# Round 2 – D2

## 1AC

### Advantage 1: Blowback

#### Squo expansion of drone warfare undermines U.S. moral standing, breeds Anti-Americanism, and undermines our credibility

Brooks 13

Rosa Brooks, Prof of Law @ Georgetown University Law Center and Bernard Schwartz Senior Fellow at the New America Foundation, Statement for the Record Submitted the Senate Committee on Armed Services, May 16, 2013.

Former vice-chair of the Joint Chiefs of Staff General James Cartwright recently ¶ expressed concern that as a result of U.S. drone strikes, the U.S. may have “ceded some of our ¶ moral high ground.”35 Retired General Stanley McChrystal has expressed similar concerns:¶ “The resentment created by American use of un~~manned~~ strikes… is much greater than the ¶ average American appreciates. They are hated on a visceral level, even by people who’ve never ¶ seen one or seen the effects of one,” and fuel “a perception of American arrogance.” 36 Former ¶ Director of National Intelligence Dennis Blair agrees: the U.S. needs to “pull back on unilateral ¶ actions… except in extraordinary circumstances,” Blair told CBS news in January. U.S. drone ¶ strikes are “alienating the countries concerned [and] …threatening the prospects for long-term ¶ reform raised by the Arab Spring…. [U.S. drone strategy has us] walking out on a thinner and ¶ thinner ledge and if even we get to the far extent of it, we are not going to lower the fundamental ¶ threat to the U.S. any lower than we have it now.”37¶ Mr. Chairman, Senator Inhofe, I believe it is past time for a serious overhaul of U.S.¶ counterterrorism strategy. This needs to include a rigorous cost-benefit analysis of U.S. drone ¶ strikes, one that takes into account issues both of domestic legality and international legitimacy, ¶ and evaluates the impact of targeted killings on regional stability, terrorist recruiting, extremist ¶ sentiment, and the future behavior or powerful states such as Russia and China. If we undertake ¶ such a rigorous cost-benefit analysis, I suspect we may come to see scaling back on kinetic ¶ counterterrorism activities less as an inconvenience than as a strategic necessity—and we may¶ come to a new appreciation of counterterrorism measures that don’t involve missiles raining ¶ from the sky.¶ This doesn’t mean we should never use military force against terrorists. In some ¶ circumstances, military force will be justifiable and useful. But it does mean we should ¶ rediscover a long-standing American tradition: reserving the use of exceptional legal authorities ¶ for rare and exceptional circumstances. ¶ Thank you for the opportunity to testify today.

#### Expansive use of targeted killing causes blowback, collateral damage, and operational errors— new guidelines key

Guiora, 2012

[Amos, Professor of Law, S.J. Quinney College of Law, University of Utah, Targeted killing: when proportionality gets all out of proportion, Case Western Reserve Journal of International Law. 45.1-2 (Fall 2012): p235., Academic onefile] /Wyo-MB

Morality in armed conflict is not a mere mantra: it imposes significant demands on the nation state that must adhere to limits and considerations beyond simply killing "the other side." For better or worse, drone warfare of today will become the norm of tomorrow. Multiply the number of attacks conducted regularly in the present and you have the operational reality of future warfare. It is important to recall that drone policy is effective on two distinct levels: it takes the fight to terrorists directly involved, either in past or future attacks, and serves as a powerful deterrent for those considering involvement in terrorist activity. (53) However, its importance and effectiveness must not hinder critical conversation, particularly with respect to defining imminence and legitimate target. The overly broad definition, "flexible" in the Obama Administration's words, (54) raises profound concerns regarding how imminence is applied. That concern is concrete for the practical import of Brennan's phrasing is a dramatic broadening of the definition of legitimate target. It is also important to recall that operators--military, CIA or private contractors--are responsible for implementing executive branch guidelines and directives. (55) For that very reason, the approach articulated by Brennan on behalf of the administration is troubling. This approach, while theoretically appealing, fails on a number of levels. First, it undermines and does a profound injustice to the military and security personnel tasked with operationalizing defense of the state, particularly commanders and officers. When senior leadership deliberately obfuscates policy to create wiggle room and plausible deniability, junior commanders (those at the tip of the spear, in essence) have no framework to guide their operational choices. (56) The results can be disastrous, as the example of Abu Ghraib shows all too well. (57) Second, it gravely endangers the civilian population. What is done in the collective American name poses danger both to our safety, because of the possibility of blow-back attacks in response to a drone attack that caused significant collateral damage, and to our values, because the policy is loosely articulated and problematically implemented.(58) Third, the approach completely undermines our commitment to law and morality that defines a nation predicated on the rule of law. If everyone who constitutes "them" is automatically a legitimate target, then careful analysis of threats, imminence, proportionality, credibility, reliability, and other factors become meaningless. Self-defense becomes a mantra that justifies all action, regardless of method or procedure.

#### Exclusive executive decision making in drone strikes makes groupthink and errors inevitable

Chebab, 2012

[Ahmad, Georgetown University Law Center, Retrieving the Role of Accountability in the Targeted Killings Context: A Proposal for Judicial Review, 3-30-12, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2031572] /Wyo-MB

The practical, pragmatic justification for the COAACC derives largely from considering¶ social psychological findings regarding the skewed potential associated with limiting unchecked decision-making in a group of individuals. As an initial point, psychologists have long pointed out how individuals frequently fall prey to cognitive illusions that produce systematic errors in judgment.137 People simply do not make decisions by choosing the optimal outcome from available alternatives, but instead employ shortcuts (i.e., heuristics) for convenience.138 Cognitive biases like groupthink can hamper effective policy deliberations and formulations.139 Groupthink largely arises when a group of decision-makers seek conformity and agreement, thereby avoiding alternative points of view that are critical of the consensus position.140 This theory suggests that some groups—particularly those characterized by a strong leader, considerable internal cohesion, internal loyalty, overconfidence, and a shared world view or value system—suffer from a deterioration in their capacity to engage in critical analysis.141 Many factors can affect such judgment, including a lack of crucial information, insufficient timing for decision-making, poor judgment, pure luck, and/or unexpected actions by adversaries.142 Moreover, decision-makers inevitably tend to become influenced by irrelevant information,143 seek out data and assessments that confirm their beliefs and personal hypotheses notwithstanding contradictory evidence,144 and “[i]rrationally avoid choices that represent extremes when a decision involves a trade-off between two incommensurable values.”145 Self-serving biases can also hamper judgment given as it has been shown to induce well-intentioned people to rationalize virtually any behavior, judgment or action after the fact.146 The confirmation and overconfidence bias, both conceptually related to groupthink, also result in large part from neglecting to consider contradictory evidence coupled with an irrational persistence in pursuing ideological positions divorced from concern of alternative viewpoints.147¶ Professor Cass Sunstein has described situations in which groupthink produced poor results precisely because consensus resulted from the failure to consider alternative sources of information.148 The failures of past presidents to consider alternative sources of information, critically question risk assessments, ensure neutral-free ideological sentiment among those deliberating,149 and/or generally ensure properly deliberated national security policy has produced prominent and devastating blunders,150 including the Iraq War of 2003,151 the Bay of Pigs debacle in the 1960’s,152 and the controversial decision to wage war against Vietnam.153¶ Professor Sunstein also has described the related phenomenon of “group polarization,” which includes the tendency to push group members toward a “more extreme position.”154 Given that both groupthink and group polarization can lead to erroneous and ideologically tainted policy positions, the notion of giving the President unchecked authority in determining who is eligible for assassination can only serve to increase the likelihood for committing significant errors.155 The reality is that psychological mistakes, organizational ineptitude, lack of structural coherence and other associated deficiencies are inevitable features in Executive Branch decision-making.

#### Judicial review solves groupthink

Chebab, 2012

[Ahmad, Georgetown University Law Center, Retrieving the Role of Accountability in the Targeted Killings Context: A Proposal for Judicial Review, 3-30-12, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2031572] /Wyo-MB

To check the vices of groupthink and shortcomings of human judgment, the psychology literature emphasizes a focus on accountability mechanisms in which a better reasoned decision- making process can flourish.156 By serving as a constraint on behavior, “accountability functions as a critical norm-enforcement mechanism—the social psychological link between individual decision makers on the one hand and social systems on the other.”157 Such institutional review can channel recognition for the need by government decision-makers to be more self-critical in policy targeted killing designations, more willing to consider alternative points of view, and more willing to anticipate possible objections.158 Findings have also shown that ex ante awareness can lead to more reasoned judgment while also preventing tendentious and ideological inclinations (and political motivations incentivized and exploited by popular hysteria and fear).159 Requiring accounting in a formalized way prior to engaging in a targeted killing—by providing, for example, in camera review, limited declassification of information, explaining threat assessments outside the immediate circle of policy advisors, and securing meaningful judicial review via a COAACC-like tribunal—can promote a more reliable and informed deliberation in the executive branch. With process-based judicial review, the COAACC could effectively reorient the decision to target individuals abroad by examining key procedural aspects—particularly assessing the reliability of the “terrorist” designation—and can further incentivize national security policy-makers to engage in more carefully reasoned choices and evaluate available alternatives than when subject to little to no review.

#### Plan is key to effective drone use—solves blowback

Masood 13

(Hassan, Monmouth College, “Death from the Heavens: The Politics of the United States’ Drone Campaign in Pakistan’s Tribal Areas,” 2013) /wyo-mm

Those who support the use of drones as an important counter-insurgency tactic nonetheless point out that the current campaign is not always conducted in the most effective manner. The authors of “Sudden Justice” for example, argue that the campaign should be focused on ‘high value targets’ and not be used frequently to take down the lower level operatives. The more you can destroy and disrupt the activities of personnel in the Taliban and al-Qaeda from the top-down instead of the bottom-up, the more of an impact it will have. The leadership qualities, organizational skills, and strategic awareness of various high-level commanders in both the Taliban and al-Qaeda cannot be easily replaced after their deaths at the hands of U.S. drones. Fricker and Plaw use the example of Baitullah Mehsud, a Tehrik-i-Taliban (TTP) leader who was killed by a drone strike on the roof of his uncle’s house on August 5, 2009. His death provoked an internal struggle in his organization that ultimately led to enough confusion and tension within the TTP that the Pakistan Army was able to launch the South Waziristan Offensive, putting the TTP on the defensive. But the lower level Taliban and al-Qaeda members have skills and abilities that are more common and more easily replaced. The amount of time and energy, the article asserts, that the U.S. is spending killing lower-level members (and increasing civilian casualties in the process, as the majority of the time these strikes happen during funeral processions or wedding parties) could instead be used to seriously disrupt the activities of the entire organization by targeting its leaders, much like the death of Osama bin Laden did to al-Qaeda in South/Central Asia in 2011. David Rohde agrees that the drones should be used, as they are an effective and efficient way of disrupting and destroying the extremist power base there, but their usage should be both selective and surgical. There is no consensus among scholars when it comes to evaluating the effectiveness of the use of drones as a counter-insurgency tactic. As Hassan Abbas points out “the truth is we don’t know whether U.S. drone strikes have killed more terrorists or produced more terrorists.”

#### Global terror threat is high and attacks are immanent

ETN, 9-26-13

[E Turbo News Global Travel News Industry Reporting on information from the State department, US State Department issues worldwide travel warning, http://www.eturbonews.com/38306/us-state-department-issues-worldwide-travel-warning] /Wyo-MB

The US State Department recently released a statement cautioning Americans traveling abroad of potential terror attacks in Europe, Asia, Africa and the Middle East by al-Qaeda and its affiliated groups.¶ According to the report published on US State Government website, The Department of State has issued this Worldwide Caution to update information on the continuing threat of terrorist actions and violence against US citizens and interests throughout the world.¶ U.S. citizens are reminded to maintain a high level of vigilance and to take appropriate steps to increase their security awareness. This replaces the Worldwide Caution dated February 19, 2013, to provide updated information on security threats and terrorist activities worldwide.¶ The Department of State remains concerned about the continued threat of terrorist attacks, demonstrations, and other violent actions against U.S. citizens and interests overseas. Current information suggests that al-Qaeda, its affiliated organizations, and other terrorist groups continue to plan terrorist attacks against US interests in multiple regions, including Europe, Asia, Africa, and the Middle East. These attacks may employ a wide variety of tactics including suicide operations, assassinations, kidnappings, hijackings, and bombings.¶ Extremists may elect to use conventional or non-conventional weapons, and target both official and private interests. Examples of such targets include high-profile sporting events, residential areas, business offices, hotels, clubs, restaurants, places of worship, schools, public areas, shopping malls, and other tourist destinations both in the United States and abroad where US citizens gather in large numbers, including during holidays.¶ In early August 2013, the Department of State instructed certain US embassies and consulates to remain closed or to suspend operations August 4 through August 10 because of security information received. The US government took these precautionary steps out of an abundance of caution and care for our employees and others who may have planned to visit our installations.¶ US citizens are reminded of the potential for terrorists to attack public transportation systems and other tourist infrastructure.¶ Extremists have targeted and attempted attacks on subway and rail systems, aviation, and maritime services. In the past, these types of attacks have occurred in cities such as Moscow, London, Madrid, Glasgow, and New York City.¶ “Extremists may elect to use conventional or nonconventional weapons, and target both official and private interests,” the department said yesterday. Potential targets may include high-profile sports events, residences, businesses, hotels, clubs, restaurants, schools, places of worship, shopping malls and tourist destinations where Americans congregate.¶ Two US officials familiar with the warning said that while it’s a routine renewal of the department’s worldwide caution, it also reflects mounting intelligence that suggests Islamic terrorist groups loosely affiliated with what remains of al-Qaeda’s core leadership in Pakistan may be planning a new series of attacks against Western targets.

#### Nuclear terrorism is feasible---high risk of theft and attacks escalate

Vladimir Z. Dvorkin ‘12 Major General (retired), doctor of technical sciences, professor, and senior fellow at the Center for International Security of the Institute of World Economy and International Relations of the Russian Academy of Sciences. The Center participates in the working group of the U.S.-Russia Initiative to Prevent Nuclear Terrorism, 9/21/12, "What Can Destroy Strategic Stability: Nuclear Terrorism is a Real Threat," belfercenter.ksg.harvard.edu/publication/22333/what\_can\_destroy\_strategic\_stability.html

Hundreds of scientific papers and reports have been published on nuclear terrorism. International conferences have been held on this threat with participation of Russian organizations, including IMEMO and the Institute of U.S. and Canadian Studies. Recommendations on how to combat the threat have been issued by the International Luxembourg Forum on Preventing Nuclear Catastrophe, Pugwash Conferences on Science and World Affairs, Russian-American Elbe Group, and other organizations. The UN General Assembly adopted the International Convention for the Suppression of Acts of Nuclear Terrorism in 2005 and cooperation among intelligence services of leading states in this sphere is developing.¶ At the same time, these efforts fall short for a number of reasons, partly because various acts of nuclear terrorism are possible. Dispersal of radioactive material by detonation of conventional explosives (“dirty bombs”) is a method that is most accessible for terrorists. With the wide spread of radioactive sources, raw materials for such attacks have become much more accessible than weapons-useable nuclear material or nuclear weapons. The use of “dirty bombs” will not cause many immediate casualties, but it will result into long-term radioactive contamination, contributing to the spread of panic and socio-economic destabilization.¶ Severe **consequences can be caused by sabotaging nuclear power plants, research reactors, and radioactive materials storage facilities. Large cities are especially vulnerable to such attacks. A large city may host dozens of research reactors with a nuclear power plant or a couple of spent nuclear fuel storage facilities and dozens of large radioactive materials storage facilities located nearby.** The past few years have seen significant efforts made to enhance organizational and physical aspects of security at facilities, especially at nuclear power plants. Efforts have also been made to improve security culture. But these efforts do not preclude the possibility that well-trained terrorists may be able to penetrate nuclear facilities.¶ Some estimates show that sabotage of a research reactor in a metropolis may expose hundreds of thousands to high doses of radiation. A formidable part of the city would become uninhabitable for a long time.¶ Of all the scenarios, it is building an improvised nuclear device by terrorists that poses the maximum risk. **There are no engineering problems that cannot be solved if terrorists decide to build a simple “gun-type” nuclear device.** Information on the design of such devices, as well as implosion-type devices, is available in the public domain. It is the acquisition of weapons-grade uranium that presents the sole serious obstacle. Despite numerous preventive measures taken, we cannot rule out the possibility that such materials can be bought on the black market. Theft of weapons-grade uranium is also possible. Research reactor fuel is considered to be particularly vulnerable to theft, as it is scattered at sites in dozens of countries. There are about 100 research reactors in the world that run on weapons-grade uranium fuel, according to the International Atomic Energy Agency (IAEA).¶ A terrorist “gun-type” uranium bomb can have a yield of least 10-15 kt, which is comparable to the yield of the bomb dropped on Hiroshima. The explosion of such a bomb in a modern metropolis can kill and wound hundreds of thousands and cause serious economic damage. There will also be long-term sociopsychological and political consequences.¶ The vast majority of states have introduced unprecedented security and surveillance measures at transportation and other large-scale public facilities after the terrorist attacks in the United States, Great Britain, Italy, and other countries. These measures have proved burdensome for the countries’ populations, but the public has accepted them as necessary. A nuclear terrorist attack will make the public accept further measures meant to enhance control even if these measures significantly restrict the democratic liberties they are accustomed to. Authoritarian states could be expected to adopt even more restrictive measures.¶ If a nuclear terrorist act occurs, nations will delegate tens of thousands of their secret services’ best personnel to investigate and attribute the attack. Radical Islamist groups are among those capable of such an act. We can imagine what would happen if they do so, given the anti-Muslim sentiments and resentment that conventional terrorist attacks by Islamists have generated in developed democratic countries. Mass deportation of the non-indigenous population and severe sanctions would follow such an attack in what will cause **violent protests in the Muslim world**. **Series of armed clashing terrorist attacks may follow**. The prediction that Samuel Huntington has made in his book “The Clash of Civilizations and the Remaking of World Order” may come true. Huntington’s book clearly demonstrates that it is not Islamic extremists that are the cause of the Western world’s problems. Rather there is a deep, intractable conflict that is rooted in the fault lines that run between Islam and Christianity. This is especially dangerous for Russia because these fault lines run across its territory. To sum it up, the political leadership of Russia has every reason to revise its list of factors that could undermine strategic stability.  BMD does not deserve to be even last on that list because its effectiveness in repelling massive missile strikes will be extremely low. BMD systems can prove useful only if deployed to defend against launches of individual ballistic missiles or groups of such missiles. Prioritization of other destabilizing factors—that could affect global and regional stability—merits a separate study or studies. But even without them I can conclude that nuclear terrorism should be placed on top of the list. The threat of nuclear terrorism is real, and a successful nuclear terrorist attack would lead to a radical transformation of the global order.  All of the threats on the revised list must become a subject of thorough studies by experts. States need to work hard to forge a common understanding of these threats and develop a strategy to combat them.

the entire counterterrorist effort, or become a national obsession that creates needless terror.

#### Nuclear terrorism causes extinction

Morgan 9

[Hankuk University of Foreign Studies, Yongin Campus – South Korea (Dennis, Futures, November, “World on fire: two scenarios of the destruction of human civilization and possible extinction of the human race,” Science Direct), accessed 9-16-2011,WYO/JF]

In a remarkable website on nuclear war, Carol Moore asks the question “Is Nuclear War Inevitable??” In Section , **Moore points out what most** **terrorists** obviously **already know about the nuclear tensions between powerful countries**. No doubt, **they’ve figured out that the best way to escalate these tensions into nuclear war is to set off a nuclear exchange**. As Moore points out, **all that militant terrorists would have to do is get their hands on one small nuclear bomb and explode it on either Moscow or Israel**. **Because of the Russian “dead hand” system, “where regional nuclear commanders would be given full powers should Moscow be destroyed,”** **it is likely that any attack would be blamed on the United States”**Israeli leaders and Zionist supporters have, likewise, stated for years that if Israel were to suffer a nuclear attack, whether from terrorists or a nation state, it would retaliate with the suicidal “Samson option” against all major Muslim cities in the Middle East. Furthermore, the Israeli Samson option would also include attacks on Russia and even “anti-Semitic” European cities**In that case, of course, Russia would retaliate, and the U.S. would then retaliate against Russia.China would probably be involved as well,** **as thousands, if not tens of thousands, of nuclear warheads, many of them much more powerful than those used at Hiroshima and Nagasaki, would rain upon most of the major cities in the Northern Hemisphere**. Afterwards, for years to come, massive radioactive clouds would drift throughout the Earth in the nuclear fallout, bringing death or else radiation disease that would be genetically transmitted to future generations in a nuclear winter that could last as long as a 100 years, taking a savage toll upon the environment and fragile ecosphere as well. And what many people fail to realize is what a precarious, hair-trigger basis the nuclear web rests on. Any accident, mistaken communication, false signal or “lone wolf’ act of sabotage or treason could, in a matter of a few minutes, unleash the use of nuclear weapons, and once a weapon is used, then the likelihood of a rapid escalation of nuclear attacks is quite high while the likelihood of a limited nuclear war is actually less probable since each country would act under the “use them or lose them” strategy and psychology; restraint by one power would be interpreted as a weakness by the other, which could be exploited as a window of opportunity to “win” the war. In other words, once Pandora's Box is opened, it will spread quickly, as it will be the signal for permission for anyone to use them. Moore compares swift nuclear escalation to a room full of people embarrassed to cough. Once one does, however, “everyone else feels free to do so.**The bottom line is that as long as large nation states use internal and external war to keep their disparate factions glued together and to satisfy elites’ needs for power and plunder, these nations will attempt to obtain, keep, and inevitably use nuclear weapons**. And as long as large nations oppress groups who seek self-determination, some of those groups will look for any means to fight their oppressors”  **In other words, as long as war and aggression are backed up by the implicit threat of nuclear arms, it is only a matter of time before the escalation of violent conflict leads to the actual use of nuclear weapons**, and once even just one is used, it is very likely that many, if not all, will be used, **leading to horrific scenarios of global death and the destruction of much of human civilization while condemning a mutant human remnant, if there is such a remnant, to a life of unimaginable misery and suffering in a nuclear winter.**

### Advantage 2: Drone Prolif

#### Global drone acquisition is underway

Alston ’11

Philip Alston 11, John Norton Pomeroy Professor of Law at the NYU School of Law, former UN Special Rapporteur on extrajudicial, summary or arbitrary executions, “The CIA and Targeted Killings Beyond Borders,” 2011, 2 Harv. Nat'l Sec. J. 283, lexis

Because the United States inevitably contributes disproportionately to the shaping of global regime rules, and because it is making more extensive overt use of targeted killings than other states, its approach will heavily influence emerging global norms. This is of particular relevance in relation to the use of drones. There are strong reasons to believe that a permissive policy on drone-fired targeted killings will come back to haunt the United States in a wide range of potential situations in the not too distant future.¶ In 2011, a senior official noted that while for the past two decades the United States and its allies had enjoyed "relatively exclusive access to sophisticated precision-strike technologies," that monopoly will soon come to an end. n605 In fact, in the case of drones, some 40 countries already possess the basic technology. Many of them, including Israel, Russia, Turkey, China, India, Iran, the United Kingdom, and France either have or are seeking drones that also have the capability to shoot laser-guided missiles. Overall, the United States accounts for less than one-third of worldwide investment in UAVs. n606 On "Defense Industry Day," August 22, 2010, the Iranian President unveiled a new drone with a range of 1,000 kilometers (620 miles) and capable of carrying four cruise missiles. n607 He referred to the drones as a "messenger of honor and human generosity and a saviour of mankind," but warned ominously that it can also be "a messenger of death for enemies of mankind." n608¶

#### Drone prolif in Asian causes rapid escalation and war—lack of norms ensures drones will trigger great power war in the region

Brimley et al, 2013

[Foreign Policy, SHAWN BRIMLEY, BEN FITZGERALD, ELY RATNER SEPTEMBER 24, 2013 The Drone War Comes to Asia How China sparked a dangerous unmanned arms race. http://www.foreignpolicy.com/articles/2013/09/17/the\_drone\_war\_comes\_to\_asia#sthash.EnOImSFu.dpuf] /Wyo-MB

It's now been a year since Japan's previously ruling liberal government purchased three of the Senkaku Islands to prevent a nationalist and provocative Tokyo mayor from doing so himself. The move was designed to dodge a potential crisis with China, which claims "indisputable sovereignty" over the islands it calls the Diaoyus.¶ Disregarding the Japanese government's intent, Beijing has reacted to the "nationalization" of the islands by flooding the surrounding waters and airspace with Chinese vessels in an effort to undermine Japan's de facto administration, which has persisted since the reversion of Okinawa from American control in 1971. Chinese incursions have become so frequent that the Japanese Air Self-Defense Forces (JASDF) are now scrambling jet fighters on a near-daily basis in response.¶ In the midst of this heightened tension, you could be forgiven for overlooking the news early in September that Japanese F-15s had again taken flight after Beijing graciously commemorated the one-year anniversary of Tokyo's purchase by sending an unmanned aerial vehicle (UAV) toward the islands. But this wasn't just another day at the office in the contested East China Sea: this was the first known case of a Chinese drone approaching the Senkakus.¶ Without a doubt, China's drone adventure 100-miles north of the Senkakus was significant because it aggravated already abysmal relations between Tokyo and Beijing. Japanese officials responded to the incident by suggesting that Japan might have to place government personnel on the islands, a red line for Beijing that would have been unthinkable prior to the past few years of Chinese assertiveness.¶ But there's a much bigger and more pernicious cycle in motion. The introduction of indigenous drones into Asia's strategic environment -- now made official by China's maiden unmanned provocation -- will bring with it additional sources of instability and escalation to the fiercely contested South and East China Seas. Even though no government in the region wants to participate in major power war, there is widespread and growing concern that military conflict could result from a minor incident that spirals out of control.¶ Unmanned systems could be just this trigger. They are less costly to produce and operate than their manned counterparts, meaning that we're likely to see more crowded skies and seas in the years ahead. UAVs also tend to encourage greater risk-taking, given that a pilot's life is not at risk. But being unmanned has its dangers: any number of software or communications failures could lead a mission awry. Combine all that with inexperienced operators and you have a perfect recipe for a mistake or miscalculation in an already tense strategic environment. ¶ The underlying problem is not just the drones themselves. Asia is in the midst of transitioning to a new warfighting regime with serious escalatory potential. China's military modernization is designed to deny adversaries freedom of maneuver over, on, and under the East and South China Seas. Although China argues that its strategy is primarily defensive, the capabilities it is choosing to acquire to create a "defensive" perimeter -- long-range ballistic and cruise missiles, aircraft carriers, submarines -- are acutely offensive in nature. During a serious crisis when tensions are high, China would have powerful incentives to use these capabilities, particularly missiles, before they were targeted by the United States or another adversary. The problem is that U.S. military plans and posture have the potential to be equally escalatory, as they would reportedly aim to "blind" an adversary -- disrupting or destroying command and control nodes at the beginning of a conflict.¶ At the same time, the increasingly unstable balance of military power in the Pacific is exacerbated by the (re)emergence of other regional actors with their own advanced military capabilities. Countries that have the ability and resources to embark on rapid modernization campaigns (e.g., Japan, South Korea, Indonesia) are well on the way. This means that in addition to two great powers vying for military advantage, the region features an increasingly complex set of overlapping military-technical competitions that are accelerating tensions, adding to uncertainty and undermining stability.¶ This dangerous military dynamic will only get worse as more disruptive military technologies appear, including the rapid diffusion of unmanned and increasingly autonomous aerial and submersible vehicles coupled with increasingly effective offensive cyberspace capabilities.¶ Of particular concern is not only the novelty of these new technologies, but the lack of well-established norms for their use in conflict.¶ Thankfully, the first interaction between a Chinese UAV and manned Japanese fighters passed without major incident. But it did raise serious questions that neither nation has likely considered in detail. What will constrain China's UAV incursions from becoming increasingly assertive and provocative? How will either nation respond in a scenario where an adversary downs a UAV? And what happens politically when a drone invariably falls out of the sky or "drifts off course" with both sides pointing fingers at one another? Of most concern, how would these matters be addressed during a crisis, with no precedents, in the context of a regional military regime in which actors have powerful incentives to strike first?¶ These are not just theoretical questions: Japan's Defense Ministry is reportedly looking into options for shooting down any unmanned drones that enter its territorial airspace.¶ Resolving these issues in a fraught strategic environment between two potential adversaries is difficult enough; the United States and China remain at loggerheads about U.S. Sensitive Reconnaissance Operations along China's periphery. But the problem is multiplying rapidly. The Chinese are running one of the most significant UAV programs in the world, a program that includes Reaper- style UAVs and Unmanned Combat Aerial Vehicles (UCAVs); Japan is seeking to acquire Global Hawks; the Republic of Korea is acquiring Global Hawks while also building their own indigenous UAV capabilities; Taiwan is choosing to develop indigenous UAVs instead of importing from abroad; Indonesia is seeking to build a UAV squadron; and Vietnam is planning to build an entire UAV factory.¶ One could take solace in Asia's ability to manage these gnarly sources of insecurity if the region had demonstrated similar competencies elsewhere. But nothing could be further from the case. It has now been more than a decade since the Association of Southeast Asian Nations (ASEAN) and China signed a declaration "to promote a peaceful, friendly and harmonious environment in the South China Sea," which was meant to be a precursor to a code of conduct for managing potential incidents, accidents, and crises at sea. But the parties are as far apart as ever, and that's on well-trodden issues of maritime security with decades of legal and operational precedent to build upon.¶ It's hard to be optimistic that the region will do better in an unmanned domain in which governments and militaries have little experience and where there remains a dearth of international norms, rules, and institutions from which to draw.¶ The rapid diffusion of advanced military technology is not a future trend. These capabilities are being fielded -- right now -- in perhaps the most geopolitically dangerous area in the world, over (and soon under) the contested seas of East and Southeast Asia. These risks will only increase with time as more disruptive capabilities emerge. In the absence of political leadership, these technologies could very well lead the region into war.

#### Executive unilateralism fails to solve the advantage—can’t overcome mistrust or generate international support

Goldsmith, 2013

[Jack, Henry L. Shattuck Professor at Harvard Law School, May 1 2013, “How Obama Undermined the War on Terror,” http://www.newrepublic.com/article/112964/obamas-secrecy-destroying-american-support-counterterrorism] /Wyo-MB

A related sin is the Obama administration's surprising failure to secure formal congressional support. Nearly every element of Obama's secret war rests on laws—especially the congressional authorization of force (2001) and the covert action statute (1991)—designed for different tasks. The administration could have worked with Congress to update these laws, thereby forcing members of Congress to accept responsibility and take a stand, and putting the secret war on a firmer political and legal foundation. But doing so would have required extended political efforts, public argument, and the possibility that Congress might not give the president precisely what he wants.¶ The administration that embraced the way of the knife in order to lower the political costs of counterterrorism abroad found it easier to avoid political costs at home as well. But this choice deprived it of the many benefits of public argumentation and congressional support. What Donald Rumsfeld said self-critically of Bush-era unilateralism applies to Obama's unilateralism as well: it fails to "take fully into account the broader picture—the complete set of strategic considerations of a president fighting a protracted, unprecedented and unfamiliar war for which he would need sustained domestic and international support." ¶ Instead of seeking contemporary congressional support, the administration has relied mostly on government lawyers' secret interpretive extensions of the old laws to authorize new operations against new enemies in more and more countries. The administration has great self-confidence in the quality of its stealth legal judgments. But as the Bush administration learned, secret legal interpretations are invariably more persuasive within the dark circle of executive branch secrecy than when exposed to public sunlight. On issues ranging from proper targeting standards, to the legality of killing American citizens, to what counts as an "imminent" attack warranting self-defensive measures, these secret legal interpretations—so reminiscent of the Bushian sin of unilateral legalism—have been less convincing in public, further contributing to presidential mistrust.¶ ¶ Feeling the heat from these developments, President Obama promised in his recent State of the Union address "to engage with Congress to ensure not only that our targeting, detention, and prosecution of terrorists remains consistent with our laws and system of checks and balances, but that our efforts are even more transparent to the American people and to the world." So far, this promise, like similar previous ones, remains unfulfilled. ¶ The administration has floated the idea of "[shifting] the CIA's lethal targeting program to the Defense Department," as The Daily Beast reported last month. Among other potential virtues, this move might allow greater public transparency about the way of the knife to the extent that it would eliminate the covert action bar to public discussion. But JSOC's non-covert targeted killing program is no less secretive than the CIA's, and its congressional oversight is, if anything, less robust. ¶ A bigger problem with this proposed fix is that it contemplates executive branch reorganization followed, in a best-case scenario, by more executive branch speeches and testimony about what it is doing in its stealth war. The proposal fails to grapple altogether with the growing mistrust of the administration's oblique representations about secret war. The president cannot establish trust in the way of the knife through internal moves and more words. Rather, he must take advantage of the separation of powers. Military detention, military commissions, and warrantless surveillance became more legitimate and less controversial during the Bush era because adversarial branches of government assessed the president's policies before altering and then approving them. President Obama should ask Congress to do the same with the way of the knife, even if it means that secret war abroad is harder to conduct.¶ Administration officials resist this route because they worry about the outcome of the public debate, and because the president is, as The Washington Post recently reported, "seen as reluctant to have the legislative expansion of another [war] added to his legacy." But the administration can influence the outcome of the debate only by engaging it. And as Mazzetti makes plain, the president's legacy already includes the dramatic and unprecedented unilateral expansion of secret war. What the president should be worried about for legacy purposes is that this form of warfare, for which he alone is today responsible, is increasingly viewed as illegitimate.

#### The plan solves international norms for drone use through the use of 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.

#### The best scholarship validates our theory of arms races – unless norms precede formal agreements, they’ll be ineffective

Robert Farley 11, assistant professor at the Patterson School of Diplomacy and International Commerce at the University of Kentucky, Over the Horizon: U.S. Drone Use Sets Global Precedent, October 12, http://www.worldpoliticsreview.com/articles/10311/over-the-horizon-u-s-drone-use-sets-global-precedent

Is the world about to see a "drone race" among the United States, China and several other major powers? Writing in the New York Times, Scott Shane argued that just such an arms race is already happening and that it is largely a result of the widespread use of drones in a counterterror role by the United States. Shane suggests that an international norm of drone usage is developing around how the United States has decided to employ drones. In the future, we may expect that China, Russia and India will employ advanced drone technologies against similar enemies, perhaps in Xinjiang or Chechnya. Kenneth Anderson agrees that the drone race is on, but disagrees about its cause, arguing that improvements in the various drone component technologies made such an arms race inevitable. Had the United States not pursued advanced drone technology or launched an aggressive drone campaign, some other country would have taken the lead in drone capabilities. ¶ So which is it? Has the United States sparked a drone race, or was a race with the Chinese and Russians inevitable? While there's truth on both sides, on balance Shane is correct. Arms races don't just "happen" because of outside technological developments. Rather, they are embedded in political dynamics associated with public perception, international prestige and bureaucratic conflict. China and Russia pursued the development of drones before the United States showed the world what the Predator could do, but they are pursuing capabilities more vigorously because of the U.S. example. Understanding this is necessary to developing expectations of what lies ahead as well as a strategy for regulating drone warfare.¶ States run arms races for a variety of reasons. The best-known reason is a sense of fear: The developing capabilities of an opponent leave a state feeling vulnerable. The Germany's build-up of battleships in the years prior to World War I made Britain feel vulnerable, necessitating the expansion of the Royal Navy, and vice versa. Similarly, the threat posed by Soviet missiles during the Cold War required an increase in U.S. nuclear capabilities, and so forth. However, states also "race" in response to public pressure, bureaucratic politics and the desire for prestige. Sometimes, for instance, states feel the need to procure the same type of weapon another state has developed in order to maintain their relative position, even if they do not feel directly threatened by the weapon. Alternatively, bureaucrats and generals might use the existence of foreign weapons to argue for their own pet systems. All of these reasons share common characteristics, however: They are both social and strategic, and they depend on the behavior of other countries. ¶ Improvements in technology do not make the procurement of any given weapon necessary; rather, geostrategic interest creates the need for a system. So while there's a degree of truth to Anderson's argument about the availability of drone technology, he ignores the degree to which dramatic precedent can affect state policy. The technologies that made HMS Dreadnought such a revolutionary warship in 1906 were available before it was built; its dramatic appearance nevertheless transformed the major naval powers' procurement plans. Similarly, the Soviet Union and the United States accelerated nuclear arms procurement following the Cuban Missile Crisis, with the USSR in particular increasing its missile forces by nearly 20 times, partially in response to perceptions of vulnerability. So while a drone "race" may have taken place even without the large-scale Predator and Reaper campaign in Pakistan, Yemen and Somalia, the extent and character of the race now on display has been driven by U.S. behavior. Other states, observing the effectiveness -- or at least the capabilities -- of U.S. drones will work to create their own counterparts with an enthusiasm that they would not have had in absence of the U.S. example.¶ What is undeniable, however, is that we face a drone race, which inevitably evokes the question of arms control. Because they vary widely in technical characteristics, appearance and even definition, drones are poor candidates for "traditional" arms control of the variety that places strict limits on number of vehicles constructed, fielded and so forth. Rather, to the extent that any regulation of drone warfare is likely, it will come through treaties limiting how drones are used. ¶ Such a treaty would require either deep concern on the part of the major powers that advances in drone capabilities threatened their interests and survival, or widespread revulsion among the global public against the practice of drone warfare. The latter is somewhat more likely than the former, as drone construction at this point seems unlikely to dominate state defense budgets to the same degree as battleships in the 1920s or nuclear weapons in the 1970s. However, for now, drones are used mainly to kill unpleasant people in places distant from media attention. So creating the public outrage necessary to force global elites to limit drone usage may also prove difficult, although the specter of "out of control robots" killing humans with impunity might change that. P.W. Singer, author of "Wired for War," argues that new robot technologies will require a new approach to the legal regulation of war. Robots, both in the sky and on the ground, not to mention in the sea, already have killing capabilities that rival those of humans. Any approach to legally managing drone warfare will likely come as part of a more general effort to regulate the operation of robots in war.¶ However, even in the unlikely event of global public outrage, any serious effort at regulating the use of drones will require U.S. acquiescence. Landmines are a remarkably unpopular form of weapon, but the United States continues to resist the Anti-Personnel Mine Ban Convention. If the United States sees unrestricted drone warfare as being to its advantage -- and it is likely to do so even if China, Russia and India develop similar drone capabilities -- then even global outrage may not be sufficient to make the U.S. budge on its position. This simply reaffirms the original point: Arms races don't just "happen," but rather are a direct, if unexpected outcome of state policy. Like it or not, the behavior of the United States right now is structuring how the world will think about, build and use drones for the foreseeable future. Given this, U.S. policymakers should perhaps devote a touch more attention to the precedent they're setting.

#### China’s drone proliferation will cause war in the region—multiple flashpoints

Standaert, 2012

[Michael, Global Post, Stage set for drone chess match in Asia-Pacific, http://www.globalpost.com/dispatch/news/regions/asia-pacific/121102/china-drone-UAV-proliferation?page=0,1] /Wyo-MB

SHENZHEN, China — China’s plans to deploy surveillance drones in the East China and South China seas hint at the future of warfare in the region, but are also a reminder of how far ahead leading drone manufacturing nations like the United States and Israel remain on aviation technology.¶ Experts say interest in unmanned aerial vehicles (UAVs) is surging throughout the Asia-Pacific region without a framework of controls curtailing their proliferation and use.¶ Add the Obama administration’s policy refocusing American attention on the region — the so-called “Asia Pivot” — along with US announcements of further deployments of advanced UAVs to the area, and a massive game of drone chess looks increasingly likely.¶ In September, China commissioned its first aircraft carrier, the Liaoning, and announced plans to use drones to monitor disputed territories including the Senkaku Islands that have caused recent friction with Japan. China detailed further plans to develop drone bases in 11 coastal provinces to be operational by 2015.¶ China has been playing catch-up with drone technology leaders, having purchased some technology from Israel already and showing strong interest in increasing its own share of the global UAV market, currently estimated at $6.6 billion per year and climbing.¶ Later this month the Zhuhai Air Show will be an important place to see what technology advancements Chinese companies have made as well as what countries might be interested in purchasing Chinese UAVs. Pakistan is known to have ordered drones from China, and countries such as Brunei and Malaysia in Southeast Asia have shown interest in China's drones.¶ Dennis Gormley, a senior research fellow at the Ridgway Center for International Security Studies, said that US defense and aviation industry logic is that if it doesn’t “satisfy the growing requirement for UAVs, other states will develop their own or turn to Israel or other developers.”¶ “Of greatest concern are the intentions of China,” said Gormley, author of the book “Missile Contagion,” published in 2010.¶ In the Asia-Pacific region, the list of countries who have developed or purchased drones already includes Australia, China, India, Indonesia, Japan, South Korea, Russia, Singapore, Malaysia, Taiwan, Thailand and the Philippines, according to a report published by the US Government Accountability Office (GAO) in July this year.¶ In June, a Chinese frigate was also photographed testing a helicopter UAV, said Wilson VornDick, a lieutenant commander in the US Navy Reserves and an analyst on China’s military for the Jamestown Foundation.¶ At the end of August, China’s State Oceanic Administration (SOA) announced plans to set up UAV patrols out of 11 airbases in coastal provinces for maritime surveillance. According to state media reports a pilot program last year ran UAVs out of Liaoning province to monitor an ocean area of around 380 square miles.¶ More recently, immediately following renewed conflict with Japan over the Senkakus, the SOA announced on Sep. 23 that it was deploying UAVs to monitor specifically monitor the disputed islands as well as territories in the South China Sea, which China claims almost in its entirety.¶ Reports also indicate that Japan is using drones to monitor the Senkakus, and the Philippines is reportedly looking to purchase more UAVs from the US for monitoring its own claims in the South China Sea.

#### SCS conflict causes nuke war

Glaser 12 Bonnie S., Senior Fellow – Center for Strategic and International Studies, “Armed Clash in the South China Sea,” CFR, April, http://www.cfr.org/east-asia/armed-clash-south-china-sea/p27883

The risk of conflict in the South China Sea is significant. China, Taiwan, Vietnam, Malaysia, Brunei, and the Philippines have competing territorial and jurisdictional claims, particularly over rights to exploit the region's possibly extensive reserves of oil and gas. Freedom of navigation in the region is also a contentious issue, especially between the United States and China over the right of U.S. military vessels to operate in China's two-hundred-mile exclusive economic zone (EEZ). These tensions are shaping—and being **shaped by—rising apprehensions about** the growth of China's military power and its regional intentions. China **has embarked on a substantial modernization of its maritime paramilitary forces as well as naval capabilities** to enforce its sovereignty and jurisdiction claims by force if necessary. At the same time, it is developing capabilities that would put U.S. forces in the region at risk in a conflict, thus potentially denying access to the U.S. Navy in the western Pacific. Given the growing importance of the U.S.-China relationship, and the Asia-Pacific region more generally, to the global economy, the United States has a major interest in preventing any one of the various disputes in the South China Sea from **escalating militarily**. The Contingencies Of the many conceivable contingencies involving an armed clash in the South China Sea, three especially threaten U.S. interests and could potentially prompt the United States to use force. The **most likely** and **dangerous contingency** is a clash stemming from U.S. military operations within China's EEZ that provokes an **armed Chinese response**. The United States holds that nothing in the United Nations Convention on the Law of the Sea (UNCLOS) or state practice negates the right of military forces of all nations to conduct military activities in EEZs without coastal state notice or consent. China insists that reconnaissance activities undertaken without prior notification and without permission of the coastal state violate Chinese domestic law and international law. China routinely intercepts U.S. reconnaissance flights conducted in its EEZ and periodically does so in **aggressive ways that increase the risk of an accident** similar to the April 2001 collision of a U.S. EP-3 reconnaissance plane and a Chinese F-8 fighter jet near Hainan Island. A comparable maritime incident could be triggered by Chinese vessels harassing a U.S. Navy surveillance ship operating in its EEZ, such as occurred in the 2009 incidents involving the USNS Impeccable and the USNS Victorious. The large growth of Chinese submarines has also **increased the danger of an incident**, such as when a Chinese submarine collided with a U.S. destroyer's towed sonar array in June 2009. Since neither U.S. reconnaissance aircraft nor ocean surveillance vessels are armed, the United States might respond to dangerous behavior by Chinese planes or ships by dispatching armed escorts. A **miscalculation** or misunderstanding could then result in a **deadly exchange of fire**, leading to further **military escalation** and precipitating a major political crisis. Rising U.S.-China mistrust and intensifying bilateral strategic competition would likely make managing such a crisis more difficult.

#### Senkaku Conflict goes nuclear

John Blaxland 13, Senior Fellow at the Strategic and Defence Studies Centre, the Australian National University, and Rikki Kersten, Professor of modern Japanese political history in the School of International, Political and Strategic Studies at the College of Asia and the Pacific, the Australian National University, 2/13/13, “Escalating territorial tension in East Asia echoes Europe’s descent into world war,” http://www.eastasiaforum.org/2013/02/13/escalating-territorial-tension-in-east-asia-echoes-europes-descent-into-world-war/

The recent activation of Chinese weapons radars aimed at Japanese military platforms around the Senkaku/Diaoyu Islands is the latest in a series of incidents in which China has asserted its power and authority at the expense of its neighbours.¶ The radars cue supersonic missile systems and give those on the receiving end only a split second to respond. With Japanese law empowering local military commanders with increased discretion to respond (thanks to North Korea’s earlier provocations), such incidents could easily escalate. In an era of well-established UN-related adjudication bodies like the International Court of Justice (ICJ), how has it come to this? These incidents disconcertingly echo past events. ¶ In the early years of the 20th century, most pundits considered a major war between the great powers a remote possibility. Several incidents prior to 1914 were handled locally or successfully defused by diplomats from countries with alliances that appeared to guarantee the peace. After all, never before had the world been so interconnected — thanks to advanced communications technology and burgeoning trade. But alliance ties and perceived national interests meant that once a major war was triggered there was little hope of avoiding the conflict. Germany’s dissatisfaction with the constraints under which it operated arguably was a principal cause of war in 1914. Similarly, Japan’s dissatisfaction helped trigger massive conflict a generation later. ¶ A century on, many of the same observations can be made in East Asia. China’s rise is coupled with a disturbing surge in jingoism across East and Southeast Asia. China resents the territorial resolution of World War II, in which the United States handed responsibility for the Senkaku/Diaoyu islands to Japan while large chunks of the South China Sea were claimed and occupied by countries that emerged in Southeast Asia’s post-colonial order. Oil and gas reserves are attractive reasons for China to assert itself, but challenging the US place in East Asian waters is the main objective. China resents American ‘re-balancing ‘as an attempt at ‘containment’, even though US dependence on Chinese trade and finance makes that notion implausible. China is pushing the boundaries of the accepted post-Second World War order championed by the United States and embodied by the UN. ¶ China’s rapid rise and long-held grievances mean its powerbrokers are reluctant to use institutions like the ICJ. But China’s assertiveness is driving regional states closer into the arms of the United States. Intimidation and assertive maritime acts have been carried out, ostensibly by elements not linked to China’s armed forces. China’s white-painted Chinese Maritime Services and Fisheries Law Enforcement Command vessels operating in the South China Sea and around the Senkaku/Diaoyu islands have evoked strong reactions. ¶ But Japan’s recent allegation that China used active radars is a significant escalation. Assuming it happened, this latest move could trigger a stronger reaction from Japan. China looks increasingly as if it is not prepared to abide by UN-related conventions. International law has been established mostly by powers China sees as having exploited it during its ‘century of humiliation’. Yet arguably, it is in the defence of these international institutions that the peaceful rise of China is most likely to be assured. China’s refusal to submit to such mechanisms as the ICJ increases the prospect of conflict. ¶ For the moment, Japan’s conservative prime minister will need to exercise great skill and restraint in managing domestic fear and resentment over China’s assertiveness and the military’s hair-trigger defence powers. A near-term escalation cannot be ruled out. After all, Japan recognises that China is not yet ready to inflict a major military defeat on Japan without resorting to nuclear weapons and without triggering a damaging response from the United States. And Japan does not want to enter into such a conflict without strong US support, at least akin to the discreet support given to Britain in the Falklands War in 1982. Consequently, Japan may see an escalation sooner rather than later as being in its interests, particularly if China appears the aggressor. ¶ China’s domestic environment has nurtured jingoism. The Chinese state has built up the public’s appetite for vengeance against Japan by manipulating films and history textbooks. On the other hand, Chinese authorities recognise that the peaceful rise advocated by Deng Xiaoping is not yet complete (militarily at least). In the meantime it is prudent to exercise some restraint to avoid an overwhelming and catastrophic response. If the 1914–18 war taught us anything, it is that the outcome of wars is rarely as proponents conceived at the outset.

#### Risk is high Unfettered drone prolif causes deterrence crises that lead to nuclear conflict – norms are key

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.

### 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 using unpiloted aerial vehicles.

### Solvency

#### Independent courts are key—only checks on unilateral executive power can provide legitimacy and credibility

Chebab, 2012

[Ahmad, Georgetown University Law Center, Retrieving the Role of Accountability in the Targeted Killings Context: A Proposal for Judicial Review, 3-30-12, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2031572] /Wyo-MB

Rather, balancing the needs of security against the imperatives of liberty is a traditional¶ role for judges to play as recognized by the founders in the Fourth Amendment.110 Two scholars of national security law have highlighted the value of judicial inclusion in this process:¶ Judicial control of targeted killing could increase the accuracy of target selection, reducing the danger of mistaken or illegal destruction of lives, limbs, and property. Independent judges who double-check targeting decisions could catch errors and cause executive officials to avoid making them in the first place.”111¶ Judges are also both knowledgeable in the vagaries of the law and accustomed to dealing with sensitive security considerations.112 These qualifications make them ideal candidates to ensure that the executive exercises constitutional and international legal restraint when targeting individuals abroad. Reforming the decision-making process to allow for judicial oversight would accomplish numerous other important goals as well. Aside from providing a valuable check on executive power to take away the most fundamental of freedoms guaranteed by our Constitution—the right to life—judicial oversight would reinforce the separation of powers framework of American government and increase democratic legitimacy by placing these determinations on more predictable and accountable legal grounds. For those fearful of judicial encroachment on executive war-making powers, there is a strong argument that this will actually strengthen the President and empower him to take decisive action without worrying about the judicial consequences. As Justice Kennedy put it, “the exercise of [executive] powers is vindicated, not eroded, when confirmed by the judicial branch.”113 Moreover, though it may be technically legal under international and domestic law, the targeted killing program has become a black spot on American credibility around the globe. The introduction of significant checks on unilateral executive power to target known terrorists can help reform that image and reinstate American moral legitimacy in its use of force against global terrorism.114

#### 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.

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#### Targeted killing = killing of persons not in state custody

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

As used here, targeted killing is defined as the "extra-judicial, premeditated killing by a state of a specifically identified person not in its custody." n11 Though some have argued that targeted killing so defined amounts to illegal assassination, n12 others have instead suggested that "assassination generally is regarded as an act of murder for political reasons." n13 Given that targeted killings via drones do not, to this point, appear to have been undertaken for political reasons, the author accepts, for present purposes, that these attacks "can be a legally and morally justifiable means of protecting the American people." n14 The inquiry here is what procedures, if any, are necessary before the commencement of a drone strike to ensure that it is indeed legitimate. n15

### Drone Prolif

#### And the plan functionally erases signature strikes

Cohen 13

(Adam, Program assistant, Friends Committee on National Legislation, Huffington Post, “One Step Closer to Meaningful Oversight of International Targeted Killing,” March 30, 2013, <http://www.huffingtonpost.com/adam-cohen/drone-killings-hearing_b_3180495.html>) /wyo-mm

We also learned from this hearing that there is near-unanimous consent for a constructive review of these policies. From Rosa Brooks, law professor at Georgetown University, fellow at the New America Foundation and former Counselor to the Under Secretary of Defense for Policy, to Colonel Martha McSally of the U.S. Air Force, all of the witnesses highlighted their willingness to examine the legal and procedural rules surrounding targeted killing. All of them highlighted their belief that it is critical to increase oversight, to thoroughly vet those being targeted, and to reduce civilian casualties as much as possible. Even those witnesses who supported and spoke to the virtues of drones favored the codification of a better review process, a larger oversight role for Congress and a court for reviewing the legality of conducted attacks and for appropriately compensating the families of victims. While these measures would not end U.S. targeted killings abroad altogether, they could rein in some of the program's worst offenses, more accurately define and protect civilians, and reduce the total number of strikes -- particularly signature strikes based on observed behavior rather than intelligence reviews. This groundbreaking hearing could be the first step in maturing the national dialogue on drones. In recent months, members of Congress have made public statements, held hearings, introduced and sponsored legislation and written letters to the administration challenging the federal government's right to deploy drones to infringe upon the rights of U.S. citizens at home or abroad. Finally, the scrutiny is shifting to the administration's opaque counterterrorism policies across the world. Congress should use this eye-opening discussion as the starting point to further question the drones program: hold another hearing; introduce legislation; and let the administration (whose decisions to neither provide a witness at the hearing nor make public the remaining Department of Justice memos was well noted) know that it is just as concerned about the ethical and strategic implications of targeted killing. With this hearing we are one step closer to meaningful transparency and accountability. We must move quickly to take the next.

### A2 Circumvention

#### Obama has already said he would allow courts to review drone strikes

NYT, 4-7-13

[Editorial, The Trouble With Drones, http://www.nytimes.com/2013/04/08/opinion/the-trouble-with-drones.html?\_r=0] /Wyo-MB

Mr. Obama has promised to break down the wall of secrecy and work with Congress to create a lasting legal framework for drone strikes. It is essential that the administration not drag its feet so it can maintain maximum authority with minimum oversight. Among the proposals it should consider is some form of judicial review, like the special court that approves wiretaps for intelligence gathering, before it kills American citizens.

### Exec CP

#### 3rd, Perm do both—Shields the Link to politics—Congress purposefully doesn’t act on legislation or waits for executive action so that they can blame the president

Buchanan 2013

[Neil Buchanan, Law Professor, February 21, 2013, Spending Priorities, the Separation of Powers, and the Rule of Law, http://www.dorfonlaw.org/2013/02/spending-priorities-separation-of.html, uwyo//amp]

The debt ceiling is keeping us busy, here at Dorf on Law. Later today, both Professor Dorf and I will be speaking at Columbia Law School, at the invitation of the Law Review editors who worked on our two articles in 2012. Over the weekend, we also finalized a new article, which Professor Dorf briefly described here yesterday. In it, we extend our ongoing analysis of the constitutional issues surrounding the debt ceiling. The short-hand versions of the two main sections of the article are: (1) Yes, there really is a trilemma, and (2) No, the debt ceiling is still not binding, even if everyone knows that they are creating a trilemma when they pass the spending and taxing laws. The latter point is important because already-existing trilemmas (such as the one that Congress and the President faced last month, before the Republicans capitulated by passing their "Debt Ceiling Amnesia Act") do not exist when there are no appropriated funds for the President to spend. (Strictly speaking, there would be a trilemma if even the minimal level of emergency spending required by law during a government shutdown could only be financed by borrowing in excess of the debt ceiling. But given that most of the tax code is enacted on a continuing basis -- that is, unlike spending, tax provisions generally do not expire on a particular date -- there will generally be enough money coming in to finance emergency operations without having to borrow.) Every spending/taxing agreement, therefore, potentially necessitates issuing enough net new debt to require an increase in the debt ceiling. When that happens, one could invoke something like the "last in time" rule, but we conclude that the problem should not be resolved by relying upon a legal canon that is generally used for rationalizing inconsistent laws. Rather, the more fundamental question is how to preserve the separation of powers. As we point out, Congress might actually want to give away its legislative powers, thus putting the political blame on the President for unpopular cuts (a point that Professor Scott Bauries at the University of Kentucky College of Law calls "learned legislative helplessness") -- but their desire to pass the buck is actually all the more reason not to let them do so. With great power comes great responsibility.

#### 5th, counterplan links to politics

Schier 9

[Steven, Professor of Poliitcal Science at Carleton,"Understanding the Obama Presidency," The Forum: Vol. 7: Iss. 1, Berkely Electronic Press, http://www.bepress.com/forum/vol7/iss1/art10]

 In additional to formal powers, a president’s informal power is situationally derived and highly variable. Informal power is a function of the “political capital” presidents amass and deplete as they operate in office. Paul Light defines several components of political capital: party support of the president in Congress, public approval of the presidential conduct of his job, the President’s electoral margin and patronage appointments (Light 1983, 15). Richard Neustadt’s concept of a president’s “professional reputation” likewise figures into his political capital. Neustadt defines this as the “impressions in the Washington community about the skill and will with which he puts [his formal powers] to use” (Neustadt 1990, 185). In the wake of 9/11, George W. Bush’s political capital surged, and both the public and Washington elites granted him a broad ability to prosecute the war on terror. By the later stages of Bush’s troubled second term, beset by a lengthy and unpopular occupation of Iraq and an aggressive Democratic Congress, he found that his political capital had shrunk. Obama’s informal powers will prove variable, not stable, as is always the case for presidents. Nevertheless, he entered office with a formidable store of political capital. His solid electoral victory means he initially will receive high public support and strong backing from fellow Congressional partisans, a combination that will allow him much leeway in his presidential appointments and with his policy agenda. Obama probably enjoys the prospect of a happier honeymoon during his first year than did George W. Bush, who entered office amidst continuing controversy over the 2000 election outcome. Presidents usually employ power to disrupt the political order they inherit in order to reshape it according to their own agendas. Stephen Skowronek argues that “presidents disrupt systems, reshape political landscapes, and pass to successors leadership challenges that are different from the ones just faced” (Skowronek 1997, 6). Given their limited time in office and the hostile political alignments often present in Washington policymaking networks and among the electorate, presidents must force political change if they are to enact their agendas. In recent decades, Washington power structures have become more entrenched and elaborate (Drucker 1995) while presidential powers – through increased use of executive orders and legislative delegation (Howell 2003) –have also grown. The presidency has more powers in the early 21st century but also faces more entrenched coalitions of interests, lawmakers, and bureaucrats whose agendas often differ from that of the president. This is an invitation for an energetic president – and that seems to describe Barack Obama – to engage in major ongoing battles to impose his preferences.

#### 6th, Transparency without reform doesn’t solve precedent---investigating wrongful deaths is key

Naureen Shah 13, August 17th, 2013, "Obama has not delivered on May's promise of transparency on drones," The Guardian, www.theguardian.com/commentisfree/2013/aug/17/obama-promise-transparency-drone-killing

Even more damning is that, in the absence of any commitment to investigating credible allegations of unlawful deaths, the United States appears indifferent to the question of who is actually dying in drone strikes. President Obama admitted in May that four US citizens had been killed, three of whom – including 16-year-old Abdulrahman Aal-Awlaki – he admitted were not intended targets. But the president did not define the identities of the more than 4,000 other people killed, or specifically address reports that a significant number of the dead – in assessments varying between 400 and nearly 1,000, according to the Bureau of Investigative Journalism – were civilians.¶ When the president acknowledges four deaths of US citizens, but not 4,000 deaths of non-Americans, he signals to the world a callous and discriminatory disregard for human life. Perhaps only a fraction of these 4,000 deaths were unlawful. But acknowledging and investigating these deaths is a matter of dignity and justice – for the survivors of strikes, their communities and their countrymen.¶ When deaths are found to be unlawful, victims' families and survivors have a right to reparation. Refusing to investigate deaths is a matter of disrespect both for international law and for the public's right to know the full truth.¶ Many critics, before President Obama's May address, feared that foreign governments would follow the US to lead and conduct secret drone strikes without regard for international law. They should still be concerned about the precedent the US government is setting: refusing to investigate or be held accountable for wrongful deaths.¶ The risk now is not just that the late May reforms on drone strikes were half-measures, but that they were calibrated to merely reassure the public, defuse criticism, and avert longer, harder scrutiny of whether the government's actions are lawful and right. A token dose of transparency may remove the sting of government secrecy, but it does not cure the disease.

#### Congressional involvement is key – internal executive review sets a precedent for future administrations to destroy due process that’s key to rule of law

Feldman 13 (Noah, Professor of Constitutional and International Law – Harvard University, “Obama’s Drone Attack on Your Due Process,” Bloomberg, 2-8, <http://www.bloomberg.com/news/2013-02-08/obama-s-drone-attack-on-your-due-process.html>)

The cases cited by the white paper provide no precedent for the idea that due process could be satisfied by some secret, internal process within the executive branch -- not that any such process is even mentioned. The reason they don’t is obvious: There is no such precedent. Never, to my knowledge, in the history of due process jurisprudence, has a court said that a neutral decision maker wasn’t necessary. And as Justice Felix Frankfurter wrote in language cited in the Mathews case, “the essence of due process is the requirement that a person in jeopardy of serious loss [be given] notice of the case against him and opportunity to meet it.” Although the white paper doesn’t say so, Awlaki even tried to get a hearing before he was killed. His father asked a federal court to find that he wasn’t a terrorist. But the court never heard his claim, because the Obama administration persuaded it not to consider the case. When Paul Clement, solicitor general under George W. Bush, told the Supreme Court in the Hamdi oral argument that Hamdi had been given the opportunity to be heard during his interrogation, a notable gasp went through the courtroom. Justice Sandra Day O’Connor later singled out this outrageous claim for special criticism. The Obama administration’s apparent belief that due process can be satisfied in secret inside the executive branch is arguably a greater departure from precedent. It is a travesty of the very notion of due process. And to borrow a phrase from Justice Robert Jackson, it will now lie about like a loaded weapon ready for the hand of any administration that needs it. The white paper should have said that due process doesn’t apply on the battlefield. By instead making due process into a rubber stamp, the administration is ignoring precedent and subverting the idea of the rule of law. When is some law worse than none? When that law is so watered down that it loses the meaning it has had for 800 years.

#### Strong rule of law key to solve extinction

Tehranian and Clements 05

(Majid and Kevin P., America & The World: The Double Bind, Pgs. 18-19) /wyo-mm

In this globalized world closed societies are in rapid decline. No country can act in isolation. The actions of the world’s most powerful country will have lasting consequences on people all over the world. At one time the foremost proponent of the rule of law and the leading creator of multilateral institutions the United States has now decided to assert US exceptionalism to the very institutions it helped create. By these actions it is working to undermine the international rule of law. The United States is setting a dangerous precedent for other states by retreating from commitments under treaties. These treaties and the regimes that implement them provide the legal and institutional basis for ensuring minimal compliance with international norms and standards. Furthermore, refusal to enter into treaties that are designed to build global security will ultimately work to the detriment of the United States. Current global challenges will require stronger, not weaker, frameworks for cooperation. If states assert a right to act pre-emptively and without legitimation from the United Nations the challenges to international institutions and the rule of law will be very great indeed. Instead of prudence governing decisions, strike thresholds will be lowered and the margins of error increased. For example, the perceived threat from Iraq’s production and use of weapons of mass destruction turned out to be erroneous. . Since nuclear weapons are now part of the national security strategy of the United States there would have been even more damage had the United States used nuclear weapons. The use of force of any kind, let alone the use of weapons of mass destruction that do not make any distinctions between combatant and civilian, cannot be decided unilaterally. The United States’ unique role as the world’s only country with unsurpassed military might makes it a particularly fearsome and feared country. When it begins to adopt policies that allow it to be the sole arbiter of how it will behave for the benefit of 280 million people in a world of over 6 billon people, its minority status will quickly make it not only a feared, but also a despised country. The United States is dependent upon other countries to detect and prevent acts of terrorism. It must move within a framework of agreed upon norms and standards. This ensures that the safeguards which the rule of law brings to protect human rights, secure justice, and seek peaceful solutions to conflict will lead to a stable and sustainable future for the whole human family

### Judicial Review DA

#### Restrictions inevitable---only a question of whether they are deliberate or haphazard

Benjamin Wittes 9, senior fellow and research director in public law at the Brookings Institution, is the author of Law and the Long War: The Future of Justice in the Age of Terror and is also a member of the Hoover Institution's Task Force on National Security and Law, “Legislating the War on Terror: An Agenda for Reform”, November 3, Book, p. 17

A new administration now confronts the same hard problems that plagued its ideologically opposite predecessor, and its very efforts to turn the page on the past make acute the problems of institutionalization. For while the new administration can promise to close the detention facility at Guantanamo Bay and can talk about its desire to prosecute suspects criminally, for example, it cannot so easily forswear noncriminal detention. While it can eschew the term "global war on terror," it cannot forswear those uses of force—Predator strikes, for example—that law enforcement powers would never countenance. Nor is it hastening to give back the surveillance powers that Congress finally gave the Bush administration. In other words, its very efforts to avoid the Bush administrations vocabulary have only emphasized the conflicts hybrid nature—indeed- emphasized that the United States is building something new here, not merely applying something old.¶ That point should not provoke controversy. The evidence that the United States is fumbling toward the creation of hybrid institutions to handle terrorism cases is everywhere around us. U.S. law, for example, now contemplates extensive- probing judicial review of detentions under the laws of war—a naked marriage of criminal justice and wartime traditions. It also contemplates warrantless wiretapping with judicial oversight of surveillance targeting procedures—thereby mingling the traditional judicial role in reviewing domestic surveillance with the vacuum cleaner-type acquisition of intelligence typical of overseas intelligence gathering. Slowly but surely, through an unpredictable combination of litigation, legislation, and evolutionary developments within executive branch policy, the nation is creating novel institutional arrangements to authorize and regulate the war on terror. The real question is not whether institutionalization will take place but whether it will take place deliberately or haphazardly, whether the United States will create through legislation the institutions with which it wishes to govern itself or whether it will allow an endless sequence of common law adjudications to shape them.¶ The authors of the chapters in this book disagree about a great many things. They span a considerable swath of the U.S. political spectrum, and they would no doubt object to some of one another's policy prescriptions. Indeed, some of the proposals are arguably inconsistent with one another, and it will be the very rare reader who reads this entire volume and wishes to see all of its ideas implemented in legislation. What binds these authors together is not the programmatic aspects of their policy prescriptions but the belief in the value of legislative action to help shape the contours of the continuing U.S. confrontation with terrorism. That is, the authors all believe that Congress has a significant role to play in the process of institutionalization—and they have all attempted to describe that role with reference to one of the policy areas over which Americans have sparred these past several years and will likely continue sparring over the next several years.

### 2AC – Politics

#### No immigration reform now—too much distrust of Obama

Leubsdorf 2-14

(Carl Leubsdorf is the former Washington bureau chief of The Dallas Morning News. “CARL LEUBSDORF - WHY GOP REVERSED COURSE -- AGAIN -- ON IMMIGRATION REFORM” 2-14-14 http://www.crescent-news.com/opinion/2014/02/14/carl-leubsdorf-why-gop-reversed-course-again-on-immigration-reform//wyoccd)

Well, that didn't take long.¶ Less than a week after House Republicans sought to shed their negative image by opening the way to a compromise on immigration legislation, they reversed course, declaring there was no way any bill could pass this year.¶ "There's widespread doubt about whether this administration can be trusted to enforce our laws," House Speaker John Boehner said. "And it's going to be difficult to move any immigration legislation until that changes."¶ Their decision means the GOP will have difficulty improving its negative standing with Hispanics before the 2016 election.¶ GOP lawmakers cited proposed border control provisions, President Barack Obama's changes with executive orders during the glitch-filled rollout of the Affordable Care Act and a variety of other measures.¶ Sen. Marco Rubio of Florida, who drew sharp conservative criticism for backing the bipartisan immigration bill that passed the Senate, said the IRS scandal, the Benghazi controversy and the health care law were "evidence the government, this administration, unilaterally decides which part of the law to enforce and not enforce."¶ A relative newcomer, Rubio seems not to know past presidents have done similar things. George W. Bush often issued signing statements noting which part of a law he would enforce, and others issued more executive orders than Obama. But the real reason is the continuing GOP split on the extent to which an immigration bill would provide legal status for the 11 million immigrants here illegally. Party leaders refuse to work with the Democratic minority to craft a compromise bill that could pass the House, insisting on a measure backed by "the majority of the majority."¶ According to several analysts, opinion in most Republican-held House districts opposes legal status for illegal immigrants, making any GOP backer vulnerable to a primary challenge. That would likely mean that the House would stay Republican but with a stronger tea party influence threatening Boehner's speakership.¶ Boehner talked of acting in 2015, but by then candidates in the GOP presidential race will be vying to take the strongest anti-immigrant positions. And Republicans rejected a proposal by a top Senate Democrat, Sen. Charles Schumer, for a law that would take effect after Obama leaves office.¶ Republicans don't want to give Obama a legislative victory. And Obama made passage of comprehensive immigration reform with some form of legal status, if not citizenship, one of his top second term goals.¶ The GOP stance is especially ironic, since Hispanic groups have sharply criticized the Obama administration for its zeal in deporting more than 2 million illegal immigrants.¶ But by refusing to consider immigration legislation, the House GOP could spur Obama to use his executive authority unilaterally to reduce deportations of illegal immigrants or expand the number who could stay permanently in the United States. That's what he did in 2012 when he gave permanent status to the so-called DREAMers, young Hispanics brought here illegally by their parents who became either military veterans, high school graduates or the equivalent.¶ Behind this jockeying is the realization by both parties that the nation's burgeoning Hispanic population could determine their political future. After all, the number of U.S. Hispanics will likely triple by 2040, spurring a big increase in their clout from their 10 percent of voters in 2012.¶ In a sense, California and Texas are the cutting edge of that change. In California, the GOP is still suffering from Gov. Pete Wilson's support for a 1994 referendum denying health and education benefits to illegal immigrants.¶ In Texas, Republicans risk similar damage from a voter identification law that will keep thousands of Hispanics from voting, redistricting plans that reduce Hispanic legislative clout and repeal of in-state college tuition for illegal immigrants.¶ So it was hardly surprising that the hint of a more positive national GOP attitude toward Hispanics was just too good to be true.

#### 3rd, no political battle means plan won’t derail Obama’s agenda- plan is popular in congress

Jakes 13

(Laura Jakes, writer for the Associate Press. “Congress Considers Putting Limits on Drone Strikes” 2-6-13 http://www.military.com/daily-news/2013/02/06/congress-considers-putting-limits-on-drone-strikes.html//wyoccd)

WASHINGTON -- Uncomfortable with the Obama administration's use of deadly drones, a growing number in Congress is looking to limit America's authority to kill suspected terrorists, even U.S. citizens. The Democratic-led outcry was emboldened by the revelation in a newly surfaced Justice Department memo that shows drones can strike against a wider range of threats, with less evidence, than previously believed.¶ The drone program, which has been used from Pakistan across the Middle East and into North Africa to find and kill an unknown number of suspected terrorists, is expected to be a top topic of debate when the Senate Intelligence Committee grills John Brennan, the White House's pick for CIA chief, at a hearing Thursday.¶ The White House on Tuesday defended its lethal drone program by citing the very laws that some in Congress once believed were appropriate in the years immediately after the Sept. 11 attacks but now think may be too broad.¶ "It has to be in the agenda of this Congress to reconsider the scope of action of drones and use of deadly force by the United States around the world because the original authorization of use of force, I think, is being strained to its limits," Sen. Chris Coons, D-Del., said in a recent interview.¶ Rep. Steny Hoyer of Maryland, the No. 2 Democrat in the House, said Tuesday that "it deserves a serious look at how we make the decisions in government to take out, kill, eliminate, whatever word you want to use, not just American citizens but other citizens as well."¶ Hoyer added: "We ought to carefully review our policies as a country."¶ The Senate Foreign Relations Committee likely will hold hearings on U.S. drone policy, an aide said Tuesday, and Chairman Robert Menendez, D-N.J., and the panel's top Republican, Sen. Bob Corker of Tennessee, both have quietly expressed concerns about the deadly operations. And earlier this week, a group of 11 Democratic and Republican senators urged President Barack Obama to release a classified Justice Department legal opinion justifying when U.S. counterterror missions, including drone strikes, can be used to kill American citizens abroad.¶ Without those documents, it's impossible for Congress and the public to decide "whether this authority has been properly defined, and whether the president's power to deliberately kill Americans is subject to appropriate limitations and safeguards," the senators wrote.

#### 4th, Political capital theory not true—and if the plan causes a fight it means Obama will get to pass more legislation—winning wins

Hirsh, 2013

[Michael, national journal chief correspondent, There’s No Such Thing as Political Capital, 3-30-13, http://www.nationaljournal.com/magazine/there-s-no-such-thing-as-political-capital-20130207] /Wyo-MB

But the abrupt emergence of the immigration and gun-control issues illustrates how suddenly shifts in mood can occur and how political interests can align in new ways just as suddenly. Indeed, the pseudo-concept of political capital masks a larger truth about Washington that is kindergarten simple: You just don’t know what you can do until you try. Or as Ornstein himself once wrote years ago, “Winning wins.” In theory, and in practice, depending on Obama’s handling of any particular issue, even in a polarized time, he could still deliver on a lot of his second-term goals, depending on his skill and the breaks. Unforeseen catalysts can appear, like Newtown. Epiphanies can dawn, such as when many Republican Party leaders suddenly woke up in panic to the huge disparity in the Hispanic vote.¶ Some political scientists who study the elusive calculus of how to pass legislation and run successful presidencies say that political capital is, at best, an empty concept, and that almost nothing in the academic literature successfully quantifies or even defines it. “It can refer to a very abstract thing, like a president’s popularity, but there’s no mechanism there. That makes it kind of useless,” says Richard Bensel, a government professor at Cornell University. Even Ornstein concedes that the calculus is far more complex than the term suggests. Winning on one issue often changes the calculation for the next issue; there is never any known amount of capital. “The idea here is, if an issue comes up where the conventional wisdom is that president is not going to get what he wants, and he gets it, then each time that happens, it changes the calculus of the other actors” Ornstein says. “If they think he’s going to win, they may change positions to get on the winning side. It’s a bandwagon effect.”

#### US influence in Latin America resilient and inevitable

Frank O. Mora '13, PhD in international affairs, Director of the Latin American and Caribbean Center and Professor of international relations at FSU AND Patrick Duddy, an American diplomat, formerly United States Ambassador to Venezuela, 5/1/13, "Latin America: Is U.S. influence waning?," http://www.miamiherald.com/2013/05/01/3375160/latin-america-is-us-influence.html#storylink=cpy

Is U.S. influence in Latin America on the wane? It depends how you look at it.¶ As President Obama travels to Mexico and Costa Rica, it’s likely the pundits will once again underscore what some perceive to be the eroding influence of the United States in the Western Hemisphere. Some will point to the decline in foreign aid or the absence of an overarching policy with an inspiring moniker like “Alliance for Progress” or “Enterprise Area of the Americas” as evidence that the United States is failing to embrace the opportunities of a region that is more important to this country than ever.¶ The reality is a lot more complicated. Forty-two percent of all U.S. exports flow to the Western Hemisphere. In many ways, U.S. engagement in the Americas is more pervasive than ever, even if more diffused. That is in part because the peoples of the Western Hemisphere are not waiting for governments to choreograph their interactions.¶ A more-nuanced assessment inevitably will highlight the complex, multidimensional ties between the United States and the rest of the hemisphere. In fact, it may be that we need to change the way we think and talk about the countries of Latin America and the Caribbean. We also need to resist the temptation to embrace overly reductive yardsticks for judging our standing in the hemisphere.¶ As Moises Naim notes in his recent book, The End of Power, there has been an important change in power distribution in the world away from states toward an expanding and increasingly mobile set of actors that are dramatically shaping the nature and scope of global relationships. In Latin America, many of the most substantive and dynamic forms of engagement are occurring in a web of cross-national relationships involving small and large companies, people-to-people contact through student exchanges and social media, travel and migration.¶ Trade and investment remain the most enduring and measurable dimensions of U.S. relations with the region. It is certainly the case that our economic interests alone would justify more U.S. attention to the region. Many observers who worry about declining U.S. influence in this area point to the rise of trade with China and the presence of European companies and investors.¶ While it is true that other countries are important to the economies of Latin America and the Caribbean, it is also still true that the United States is by far the largest and most important economic partner of the region and trade is growing even with those countries with which we do not have free trade agreements.¶ An area of immense importance to regional economies that we often overlook is the exponential growth in travel, tourism and migration. It is commonplace to note the enormous presence of foreign students in the United States but in 2011, according to the Institute of International Education, after Europe, Latin America was the second most popular destination for U.S. university students. Hundreds of thousands of U.S. tourists travel every year to Latin America and the Caribbean helping to support thousands of jobs.¶ From 2006-2011 U.S. non-government organizations, such as churches, think tanks and universities increased the number of partnerships with their regional cohorts by a factor of four. Remittances to Latin America and the Caribbean from the United States totaled $64 billion in 2012. Particularly for the smaller economies of Central America and the Caribbean these flows can sometimes constitute more than 10 percent of gross domestic product.¶ Finally, one should not underestimate the resiliency of U.S. soft power in the region. The power of national reputation, popular culture, values and institutions continues to contribute to U.S. influence in ways that are difficult to measure and impossible to quantify.

#### No impact to Warming- Mitigation and adaptation will solve

Robert O. Mendelsohn 9, the Edwin Weyerhaeuser Davis Professor, Yale School of Forestry and Environmental Studies, Yale University, June 2009, “Climate Change and Economic Growth,” online: http://www.growthcommission.org/storage/cgdev/documents/gcwp060web.pdf

These statements are largely alarmist and misleading. Although climate change is a serious problem that deserves attention, society’s immediate behavior has an extremely low probability of leading to catastrophic consequences. The science and economics of climate change is quite clear that emissions over the next few decades will lead to only mild consequences. The severe impacts predicted by alarmists require a century (or two in the case of Stern 2006) of no mitigation. Many of the predicted impacts assume there will be no or little adaptation. The net economic impacts from climate change over the next 50 years will be small regardless. Most of the more severe impacts will take more than a century or even a millennium to unfold and many of these “potential” impacts will never occur because people will adapt. It is not at all apparent that immediate and dramatic policies need to be developed to thwart long‐range climate risks. What is needed are long‐run balanced responses.

### 2AC – K

#### Extinction outweighs ontology

**Jonas 96** [Hans, Former Alvin Johnson Prof. Phil. At the New School for Social Research & Former Eric Voegelin Visiting Prof. at U. Munich, \*do not agree with gendered language, Mortality and Morality: A Search for the Good after Auschwitz, pg 111-2

With this look ahead at an ethics for the future, we are touching at the same time upon the question of the future of freedom. The unavoidable discussion of this question seems to give rise to misunderstandings. My dire prognosis that not only our material standard of living but also our democratic freedoms would fall victim to the growing pressure of a worldwide ecological crisis, until finally there would remain only some form of tyranny that would try to save the situation, has led to the accusation that I am defending dictatorship as a solution to our problems. I shall ignore here what is a confusion between warning and recommendation. But I have indeed said that such a tyranny would still be better than total ruin; thus, I have ethically accepted it as an alternative. I must now defend this standpoint, which I continue to support, before the court that I myself have created with the main argument of this essay. For are we not contradicting ourselves in prizing physical survival at the price of freedom? Did we not say that freedom was the condition of our capacity for responsibility—and that this capacity was a reason for the survival of humankind? By tolerating tyranny as an alternative to physical annihilation are we not violating the principle we established: that the How of existence must not take precedence over its Why? Yet we can make a terrible concession to the primacy of physical survival in the conviction that the ontological capacity for freedom, inseparable as it is from man’s being, cannot really be extinguished, only temporarily banished from the public realm. This conviction can be supported by experience we are all familiar with. We have seen that even in the most totalitarian societies the urge for freedom on the part of some individuals cannot be extinguished, and this renews our faith in human beings. Given this faith, we have reason to hope that, as long as there are human beings who survive, the image of God will continue to exist along with them and will wait in concealment for its new hour. With that hope—which in this particular case takes precedence over fear—it is permissible, for the sake of physical survival, to accept if need be a temporary absence of freedom in the external affairs of humanity. This is, I want to emphasize, a worst-case scenario, and it is the foremost task of responsibility at this particular moment in world history to prevent it from happening. This is in fact one of the noblest of duties (and at the same time one concerning self-preservation), on the part of the imperative of responsibility to avert future coercion that would lead to lack of freedom by acting freely in the present, thus preserving as much as possible the ability of future generations to assume responsibility. But more than that is involved. At stake is the preservation of the Earth’s entire miracle of creation, of which our human existence is a part and before which man reverently bows, even without philosophical “grounding.” Here too faith may precede and reason follow; it is faith that longs for this preservation of the Earth (fides quaerens intellectum), and reason comes as best it can to faith’s aid with arguments, not knowing or even asking how much depends on its success or failure in determining what action to take. With this confession of faith we come to the end of our essay ontology.

#### Realism is inevitable—states will always seek to maximize power

John Mearsheimer, Professor, University of Chicago, THE TRAGEDY OF GREAT POWER POLITICS, 2001, p. 2.

The sad fact is that international politics has always been a ruthless and dangerous business, and it is likely to remain that way. Although the intensity of their competition waxes and wanes, great powers fear each other and always compete with each other for power. The overriding goal of each state is to maximize its share of world power, which means gaining power at the expense of other states. But great powers do not merely strive to be the strongest of all the great powers, although that is a welcome outcome. Their ultimate aim is to be the hegemon-that is, the only great power in the system.

#### Second, Predictions of terrorism are true- their critique replicates the logic preceding the attacks on Britain

**Jones ‘6** (The commentariat and discourse failure: language and atrocity in Cool Britannia International Aff airs 82: 6 (2006) 1077–1100 © 2006 The Author(s). Journal Compilation © 2006 Blackwell Publishing Ltd/The Royal Institute of International Aff airs DAVID MARTIN JONES AND M. L. R. SMITH )

Rather than accept the existence of a clear and present Islamist threat to western secularism and democracy after the 9/11 attacks, such critical thinking moved the discursive goal posts. **Critical thinkers and opinionators argued instead that western governments deliberately exaggerated the threat** to curtail legitimate dissent and civil liberties.46 In his bestselling book Dude, Where’s My Country? Michael Moore popularized this view, maintaining: ‘There is no terrorist threat. Why has our government gone to such absurd lengths to convince us our lives are in danger? The answer is nothing short of their feverish desire to rule the world, fi rst by controlling us, and then, in turn, getting us to support their eff orts to dominate the rest of the planet.’47 More measured academic commentary termed the propensity of liberal democratic governments to exaggerate the terrorist threat the ‘politics of fear’. Governments, they maintained, conjured the spectre of Islam and catastrophic terror attacks for illiberal purposes. The politics of fear persuaded the gullible masses to accept an illegitimate extension of state power under the rubric of counterterror policy. These measures eroded personal freedoms and restricted civil liberty. The UK government proposals to introduce identity cards, extend detention of terrorist suspects without trial and curtail expression of views calculated to infl ame racial hatred crystallized the new authoritarianism. The politics of fear also facilitated a contentious foreign policy legitimating the 2003 invasion of Iraq, on the grounds of necessary pre-emptive military action against all potential sources of threat and instability.48 Critics thus maintained that ‘Islamist terror’ constituted an all-purpose political bogeyman. Media commentary reinforced the politics of fear hypothesis. ‘So, a climate of fear it is,’ declared Jackie Ashley in the Guardian in March 2004: ‘Everywhere you turn, there is another gray-faced public fi gure telling you that a major terrorist attack is coming … and there is nothing we can do except trust our leaders.’49 In a similar, but academic, vein, security analyst Bill Durodié declared that ‘Insecurity is the key driving concept of our times. Politicians have packaged themselves as risk managers’ in order to pacify ‘a demand from below for protection’.50 The BBC series The Power of Nightmares, screened in the United Kingdom in early 2005, encapsulated this critical understanding for a wider audience.51 Advertising the series, the BBC News website in April 2005 announced: ‘The Power of Nightmares explores how the idea that we are threatened by a hidden and organized network is an illusion. It is a myth that has spread unquestioned through politics, the security services and the international media.’ Pre-publicity presented the threat as a ‘fantasy’ which ‘politicians then found restored their power and authority in a disillusioned age’, and argued somewhat mysteriously: ‘Those with the darkest fears became the most powerful.’52 If before 7/7 the politics of fear increasingly influenced mainstream media commentary, it also dominated UK and US campuses. The Guardian, sampling informed opinion prior to the screening of The Power of Nightmares, confi rmed the orthodoxy that the security bureaucracy and politicians constructed terrorism in order to pursue the politics of fear and repression.53 Adam Roberts, Professor of International Relations at Oxford University, observed that for governments the terror threat is of ‘absolute cosmic signifi cance’, legitimating an ‘anything goes’ attitude towards its defeat. For the historian Linda Colley, ‘States and their rulers expect to monopolise violence, and that is why they react so violently to terrorism.’ Given that there had been only one attack in Europe since 9/11, in Madrid in March 2003, Bill Durodié contended that the ‘reality [of the Al-Qaeda threat to the west] has been essentially a one-off ’.54 Nor was the evolving consensus confi ned to academic and media comment. Such views found support both among members of parliament and from common lawyers. In January 2005 Charles Kennedy, the leader of the Liberal Democrats, Britain’s third largest political party, asserted in his ‘New Year message’: A clear division is emerging in British politics: the politics of fear versus the politics of hope. Labour is counting on the politics of fear, ratcheting up talk of threat, crime and insecurity, while the Conservatives are re-working their populist scares about asylum and the European ‘menace’. Look at how Labour, with the support of the Conservatives, has undermined trust in the political process by its spin and reliance on external threats.55 Suspicion of a government policy based on the politics of fear similarly infl uenced legal decisions with respect to deportation or extradition orders for suspects wanted in third countries for terror-related off ences.56 More particularly, the law lords questioned the government’s authority to detain without trial non-British terror suspects resident in the UK, like Abu Qatada. In December 2004, the highest appellate court found Qatada’s detention illegal. One of the law lords, Lord Bingham, maintained that the government’s powers of detention ‘discriminate on the ground of nationality or immigration status’,57 while Lord Hoff man found that ‘The real threat to the life of the nation, in the sense of a people living in accordance with its traditional laws and political values, comes not from terrorism but from laws such as these.’58 Those who criticized the government for its political exploitation of the threat, however, failed to recognize that their rejection of the politics of fear was also politically motivated. For the politics of fear itself resulted in highly politicized threat assessments couched in the language of balance, neutrality and concern for an abstract standard of law that transcended short-term political contingencies. Thus, in his judgment on the detention of non-UK citizens, Lord Hoff man argued that ‘fanatical groups’ ‘do not threaten the life of the nation’. He continued: ‘Terrorist crime, serious as it is, does not threaten our institutions of government or our existence as a civil community.’59 Hoff man asserted as constitutional fact what could only be an expression of faith. In an analogous vein, the security analyst Bill Durodié discounted the pretensions of Islamism’s UK franchise. After the conviction of the Algerian Kamel Bourgass in 2005 for murder and conspiracy to commit a public nuisance using poisons and explosives, including ricin, Durodié dismissed Al-Qaeda as a ‘conspiracy of dunces’. Assessing the ‘sheer naivety and incompetence of all these so-called al- Qaeda operatives’ like Bourgass, Richard Reid, the ‘dim-witted shoe bomber who had trouble with matches’, and Sajid Badat, ‘the Gloucester loner who bottled out of emulating Reid’, Durodié asserted: ‘If that is the best of what the supposed massed ranks of al-Qaeda have to off er after three years [i.e. after 9/11] … we should have little to fear. But the media, politicians and the police have sought to portray the situation diff erently.’60 **The London bombs disproved the politics of fear hypothesis and exposed the evaluations of law lords like Hoff man and security analysts like Durodié. The facts, expressed in the toll of civilian lives, demonstrated that the government’s perception had been more acute than that of its critics.** But its detractors portrayed government attempts to counter the threat of terror and heighten the state of public vigilance as an insidious plot to undermine democratic values.**61 As Frank Furedi observed, those who believed in the politics of fear met one conspiratorial claim—that the government was using the threat of Islamic terror to weaken basic freedoms—with a counterconspiracy—that there wasn’t much of a threat to begin** **with**.62 **Hence, the politics of fear determined its own preferred policy response, namely, the practice of complacency. Rather than engaging in a debate about the proportionality of response to a home-grown threat of Islamist terror, those who detected the politics of fear lurking behind every government pronouncement instead presented the security predicament in the very reductionist terms of which they accused those who claimed to be exaggerating the threat**. **In other words, the proponents of the politics of fear played the politics of fear themselves.63** Indeed, the thesis required fear—in this case, fear of a creeping authoritarian dystopia—to sustain it. In this way, a reasonable public policy concern about counterterrorist measures eroding established legal rights rapidly degenerated into a one-dimensional caricature of government policy not far removed from paranoid post-9/11 movies like V for Vendetta (2006). Furthermore, the wider commentariat’s acceptance of the politics of fear had far from trivial consequences. Mainstream politicians, the liberal press, television, academics and the courts gave it wide currency as a more objective response to the post-9/11 environment. Its premise, fear, discounted the threat and denigrated any serious attempt to evaluate the actual character and extent of the problem, asserting, without empirical basis, its more insightful assessment of the situation. Lord Walker, the single dissenting law lord in the 8 to 1 judgment in favour of Qatada in December 2004, expressed the inherent danger contained in this politics of complacency, well before the 7/7 attacks. Walker found that It is certainly not the court’s function to substitute for the British Government’s assessment any other assessment of what might be the most prudent or most expedient policy to combat terrorism. When a state is struggling against a public emergency threatening the life of the nation, it would be rendered defenceless if it were required to accomplish everything at once, to furnish from the outset each of its chosen means of action with each of the safeguards.64 The politics of complacency, by contrast, denied the existence of a ‘public emergency’. To the extent that a threat existed, it was attributed largely to government exploitation and overreaction, which had constructed a Muslim out-group.65 Consequently, for the West, the Islamist threat was an ‘enemy of its own making’.66 The rhetoric in response to both the 7/7 attacks and the subsequent revelation of plots and conspiracies in London refl ects a strategic misunderstanding that confuses limited tactical ability with limited political goals. The semantic laxity that informed discussion of the terrorist threat reinforced this misconception. Terrorism is a tactic practised as part of a strategy in war, but it is not a material phenomenon in itself. **The lax terminology and distorted meanings attached to the phenomenon created the epistemological foundations of discourse failure.** This failure enabled Islamist extremists to exploit the fault-lines in liberal, multicultural societies like Britain, which tolerated or ignored their evolving global campaign to engineer an apocalyptic confrontation with secular modernity. Prior to July 2005, the British authorities recognized only one theatre of the ‘war against terrorism’, which required confronting the Islamist threat externally. Yet since 9/11 Al-Qaeda has rapidly mutated, evolving **via the Internet a largely home-grown jihadist strategy to infi ltrate and attack the cosmopolitan western cityscape. A coherent response therefore demands the pursuit of a far more vigorous strategy at home**. In particular, it requires abandoning the prevailing view that the domestic threat is best prosecuted as a criminal conspiracy. **It demands instead a total strategy to deal with a totalizing threat**. **This means recognizing that there is an existential threat,** unencumbered by the politics of fear, root causes and denial that for too long has impeded its eff ective prosecution. An adequate strategy requires, moreover, a multifaceted response that goes beyond law enforcement. This does not mean imposing arbitrary regimes of detention without trial. What it does require, however, is enhanced means of intelligence-gathering, both technical and human, together with a coherent set of government policies addressing education, welfare, asylum, immigration and culture in order to safeguard a sustainable civil association. The **evidence demonstrates the existence of a physical threat, not merely the political fear of a threat**. The implementation of a coherent set of social policies confronting the threat at home recognizes that securing state borders and maintaining internal stability is the fi rst task of responsible government, responsible media and a responsible public education sector, both secondary and tertiary. For **without the basis of security, necessarily premised upon the inculcation of a shared political culture, the conditions for political pluralism and liberal democracy gradually disappear**. This requires a return to the Hobbesian verities of sovereignty, which, despite the illusion of post-Cold War cosmopolitan multiculturalism and the elitist dream of a post-national constellation, represents the only secure basis for liberal democratic order.

#### Either Orientalism is inevitable and the K can’t solve, or our studies are good and we need interrogations into the situation in the Middle East from Western perspectives

Teitelbaum and Litvak 6

 (Joshua and Meir, Senior Fellow at the Moshe Dayan Center for Middle East and African Studies at Tel Aviv University, "Students, Teachers and Edward Said: Taking Stock of Orientalism," Middle East Review of International Affairs, March,www.campus-watch.org/article/id/2493, accessed 10-9-2011,WYO/JF

Said's disregard of the scope and complexity of research on Islam and the Middle East motivated Rodinson to comment that Said was not familiar enough with the main body of scholarly research on the Middle East.[[29]](http://meria.idc.ac.il/journal/2006/jv10no1a2.html%22%20%5Cl%20%22_edn29) However, Said's disregarding of this scholarship does not appear to result from a lack of familiarity, but rather from a political agenda, and the proof of this is that he continued to make his arguments regarding the monolithic character of Middle Eastern studies years after publishing this criticism. In order to demonstrate the nature of scholarship as an instrument of domination Said excoriates scholars of the Middle East for dividing into categories, classifying, indexing, and documenting "everything in sight (and out of sight)."[[30]](http://meria.idc.ac.il/journal/2006/jv10no1a2.html%22%20%5Cl%20%22_edn30) Does this, asks the Syrian philosopher Sadiq Jalal al-Azm, imply something vicious or is it simply characteristic of all scientific academic work, essential for a proper understanding of human societies and cultures altogether?[[31]](http://meria.idc.ac.il/journal/2006/jv10no1a2.html%22%20%5Cl%20%22_edn31) Thus, Said's condemnation of the generalizations made by Western scholars of the Middle East and his insistence that they study the Arabs and Muslims as individuals made some of his Arab critics wonder if this meant that it was impossible or unnecessary to study collective entities. If the inclusion of Marx in Orientalism comes from his lack of attention to individual cases, added James Clifford rhetorically, perhaps it is simply impossible to form social or cultural theory, and perhaps there is no room for research fields such as sociology?[[32]](http://meria.idc.ac.il/journal/2006/jv10no1a2.html%22%20%5Cl%20%22_edn32) Said's over-generalized and non-historic conception of "Orientalism" is at its most radical when he writes that "every European, in what he could say about the Orient, was a racist, and imperialist, and almost totally ethnocentric."[[33]](http://meria.idc.ac.il/journal/2006/jv10no1a2.html%22%20%5Cl%20%22_edn33) According to Nikki Keddie, who was praised by Said and who found positive points in his book, this argument generally encourages people to believe Westerners have no right to study the Middle East and insists that only Muslims and Arabs can investigate correctly Middle Eastern history.[[34]](http://meria.idc.ac.il/journal/2006/jv10no1a2.html%22%20%5Cl%20%22_edn34) Even the doyen of Middle Eastern scholarship of the Middle East, Albert Hourani, a Christian Arab like Said, shared the feeling that the book might lend support to a Muslim counter-attack based on the idea that no one understands Islam better than Muslims.[[35]](http://meria.idc.ac.il/journal/2006/jv10no1a2.html%22%20%5Cl%20%22_edn35) While Said denied that this was his intention,[[36]](http://meria.idc.ac.il/journal/2006/jv10no1a2.html%22%20%5Cl%20%22_edn36) the actual text of the book and the conclusion of many readers belie this assertion. Moreover, disqualifying all researchers who come outside the examined group--in every area of the world--would put an end to all serious academic research. It also neglects the fact that outside researchers may have certain advantages, since as an outsider the scholar might be free from the myths or preconceptions which insiders share. Said also raises a doubt as to whether anyone can study (in his words, "represent") any subject in any manner other than in an entirely subjective way, which is determined by the culture of the scholar-observer. He believes that the unknown, the exotic, and the foreign have always been perceived, assimilated, and represented in these terms. This leads him to doubt that any scholarship can even come close to the truth, or in his words, "whether indeed there can be a true representation of anything, or whether any or all representations, because they are representations," are so intertwined with the institutions, language, and culture of the representer to render the truth impossible.[[37]](http://meria.idc.ac.il/journal/2006/jv10no1a2.html%22%20%5Cl%20%22_edn37) The obvious conclusion from this argument, as Winder and al-Azm show, is that according to Said, "Orientalism" is inevitable since such distortions are inevitable. If one accepts this argument, however, as al-Azm suggests, this only means the West was merely doing what all cultures must do: examine other cultures through the concepts and frameworks it already holds.[[38]](http://meria.idc.ac.il/journal/2006/jv10no1a2.html%22%20%5Cl%20%22_edn38) If this is true, Winder explains, that everyone who sees the "other" distorts it, then the West is no different from other cultures, including Islamic culture, which also has a distorted perspective of the "other." If indeed, Winder wonders, Said demands that Westerners should be better, does he not accept that they have a certain supremacy, a certain mission that makes them superior? Or should different criteria apply to the West simply because it was more "successful" than other societies? Thus, Said himself is promoting a clearly "Orientalist" perspective, accepting and forgiving the "weakness" of Middle Eastern society. "Westerners," claims Winder, "are not better, but Western science, including ‘Orientalism,' is self-bettering in that it is self-corrective."[[39]](http://meria.idc.ac.il/journal/2006/jv10no1a2.html%22%20%5Cl%20%22_edn39) By determining that all "representations" of the other are by definition distortions, Said is saying that people can only study themselves, that only Muslims can properly "represent" Islam. In our experience this has led to a crippling timidity amongst non-Muslim or non-Arab students. While it is good scholarship to control for bias, Said's influence has made students chary of writing about Islam and the Arabs from a point of view not necessarily shared by the objects of their research. They give more weight to an Arab or Islamic viewpoint and are fearful of developing an opinion of their own.

#### View the debate through a lens of specificity – rigid rejection of “China threat” gets warped into a new orthodoxy and fuels extremism. Recognizing plural interpretations and linkages is more productive.

Callahan 5 (William A., Professor of Politics – University of Manchester, “How to Understand China: The Dangers and Opportunities of Being a Rising Power”, Review of International Studies, 31)

Although ‘China threat theory’ is ascribed to the Cold War thinking of foreigners who suffer from an enemy deprivation syndrome, the use of containment as a response to threats in Chinese texts suggests that Chinese strategists are also seeking to fill the symbolic gap left by the collapse of the Soviet Union, which was the key threat to the PRC after 1960. Refutations of ‘China threat theory’ do not seek to deconstruct the discourse of ‘threat’ as part of critical security studies. Rather they are expressions of a geopolitical identity politics because they refute ‘Chinese’ threats as a way of facilitating the production of an America threat, a Japan threat, an India threat, and so on. Uniting to fight these foreign threats affirms China’s national identity. Unfortunately, by refuting China threat in this bellicose way – that is by generating a new series of threats – the China threat theory texts end up confirming the threat that they seek to deny: Japan, India and Southeast Asia are increasingly threatened by China’s protests of peace.43 Moreover, the estrangement produced and circulated in China threat theory is not just among nation-states. The recent shift in the focus of the discourse from security issues to more economic and cultural issues suggests that China is estranged from the ‘international standards’ of the ‘international community’. After a long process of difficult negotiations, China entered the WTO in December 2001. Joining the WTO was not just an economic or a political event; it was an issue of Chinese identity.44 As Breslin, Shih and Zha describe in their articles in this Forum, this process was painful for China as WTO membership subjects the PRC to binding rules that are not the product of Chinese diplomacy or culture. Thus although China enters international organisations like the WTO based on shared values and rules, China also needs to distinguish itself from the undifferentiated mass of the globalised world. Since 2002, a large proportion of the China threat theory articles have been published in economics, trade, investment, and general business journals – rather than in international politics, area studies and ideological journals as in the 1990s. Hence China threat theory is one way to differentiate China from these international standards, which critics see as neo-colonial.45 Another way is for China to assert ownership over international standards to affirm its national identity through participation in globalisation.46 Lastly, some China threat theory articles go beyond criticising the ignorance and bad intentions of the offending texts to conclude that those who promote China threat must be crazy: ‘There is a consensus within mainland academic circles that there is hardly any reasonable logic to explain the views and practices of the United States toward China in the past few years. It can only be summed up in a word: ‘‘Madness’’ ’.47 Indians likewise are said to suffer from a ‘China threat theory syndrome’.48 This brings us back to Foucault’s logic of ‘rationality’ being constructed through the exclusion of a range of activities that are labelled as ‘madness’. The rationality of the rise of China depends upon distinguishing it from the madness of those who question it. Like Joseph Nye’s concern that warnings of a China threat could become a self-fulfilling prophesy, China threat theory texts vigorously reproduce the dangers of the very threat they seek to deny. Rather than adding to the debate, they end up policing what Chinese and foreigners can rationally say. Conclusion The argument of this essay is not that China is a threat. Rather, it has examined the productive linkages that knit together the image of China as a peacefully rising power and the discourse of China as a threat to the economic and military stability of East Asia. It would be easy to join the chorus of those who denounce ‘China threat theory’ as the misguided product of the Blue Team, as do many in China and the West. But that would be a mistake, because depending on circumstances anything – from rising powers to civilian aircraft – can be interpreted as a threat. The purpose is not to argue that interpretations are false in relation to some reality (such as that China is fundamentally peaceful rather than war-like), but that it is necessary to unpack the political and historical context of each perception of threat. Indeed, ‘China threat’ has never described a unified American understanding of the PRC: it has always been one position among many in debates among academics, public intellectuals and policymakers. Rather than inflate extremist positions (in both the West and China) into irrefutable truth, it is more interesting to examine the debates that produced the threat/opportunity dynamic.

#### Alt fails—causes same essentialist tropes that they criticize

Teitelbaum and Litvak 6

 (Joshua and Meir, Senior Fellow at the Moshe Dayan Center for Middle East and African Studies at Tel Aviv University, "Students, Teachers and Edward Said: Taking Stock of Orientalism," Middle East Review of International Affairs, March,www.campus-watch.org/article/id/2493, accessed 10-9-2011,WYO/JF

There is a contradiction between two central arguments in Said's approach. On the one hand, he writes that Orientalism created the Orient and that it is merely a "construction" of the Orientalists which does not exist in reality. On the other hand, throughout his book, he repeats the premise of an unchanging relationship between a West that was hostile as far back as ancient Greece, and a victimized Orient, as if these two entities were indeed historical realities. The result is that Said himself establishes a false dichotomy between East and West. He depicts the West and the East in the same essentialist and ahistorical manner which is unchanging across time and against which he rails. While critical of the Western media's treatment of Islamic countries and its ignoring of the role of the imperialist powers in forming the painful history of the region, at the same time, Janet Afary sees Said's criticism as a "mirror image of the colonialist discourse which he dissects." According to her, Said's weltanschauung is "Manichaean…in which the West represents the dominant male and the East--the subservient female locations." In so doing, he ignores such matters as "[e]thnic complexities, class, and gender divisions...." and "the problematic role of religion and its unhappy coexistence with democracy."[[51]](http://meria.idc.ac.il/journal/2006/jv10no1a2.html%22%20%5Cl%20%22_edn51) In his description of the Orient as helpless under the Orientalists, or in his own words, "it is perhaps true that Islam has produced no very powerful visual aesthetic tradition,"[[52]](http://meria.idc.ac.il/journal/2006/jv10no1a2.html%22%20%5Cl%20%22_edn52) Said himself surrenders to the very Orientalist discourse which he excoriates for presenting Islam as inferior. If he had an awareness of such architectural marvels as the Dome of the Rock, the mosque of Ibn Tulun, or the truly spectacular Islamic metal, ceramic, and glassware on exhibit around the world, he might not have made such an assertion. He also states that there is a lack of good libraries in the Middle East, which is surely not the case.By attempting to impute such rigid roles and natures to the West and the East, Said not only underestimates the contributions of Islamic societies, but also commits the sin of "essentialism" which he so reviles. Joel Kraemer noted that it is impossible to attribute ancient Greek philosophy and science to an essential West and remove it from the Middle East. The works of Plato, Aristotle, Ptolemy and Galen spoke to the hearts of the three main civilizations of the Middle Ages--Arab-Muslim, Byzantine, and Latin--each in its own special way. The Arab role in absorbing and assimilating the scientific and philosophical Greek classics and then transferring them to Europe is known to all. Yet this historical phenomenon does not interest Said at all, for it contradicts his fixation on the dichotomous contrast between cultures. Islamic civilization grew and blossomed in a direct and intimate link to the other civilizations in the Mediterranean basin. Many scholars of Islam therefore deliberated the question whether to see it as a part of the European cultural sphere or that of the Middle East. Most of them believed that it stood alongside European culture, sharing one degree of closeness or another; not in opposition, but as a neighbor.[[54]](http://meria.idc.ac.il/journal/2006/jv10no1a2.html%22%20%5Cl%20%22_edn54)

## 1AR

#### Courts would be secret

Hosenball, 2013

[Mark, Reuters, Support grows for U.S. "drone court" to review lethal strikes, 2-8-13, http://www.reuters.com/article/2013/02/09/us-usa-drones-idUSBRE91800B20130209] /Wyo-MB

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."

#### The permutation is key to solvency

Kamiya 6

(Gary Kamiya, M.A. from U.C. Berkeley, founder of Salon, political analyst and writer @ Salon, "How Edward Said took intellectuals for a ride" Dec 6 2006 www.salon.com/books/feature/2006/12/06/orientalism

As America tries to figure out how to deal with the Arab and Muslim world, and to educate the American people so that catastrophes like Iraq don’t happen again, it is vital that a full spectrum of opinions be heard. The long history of Western imperialist meddling in the Middle East, the West’s consistent stifling of Arab attempts at political reform, and many other such matters must be discussed. But it is equally important that the role of religion and culture be acknowledged, and that historical and even anthropological analyses of Middle Eastern societies not be ruled out by the left simply because they lead to certain conclusions that may make bien-pensant intellectuals uncomfortable. (The role of tribes and the importance of honor and revenge in Arab culture are two examples.) All of these complex issues must be put on the table and given a full national discussion — for our sake, for the Middle East’s sake and for the world’s sake. Said argued that Western knowledge about the Middle East serves only Western interests. Against that dark view, we need to insist that knowledge is always good. As we struggle not just to extricate ourselves from Iraq but also to forge a more humane and enlightened policy toward the Middle East, we need more Orientalism, not less.