all=true>

To succeed, Sharif must prioritize among his goals and implement them in the right sequence. Institutionalizing civilian control over national security policymaking should take precedence over exposing or punishing the military for its unlawful activities in the past. The two could be mutually exclusive if Sharif takes the military head on and fails. The [Charter of Democracy](http://thediplomat.com/2013/01/26/pakistan-democracy/), which Sharif signed in 2006, calls for the creation of a Truth and Reconciliation Commission to investigate the military's illegal actions post-1996. Creating such a body while Sharif needs the army to fight a war against the Pakistani Taliban would be unwise. Sharif should keep the big picture in mind. Five years from now, if Sharif’s government completes its tenure, succeeds in bringing the country out of its current economic and security morass, conducts free and fair elections, and is either re-elected or passes on power to another democratically-elected government, the door to military dictatorship could be firmly shut. Avoiding confrontation with the military doesn't mean that Sharif should let it run the show when it comes to Pakistan's foreign policy. In fact, Sharif must push forward with bolstering civilian-led national security policymaking bodies. Rather than having private meetings with the army chief as has been common, Sharif should hold weekly meetings for the Defense Committee of the Cabinet (DCC), Pakistan's equivalent of a national security council. The DCC needs someone akin to a national security advisor on top – a retired civil servant able to work with the military, but not necessarily an ex-officer. And it needs a permanent staff, selected from among the best and the brightest of the country's bureaucracy,fffff who can think outside the box and integrate inputs from various ministries, including defense, finance, and water and power. With the prime minister at its helm, the DCC must be the chief forum in which Pakistan's civilian and military leaders get together to discuss domestic and regional security challenges. Hardline elements in the military will likely resist Sharif’s efforts toward [normalizing relations with India](http://thediplomat.com/2013/05/29/a-new-opportunity-for-indo-pakistan-relations/) and rolling back Pakistan’s heavy-handed Afghanistan policy. But he will have potential allies among a broad segment of Pakistan’s political class, which is keen on peace with all of the country’s neighbors. Sharif’s government should use all-parties conferences and parliamentary committees, such as the Senate Foreign Relations Committee, to get the opposition to buy into his peace initiatives and reduce the maneuvering space of conservative forces in the military.

#### Can’t solve Balochistan conflict – multiple alt causes

Democracy Digest, their author, 12, “Balochistan conflict tests Pakistan’s state legitimacy, integrity,” May 29, 2013, <http://www.demdigest.net/blog/2012/05/balochistan-conflict-tests-pakistans-state-legitimacy-integrity/>

The province’s rich mineral resources are controlled by Pakistan’s military and security apparatuses which are determined to resist Balochi demands for autonomy or independence. “Caught in the crossfire are ordinary civilians – moderate Baloch voices, political leaders, civic activists, scholars, lawyers and journalists – who have been the victims of enforced disappearances, torture and politically motivated killings,” Akbar told a recent meeting in Washington (above). “Excessive use of force by the state, retaliatory acts by Baloch separatists, insufficient spece for political dialog, media censorship and threats against journalists continue to limit prospects for conflict resolution.” A resolution to the conflict is unlikely “because the security establishment believes its security-first approach will eventually quell the violence and the civilian political leadership is too weak and divided to impose its own, political, approach to addressing Balochistan’s problems,” according to Dawn, a leading Pakistani newspaper. But the “civil-military imbalance will never be righted unless the civilians learn how to wrest back space from the army.”

### pak politics

#### Pakistan economy is strong and resilient and US cooperation high- newest evidence

Desk ’13 (Web Desk, The Express Tribune, “Economic stability of Pakistan an encouraging sign: Olson”, <http://tribune.com.pk/story/491648/economic-stability-of-pakistan-an-encouraging-sign-olson>, January 9, 2013)

ISLAMABAD: US Ambassador to Pakistan Richard Olson in a meeting with finance minister Dr Abdul Hafeez Sheikh on Wednesday said that economic stability of Pakistan is an encouraging sign, Radio Pakistan reported. Dr Sheikh said that despite energy scarcity and security issue in the country‚ economic indicators are showing positive trends which reflect resilience of the economy. The Finance Minister added that due to economic policies of the government‚ Pakistan is currently witnessing the lowest inflation rate in the region and the Karachi Stock Exchange has emerged as the best performing Stock Exchange in the world. Both the sides reaffirmed their commitment to enhancing economic relations. Olson said that the United States is assisting Pakistan in many public welfare projects and will continue to do so in future to further cement the relations between the two people. The Ambassador said that the US values its relations with Pakistan and would continue to move forward in a number of mutually beneficial areas.

#### No chance that Pakistan will collapse

**Bandow ‘9**- Senior Fellow @ Cato, former special assistant to Reagan (11/31/09, Doug, “Recognizing the Limits of American Power in Afghanistan,” Huffington Post, http://www.cato.org/pub\_display.php?pub\_id=10924)

From Pakistan's perspective, limiting the war on almost any terms would be better than prosecuting it for years, even to "victory," whatever that would mean. In fact, **the least likely outcome** is a takeover by widely unpopular Pakistani militants. The Pakistan military is the **nation's strongest institution**; while the army might not be able to rule alone, it can prevent any other force from ruling. Indeed, Bennett Ramberg made the important point: "Pakistan, Iran and the former Soviet republics to the north **have demonstrated a brutal capacity to suppress political violence to ensure survival.fff This suggests that even were Afghanistan to become a terrorist haven, the neighborhood can adapt and resist**." The results might not be pretty, but the region would not descend into chaos. In contrast, warned Bacevich: "To risk the stability of that nuclear-armed state in the vain hope of salvaging Afghanistan would be a terrible mistake."

#### Indian economy is resilient

**Business Line 8** (“Opinion Not Convincing Enough”, 6-26, Lexis)

The RBI has drawn some comfort from the fact that **the Indian economy presents** some **positive features such as a financial market that is** **largely insulated** **from the turmoil affecting** global institutions, adequate foreign exchange reserves, **agricultural production** that is poised to sustain the momentum achieved last year, and so on. Indeed, the only silver lining, if at all, in a scenario where the inflation rate has breached a 13-year record, is that **the Indian economy presents a** **far more resilient** **look than it did in** 19**95** when inflation was of the same order. Equally, the economy is not without its share of disturbing features. The inflation is all-pervasive and not confined to petroleum products alone. It is hobbled by supply- side constraints in many key sectors that is aggravating the firm trend in prices caused by global factors. **Above all, there is no evidence as yet that** the administrative **dynamism** so **essential to unshackling the economy is in place**.

## 2NC

### CP

#### Pakistan will end drone strikes

**Larouche Pac 9-21**-13 [Website of Lyndon LaRouche, head of the National Democratic Policy Committee, “Pakistan, at UN Security Council, Demands an End to Drone Strikes,” <http://larouchepac.com/node/28229>]

In the clearest voice ever beyond the country's own borders, Pakistan has demanded immediate stopping of drone attacks inside its borders. Although the Obama Administration refuses to admit it, hundreds of innocent Pakistanis have been killed by U.S. drones. As Pakistan bears the brunt of targeted killings through foreign powers' drone strikes, even as it publicly denounces the drone campaign upon its sovereign territory and integrity, there are public rumors of tacit understandings, and the U.S. government interprets the Pakistani lack of response to the planned drone strikes as tacit consent for the program. It seems that has now come to an end.¶ On Sept. 19, Pakistan's Ambassador to the United Nations Masood Khan raised the issue of American drone strikes in its tribal regions at the UN Security Council, calling for the strikes' cessation and seeking "urgent" talks to resolve the problem. "Drone strikes infringe [on] our sovereignty, violate international law, including international human rights and humanitarian law, cause civilian casualties, and are detrimental to the combined efforts to fight terrorism."¶ Will it go further?¶ On July 14, Pakistan's former Ambassador to the United Nations, Abdullah Hussain Haroon, wrote an op-ed in the national news daily, the Express Tribune, laying out the steps that Pakistan must take: "As a member of the Security Council, Pakistan can move the Council to deliberate in open session and debate the question of legitimacy of drones being used in areas not in armed conflict in locations situated in third countries without sovereign sanction and if the perpetrators cite that the above-stated criteria are in compliance, force the lack of compliance upon accountability and the lack of aftermath reportage by the said states using drones, thereby initiating a process of accountability to be submitted for clearance before the Security Council on a regular basis.¶ "More substantially, it can move for strictures on violation of Article 51 of the UN Charter to consolidate interest in the above points and use it to obtain a detailed acceptable international settlement upon these outstanding issues. Even if any Permanent member of the UN vetoes any resolution, a fair evaluation shall emerge for the record and the resultant debate content may be used substantially as cause and grounds before the [International Court of Justice] ICJ," Ambassador Haroon wrote.

#### Pakistan will end strikes

**Lehmann 9-13**-13 [Dr. Christof Lehmann is the founder and editor of nsnbc, “Pakistan at HR Council, demands end to US Drone Attacks,” <http://nsnbc.me/2013/09/13/pakistan-at-hr-council-demands-end-to-us-drone-attacks/>]

Pakistan´s permanent representative to the United Nations Human Rights Council, Zamir Akram, demanded yesterday, that the USA ceases their operations of drones over Pakistani territory, stating that Pakistan considers them detrimental to its national sovereignty and to international law. The permanent representative of Pakistan at the U.N. Human Rights Council in Geneva, stressed, that Pakistan has suffered the loss of hundreds of innocent civilian lives and that the US drone strikes have caused and continue to cause a colossal economic damage to Pakistan.¶ Zamir Akram stressed that the operation of the drones and the deadly strikes are a violation of the human rights of the Pakistani people and that they constitute a violation of Pakistan´s territorial sovereignty and integrity.¶ Moreover, Akram stressed, that the strikes are counterproductive with regards to the fight against armed militants of the Taliban.¶ Akram quoted the UN Secretary General Ban Kyi-moon as saying that the use of drones, like the use of any other weapon, should be subject to the rules of international law, including humanitarian law.¶ Earlier this week, all major political parties in Pakistan unanimously adopted a resolution in which they condemned the operation of the drones over sovereign Pakistani territory and attacks, demanding that the federal government presents the issue to the USA and the UN General Assembly. The resolution was adopted at a meeting on the security situation in Pakistan, held at the residence of Prime Minister Nawaz Sharif.¶ Several international analysts and experts are warning about the involvement of US and other western intelligence service involvement in the attempt to mount an insurgency against the central government of Pakistan in the Baluchistan region.¶ Other experts, including Maj.(r) Agha H. Amin repeatedly stressed that the drone strikes are counterproductive, and that most drone strikes are carried out in regions where the Pakistani military has control over the border, rather than carrying out strikes there, where most of the militants are concentrated.

### SOLVENCY

#### Obama ignores restrictions- tons of loopholes

**Kumar 3-19**-13 [Anita, White House correspondent for McClatchy Newspapers, former writer for The Washington Post, covering Virginia politics and government, and spent a decade at the St. Petersburg Times, writing about local, state and federal government both in Florida and Washington, “Obama turning to executive power to get what he wants,” <http://www.mcclatchydc.com/2013/03/19/186309/obama-turning-to-executive-power.html#.Ue18CdK1FSE>]

President Barack Obama came into office four years ago skeptical of pushing the power of the White House to the limit, especially if it appeared to be circumventing Congress.¶ Now, as he launches his second term, Obama has grown more comfortable wielding power to try to move his own agenda forward, particularly when a deeply fractured, often-hostile Congress gets in his way.¶ He’s done it with a package of tools, some of which date to George Washington and some invented in the modern era of an increasingly powerful presidency. And he’s done it with a frequency that belies his original campaign criticisms of predecessor George W. Bush, invites criticisms that he’s bypassing the checks and balances of Congress and the courts, and whets the appetite of liberal activists who want him to do even more to advance their goals.¶ While his decision to send drones to kill U.S. citizens suspected of terrorism has garnered a torrent of criticism, his use of executive orders and other powers at home is deeper and wider.¶ He delayed the deportation of young illegal immigrants when Congress wouldn’t agree. He ordered the Centers for Disease Control and Prevention to research gun violence, which Congress halted nearly 15 years ago. He told the Justice Department to stop defending the Defense of Marriage Act, deciding that the 1996 law defining marriage as between a man and a woman was unconstitutional. He’s vowed to act on his own if Congress didn’t pass policies to prepare for climate change.¶ Arguably more than any other president in modern history, he’s using executive actions, primarily orders, to bypass or pressure a Congress where the opposition Republicans can block any proposal.¶ “It’s gridlocked and dysfunctional. The place is a mess,” said Rena Steinzor, a law professor at the University of Maryland. “I think (executive action) is an inevitable tool given what’s happened.”¶ Now that Obama has showed a willingness to use those tactics, advocacy groups, supporters and even members of Congress are lobbying him to do so more and more.¶ The Center for Progressive Reform, a liberal advocacy group composed of law professors, including Steinzor, has pressed Obama to sign seven executive orders on health, safety and the environment during his second term.¶ Seventy environmental groups wrote a letter urging the president to restrict emissions at existing power plants.¶ Sen. Barbara Mikulski, D-Md., the chairwoman of the Appropriations Committee, sent a letter to the White House asking Obama to ban federal contractors from retaliating against employees who share salary information.¶ Gay rights organizations recently demonstrated in front of the White House to encourage the president to sign an executive order to bar discrimination based on sexual orientation or gender identity by companies that have federal contracts, eager for Obama to act after nearly two decades of failed attempts to get Congress to pass a similar bill.¶ “It’s ridiculous that we’re having to push this hard for the president to simply pick up a pen,” said Heather Cronk, the managing director of the gay rights group GetEQUAL. “It’s reprehensible that, after signing orders on gun control, cybersecurity and all manner of other topics, the president is still laboring over this decision.”¶ The White House didn’t respond to repeated requests for comment.¶ In January, Obama said he continued to believe that legislation was “sturdier and more stable” than executive actions, but that sometimes they were necessary, such as his January directive for the federal government to research gun violence.¶ “There are certain issues where a judicious use of executive power can move the argument forward or solve problems that are of immediate-enough import that we can’t afford not to do it,” the former constitutional professor told The New Republic magazine.¶ Presidents since George Washington have signed executive orders, an oft-overlooked power not explicitly defined in the Constitution. More than half of all executive orders in the nation’s history – nearly 14,000 – have been issued since 1933.

#### Obama will circumvent Congress and the courts

**Kumar 3-19**-13 [Anita, White House correspondent for McClatchy Newspapers, former writer for The Washington Post, covering Virginia politics and government, and spent a decade at the St. Petersburg Times, writing about local, state and federal government both in Florida and Washington, “Obama turning to executive power to get what he wants,” <http://www.mcclatchydc.com/2013/03/19/186309/obama-turning-to-executive-power.html#.Ue18CdK1FSE>]

“The expectation is that they all do this,” said Ken Mayer, a political science professor at the University of Wisconsin-Madison who wrote “With the Stroke of a Pen: Executive Orders and Presidential Power.” “That is the typical way of doing things.”¶ But, experts say, Obama’s actions are more noticeable because as a candidate he was critical of Bush’s use of power. In particular, he singled out his predecessor’s use of signing statements, documents issued when a president signs a bill that clarifies his understanding of the law.¶ “These last few years we’ve seen an unacceptable abuse of power at home,” Obama said in an October 2007 speech.. “We’ve paid a heavy price for having a president whose priority is expanding his own power.”¶ Yet Obama’s use of power echoes that of his predecessors. For example, he signed 145 executive orders in his first term, putting him on track to issue as many as the 291 that Bush did in two terms.¶ John Yoo, who wrote the legal opinions that supported an expansion of presidential power after the 2001 terrorist attacks, including harsh interrogation methods that some called torture, said he thought that executive orders were sometimes appropriate – when conducting internal management and implementing power given to the president by Congress or the Constitution – but he thinks that Obama has gone too far.¶ “I think President Obama has been as equally aggressive as President Bush, and in fact he has sometimes used the very same language to suggest that he would not obey congressional laws that intrude on his commander-in-chief power,” said Yoo, who’s now a law professor at the University of California at Berkeley. “This is utterly hypocritical, both when compared to his campaign stances and the position of his supporters in Congress, who have suddenly discovered the virtues of silence.”¶ Most of Obama’s actions are written statements aimed at federal agencies that are published everywhere from the White House website to the Federal Register. Some are classified and hidden from public view.¶ “It seems to be more calculated to prod Congress,” said Phillip J. Cooper, the author of “By Order of the President: The Use and Abuse of Executive Direct Action.” “I can’t remember a president being that consistent, direct and public.”¶ Bush was criticized for many of his actions on surveillance and interrogation techniques, but attention has focused on Obama’s use of actions mostly about domestic issues.¶ In his first two years in the White House, when fellow Democrats controlled Capitol Hill, Obama largely worked through the regular legislative process to try to achieve his domestic agenda. His biggest achievements – including a federal health care overhaul and a stimulus package designed to boost the economy –came about with little or no Republican support.¶ But Republicans took control of the House of Representatives in 2010, making the task of passing legislation all the more difficult for a man with a detached personality who doesn’t relish schmoozing with lawmakers. By the next year, Obama wasn’t shy about his reasons for flexing his presidential power.¶ In fall 2011, he launched the “We Can’t Wait” campaign, unveiling dozens of policies through executive orders – creating jobs for veterans, adopting fuel efficiency standards and stopping drug shortages – that came straight from his jobs bills that faltered in Congress.¶ “We’re not waiting for Congress,” Obama said in Denver that year when he announced a plan to reduce college costs. “I intend to do everything in my power right now to act on behalf of the American people, with or without Congress. We can’t wait for Congress to do its job. So where they won’t act, I will.”¶ When Congress killed legislation aimed at curbing the emissions that cause global warming, Obama directed the Environmental Protection Agency to write regulations on its own incorporating some parts of the bill.¶ When Congress defeated pro-union legislation, he had the National Labor Relations Board and the Labor Department issue rules incorporating some parts of the bill.¶ “The president looks more and more like a king that the Constitution was designed to replace,” Sen. Charles Grassley, R-Iowa, said on the Senate floor last year.¶ While Republicans complain that Obama’s actions cross a line, experts say some of them are less aggressive than they appear.¶ After the mass shooting in Newtown, Conn., in December, the White House boasted of implementing 23 executive actions to curb gun control. In reality, Obama issued a trio of modest directives that instructed federal agencies to trace guns and send information for background checks to a database.¶ In his State of the Union address last month, Obama instructed businesses to improve the security of computers to help prevent hacking. But he doesn’t have the legal authority to force private companies to act.¶ “The executive order can be a useful tool but there are only certain things he can do,” said Melanie Teplinsky, an American University law professor who’s spoken extensively on cyber-law.¶ Executive actions often are fleeting. They generally don’t settle a political debate, and the next president, Congress or a court may overturn them.¶ Consider the so-called Mexico City policy. With it, Reagan banned federal money from going to international family-planning groups that provide abortions. Clinton rescinded the policy. George W. Bush reinstated it, and Obama reversed course again.¶ But congressional and legal action are rare. In 1952, the Supreme Court threw out Harry Truman’s order authorizing the seizure of steel mills during a series of strikes. In 1996, the District of Columbia Court of Appeals dismissed an order by Clinton that banned the government from contracting with companies that hire workers despite an ongoing strike.¶ Obama has seen some pushback.¶ Congress prohibited him from spending money to move inmates from the Guantanamo Bay U.S. naval base in Cuba after he signed an order that said it would close. A Chinese company sued Obama for killing its wind farm projects by executive order after he said they were too close to a military training site. A federal appeals court recently ruled that he’d exceeded his constitutional powers when he named several people to the National Labor Relations Board while the Senate was in recess.¶ But Obama appears to be undaunted.¶ “If Congress won’t act soon to protect future generations,” he told Congress last month, “I will.”

#### Obama can ignore restrictions without consequence

**Druck ‘12** [Judah A. Druck, law associate at Sullivan & Cromwell LLP, Cornell Law School graduate, magna cum laude graduate from Brandeis University, “Droning On: The War Powers Resolution and the Numbing Effect of Technology-Driven Warfare,” <http://www.lawschool.cornell.edu/research/cornell-law-review/upload/Druck-final.pdf>]

Notably, in each of these situations, the serving President did not¶ simply ignore the WPR, despite his general belief that it was unconstitutional.46 Rather, the presidents circumvented the WPR’s application by proffering suspect rationales to avoid compliance. One of the¶ more common methods of achieving this end involves denying the¶ existence of the WPR’s “hostilities”-triggering requirement.47 In those¶ situations, presidents have emphasized the limited nature of the military action, either by focusing on whether there was an actual exchange of fire between the United States and hostile forces,48 whether¶ the United States introduced ground troops into the hostile area,49 or,¶ as seen during the recent actions in Libya, whether the United States¶ had suffered any casualties.50 Despite the often negative treatment of¶ these justifications,51 presidents have nevertheless faced few repercussions from employing them. Given this background, it should be no¶ surprise that President Obama was able to circumvent the WPR in a¶ similar manner without any major political scars to show for it.

### STABILITY

#### It’s empirically proven by the last decade

**Collins and Wohlforth 4** (Kathleen, Professor of Political Science – Notre Dame and William, Professor of Government – Dartmouth, “Defying ‘Great Game’ Expectations”, Strategic Asia 2003-4: Fragility and Crisis, p. 312-313)

Often seen as an arena for a new “great game,” **Central Asia was widely expected to undergo a new round of geopolitical rivalry after the United States entered the region** in force **following September 11**. 1 **Contrary to these expectations, relations among the United States, Russia and China** both **regionally** and globally **have improved dramatically**. The fundamental question this chapter addresses is whether this state of affairs reflects a potential long-term outcome or just a temporary interlude in the great powers’ regional competition. In other words, to what degree does the “great game” lens capture the real dynamics of the major powers’ strategic interaction in Central Asia? To address this question, we present three distinct but mutually supporting analyses: a balance sheet of the major powers’ competitive versus their mutual interests in the region; an assessment of their behavior in the region after September 11 to determine whether it is consistent with our analysis of their interests; and an analysis of the Central Asian states’ response to the great powers’ actions, in order to compare their perceptions and behavior to our reading of the great powers’ role. Our conclusion is that **a new “great game” is not underway in Central Asia**. 2 Although elements of rivalry and competition shadow some relationships, **shared strategic interests dominate the concrete actions of the major powers to a remarkable degree.** Sustaining this state of affairs is clearly in the United States’ interest, but it will require active management.

#### China and Russia prove this - they are cooperating and wouldn’t risk screwing that up in a war

**Weitz 6** (Richard, Senior Fellow and Associate Director of the Center for Future Security Strategies – Hudson Institute, “Averting a New Great Game in Central Asia”, Washington Quarterly, 29(3), Summer, Lexis)

To many observers’ surprise, **Central Asia’s newly independent states have not become objects of rivalry between Moscow and Beijing but rather a major unifying element** in Sino-Russian relations. **The two governments cooperate more closely in Central Asia than in any other world region.** Through the multilateral SCO and their extensive bilateral dialogue, **Russian officials acknowledge China’s legitimate interests in Central Asia, while Beijing has institutional mechanisms to promote its regional objectives in close cooperation with Moscow. China** also **does not want to jeopardize security ties,** including purchases of advanced Russian military technologies, **by challenging Russian policies in a region of still limited importance** for Beijing. Because Chinese leaders share many important goals with Russia in Central Asia, they have been able to benefit from Russian initiatives in these areas and redirect resources to other priorities.

#### Multilateral organizations check

**Weitz 6** (Richard, Senior Fellow and Associate Director of the Center for Future Security Strategies – Hudson Institute, “Averting a New Great Game in Central Asia”, Washington Quarterly, 29(3), Summer, Lexis)

**Concerns about a renewed great game are** thus **exaggerated**. **The contest** for influence in the **region does not** directly **challenge the vital national interests of China, Russia, or the United States**, the most important extraregional countries in Central Asian security affairs. Unless restrained, however, competitive pressures risk impeding opportunities for beneficial cooperation among these countries. The three external great powers have incentives to compete for local allies, energy resources, and military advantage, but they also share substantial interests, especially in reducing terrorism and drug trafficking. If properly aligned, **the major multilateral security organizations active in Central Asia could provide opportunities for cooperative diplomacy** in a region where bilateral ties traditionally have predominated.

#### No impact to Pakistan instability- their ev is hype

**Hundley ’12** (Before joining the Pulitzer Center, Tom Hundley was a newspaper journalist for 36 years, including nearly two decades as a foreign correspondent for the Chicago Tribune. During that time he served as the Tribune’s bureau chief in Jerusalem, Warsaw, Rome and London, reporting from more than 60 countries. He has covered three wars in the Persian Gulf, the Arab-Israeli conflict and the rise of Iran’s post-revolutionary theocracy. His work has won numerous journalism awards. He has taught at the American University in Dubai and at Dominican University in River Forest, Illinois. He has also been a Middle East correspondent for GlobalPost and a contributing writer for the Chicago News Cooperative. Tom graduated from Georgetown University and holds a master’s degree in international relations from the University of Pennsylvania. He was also National Endowment for the Humanities journalism fellow at the University of Michigan. Published September 5, 2012

With both sides armed to the teeth, **it is easy to exaggerate the fears** and much harder to pinpoint where the real dangers lie. For the United States, the nightmare scenario is that some of Pakistan's warheads or its fissile material falls into the hands of the Taliban or al Qaeda -- or, worse, that the whole country falls into the hands of the Taliban. For example, Rolf Mowatt-Larssen, a former CIA officer now at Harvard University's Belfer Center for Science and International Affairs, has warned of the "lethal proximity between terrorists, extremists, and nuclear weapons insiders" in Pakistan. This is a reality, but on the whole, Pakistan's nuclear arsenal appears to be reasonably secure against internal threats, according to those who know the country best. To **outsiders**, Pakistan **appears** to be permanently teetering on the **brink** of collapse. The fact that large swaths of the country are literally beyond the control of the central government is not reassuring. But a weak state **does not mean** a **weak society**, and **powerful internal dynamics based** largely on kinship and tribe **make it highly unlikely** that Pakistan would **ever fall** under the control of an outfit like the Taliban. During the country's intermittent bouts of democracy, its civilian leaders have been consistently incompetent and corrupt, but **even in the worst of times,** the military has maintained a high standard of professionalism. And there is **nothing** that **matters more** to the Pakistani military than keeping the nuclear arsenal -- **its crown jewels** -- out of the hands of India, the United States, and homegrown extremists. "Pakistan struggled to acquire these weapons against the wishes of the world. Our nuclear capability comes as a result of great sacrifice. It is our most precious and powerful weapon -- for our defense, our security, and our political prestige," Talat Masood, a retired Pakistani lieutenant general, told me. "We keep them safe." Pakistan's nuclear security is in the responsibility of the Strategic Plans Division**,** which appears to function pretty much as **a separate branch** of the military. It has its **own training facility and an elaborate set of controls** and screening proceduresto keep track of **all warheads and fissile material** and to monitor **any blips** in the behavior patterns of its personnel. The 15 or so sites where weapons are stored **are the mostly heavily guarded** in the country. **Even if** some group managed to steal or commandeer a weapon, **it is highly unlikely the group would be able to use it**. The greater danger is the theft of fissile material, which could be used to make a crude bomb. "With 70 to 80 kilos of highly enriched uranium, it would be fairly easy to make one in the basement of a building in the city of your choice," said Pervez Hoodbhoy, a distinguished nuclear physicist at Islamabad's Quaid-i-Azam University. At the moment, Pakistan has a stockpile of about 2.75 tons -- or some 30 bombs' worth -- of highly enriched uranium. It does not tell Americans where it is stored. "All nuclear countries are conscious of the risks, nuclear weapons states especially so," said Gen. Ehsan ul-Haq, who speaks with the been-there-done-that authority of a man who has served as both chairman of Pakistan's Joint Chiefs of Staff Committee and head of the ISI, its controversial spy agency. "Of course there are concerns. Some are genuine, butmuch of what you read in the U.S. media is **irrational and reflective of paranoia**. Rising radicalism in Pakistan? Yes, this is true, and the military is very conscious of this." Perhaps **the most credible endorsement** of Pakistan's nuclear security regime comes from its **most steadfast enemy.** The **consensus among India's top generals and defense experts** is that Pakistan's nukes are pretty secure. "No one can be 100 percent secure, but I think they are **more than 99 percent secure**," said Shashindra Tyagi, a former chief of staff of the Indian Air Force. "They keep a very close watch on personnel. All of the steps that could be taken have been taken. This business of the Taliban taking over -- it can't be ruled out, but I think **it's unlikely**. **The** Pakistani **military understands the threats** they face better than anyone, **and** they **are smart enough to take care it."** Yogesh Joshi, an analyst at the Institute for Defense Studies and Analyses in New Delhi, agrees: "Different states have different perceptions of risk. The U.S. has contingency plans [to secure Pakistan's nukes] because its nightmare scenario is that Pakistan's weapons fall into terrorist hands. The view from India over the years is that **Pakistan,** probably **more than any other nuclear** weapons **state, has taken measures to secure its weapons.** At the political level here, there's a lot of confidence that Pakistan's nuclear weapons are secure."

### Pakistan Politics

#### Best study proves no conflict from econ decline

**Brandt and Ulfelder ‘11** (\*Patrick T. Brandt, Ph.D. in Political Science from Indiana University, is an Assistant Professor of Political Science in the School of Social Science at the University of Texas at Dallas. \*\*Jay Ulfelder, Ph.D. in political science from Stanford University, is an American political scientist whose research interests include democratization, civil unrest, and violent conflict, April, 2011, “Economic Growth and Political Instability,” Social Science Research Network)

These statements anticipating political fallout from the global economic crisis of 2008–2010 reflect a widely held view that economic growth has rapid and profound effects on countries’ political stability. When economies grow at a healthy clip, citizens are presumed to be too busy and too content to engage in protest or rebellion, and governments are thought to be flush with revenues they can use to enhance their own stability by producing public goods or rewarding cronies, depending on the type of regime they inhabit. When growth slows, however, citizens and cronies alike are presumed to grow frustrated with their governments, and the leaders at the receiving end of that frustration are thought to lack the financial resources to respond effectively. The expected result is an increase in the risks of social unrest, civil war, coup attempts, and regime breakdown. Although it is pervasive, the assumption that countries’ economic growth rates strongly affect their political stability **has not been subjected to** a great deal of careful **empirical analysis, and evidence from social science research** to date **does not** unambiguously **support it.** Theoretical models of civil wars, coups d’etat, and transitions to and from democracy often specify slow economic growth as an important cause or catalyst of those events, but empirical studies on the effects of economic growth on these phenomena have produced mixed results. Meanwhile, the effects of economic growth on the occurrence or incidence of social unrest seem to have **hardly** been **studied in recent years**, as empirical analysis of contentious collective action has concentrated on political opportunity structures and dynamics of protest and repression. This paper helps fill that gap by rigorously re-examining the effects of short-term variations in economic growth on the occurrence of several forms of political instability in countries worldwide over the past few decades. In this paper, we do not seek to develop and test new theories of political instability. Instead, we aim to subject a hypothesis common to many prior theories of political instability to more careful empirical scrutiny. The goal is to provide a detailed empirical characterization of the relationship between economic growth and political instability in a broad sense. In effect, we describe the conventional wisdom as seen in the data. We do so with statistical models that use smoothing splines and multiple lags to allow for nonlinear and dynamic effects from economic growth on political stability. We also do so with an instrumented measure of growth that explicitly accounts for endogeneity in the relationship between political instability and economic growth. To our knowledge, **ours is the first statistical study** of this relationship to simultaneously address the possibility of **nonlinearity and** problems of **endogeneity**. As such, we believe this paper offers what is probably the most rigorous general **evaluation** of this argument **to date**. As the results show, some of our findings are surprising. Consistent with conventional assumptions, we find that social unrest and civil violence are more likely to occur and democratic regimes are more susceptible to coup attempts around periods of slow economic growth. At the same time, our analysis shows no significant relationship between variation in growth and the risk of civil-war onset, and results from our analysis of regime changes contradict the widely accepted claim that economic crises cause transitions from autocracy to democracy. While we would hardly pretend to have the last word on any of these relationships, our findings do suggest that the relationship between economic growth and political stability is **neither as uniform nor as strong as** the **conventional wisdom**(s) **presume**(s). We think **these findings** also help **explain why the** global **recession** of 2008–2010 **has failed** thus far to **produce** the wave of coups and regime failures that some observers had anticipated, in spite of the expected and apparent uptick in social **unrest** associated with the crisis.

#### No diversionary theory or increased probability of war

**Jervis ’11** (Robert Jervis 11, Professor in the Department of Political Science and School of International and Public Affairs at Columbia University, December 2011, “Force in Our Times,” Survival, Vol. 25, No. 4, p. 403-425

Even if war is still seen as evil, the security community could be dissolved if severe conflicts of interest were to arise. Could the more peaceful world generate new interests that would bring the members of the community into sharp disputes? 45 A zero-sum sense of status would be one example, perhaps linked to a steep rise in nationalism. More likely would be a worsening of the current economic difficulties, which could itself produce greater nationalism, undermine democracy and bring back old-fashioned beggar-my-neighbor economic policies. While these dangers are real, it is hard to believe that the conflicts could be great enough to lead the members of the community to contemplate fighting each other. It is not so much that economic interdependence has proceeded to the point where it could not be reversed – states that were more internally interdependent than anything seen internationally have fought bloody civil wars. Rather it is that **even if** the more extreme versions of **free trade and** economic **liberalism become discredited**, **it is hard to see how** without building on a preexisting high level of political conflict **leaders and mass opinion would come to believe that their countries could prosper by** **impoverishing or** even **attacking others**. Is it possible that problems will not only become severe, but that people will entertain the thought that they have to be solved by war? While a pessimist could note that this argument does not appear as outlandish as it did before the financial crisis, an optimist could reply (correctly, in my view) that **the** very fact that **we have seen** **such a sharp economic down-turn** **without anyone suggesting** that **force** of arms is the solution shows that **even if bad times bring about greater economic conflict**, **it will not make war thinkable**.

#### No conflicts

**Katoch ‘9** (Rajan Katoch, Institute for Defence Studies and Analyses, New Delhi The Global Economic Crisis Some Strategic Implications, First Published: August 2009)

Despite the above factors, the situation isnot the same as in **the** 19**30s**, and in today’s world, **it is** highly improbable **that** the **global economic crisis could lead to a world war** as it did then. The international order is relatively **more stable, with all major powers** working with **greater coordination**, and mostly seeking to stick to the status quo. **Learning from experience**, the current national economic policy responses **are better formulated**, and therefore the economic crisis is unlikely to reach the **severity of and linger on for as long as** the Great **Depression**. The greater role being played by fora like the G20 in seeking solutions to the crisis indicates the recognition amongst the key players from both industrialised and developing countries that a broad consensus is needed to move forward. And finally, **all this is backed by the hard fact of the overwhelming military dominance of the US;** this **acts as a force for stability.** Localised conflicts remain possible; perhaps a serious threat arising out of collapse of critical states at worst, **but a world war—most unlikely.**

## 1NR

### AUMF DA

####  We control terminal impact uniqueness- war taboo strong and effective now. Norms matter- prevents miscalc and escalation

Beehner, 12 – Council on Foreign Relations senior writer; Truman National Security Project fellow

[Lionel, "Is There An Emerging ‘Taboo’ Against Retaliation?" The Smoke Filled Room, 7-13-12, thesmokefilledroomblog.com/2012/07/13/is-there-an-emerging-taboo-against-retaliation/, accessed 9-22-13, mss]

The biggest international news in the quiet months before 9/11 was the collision of a U.S. Navy spy aircraft and a PLA fighter jet in China, during which 24 American crew members were detained. Even though the incident was lampooned on SNL, there was real concern that the incident would blow up, damaging already-tense relations between the two countries. But it quickly faded and both sides reached an agreement. Quiet diplomacy prevailed. Flash-forward a decade later and we have a similar border incident of a spy plane being shot down between Turkey and Syria. Cue the familiar drumbeats for war on both sides. To save face, each side has ratcheted up its hostile rhetoric (even though Syria’s president did offer something of an admission of guilt). But, as in the spring of 2001, I wouldn’t get too worried. One of the least noted global norms to emerge in recent decades has been the persistence of state restraint in international relations. Retaliation has almost become an unstated taboo. Of course, interstate war is obviously not a relic of previous centuries, but nor is it as commonplace anymore, despite persistent flare-ups that have the potential to escalate to full-blown war. Consider the distinct cases of India and South Korea. Both have sustained serious attacks with mass casualties in recent years: South Korea saw 46 of its sailors killed after the Cheonan, a naval vessel, was sunk by North Korea; India saw 200 citizens killed by the Mumbai attacks, orchestrated by Islamist groups with links to Pakistani intelligence. Yet neither retaliated with military force. Why? The short answer might be: Because a response may have triggered a nuclear war (both Pakistan and North Korea are nuclear-armed states). So nukes in this case may have acted as a deterrent and prevented an escalation of hostilities. But I would argue that it was not the presence of nuclear weapons that led to restraint but rather normative considerations. South Korea and India are also both rising democratic powers with fast-growing economies, enemies along their peripheries, and the military and financial backing of the United States. Their leaders, subject to the whims of an electorate, may have faced domestic pressures to respond with force or suffer reputational costs. And yet no escalation occurred and war was averted. Again, I argue that this is because there is an emerging and under-reported norm of restraint in international politics. Even Russia’s invasion of Georgia in August 2008, which may at first appear to disprove this theory, actually upholds it: The Russians barely entered into Georgia proper and could easily have marched onto the capital. But they didn’t. The war was over in 5 days and Russian troops retreated to disputed provinces. Similarly, Turkey will not declare war on Syria, no matter how angry it is that Damascus shot down one of its spy planes. Quiet diplomacy will prevail. In 1999, Nina Tannenwald made waves by proclaiming the emergence of what she called a “nuclear taboo” – that is, the non-use of dangerous nukes had emerged as an important global norm. Are we witnessing the emergence of a similar norm for interstate war? Even as violence rages on in the form of civil war and internal political violence all across the global map, interstate conflict is increasingly rare. My point is not to echo Steven Pinker, whose latest book, The Better Angles of Our Nature, painstakingly details a “civilizing process” and “humanitarian revolution” that has brought war casualties and murder rates down over the centuries. I’m not fully convinced by his argument, but certainly agree with the observation that at the state level, a norm of non-retaliation has emerged. The question is why. Partly, war no longer makes as much sense as in the past because capturing territory is no longer as advantageous as it once was. We no longer live in a world where marauding throngs of Dothraki-like bandits – or what Mancur Olson politely called “non-stationary bandits” – seek to expand their writ over large unconquered areas. This goes on, of course, at the intrastate level, but the rationale for interstate war for conquest is no longer as strong. Interstate wars of recent memory — the Eritrea-Ethiopia conflicts of 1999 and 2005, the Russia-Georgia War of 2008 — upon closer inspection, actually look more like intrastate wars. The latter was fought over two secessionist provinces; the former between two former rebel leaders-turned-presidents who had a falling out. But if we have reached a norm of non-retaliation to threats or attacks, does that mean that deterrence is no longer valid? After all, if states know there will be no response, why not step up the level of attacks? I would argue that the mere threat of retaliation is enough, as evidenced by Turkish leaders’ harsh words toward Syria (there is now a de facto no-fly zone near their shared border). Still, doesn’t restraint send a signal of weakness and lack of resolve? After all, didn’t Seoul’s non-response to the Cheonan sinking only invite Pyongyang to escalate hostilities? Robert Jervis dismisses the notion that a tough response signals resolve as being overly simplified. The observers’ interpretation of the actor and the risks involved also matter. When Schelling writes about the importance of “saving face,” he describes it as the “interdependence of a country’s commitments; it is a country’s reputation for action, the expectations other countries have about its behavior.” Others note that the presence of nuclear weapons forces states, when attacked, to respond with restraint to avoid the risk of nuclear escalation. Hence, we get “limited wars” rather than full-blown conflicts, or what some deterrent theorists describe as the “stability-instability paradox.” This is not a new concept, of course: Thucydides quoted King Archimadus of Sparta: “And perhaps then they see that our actual strength is keeping pace with the language that we use, they will be more inclined to give way, since their land will still be untouched and, in making up their minds, they will be thinking of advantages which they still possess and which have not yet been destroyed.” There will be future wars between states, of course. But **the days when an isolated incident, such as a spy plane being shot down or a cross-border incursion, can unleash a chain of events that lead to interstate wars** I believe are largely over **because of the emergence of restraint as a powerful norm**ative force in international politics, not unlike Tannenwald’s “nuclear taboo.” Turkey and Syria will only exchange a war of words, not actual hostilities. To do otherwise would be a violation of this existing norm.

#### AND- We control uniqueness- there’s court deference in counter-terror now- because of congressional signals

Schuck, 13 -- Yale Law School Simeon E. Baldwin law professor

[Peter, "The Courts and National Security: A False Hope," Huffington Post, 7-3-13, www.huffingtonpost.com/peter-h-schuck/national-security\_b\_3543312.html, accessed 9-21-13, mss]

Our federal courts have played a central role in safeguarding our precious constitutional values from encroachments by government and other power centers. But history teaches that where Congress and the president have invoked plausible national security interests, **the courts have almost always deferred** to them, for better and for worse. In the infamous Dred Scott case, the Supreme Court upheld a system of slavery that the Buchanan administration argued was necessary to hold the nation together. During and after World War I, the Court upheld government efforts to suppress criticism; recall that the great defenses of free speech in those cases were written by the losing side. In World War II, the Court upheld the execrable Japanese internment programs. This pattern of deference to national security claims continues to today -- **especially where the president's actions appear grounded in congressional action**, as with FISA and military court prosecution of suspected terrorists. Deference continues even in detention cases, which are closer to traditional judicial functions than the NSA and targeting decisions. The fact that courts have little or no role to play in these latter efforts is no cause for dismay. Placing them at the center of such decisions would tend to tarnish them, as is now occurring with the FISA court. If they could significantly improve that process, the risk might be worth taking, but they cannot.

#### War on terror jurisprudence is congress-centric- the Court looks to congressional signals to determine war on terror authorizations

D.C. Circuit Review, 12 ["Judge Kavanaugh on War-on-Terror Jurisprudence," 6-20-13, dccircuitreview.com/2012/06/20/judge-kavanaugh-on-war-on-terror-jurisprudence/, accessed 9-21-13, mss]

Judge Kavanaugh articulated a **Congress-centric war powers jurisprudence**: What’s the big picture of where we are right now in terms of federal courts, separation of powers, war powers? I would start with, in the wake of September 11th, Congress authorizing two wars: it authorized the war against Al-Qaeda and the Taliban, and authorized the war in Iraq. . . . A President, who in the future tries to engage in an unauthorized ground war of any significance, will be faced with those precedents used against them. President Bush obtained authorization for those two wars. Second– . . . Congress has regulated the Executive’s conduct of war in many respects, both before and after September 11th. We tend to forget that and sometimes think, well this is all just the Executive Branch operating in kind of a free zone, free from congressional restraint. And in fact, whether it’s interrogation or detention, surveillance, a number of particulars of how the Executive goes about the war effort, Congress has been deeply involved, including in the wake of September 11th. . . . I start with background notions of judicial restraint in times of war . . . [I]f Congress hasn’t put a restriction in and if the Executive action is not something that’s concrete or our history talks about, or is contrary to something that the Executive has done before may a court reach out and say, we’re going to restrain the Executive nonetheless, because we think it’s contrary to international law? Although he stood by his concurrence in the denial of rehearing en banc in Al-Bihani v. Obama, Judge Kavanaugh opined that the political branches should heed international law even when it is not binding from the perspective of domestic law. [T]he Executive Branch and Congress should, as I said upfront in my concurrence, should pay attention to international law obligations when thinking about what to put in the statutes. And when the Executive Branch is exercising its discretion pursuant to an authorization for the use of military force, or the President’s Article II authority. . . . Congress, on many occasions, has taken international law principles and put them into federal statutes, sometimes directly, by borrowing from the principle that’s at hand, sometimes by just having a reference, as in Hamdan, to international law or the laws of war more generally or the law of nations more generally. . . . I think it’s a good thing when the Executive pays attention to international law principles for purposes of our international relations and otherwise. During Q&A, Trevor Morrison suggested that the approach in Al-Bihani most consistent with judicial restraint would have been to take no position on whether the Executive’s power under the AUMF is constrained by international law and to simply accept the Government’s concession that it is so constrained for the limited purpose of the case at hand. In response, Judge Kavanaugh defended his statement that “Courts must be careful before enshrining [the Executive's] concessions [on legal questions affecting government power] into binding judicial precedent protected by stare decisis that a future Executive could not readily undo.” I thought it was an important point . . . to reemphasize . . . the central role of Congress in war powers issues, which is not necessarily something that was evident in the immediate wake of September 11th . . . . When Congress imposes limits on the Executive Branch’s conduct of war, courts will enforce those limits . . . . But when Congress has not put something into the statute . . . how should the courts then act? . . . . The Chief had just said this, in Free Enterprise v. PCAOB, . . . –the Executive may want to tie its own hands, but it can’t tie the hands of future presidents. . . . In terms of deferring to the Executive, . . . [i]f they think they’re detaining someone in violation of international law, they can release the person, but to the extent they come to court, it’s usually up to the courts to decide . . . the tools of statutory construction and the like.

[Matt note: Kavanaugh = Brett Kavanaugh, federal judge on the United States Court of Appeals for the D.C. Circuit]

#### Court is deferential now because of congressional signals- the plan unravels that

Lederman, 12 -- Department of Justice’s Office of Legal Counsel Deputy Assistant Attorney General

[Martin, "War, Terror and the Federal Courts, Ten Years After 9/11," American University Law Review, Vol 61, 2012, aulawreview.org/pdfs/61/61-5/Conference.website.pdf, accessed 9-21-13, mss]

Marty Lederman: Correct. So this is something to be on the watch for, both what the Executive Branch says and what the courts say in these two areas. You brought up that comment by Justice Kennedy at the end of Boumediene. It reminded me of Justice O’Connor’s similar comment in her plurality opinion in Hamdi. I think the theme of those cases—O’Connor’s and Kennedy’s lesson, as it were, was something like the following. “To the extent you, the Executive Branch and Congress, are acting more or less in accord with the way things have been done in the past and in pursuance of international law norms and practices that the United States has historically engaged in, we will sit to review it but we’re going to be pretty deferential. But to the extent you start deviating and doing things that are unprecedented or seem to be out of step with the international law, in Justice O’Connor’s words, ‘this conclusion may unravel.’” She doesn’t explain whether she means “unravel” as a matter of statutory interpretation, which is nominally what she was doing in Hamdi, or some sort of constitutional limit on the political branches.

#### More evidence on that distinction- AND Signals matter and the US is key- shift from AUMF to *jus ad bellum* will be triggered globally

Barnes, 12 -- J.D. Candidate, Boston University School of Law

[Beau, “Reauthorizing the ‘War on Terror’: The Legal and Policy Implications of the AUMF’s Coming Obsolescence,” Military Law Review, Vol 211, 2012, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2150874, accessed 9-19-13, mss]

Widely accepted legal arguments also facilitate cooperation from U.S. allies, especially from the United States’ European allies, who have been wary of expansive U.S. legal interpretations.153 Moreover, U.S. strategy vis-à-vis China focuses on binding that nation to international norms as it gains power in East Asia.154 The United States is an international “standard-bearer” that “sets norms that are mimicked by others,”155 and the Obama Administration acknowledges that its drone strikes act in a quasi-precedential fashion.156 Risking the **obsolescence of the AUMF would force the U**nited **S**tates **into an “aggressive interpretation” of international legal authority**,157 not just discrediting its own rationale, but **facilitating that rationale’s destabilizing adoption** by nations **around the world**.158 158 Norms of international behavior exercise a profound, yet complex and little understood, influence on state behavior. See, e.g., Harold Honju Koh, Why Do Nations Obey International Law?, 106 YALE L.J. 2599, 2651 (1997) (“As governmental and nongovernmental transnational actors repeatedly interact within the transnational legal process, they generate and interpret international norms and then seek to internalize those norms domestically. To the extent that those norms are successfully internalized, they become future determinants of why nations obey.”). The point is not that U.S. rationales for targeted killing operations will directly cause other nations to replicate such actions, but that other nations will find it easier to justify violating an international norm if the United States is itself violating it. See, e.g., Shirley V. Scott, Identifying the Source and Nature of a State’s Political Obligation towards International Law, 1 J. INT’L L. & INT’L REL. 49, 49 (2005) (discussing “the impact . . . of the United States-led military action [against Iraq] on the specific content of the law of the use of force”); Geoffrey Corn & Dennis Gyllensporre, International Legality, the Use of Military Force, and Burdens of Persuasion: Self-Defense, the Initiation of Hostilities, and the Impact of the Choice Between Two Evils on the Perception of International Legitimacy, 30 PACE L. REV. 484, 526 (2010) (noting “the consequence[s] of being perceived as operating outside the accepted norms of international law in relation to the use of force”). United States efforts to entrench stabilizing global norms and oppose destabilizing international legal interpretations—a core tenet of U.S. foreign and national security policy159—would undoubtedly be hampered by continued reliance on self defense under the jus ad bellum to authorize military operations against international terrorists. Given the presumption that the United States’s armed conflict with these terrorists will continue in its current form for at least the near term, ongoing authorization at the congressional level is a far better choice than continued reliance on the jus ad bellum. Congress should reauthorize the use of force in a manner tailored to the global conflict the United States is fighting today. Otherwise, the United States will be forced to continue to rely on a statute anchored only to the continued presence of those responsible for 9/11, a group that was small in 2001 and, due to the continued successful targeting of Al Qaeda members, is rapidly approaching zero.

[Matt note: footnote 158 included]

#### Shift from AUMF to *jus ad bellum* turns case- collapses cred and US leadership

Barnes, 12 -- J.D. Candidate, Boston University School of Law

[Beau, “Reauthorizing the ‘War on Terror’: The Legal and Policy Implications of the AUMF’s Coming Obsolescence,” Military Law Review, Vol 211, 2012, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2150874, accessed 9-19-13, mss]

Encouraging the proliferation of an expansive law of international self-defense would not only be harmful to U.S. national security and global stability, but it would also directly contravene the Obama Administration’s national security policy, sapping U.S. credibility. The Administration’s National Security Strategy emphasizes U.S. “moral leadership,” basing its approach to U.S. security in large part on “pursu[ing] a rules-based international system that can advance our own interests by serving mutual interests.”149 Defense Department General Counsel Jeh Johnson has argued that “[a]gainst an unconventional enemy that observes no borders and does not play by the rules, we must guard against aggressive interpretations of our authorities that will discredit our efforts, provoke controversy and invite challenge.”150 Cognizant of the risk of establishing unwise international legal norms, Johnson argued that the United States “must not make [legal authority] up to suit the moment.”151 The Obama Administration’s global counterterrorism strategy is to “adher[e] to a stricter interpretation of the rule of law as an essential part of the wider strategy” of “turning the page on the past [and rooting] counterterrorism efforts within a more durable, legal foundation.”152 Widely accepted legal arguments also facilitate cooperation from U.S. allies, especially from the United States’ European allies, who have been wary of expansive U.S. legal interpretations.153 Moreover, U.S. strategy vis-à-vis China focuses on binding that nation to international norms as it gains power in East Asia.154 The United States is an international “standard-bearer” that “sets norms that are mimicked by others,”155 and the Obama Administration acknowledges that its drone strikes act in a quasi-precedential fashion.156 Risking the **obsolescence of the AUMF would force** **the U**nited **S**tates **into an “aggressive interpretation” of international legal authority**,157 **not just discrediting its** **own rationale, but facilitating that rationale’s destabilizing adoption by nations around the world**. 158 United States efforts to entrench stabilizing global norms and oppose destabilizing international legal interpretations—a core tenet of U.S. foreign and national security policy159—would undoubtedly be hampered by continued reliance on self defense under the jus ad bellum to authorize military operations against international terrorists. Given the presumption that the United States’s armed conflict with these terrorists will continue in its current form for at least the near term, ongoing authorization at the congressional level is a far better choice than continued reliance on the jus ad bellum. Congress should reauthorize the use of force in a manner tailored to the global conflict the United States is fighting today. Otherwise, the United States will be forced to continue to rely on a statute anchored only to the continued presence of those responsible for 9/11, a group that was small in 2001 and, due to the continued successful targeting of Al Qaeda members, is rapidly approaching zero.