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#### We meet – contextual ev

Guiora, 12 [Amos, Professor of Law, SJ Quinney College of Law, University of Utah, author of numerous books dealing with military law and national security including Legitimate Target: A Criteria-Based Approach to Targeted Killing, “Drone Policy: A Proposal Moving Forward,” <http://jurist.org/forum/2013/03/amos-guiora-drone-policy.php>]

To re-phrase, this strict scrutiny test seeks to strike a balance by enabling the state to act sooner but subjecting that action to significant restrictions. This paradigm would be predicated on narrow definitions of imminence and legitimate targets. Rather than enabling the consequences of the DOJ memo, the strict scrutiny test would ensure implementation of person-specific operational counterterrorism. That is the essence of targeted killing conducted in accordance with the rule of law and morality in armed conflict.

#### “Statutory restrictions” can mandate judicial review, but are *enacted* by congress

Mortenson 11 (Julian Davis Assistant Professor, University of Michigan Law School, “Review: Executive Power and the Discipline of History Crisis and Command: The History of Executive Power from George Washington to George W. Bush John Yoo. Kaplan, 2009. Pp vii, 524,” Winter 2011, University of Chicago Law Review 78 U. Chi. L. Rev. 377)

At least two of Yoo's main examples of presidential power are actually instances of presidential deference to statutory restrictions during times of great national peril. The earliest is Washington's military suppression of the Whiskey Rebellion (III, pp 66-72), a domestic disturbance that Americans viewed as implicating adventurism by European powers and threatening to dismember the new nation. n60 The Calling Forth Act of 1792 n61 allowed the President to mobilize state militias under federal control, but included a series of mandatory procedural checks--including judicial [\*399] approval--that restricted his ability to do so. n62 Far from defying these comprehensive restrictions at a moment of grave crisis, Washington satisfied their every requirement in scrupulous detail. He issued a proclamation ordering the Whiskey Rebels to disperse. n63 When they refused to do so, he submitted a statement to Justice James Wilson of the Supreme Court describing the situation in Pennsylvania and requesting statutory certification. n64 Only when Wilson issued a letter precisely reciting the requisite statutory language (after first requiring the President to come back with authentication of underlying reports and verification of their handwriting n65) did Washington muster the troops. n66 Washington's compliance with statutory restrictions on his use of force continued even after his forces were in the field. Because Congress was not in session when he issued the call-up order, Washington was authorized by statute to mobilize militias from other states besides Pennsylvania--but only "until the expiration of thirty days after the commencement of the ensuing [congressional] session." n67 When it became clear that the Pennsylvania campaign would take longer than that, Washington went back to Congress to petition for extension of the statutory time limit that would otherwise have required him to [\*400] disband his troops. n68 Far from serving as an archetypal example of presidential defiance, the Whiskey Rebellion demonstrates exactly the opposite. FDR's efforts to supply the United Kingdom's war effort before Pearl Harbor teach a similar lesson. During the run-up to America's entry into the war, Congress passed a series of Neutrality Acts that supplemented longstanding statutory restrictions on providing assistance to foreign belligerents. Despite these restrictions, FDR sent a range of military assistance to the future Allies. n69 Yoo makes two important claims about the administration's actions during this period. First, he claims the administration asserted that "[a]ny statutory effort by Congress to prevent the President from transferring military equipment to help American national security would be of 'questionable constitutionality'" (III, p 300). Second, he suggests that American military assistance in fact violated the neutrality statutes (III, pp 295-301, 310, 327-28).

#### Restrict doesn’t mean prohibit

**Coffey, 82** - US Circuit Judge, dissenting (VICTOR D. QUILICI, ROBERT STENGL, et al., GEORGE L. REICHERT, and ROBERT E. METLER, Plaintiffs-Appellants, v. VILLAGE OF MORTON GROVE, et al., Defendants-Appellees Nos. 82-1045, 82-1076, 82-1132 UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT 695 F.2d 261; 1982 U.S. App. LEXIS 23560, lexis)

Pursuant to section 83, a municipality can enact an ordinance reasonably restricting or confining the use and possession of firearms. A municipality can also require registration of firearm ownership. What the legislature has authorized is limited regulation of firearm possession by local units of government, but not prohibition. Section 83 does not allow a municipality such as Morton Grove to categorically prohibit handgun possession. [\*\*35] To limit or restrict involves a circumscription which falls far short of an absolute prohibition.

"The words 'prohibit' and 'restrict' are not synonymous. They are not alike in their meaning in their ordinary use . . . . 'To restrict is to restrain within bounds; to limit; to confine and does not mean to destroy or prohibit.'"

#### 5.Prefer our interpretation

#### Topic Education— drone courts are heart of topic in targeted killing, it is the largest policy proposal for resolving presidential authority

#### Predictable ground—best to include largest cases in the literature because they are a locus for negative and affirmative research and preparation

#### 6. Prefer reasonability over competing interpretations if the aff doesn’t make debate impossible than you can’t vote against us

## CP

#### Perm do both—have a drone court to review the decision of the NSC court

#### Can’t solve judicial independence—perceived as extension of the executive

Herron and Randazzo, 2003

[Erik, University of Kansas and Kirk, University of Kentucky, The Relationship Between Independence and Judicial Review in Post-Communist Courts, THE JOURNAL OF POLITICS, Vol. 65, No. 2, May 2003, Pp. 422–438, http://people.cas.sc.edu/randazzo/herron\_randazzo\_2003\_jop.pdf] /Wyo-MB

Understanding the relationship between independence and judicial review is¶ essential to determining the role of courts in states emerging from decades of¶ communist rule. Despite an almost universal consensus regarding its normative¶ value, the evolution of judicial independence in new democracies has yet to be¶ fully explored (Larkins 1996, 607). Scholars have posited the importance of judicial independence without investigating in detail how courts express independent behavior.¶ Complicating the study of judicial independence is the lack of a single, satisfactory deﬁnition (Boylan 1998). At its most basic level, independence is related¶ to the impartial resolution of conﬂict by a neutral third party (Shapiro 1981).¶ Embedded within the notion of neutrality is the belief that judges will not be¶ inﬂuenced by exogenous factors during the adjudication of disputes. For the judiciary to be independent (and consequently perceived as impartial), it cannot be¶ viewed as an extension of the political branches of government. The appearance¶ of impartiality is necessary for the public to believe the judiciary is a legitimate¶ component of a triadic structure, rather than a politically biased actor (Gibson,¶ Caldeira and Baird 1998; Lane 1985; Shetreet 1985). Becker (1970) provides a¶ useful deﬁnition of judicial independence:¶ Judicial independence is (a) the degree to which judges believe they can decide and do decide¶ consistent with their own personal attitudes, values and conceptions of judicial role (in their¶ interpretation of the law), (b) in opposition to what others, who have or are believed to have¶ political or judicial power, think about or desire in like matters, and (c) particularly when a¶ decision adverse to the beliefs or desires of those with political or judicial power may bring¶ some retribution on the judges personally or on the power of the court. (144)¶ An independent judiciary will be free to exert its own judgment in legal disputes¶ without fear of retribution, especially if the decisions are not viewed favorably¶ by other political actors. However, as Stephens (1985, 529) argues, an independent judiciary should not interfere with the legitimate actions of the political¶ branches, but neither should it feel compelled to uphold unlawful actions.¶ To rule on the propriety of government behavior, courts must rely on the ability¶ to review legislation and actions under a higher authority, generally the constitution. The ability of courts to nullify laws and decrees serves as the check against¶ the other branches of government, but judges often must be wary of exercising¶ their authority. Judges in post-communist countries seem to frequently employ¶ subtle strategies when reviewing legislation, similar to their colleagues in Western¶ democracies.3¶ Rather than declaring an entire statute unconstitutional, judges¶ have struck down portions of the law as unconstitutional or unlawful or declared¶ legislation unlawful for procedural reasons.

#### Strong judicial model prevents Russian loose nukes

Nagle, Independent Research Consultant Specializing in the Soviet Union, 1994 (Chad. “What America needs to do to help Russia avoid chaos” Washington Times, August 1, Lexis Nexis)

As things stand right now, there is indeed potential for danger and instability in Russia, as Mr. Criner notes. But this is not because America has failed to act as a "moral compass" in the marketplace. Rather, Russia's inherent instability at present stems from the fact that in all of its 1,000-year history, it never had a strong, independent judiciary to act as a check on political power. The overwhelming, monolithic power of the executive, whether czar or Communist Party, has always been the main guarantor of law and order. Now, as a fragile multiparty democracy, Russia has no more than an embryo of a judiciary. The useless Constitutional Court is gone, the Ministry of Justice is weak, and the court system is chaotic and ineffective. Hence, the executive determined the best safeguard against the recurrence of popular unrest, the kind that occurred in October 1993, to be the concentration of as much power as possible in its hands at the expense of a troublemaking parliament. Under a sane and benign president, Russia with a "super presidency" represents the best alternative for America and the West. The danger lies in something happening to cause Mr. Yeltsin's untimely removal from office. If Russia is ever to develop a respected legal system, it will need the protracted rule of a non-tyrannical head of state. In the meantime, the United States can provide a model to Russia of a system in which the judiciary functions magnificently. America, the world's only remaining superpower, can provide advice and technical expertise to the Russians as they try to develop a law-based society. We can also send clear signals to the new Russia instead of the mixed ones emanating from the Clinton administration. Now is the time for America to forge ahead with the "new world order," by promoting the alliance of the industrialized democracies of the Northern Hemisphere on American terms, not Russian. This constitutes the real "historical moment" to which Mr. Criner refers. Russia is not in a position to make threats to or demands of the United States any more so than when it ruled a totalitarian empire. It should learn to play by new rules as a first lesson in joining the family of nations. Coddling an aggressive Russia and giving it unconditional economic aid (as Alexander Rutskoi has called for) would be counterproductive, and might even encourage Russia to "manufacture" crises whenever it wanted another handout. Russia is indeed a dangerous and unstable place. The prospect of ordinary Third World political chaos in an economically marginal country with a huge stockpile of intercontinental ballistic missiles is a nightmare. However, Mr. Yeltsin is busily consolidating power, and the presidential apparatus is growing quickly. With his new team of gray, non-ideological figures intent on establishing order in the face of economic decline and opposition from demagogues (e.g. Vladimir Zhirinovsky and Mr. Rutskoi), Mr. Yeltsin is already showing signs of success. Under such circumstances, the best America can do is stand firm, extend the hand of friendship and pray for Mr. Yeltsin's continued good health.

#### Nuclear war

Allison, 2000

[Graham T. Allison, Russia''s "Loose Nukes" The continuing threat to American security, Harvard Magazine, September-October 2000, Vol. 103, No. 1. page 34-35] /Wyo-MB

Fortunately, today we do not have Cuban missile crises that force citizens to experience existentially the fear of nuclear danger. But that, unfortunately, leads many to imagine that these weapons have somehow disappeared. Kennedy and Khrushchev might have had difficulty imagining that 38 years after their historic confrontation, the greatest threat to their countries'' security would not be a calculated missile strike by an ideological foe, but instead Russia''s loose nuclear weapons, materials, and know-how. Continuing debate about missile defense should remind all Americans of the continued presence and threat of nuclear weapons, and should prompt policymakers to think carefully about the greatest danger of all.

#### And, Executive reform and review fails—not a neutral decision maker, secrecy and speed undermine effective decision making—counterplan undermines separation of powers

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 argument put forth here, therefore, is that in light of the protections the Constitution¶ affords U.S. citizens, there must be a degree of inter-branch process when such individuals are targeted by the government to ensure that (1) these individuals truly pose a direct and imminent threat to the United States and (2) targeting is truly the last resort.¶ The preceding case law suggests that domestic legal protections for U.S. citizens necessitate a higher procedural threshold.102 Justice O’Connor acknowledged the danger inherent in exclusively intra-branch process in Hamdi when she asserted that the Executive is not a neutral decision-maker as the “even purportedly fair adjudicators are disqualified by their interest in the controversy.”103 ß Marked 12:39 ß In rejecting the government’s argument that a “separation of powers” analysis mandates a heavily circumscribed role for the courts in these circumstances, Justice O’Connor concluded that in times of conflict, the Constitution “most assuredly envisions a role¶ for all three branches when individual liberties are at stake.”104 Applying this reasoning to the entirely intra-executive process currently being afforded to American citizens like al-Awlaki would suggest that in the realm of targeted killing, where the deprivation is one’s life, the absence of any “neutral decision-maker” outside the executive branch is a clear violation of due process guaranteed by the Constitution. On a policy level, the danger of intra-executive process is similarly alarming. As Judge James Baker, in describing the nature of covert actions put it:¶ Because this process is internal to the executive branch, it is subject to executive-branch exception or amendment, with general or case-specific approval by the president. This is risky because in this area, as in other areas of national security practice, the twin necessities of secrecy and speed may pull as they do against the competing interests of deliberate review, dissent, and accountable decision-making.105

#### 2nd, 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.

#### 3rd, 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.

#### 5th, Cant solve drone prolif—Courts play a highly influential role on executive’s behavior and are key to solve transparency in strikes

Wexler 13

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

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

## Politics

#### UQ – Won’t Pass – no momentum, fractured GOP caucus, and no time

Jordan Fabian, “The House Can't Handle Immigration Reform [Analysis],” ABC News, 10/16/2013. http://abcnews.go.com/ABC\_Univision/house-handle-immigration-reform-analysis/story?id=20587483&singlePage=true

President Obama says he’s ready to renew the push for immigration reform immediately after the fiscal crises plaguing Washington end. We’re not convinced that’s a fight he can win. Obama told Univision’s Los Angeles affiliate KMEX Tuesday that once the government is re-opened and the debt ceiling is lifted, “the day after I’m going to be pushing to say, call a vote on immigration reform.” And immigration-reform activists are reportedly drawing up plans to marshal an immigration bill through the House of Representatives, hoping that Republicans who control the lower chamber be willing to come back to the table after a bruising fiscal battle. But if the debt-ceiling and shutdown fights taught us anything, it’s that the House of Representatives is extremely fractured. It’s a body that seems incapable of handling a bill that requires compromise to pass. A Divided Party The House has struggled to build majorities around bills that can actually become law in a divided capital. Since last year, House leaders have failed to pass their “Plan B” to avert the fiscal cliff, a farm bill, and their last-ditch gambit to resolve the shutdown and debt ceiling, as NBC’s “First Read” noted. The same goes for immigration. After the Senate passed a sweeping immigration overhaul with a bipartisan vote in June, House GOP leaders convened a “special conference” on the issue. But they emerged from the meeting with no clear plan upon which a majority of members could agree. In the meantime, none of the small-bore immigration bills favored by Republicans have seen a vote on the floor of the House. A bipartisan Gang of lawmakers who were drafting a broad immigration overhaul broke apart last month. And a House Democratic bill that closely mirrors the Senate’s bill is going nowhere. Four months after that special conference, an immigration bill that could pass the House looks as out of reach as ever. Boehner’s Weakness House Speaker John Boehner (R-Ohio) has made every effort to placate rebellious Tea Party elements within the House GOP, yet he has still struggled to form majorities around major pieces of legislation. That’s been the main reason for the holdup on immigration. The Senate’s immigration bill likely has the votes -- between Democrats and a handful of Republicans -- to pass the House. But Boehner has refused to violate the unwritten “Hastert Rule," under which legislation must have the support of the majority of the majority to come to the floor. That’s because most House Republicans likely oppose a path to citizenship for undocumented immigrants. Pro-immigration advocates have pointed out that Boehner has broken the Hastert Rule on at least three key votes this year. They argue that the Speaker may do it again, especially to pass a proposal that’s backed by business interests and party strategists who believe it’s necessary to start winning back Latino voters. Boehner may even violate it to end the current fiscal crisis. But yesterday’s failure on the fiscal crisis further weakened Boehner’s hand within his conference. That makes it even less likely that he will roll them over to pass a bill that’s at the top of President Obama’s list of domestic priorities. Time Supporters of immigration reform have long hoped to pass a bill by the end of next year, fearing that the process could stall in 2014, an election year. But that looks as unlikely as ever. The House only has 23 more planned legislative days left this year. That’s not a lot of time to pass an immigration overhaul, especially considering it took the Senate over two months to pass its immigration bill after it was introduced. President Obama said that he would renew his immigration push ”the next day” after the fiscal crisis is over. But it’s unclear when the crisis will truly end. The Senate’s proposal to end the current standoff would reportedly fund the government until Jan. 15 and extend the country’s borrowing authority until Feb 7. Whether it’s a broad proposal like the Senate’s or a smaller bill designed to open negotiations, it’s hard to imagine the House passing an immigration bill getting passed in that short time frame.

#### IL - Obama not investing PC and PC not key – GOP will come to it on its own and Obama has no sway over reflexively oppositional House republicans

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

Don’t expect the White House effort to include barnstorming across the country on behalf of immigration reform in the days after the fiscal crisis ends, reform proponents predict. Advocates said the White House has tried hard to help immigration reform along, and in the current climate that means trying to thread the needle with Republicans who support reform but have also reflexively opposed every one of Obama’s major policy proposals.¶ Democrats and advocates seem to hope the GOP comes back to immigration on its own, albeit with a boost from Democrats eager to join them. Polls show Republicans have taken on more of the blame from the fiscal battle of the past couple of weeks. But Tom Jensen, a pollster with the Democratic firm Public Policy Polling, said moving to pass immigration reform could be just what the doctor ordered to get the public back on the side of the Republicans. ¶ “We’ve consistently found that a sizable chunk of Republican voters support immigration reform, and obviously a decent number of Republican politicians do too,” Jensen said. “After this huge partisan impasse, they may want to focus on something that’s not quite as polarized, and immigration would certainly fit the bill since we see voters across party lines calling for reform.”

#### Thumper – Agenda dead – shutdown lost independent voters, near term consumed by more budget talks, Obamacare rollout failures, GOP abstinence, natural 2nd term decline

Scott Wilson and Juliet Eilperin, “Obama plans to renew immigration, climate change efforts,” Washington Post, 10/16/13.

But White House officials also acknowledged that many Republicans, particularly in the House, remain ardently opposed to much of Obama’s agenda and may be unwilling to help him accomplish key legislative goals.¶ The assessment came as administration officials welcomed the fiscal deal that emerged from the Senate on Wednesday, which would fund the government until the middle of January, lift the borrowing limit through Feb. 7 and establish negotiations over a long-term budget agreement.¶ The deal — which White House aides said Obama would have happily signed before the shutdown that began Oct. 1 — meets the president’s demand that his health-care law not be significantly modified in return for a functioning government.¶ Now administration officials say they hope to persuade a chastened Republican Party, battered in the polls, to support elements of Obama’s languishing agenda.¶ But the new fiscal deadlines, looming just months away, mean that much of Obama’s energy in the near term is likely to be consumed by budget talks. Democrats worry that the agreement may set in motion a process that runs out the clock on Obama’s ability to secure policy gains before the 2014 midterm elections.¶ White House officials argued Wednesday that Congress must take on more than one issue at a time given the problems facing the country. They specifically cited the immigration bill, already passed by the Democratic-controlled Senate, as one that would provide political benefits for beleaguered House Republicans.¶ “The president believes that one of the consequences of this manufactured crisis is that time is taken away from the pursuit of other goals we have as a nation,” White House press secretary Jay Carney told reporters.¶ “I don’t think that I can sort of place quantitative odds on the prospects of any of this,” he added. “Congress is a difficult institution to make predictions about.”¶ Obama has argued throughout his time in office that government, especially during difficult economic times, is essential to improving the nation’s prospects and the lives of individuals. The premise has been severely tested by the 16-day government shutdown, which cost Obama support among independent voters who helped elect him, although congressional Republicans fared even worse.¶ As he seeks to make the case again, Obama will also be hampered by the problems facing the enrollment process of his signature health-care law. Millions of visitors to the Web site providing access to the insurance exchanges have overwhelmed the system, a failure of both coding and preparation.¶ Obama has been meeting daily with advisers responsible for fixing the problems, and officials say he will continue to insist that the work will go on round-the-clock. With the fiscal confrontation over, Republicans will turn more of their attention to those flaws, as may the public.¶ Even with federal workers returning to their jobs, the administration’s ability to execute policy is undermined by the fact it still has dozens of posts in key agencies that remain unfilled. There are 183 executive nominations pending in the Senate. At the Department of Homeland Security, more than a dozen top officials — including the secretary — are acting rather than permanent.¶ “We continue to call on Congress — the Senate, rather — to fulfill its responsibility to consider nominees and then give them a vote,” Carney said. “And we hope that, again, if we can move past these crises and focus on other issues that this is one that can get some attention.”¶ New York University public service professor Paul C. Light is pessimistic that Obama can accomplish much in coming months, saying even immigration reform is a long shot. He said Obama is running out of time to get things done in the face of GOP resistance and the inevitable decline of influence that comes with a second term.¶ “I don’t think that he’ll get anything. His agenda is finished,” Light said. “It’s a political tragedy because he’s got more knowledge about the job and less juice to get it done.”¶

#### 1st, Restrictions on targeted killing coming now—debates on transparency and oversight thump the disad

Stangler, 9-16-13

[Cole, In These Times staff writer based in northeast D.C., covering Congress, corruption and politics in Washington. His reporting has appeared in The Huffington Post and The American Prospect, Will Syria Re-Energize the Anti-Drone Movement?, http://inthesetimes.com/article/15627/will\_syria\_re\_energize\_the\_anti\_drone\_movement/] /Wyo-MB

“It can be enough to have champions in Congress who are going to really push these issues with the administration, especially if they’re on key committees,” Benjamin says. “We’re having a Drone Summit November 16 and 17, and before these issues around Syria, I was saying, ‘Oh, it’s not even worth it to try and get Congress people to come; they’re not going to want to be seen as speaking out against the administration’s policies.’ And now I feel totally differently. Now I feel like, ‘Yes, let’s push them to come to the drone summit. Let’s get them to be our champions.’ ”¶ One of those champions, at least on the issue of targeted killings, could very well be Grayson, who sits on the House Committee on Foreign Affairs. In These Times asked the congress member if he was interested in addressing and reining in the administration’s use of dronesß Marked 12:41 ß .¶ “Yes, that’s up for debate,” Grayson answered. ”It’s clear now that we’ve killed over 100 children in these drone attacks. It’s difficult to characterize these children as, in any sense, Al-Qaeda members. And the problem with drone attacks is that it makes warfare almost invisible to everyone except the victims. The Obama administration has used drones according to published reports over 100 times in Pakistan and in Yemen. And what they’ve created was the same sort of secret war that we ended up condemning Nixon for in Cambodia. This is a war that kills, this is a war that maims, this is a war that has its collateral damage and its victims in spades—even the occasional American citizen who ends up being killed in these attacks without due process.”¶ Congressional oversight over the administration’s use of drones is restricted to the House and Senate Intelligence Committees, and even committee members receive only limited classified information. For the most part, Congress has shown little interest in drones, holding its first-ever hearings on the topic this year—although the U.S. government adopted drones for targeted killings over a decade ago, shortly after 9/11. The Senate Judiciary Committee held the first two hearings—one in March on the coming introduction of drones into domestic airspace, while the Subcommittee on the Constitution, Civil Rights and Human Rights held another in April devoted to targeted killings (which the administration notably skipped out on). In May, the Congressional Progressive Caucus organized a separate hearing on drones. These hearings generated calls for greater transparency and federal oversight.

#### 2nd, drone courts popular with Feinstein

Hosenball, 2-8-2013

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

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

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

Tate 13

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

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

#### 3rd, plan 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.”

#### [1.] No shortage of skilled workers—we can solve the impact now

Robert X. Cringely, 10/23/2012 (staff writer, “What Americans don’t know about H-1B visas could hurt us all,” <http://www.cringely.com/2012/10/23/what-americans-dont-know-about-h-1b-visas-could-hurt-us-all/>, Accessed 1/23/2013, rwg)

A key argument for H-1B has always been that there’s a shortage of technical talent in U.S. IT. This has been taken as a given by both major political parties. But it’s wrong. Here are six rigorous studies (1, 2, 3, 4, 5, 6) that show there is no shortage of STEM workers in the U.S. nor the likelihood of such a shortage in years to come.¶ You may recall a recent column here where the IT community in Memphis, TN proved there was no labor shortage in that technology hotbed.¶ The whole labor shortage argument is total hogwash. Yes, there is a labor shortage at substandard wages.

**There is no causal relationship between the economy and conflict—the best study proves.**

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

These statements anticipating political fallout from the global economic crisis of 2008–2010 reflect a widely held view that economic growth has rapid and profound effects on countries’ political stability. When economies grow at a healthy clip, citizens are presumed to be too busy and too content to engage in protest or rebellion, and governments are thought to be flush with revenues they can use to enhance their own stability by producing public goods or rewarding cronies, depending on the type of regime they inhabit. When growth slows, however, citizens and cronies alike are presumed to grow frustrated with their governments, and the leaders at the receiving end of that frustration are thought to lack the financial resources to respond effectively. The expected result is an increase in the risks of social unrest, civil war, coup attempts, and regime breakdown.

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

## K

#### Preventing extinction is the highest ethical priority – we should take action to prevent the Other from dying FIRST, only THEN can we consider questions of value to life

Paul Wapner, associate professor and director of the Global Environmental Policy Program at American University, Winter 2003, Dissent, online: http://www.dissentmagazine.org/menutest/archives/2003/wi03/wapner.htm

All attempts to listen to nature are social constructions-except one. Even the most radical postmodernist must acknowledge the distinction between physical existence and non-existence. As I have said, postmodernists accept that there is a physical substratum to the phenomenal world even if they argue about the different meanings we ascribe to it. This acknowledgment of physical existence is crucial. We can't ascribe meaning to that which doesn't appear. What doesn't exist can manifest no character. Put differently, yes, the postmodernist should rightly worry about interpreting nature's expressions. And all of us should be wary of those who claim to speak on nature's behalf (including environmentalists who do that). But we need not doubt the simple idea that a prerequisite of expression is existence. This in turn suggests that preserving the nonhuman world-in all its diverse embodiments-must be seen by eco-critics as a fundamental good. Eco-critics must be supporters, in some fashion, of environmental preservation. Postmodernists reject the idea of a universal good. They rightly acknowledge the difficulty of identifying a common value given the multiple contexts of our value-producing activity. In fact, if there is one thing they vehemently scorn, it is the idea that there can be a value that stands above the individual contexts of human experience. Such a value would present itself as a metanarrative and, as Jean-François Lyotard has explained, postmodernism is characterized fundamentally by its "incredulity toward meta-narratives." Nonetheless, I can't see how postmodern critics can do otherwise than accept the value of preserving the nonhuman world. The nonhuman is the extreme "other"; it stands in contradistinction to humans as a species. In understanding the constructed quality of human experience and the dangers of reification, postmodernism inherently advances an ethic of respecting the "other." At the very least, respect must involve ensuring that the "other" actually continues to exist. In our day and age, this requires us to take responsibility for protecting the actuality of the nonhuman. Instead, however, we are running roughshod over the earth's diversity of plants, animals, and ecosystems. Postmodern critics should find this particularly disturbing. If they don't, they deny their own intellectual insights and compromise their fundamental moral commitment.

#### The prioritization of method over all else, trades off with real world change and creates a vicious cycle that prevents concrete solutions to problems

Owen 02, Reader in Political Theory at the University of Southampton (David, “Reorienting International Relations: On Pragmatism, Pluralism and Practical Reasoning”, Millennium: Journal of International Studies, Vol. 31, No. 3, <http://mil.sagepub.com/cgi/reprint/31/3/653>)

Commenting on the ‘philosophical turn’ in IR, Wæver remarks that ‘[a] frenzy for words like “epistemology” and “ontology” often signals this philosophical turn’, although he goes on to comment that these terms are often used loosely.4 However, loosely deployed or not, it is clear that debates concerning ontology and epistemology play a central role in the contemporary IR theory wars. In one respect, this is unsurprising since it is a characteristic feature of the social sciences that periods of disciplinary disorientation involve recourse to reflection on the philosophical commitments of different theoretical approaches, and there is no doubt that such reflection can play a valuable role in making explicit the commitments that characterise (and help individuate) diverse theoretical positions. Yet, such a philosophical turn is not without its dangers and I will briefly mention three before turning to consider a confusion that has, I will suggest, helped to promote the IR theory wars by motivating this philosophical turn. The first danger with the philosophical turn is that it has an inbuilt tendency to prioritise issues of ontology and epistemology over explanatory and/or interpretive power as if the latter two were merely a simple function of the former. But while the explanatory and/or interpretive power of a theoretical account is not wholly independent of its ontological and/or epistemological commitments (otherwise criticism of these features would not be a criticism that had any value), it is by no means clear that it is, in contrast, wholly dependent on these philosophical commitments. Thus, for example, one need not be sympathetic to rational choice theory to recognise that it can provide powerful accounts of certain kinds of problems, such as the tragedy of the commons in which dilemmas of collective action are foregrounded. It may, of course, be the case that the advocates of rational choice theory cannot give a good account of why this type of theory is powerful in accounting for this class of problems (i.e., how it is that the relevant actors come to exhibit features in these circumstances that approximate the assumptions of rational choice theory) and, if this is the case, it is a philosophical weakness—but this does not undermine the point that, for a certain class of problems, rational choice theory may provide the best account available to us. In other words, while the critical judgement of theoretical accounts in terms of their ontological and/or epistemological sophistication is one kind of critical judgement, it is not the only or even necessarily the most important kind. The second danger run by the philosophical turn is that because prioritisation of ontology and epistemology promotes theory-construction from philosophical first principles, it cultivates a theory-driven rather than problem-driven approach to IR. Paraphrasing Ian Shapiro, the point can be put like this: since it is the case that there is always a plurality of possible true descriptions of a given action, event or phenomenon, the challenge is to decide which is the most apt in terms of getting a perspicuous grip on the action, event or phenomenon in question given the purposes of the inquiry; yet, from this standpoint, ‘theory-driven work is part of a reductionist program’ in that it ‘dictates always opting for the description that calls for the explanation that flows from the preferred model or theory’.5 The justification offered for this strategy rests on the mistaken belief that it is necessary for social science because general explanations are required to characterise the classes of phenomena studied in similar terms. However, as Shapiro points out, this is to misunderstand the enterprise of science since ‘whether there are general explanations for classes of phenomena is a question for social-scientific inquiry, not to be prejudged before conducting that inquiry’.6 Moreover, this strategy easily slips into the promotion of the pursuit of generality over that of empirical validity. The third danger is that the preceding two combine to encourage the formation of a particular image of disciplinary debate in IR—what might be called (only slightly tongue in cheek) ‘the Highlander view’—namely, an image of warring theoretical approaches with each, despite occasional temporary tactical alliances, dedicated to the strategic achievement of sovereignty over the disciplinary field. It encourages this view because the turn to, and prioritisation of, ontology and epistemology stimulates the idea that there can only be one theoretical approach which gets things right, namely, the theoretical approach that gets its ontology and epistemology right. This image feeds back into IR exacerbating the first and second dangers, and so a potentially vicious circle arises.

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#### Rejecting the state and focusing on sphere discussions only lead to conservatives stopping state intervention policies

Lobel 07

[Orly Lobel, Assistant Professor of Law, University of San Diego, “THE PARADOX OF EXTRALEGAL ACTIVISM: CRITICAL LEGAL CONSCIOUSNESS AND TRANSFORMATIVE POLITICS”, 2007, http://www.harvardlawreview.org/media/pdf/lobel.pdf, \\wyo-bb]

In former eras, the claims about the legal cooptation of the transformative visions of workplace justice and racial equality suggested that through legal strategies the visions became stripped of their initial depth and fragmented and framed in ways that were narrow and often merely symbolic. This observation seems accurate in the contemporary political arena; the idea of civil society revivalism evoked by progressive activists has been reduced to symbolic acts with very little substance. On the left, progressive advocates envision decentralized activism in a third, nongovernmental sphere as a way of reviving democratic participation and rebuilding the state from the bottom up. By contrast, the idea of civil society has been embraced by conservative politicians as a means for replacing government-funded programs and steering away from state intervention. As a result, recent political uses of civil society have subverted the ideals of progressive social reform and replaced them with conservative agendas that reject egalitarian views of social provision. In particular, recent calls to strengthen civil society have been advanced by politicians interested in dismantling the modern welfare system. Conservative civil society revivalism often equates the idea of self-help through extralegal means with traditional family structures, and blames the breakdown of those structures (for example, the rise of the single parent family) for the increase in reliance and dependency on government aid.165 This recent depiction of the third sphere of civic life works against legal reform precisely because state intervention may support newer, nontraditional social structures. For conservative thinkers, legal reform also risks increasing dependency on social services by groups who have traditionally been marginalized, including disproportionate reliance on public funds by people of color and single mothers. Indeed, the end of welfare as we knew it,166 as well as the transformation of work as we knew it,167 is closely related to the quest of thinkers from all sides of the political spectrum for a third space that could replace the traditional functions of work and welfare. Strikingly, a range of liberal and conservative visions have thus converged into the same agenda, such as the recent welfare-to-work reforms, which rely on myriad non-governmental institutions and activities to support them.168 When analyzed from the perspective of the unbundled cooptation critique, it becomes evident that there are multiple limits to the contemporary extralegal current. First, there have been significant problems with resources and zero-sum energies in the recent campaigns promoting community development and welfare. For example, the initial vision of welfare-to-work supported by liberal reformers was a multifaceted, dynamic system that would reshape the roles and responsibilities of the welfare bureaucracy. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996169 (PRWORA), supported by President Clinton, was designed to convert various welfare programs, including Aid to Families with Dependent Children, into a single block grant program. The aim was to transform passive cash assistance into a more active welfare system, in which individuals would be better assisted, by both the government and the community, to return to the labor force and find opportunities to support themselves. Yet from the broad vision to actual implementation, the program quickly became limited in focus and in resources. Indeed, PRWORA placed new limits on welfare provision by eliminating eligibility categories and by placing rigid time limits on the provision of benefits.170

#### The state is necessary- non state actors get buried in bureaucracy while striving for change

Lobel 07

[Orly Lobel, Assistant Professor of Law, University of San Diego, “THE PARADOX OF EXTRALEGAL ACTIVISM: CRITICAL LEGAL CONSCIOUSNESS AND TRANSFORMATIVE POLITICS”, 2007, http://www.harvardlawreview.org/media/pdf/lobel.pdf, \\wyo-bb]

Moreover, the need to frame questions relating to work, welfare, and poverty in institutional arrangements and professional jargon and to comply with various funding block grants has made some issues, such as the statistical reduction of welfare recipients, more salient, whereas other issues, such as the quality of jobs offered, have been largely eliminated from policymakers’ consideration. Despite aspects of the reform that were hailed as empowering for those groups they were designed to help, such as individual private training vouchers, serious questions have been raised about the adequacy of the particular policy design because resources and institutional support have been found lacking.171 The reforms require individual choices and rely on the ability of private recipients to mine through a vast range of information. As in the areas of child care, health care, and educational vouchers, critics worry that the most disadvantaged workers in the new market will not be able to take advantage of the reforms.172 Under such conditions, the goal of eliminating poverty may be eroded and replaced by other goals, such as reducing public expenses. Thus, recalling the earlier cooptation critique, once reforms are envisioned, even when they need not be framed in legalistic terms, they in some ways become reduced to a handful of issues, while fragmenting, neglecting, and ultimately neutralizing other possibilities. At this point, the paradox of extralegal activism unfolds. While public interest thinkers increasingly embrace an axiomatic rejection of law as the primary form of progress, their preferred form of activism presents the very risks they seek to avoid. ß Marked 12:44 ß The rejected “myth of the law” is replaced by a “myth of activism” or a “myth of exit,” romanticizing a distinct sphere that can better solve social conflict. Yet these myths, like other myths, come complete with their own perpetual perils. The myth of exit exemplifies the myriad concerns of cooptation.

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### Politics

#### No Pass House GOP

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

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

#### No pass – alienated supporting members

Brian Bennett, “Immigration legislation's prospects bleak after bitter budget fight,” LA Times, 10/17/13

WASHINGTON – The rough justice dispensed by the White House and Senate Democrats during the standoff impasse has further soured key House Republicans on passing immigration legislation. Rep. Raul Labrador (R-Idaho), who earlier this year had been working with lawmakers from both parties to write an immigration bill, said that President Obama’s refusal to negotiate with House Speaker John Boehner over funding the government and increasing the country’s borrowing limit made him unwilling to enter into talks over immigration. “After the way the president acted over the last two or three weeks where he would refuse to talk to the speaker of the House … they’re not going to get immigration reform. It’s done,” Labrador said, walking off the House floor Wednesday night after voting against the measure to open the government and increase the debt limit.

#### - Obama wont invest capital through campaigning now, despite support

#### Not investing

Stephen Dinan and Tom Howell Jr., The Washington Times “GOP skeptical Obama will negotiate on immigration” Washington Times, 10/16/2013. www.washingtontimes.com/news/2013/oct/16/gop-skeptical-obama-will-negotiate-on-immigration/print/ 1/2

White House press secretary Jay Carney seemed to walk back those comments Wednesday, saying that Mr. Obama wasn't suggesting a major new push. "He's not saying that he's going to come out and push some Democratic agenda item. He wants to continue the effort that has been underway all year," Mr. Carney said, adding that immigration was just one of "the many priorities" he wants to see action on.

#### [\_\_] Passage is inevitable – either GOP will pass reform to get Latino votes or lose control of the house – which would allow democrats to pass reform

Ben Wolfgang, “Obama’s second-term agenda could hinge on shutdown resolution,” Washington Times, 10/10/13. http://www.washingtontimes.com/news/2013/oct/10/obamas-second-term-agenda-could-hinge-on-shutdown-/#ixzz2i1n7uFZT

"The president doesn't need to put immigration on the [fiscal] agenda as a bargaining chip for Republicans because they need to get it done. I believe the impetus for Republican action exists already," said Lynn Tramonte, deputy director of the pro-immigration reform group America's Voice.¶ ¶ She echoed others who believe the Republican Party, largely because of the nation's changing demographics, must embrace immigration reform to survive politically.