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## Drone Prolif

#### First, the global drone arms race is underway now

Boyle 2013

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A global arms race for drone technology is already under way. According to one estimate, global spending on drones is likely to be more than US$94 billion by 2021.126 One factor that is facilitating the spread of drones (particularly non-lethal drones) is their cost relative to other military purchases. The top-of-the line Predator or Reaper model costs approximately US$10.5 million each, compared to the US$150 million price tag of a single F-22 fighter jet.127 At that price, drone technology is already within the reach of most developed militaries, many of which will seek to buy drones from the US or another supplier. With demand growing, a number of states, including China and Israel, have begun the aggressive selling of drones, including attack drones, and Russia may also be moving into this market.128 Because of concerns that export restrictions are harming US competitiveness in the drones market, the Pentagon has granted approval for drone exports to 66 governments and is currently being lobbied to authorize sales to even more.129 The Obama administration has already authorized the sale of drones to the UK and Italy, but Pakistan, the UAE and Saudi Arabia have been refused drone technology by congressional restrictions.130 It is only a matter of time before another supplier steps in to offer the drone technology to countries prohibited by export controls from buying US drones. According to a study by the Teal Group, the US will account for 62 per cent of research and development spending and 55 per cent of procurement spending on drones by 2022.131 As the market expands, with new buyers and sellers, America’s ability to control the sale of drone technology will be diminished. It is likely that the US will retain a substantial qualitative advantage in drone technology for some time, but even that will fade as more suppliers offer drones that can match US capabilities

#### Second, the US has a narrow window of opportunity to shape drone proliferation, only US reform based on transparency and restraint will solve

Zenko, 2013

[Micah, Council of Foreign Relations, Reforming U.S. Drone Strike Policies, January 2013, Council Special Report No. 65, Online] /Wyo-MB

In short, a world characterized by the proliferation of armed drones—used with little transparency or constraint—would under- mine core U.S. interests, such as preventing armed conflict, promoting human rights, and strengthening international legal regimes. It would be a world in which targeted killings occur with impunity against anyone deemed an “enemy” by states or nonstate actors, without accountability for legal justification, civilian casualties, and proportionality. Perhaps more troubling, it would be a world where such lethal force no longer heeds the borders of sovereign states. Because of drones’ inherent advantages over other weapons platforms, states and nonstate actors would be much more likely to use lethal force against the United States and its allies. Much like policies governing the use of nuclear weapons, offensive cyber capabilities, and space, developing rules and frameworks for innovative weapons systems, much less reaching a consensus within the U.S. government, is a long and arduous process. In its second term, the Obama administration has a narrow policy window of opportunity to pursue reforms of the targeted killings program. The Obama admin- istration can proactively shape U.S. and international use of armed drones in nonbattlefield settings through transparency, self-restraint, and engagement, or it can continue with its current policies and risk the consequences. To better secure the ability to conduct drone strikes, and potentially influence how others will use armed drones in the future, the United States should undertake the following specific policy recommendations.

#### Third, Establishing a precedent of transparency and accountability spills over globally– a non-executive framework is key

Brooks 13 (Rosa, Professor of Law – Georgetown University Law Center, Bernard L. Schwartz Senior Fellow – New America Foundation, Former Counselor to the Undersecretary of Defense for Policy – Department of Defense, “The Constitutional and Counterterrorism Implications of Targeted Killing,” Testimony Before the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights, 4-23, <http://www.judiciary.senate.gov/pdf/04-23-13BrooksTestimony.pdf>)

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

#### Fourth, Drone courts are key limit executive behavior and to solve transparency [Blue]

Wexler 13

(Lesley, Professor of Law, University of Illinois College of Law, “The Role of the Judicial Branch during the Long War: Drone Courts, Damage Suits, and FOIA Requests,” 2013, Social Science Research Network/) /wyo-mm

This chapter suggests the judiciary may play an important role in the debate over the executive branch’s decisions regarding IHL even if it declines to speak to the substance of such cases. First, advocates may use courts as a visible platform in which to make their arguments and spur conversations about alternative, non-judicially mandated transparency and accountability measures. As they did with the trio of detention cases, advocates can leverage underlying constitutional concerns about the treatment of citizens to stimulate interest in the larger IHL issues. Second, litigants may use courts to publicize and pursue Freedom of Information (FOIA) requests and thus enhance transparency. Even if courts decline to grant FOIA requests, the lawsuits can generate media attention about what remains undisclosed. Third, and most robustly, Congress may pass legislation that would facilitate either prospective review of kill lists through a so-called drone court or remove procedural barriers to retrospective damage suits for those unlawfully killed by a drone strike. Even the threat of such judicial role may influence executive branch behavior.

#### Fifth, the plan solves international norms for drone use, US norms can shape and limit drone prolif and provide the ability to apply diplomatic pressure

Zenko, 2013

[Micah, Council of Foreign Relations, Reforming U.S. Drone Strike Policies, January 2013, Council Special Report No. 65, Online] /Wyo-MB

History shows that how states adopt and use new military capabili- ties is often influenced by how other states have—or have not—used them in the past. Furthermore, norms can deter states from acquiring new technologies.72 Norms—sometimes but not always codified as legal regimes—have dissuaded states from deploying blinding lasers and landmines, as well as chemical, biological, and nuclear weapons. A well-articulated and internationally supported normative framework, bolstered by a strong U.S. example, can shape armed drone prolifera- tion and employment in the coming decades. Such norms would not hinder U.S. freedom of action; rather, they would internationalize already-necessary domestic policy reforms and, of course, they would be acceptable only insofar as the limitations placed reciprocally on U.S. drones furthered U.S. objectives. And even if hostile states do not accept norms regulating drone use, the existence of an international norma- tive framework, and U.S. compliance with that framework, would pre- serve Washington’s ability to apply diplomatic pressure. Models for developing such a framework would be based in existing international laws that emphasize the principles of necessity, proportionality, and distinction—to which the United States claims to adhere for its drone strikes—and should be informed by comparable efforts in the realms of cyber and space.

#### Unfettered drone prolif causes deterrence crises that lead to nuclear conflict and Indo-Pak war

Boyle, 13 [“The costs and consequences of drone warfare”, MICHAEL J. BOYLE, International Affairs 89: 1 (2013) 1–29, assistant professor of political science at LaSalle University]

The emergence of this arms race for drones raises at least five long-term strategic consequences, not all of which are favourable to the United States over the long term. First, it is now obvious that other states will use drones in ways that are inconsistent with US interests. One reason why the US has been so keen to use drone technology in Pakistan and Yemen is that at present it retains a substantial advantage in high-quality attack drones. Many of the other states now capable of employing drones of near-equivalent technology—for example, the UK and Israel—are considered allies. But this situation is quickly changing as other leading geopolitical players, such as Russia and China, are beginning rapidly to developand deploy drones for their own purposes. While its own technology still lags behind that of the US, Russia has spent huge sums on purchasing drones and has recently sought to buy the Israeli-made Eitan drone capable of surveillance and firing air-to-surface missiles.132 China has begun to develop UAVs for reconnaissance and combat and has several new drones capable of long-range surveillance and attack under development.133 China is also planning to use unmanned surveillance drones to allow it to monitor the disputed East China Sea Islands, which are currently under dispute with Japan and Taiwan.134 Both Russia and China will pursue this technology and develop their own drone suppliers which will sell to the highest bidder, presumably with fewer export controls than those imposed by the US Congress. Once both governments have equivalent or near-equivalent levels of drone technology to the United States, they will be similarly tempted to use it for surveillance or attack in the way the US has done. Thus, through its own over-reliance on drones in places such as Pakistan and Yemen, the US may be hastening the arrival of a world where its qualitative advantages in drone technology are eclipsed and where this technology will be used and sold by rival Great Powers whose interests do not mirror its own. A second consequence of the spread of drones is that many of the traditional concepts which have underwritten stability in the international system will be radically reshaped by drone technology. For example, much of the stability among the Great Powers in the international system is driven by deterrence, specifically nuclear deterrence.135 Deterrence operates with informal rules of the game and tacit bargains that govern what states, particularly those holding nuclear weapons, may and may not do to one another.136 While it is widely understood that nuclear-capable states will conduct aerial surveillance and spy on one another, overt military confrontations between nuclear powers are rare because they are assumed to be costly and prone to escalation. One open question is whether these states will exercise the same level of restraint with drone surveillance, which is unmanned, low cost, and possibly deniable. States may be more willing to engage in drone overflights which test the resolve of their rivals, or engage in ‘salami tactics’ to see what kind of drone-led incursion, if any, will motivate a response.137 This may have been Hezbollah’s logic in sending a drone into Israeli airspace in October 2012, possibly to relay information on Israel’s nuclear capabilities.138 After the incursion, both Hezbollah and Iran boasted that the drone incident demonstrated their military capabilities.139 One could imagine two rival states—for example, India and Pakistan—deploying drones to test each other’s capability and resolve, with untold consequences if such a probe were misinterpreted by the other as an attack. As drones get physically smaller and more precise, and as they develop a greater flying range, the temptation to use them to spy on a rival’s nuclear programme or military installations might prove too strong to resist. If this were to happen, drones might gradually erode the deterrent relationships that exist between nuclear powers, thus magnifying the risks of a spiral of conflict between them. Another dimension of this problem has to do with the risk of accident. Drones are prone to accidents and crashes. By July 2010, the US Air Force had identified approximately 79 drone accidents.140 Recently released documents have revealed that there have been a number of drone accidents and crashes in the Seychelles and Djibouti, some of which happened in close proximity to civilian airports.141 The rapid proliferation of drones worldwide will involve a risk of accident to civilian aircraft, possibly producing an international incident if such an accident were to involve an aircraft affiliated to a state hostile to the owner of the drone. Most of the drone accidents may be innocuous, but some will carry strategic risks. In December 2011, a CIA drone designed for nuclear surveillance crashed in Iran, revealing the existence of the spying programme and leaving sensitive technology in the hands of the Iranian government.142 The expansion of drone technology raises the possibility that some of these surveillance drones will be interpreted as attack drones, or that an accident or crash will spiral out of control and lead to an armed confrontation.143 An accident would be even more dangerous if the US were to pursue its plans for nuclear-powered drones, which can spread radioactive material like a dirty bomb if they crash.144 Third, lethal drones create the possibility that the norms on the use of force will erode, creating a much more dangerous world and pushing the international system back towards the rule of the jungle. To some extent, this world is already being ushered in by the United States, which has set a dangerous precedent that a state may simply kill foreign citizens considered a threat without a declaration of war. Even John Brennan has recognized that the US is ‘establishing a precedent that other nations may follow’.145 Given this precedent, there is nothing to stop other states from following the American lead and using drone strikes to eliminate potential threats. Those ‘threats’ need not be terrorists, but could be others— dissidents, spies, even journalists—whose behaviour threatens a government. One danger is that drone use might undermine the normative prohibition on the assassination of leaders and government officials that most (but not all) states currently respect. A greater danger, however, is that the US will have normalized murder as a tool of statecraft and created a world where states can increasingly take vengeance on individuals outside their borders without the niceties of extradition, due process or trial.146 As some of its critics have noted, the Obama administration may have created a world where states will find it easier to kill terrorists rather than capture them and deal with all of the legal and evidentiary difficulties associated with giving them a fair trial.147 Fourth, there is a distinct danger that the world will divide into two camps: developed states in possession of drone technology, and weak states and rebel movements that lack them. States with recurring separatist or insurgent problems may begin to police their restive territories through drone strikes, essentially containing the problem in a fixed geographical region and engaging in a largely punitive policy against them. One could easily imagine that China, for example, might resort to drone strikes in Uighur provinces in order to keep potential threats from emerging, or that Russia could use drones to strike at separatist movements in Chechnya or elsewhere. Such behaviour would not necessarily be confined to authoritarian governments; it is equally possible that Israel might use drones to police Gaza and the West Bank, thus reducing the vulnerability of Israeli soldiers to Palestinian attacks on the ground. The extent to which Israel might be willing to use drones in combat and surveillance was revealed in its November 2012 attack on Gaza. Israel allegedly used a drone to assassinate the Hamas leader Ahmed Jabari and employed a number of armed drones for strikes in a way that was described as ‘unprecedented’ by senior Israeli officials.148 It is not hard to imagine Israel concluding that drones over Gaza were the best way to deal with the problem of Hamas, even if their use left the Palestinian population subject to constant, unnerving surveillance. All of the consequences of such a sharp division between the haves and have-nots with drone technology is hard to assess, but one possibility is that governments with secessionist movements might be less willing to negotiate and grant concessions if drones allowed them to police their internal enemies with ruthless efficiency and ‘manage’ the problem at low cost. The result might be a situation where such conflicts are contained but not resolved, while citizens in developed states grow increasingly indifferent to the suffering of those making secessionist or even national liberation claims, including just ones, upon them. Finally, drones have the capacity to strengthen the surveillance capacity of both democracies and authoritarian regimes, with significant consequences for civil liberties. In the UK, BAE Systems is adapting military-designed drones for a range of civilian policing tasks including ‘monitoring antisocial motorists, protesters, agricultural thieves and fly-tippers’.149 Such drones are also envisioned as monitoring Britain’s shores for illegal immigration and drug smuggling. In the United States, the Federal Aviation Administration (FAA) issued 61 permits for domestic drone use between November 2006 and June 2011, mainly to local and state police, but also to federal agencies and even universities.150 According to one FAA estimate, the US will have 30,000 drones patrolling the skies by 2022.151 Similarly, the European Commission will spend US$260 million on Eurosur, a new programme that will use drones to patrol the Mediterranean coast.152 The risk that drones will turn democracies into ‘surveillance states’ is well known, but the risks for authoritarian regimes may be even more severe. Authoritarian states, particularly those that face serious internal opposition, may tap into drone technology now available to monitor and ruthlessly punish their opponents. In semi-authoritarian Russia, for example, drones have already been employed to monitor pro-democracy protesters.153 One could only imagine what a truly murderous authoritarian regime—such as Bashar al-Assad’s Syria—would do with its own fleet of drones. The expansion of drone technology may make the strong even stronger, thus tilting the balance of power in authoritarian regimes even more decisively towards those who wield the coercive instruments of power and against those who dare to challenge them. Conclusion Even though it has now been confronted with blowback from drones in the failed Times Square bombing, the United States has yet to engage in a serious analysis of the strategic costs and consequences of its use of drones, both for its own security and for the rest of the world. Much of the debate over drones to date has focused on measuring body counts and carries the unspoken assumption that if drone strikes are efficient—that is, low cost and low risk for US personnel relative to the terrorists killed—then they must also be effective. This article has argued that such analyses are operating with an attenuated notion of effectiveness that discounts some of the other key dynamics—such as the corrosion of the perceived competence and legitimacy of governments where drone strikes take place, growing anti-Americanism and fresh recruitment to militant networks—that reveal the costs of drone warfare. In other words, the analysis of the effectiveness of drones takes into account only the ‘loss’ side of the ledger for the ‘bad guys’, without asking what America’s enemies gain by being subjected to a policy of constant surveillance and attack. In his second term, President Obama has an opportunity to reverse course and establish a new drones policy which mitigates these costs and avoids some of the long-term consequences that flow from them. A more sensible US approach would impose some limits on drone use in order to minimize the political costs and long-term strategic consequences. One step might be to limit the use of drones to HVTs, such as leading political and operational figures for terrorist networks, while reducing or eliminating the strikes against the ‘foot soldiers’ or other Islamist networks not related to Al-Qaeda. This approach would reduce the number of strikes and civilian deaths associated with drones while reserving their use for those targets that pose a direct or imminent threat to the security of the United States. Such a self-limiting approach to drones might also minimize the degree of political opposition that US drone strikes generate in states such as Pakistan and Yemen, as their leaders, and even the civilian population, often tolerate or even approve of strikes against HVTs. Another step might be to improve the levels of transparency of the drone programme. At present, there are no publicly articulated guidelines stipulating who can be killed by a drone and who cannot, and no data on drone strikes are released to the public.154 Even a Department of Justice memorandum which authorized the Obama administration to kill Anwar al-Awlaki, an American citizen, remains classified.155 Such non-transparency fuels suspicions that the US is indifferent to the civilian casualties caused by drone strikes, a perception which in turn magnifies the deleterious political consequences of the strikes. Letting some sunlight in on the drones programme would not eliminate all of the opposition to it, but it would go some way towards undercutting the worst conspiracy theories about drone use in these countries while also signalling that the US government holds itself legally and morally accountable for its behaviour.156 A final, and crucial, step towards mitigating the strategic consequences of drones would be to develop internationally recognized standards and norms for their use and sale. It is not realistic to suggest that the US stop using its drones altogether, or to assume that other countries will accept a moratorium on buying and using drones. The genie is out of the bottle: drones will be a fact of life for years to come. What remains to be done is to ensure that their use and sale are transparent, regulated and consistent with internationally recognized human rights standards. The Obama administration has already begun to show some awareness that drones are dangerous if placed in the wrong hands. A recent New York Times report revealed that the Obama administration began to develop a secret drones ‘rulebook’ to govern their use if Mitt Romney were to be elected president.157 The same logic operates on the international level. Lethal drones will eventually be in the hands of those who will use them with fewer scruples than President Obama has. Without a set of internationally recognized standards or norms governing their sale and use, drones will proliferate without control, be misused by governments and non-state actors, and become an instrument of repression for the strong. One remedy might be an international convention on the sale and use of drones which could establish guidelines and norms for their use, perhaps along the lines of the Convention on Certain Conventional Weapons (CCW) treaty, which attempted to spell out rules on the use of incendiary devices and fragment-based weapons.158 While enforcement of these guidelines and adherence to rules on their use will be imperfect and marked by derogations, exceptions and violations, the presence of a convention may reinforce norms against the flagrant misuse of drones and induce more restraint in their use than might otherwise be seen. Similarly, a UN investigatory body on drones would help to hold states accountable for their use of drones and begin to build a gradual consensus on the types of activities for which drones can, and cannot, be used.159 As the progenitor and leading user of drone technology, the US now has an opportunity to show leadership in developing an international legal architecture which might avert some of the worst consequences of their use.

#### Indo Pak war causes extinction

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

The greatest threat to regional security (although curiously not at the top of most lists of U.S. regional concerns) is the possibility that increased India-Pakistan tension will erupt into all-out warthat could quickly escalate into a nuclear exchange. Indeed, in just the past two decades, the two neighbors have come perilously close to war on several occasions. India and Pakistan remain the most likely belligerents in the world to engage in nuclear war. Due to an Indian preponderance of conventional forces, Pakistan would have a strong incentive to use its nuclear arsenal very early on before a routing of its military installations and weaker conventional forces. In the event of conflict, Pakistan’s only chance of survival would be the early use of its nuclear arsenal to inflict unacceptable damage to Indian military and (much more likely) civilian targets. By raising the stakes to unacceptable levels, Pakistan would hope that India would step away from the brink. However, it is equally likely that India would respond in kind, with escalation ensuing. Neither state possesses tactical nuclear weapons, but both possess scores of city-sized bombs like those used on Hiroshima and Nagasaki. Furthermore, as more damage was inflicted (or as the result of a decapitating strike), command and control elements would be disabled, leaving individual commanders to respondin an environment increasingly clouded by the fog of war and decreasing the likelihood that either government (what would be left of them) would be able to guarantee that their forces would follow a negotiated settlement or phased reduction in hostilities. As a result any suchconflict would likely continue to escalateuntil one side incurred an unacceptable or wholly debilitating level of injury or exhausted its nuclear arsenal. A nuclear conflict in the subcontinentwould havedisastrous effects on the world as a whole. In a January 2010 paper published in Scientific American, climatology professors Alan Robock and Owen Brian Toon forecast the global repercussionsof a regional nuclear war. Their results are strikingly similar to those of studies conducted in 1980 that conclude that a nuclear war between the United States and the Soviet Union wouldresult in acatastrophic and prolonged nuclear winter,which could very well place the survival of the human race in jeopardy. In their study, Robock and Toon use computer models to simulate the effect of a nuclear exchange between India and Pakistan in which each were to use roughly half their existing arsenals (50 apiece). Since Indian and Pakistani nuclear devices are strategic rather than tactical, the likely targets would be major population centers. Owing to the population densities of urban centers in both nations, the number of direct casualties could climb as high as 20 million. The fallout of such an exchange would not merely be limited to the immediate area. First, the detonation of a large number of nuclear devices would propel as much as seven million metric tons of ash, soot, smoke, and debris as high as the lower stratosphere. Owing to their small size (less than a tenth of a micron) and a lack of precipitation at this altitude, ash particles would remain aloft for as long as a decade, during which time the world would remain perpetually overcast. Furthermore, these particles would soak up heat from the sun, generating intense heat in the upper atmosphere that would severely damage the earth’s ozone layer. The inability of sunlight to penetrate through the smoke and dust would lead toglobal cooling by as much as 2.3 degrees Fahrenheit. This shift in global temperature would lead to more drought, worldwide food shortages, and widespread political upheaval. Although the likelihood of this doomsday scenario remains relatively low, the consequences are dire enough to warrant greater U.S. and international attention. Furthermore, due to the ongoing conflict over Kashmir and the deep animus held between India and Pakistan, it might not take much to set them off. Indeed, following the successful U.S. raid on bin Laden’s compound, several members of India’s security apparatus along with conservative politicians have argued that India should emulate the SEAL Team Six raid and launch their own cross-border incursions to nab or kill anti-Indian terrorists, either preemptively or after the fact. Such provocative action could very well lead to all-out war between the two that couldquickly escalate.

#### Escalation uniquely likely now – no impact defense

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“This is a sad reality of India-Pakistan relations — whenever things are looking up, a saboteur tries to send all progress up in smoke.” The region has been on the boil since the five Indian soldiers were killed in an ambush in the Poonch sector of India-administered Kashmir last week. India said Pakistani soldiers were to blame, and Pakistan disavowed the attack. More from GlobalPost: 7 graphs that prove America is overrated The incident prompted a series of cross-border skirmishes that each country has accused the other of starting. It has all-but scuttled hopes that Sharif and his Indian counterpart, Manmohan Singh, will be able to resume peace negotiations anytime soon. The so-called composite dialogue dates back to January 2004. It was called off following the November 2008 Mumbai terrorist attack, which India believes were perpetrated with the aid of Pakistan's Inter-Services Intelligence agency. Until this week, the formal talks had been set to resume this month. Now even an informal meeting between Singh and Sharif on the sidelines of the September UN General Assembly is at risk. The situation is scary, experts say. Kashmir — a divided territory that both India and Pakistan claim as their own — was the cause of two of the three wars the two countries have fought since they attained independence from Britain in 1947. Now both New Delhi and Islamabad control numerous nukes; Pakistan has the world’s fastest growing arsenal. As the tit-for-tat bombardment continues, the shelling already marks the heaviest exchange since the ceasefire began in 2003, raising fears that the repeated violations will result in a complete breakdown of the truce. Signaling their concern about further escalation, both Washington and the UN have appealed for calm. But which side is responsible for starting the fire? What is the endgame? And how far will the flames spread before cooler heads prevail? Indian analysts remain convinced that Pakistan uses such shelling to provide cover for jihadi militants crossing the border to attack installations in India-administered Kashmir. By India's tally, there have already been 42 such ceasefire violations in 2013, compared with 28 in 2012, according to India Today. Meanwhile, this year 40 members of India's security forces in the area have been killed, compared with 17 the year before. For Indians looking to explain who broke the truce this time, that's a smoking gun. “If you just take the common sensical point of view, India has no interest [in breaking the ceasefire], because we are not sending in infiltrators under cover of fire,” said former Indian foreign secretary Kanwal Sibal. “We have no reason to fire unilaterally because what do we then hope to achieve? We don't score any points either bilaterally or internationally.” Pakistan-watchers, however, argue that its army no longer provides such support for jihadi groups, and hint that the ambush story may have been a ploy by India, or a local Indian commander, to trigger hostilities. Admitting that Pakistani generals “may have” helped jihadis cross into India in the past, for instance, Pakistan-born Shuja Nawaz, director of the South Asia Center at the Atlantic Council, said that policy was ended under former president General Pervez Musharraf, and it would be “surprising if it is being activated again.” Nawaz also questioned why India first called the alleged ambush an attack by “persons dressed in Pakistani uniforms” – only later referring to it as an army assault — and why top military officials allowed tempers to flare for two days before activating a hotline intended to defuse these situations. “What is surprising is that the Director General Military Operations did not activate the hotline till two days [after the alleged ambush]. Why?” said Nawaz. Experts agree it’s not likely that Sharif's civilian government officially sanctioned the alleged ambush of Indian soldiers. But it may well have had the active or tacit support of the military-intelligence combine, or “deep state,” that holds the real power in Pakistan. Moreover, though the ceasefire is expected to hold, the ambush and subsequent saber rattling in Pakistan certainly establishes that its new prime minister — for all his talk of peace — must overcome enormous obstacles in his own country before he can think of negotiating with India. “Overarching all this is the fact that during the election campaign, [Sharif] spoke about his desire to improve relations with India, and there was an exchange of special envoys pretty quickly,” said India's Sibal. “There was hope that he might be able to begin turning a new page. But under his watch all the wrong things are happening... Jihadi organizations [and] what they call the ‘deep state’ in Pakistan [i.e. the army and intelligence apparatus] seem to be at work.” While Sharif has continued to preach peace since his June election, his army and spy agency don't seem to be listening. That's because both have vested interests in stoking fears of an Indian attack — lest they face a sustained drive to curtail their powers, or, worse, a deep cut to the defense budget. On August 3, terrorists whom India claims have links to Pakistan's Inter-Services Intelligence agency (ISI) attacked the Indian consulate in Jalalabad, Afghanistan. Meanwhile, Islamabad allowed alleged terrorist Hafiz Saeed to lead Eid prayers before a massive throng at the Gaddafi stadium in Lahore on August 9. India and the US accuse him of leading of Lashkar-e-Taiba, and Indians accuse of masterminding the 2008 attacks on Mumbai; Washington DC has a $10 million bounty on his head. The Eid prayers were not a one-off. Saeed also led several thousand supporters in a Lahore parade on August 14, to mark Pakistan’s independence day. And amidst the shelling this week, Pakistan's finance minister announced that a plan to grant India “most favored nation” status – once viewed an easily attained step that would be good for both countries – is now off the table. “Neither side wants war nor does either profit from a conflict escalating beyond [Kashmir’s Line of Control]. Local commanders, especially newly posted ones to the region, flex their muscles. But this is a dangerous game,” said the Atlantic Council's Nawaz. Worse still, the game is set to grow more perilous with the approach of 2014 – when the rules will change, according to the Woodrow Wilson Center's Kugelman. The US withdrawal from Afghanistan will leave India and Pakistan contending for influence there, while the exit of US troops will again make India and Kashmir the number one target for Pakistan-based terrorist groups like Lashkar-e-Taiba. Meanwhile, in the face of continued provocations since the 2008 attacks on Mumbai, India's capacity for restraint may have reached its limits, Kugelman worries. And the election slated for May 2014 will put added pressure on Singh's government to take a hard line. “As India's election grows closer, any consequent LoC hostilities could conceivably lead to escalation,” Kugelman said. “And that's a scary thought.”

## Credibility

#### Domestic and international support for the US drone program is collapsing, threatening to shut it down entirely. Reform is key.

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

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

#### Current drone strikes undermine US legitimacy – Judicial Review is key

Crandall, 2012

[Carla, Law Clerk to the Honorable Laura Denvir Stith, Supreme Court of Missouri and the author was previously employed by the National Geospatial-Intelligence Agency, READY . . . FIRE . . . AIM! A CASE FOR APPLYING AMERICAN DUE PROCESS PRINCIPLES BEFORE ENGAGING IN DRONE STRIKES, April, 2012 Florida Journal of International Law 24 Fla. J. Int'l L. 55, Lexis] /Wyo-MB

Despite the expanded use of drones, however, the legitimacy of these attacks remains unclear. Most commentators who have addressed the legitimacy of more general targeted killings have examined the issue within the framework of either international humanitarian law (IHL) or international human rights law (IHRL). n6 Those limited few who have [\*57] analyzed the subject through the lens of American due process have limited their scrutiny to the absence of post-deprivation rights. n7 They suggest, for instance, that the United States should implement some sort of Bivens-type action as a remedy for the survivors of erroneous drone strikes. n8¶ As this Article explains, however, none of these approaches yield wholly satisfactory answers as to which framework should govern the use of drones within the context of the war on terror. And though the idea that American due process principles ought to be applied ex post represents a significant contribution to the debate, it too ultimately falls flat. Indeed, such an approach unduly narrows the obligation of U.S. officials to the standard of readying, firing, and then aiming- requiring them to perform a detailed review of the strikes only after the fact. Instead, this Article argues that the United States ought to be held to a higher, ex ante standard-that of "aiming" before firing-and posits that such a standard is practically attainable.¶ In doing so, the Article proceeds as follows. Part II describes the capabilities and current employment of drones and explains why resolving the legitimacy of their use is so critical. Specifically, it highlights that, despite the unsettled nature of the law in this area, targeted killings by drone strikes have increased exponentially in recent years-in some instances against arguably questionable targets. Part III examines current attempts to address the legitimacy of drone assaults and explains why they fail to adequately govern the use of these weapons. While this Part explores the applicability of IHRL and IHL, it does not undertake to resolve the debate as to which regime does or ought to apply to these operations. To the contrary, it argues that limitations within each framework have prevented consensus from forming around the applicability of either. Accordingly, U.S. officials [\*58] must arguably look to other sources to find guiding principles to legitimize targeted killings via drones. Though it is admittedly not entirely clear whether constitutional guarantees apply in the foreign locales where these strikes occur-or to the foreign nationals who are often their target-this Part proposes that American due process principles nevertheless ought to be invoked before such strikes occur, because failing to do so allows the executive to act with impunity in a legal void. Part IV argues that, in Hamdi v. Rumsfeld n9 and Boumediene v. Bush, n10 the Supreme Court signaled the process that may be due before drones are used to eliminate known terrorist targets. In extending the Hamdi and Boumediene analysis to targeted killings by drones, this Part also begins the inquiry into the procedural protections that due process may demand before U.S. officials engage in such actions. Part V

#### Multiple Warrants

#### First, drone strikes as is hurt U.S. credibility – lack of transparency, oversight and restrictions allow any bombing to be blamed on the U.S.

Zenko 13, (Micah, fellow at the Council on Foreign Relations, with expertise in Conflict Prevention; US national security policy, military planning and operations and nuclear weapons policy. “Reforming U.S. Drone Strike Policies”, Council on Foerign Relations Special Report no. 65, January 2013 <http://www.cfr.org/wars-and-warfare/reforming-us-drone-strike-policies/p29736>, pg15)

The problem with maintaining that drone strikes are covert is that both the American and international publics often misunderstand how drones are used. And in affected states, citizens often blame the United States for collateral damage that could have been caused by the host states’ own weapon systems. According to a recent report from Yemen: It’s extremely difficult to figure out who is responsible for any given strike. . . . It could be a manned plane from the Yemeni Air Force or the U.S. military. Or it could be an unmanned drone flown by the U.S. military or the CIA. . . . But no matter who launches a particular strike, Yemenis are likely to blame it on the Americans. What’s more, we found that many more civilians are being killed than officials acknowledge.37 Congressional oversight of drone strikes varies depending on whether the CIA or the U.S. military is the lead executive authority. The CIA, according to the chair of the Senate Select Committee on Intelligence, Senator Dianne Feinstein, meets its “fully and currently informed” legal obligations through “monthly in-depth oversight meetings to review strike records and question every aspect of the program.” 38 Individual JSOC strikes are not reported to the relevant armed services committees, but are covered under the broad special access program biannual reporting to Congress. According to senior staff members on the Senate Foreign Relations Committee and House Foreign Affairs Committee, many of their peers have little understanding of how drone strikes are conducted within the countries for which they are responsible for exercising oversight. Even serving White House officials and members of Congress repeatedly make inaccurate statements about U.S. targeted killings and appear to be unaware of how policies have changed over the past decade.39 At the same time, the judiciary committees have been repeatedly denied access to the June 2010 Office of Legal Counsel memorandum that presented the legal basis for the drone strike that killed U.S. citizen and alleged leader of AQAP Anwar al-Awlaki in September 2011.40 Finally, despite nearly ten years of nonbattlefield targeted killings, no congressional committee has conducted a hearing on any aspect of them.

#### AND credibility will make the difference in maintaining hegemonic standing

APSA 9 (American Political Science Association, The American Political Science Association is the leading professional organization for the study of political science and serves more than 15,000 members in over 80 countries. With a range of programs and services for individuals, departments and institutions, APSA brings together political scientists from all fields of inquiry, regions, and occupational endeavors within and outside academe in order to expand awareness and understanding of politics, “ U.S. Standing in the World: ¶ Causes, Consequences, ¶ and the Future,” Task Force Report, October 2009,

http://www.apsanet.org/media/PDFs/APSAUSStandingShortFinal.pdf

p. 3-4)

U¶ nlike something a nation possesses and can easily measure, like wealth or military ¶ might, standing is an attribute assigned to the United States by actors beyond its ¶ borders—such as foreign leaders and peoples, international organizations, and transnational ¶ groups—and assessed by citizens within them. U.S. standing has both an absolute and a ¶ relative quality. It is absolute in the sense that it can be high or low and can vary over time. It ¶ is relative in that U.S. standing could be better or worse than that of other countries or actors, ¶ such as China or the European Union.¶ Standing has two major facets: credibility and esteem. Credibility refers to the U.S. ¶ government’s ability to do what it says it is going to do—to “stand up” for what it believes, ¶ and to “stand against” threats to its interests and ideals. Esteem refers to America’s stature, ¶ or what America is perceived to “stand for” in the hearts and minds of foreign publics and policymakers. Credibility and esteem can be mutually reinforcing, but they can also be ¶ difficult to pursue in tandem—a trade-off implied by Machiavelli’s famous dictum: “it is much ¶ safer to be feared than loved.” ¶ Standing is densely interwoven with U.S. “hard power”—the nation’s material military ¶ and economic capabilities. U.S. capabilities help the nation realize its interests, and a modern ¶ military and robust economy breed appeal and respect. Power and standing, however, are not ¶ the same thing. U.S. standing may vary even if U.S. hard power does not, as we have seen since ¶ 2000: standing has declined (see Figure 3), but relative American power has been steady (see ¶ Figure 5 below).. Likewise with “soft power”: a country’s standing can rise and fall even as the ¶ attractiveness of its system remains relatively constant. And unlike pro- or anti-Americanism, ¶ standing is not about whether others are ¶ for or against the United States, but instead ¶ whether they view the United States as a ¶ credible actor with traits that should be ¶ admired or emulated. ¶ Why should policymakers—or political scientists—care about standing at all?¶ First, recent history suggests that standing can play a fundamental role in the shaping ¶ of strategy. In the wake of the 9/11 attacks, President George W. Bush initiated a new ¶ national strategy for the United States that favored the credibility dimension of standing—¶ emphasizing a policy package of assertive unilateralism, preventive use of force, and aggressive ¶ democratization. The administration achieved some initial successes, swiftly toppling the ¶ Taliban in Afghanistan, securing dismantlement of Libya’s nuclear program, and encouraging ¶ an apparent halt or slow-down in Iran’s nuclear program. ¶ Yet, over time, despite the lack of further terrorist attacks on U.S. soil, American ¶ standing declined. The Bush administration’s single-minded approach lost significant ¶ support at home and abroad, as the United States grew mired in Iraq, was accused of ¶ violations of international law, and drew international criticism and resentment—even as ¶ Osama bin Laden remained at large. This decline in standing only made it harder for the ¶ United States to be effective in foreign affairs—prompting the Bush administration to take ¶ what some saw as a reverse course after 2005 and return to the typical pattern of American ¶ internationalism since World War II. ¶ More distant history speaks to the significance of standing as well. In the long ¶ competition with the Soviet Union, the United States was anxious that its reputation to ¶ protect its allies, especially those in Europe, be seen as credible by both Soviet leaders and ¶ Europeans. U.S. participation in the Korean and Viet Nam wars was spurred by the fear that a ¶ perception of diminished U.S. credibility would lead others to join a rising Communist tide. ¶ As Lyndon Johnson explained to Martin Luther King, Jr. in early 1965, “If I pulled out [of ¶ Vietnam] ... I think the Germans would be scared to death that our commitment to them was ¶ no good, and God knows what we’d have in other places in the world....”¶ Standing is the everyday currency of America’s existence in the world. Political standing ¶ is akin to long-term political capital (or “goodwill” in accounting). It has intrinsic value, ¶ including in the self-understanding of Americans, even when it has no readily observable ¶ behavioral implications.

#### Second, Only judicial review provides the due process necessary to solve confidence in targeting—key to viability of the program

Corey, Army Colonel, 12 (Colonel Ian G. Corey, “Citizens in the Crosshairs: Ready, Aim, Hold Your Fire?,” http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA561582)

Alternatively, targeted killing decisions could be subjected to judicial review. 103 Attorney General Holder rejected ex ante judicial review out of hand, citing the Constitution’s allocation of national security operations to the executive branch and the need for timely action.104 Courts are indeed reluctant to stray into the realm of political questions, as evidenced by the district court’s dismissal of the ACLU and CCR lawsuit. On the other hand, a model for a special court that operates in secret already exists: the Foreign Intelligence Surveillance Court (FISC) that oversees requests for surveillance warrants for suspected foreign agents. While ex ante judicial review would provide the most robust form of oversight, ex post review by a court like the FISC would nonetheless serve as a significant check on executive power.105 Regardless of the type of oversight implemented, some form of independent review is necessary to demonstrate accountability and bolster confidence in the targeted killing process. Conclusion The United States has increasingly relied on targeted killing as an important tactic in its war on terror and will continue to do so for the foreseeable future.106 This is entirely reasonable given current budgetary constraints and the appeal of targeted killing, especially UAS strikes, as an alternative to the use of conventional forces. Moreover, the United States will likely again seek to employ the tactic against U.S. citizens assessed to be operational leaders of AQAM. As demonstrated above, one can make a good faith argument that doing so is entirely permissible under both international and domestic law as the Obama Administration claims, the opinions of some prominent legal scholars notwithstanding. The viability of future lethal targeting of U.S. citizens is questionable, however, if the government fails to address legitimate issues of transparency and accountability. While the administration has recently made progress on the transparency front, much more remains to be done, including the release in some form of the legal analysis contained in OLC’s 2010 opinion. Moreover, the administration must be able to articulate to the American people how it selects U.S. citizens for targeted killing and the safeguards in place to mitigate the risk of error and abuse. Finally, these targeting decisions must be subject to some form of independent review that will both satisfy due process and boost public confidence.

#### Bolstering legitimacy is key to overall leadership and hegemony—boosts hard and soft power

Biegon, 2013

[Rubrick, PhD Candidate School of Politics and International Relations, University of Kent British International Studies Association (BISA) Conference – June 2013, The Banality of Smart Power: Reconstituting US Hegemony after Bush,

Although Nye maintains that concerns over American decline are overblown,48 there is little doubt that declinist anxieties acted as the impetus for smart power’s incubation in the policy community. The CSIS report on smart power began soberly by acknowledging that ‘much of the world today is not happy with American leadership’, adding that ‘America’s reputation, standing, and influence are at all-time lows’.49 It noted that ‘the center of gravity in world affairs is shifting to Asia’, and that ‘traditional allies have questioned American values and interests, wondering if they are compatible with their own’.50 In Latin America, US leadership was under duress from ‘a new generation of populist leaders... tapping into old threads of anti-Americanism’ to challenge US-led economic globalisation.51 Even so, the report argued, the time was ripe for a ‘big idea’ to restore legitimacy to American leadership and ‘preserve American pre-eminence as an agent for good’.52 This big idea was smart power, which CSIS defined thusly:¶ Smart power is neither hard nor soft—it is the skilful combination of both. Smart power means developing an integrated strategy, resource base, and tool kit to achieve American objectives, drawing on both hard and soft power. It is an approach that underscores the necessity of a strong military, but also invests heavily in alliances, partnerships, and institutions at all levels to expand American influence and establish the legitimacy of American action.53

#### Drones are critical to resolve U.S. military overreach and prevent reductions in power projection capacity

Rushforth JD candidate 12 (Elinor June, J.D. candidate, University of Arizona, James E. Rogers College of Law, “THERE'S AN APP FOR THAT: IMPLICATIONS OF ARMED DRONE ATTACKS AND PERSONALITY STRIKES BY THE UNITED STATES AGAINST NON-CITIZENS, 2004-2012” Arizona Journal of International and Comparative Law 29 Ariz. J. Int'l & Comp. Law 623, Lexis)

G. Arguments Made by Proponents of the Drone Program The drone program is a fixture in the Obama administration's fight against terror n163 and the moral and legal defense the administration offers serves as an indication that these attacks will continue. n164 Further, proponents of the drone program argue their use reduces risk to U.S. service members, decreases American weariness at foreign intervention, and minimizes civilian casualties during attacks and missions. First, because asymmetric warfare has increased, the United States has sought out creative ways to fight terrorists, insurgents, and asymmetric wars more generally. n165 Despite controversy surrounding the drone program, it allows surveillance and lethal missions without putting U.S. troops in harm's way. n166 This is an almost incontrovertible positive factor when considering American public support for a new and technologically incredible program. n167 Due to the lingering Overseas Contingency Operations, Americans are eager for some good news, and this program can deliver. Drone operators are on the front lines of a new and more sophisticated type of war and the information their surveillance missions provide can prove invaluable to service members on the ground. n168 This dual benefit weighs heavily in favor of drone proliferation. Drones can be [\*649] deployed to survey and attack where it would otherwise be impractical for troops, and a single pilot, to venture. n169 However, the analysis of this benefit must be separated between the two organizations employing drones: the military and the CIA. n170 Drones are used for surveillance and killing by both organizations but usually with different purposes in mind. n171 The military has focused its drones primarily on tactical support of ground forces, n172 either by providing information about enemy tactics or eliminating combatants entrenched in defended positions. n173 The CIA uses drones to eliminate specific targets in remote areas in which conventional U.S. military action would be impossible. n174 During Operation Southern Watch, the military used drones to police no-fly zones in Iraq and they were eventually used to target Iraqi radar systems during the second Iraq War. n175 In Operation Enduring Freedom, the military has expanded its use of armed drones to provide air support to ground operations and to act as "killer scouts." n176 By providing immediate battle damage assessment, drones enable commanders to determine if further action is necessary, and provide a new perspective on the field. n177 In Operation Iraqi Freedom, the armed drone retained and expanded its roles targeting anti-aircraft vehicles, performing as a decoy revealing enemy positions, and aiding in a rescue mission. n178 Based on these successes, military leaders maintain the value of drones. n179 The CIA's use [\*650] of drones facilitates U.S. attacks in environments where it is deemed too dangerous for ground troops to have a physical presence. n180 The ability to protect American lives, keep military costs down, and damage terrorist infrastructure and leadership is central to proponents' view of this program. Second, the American public has grown tired of drawn-out conflicts and foreign intervention, and the drone program offers a more palatable form of foreign involvement. n181 President Obama claims that "it is time to focus on nation-building here at home" and, presumably, the drone program allows the government to operate without deployment of ground troops to areas in which intervention is deemed necessary, be it for humanitarian or military purposes. n182 Lethal operations, surveillance for U.S. military operations, and less costly intervention all become possible when robots are the actual tools. With a weary electorate, the Executive can maintain a presence abroad militarily, while remaining able to argue that its full focus is on protecting and growing our nation at home.

#### Heg prevents great power war

**Brooks, Ikenberry, and Wohlforth ’13**

(Stephen, Associate Professor of Government at Dartmouth College, John Ikenberry is the Albert G. Milbank Professor of Politics and International Affairs at Princeton University in the Department of Politics and the Woodrow Wilson School of Public and International Affairs, William C. Wohlforth is the Daniel Webster Professor in the Department of Government at Dartmouth College “Don’t Come Home America: The Case Against Retrenchment,” International Security, Vol. 37, No. 3 (Winter 2012/13), pp. 7–51), accessed 1/18/13,WYO/JF

A core premise of **deep engagement** is that it **prevents the emergence of a far more dangerous global security environment**. **For one thing**, as noted above, **the U**nited **S**tates’ **overseas presence gives it the leverage to restrain partners** **from taking provocative action**. Perhaps more important, **its core alliance commitments** also **deter states with aspirations to regional hegemony from contemplating expansion and make** **its partners more secure**, **reducing** their **incentive to adopt solutions to their security problems that threaten others** **and thus stoke** **security dilemmas**. The contention that engaged U.S. power dampens the baleful effects of anarchy is consistent with influential variants of realist theory. Indeed, arguably the scariest portrayal of the war-prone world that would emerge absent the “American Pacifier” is provided in the works of John Mearsheimer, who forecasts **dangerous multipolar regions replete with security competition, arms races, nuclear proliferation and associated preventive war temptations, regional rivalries, and even runs at regional hegemony and full-scale great power war.** 72 **How do retrenchment advocates**, the bulk of whom are realists, **discount this benefit**? **Their arguments are complicated**, **but two capture most of the variation**: (1**) U.S. security guarantees are not necessary to prevent dangerous rivalries and conflict in Eurasia; or** (2) **prevention of rivalry and conflict in Eurasia is not a U.S. interest**. Each response is connected to a different theory or set of theories, which makes sense given that the whole debate hinges on a complex future counterfactual (what would happen to Eurasia’s security setting if the United States truly disengaged?). Although a certain answer is impossible, each of these responses is nonetheless a weaker argument for retrenchment than advocates acknowledge. The first response flows from defensive realism as well as other international relations theories that discount the conflict-generating potential of anarchy under contemporary conditions. 73 **Defensive realists maintain that the high expected costs of territorial conquest, defense dominance, and an array of policies and practices that can be used credibly to signal benign intent, mean that Eurasia’s major states could manage regional multipolarity peacefully without the American pacifier.** Retrenchment would be a bet on this scholarship, particularly in regions where the kinds of stabilizers that nonrealist theories point to—such as democratic governance or dense institutional linkages—are either absent or weakly present. There are three other major bodies of scholarship, however, that might give decisionmakers pause before making this bet. First is regional expertise. **Needless to say, there is no consensus on the net security effects of U.S. withdrawal**. Regarding each region, there are optimists and pessimists. **Few experts expect a return of intense great power competition** in a post-American Europe, **but many doubt European governments will pay the political costs of increased EU defense cooperation and the budgetary costs of increasing military outlays**. 74 **The result might be a Europe that is incapable of securing itself from various threats that could be destabilizing within the region and beyond** (e.g., a regional conflict akin to the 1990s Balkan wars), lacks capacity for global security missions in which U.S. leaders might want European participation, and is vulnerable to the influence of outside rising powers. What about the other parts of Eurasia where the United States has a substantial military presence? **Regarding the Middle East, the balance begins to swing toward pessimists concerned that states currently backed by Washington— notably Israel, Egypt, and Saudi Arabia—might take actions upon U.S. retrenchment that would intensify security dilemmas. And concerning East Asia, pessimism regarding the region’s prospects without the American pacifier is pronounced. Arguably the principal concern expressed by area experts is that Japan and South Korea are likely to obtain a nuclear capacity and increase their military commitments, which could stoke a destabilizing reaction from China**. **It is notable that during the Cold War, both South Korea and Taiwan moved to obtain a nuclear weapons capacity and were only constrained from doing so by a still-engaged United States.** 75 The second body of scholarship casting doubt on the bet on defensive realism’s sanguine portrayal is all of the research that undermines its conception of state preferences. Defensive realism’s optimism about what would happen if the United States retrenched is very much dependent on its particular—and highly restrictive—assumption about state preferences; once we relax this assumption, then much of its basis for optimism vanishes. Specifically, the prediction of post-American tranquility throughout Eurasia rests on the assumption that security is the only relevant state preference, with security defined narrowly in terms of protection from violent external attacks on the homeland. Under that assumption, the security problem is largely solved as soon as offense and defense are clearly distinguishable, and offense is extremely expensive relative to defense. **Burgeoning research across the social and other sciences**, however, **undermines** that **core assumption: states have preferences not only for security but also for prestige, status, and other aims, and they engage in trade-offs among the various objectives**. 76 In addition, they define security not just in terms of territorial protection but in view of many and varied milieu goals. **It follows that even states that are relatively secure may nevertheless engage in highly competitive behavior.** **Empirical studies show that this is indeed sometimes the case**. 77 In sum, a bet on a benign post retrenchment Eurasia is a bet that leaders of major countries will never allow these nonsecurity preferences to influence their strategic choices. **To the degree that these bodies of scholarly knowledge have predictive leverage, U.S. retrenchment would result in a significant deterioration in the security environment in at least some of the world’s key regions.** We have already mentioned the third, even more alarming body of scholarship. Offensive realism predicts that **the withdrawal of the American pacifier will yield either a competitive regional multipolarity complete with** associated **insecurity, arms racing, crisis instability**, nuclear **proliferation, and** the like, or **bids for regional hegemony,** **which** **may be beyond the capacity of local great powers to contain** (and which in any case would generate intensely competitive behavior, possibly including regional great power war). Hence it is unsurprising that retrenchment advocates are prone to focus on the second argument noted above: that avoiding wars and security dilemmas in the world’s core regions is not a U.S. national interest. **Few doubt** that **the U**nited **S**tates **could survive** the return of **insecurity and conflict** among Eurasian powers, **but at what cost**? Much of the work in this area has focused on the economic externalities of a renewed threat of insecurity and war, which we discuss below. Focusing on the pure security ramifications, there are two main reasons why decision makers may be rationally reluctant to run the retrenchment experiment. First, **overall higher levels of conflict make the world a more dangerous place.** Were Eurasia to return to higher levels of interstate military competition, one would see overall higher levels of military spending and innovation and a higher likelihood of competitive regional proxy wars and arming of client states—all of which would be concerning, in part because it would promote a faster diffusion of military power away from the United States. **Greater regional insecurity could** well **feed proliferation** cascades, **as states such as Egypt, Japan, South Korea, Taiwan, and Saudi Arabia** all might **choose to create nuclear forces**. 78 It is unlikely that proliferation decisions by any of these actors would be the end of the game: they would likely generate pressure locally for more proliferation. Following Kenneth Waltz, many retrenchment advocates are proliferation optimists, assuming that nuclear deterrence solves the security problem. 79 Usually carried out in dyadic terms, the debate over the stability of proliferation changes as the numbers go up. Proliferation optimism rests on assumptions of rationality and narrow security preferences. In social science, however, such assumptions are inevitably probabilistic. Optimists assume that most states are led by rational leaders, most will overcome organizational problems and resist the temptation to preempt before feared neighbors nuclearize, and most pursue only security and are risk averse. Confidence in such probabilistic assumptions declines if the world were to move from nine to twenty, thirty, or forty nuclear states. In addition, many of the other dangers noted by analysts who are concerned about the destabilizing effects of nuclear proliferation—including the risk of accidents and the prospects that some new nuclear powers will not have truly survivable forces—seem prone to go up as the number of nuclear powers grows. 80 Moreover, **the risk of “unforeseen crisis dynamics**” that **could spin out of control** is also higher as the number of nuclear powers increases. Finally, add to these concerns the enhanced danger of nuclear leakage, and a world with overall higher levels of security competition becomes yet more worrisome. The argument that maintaining Eurasian peace is not a U.S. interest faces a second problem. On widely accepted realist assumptions, **acknowledging that U.S. engagement preserves peace dramatically narrows the difference between retrenchment and deep engagement**. **For** many **supporters of retrenchment, the optimal strategy** for a power such as the United States, which has attained regional hegemony and **is separated from** other **great powers by oceans, is offshore balancing: stay over the horizon and “pass the buck” to local powers to do the dangerous work of counterbalancing any local rising power.** The United States should commit to onshore balancing only when local balancing is likely to fail and a great power appears to be a credible contender for regional hegemony, as in the cases of Germany, Japan, and the Soviet Union in the midtwentieth century. **The problem is that China’s rise puts the possibility of its attaining regional hegemony on the table, at least in the medium to long term**. As Mearsheimer notes, “**The United States will have to play a key role in countering China, because its Asian neighbors are not strong enough to do it by themselves**.” 81 Therefore, unless China’s rise stalls, “the United States is likely to act toward China similar to the way it behaved toward the Soviet Union during the Cold War.” 82 **It follows that the United States should take no action that would compromise its capacity to move to onshore balancing in the future. It will need to maintain key alliance relationships in Asia as well as the formidably expensive military capacity to intervene there. The implication is to get out of Iraq and Afghanistan,** reduce the presence in Europe, **and pivot to Asia**— just what the United States is doing. 83 In sum, **the argument that U.S. security commitments are unnecessary for peace is countered by a lot of scholarship, including highly influential realist scholarship**. In addition, the argument that Eurasian peace is unnecessary for U.S. security is weakened by the potential for a large number of nasty security consequences as well as the need to retain a latent onshore balancing capacity that dramatically reduces the savings retrenchment might bring. Moreover, **switching between offshore and onshore balancing could well be difficult**. Bringing together the thrust of many of the arguments discussed so far underlines the degree to which the case for retrenchment misses the underlying logic of the deep engagement strategy. **By supplying reassurance, deterrence, and active management, the United States lowers security competition** in the world’s key regions, thereby **preventing the emergence of a hothouse atmosphere** for growing new military capabilities**. Alliance ties dissuade** **partners from ramping up** and also provide leverage to prevent military transfers to potential rivals. **On top of all this, the U**nited **S**tates’ **formidable military machine may deter entry by potential rivals.** Current great power military expenditures as a percentage of GDP are at historical lows, and thus far other major powers have shied away from seeking to match top-end U.S. military capabilities. In addition, they have so far been careful to avoid attracting the “focused enmity” of the United States. 84 All of the world’s most modern militaries are U.S. allies (America’s alliance system of more than sixty countries now accounts for some 80 percent of global military spending), and **the gap between the U.S. military capability and that of potential rivals is by many measures growing rather than shrinking**.

## Plan

#### The United States federal government should substantially increase statutory restrictions on the war powers authority of the President of the United States by establishing a federal counterterrorism oversight court with jurisdiction over targeted killing orders.

## Solvency

#### The creation of a federal counterterror oversight court solves all problems with the targeted killing program and all disads to judicial review

Plaw, 2007

[Avery, Assistant Professor of Political Science at the University of Massachusetts at Dartmouth. He has taught at Concordia University and was also a Visiting Scholar at New York University. His primary research and teaching interests are in contemporary political theory and the history of moral and political thought, and he has published widely on these subjects. "Terminating terror: the legality, ethics and effectiveness of targeting terrorists." Theoria 114 (2007): Academic OneFile. Web. 3 Oct. 2013] /Wyo-MB

This final section offers a briefcase that there is room for a principled compromise between critics and advocates of targeting terrorists. The argument is by example--a short illustration of one promising possibility. It will not satisfy everyone, but I suggest that it has the potential to resolve the most compelling concerns on both sides.¶ The most telling issues raised by critics of targeting fall into three categories: (1) the imperative need to establish that targets are combatants; (2) the need in attacking combatants to respect the established laws of war; and (3) the overwhelming imperative to avoid civilian casualties. The first issue seems to demand an authoritative judicial determination that could only be answered by a competent court. The second issue requires the openly avowed and consistent implementation of targeting according to standards accepted in international law--a requirement whose fulfillment would best be assured through judicial oversight. The third issue calls for independent evaluation of operations to assure that standards of civilian protection are robustly upheld, a role that could be effectively performed by a court.¶ The first issue, then, must, and the second and third can, be resolved by the introduction of credible judicial oversight. But what kind of court could be expected to maintain secrecy around sensitive intelligence and yet render authoritative determinations as to, for example, individuals' combat status? An independent international court would doubtless be ideal, but even apart from all the technical and administrative difficulties such a solution would entail and the secrecy concerns it would evoke, it seems clear that the United States and Israel would refuse to have their national security subject to the authority of a foreign body, however judicious. They would argue, as indeed they have in regard to the ICC, that the final authority in this supremely important domain must derive ultimately from the will of their own people, whose lives and community are at stake. On the other hand, critics of targeting would certainly demand an independent, competent and internationally credible body. All the more so since the court's proceedings, for obvious reasons, could not be open to public scrutiny.¶ On this difficult question Michael Ignatieff offers a helpful idea. He suggests the possibility of setting up a national court to address counterterrorism issues loosely based on the model on the Foreign Intelligence Surveillance Court (FISC), which considers surveillance and physical search requests from the Department of Justice and U.S. intelligence agencies related to foreign intelligence operations in the U.S. (Ignatieff 2004:134). Developing Ignatieff's suggestion, the new court could be called the Federal Counterterrorism Oversight Court (FCOC).¶ The institutional features of the FCOC could be designed to assure credibility and independence on one side, and secure and efficient contribution to national policy on the other. For example, like the FISC, the FCOC could be composed of seven federal court judges selected by the Chief Justice of the Supreme Court and serving staggered seven years terms. Like the FISC, the FCOC could hold its proceedings in camera, ensuring the secrecy of sensitive intelligence information. The FCOC could then consider requests from military and intelligence organizations to designate suspected terrorists as enemy combatants, assessing whether the intelligence presented warranted such a designation. It could also be assigned the responsibility to automatically review any actions that resulted in civilian casualties, and could be given the power to publicly censure operations that inadequately protected civilians, as well as to suspend, or even to terminate, targeting operations. Finally, it could also be authorized to review charges brought by other governments or private persons that targeting operations violated humanitarian law, in particular, by engaging in perfidy or employing disproportionate force.¶ In at least three key respects, however, the design of the FCOC should differ from the model of the FISC. As the FISC is charged with assessing surveillance requests from government agencies, its writs and rulings remain permanently sealed from civilian review. But in the interests of resolving the second issue of openness, the findings of the FCOC should be made public, including the names of those judged to be combatants, as well as any reprimand from the court regarding targeting operations.¶ In the second place, the FISC foregoes adversarial legal proceedings because potential subjects of surveillance can obviously not participate. It has been much criticized on this count. The FCOC should not follow this precedent which, in the views of many jurists and scholars, flies in the face of the core of the Western legal tradition. Evidently, the trials of terrorists who cannot otherwise be brought to justice will be conducted in absentia. This does not, however, necessitate the abandonment of adversarial procedure. In addition to the seven judges appointed to the court, an independent counsel should be appointed by the President of the National Bar Association to represent the interests of the accused before the court. Evidently, appropriate precautions will need to be taken to ensure the secrecy of court proceedings. But the independent counsel should also not be barred from offering general assessments of the performance of the court. Obviously this is an imperfect resolution to an intractable problem, but it should contribute significantly to ensuring the fairness of the FCOC.¶ Finally, the FCOC must be distinguished from the FISC in a third crucial sense. The recent 'domestic surveillance' scandal in the United States involving the Executive Branch's circumvention of the FISC approval process suggests safeguards would need to be built into the FCOC mandate. In the case of the FISC, President Bush issued an Executive Order which authorized the National Security Agency to carry out surveillance of any Americans suspected of links with al Qaeda without FISC approval (Risen and Lichtblau 2005). The scandal and legal consequences that ensued for the administration once this information became public in 2005 have significantly reduced the likelihood of a similar course being taken in the future. Nonetheless, the possibility should be explicitly precluded by specifying in the enabling legislation that no targeting action can be considered legally authorized without approval of the court. In response to the argument that immediate action may sometimes be required in emergency situations, the presiding justice could be permitted to issue a provisional approval based on prima facie evidence, but only subject to full subsequent review by the court.¶ Some critics and advocates of targeting will no doubt be dissatisfied with this resolution. Critics will worry that the FCOC would essentially be a rubber stamp (while robbing them of their best rhetorical point--that targetings are extra-judicial). But there is no compelling reason to believe that courts, especially high-level federal courts, must always approve government policies. After all, supreme courts in both Israel and the United States have both recently issued sharp rebukes of government counter-terrorist policies (e.g., 03-333/4 on the U.S. legal status of detainees, and 3799/02 on the IDF use of human shields).¶ On the other hand, some advocates will certainly worry that a requirement of FCOC approval will hinder the efficiency of targeting and that publishing lists of targets will render them more difficult to find. On the former point, however, there is little evidence that the incorporation of reasonable judicial procedures, such as those of the FISC, need render related policy ineffective. After all, as the 9/11 commission observed, the intelligence community succeeded in gathering the data necessary to anticipate the September 11 attack (National Commission on Terrorist Attacks upon the United States 2004: 254-77). The failure was in the domains of analysis and response. What is evident, however, is that carrying out extensive and dangerous counter-terrorist programs without judicial oversight generates widespread public skepticism and opposition (which tends to undermine the effectiveness of the programs) and leads to enormous legal difficulties in the long run--as exemplified by the American torture/rendition program.¶ On the second point, while it is true that targets may 'go to ground' if tipped off, the fact is that all or virtually all potential targets are already on most wanted lists (often with hefty price tags connected to information leading to them). In essence, they have already gone to ground--that is in part why targeting is required in the first place. Moreover, a retreat into even deeper obscurity is likely to further disrupt their ability to organize and carry out attacks. Finally, the Israeli experience suggests that targets will break cover eventually, and a little patience seems like a small price to pay for ensuring the justice of state-administered killing.¶ These answers will not fully satisfy either all critics or all advocates. But the burden of this section has been only to show that compromises are possible that address their most legitimate concerns. I think that the suggestion of an FCOC shows that a plausible and principled compromise is possible. In this light, the pertinent question becomes not whether terrorist targeting as currently practiced is uniformly legal, moral and practical or the reverse, but how institutions can best be designed to assure that terrorist targetings carried out in the future are uniformly legitimate and effective.

# 2Ac

### 2AC – AT: Peace K

#### First, no link- drone strikes are not a new ‘militarism’- their criticisms of our mechanism don’t hold up to strict scrutiny- we should prefer drones because they’re the most moral and cause the fewest casualties

Brooks 13

(Rosa, law professor at Georgetown University, fellow at the New America Foundation and former Counselor to the Under Secretary of Defense for Policy, Georgetown University Law Center, “Drones and Cognitive Dissonance,” 2013, <http://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=2266&context=facpub>) /wyo-mm

For many on the political left (and more than a few in the middle), drone strikes are the paradigmatic example of US militarism run amok. But many of the most common objections to drones don’t hold up well under serious scrutiny – or, at any rate, there’s nothing uniquely different or worse about drones, compared to other military technologies. Consider the most common anti-drone arguments: Drone strikes kill innocent civilians – This is undoubtedly true, but it is not an argument against drone strikes as such. After all, war kills innocent civilians. And there are some means and methods of warfare that tend to cause more unintended civilian deaths than others. The website for Code Pink, a women’s peace group,states: Drones scout over [Afghanistan and Pakistan] launching Hellfire missiles into the region missing their intended targets, resulting in the deaths of many innocent people.1 Similarly, the Anti-War Committee asserts “the physical distance between the drone and its shooter makes lack of precision unavoidable.”2 But to paraphrase the NRA, “Drones don’t kill people, people kill people.” At any rate, drone strikes kill civilians at no higher a rate, and almost certainly at a lower rate, than most other common means of warfare. Drones actually permit far greater precision in targeting. Today’s unmanned aerial vehicles (UAVs) carry highly accurate ordinance that generally produces far less widespread damage that other munitions. Their low profile and relative fuel efficiency permit them to spend more “time on target” than any manned aircraft. And unlike pilots of manned aircraft, pilots of unmanned vehicles can regularly be replaced while on a mission to avoid fatigue and ensure greater accuracy. Drones can engage in “persistent surveillance.” That means they do not just swoop in, fire missiles and fly off. Instead, they can spend hours, days, weeks or even months monitoring a potential target. Equipped with imaging technologies that enable operators who may be thousands of miles away to see details as fine as individual faces, modern drone technologies allow their operators to distinguish between civilians and combatants far more effectively than most other weapons systems. That does not mean that civilians are not killed in drone strikes. They are. But how many civilians are killed in these actions, and are these casualties greater than if other weapons systems had been used? The numbers are not completely clear. The British Bureau of Investigative Journalism analyzed reports by “government, military and intelligence officials, and by credible media, academic and other sources.” 3 They determined that of the 344 known drone strikes in Pakistan between 2004 and 2012, between 2,562 and 3,325 people were killed of whom they estimated that between 474 and 881 were civilians (the numbers for Yemen and Somalia are less accurate.)4 The New America Foundation came up with slightly lower numbers, estimating that in roughly the same time period, 1,948 to 3,263 people were killed in Pakistan, of whom between 258 and 307 were reported to be civilians (and a further 196 to 330 were difficult to categorize as either civilians or militants.) 5 Behind the numbers, regardless of which data set is right, lie the mangled bodies of human beings. And whether drones strikes cause “a lot” or “only a few” civilian casualties depends on what we regard as the right point of comparison. Compared to the mass bombing campaigns of the Vietnam era or the Second World War (to say nothing of the use of atomic weapons) drone strikes involve relatively few civilian casualties. Yet these comparisons may not tell us anything useful. Should we compare the civilian deaths caused by drone strikes to the civilian deaths caused by large-scale armed conflicts? One study by the International Committee for the Red Cross found that on average, 10 civilians died for every combatant killed during the armed conflicts of the 20th century. 6 For the Iraq War, estimates vary widely; different studies place the ratio of civilian deaths to combatant deaths anywhere between 10 to 1 and 2 to 1.7 The most meaningful point of comparison for drones is probably manned aircraft. It’s difficult to get solid numbers here, but one analysis published in the Small Wars Journal suggested that in 2007 the ratio of civilian deaths due to coalition air attacks in Afghanistan may have been as high as 15 to 1.8 More recent UN figures suggest a far lower rate, with as few as one civilian killed for every ten airstrikes in Afghanistan. 9 It is also important to note that drone strikes have become far less lethal for civilians in the last few years. The New America Foundation concludes that between 89 to 102 five civilians or “unknowns” were killed by 48 US drone strikes in 2011, for instance. 10 Reductions in civilian casualties are due to technological advances in drones, surveillance and targeting systems as well as far more stringent rules for when drones can release weapons. Pacifists willing to condemn all forms of violence can condemn drone strikes without a trace of cognitive dissonance. However, for nonpacifists, a per se condemnation of drone strikes makes less sense. While it is reasonable to condemn a particular war or particular policy, why fixate on a specific method of ordinance delivery? Why focus special attention on drone strikes, which cause relatively low numbers of civilian deaths and largely ignore the many civilian deaths that occur during raids by ground troops, at vehicle checkpoints, or as a result of close air support?

#### **And, Militarism inevitable- alt can’t overcome**

Astore 08

(William J., retired lieutenant colonel (USAF). He has taught cadets at the U.S. Air Force Academy, officers at the Naval Postgraduate School, and currently teaches at the Pennsylvania College of Technology, “The Tenacity of American Militarism ¶ What Progressives and Other Critics Don't Get about the U.S. Military,” 2008, <http://www.alternet.org/story/75940/militarism_is_deeply_entrenched_in_the_american_psyche>) /wyo-mm

The point is this: It's not enough simply to rail against the military or militarism, however enlightened it makes you feel. There are powerful reasons why Americans trust our military and continue to join its ranks. Unless these are grasped, efforts to redirect our nation along less militaristic lines will founder on the shores of incomprehension. ¶ After all, isn't the full media story not only that our all-volunteer military is having trouble meeting its recruiting goals -- hardly surprising, given two major, exceedingly hard wars in which victory, however defined, remains frustratingly out of sight -- but also that the military is nonetheless close to meeting those goals? Admittedly, recruiting standards have been relaxed, signing bonuses increased, and waivers and promotions liberally granted. Even so, our military is not just signing up the rural poor, urban dead-enders, or knuckle-dragging hayseeds (though some critics seem to think otherwise, judging by the unfortunate title of a recent piece in Slate, "Dumb and Dumber"). The comment by John Kerry in 2006, to the effect that students who can't make it in college end up "stuck in Iraq," struck many Americans as grossly unfair precisely because military service still remains a proud first-choice for many young Americans. ¶ If the operating equation is military = bad, are we not effectively excusing ourselves or our children from any obligation to serve -- even any obligation simply to engage with the military? Indeed, are we even patting ourselves on the back for the wisdom of our non-choice and our non-participation? Rarely has a failure to sacrifice or even to engage come at a more self-ennobling price -- or a more self-destructive one for progressive agendas.

#### Second, perm do both, Perm best way to solve- need to engage militarism before we can combat it

Astore 08

(William J., retired lieutenant colonel (USAF). He has taught cadets at the U.S. Air Force Academy, officers at the Naval Postgraduate School, and currently teaches at the Pennsylvania College of Technology, “The Tenacity of American Militarism ¶ What Progressives and Other Critics Don't Get about the U.S. Military,” 2008, <http://www.alternet.org/story/75940/militarism_is_deeply_entrenched_in_the_american_psyche>) /wyo-mm

Recent polls suggest that Americans trust the military roughly three times as much as the president and five times as much as their elected representatives in Congress. The tenacity of this trust is both striking and disturbing. It's striking because it comes despite widespread media coverage of prisoner abuse at Abu Ghraib, the friendly-fire cover-up in the case of Pat Tillman's death, and alleged retribution killings by Marines at Haditha. It's disturbing because our country is founded on civilian control of the military. It's debatable whether our less-than-resolute civilian leaders can now exercise the necessary level of oversight of the military and the Pentagon when they are distrusted by so many Americans. ¶ What explains the military's enduring appeal in our society? Certainly, some of this appeal is obvious. Americans have generally been a patriotic bunch. "Supporting our troops" seems an obvious place to go. After all, many of them volunteered to put themselves in harm's way to protect our liberties and to avenge the terror attacks of September 11, 2001. For this, they receive pay and benefits that might best be described as modest. Trusting them -- granting them a measure of confidence -- seems the least that could be offered. ¶ Before addressing two other sources of the military's appeal that are little understood, at least by left-leaning audiences, let's consider for a second the traditional liberal/progressive critique. It often begins by citing the insidious influence of Eisenhower's "military-industrial complex," throwing in for good measure terms like "atrocity," "imperialist," "reactionary," and similar pejoratives. But what's interesting here is that this is often where their critique also ends. The military and its influence are considered so tainted, so baneful that within progressive circles there's a collective wringing of hands, even a reflexive turning of backs, as if our military were truly from Mars or perhaps drawn from the nether regions where Moorlocks shamble and grunt in barbarian darkness. ¶ If you want to change anything -- even our increasing propensity for militarism -- you first have to make an effort to engage with it. And to engage with it, you have to know the wellsprings of its appeal, which transcend corporate profits or imperial power.

#### Drones are inevitable

Henning, 2-20-12

[Job, NYT, Embracing the Drone, http://www.nytimes.com/2012/02/21/opinion/embracing-the-drone.html?pagewanted=all&\_r=0] /Wyo-MB

Drones — more formally armed Unmanned Aerial Vehicles, or UAVs — are “in.” Since a Predator strike in Yemen against Al Qaeda in November 2002 — the first known use of a drone attack outside a theater of war — the United States has made extensive use of drones. There were nearly four times as many drone strikes in Pakistan during the first two years of the Obama administration as there were during the entire Bush administration.¶ The United States is now conducting drone strikes in Somalia as well, and their use is expected to dramatically increase in Afghanistan over the next five years as NATO troops withdraw from there.¶ Armed drones are both inevitable, since they allow the fusing of a reconnaissance platform with a weapons system, and, in many respects, highly desirable. They can loiter, observe and strike, with a far more precise application of force. They eliminate risk to pilots and sharply reduce the financial costs of projecting power. Moreover, polls show that a vast majority of Americans support the use of drones.¶

#### States will inevitably compete and its good.—any attempt to deviate causes violence

Mearscheimer 2001

[John J., Prof. of Pol. Sci @ U. of Chicago, The Tragedy of Great Power Warfare]

Great powers fear each other. They regard each other with suspicion, and they worry that war might be in the offing. They anticipate danger. There is little room for trust among states. For sure, the level of fear varies across time and space, but it cannot be reduced to a trivial level. From the perspective of any one great power, all other great powers are potential enemies. This point is illustrated by the reaction of the United Kingdom and France to German reunification at the end of the Col War. Despite the fact that these three states had been close allies for almost forty-five years, both the United Kingdom and France immediately began worrying about the potential danger of a united Germany. The basis for this fear is that in a world where great powers have the capability to attack each other and might have the motive to do so any state bent on survival must be at least suspicious of other states and reluctant to trust them. Add to this the “911” problem – the absence of a central authority to which a threatened state can turn for help – and states have even greater incentive to fear each other. Morever, there is no mechanism, other than the possible self-interest of third parties, for punishing an aggressor. Because it is sometimes difficult to deter potential aggressors, states have ample reason not to trust other states and to be prepared for war with them. The possible consequences of falling victim to aggression further amplify the importance of fear as a motivating force in world politics. Great powers do not compete with each other as if international marketplace. Political competition among states is a much more dangerous business than mere economic intercourse, the former can lead to war, and war often means mass killing on the battlefield as well as mass murder of civilians. In extreme cases, war can even lead to the destruction of states. The horrible consequences of war sometimes cause states to view each other not just as competitors, but as potentially deadly enemies. Political antagonism, in short, tends to be intense because the stakes are great. States in the international system also aim to guarantee their own survival. Because other states are potential threats, and because there is no higher authority to come to their rescue when they dial 911, states cannot depend on others for their own security. Each state tends to see itself as vulnerable and alone, and therefore it aims to provide for its own survival. In international politics, God helps those who help themselves. This emphasis on self-help does not preclude states from forming alliances. But alliances are only temporary marriages of convenience: today’s alliance partner might be tomorrow’s enemy, and today’s enemy might be tomorrow’s alliance partner. For example, the United States fought with China and the Soviet Union against Germany and Japan in World War II, but soon thereafter flip-flopped enemies and partners and allied with West Germany and Japan against China and the Soviet Union during the Cold War. States operating in a self-help world almost always act according to their own self-interest and do not subordinate their interests to the interests of other states, or the so-called international community. The reason is simple: it pays to be selfish in a self-help world. This is true in the short term as well as in the long term, because if a state loses in the short run, it might not be around for the long haul. Apprehensive about the ultimate intentions of other states, and a ware that they oeprate in a self-help system, states quickly understand that the best way to ensure their survival is to be the most powerful state in the system. The stronger a state is relative to its potential rivals, the less likely it is that any of those rivals will attack it and threaten its survival. Weaker states will be reluctant to pick fights with more powerful states because the weaker states are likely to suffer military defeat. Indeed, the bigger the gap in power between any two states, the less likely it is that the weaker will attack the stronger. Neither Canada nor Mexico, for example, would countenance attacking the United States, which is far more powerful than its neighbors. The ideal situation is to be the hegemon in the system. As Immanuel Kant said, “It is the desire of every state, or of its ruler, to arrive at a condition of perpetual peace by conquering the whole world, if that were possible.” Survival would then be almost guaranteed.

### 2AC – Targeted Killing PIC

#### Perm do both

#### Perm do the counterplan

#### Targeted killing is only drone strikes

Bachman, 2013

[Sascha-Dominik Bachmann Reader in International Law (University of Lincoln); State Exam in Law (Ludwig-Maximilians Universität, Munich), Assessor Jur, LLM (Stellenbosch), LLD (Johannesburg); Sascha-Dominik is a Lieutenant Colonel in the German Army Reserves and had multiple deployments in peacekeeping missions in operational and advisory roles as part of NATO/KFOR from 2002 to 2006. During that time he was also an exchange officer to the 23rd US Marine Regiment, Targeted Killings: Contemporary Challenges, Risks and Opportunities

Conflict Security Law (2013) doi: 10.1093/jcsl/krt007 First published online: May 31, 2013, http://jcsl.oxfordjournals.org/content/early/2013/05/31/jcsl.krt007.full] /Wyo-MB

Operation ‘Neptune Spear’ as well as the alleged Israeli Mossad Operation to kill the Hamas official Mahmud al-Mabhuh in Dubai in 201122 involved the use of Special Forces on the ground, or intelligence operatives/assets respectively, constitute commando operations as well targeting operations in the wider sense. Such tactical capture and kill operations executed by Special Forces assets are not the focus of this short contribution: its focus is solely on targeted killing, as a means of warfare which is executed by using remotely piloted aircraft, UAVs or drones respectively, as weapons platform.

#### Turn- Judicial review key to maximize effectiveness of SOF

Robinson 12

[Linda Robinson, Adjunct Senior Fellow for U.S. National Security and Foreign Policy Council on Foreign Relations, “Testimony on Special Operations Forces”, July 11, 2012, https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&cad=rja&ved=0CDsQFjAC&url=http%3A%2F%2Fi.cfr.org%2Fcontent%2Fpublications%2Fattachments%2FL.RobinsonTestimony070912.pdf&ei=SoBHUpTkHcfwyAHj5IG4Aw&usg=AFQjCNGNooyZRk\_a8DY47epbIKzmoUe8\_A&sig2=c-FTY\_VYboUfeP\_yLiJU0g&bvm=bv.53217764,d.aWc, \\wyo-bb]

There is no more important issue to national security than making sure that special operations forces are developed¶ and employed in a way that maximizes their full potential because they will very likely continue to play a¶ disproportionately large role relative to their size in ensuring U.S. national security in the years ahead. First, we are in¶ a highly resource-constrained environment and security solutions employing small, scalable and highly skilled units¶ such as SOF are cost effective. Second, the small footprint solution – if employed correctly – is often much more¶ acceptable to friends and allies around the world than large-scale military operations. Third, SOF are designed to¶ address many of the threats that will dominate the landscape, to include terrorists, insurgents, transnational criminal¶ networks and other nonstate actors empowered by technology and other forces of globalization. They also play¶ important niche roles in conventional conflicts, countering weapons of mass destruction and against adversaries that¶ employ unconventional tactics. Indeed, one of the key challenges for the employment of SOF is to prioritize their use¶ and develop innovative ways to extend their impact.¶ In the past decade, a great deal of attention and resources has been devoted to developing a world-class direct action or¶ surgical strike capability as part of the special operations’ suite of capabilities. In particular, the national SOF or¶ national mission force is highly optimized in terms of its organization and the enablers provided to it. I see two areas¶ in regard to the direct approach that may warrant further development. One is a policy issue: I believe that an¶ established standard procedure for systematically weighing the costs and benefits of employing unilateral raids or¶ strikes via unmanned drones could improve the viability of this tactic over the longer run. This procedure and as much¶ of the evidence or justification for such strikes as possible should be shared widely. It may also be advisable to institute¶ a congressional or judicial review mechanism. Finally, outside theaters of war the use of the direct approach should be¶ applied to imminent and dire threats to U.S. citizens, soil or vital interests. Measures such as these could shore up the¶ long-term viability of the direct approach and ensure that potential second and third order consequences are¶ deliberately included in each assessment. At a policy level this would help ensure that the right balance between the¶ direct and indirect approach is struck. As both the current and former commanders of U.S. Special Operations¶ Command have said repeatedly in testimony before Congress and elsewhere, the direct approach only buys time for¶ the indirect approach to work, and such a process would help guard against overreliance on the short-term expedient¶ that may be counterproductive over the longer term.

#### Can’t solve blowback—Special forces targeted killings cause civilian casualties

Mackenzie, 2011

[Jean, 5-13-11, Afghanistan War: Are Special Forces and targeted killings the answer?, http://www.globalpost.com/dispatch/news/regions/asia-pacific/afghanistan/110513/afghanistan-war-are-special-forces-and-targete] /Wyo-MB

KABUL, Afghanistan — Still riding the wave of euphoria over the Abbottabad strike that took down America’s most-wanted enemy, some in the U.S. policy establishment are advocating for an increased use of Special Forces and the strategic operations they conduct.¶ Night raids, or “intelligence-driven” attacks on specific individuals or compounds, already represent a much larger part of the Afghanistan war strategy than they did before Gen. David Petraeus assumed command of U.S. and NATO troops here last summer.¶ The attacks are credited with decimating the mid-level Taliban leadership, and many see them as the way forward if U.S. President Barack Obama makes good on his promise to begin a significant drawdown of American troops in Afghanistan beginning in July.¶ But a string of botched strikes over the past years demonstrates what happens when things go wrong. Disastrous public relations fallout from the deaths of innocent civilians may well outweigh the gains made by successful operations in a population-centric conflict whose outcome will ultimately depend on whom the Afghan people choose as their best guarantor of safety and prosperity.¶ The most recent “mistake” occurred just a few nights ago in Nangarhar province.¶ The press release by the media office for the International Security Assistance Force (ISAF) bore the fairly innocuous headline: “One armed individual, one local national killed during security operation.”¶ Closer reading revealed that the “armed individual” was a member of the Afghan National Police, and the “local national” was a twelve-year-old girl, later identified as the police officer’s niece, Nilofar.¶ The U.S. forces had the wrong house. NATO apologized.¶ “We understand any civilian loss of life is detrimental to our cause and to our efforts to secure the population,” said Rear Admiral Hal Pittman, ISAF deputy chief of staff for communication. We are working with our Afghan security force counterparts to understand what happened and take steps to prevent this from happening in the future.”¶ As heartbreaking as the deaths in Nangarhar might be to the family and friends of those involved, they are at least publicly acknowledged to have been military errors.¶ Not so the death of a former mujaheddin commander killed by a NATO strike in September 2010, along with nine others. He was publicly but erroneously identified as Mohammad Amin, the Taliban shadow deputy governor of Takhar province.¶ A report recently released by the Afghanistan Analysts Network (AAN) found that the target of the strike, Zabet Amanullah, was a civilian who was working on the parliamentary election campaign of his nephew. With him in his convoy were election officials and other civilians.¶ The author, Kate Clark, gives a detailed account of the strike, along with biographies of both Amanullah and Amin. She also includes an interview with Amin, alive and well and living in Pakistan, conducted months after the raid by Michael Semple, a renowned expert on the Taliban.¶ Still, up to the present, NATO insists that it got the right man.¶ The nine others were also targeted because of their proximity to a “known terrorist,” according to the report.¶ Figures released by the Unite Nations indicate that the numbers of civilians killed or injured by the international troops is going down, but the effect of those operations that do go wrong is all out of proportion to their numbers.¶ The deaths of nine young boys in Kunar province in March at the hands of NATO attack helicopters sent Afghan President Hamid Karzai into tears, and provoked an angry reaction in the Afghan Parliament.¶ In Paktia last year, three young women, two of them pregnant, were killed in a bungled raid. It took determined media pressure to force an acknowledgement and an apology from the military.¶ But these are the attacks that NATO accepts, and whose victims are counted among those killed. There are many more where the military has denied the accounts of the Afghan government and locals, refused to accept responsibility, and whose casualties are never included in the ranks of dead civilians.¶ The 10 killed in Takhar last year are just the tip of the iceberg.¶ Take a raid in Ghazi Abad, Kunar province, in February, in which NATO insists it targeted and killed more than 30 insurgents.

#### Blowback results in global chem/biological weapon war

Nader 11

(Ralph, Stop the War Coaltion, “How Obama's drone warfare increases the likelihood of blowback,” November 13, 2011, <http://www.stopwar.org.uk/index.php/afghanistan-and-pakistan/933-how-drone-warfare-increases-the-likelihood-of-terrorist-blowback->) /wyo-mm

People who see invaders occupying their land with military domination that is beyond reach will resort to ever more desperate counterattacks, however primitive in nature. When the time comes that robotic weapons of physics cannot be counteracted at all with these simple handmade weapons because the occupier’s arsenals are remote, deadly and without the need for soldiers, what will be the blowback? Already, people like retired Admiral Dennis Blair, former director of National Intelligence under President Obama is saying, according to POLITICO, that the Administration should curtail US-led drone strikes on suspected terrorists in Pakistan, Yemen and Somalia because the missiles fired from unmanned aircraft are fueling anti-American sentiment and undercutting reform efforts in those countries. While scores of physicists and engineers are working on refining further advances in UAVs, thousands of others are staying silent. In prior years, their counterparts spoke out against the nuclear arms race or exposed the unworkability of long-range missile defense. They need to re-engage. Because the next blowback may soon move into chemical and biological resistance against invaders. Suicide belts may contain pathogens—bacterial and viral—and chemical agents deposited in food and water supplies. Professions are supposed to operate within an ethical code and exercise independent judgment. Doctors have a duty to prevent harm. Biologists and chemists should urge their colleagues in physics to take a greater role as to where their knowhow is leading this tormented world of ours before the blowback spills over into even more lethally indefensible chemical and biological attacks.

**No Solvency-**

#### Can’t solve cred or international norms without inclusion of special forces—regulation of all targeted killing is key

Bachman, 2013

[Sascha-Dominik Bachmann Reader in International Law (University of Lincoln); State Exam in Law (Ludwig-Maximilians Universität, Munich), Assessor Jur, LLM (Stellenbosch), LLD (Johannesburg); Sascha-Dominik is a Lieutenant Colonel in the German Army Reserves and had multiple deployments in peacekeeping missions in operational and advisory roles as part of NATO/KFOR from 2002 to 2006. During that time he was also an exchange officer to the 23rd US Marine Regiment, Targeted Killings: Contemporary Challenges, Risks and Opportunities

Conflict Security Law (2013) doi: 10.1093/jcsl/krt007 First published online: May 31, 2013, http://jcsl.oxfordjournals.org/content/early/2013/05/31/jcsl.krt007.full] /Wyo-MB

This article concludes with the prediction that the use of UCAS as a method of warfare (together with Special Forces capture and kill operations) will increase in the future. The overall potential military benefit of using drones as a method of warfare on the battlefield of the future is not disputed and with the USA having become a key player in the use of this form of warfare, other nations are set to follow its lead. The use of drones and targeted killing operations will remain a means of warfare of first choice to counter Asymmetric and Hybrid Threats. It seems certain that targeted killing will continue to be an important element of future US long-term counterterrorism and security strategies. It also seems likely that in light of defence budget cuts, troop reductions as well as a growing unwillingness to scarify the lives of soldiers of Western countries, more states will consider turning utilizing armed drones as a means of show of force in the future. Combat capabilities can be significantly enhanced when the use of UAVs are available: this reflects directly on the dual use nature of such airborne systems, which allow for an unarmed use for reconnaissance as well as armed for combat.140 The recent call by the UN Secretary General to deploy UAVs to Congo to support the African peacekeeping forces of MONUSCO in their attempt to fight rebels in the east of the country highlights the potential use of UAVs outside targeted killing operations.141 This ‘dual use nature’ of UAVs, unarmed versus armed, has been recognized for the use in policing and monitoring roles with the potential of further proliferation and use.¶ The use of drones for executing targeted killing in Afghanistan and Pakistan might well increase in the next years, a forecast which is partly founded in the fact that the USA is moving already now in a transitional role in Afghanistan and plans to end major combat operations there this spring. The withdrawal of combat troops will necessitate the increased use of targeted killing in future, executed by both drones and special forces, in order to close existing combat capability gaps during and after the transition of operational control to the Afghan National Army. In addition, Obama’s decision to appoint John Brennan, his former Security Advisor and key promoter of the use of drones for targeted killing, to the top job of CIA director may likely result in an increase reliance on this means of warfare by the USA.142¶ The future use of drones will not only affect national security strategies and policies, but eventually also impact on how we perceive interstate war within its legal contexts of the jus ad bellum as well as the law of conflict, the jus in bello. These future developments will challenge the international legal fraternity for some time to come: it will be a key responsibility for the international lawyer to discuss and scrutinize these developments within their wider political, legal and military context, and to shape this process. This article concludes with a sobering warning that while targeted killing operations may be an effective means of achieving short-term tactical goals within the scope of a wider operational objective, the unregulated and increased use of targeting killings by the USA (and others) in the ‘war on terror’ may be both immoral as well as illegal in the long run.

#### There is no net benefit—

#### And, there is no link, the plan would only limit special forces missions for targeted killing, means doesn’t interfere with ANY other mission—doesn’t link to the net benefit

#### The counterplan links just as much—Special forces use drone strikes

Kitfield, 2-3-13

[James, Senior correspondent national journal, Targeted Killings: Obama’s Endless War, http://www.nationaljournal.com/magazine/targeted-killings-obama-s-endless-war-20130131] /Wyo-MB

For a president whose foreign policy is defined in large part by his determination to end the wars in Iraq and Afghanistan, it was a signature expression of hope for a more peaceful era to come. Yet even as Obama spoke, his administration was laying a more solid foundation for a largely undeclared and seemingly endless war that rages on. In fact, after a period of relative quiet on the counterterrorism front, the United States rang in the new year with a deadly display of firepower, as drone aircraft operated by the CIA and special-operations forces unleashed a fusillade of Hellfire missiles on suspected terrorists and insurgents in multiple countries.¶ In Pakistan, CIA drones struck seven times within a 10-day span in 2013, marking a major escalation in the pace of the controversial attacks. In North Waziristan, Pakistan, where residents complain of hearing a constant buzz of unseen drones circling overhead, anti-American street protests are frequent in some areas. Likewise in Yemen, after a lull in activity, U.S. counterterrorism forces have reportedly conducted five drone strikes since Christmas, equaling in a matter of days half the total strikes in that country in all of 2011. Coincidentally, that was also the year cleric Anwar al-Awlaki and two other U.S.-born citizens associated with al-Qaida in the Arabian Peninsula became the first Americans to find themselves in the bull’s-eye. By adding them to the target list, the program that has come to define the Obama administration’s counterterrorism policies crossed a Rubicon.

#### Proliferation is slow, doesn’t cascade, and doesn’t cause conflict – 60 years of empirics prove

DeGarmo 2011

 Denise, professor of international relations at Southern Illinois University, “Proliferation Leads to Peace” ”< http://www.policymic.com/articles/1463/nuclear-proliferation-leads-to-peace>]

Unfortunately, while **the fear of proliferation is pervasive, it is unfounded and lacks an understanding of the evidence. Nuclear proliferation has been slow**. From [1945 to 1970](http://en.wikipedia.org/wiki/List_of_states_with_nuclear_weapons), only six countries acquired nuclear weapons: United States, Russia, United Kingdom, France, China, and Israel. **Since the Nuclear Non-Proliferation Treaty came into effect in 1970, only three countries have joined the nuclear club: India, Pakistan, and North Korea. In total, only .05% of the world’s states have nuclear weapons in their possession.** Supporters of non-proliferation seem to overlook the fact that there are states currently capable of making nuclear weapons and have chosen not to construct them, which illustrates the seriousness with which states consider their entrance into the nuclear club. Included on this list are such actors as: [Japan, Argentina, Brazil, Egypt, Iran, South Korea, Taiwan, and South Africa](http://www.fas.org/irp/threat/svr_nuke.htm). The attraction of nuclear weapons is multifold. Nuclear weapons enhance the international status of states that possess them and help insecure states feel more secure. States also seek nuclear capabilities for offensive purposes. It is important to point out that **while nuclear weapons have spread very slowly, conventional weapons have proliferated exponentially across the globe. The wars of the 21st century are being fought in the peripheral regions of the globe that are undergoing conventional weapons proliferation**. What the pundits of non-proliferation forget to mention are the many lessons that are learned from the nuclear world. Nuclear weapons provide stability just as they did during the Cold War era. The fear of [Mutual Assured Destruction (MAD)](http://atomicarchive.com/History/coldwar/page15.shtml) loomed heavily on the minds of nuclear powers through out the Cold War and continues to be an important consideration for nuclear states today. States do not strike first unless they are assured of a military victory, and the probability of a military victory is diminished by fear that their actions would prompt a swift retaliation by other states. In other words, states with nuclear weapons are deterred by another state’s second-strike capabilities. During the Cold War, the United States and Soviet Union could not destroy enough of the other’s massive arsenal of nuclear weapons to make a retaliatory strike bearable. Even the prospect of a small number of nuclear weapons being placed in Cuba by the Soviets had a great deterrent effect on the United States. Nothing can be done with nuclear weapons other than to use them for deterrent purposes. **If deterrence works reliably, as it has done over the past 60 plus years, then there is less to be feared from nuclear proliferation than there is from convention warfare**.

Interp: Counterplans must functionally and contextually compete

1. clear brightline
2. creates fair debates
3. functional cps exist
	1. consult
	2. conditions

Interp: The counterplan can’t include the entirety of the affirmative

1. **forces us to debate ourselves—creates an unfair burden for the affirmative, they can PIC out of essentially anything**
2. **skews the debate into minutia, causes bad debates to happen, which decimates the educational value of the debate**
3. Infinite regression: You can PIC out of my friend Ben, the aff has no reason that doesn’t solve case and they get a linear risk of a disad to coercian
4. Time Skew: Moots the 1AC speech time
5. Education: Gets to the point where Depth is ridiculous, focuses on a trivial detail.
6. 2ac Strategy skew: We get no offense off of 90% of our case. it’s the most important speech because we put all of our args out for the rest of the debate
7. Reject the team—voter for fairness and education—

### 2AC Politics

#### UQ - Wont pass – conservatives in house not moved

Evan McMorris, Santoro BuzzFeed Staff, “Obama Has Already Won The Shutdown Fight And He’s Coming For Immigration Next,” 10/15/13. http://www.buzzfeed.com/evanmcsan/obama-has-already-won-the-shutdown-fight-and-hes-coming-for

But immigration reform is something virtually all Democrats want to see back on in the spotlight ahead of the 2014 midterm elections. At this point, the fight is really another debate between the White House and the conservative wing of the House GOP caucus, a situation that could equal déjà vu for political observers. Conservatives have lined up against a Senate-passed immigration bill, and House Speaker Boehner has refused to move the the Senate bill, despite its bipartisan Senate support.¶ Those dynamics don’t make Democratic Senate veteran Jim Manley especially confident about the potential outcome of a new immigration fight, though he did agree that a return to reform is the logical move for the White House. Manley says he just hasn’t seen many signs that conservatives have learned much from the current fiscal battle and its impact on Republican poll numbers. That means the reform debate is done before it starts.¶ “I’m not prepared to go bravado on this thing yet. Maybe someone else is, but not me,” Manley said Monday. “The question is whether House Republicans, in particular, have learned anything about what we’ve gone through in the last couple weeks. There’s obviously a group of Republicans in the Senate who have had it with being led around by Ted Cruz and Mike Lee. The question is how many minds are going to be changed in the House.”¶

#### Debates on drone courts now—legislation being written and proposed—thumps the disad

Wolverton, 3-12-13

[Joe, professor of American Government at Chattanooga State and was a practicing attorney until 2009, Federal Courts Rubber Stamp Federal Spying, http://tenthamendmentcenter.com/2013/05/12/federal-courts-rubber-stamp-federal-spying/comment-page-1/#.UfqaW2T70bh] /Wyo-MB

Although certainly not one to recognize checks on the executive, the White House indicated several months ago that it would entertain any legislative proposal for the establishment of such a tribunal. An Obama administration official told Reuters early this year, “The White House has been discussing various ways there could be independent review of counterterrorism actions for more than a year.”¶ In a press release issued in February, Senator King announced that he had sent a letter to Senators Feinstein and Saxby Chambliss (R-Ga.), chairwoman and vice-chairman of the Intelligence Committee, to consider a bill creating the new court.¶ King wrote, “As the Committee begins preparing the Intelligence Authorization Act for Fiscal Year 2014, I ask that you work with me to contemplate legislative solutions, such as the creation of an outside judicial process similar to the FISA court, that might provide an independent perspective in the distinctive case of a U.S. citizen who is a senior operational leader of al Qaeda.”¶ According to comments made by “congressional aides” cited in Reuters, “discussions are at a preliminary stage.” They also reportedly said that several similar proposals made by legal experts were being kicked around on Capitol Hill.¶

#### 2nd, Link turn drone courts popular in congress—particularly with Feinstein and King

Hosenball, 2-8-2013

[Mark, Reuters news service, Support grows for U.S. "drone court" to review lethal strikes, http://www.reuters.com/article/2013/02/09/us-usa-drones-idUSBRE91800B20130209] /Wyo-MB

During a fresh round of debate this week over President Barack Obama's claim that he can unilaterally order lethal strikes by unmanned aircraft against U.S. citizens, some lawmakers proposed a middle ground: a special federal "drone court" that would approve suspected militants for targeting.¶ While the idea of a judicial review of such operations may be gaining political currency, multiple U.S. officials said on Friday that imminent action by the U.S. Congress or the White House to create one is unlikely. The idea is being actively considered, however, according to a White House official.¶ At Thursday's confirmation hearing for CIA director nominee John Brennan, senators discussed establishing a secret court or tribunal to rule on the validity of cases that U.S. intelligence agencies draw up for killing suspected militants using drones.¶ The court could be modeled on an existing court which examines applications for electronic eavesdropping on suspected spies or terrorists.¶ Senator Dianne Feinstein, Democratic chairwoman of the Senate Intelligence Committee, said Thursday that she planned to "review proposals for ... legislation to ensure that drone strikes are carried out in a manner consistent with our values, and the proposal to create an analogue of the Foreign Intelligence Surveillance Court to review the conduct of such strikes."¶ Senator Angus King, a Maine independent, said during the hearing that he envisioned a scenario in which executive branch officials would go before a drone court "in a confidential and top-secret way, make the case that this American citizen is an enemy combatant, and at least that would be ... some check on the activities of the executive."

#### Feinstein key to agenda- can wrangle in both parties

Tate 13

(Curits, Mcclatchy Newspapers, “Sen. Dianne Feinstein presses her decades-long crusade on guns,” March 10, 2013, <http://www.mcclatchydc.com/2013/03/10/185261/sen-dianne-feinstein-presses-her.html#.Uhp4YpKThSQ>) /wyo-mm

Feinstein is a veteran lawmaker who knows how to work behind the scenes and across the aisle, which is how much of the real business of Capitol Hill gets done. “She’s developed a chain of colleagues she can call on,” Kennedy said. “She knows very well how to use her position on other committees.” Feinstein is an influential member. She ranks 14th in Senate seniority. Besides her seat on the Judiciary Committee, she serves on the powerful Appropriations Committee and chairs the Intelligence Committee. Her political roots took hold at a time before bitter partisanship began to color every debate, and even relationships on Capitol Hill. One of her closest friends has been Kay Bailey Hutchison, a Texas Republican who left the Senate in January. And Feinstein has warm relations with many more lawmakers, in an era fraught with political polarization. Sen. Jeff Sessions, R-Ala., a staunch conservative who serves alongside the liberal-leaning Feinstein on the Judiciary Committee, said that while they disagreed on many issues, including the assault weapons ban, he admired her ability to forge compromise. “I’d say on the 16 years I’ve been on it, she’s been one of the more effective Democratic senators at reaching across the aisle on key issues,” he said. “She battles for what she believes in, but she’s also very able at finding common ground and solving problems.”

#### , Obama wont spend PC and he won’t be effective if he does

Jay Cost, staff writer, 2-11-2013, “Obama the Bargainer,” The Weekly Standard, http://www.weeklystandard.com/articles/obama-bargainer\_699205.html?page=1

Thus, with the festivities finished and the glow of the inauguration fading, it is fair to ask: Just how powerful will President Obama be in his second term? In other words, how successful will he be at persuading the diverse agents of our government to do what he wants them to do? If the lessons of his first term guide our expectations for the second, then the most likely answer is: not very. At first blush, this assertion might sound absurd. A weak President Obama? Proof of the contrary is in the pudding: The massive stimulus, the health care bill, and financial reform were all epic in their scope and ambition. Surely both left and right agree—whether they celebrate or bemoan the fact—that Obama is a very strong, liberal president. But presidential power—the ability to persuade—has many sources, some external, some internal. The external sources are all reducible to “the political context.” How many seats does the president’s party control in Congress? What is the status of the opposition party? What was the relative strength of the president and his party in the last election? What is his job approval rating? And so on. All of these factors set the boundaries for how easily the president can persuade others. In 2009 and 2010, President Obama enjoyed a very favorable political context. Today, the political context is more favorable to him than it was in 2011, but markedly diminished from the heady days of 2009. So, for instance, President Obama can call for action on “climate change” until he is blue (or, perhaps, green) in the face, but the political environment—including arguably the most conservative House of Representatives since the 1920s—means he lacks the power to make it happen. The internal sources of strength are the president’s political skills, which he deploys in particular circumstances. So the question becomes: How good is he at persuading others, given the political context? If political context is the science of presidential power, quantifiable in electoral results and congressional voting scores, persuasive skill is the art. Here, we must put down the American Political Science Review and pick up Machiavelli’s Prince. As for President Obama’s first term, no other incoming president in recent history had such a surplus of political capital and misused it so terribly. The reason? He lacks important skills that are integral in the exercise of presidential power. All presidents are unique, each possessing or lacking skills useful to a chief executive. Obama is notable in that he has mastered some vital skills better than any recent predecessor, but he exhibits virtually no facility with others. His strengths have been enumerated extensively by a fawning press corps. His favorable coverage is due not only to the media’s ideological commitment to his policy goals, but also to his natural gifts. He awes the press, and many other groups in society, by his very presence. Moreover, he knows he has this power over them. This ability, more than any other, made him president and remains his single greatest source of power. Yet though he affects some people intensely, he himself seems largely unaffected by others. This helps explain why he has used his speaking ability so unevenly: He is wont to misread people, and therefore situations. His Tucson speech, for instance, after the shooting of Rep. Gabrielle Giffords, was a political stroke of genius. He intuited what the moment called for and delivered it perfectly. By contrast, his 2009 speech to the International Olympic Committee pitching Chicago was a waste of time and made him look small. Similarly, he has time and again left business leaders feeling nonplussed, inviting them to the White House mainly to serve as window dressing for another teleprompter performance. It is on Capitol Hill that Obama seems most out of touch with his audience. In particular, he does not understand what the key players in Congress expect, yet he is convinced he knows them better than they know themselves. What’s more, he gives little and inconsistent guidance as to what he expects from them. That goes for both Republicans and Democrats. For Republicans, the warning signs appeared early, on the stimulus bill passed in the president’s first month in office. Obama and his team were supremely confident that they could get a $900 billion package through Congress with solid Republican support, so much so that when House minority whip Eric Cantor warned that they would receive no backing from House Republicans, they told him not to embarrass himself with such an absurd prediction. Team Obama failed to anticipate how turned off the congressional GOP would be by the spending side of the package: Democratic appropriators were unloading a wish list that had accumulated during more than a decade of Republican governance. The White House also thought the Republicans would be attracted to the tax cuts that constituted roughly one-third of the package. But the White House did not understand how Republicans view taxes—specifically, the difference between tax credits, which the stimulus favored heavily, and rate cuts, which Republicans prefer. None of this should have come as a surprise to anyone who had done any homework on the congressional GOP. After all, Republicans killed a 1993 stimulus bill that was qualitatively similar, but less than a tenth the size of the 2009 package. What did Team Obama surmise when its predictions fell flat? It certainly did not take time to gauge the congressional GOP more carefully, to build a more nuanced picture of Republicans’ motives and expectations. Instead, it adopted the cartoonish caricature one finds in a Paul Krugman column: Republicans are contemptible knaves, willing to let the economy go down the drain to embarrass the president. The stimulus also featured another theme of presidential-congressional relations under Obama: mixed messages from the White House. Early in the negotiations over the bill, President Obama told House minority leader John Boehner and Cantor that he was interested in their ideas. He did not want to play partisan games; he just wanted to jump-start the economy. Yet when Cantor presented the president a list of suggestions, Obama brought the dialogue to an icy conclusion by infamously declaring, “I won, so I think I trump you on that.” During the deliberations on the bill, the president’s chief of staff, Rahm Emanuel, was known to respond to other GOP suggestions by shouting, “We have the votes. F— ’em!” For the first two years of Obama’s tenure, congressional Republicans did not register with the White House at all. Contact was so sparse that when the GOP took control of the House of Representatives, the White House did not even have Boehner’s cell phone number so the president could place a congratulatory call. The case of Michigan Republican Dave Camp is illustrative. According to Bob Woodward in The Price of Politics, The administration’s approach to Congress was different from what he was used to. He had first come to Washington as a congressional staffer during the Reagan administration. Reagan had deployed administration liaisons all over Congress. Camp could remember Reagan getting on the phone with a lowly freshman congressman to discuss legislation. .  .  . During Obama’s first two years in office, Camp was the ranking Republican on the Democrat-controlled Ways and Means Committee. He was one of the more politically moderate House Republicans. Yet the administration’s Hill staff didn’t even seem to know who he was. He never saw them. During the debt ceiling battle of 2011, the president again exhibited cluelessness about the motivations of congressional Republicans. Precious time during the month of July was wasted as Obama insisted again and again on decoupling the Bush-era tax cuts, making permanent the cuts for those making under $250,000, and letting the cuts in the high-end rates expire. His argument was that the congressional GOP could avoid the wrath of Grover Norquist because it would not actually have to vote to increase taxes. It seemed never to cross his mind that tax rate increases such as he was proposing were anathema to congressional Republicans. The bigger problem during the debt ceiling fight, and probably the biggest contributor to the near-default of the country that summer, was Obama’s failure to heed Boehner’s warning that $800 billion in additional tax revenue was his “red line,” above which he could not go. The justification for that figure was that it was all that could be squeezed out of tax reform (and even that was optimistic according to many analysts); beyond that, tax rates would have to be raised in order to bring in more revenue. In late July, after Boehner had made a “grand bargain” offer that included $800 billion in new revenue, Obama asked for another $400 billion. Memories diverge on exactly who said what—Boehner is convinced Obama said he had to have the extra money, while Obama believes he only suggested it. This ambiguity might have been avoided if Obama had not made the rookie mistake of making such a big request over the phone instead of in person. And, anyway, he should have known not to ask, given Boehner’s previous warnings about his red line. Unsurprisingly, the deal blew up shortly afterwards. It boils down to the difference between listening and waiting to talk. With congressional Republicans, Obama always seems to do the latter. So, once again, he was left disappointed, and once again he assumed the worst of his negotiating partners. He surmised that there were simply too many extreme Tea Party Republicans who were prepared to breach the debt ceiling, and that Boehner lacked control of his caucus. Again, a basic understanding of Republican history would have corrected this notion. Like Newt Gingrich and Denny Hastert before him, Boehner is responsible to a majority of the Republican caucus, which for generations has opposed the kinds of rate increases that $1.2 trillion in new revenue would have required. Not only did Obama fail to listen during the debt ceiling struggle, he consistently sent the other side mixed messages. A case in point: Obama’s demagogic April 2011 speech blasted Paul Ryan’s budget as “leaving seniors at the mercy of the insurance industry” and abandoning “the fundamental commitment this country has kept for generations.” In private, however, Obama had praised Ryan for offering a serious proposal and emphasized that both sides had to avoid scaring the elderly for political points. Worse, he had held a bipartisan summit that very day to encourage the two sides to come together on a plan. Obama’s problems communicating with Congress are not limited to the right side of the aisle. Although Democrats need not worry about White House demagoguery or fret that Obama fails to understand their concerns, he has nevertheless done a poor job of engaging them in dialogue. In particular, the White House has often cut congressional Democrats out of the loop, inhibiting interbranch coordination and angering leaders by what they feel is trampling on their institutional rights. Indeed, the president’s signature achievement—Obamacare—almost did not happen because of this. The process by which the health care bill was written was chaotic, to say the least. At one point five bills were circulating on Capitol Hill, three in the House and two in the Senate. Each differed, sometimes dramatically, in how to expand coverage and how to pay for it. And yet the White House did virtually nothing in 2009 to coordinate these efforts. In fact, White House aides privately thought the final House bill was a liberal fantasy, and they had worked out a deal with medical providers that did not include the so-called public option. Yet the president never came out against that proposal, or any other, for that matter. After multiple calls over the summer of 2009 for President Obama to set some ground rules on what he expected, he gave a speech in early September that, though his aides promised specificity, was once again vague. Finally, in early January, when the two chambers had passed their bills and it came time to work out the finer points, President Obama actually stormed out of a meeting after Nancy Pelosi tartly expressed her frustration with his lack of leadership. It was left to Emanuel to finish the negotiations. Worse, the needless delays due to the lack of presidential leadership sapped public support for the reform effort, led to Scott Brown’s victory in the Senate race in Massachusetts that January, and eventually forced Democrats to pass a gratuitously slipshod and ill-conceived bill that otherwise never would have become law. After the 2010 midterms, House Democrats lost their majority, but not all of their clout. It would have been virtually impossible for Boehner to pass a compromise debt ceiling plan through the House in 2011 without at least some Democratic support, so it was appropriate for Pelosi and her leadership team to be kept in the loop. For a while, they were, but as Boehner and Obama approached a grand bargain, House Democrats were excluded. Amazingly, so was Harry Reid. Any deal would obviously have to bear the imprimatur of the Senate majority leader, yet he was cut out of the final talks. It was only after the New York Times scooped the Boehner-Obama grand bargain that the White House brought Senate Democrats into the loop. Unsurprisingly, they were apoplectic, believing that the deal extracted too little from the congressional GOP, and feeling that they had been ignored. In fact, it was the outrage of the Senate Democrats that prompted the White House to go back to Boehner at the last minute to ask for more tax revenue, scuttling the big deal once and for all. All of these stories point in the same direction: This president does not have a solid congressional outreach program, does not have a steady grasp of the expectations of legislators in either party, and does a notably poor job of communicating to them what he expects. Thus, a drifting and listless policy process, finally given direction by some power player outside the White House, often acting to avert imminent disaster, has marked almost every major deal during his tenure. There is little reason to expect anything different in the next four years. In the end, President Obama simply does not spend enough time talking to members of Congress. He is too aloof, and most accounts suggest he dislikes the seemingly petty, parochial nature of Capitol Hill. In an interview with journalist Ron Suskind, President Obama articulated what he believes to be the core of a president’s job, and what he learned from the troubles of his first term: The reason people put me in this office is people felt that I had connected our current predicaments with the broader arc of American history and where we might go as a diverse and forward-looking nation. And that narrative thread we just lost, in the day-to-day problem solving that was going on. .  .  . What the president can do, that nobody else can do, is tell a story to the American people about where we are and where we need to go. While this statement would surely make the republicans of the founding generation turn over in their graves, it does encapsulate the job of the modern president, but only in part. Yes, he is to stand, almost godlike, above the political process and tell a story, but the modern presidential deity is not in line with the watchmaker God of the 18th-century rationalists. It is not enough to put the pieces in motion, then stand back. Instead, a president must be more like the God of the Old and New Testaments, above the world and sovereign over it, but also intimately involved in it, guiding, encouraging, cajoling, and threatening people to make the right choices. The ideal modern president, to borrow a phrase from Theodore Roosevelt, is one “actually in the arena, whose face is marred by dust and sweat and blood.” President Obama does not much care for the arena, and his successes came despite this distaste, not because of it. In fact, Nancy Pelosi probably deserves most of the credit for the legislative victories of 2009-2010. She functioned as a de facto prime minister, with her eyes always on big, national projects while she dealt with the provincial concerns of this committee chair or that subcommittee member. She, not Obama, was the one “in the arena.” What this means is that major breakthroughs on legislation in the next four years are likely to depend on political actors outside the White House. Pelosi’s power is only a fraction of what it was, but policy success will still depend on congressional entrepreneurs as long as the White House remains disengaged. Thus, a whole host of issues will likely go unaddressed, above all, the looming entitlement crisis. One issue that could see movement is immigration reform, a topic of discussion where there is overlap between the parties and there are potential leaders in Congress, like Marco Rubio, who could help in whipping his party and negotiating a compromise with the other side.

#### Numerous factors sustain competitiveness – R&D spending, patents, start-ups

**Nye, ‘12** – University Distinguished Service Professor at Harvard (Joseph, Foreign Affairs, “The Future of American Power: Dominance and Decline in Perspective,” November/December, proquest)

In terms of investment in research and development, the United States was the world leader in 2007, with $369 billion, followed by all of Asia ($338 billon) and the European Union ($263 billion). The United States spent 2.7 percent of its GDP on research and development, nearly double what China spent (but slightly less than the three percent spent by Japan and South Korea). In 2007, American inventors registered about 80,000 patents in the United States, or **more than the rest of the world combined.** A number of reports have expressed concern about problems such as high corporate tax rates, the flight of human capital, and the growing number of overseas patents, but U.S. venture capital firms invest **70 percent** of their money in **domestic start-ups.** A 2009 survey by the Global Entrepreneurship Monitor ranked the United States **ahead of other countries** in opportunities for entrepreneurship because it has a favorable business culture, the most mature venture capital industry, close relations between universities and industry, and an open immigration policy.

### 2Ac Deference

#### 1st, No deference now--- lots of rulings

Flaherty 2011 (Martin Flaherty, Leitner Professor of International Law, Fordham Law School, “Judicial Foreign Relations Authority After 9/11,” NYLS Law Review, http://www.nylslawreview.com/wordpress/wp-content/uploads/2011/08/Flaherty-56-1.pdf)

For a time the forces of judicial isolationism appeared to have gained traction and ¶ may yet carry the day. It is all the more surprising, then, that the Supreme Court ¶ reasserted the judiciary’s traditional foreign affairs role in the areas in which its ¶ opponents assert deference is most urgent—national security, terrorism, and war. Yet ¶ so far, in every major case arising out of 9/11, the Court has rejected the position ¶ staked out by the executive branch, even when supported by Congress. At critical ¶ points, moreover, each of these rejections involved the Court reclaiming its primacy ¶ in legal interpretation, an area in which advocates of judicial deference have appeared ¶ to make substantial progress. The Court nonetheless rejected deference in statutory ¶ construction in Rasul v. Bush.¶ 16 It took the same tack with regard to treaties in ¶ Hamdan v. Rumsfeld.¶ 17 It further rejected deference in constitutional interpretation in ¶ both Hamdi v. Rumsfeld18 and Boumediene v. Bush.¶ 19 Together, these cases represent a ¶ stunning reassertion of the judiciary’s proper role in foreign relations. Whether ¶ reassertion will mean restoration, however, still remains to be seen.

#### 2nd, Courts involved in Presidential power cases – recent decisions prove

Mahler, 8 (Jonathan, a contributing writer for The New York Times Magazine, “Why This Court Keeps Rebuking This President,” New York Times, 6/15/2008, <http://www.nytimes.com/2008/06/15/weekinreview/15mahler.html?pagewanted=all>)

“The most important thing we do is not doing,” Justice Louis D. Brandeis once said of the Supreme Court’s abiding humility, its overwhelming preference to allow the people, through their elected representatives, to govern themselves. And never is the court more reluctant to act than when faced with a challenge to the president during wartime. Consider the historical record. The court has ruled against a president in a time of armed conflict no more than a handful of times, most famously in Youngstown Sheet and Tube v. Sawyer, when it held that Harry S. Truman lacked the constitutional authority to seize the nation’s steel mills to avert a strike during the Korean War. The invocation of two words — military necessity — by a commander in chief was usually all it took to silence a majority of the justices. So it is extraordinary that during the Bush administration’s seven years, nearly all of them a time of war that began on Sept. 11, 2001, the court has been prompted to push back four times. Last week’s decision in Boumediene v. Bush, in which the court ruled that prisoners at Guantánamo Bay have a right to challenge their detentions in the federal courts, marks only the most recent rebuke. “When viewed through the lens of history, it’s astounding,” says Neal Katyal, a law professor at Georgetown who argued against the government in one of those cases, Hamdan v. Rumsfeld. So how are we to explain this shift from decades of deference to a willingness to check the president? It is not hard to see why the court has traditionally been so quick to side with presidents during armed conflicts. The justices presumably lack the expertise of White House military advisers, and they don’t want to be accused of interfering with efforts to keep America safe. “War opens dangers that do not exist at other times,” Justice Oliver Wendell Holmes once wrote. He had earlier been the author of the Supreme Court’s unanimous opinion in a 1919 case upholding the conviction of radicals who had published an antidraft pamphlet during World War I. “When a nation is at war,” the opinion said, “many things that might be said in time of peace are such a hindrance to its effort that no court could regard them as protected by any constitutional right.” And yet, long before the Bush administration’s recent string of defeats, at least one justice warned of the dangers of endorsing war policies that might, in retrospect, look draconian. A military order, however unconstitutional, is not likely to outlive a military emergency, but a Supreme Court decision will stand for generations to come. Justice Robert Jackson, who would later be chief prosecutor at the Nuremberg trials of Nazi war criminals, spoke to this danger in a dissent in the 1944 Korematsu case, the Supreme Court ruling upholding the detention of Japanese-Americans in internment camps during World War II. Justice Jackson wrote that validating such an action was like leaving behind a “loaded weapon, ready for the hand of any authority that can bring forward a plausible claim of an urgent need.” In keeping with the court’s general reluctance to interfere with the president’s war-making powers, its rulings in the war on terror began relatively modestly. Hamdi v. Rumsfeld, in 2004, pertained only to United States citizens detained as enemy combatants on American soil; the court held that they must get a “meaningful opportunity” to challenge the factual basis for their detention. The second ruling, in Rasul v. Bush, came soon after the scandal at Abu Ghraib. Though momentous, it was still limited. The court found, 6-3, that Guantànamo Bay was within United States jurisdiction and subject to its laws, meaning detainees there were entitled to some sort of due process in American courts. It didn’t specify the process, nor suggest that Congress couldn’t amend a law through which detainees could access the courts. The 2006 Hamdan case concerned the military commissions that President Bush established at Guantánamo Bay to try some detainees in the aftermath of 9/11. Here the court’s majority went further. It found that by creating the commissions without asking Congress to agree, the president had overstepped his authority under the Constitution’s separation of powers. Moreover, it held that the president was obligated to honor America’s commitments under the Geneva Conventions. In response, the administration succeeded in getting Congress to authorize the military commissions and stripping the Guantánamo detainees of the right to habeas corpus. Which brings us to last week’s ruling in Boumediene — and the 5-4 decision to restore that ancient right. The easiest explanation for the rash of rebukes is that this administration has simply been unusually aggressive in asserting executive authority stemming from 9/11, a singularly devastating attack in which terrorists killed thousands in New York, Washington, and Pennsylvania. “I think it’s less about the court and more about the executive,” says Geoffrey Stone, a law professor at the University of Chicago and the author of “Perilous Times: Free Speech in Wartime.” “The executive has made extreme claims that are lawfully and constitutionally unfounded, even giving him the same benefit of the doubt that the government has received in prior cases.” As the administration sees it, every action it has taken since Sept. 11 isn’t only justified by national security concerns in an age of terrorism, but consistent with the president’s historically expanded powers during wartime. Even the Constitution leaves room for suspending habeas corpus in times of rebellion or invasion. Other factors may be at work, too, for example an expectation that for the foreseeable future, military conflict may be the rule, and times of peace the exception. Three justices in the Boumediene majority said in their opinions that the Guantánamo detainees have already been held too long without proper hearings. Taking a step back, it seems indisputable that the court is more powerful today than ever. The justices may represent something of an undemocratic force — unelected, appointed for life, accountable to no one — but a generation before this administration took office, Vietnam and Watergate were already raising calls for a strong judiciary to police the political branches of the government. Still, it’s hard to know exactly what the ultimate effect of the court’s enemy combatant decisions is going to be. Among the large questions left open is whether habeas corpus rights are available to detainees held outside American jurisdiction. Put another way, as eager as the court has been to rebuff the executive branch in recent years, it may not yet be ready to abandon its tradition of not doing.

#### 3rd, Review inevitable – now is better for flexibility

Wittes 8 (Benjamin Wittes is a Senior Fellow in Governance Studies at the Brookings Institution, where he is the Research Director in Public Law, “The Necessity and Impossibility of Judicial Review,” https://webspace.utexas.edu/rmc2289/National%20Security%20and%20the%20Courts/Law%20and%20the%20Long%20War%20%20Chapter%204.pdf)

WE COME, then, to the question of what judicial review ought to look like in the war on terror if one accepts that it should exist more robustly than the administration prefers but should not be of an unbridled or general nature, as human rights advocates wish to see. The answer is conceptually simple, though devilishly complicated in operation: Judicial review should be designed for the relatively narrow purpose of holding the executive to clearly articulated legislative rules, not to the often vague standards of international legal instruments that have not been implemented through American law. Judges should have an expanded role in the powers of presidential preemption in the antiterrorism arena, for the judiciary is essential to legitimizing the use of those powers. Without them, the powers themselves come under a barrage of criticism which they cannot easily withstand. And eventually the effort to shield them from judicial review fails, and the review that results from the effort is more intrusive, more suspicious, and less accommodating of the executive's legitimate need for operational flexibility. Judges, in other words, should be a part of the larger rules the legislature will need to write to govern the global fight against terrorism. Their role within these legal regimes will vary-from virtually no involvement in cases of covert actions and overseas surveillance to extensive involvement in cases of long-term detentions. The key is that the place of judges within those systems is not itself a matter for the judges to decide. The judiciary must not serve as the designer of the rules.

#### 4th, Court review increase warfighting – key to assessing terrorism policy – takes out deference link

Coughenour 08 (John C. , The Right Place to Try Terrorism Cases, July 27, 2008, http://articles.washingtonpost.com/2008-07-27/opinions/36772256\_1\_terrorism-trials-district-court-federal-courts)

I have spent 27 years on the federal bench. In particular, my experience with the trial of Ahmed Ressam, the "millennium bomber," leads me to worry about Attorney General Michael Mukasey's comments last week, urging Congress to pass legislation outlining judicial procedures for reviewing Guantanamo detainees' habeas petitions. As constituted, U.S. courts are not only an adequate venue for trying terrorism suspects but are also a tremendous asset in combating terrorism. Congress risks a grave error in creating a parallel system of terrorism courts unmoored from the constitutional values that have served our country so well for so long. I have great sympathy for those charged with protecting our national security. That is an awesome responsibility. But this is not a choice between the existential threat of terrorism and the abstractions of a 200-year-old document. The choice is better framed as: Do we want our courts to be viewed as another tool in the "war on terrorism," or do we want them to stand as a bulwark against the corrupt ideology upon which terrorism feeds? Detractors of the current system argue that the federal courts are ill-equipped for the unique challenges that terrorism trials pose. Such objections often begin with a false premise: that the threat of terrorism is too great to risk an "unsuccessful" prosecution by adhering to procedural and evidentiary rules that could constrain prosecutors' abilities. This assumes that convictions are the yardstick by which success is measured. Courts guarantee an independent process, not an outcome. Any tribunal purporting to do otherwise is not a court. Critics raise more-legitimate concerns about whether judges have sufficient expertise over the subject matter of terrorism trials and whether the courts can adequately safeguard classified information. The truth is that judges are generalists. Just as they decide cases as varied as employment discrimination and bank robbery, they are capable of negotiating the complexities of terrorism trials. Last month in Boumediene v. Bush, the Supreme Court confirmed its confidence in the capability of federal courts. The justices explicitly rejected an attempt to carve away an area of federal court jurisdiction in service of the war against terrorism, saying: "We recognize, however, that the Government has a legitimate interest in protecting sources and methods of intelligence gathering; and we expect that the District Court will use its discretion to accommodate this interest to the greatest extent possible. . . . These and the other remaining questions are within the expertise and competence of the District Court to address in the first instance." As for protecting classified information, courts are guided by the Classified Information Procedures Act, which played a prominent role during the trial of Ressam in my courtroom in 2001. I found the act's extensive protections to be more than adequate, but I also think that any shortcoming in the law can and should be addressed by further revision rather than by undermining the judiciary.

1. we solve drone usage—extend zenko—the program is collapsing now, we’re ahead on the UQ debate and k2 maintain drone usage

# 1AR

## Ptx

### Won’t Pass

#### No Pass House GOP

Alan Gomez, USA TODAY, “Shutdown over, Democrats say immigration is next,” 10/17, 2013

WASHINGTON — Before the bill to end the budget impasse even hit President Obama's desk Wednesday, he and congressional Democrats had pivoted to what they hope is the next big legislative battle: an overhaul of the nation's immigration laws including citizenship for the nation's 12 million undocumented immigrants. "I look forward to the next venture, which is making sure we do immigration reform," Senate Majority Leader Harry Reid, D-Nev., said late Wednesday. "Good luck," said Rep. Trey Gowdy, R-S.C., who chairs the House immigration committee. House Republicans emerged from the 16-day shutdown fight angered at the White House and Reid for refusing to negotiate over the terms to end the shutdown and lift the nation's debt ceiling, and emboldened to wage more strategic legislative strikes in the future. Gowdy has been moderately supportive of immigration changes and says he maintains good relationships with House Democrats. "But it's a little disingenuous to treat the House as an irrelevant branch of government and then say, 'By the way, tomorrow you'll need to go ahead and push (immigration reform),'" Gowdy said. "It doesn't work that way."

#### Amnesty provisions double bind - dooms immigration

Rick Moran, 10/16/2013 (staff writer, “Immigration reform on the front burner after debt and budget deal,” [http://www.americanthinker.com/blog/2013/10/immigratio n\_reform\_on\_the\_front\_burner\_after\_debt\_and\_budget\_deal.html](http://www.americanthinker.com/blog/2013/10/immigratio%20n_reform_on_the_front_burner_after_debt_and_budget_deal.html), Accessed 10/17/2013, rwg)

The president has said repeatedly that he would not sign an immigration bill unless it had an amnesty provision. Senate Democrats have echoed that sentiment.¶ The chances of the House passing amnesty are less than zero. This leaves both chambers in exactly the same position they were after the Senate passed comprehensive immigration reform earlier this year.

### Feinstein over comes

#### Feinstein key to agenda- breaks political polarization

Lochhead 12

(Carolyn, San Francisco Chronicle's Washington correspondent, SFGate, “Dianne Feinstein: 4 decades of influence,” October 22, 2012, <http://www.sfgate.com/politics/article/Dianne-Feinstein-4-decades-of-influence-3968314.php#page-3>) /wyo-mm

She revels in split-the-baby deal making: "I think my greatest strength is finding a solution when there are opposing sides." It was Feinstein, an ally of Hillary Rodham Clinton against Barack Obama in the 2008 Democratic presidential primary, who brought the warring candidates to a secret rendezvous at her Washington home to bury the hatchet in private. In a chamber riven by partisanship, Republicans like and respect her. "She thinks through issues and makes what she thinks is a rational and correct decision," said Sen. Saxby Chambliss, R-Ga., the top Republican on the Intelligence Committee. "Unfortunately there are some Republicans who, if it's a Democratic idea, immediately jump up and they're opposed to it, and that happens on the other side of the aisle too. But with Dianne, that does not happen." 'Intimidating force' Feinstein healed a partisan rift on the panel and this year led a bipartisan rebuke of the administration on intelligence leaks suspected to have come from the White House, while fending off GOP calls for a special prosecutor. "She has a towering presence both literally and figuratively, a sharp intellect and she is persistent to a fault," said Susan Kennedy, a former aide to Feinstein who later worked for Govs. Schwarzenegger and Gray Davis, a Democrat. "The combination of those three things makes her an incredibly intimidating force," Kennedy said. "She feels an immense responsibility of holding public office, much more so than anyone I've ever met." Rep. Mike Thompson, D-St. Helena, who has battled Feinstein on some issues but has been allied with her on others, said, "You wouldn't want to have anybody else in your foxhole but her."

### 1AR – Plan Popular

#### Plan popular- FISA Courts well-liked

Calabresi 13

(Massimo, Time Swampland, “Checking Obama’s Assassination Power: A Drone Court Is Just One Way,” February 14, 2013, <http://swampland.time.com/2013/02/14/checking-obamas-assasination-power-a-drone-court-is-just-one-way/>) /wyo-mm

First, the idea of a new secret national security court is popular because one already exists: the Foreign Intelligence Surveillance Court, established in 1978 as a check on US spying on American citizens. A good review of the origins of that court is at Lawfare today. The short version of the FISC court is that it is made up of respected judges appointed by the Chief Justice of the U.S. Supreme Court, and it approves a variety of wiretapping and other investigative methods used by the executive branch against “American Persons” suspected of working for foreign powers anywhere in the world, including in the U.S.

## Deference

#### No deference now

Ip 2010 (John Ip, Faculty of Law, University of Auckland, New Zealand, “THE SUPREME COURT AND HOUSE OF LORDS IN THE WAR ON TERROR: INTER ARMA SILENT LEGES?,” MICHIGAN STATE UNIVERSITY COLLEGE OF LAW JOURNAL OF INTERNATIONAL LAW, Volume 19, Issue 1, http://msuilr.org/wp-content/uploads/2012/09/Michigan-State-Jnl-of-Intl.Law-19.1.pdf)

The first and most optimistic explanation from a civil libertarian ¶ standpoint is that there has been a break in the cycle of judicial ¶ acquiescence followed by post–fact regret and the resulting pattern of ¶ contraction and expansion of liberty. So has the post–9/11 period seen the ¶ emergence of judges willing to stand firm in the face of executive claims of ¶ national security, or in David Dyzenhaus’ terms, a “judicial ‘coalition of the ¶ willing’”?225¶ Discussing developments in several jurisdictions, including the two ¶ under consideration, Eyal Benvenisti discerns a clear contrast between the ¶ recent crop of judicial decisions and historical judicial behavior.226¶ Benvenisti argues that it is possible to now speak of a new era, where ¶ “executive unilateralism is being challenged by national courts in what ¶ could perhaps be a globally coordinated move.”227 Similarly, a number of British commentators have highlighted the contrast between the robust ¶ review of the House of Lords in the Belmarsh case and the earlier case law ¶ exemplified by Liversidge.¶ 228¶ The Supreme Court and the House of Lords have seemingly rebuffed a ¶ host of executive measures implemented in the name of national security ¶ since 9/11, so there appears to be some validity to this view. This section ¶ looks more closely at the support for the view that there has been a break in ¶ the cycle of judicial deference, and proposes several possible reasons why it ¶ might have occurred.