## 1

#### The Executive branch of the United States should publicly articulate its legal rationale for its targeted killing policy, including the process and safeguards in place for target selection.

#### The United States Congress should enact a resolution and issue a white paper stating that it has reviewed the aforementioned Executive Branch policy revisions with respect to targeted killing operations and determined that the United States government is conducting such operations in full compliance with relevant laws.

#### Congressional defense of the process solves the signal of legitimacy

Gregory McNeal 13, Associate Professor of Law, Pepperdine University, 3/5/13, “Targeted Killing and Accountability,” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1819583>

Perhaps the most obvious way to add accountability to the targeted killing process is for someone in government to describe the process the way this article has, and from there, defend the process. The task of describing the government’s policies in detail should not fall to anonymous sources, confidential interviews, and selective leaks. Government’s failure to defend policies is not a phenomenon that is unique to post 9/11 targeted killings. In fact, James Baker once noted "In my experience, the United States does a better job at incorporating intelligence into its targeting decisions than it does in using intelligence to explain those decisions after the fact. This in part reflects the inherent difficulty in articulating a basis for targets derived from ongoing intelligence sources and methods. Moreover, it is hard to pause during ongoing operations to work through issues of disclosure…But articulation is an important part of the targeting process that must be incorporated into the decision cycle for that subset of targets raising the hardest issues…"519 Publicly defending the process is a natural fit for public accountability mechanisms. It provides information to voters and other external actors who can choose to exercise a degree of control over the process. However, a detailed public defense of the process also bolsters bureaucratic and professional accountability by demonstrating to those within government that they are involved in activities that their government is willing to publicly describe and defend (subject to the limits of necessary national security secrecy). However, the Executive branch, while wanting to reveal information to defend the process, similarly recognizes that by revealing too much information they may face legal accountability mechanisms that they may be unable to control, thus their caution is understandable (albeit self-serving).520 It’s not just the Executive branch that can benefit from a healthier defense of the process. Congress too can bolster the legitimacy of the program by specifying how they have conducted their oversight activities. The best mechanism by which they can do this is through a white paper. That paper could include: A statement about why the committees believe the U.S. government's use of force is lawful. If the U.S. government is employing armed force it's likely that it is only doing so pursuant to the AUMF, a covert action finding, or relying on the President's inherent powers under the Constitution. Congress could clear up a substantial amount of ambiguity by specifying that in the conduct of its oversight it has reviewed past and ongoing targeted killing operations and is satisfied that in the conduct of its operations the U.S. government is acting consistent with those sources of law. Moreover, Congress could also specify certain legal red lines that if crossed would cause members to cease believing the program was lawful. For example, if members do not believe the President may engage in targeted killings acting only pursuant to his Article II powers, they could say so in this white paper, and also articulate what the consequences of crossing that red line might be. To bolster their credibility, Congress could specifically articulate their powers and how they would exercise them if they believed the program was being conducted in an unlawful manner. Perhaps stating: "The undersigned members affirm that if the President were to conduct operations not authorized by the AUMF or a covert action finding, we would consider that action to be unlawful and would publicly withdraw our support for the program, and terminate funding for it." A statement detailing the breadth and depth of Congressional oversight activities. When Senator Feinstein released her statement regarding the nature and degree of Senate Intelligence Committee oversight of targeted killing operations it went a long way toward bolstering the argument that the program was being conducted in a responsible and lawful manner. An oversight white paper could add more details about the oversight being conducted by the intelligence and armed services committees, explaining in as much detail as possible the formal and informal activities that have been conducted by the relevant committees. How many briefings have members attended? Have members reviewed targeting criteria? Have members had an opportunity to question the robustness of the internal kill-list creation process and target vetting and validation processes? Have members been briefed on and had an opportunity to question how civilian casualties are counted and how battle damage assessments are conducted? Have members been informed of the internal disciplinary procedures for the DoD and CIA in the event a strike goes awry, and have they been informed of whether any individuals have been disciplined for improper targeting? Are the members satisfied that internal disciplinary procedures are adequate? 3) Congressional assessment of the foreign relations implications of the program. The Constitution divides some foreign policy powers between the President and Congress, and the oversight white paper should articulate whether members have assessed the diplomatic and foreign relations implications of the targeted killing program. While the white paper would likely not be able to address sensitive diplomatic matters such as whether Pakistan has privately consented to the use of force in their territory, the white paper could set forth the red lines that would cause Congress to withdraw support for the program. The white paper could specifically address whether the members have considered potential blow-back, whether the program has jeopardized alliances, whether it is creating more terrorists than it kills, etc. In specifying each of these and other factors, Congress could note the types of developments, that if witnessed would cause them to withdraw support for the program. For example, Congress could state "In the countries where strikes are conducted, we have not seen the types of formal objections to the activities that would normally be associated with a violation of state's sovereignty. Specifically, no nation has formally asked that the issue of strikes in their territory be added to the Security Council's agenda for resolution. No nation has shot down or threatened to shoot down our aircraft, severed diplomatic relations, expelled our personnel from their country, or refused foreign aid. If we were to witness such actions it would cause us to question the wisdom and perhaps even the legality of the program."

## 2

#### Geographic limits undermine the effectiveness of US counter-terror ops

Corn 13 (Geoffrey, South Texas College of Law Presidential Research Professor of Law, former JAG officer and chief of the law of war branch of the international law division of the US Army, Lieutenant Colonel, U.S. Army (Retired), Senate Armed Services Committee Hearing, "The law of armed conflict, the use of military force, and the 2001 Authorization for Use of Military Force," Congressional Documents and Publications, 6-16-13, lexis)

In my opinion, there is no need to amend the AUMF to define the geographic scope of military operations it authorizes. On the contrary, I believe doing so would fundamentally undermine the efficacy of U.S. counter-terror military operations by overtly signaling to the enemy exactly where to pursue safe-haven and de facto immunity from the reach of U.S. power. This concern is similar to that associated with explicitly defining co-belligerents subject to the AUMF, although I believe it is substantially more significant. It is an operational and tactical axiom that insurgent and non-state threats rarely seek the proverbial "toe to toe" confrontation with clearly superior military forces. Al Qaeda is no different. Indeed, their attempts to engage in such tactics in the initial phases of Operation Enduring Freedom proved disastrous, and ostensibly caused the dispersion of operational capabilities that then necessitated the co-belligerent assessment. Imposing an arbitrary geographic limitation of the scope of military operations against this threat would therefore be inconsistent with the strategic objective of preventing future terrorist attacks against the United States. I believe much of the momentum for asserting some arbitrary geographic limitation on the scope of operations conducted to disrupt or disable al Qaeda belligerent capabilities is the result of the commonly used term "hot battlefield." This notion of a "hot" battlefield is, in my opinion, an operational and legal fiction. Nothing in the law of armed conflict or military doctrine defines the meaning of "battlefield." Contrary to the erroneous assertions that the use of combat power is restricted to defined geographic locations such as Afghanistan (and previously Iraq), the geographic scope of armed conflict must be dictated by a totality assessment of a variety of factors, ultimately driven by the strategic end state the nation seeks to achieve. The nature and dynamics of the threat -including key vulnerabilities - is a vital factor in this analysis. These threat dynamics properly influence the assessment of enemy capabilities and vulnerabilities, which in turn drive the formulation of national strategy, which includes determining when, where, and how to leverage national power (including military power) to achieve desired operational effects. Thus, threat dynamics, and not some geographic "box", have historically driven and must continue to drive the scope of armed hostilities. The logic of this premise is validated by (in my opinion) the inability to identify an armed conflict in modern history where the scope of operations was legally restricted by a conception of a "hot" battlefield. Instead, threat dynamics coupled with policy, diplomatic considerations and, in certain armed conflicts the international law of neutrality, dictate such scope. Ultimately, battlefields become "hot" when persons, places, or things assessed as lawful military objectives pursuant to the law of armed conflict are subjected to attack. I do not, however, intend to suggest that it is proper to view the entire globe as a battlefield in the military component of our struggle against al Qaeda, or that threat dynamics are the only considerations in assessing the scope of military operations. Instead, complex considerations of policy and diplomacy have and must continue to influence this assessment. However, suggesting that the proper scope of combat operations is dictated by a legal conception of "hot" battlefield is operationally irrational and legally unsound. Accordingly, placing policy limits on the scope of combat operations conducted pursuant to the legal authority provided by the AUMF is both logical and appropriate, and in my view has been a cornerstone of U.S. use of force policy since the enactment of the AUMF. In contrast, interpreting the law of armed conflict to place legal limits on the scope of such operations to "hot" battlefields, or imposing such a legal limitation in the terms of the AUMF, creates a perverse incentive for the belligerent enemy by allowing [them]~~him~~ to dictate when and where [they]~~he~~ will be subject to lawful attack.

#### Extinction

Hellman 8 (Martin E. Hellman, emeritus prof of engineering @ Stanford, “Risk Analysis of Nuclear Deterrence” SPRING 2008 THE BENT OF TAU BETA PI, <http://www.nuclearrisk.org/paper.pdf>)

The threat of nuclear terrorism looms much larger in the public’s mind than the threat of a full-scale nuclear war, yet this article focuses primarily on the latter. An explanation is therefore in order before proceeding. A terrorist attack involving a nuclear weapon would be a catastrophe of immense proportions: “A 10-kiloton bomb detonated at Grand Central Station on a typical work day would likely kill some half a million people, and inflict over a trillion dollars in direct economic damage. America and its way of life would be changed forever.” [Bunn 2003, pages viii-ix]. The likelihood of such an attack is also significant. Former Secretary of Defense William Perry has estimated the chance of a nuclear terrorist incident within the next decade to be roughly 50 percent [Bunn 2007, page 15]. David Albright, a former weapons inspector in Iraq, estimates those odds at less than one percent, but notes, “We would never accept a situation where the chance of a major nuclear accident like Chernobyl would be anywhere near 1% .... A nuclear terrorism attack is a low-probability event, but we can’t live in a world where it’s anything but extremely low-probability.” [Hegland 2005]. In a survey of 85 national security experts, Senator Richard Lugar found a median estimate of 20 percent for the “probability of an attack involving a nuclear explosion occurring somewhere in the world in the next 10 years,” with 79 percent of the respondents believing “it more likely to be carried out by terrorists” than by a government [Lugar 2005, pp. 14-15]. I support increased efforts to reduce the threat of nuclear terrorism, but that is not inconsistent with the approach of this article. Because terrorism is one of the potential trigger mechanisms for a full-scale nuclear war, the risk analyses proposed herein will include estimating the risk of nuclear terrorism as one component of the overall risk. If that risk, the overall risk, or both are found to be unacceptable, then the proposed remedies would be directed to reduce which- ever risk(s) warrant attention. Similar remarks apply to a number of other threats (e.g., nuclear war between the U.S. and China over Taiwan). his article would be incomplete if it only dealt with the threat of nuclear terrorism and neglected the threat of full- scale nuclear war. If both risks are unacceptable, an effort to reduce only the terrorist component would leave humanity in great peril. In fact, society’s almost total neglect of the threat of full-scale nuclear war makes studying that risk all the more important. The cosT of World War iii The danger associated with nuclear deterrence depends on both the cost of a failure and the failure rate.3 This section explores the cost of a failure of nuclear deterrence, and the next section is concerned with the failure rate. While other definitions are possible, this article defines a failure of deterrence to mean a full-scale exchange of all nuclear weapons available to the U.S. and Russia, an event that will be termed World War III. Approximately 20 million people died as a result of the first World War. World War II’s fatalities were double or triple that number—chaos prevented a more precise deter- mination. In both cases humanity recovered, and the world today bears few scars that attest to the horror of those two wars. Many people therefore implicitly believe that a third World War would be horrible but survivable, an extrapola- tion of the effects of the first two global wars. In that view, World War III, while horrible, is something that humanity may just have to face and from which it will then have to recover. In contrast, some of those most qualified to assess the situation hold a very different view. In a 1961 speech to a joint session of the Philippine Con- gress, General Douglas MacArthur, stated, “Global war has become a Frankenstein to destroy both sides. … If you lose, you are annihilated. If you win, you stand only to lose. No longer does it possess even the chance of the winner of a duel. It contains now only the germs of double suicide.” Former Secretary of Defense Robert McNamara ex- pressed a similar view: “If deterrence fails and conflict develops, the present U.S. and NATO strategy carries with it a high risk that Western civilization will be destroyed” [McNamara 1986, page 6]. More recently, George Shultz, William Perry, Henry Kissinger, and Sam Nunn4 echoed those concerns when they quoted President Reagan’s belief that nuclear weapons were “totally irrational, totally inhu- mane, good for nothing but killing, possibly destructive of life on earth and civilization.” [Shultz 2007] Official studies, while couched in less emotional terms, still convey the horrendous toll that World War III would exact: “The resulting deaths would be far beyond any precedent. Executive branch calculations show a range of U.S. deaths from 35 to 77 percent (i.e., 79-160 million dead) … a change in targeting could kill somewhere between 20 million and 30 million additional people on each side .... These calculations reflect only deaths during the first 30 days. Additional millions would be injured, and many would eventually die from lack of adequate medical care … millions of people might starve or freeze during the follow- ing winter, but it is not possible to estimate how many. … further millions … might eventually die of latent radiation effects.” [OTA 1979, page 8] This OTA report also noted the possibility of serious ecological damage [OTA 1979, page 9], a concern that as- sumed a new potentiality when the TTAPS report [TTAPS 1983] proposed that the ash and dust from so many nearly simultaneous nuclear explosions and their resultant fire- storms could usher in a nuclear winter that might erase homo sapiens from the face of the earth, much as many scientists now believe the K-T Extinction that wiped out the dinosaurs resulted from an impact winter caused by ash and dust from a large asteroid or comet striking Earth. The TTAPS report produced a heated debate, and there is still no scientific consensus on whether a nuclear winter would follow a full-scale nuclear war. Recent work [Robock 2007, Toon 2007] suggests that even a limited nuclear exchange or one between newer nuclear-weapon states, such as India and Pakistan, could have devastating long-lasting climatic consequences due to the large volumes of smoke that would be generated by fires in modern megacities. While it is uncertain how destructive World War III would be, prudence dictates that we apply the same engi- neering conservatism that saved the Golden Gate Bridge from collapsing on its 50th anniversary and assume that preventing World War III is a necessity—not an option.

## 3

**The plan would uniquely decimate Obama and the military’s ability to calm alliances and deter enemies ---- makes terrorism and global nuclear war more likely**

**WAXMAN 2013** - law professor at Columbia Law School, co-chairs the Roger Hertog Program on Law and National Security (Matthew Waxman, “The Constitutional Power to Threaten War,” August 27, 2013, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2316777)

As a prescriptive matter, Part II also shows that examination of threatened force and the credibility requirements for its effectiveness calls into question many orthodoxies of the policy advantages and risks attendant to various allocations of legal war powers, including the existing one and proposed reforms.23 Most functional arguments about war powers focus on fighting wars or hostile engagements, but that is not all – or even predominantly – what the United States does with its military power. Much of the time it seeks to avert such clashes while achieving its foreign policy objectives: to bargain, coerce, deter.24 The President’s flexibility to use force in turn affects decision-making about threatening it, with major implications for securing peace or dragging the United States into conflicts. Moreover, constitutional war power allocations affect potential conflicts not only because they **may constrain U.S. actions** but because **they** maysend **signal**s **and shape** other states’ (including adversaries’) expectations of U.S. actions.25 That is, most analysis of war-powers law is inward-looking, focused on audiences internal to the U.S. government and polity, but thinking about threatened force prompts us to look outward, at how war-powers law affects external perceptions among adversaries and allies. Here, extant political science and strategic studies offer few clear conclusions, but they point the way toward more sophisticated and realistic policy assessment of legal doctrine and proposed reform. More generally, as explained in Part III, analysis of threatened force and war powers exposes an under-appreciated relationship between constitutional doctrine and grand strategy. Instead of proposing a functionally optimal allocation of legal powers, as legal scholars are often tempted to do, this Article in the end denies the tenability of any such claim. Having identified new spaces of war and peace powers that legal scholars need to take account of in understanding how those powers are really exercised, this Article also highlights the extent to which any normative account of the proper distribution of authority over this area depends on many matters that cannot be predicted in advance or expected to remain constant.26 Instead of proposing a policy-optimal solution, this Article concludes that the allocation of constitutional war powers is – and should be –geopolitically and strategically contingent; the actual and effective balance between presidential and congressional powers over war and peace in practice necessarily depends on fundamental assumptions and shifting policy choices about how best to secure U.S. interests against potential threats.27 I. Constitutional War Powers and Threats of Force Decisions to go to war or to send military forces into hostilities are immensely consequential, so it is no surprise that debates about constitutional war powers occupy so much space. But one of the most common and important ways that the United States uses its military power is by threatening war or force – and the constitutional dimensions of that activity receive almost no scrutiny or even theoretical investigation. A. War Powers Doctrine and Debates The Constitution grants Congress the powers to create military forces and to “declare war,”28 which the Supreme Court early on made clear includes the power to authorize limited uses of force short of full-blown war.29 The Constitution then vests the President with executive power and designates him commander in chief of the armed forces,30 and it has been well-accepted since the Founding that these powers include unilateral authority to repel invasions if the United States is attacked.31 Although there is nearly universal acceptance of these basic starting points, there is little legal agreement about how the Constitution allocates responsibility for the vast bulk of cases in which the United States has actually resorted to force. The United States has declared war or been invaded only a handful of times in its history, but it has used force – sometimes large-scale force – hundreds of other times.32 Views split over questions like when, if ever, the President may use force to deal with aggression against third parties and how much unilateral discretion the President has to use limited force short of full-blown war. For many lawyers and legal scholars, at least one important methodological tool for resolving such questions is to look at historical practice, and especially the extent to which the political branches acquiesced in common practices.33 Interpretation of that historical practice for constitutional purposes again divides legal scholars, but most would agree at least descriptively on some basic parts of that history. In particular, most scholars assess that from the Founding era through World War II, Presidents and Congresses alike recognized through their behavior and statements that except in certain narrow types of contingencies, congressional authorization was required for large-scale military operations against other states and international actors, even as many Presidents pushed and sometimes crossed those boundaries.34 Whatever constitutional constraints on presidential use of force existed prior to World War II, however, most scholars also note that the President asserted much more extensive unilateral powers to use force during and after the Cold War, and many trace the turning point to the 1950 Korean War.35 Congress did not declare war in that instance, nor did it expressly authorize U.S. participation.36 From that point forward, presidents have asserted broad unilateral authority to use force to address threats to U.S. interests, including threats to U.S. allies, and that neither Congress nor courts pushed back much against this expanding power.37 Concerns about expansive presidential war-making authority spiked during the Vietnam War. In the wind-down of that conflict, Congress passed – over President Nixon’s veto – the War Powers Resolution,38 which stated its purpose as to ensure the constitutional Founders’ original vision that the “collective judgment of both the Congress and the President will apply to the introduction of United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and to the continued use of such forces in hostilities or in such situations.”39 Since then, presidentialists have argued that the President still retains expansive authority to use force abroad to protect American interests,40 and congressionalists argue that this authority is tightly circumscribed.41 These constitutional debates have continued through the first decade of the 21st century. Constitutional scholars split, for example, over President Obama’s power to participate in coalition operations against Libya without congressional authorization in 2011, especially after the War Powers Resolution’s 60-day clock expired.42 Some argue that President Obama’s use of military force without specific congressional authorization in that case **reflects the broad constitutional discretion presidents** now **have** to protect American interests, at least short of full-blown “war”, while others argue that it is the latest in a long record of presidential violations of the Constitution and the War Powers Resolution.43 B. Threats of Force and Constitutional Powers These days it is usually taken for granted that – whether or not he can make war unilaterally – the President is constitutionally empowered to threaten the use of force, implicitly or explicitly, through diplomatic means or shows of force. It is never seriously contested whether the President may declare that United States is contemplating military options in response to a crisis, or whether the President may move substantial U.S. military forces to a crisis region or engage in military exercises there. To take the Libya example just mentioned, is there any constitutional limitation on the President’s authority to move U.S. military forces to the Mediterranean region and prepare them very visibly to strike?44 Or his authority to issue an ultimatum to Libyan leaders that they cease their brutal conduct or else face military action? Would it matter whether such threats were explicit versus implicit, whether they were open and public versus secret, or whether they were just a bluff? If not a constitutional obstacle, could it be argued that the War Powers Resolution’s reporting requirements and limits on operations were triggered by a President’s mere ultimatum or threatening military demonstration, insofar as those moves might constitute a “situation where imminent involvement in hostilities is clearly indicated by the circumstances”? These questions simply are not asked (at least not anymore).45 If anything, most lawyers would probably conclude that the President’s constitutional powers to threaten war **are not just expansive but largely beyond Congress’s authority** to regulate directly. From a constitutional standpoint, to the extent it is considered at all, the President’s power to threaten force is probably regarded to be at least as broad as his power to use it. One way to look at it is that the power to threaten force is a lesser included element of presidential war powers; the power to threaten to use force is simply a secondary question, the answer to which is bounded by the primary issue of the scope of presidential power to actually use it. If one interprets the President’s defensive war powers very broadly, to include dealing with aggression not only directed against U.S. territories but also against third parties,46 then it might seem easy to conclude that the President can also therefore take steps that stop short of actual armed intervention to deter or prevent such aggression. If, however, one interprets the President’s powers narrowly, for example, to include only limited unilateral authority to repel attacks against U.S. territory,47 then one might expect objections to arguably excessive presidential power to include his unilateral threats of armed intervention. Another way of looking at it is that in many cases, threats of war or force might fall within even quite narrow interpretations of the President’s inherent foreign relations powers to conduct diplomacy or his express commander in chief power to control U.S. military forces – or some combination of the two – depending on how a particular threat is communicated. A President’s verbal warning, ultimatum, or declared intention to use military force, for instance, could be seen as merely exercising his role as the “sole organ” of U.S. foreign diplomacy, conveying externally information about U.S. capabilities and intentions.48 A president’s movement of U.S. troops or warships to a crisis region or elevation of their alert level could be seen as merely exercising his dayto- day tactical control over forces under his command.49 Generally it is not seriously contested whether the exercise of these powers alone could so affect the likelihood of hostilities or war as to intrude on Congress’s powers over war and peace.50 We know from historical examples that such unilateral military moves, even those that are ostensibly pure defensive ones, can provoke wars – take, for example, President Polk’s movement of U.S. forces to the contested border with Mexico in 1846, and the resulting skirmishes that led Congress to declare war.51 Coming at the issue from Congress’s Article I powers rather than the President’s Article II powers, the very phrasing of the power “To declare War” puts most naturally all the emphasis on the present tense of U.S. military action, rather than its potentiality. Even as congressionalists advance interpretations of the clause to include not merely declarative authority but primary decision-making authority as to whether or not to wage war or use force abroad, their modern-day interpretations do not include a power to threaten war (except perhaps through the specific act of declaring it). None seriously argues – at least not any more – that the Declare War Clause precludes presidential threats of war. This was not always the case. During the early period of the Republic, there was a powerful view that beyond outright initiation of armed hostilities or declaration of war, more broadly the President also could not unilaterally take actions (putting aside actual military attacks) that would likely or directly risk war,52 provoke a war with another state,53 or change the condition of affairs or relations with another state along the continuum from peace to war.54 To do so, it was often argued, would usurp Congress’s prerogative to control the nation’s state of peace or war.55 During the Quasi-War with France at the end of the 18th century, for example, some members of Congress questioned whether the President, absent congressional authorization, could take actions that visibly signaled an intention to retaliate against French maritime harassment,56 and even some members of President Adams’ cabinet shared doubts.57 Some questions over the President’s power to threaten force arose (eventually) in relation to the Monroe Doctrine, announced in an 1823 presidential address to Congress and which in effect declared to European powers that the United States would oppose any efforts to colonize or reassert control in the Western Hemisphere.58 “Virtually no one questioned [Monroe’s proclamation] at the time. Yet it posed a constitutional difficulty of the first importance.”59 Of course, Monroe did not actually initiate any military hostilities, but his implied threat – without congressional action – risked provoking rather than deterring European aggression and by putting U.S. prestige and credibility on the line it limited Congress’s practical freedom of action if European powers chose to intervene.60 The United States would have had at the time to rely on British naval power to make good on that tacit threat, though a more assertive role for the President in wielding the potential for war or intervention during this period went hand in hand with a more sustained projection of U.S. power beyond its borders, especially in dealing with dangers emanating from Spanish-held Florida territory.61 Monroe’s successor, John Quincy Adams, faced complaints from opposition members of Congress that Monroe’s proclamation had exceeded his constitutional authority and had usurped Congress’s by committing the United States – even in a non-binding way – to resisting European meddling in the hemisphere.62 The question whether the President could unilaterally send militarily-threatening signals was in some respects a mirror image of the issues raised soon after the Constitution was ratified during the 1793 Neutrality Controversy: could President Washington unilaterally declare the United States to be neutral as to the war among European powers. Washington’s politically controversial proclamation declaring the nation “friendly and impartial” in the conflict between France and Great Britain (along with other European states) famously prompted a back-and-forth contest of public letters by Alexander Hamilton and James Madison, writing pseudonymously as “Pacificus” and “Helvidius”, about whether the President had such unilateral power or whether it belonged to Congress.63 Legal historian David Currie points out the irony that the neutrality proclamation was met with stronger and more immediate constitutional scrutiny and criticism than was Monroe’s threat. After all, Washington’s action accorded with the principle that only Congress, representing popular will, should be able to take the country from the baseline state of peace to war, whereas Monroe’s action seemed (at least superficially) to commit it to a war that Congress had not approved.64 Curiously (though for reasons offered below, perhaps not surprisingly) this issue – whether there are constitutional limits on the President’s power to threaten war – has almost vanished completely from legal discussion, and that evaporation occurred even before the dramatic post-war expansion in asserted presidential power to make war. Just prior to World War II, political scientist and presidential powers theorist Edward Corwin remarked that “[o]f course, it may be argued, and has in fact been argued many times, that the President is under constitutional obligation not to incur the risk of war in the prosecution of a diplomatic policy without first consulting Congress and getting its consent.”65 “Nevertheless,” he continued,66 “the supposed principle is clearly a maxim of policy rather than a generalization from consistent practice.” In his 1945 study World Policing and the Constitution, James Grafton Rogers noted: [E]xamples of demonstrations on land and sea made for a variety of purposes and under Presidents of varied temper and in different political climates will suffice to make the point. The Commander-in-Chief under the Constitution can display our military resources and threaten their use whenever he thinks best. The weakness in the **diplomatic weapon** is the possibility of **dissidence at home** which may cast doubt on our serious intent. The danger of the weapon is war.67 At least since then, however, the importance to U.S. foreign policy of threatened force has increased dramatically, while legal questions about it have receded further from discussion. In recent decades a few prominent legal scholars have addressed the President’s power to threaten force, though in only brief terms.

Taylor Reveley noted in his volume on war powers the importance of allocating constitutional responsibility not only for the actual use of force but also “[v]erbal or written threats or assurances about the circumstances in which the United States will take military action …, whether delivered by declarations of American policy, through formal agreements with foreign entities, by the demeanor or words of American officials, or by some other sign of national intent.”68 Beyond recognizing the critical importance of threats and other non-military actions in affecting war and peace, however, Reveley made little effort to address the issue in any detail. Among the few legal scholars attempting to define the limiting doctrinal contours of presidentially threatened force, Louis Henkin wrote in his monumental Foreign Affairs and the Constitution that: Unfortunately, the line between war and lesser uses of force is often elusive, sometimes illusory, and the use of force for foreign policy purposes can almost imperceptibly become a national commitment to war. Even when he does not use military force, the President can incite other nations or otherwise plunge or stumble this country into war, or force the hand of Congress to declare or to acquiesce and cooperate in war. As a matter of constitutional doctrine, however, one can declare with confidence that a President begins to exceed his authority if he willfully or recklessly moves the nation towards war…69 The implication seems to be that the President may not unilaterally threaten force in ways that are dramatically escalatory and could likely lead to war, or perhaps that the President may not unilaterally threaten the use of force that he does not have the authority to initiate unilaterally.70 Jefferson Powell, who generally takes a more expansive view than Henkin of the President’s war powers, argues by contrast that “[t]he ability to warn of, or threaten, the use of military force is an ordinary and essential element in the toolbox of that branch of government empowered to formulate and implement foreign policy.”71 For Powell, the President is constantly taking actions as part of everyday international relations that carry a risk of military escalation, and these are well-accepted as part of the President’s broader authority to manage, if not set, foreign policy. Such brief mentions are in recent times among the rare exceptions to otherwise barren constitutional discussion of presidential powers to threaten force. That the President’s authority to threaten force is so well-accepted these days as to seem self-evident is not just an academic phenomenon. It is also reflected in the legal debates among and inside all three branches of government. In 1989, Michael Reisman observed: Military maneuvers designed to convey commitment to allies or contingent threats to adversaries … **are matters of presidential competence**. Congress does not appear to view as within its bailiwick many low-profile contemporaneous expressions of gunboat diplomacy, i.e., the physical interposition of some U.S. war-making capacity as communication to an adversary of United States’ intentions and capacities to oppose it.72 This was and remains a correct description but understates the pattern of practice, insofar as even major and high-profile expressions of coercive diplomacy are regarded among all three branches of government as within presidential competence. In Dellums v. Bush – perhaps the most assertive judicial scrutiny of presidential power to use large-scale force abroad since the end of the Cold War – the district court dismissed on ripeness grounds congressmembers’ suit challenging President George H. W. Bush’s intended military operations against Iraq in 1991 and seeking to prevent him from initiating an offensive attack against Iraq without first securing explicit congressional authorization for such action.73 That at the time of the suit the President had openly threatened war – through ultimatums and deployment of several hundred thousand U.S. troops – but had not yet “committed to a definitive course of action” to carry out the threat meant there was no justiciable legal issue, held the court.74 The President’s threat of war did not seem to give the district court legal pause at all; quite the contrary, the mere threat of war was treated by the court as a non-issue entirely.75 There are several reasons why constitutional questions about threatened force have dropped out of legal discussions. First, the more politically salient debate about the President’s unilateral power to use force has probably swallowed up this seemingly secondary issue. As explained below, it is a mistake to view threats as secondary in importance to uses of force, but they do not command the same political attention and their impacts are harder to measure.76 Second, the expansion of American power after World War II, combined with the growth of peacetime military forces and a set of defense alliance commitments (developments that are elaborated below) make at least some threat of force much more common – in the case of defensive alliances and some deterrent policies, virtually constant – and difficult to distinguish from other forms of everyday diplomacy and security policy.77 Besides, for political and diplomatic reasons, presidents rarely threaten war or intervention without at least a little deliberate ambiguity. As historian Marc Trachtenberg puts it: “It often makes sense … to muddy the waters a bit and avoid direct threats.”78 Any legal lines one might try to draw (recall early attempts to restrict the President’s unilateral authority to alter the state of affairs along the peacetime-wartime continuum) have become blurrier and blurrier. In sum, if the constitutional power to threaten war ever posed a serious legal controversy, it does so no more. As the following section explains, however, threats of war and armed force have during most of our history become a greater and greater part of American grand strategy, defined here as long-term policies for using the country’s military and non-military power to achieve national goals. The prominent role of threatened force in U.S. strategy has become the focus of political scientists and other students of security strategy, crises, and responses – but constitutional study has not adjusted accordingly.79 C. Threats of Force and U.S. Grand Strategy While the Korean and Vietnam Wars were generating intense study among lawyers and legal scholars about constitutional authority to wage military actions abroad, during that same period many political scientists and strategists – economists, historians, statesmen, and others who studied international conflict – turned their focus to the role of threatened force as an instrument of foreign policy. The United States was building and sustaining a massive war-fighting apparatus, but its security policy was not oriented primarily around waging or winning wars but around deterring them and using the threat of war – including demonstrative military actions – to advance U.S. security interests. It was the potential of U.S. military might, not its direct application or engagement with the enemy, that would do much of the heavy lifting. U.S. military power would be used to deter the Soviet Union and other hostile states from taking aggressive action. It would be unsheathed to prompt them to back down over disputes. It would reassure allies that they could depend on U.S. help in defending themselves. All this required that U.S. willingness to go to war be credible in the eyes of adversaries and allies alike. Much of the early Cold War study of threatened force concerned nuclear strategy, and especially deterrence or escalation of nuclear war. Works by Albert Wohlstetter, Herman Kahn, and others not only studied but shaped the strategy of nuclear threats, as well as how to use limited applications of force or threats of force to pursue strategic interests in remote parts of the globe without sparking massive conflagrations.80 As the strategic analyst Bernard Brodie wrote in 1946, “Thus far the chief purpose of our military establishment has been to win wars. From now on its chief purpose must be to avert them.”81 Toward that end, U.S. government security and defense planners during this time focused heavily on preserving and improving the credibility of U.S. military threats – while the Soviet Union was doing likewise.82 The Truman administration developed a militarized version of containment strategy against the Soviet empire, emphasizing that stronger military capabilities were necessary to prevent the Soviets from seizing the initiative and to resist its aggressive probes: “it is clear,” according to NSC-68, the government document which encapsulated that strategy, “that a substantial and rapid building up of strength in the free world is necessary to support a firm policy intended to check and to roll back the Kremlin's drive for world domination.”83 The Eisenhower administration’s “New Look” policy and doctrine of “massive retaliation” emphasized making Western collective security both more effective and less costly by placing greater reliance on deterrent threats – including threatened escalation to general or nuclear war. As his Secretary of State John Foster Dulles explained, “[t]here is no local defense which alone will contain the mighty landpower of the Communist world. Local defenses must be reinforced by the further deterrent of massive retaliatory power.”84 As described in Evan Thomas’s recent book, Ike’s Bluff, Eisenhower managed to convince Soviet leaders that he was ready to use nuclear weapons to check their advance in Europe and elsewhere. In part due to concerns that threats of massive retaliation might be insufficiently credible in Soviet eyes (especially with respect to U.S. interests perceived as peripheral), the Kennedy administration in 1961 shifted toward a strategy of “flexible response,” which relied on the development of a wider spectrum of military options that could quickly and efficiently deliver varying degrees of force in response to foreign aggression.85 Throughout these periods, the President often resorted to discrete, limited uses of force to demonstrate U.S. willingness to escalate. For example, in 1961 the Kennedy administration (mostly successfully in the short-run) deployed intervention-ready military force immediately off the coast of the Dominican Republic to compel its government's ouster,86 and that same year it used military exercises and shows of force in ending the Berlin crisis;87 in 1964, the Johnson administration unsuccessfully used air strikes on North Vietnamese targets following the Tonkin Gulf incidents, failing to deter what it viewed as further North Vietnamese aggression.88 The point here is not the shifting details of U.S. strategy after World War II – during this era of dramatic expansion in asserted presidential war powers – but the central role of credible threats of war in it, as well as the interrelationship of plans for using force and credible threats to do so. Also during this period, the United States abandoned its long-standing aversion to “entangling alliances,”89 and committed to a network of mutual defense treaties with dependent allies. Besides the global collective security arrangement enshrined in the UN Charter, the United States committed soon after World War II to mutual defense pacts with, for example, groups of states in Western Europe (the North Atlantic Treaty Organization)90 and Asia (the Southeast Asia Treaty Organization,91 as well as a bilateral defense agreement with the Republic of Korea,92 Japan,93 and the Republic of China,94 among others). These alliance commitments were part of a U.S. effort to “extend” deterrence of Communist bloc aggression far beyond its own borders.95 “Extended deterrence” was also critical to reassuring these U.S. allies that their security needs would be met, in some instances to head off their own dangerous rearmament.96 Among the leading academic works on strategy of the 1960s and 70s were those of Thomas Schelling, who developed the theoretical structure of coercion theory, arguing that rational states routinely use the threat of military force – the manipulation of an adversary’s perceptions of future risks and costs with military threats – as a significant component of their diplomacy.97 Schelling distinguished between deterrence (the use of threats to dissuade an adversary from taking undesired action) and compellence (the use of threats to persuade an adversary to behave a certain way), and he distinguished both forms of coercion from brute force: “[B]rute force succeeds when it is used, whereas the power to hurt is most successful when held in reserve. It is the threat of damage to come that can make someone yield of comply. It is latent violence that can influence someone’s choice.”98 Alexander George, David Hall, and William Simons then led the way in taking a more empirical approach, reviewing case studies to draw insights about the success and failure of U.S. coercive threats, analyzing contextual variables and their effects on parties’ reactions to threats during crises. Among their goals was to generate lessons informed by history for successful strategies that combine diplomatic efforts with threats or demonstrations of force, recognizing that the United States was relying heavily on threatened force in addressing security crises. Coercive diplomacy – if successful – offered ways to do so with minimal actual application of military force.99 One of the most influential studies that followed was Force Without War: U.S. Armed Forces as a Political Instrument, a Brookings Institution study led by Barry Blechman and Stephen Kaplan and published in 1977.100 They studied “political uses of force”, defined as actions by U.S. military forces “as part of a deliberate attempt by the national authorities to influence, or to be prepared to influence, specific behavior of individuals in another nation without engaging in a continued contest of violence.”101 Blechman and Kaplan’s work, including their large data set and collected case studies, was important for showing the many ways that threatened force could support U.S. security policy. Besides deterrence and compellence, threats of force were used to assure allies (thereby, for example, avoiding their own drive toward militarization of policies or crises) and to induce third parties to behave certain ways (such as contributing to diplomatic resolution of crises). The record of success in relying on threatened force has been quite mixed, they showed. Blechman and Kaplan’s work, and that of others who built upon it through the end of the Cold War and the period that has followed,102 helped understand the factors that correlated with successful threats or demonstrations of force without resort or escalation to war, especially the importance of credible signals.103 After the Cold War, the United States continued to rely on coercive force – threatened force to deter or compel behavior by other actors – as a central pillar of its grand strategy. During the 1990s, the United States wielded coercive power with varied results against rogue actors in many cases that, without the overlay of superpower enmities, were considered secondary or peripheral, not vital, interests: Iraq, Somalia, Haiti, Bosnia, and elsewhere. For analysts of U.S. national security policy, a major puzzle was reconciling the fact that the United States possessed overwhelming military superiority in raw terms over any rivals with its difficult time during this era in compelling changes in their behavior.104 As Daniel Byman and I wrote about that decade in our study of threats of force and American foreign policy: U.S. conventional and nuclear forces dwarf those of any adversaries, and the U.S. economy remains the largest and most robust in the world. Because of these overwhelming advantages, the United States can threaten any conceivable adversary with little danger of a major defeat or even significant retaliation. Yet coercion remains difficult. Despite the United States’ lopsided edge in raw strength, regional foes persist in defying the threats and ultimatums brought by the United States and its allies. In confrontations with Somali militants, Serb nationalists, and an Iraqi dictator, the U.S. and allied record or coercion has been mixed over recent years…. Despite its mixed record of success, however, coercion will remain a critical element of U.S. foreign policy.105 One important factor that seemed to undermine the effectiveness of U.S. coercive threats during this period was that many adversaries perceived the United States as still afflicted with “Vietnam Syndrome,” unwilling to make good on its military threats and see military operations through.106 Since the turn of the 21st Century, major U.S. security challenges have included non-state terrorist threats, the proliferation of nuclear and other weapons of mass destruction (WMD), and rapidly changing power balances in East Asia, and the United States has accordingly been reorienting but retaining its strategic reliance on threatened force. The Bush Administration’s “preemption doctrine” was premised on the idea that some dangerous actors – including terrorist organizations and some states seeking WMD arsenals – are undeterrable, so the United States might have to strike them first rather than waiting to be struck.107 On one hand, this was a move away from reliance on threatened force: “[t]he inability to deter a potential attacker, the immediacy of today’s threats, and the magnitude of potential harm that could be caused by our adversaries’ choice of weapons, do not permit” a reactive posture.108 Yet the very enunciation of such a policy – that “[t]o forestall or prevent such hostile acts by our adversaries, the United States will, if necessary, act preemptively”109 – was intended to persuade those adversaries to alter their policies that the United States regarded as destabilizing and threatening. Although the Obama administration pulled back from this rhetoric and placed greater emphasis on international institutions, it has continued to rely on threatened force as a key pillar of its strategy with regard to deterring threats (such as aggressive Iranian moves), intervening in humanitarian crises (as in Libya), and reassuring allies.110 With regard to East Asia, for example, the credible threat of U.S. military force is a significant element of U.S. strategy for deterring Chinese and North Korean aggression as well as reassuring other Asian powers of U.S. protection, to avert a destabilizing arms race.111 D. The Disconnect Between Constitutional Discourse and Strategy There is a major disconnect between the decades of work by strategists and many political scientists on American security policy and practice since the Second World War and legal analysis and scholarship of constitutional war powers during that period. Lawyers and strategists have been relying on not only distinct languages but distinct logics of military force – in short, when it comes to using U.S. military power, lawyers think in terms of “going to war” while strategists focus on potential war and processes leading to it. These framings manifest in differing theoretical starting points for considering how exercises of U.S. military might affect war and peace, and they skew the empirical insights and normative prescriptions about Presidential power often drawn from their analyses. 1. Lawyers’ Misframing Lawyers’ focus on actual uses of force – especially engagements with enemy military forces – as constitutionally salient, rather than including threats of force in their understanding of modern presidential powers tilts analysis toward a one-dimensional strategic logic, rather than a more complex and multi-dimensional and dynamic logic in which the credible will to use force is as important as the capacity to do so. As discussed above, early American constitutional thinkers and practitioners generally wanted to slow down with institutional checks decisions to go to war, because they thought that would make war less likely. “To invoke a more contemporary image,” wrote John Hart Ely of their vision, “it takes more than one key to launch a missile: It should take quite a number to start a war.”112 They also viewed the exercise of military power as generally a ratchet of hostilities, whereby as the intensity of authorized or deployed force increased, so generally did the state of hostilities between the United States and other parties move along a continuum from peace to war.113 Echoes of this logic still reverberate in modern congressionalist legal scholarship: the more flexibly the President can use military force, the more likely it is that the United States will find itself in wars; better, therefore, to clog decisions to make war with legislative checks.114 Modern presidentialist legal scholars usually respond that rapid action is a virtue, not a vice, in exercising military force.115 Especially as a superpower with global interests and facing global threats, presidential discretion to take rapid military **action** – endowed with what Alexander Hamilton called “[**d]ecision, activity, secrecy, and dispatch**”116 – **best protects American interests**. In either case the emphasis tends overwhelmingly to be placed on actual military engagements with adversaries. Strategists and many political scientists, by contrast, view some of the most significant use of military power as starting well before armed forces clash – and including important cases in which they never actually do. Coercive diplomacy and strategies of threatened force, they recognize, often involve a set of moves and countermoves by opposing sides and third parties before or even without the violent engagement of opposing forces. It is often the parties’ perceptions of anticipated actions and costs, not the actual carrying through of violence, that have the greatest impact on the course of events and resolution or escalation of crises. Instead of a ratchet of escalating hostilities, the flexing of military muscle can increase as well as decrease actual hostilities, inflame as well as stabilize relations with rivals or enemies. Moreover, those effects are determined not just by U.S. moves but by the responses of other parties to them – or even to anticipated U.S. moves and countermoves.117 Indeed, as Schelling observed, strategies of brinkmanship sometimes operate by “the deliberate creation of a recognizable risk of war, a risk that one does not completely control.”118 This insight – that effective strategies of threatened force involve not only great uncertainty about the adversary’s responses but also sometimes involve intentionally creating risk of inadvertent escalation119 – poses a difficult challenge for any effort to cabin legally the President’s power to threaten force in terms of likelihood of war or some due standard of care.120 2. Lawyers’ Selection Problems Methodologically, a lawyerly focus on actual uses of force – a list of which would then commonly be used to consider which ones were or were not authorized by Congress – vastly undercounts the instances in which presidents wield U.S. military might. It is already recognized by some legal scholars that studying actual uses of force risks ignoring instances in which President contemplated force but refrained from using it, whether because of political, congressional, or other constraints.121 The point here is a different one: that some of the most significant (and, in many instances, successful) presidential decisions to threaten force do not show up in legal studies of presidential war powers that consider actual deployment or engagement of U.S. military forces as the relevant data set. Moreover, some actual uses of force, whether authorized by Congress or not, were preceded by threats of force; in some cases these threats may have failed on their own to resolve the crisis, and in other cases they may have precipitated escalation. To the extent that lawyers are interested in understanding from historical practice what war powers the political branches thought they had and how well that understanding worked, they are excluding important cases. Consider, as an illustration of this difference in methodological starting point, that for the period of 1946-1975 (during which the exercise of unilateral Presidential war powers had its most rapid expansion), the Congressional Research Service compilation of instances in which the United States has utilized military forces abroad in situations of military conflict or potential conflict to protect U.S. citizens or promote U.S. interests – which is often relied upon by legal scholars studying war powers – lists only about two dozen incidents.122 For the same time period, the Blechman and Kaplan study of political uses of force (usually threats) – which is often relied upon by political scientists studying U.S. security strategy – includes dozens more data-point incidents, because they divide up many military crises into several discrete policy decisions, because many crises were resolved with threat-backed diplomacy, and because many uses of force were preceded by overt or implicit threats of force.123 Among the most significant incidents studied by Blechman and Kaplan but not included in the Congressional Research Service compilation at all are the 1958-59 and 1961 crises over Berlin and the 1973 Middle East War, during which U.S. Presidents signaled threats of superpower war, and in the latter case signaled particularly a willingness to resort to nuclear weapons.124 Because the presidents did not in the end carry out these threats, these cases lack the sort of authoritative legal justifications or reactions that accompany actual uses of force. It is therefore difficult to assess how the executive branch and congress understood the scope of the President’s war powers in these cases, but historical inquiry would probably show the executive branch’s interpretation to be very broad, even to include full-scale war and even where the main U.S. interest at stake was the very credibility of U.S. defense commitments undergirding its grand strategy, not simply the interests specific to divided Germany and the Middle East region.

Of course, one might argue that because the threatened military actions were never carried out in these cases, it is impossible to know if the President would have sought congressional authorization or how Congress would have reacted to the use of force; nonetheless, it is easy to see that in crises like these a threat by the President to use force, having put U.S. credibility on the line in addition to whatever other foreign policy stakes were at issues, would have put Congress in a bind. 3. Lawyers’ Mis-Assessment Empirically, analysis of and insights gleaned from any particular incident – which might then be used to evaluate the functional merits of presidential powers – looks very different if one focuses predominantly on the actual use of force instead of considering also the role of threatened force. Take for example, the Cuban Missile Crisis – perhaps the Cold War’s most dangerous event. To the rare extent that they consider domestic legal issues of this crisis at all, lawyers interested in the constitutionality of President Kennedy’s actions generally ask only whether he was empowered to initiate the naval quarantine of Cuba, because that is the concrete military action Kennedy took that was readily observable and that resulted in actual engagement with Soviet forces or vessels – as it happens, very minimal engagement.125 To strategists who study the crisis, however, the naval quarantine is not in itself the key presidential action; after all, as Kennedy and his advisers realized, a quarantine alone could not remove the missiles that were already in Cuba. The most consequential presidential actions were threats of military or even nuclear escalation, signaled through various means including putting U.S. strategic bombers on highest alert.126 The quarantine itself was significant not for its direct military effects but because of its communicative impact in showing U.S. resolve. If one is focused, as lawyers often are, on presidential military action that actually engaged the enemy in combat or nearly did, it is easy to dismiss this case as not very constitutionally significant. If one focuses on it, as strategists and political scientists often do, on nuclear brinkmanship, it is arguably the most significant historical exercise of unilateral presidential powers to affect war and peace.127 Considering again the 1991 Gulf War, most legal scholars would dismiss this instance as constitutionally a pretty uninteresting military conflict: the President claimed unilateral authority to use force, but he eventually sought and obtained congressional authorization for what was ultimately – at least in the short-run – a quite successful war. For the most part this case is therefore neither celebrated nor decried much by either side of legal war powers debates,128 though some congressionalist scholars highlight the correlation of congressional authorization for this war and a successful outcome.129 Political scientists look at the case differently, though. They often study this event not as a successful war but as failed coercive diplomacy, in that the United States first threatened war through a set of dramatically escalating steps that ultimately failed to persuade Saddam Hussein to withdraw from Kuwait.130 Some political scientists even see U.S. legal debate about military actions as an important part of this story, assessing that adversaries pay attention to congressional arguments and moves in evaluating U.S. resolve (an issue taken up in greater detail below) and that congressional opposition to Bush’s initial unilateralism in this case undermined the credibility of U.S. threats.131 Whether one sees the Gulf War as a case of (successful) war, as lawyers usually do, or (unsuccessful) threatened war, as political scientists usually do, colors how one evaluates the outcome and the credit one might attach to some factors such as vocal congressional opposition to initially-unilateral presidential moves. Notice also that legal analysis of Presidential authority to use force is sometimes thought to turn partly on the U.S. security interests at stake, as though those interests are purely contextual and exogenous to U.S. decision-making and grand strategy. In justifying President Obama’s 2011 use of force against the Libyan government, for example, the Justice Department’s Office of Legal Counsel concluded that the President had such legal authority “because he could reasonably determine that such use of force was in the national interest,” and it then went on to detail the U.S. security and foreign policy interests.132 The interests at stake in crises like these, however, are altered dramatically if the President threatens force: doing so puts the credibility of U.S. threats at stake, which is important not only with respect to resolving the crisis at hand but with respect to other potential adversaries watching U.S. actions.133 The President’s power to threaten force means that he may unilaterally alter the costs and benefits of actually using force through his prior actions.134 The U.S. security interests in carrying through on threats are partly endogenous to the strategy embarked upon to address crises (consider, for example, that once President George H.W. Bush placed hundred of thousands of U.S. troops in the Persian Gulf region and issued an ultimatum to Saddam Hussein in 1990, the credibility of U.S. threats and assurances to regional allies were put on the line).135 Moreover, interests at stake in any one crisis cannot simply be disaggregated from broader U.S. grand strategy: if the United States generally relies heavily on threats of force to shape the behavior of other actors, then its demonstrated willingness or unwillingness to carry out a threat and the outcomes of that action affect its credibility in the eyes of other adversaries and allies, too.136 It is remarkable, though in the end not surprising, that the executive branch does not generally cite these credibility interests in justifying its unilateral uses of force. It does cite when relevant the U.S. interest in sustaining the credibility of its formal alliance commitments or U.N. Security Council resolutions, as reasons supporting the President’s constitutional authority to use force.137 The executive branch generally refrains from citing the similar interests in sustaining the credibility of the President’s own threats of force, however, probably in part because doing so would so nakedly expose the degree to which the President’s prior unilateral strategic decisions would tie Congress’s hands on the matter. \* \* \* In sum, lawyers’ focus on actual uses of force – usually in terms of armed clashes with an enemy or the placement of troops into hostile environments – does not account for much vaster ways that President’s wield U.S. military power and it skews the claims legal scholars make about the allocation of war powers between the political branches. A more complete account of constitutional war powers should recognize the significant role of threatened force in American foreign policy. II. Democratic Checks on Threatened Force The previous Parts of this Article showed that, especially since the end of World War II, the United States has relied heavily on strategies of threatened force in wielding its military might – for which credible signals are a necessary element – and that the President is not very constrained legally in any formal sense in threatening war. Drawing on recent political science scholarship, this Part takes some of the major questions often asked by students of constitutional war powers with respect to the actual use of force and reframes them in terms of threatened force. First, as a descriptive matter, in the absence of formal legal checks on the President’s power to threaten war, is the President nevertheless informally but significantly constrained by democratic institutions and processes, and what role does Congress play in that constraint? Second, as a normative matter, what are the strategic merits and drawbacks of this arrangement of democratic institutions and constraints with regard to strategies of threatened force? Third, as a prescriptive matter, although it is not really plausible that Congress or courts would ever erect direct legal barriers to the President’s power to threaten war, how might legal reform proposals to more strongly and formally constrain the President’s power to use force indirectly impact his power to threaten it effectively? For reasons discussed below, I do not consider whether Congress could legislatively restrict directly the President’s power to threaten force or war; in short, I set that issue aside because assuming that were constitutionally permissible, even ardent congressionalists have exhibited no interest in doing so, and instead have focused on legally controlling the actual use of force. Political science insights that bear on these questions emerge from several directions. One is from studies of Congress’ influence on use of force decisions, which usually assume that Congress’s formal legislative powers play only a limited role in this area, and the effects of this influence on presidential decision-making about threatened force. Another is international relations literature on international bargaining138 as well as literature on the theory of democratic peace, the notion that democracies rarely, if ever, go to war with one another.139 In attempting to explain the near-absence of military conflicts between democracies, political scientists have examined how particular features of democratic governments – electoral accountability, the institutionalized mobilization of political opponents, and the diffusion of decision-making authority regarding the use of force among executive and legislative branches – affect decision-making about war.140 These and other studies, in turn, have led some political scientists (especially those with a rational choice theory orientation) to focus on how those features affect the credibility of signals about force that governments send to adversaries in crises.141 My purpose in addressing these questions is to begin painting a more complete and detailed picture of the way war powers operate, or could operate, than one sees when looking only at actual wars and use of force. This is not intended to be a comprehensive account but an effort to synthesize some strands of scholarship from other fields regarding threatened force to inform legal discourse about how war powers function in practice and the strategic implications of reform. The answers to these questions also bear on raging debates among legal scholars on the nature of American executive power and its constraint by law. Initially they seem to support the views of those legal scholars who have long believed that in practice law no longer seriously binds the President with respect to war-making.142 That view has been taken even further recently by Eric Posner and Adrian Vermeule, who argue that “[l]aw does little constraint the modern executive” at all, but also observe that “politics and public opinion” operate effectively to cabin executive powers.143 The arguments offered here, however, do more to support the position of those legal scholars who describe a more complex relationship between law and politics, including that law is constitutive of the processes of political struggle.144 That law helps constitute the processes of political struggles is true of any area of public policy, though, and what is special here is the added importance of foreign audiences – including adversaries and allies, alike – observing and reacting to those politics, too. Democratic Constraints on the Power to the Threaten Force Whereas most lawyers usually begin their analysis of the President’s and Congress’s war powers by focusing on their formal legal authorities, political scientists usually take for granted these days that the President is – in practice – the dominant branch with respect to military crises and that Congress wields its formal legislative powers in this area rarely or in only very limited ways. A major school of thought, however, is that congressional members nevertheless wield significant influence over decisions about force, and that this influence extends to threatened force, so that Presidents generally refrain from threats that would provoke strong congressional opposition. Even without any serious prospect for legislatively blocking the President’s threatened actions, Congress under certain conditions can loom large enough to force Presidents to adjust their policies; even when it cannot, congressional members can oblige the President expend lots of political capital. As Jon Pevehouse and William Howell explain: When members of Congress vocally **oppose a use of force, they undermine the president’s ability to convince** foreign states that he will see a fight through to the end. Sensing hesitation on the part of the United States, **allies may be reluctant to contribute** to a military campaign, **and adversaries are likely to fight harder and longer** when conflict erupts— thereby raising the costs of the military campaign, decreasing the president’s ability to negotiate a satisfactory resolution, and increasing the probability that American lives are lost along the way. Facing a limited band of allies willing to participate in a military venture and an enemy emboldened by domestic critics, presidents may choose to curtail, and even abandon, those military operations that do not involve vital strategic interests. 145 This statement also highlights the important point, alluded to earlier, that force and threatened force are not neatly separable categories. Often limited uses of force are intended as signals of resolve to escalate, and most conflicts involve bargaining in which the threat of future violence – rather than what Schelling calls “brute force”146 – is used to try to extract concessions. The formal participation of political opponents in legislative bodies provides them with a forum for registering dissent to presidential policies of force through such mechanisms floor statements, committee oversight hearings, resolution votes, and funding decisions.147 These official actions prevent the President “from monopolizing the nation’s political discourse” on decisions regarding military actions can thereby make it difficult for the President to depart too far from congressional preferences.148 Members of the political opposition in Congress also have access to resources for gathering policy relevant information from the government that informs their policy preferences. Their active participation in specialized legislative committees similarly gives opponent party members access to fact-finding resources and forums for registering informed dissent from decisions within the committee’s purview.149 As a result, legislative institutions within democracies can enable political opponents to have a more **immediate** and informed **impact** on executive’s decisions regarding force than can opponents among the general public. Moreover, studies suggest that Congress can actively shape media coverage and public support for a president’s foreign policy engagements.150 In short, these findings among political scientists suggest that, even without having to pass legislation or formally approve of actions, Congress often operates as an important check on threatened force by providing the president’s political opponents with a forum for registering dissent from the executive’s decisions regarding force in ways that attach domestic political costs to contemplated military actions or even the threats to use force. Under this logic, Presidents, anticipating dissent, will be more selective in issuing¶ threats in the first place, making only those commitments that would not incite¶ widespread political opposition should the threat be carried through.151 Political¶ opponents within a legislature also have few electoral incentives to collude in an¶ executive’s bluff, and they are capable of expressing opposition to a threatened use of¶ force in ways that could expose the bluff to a threatened adversary.152 This again narrows¶ the President’s range of viable policy options for brandishing military force. Counter-intuitively, given the President’s seemingly unlimited and unchallenged¶ constitutional power to threaten war, it may in some cases be easier for members of¶ Congress to influence presidential decisions to threaten military action than presidential¶ war decisions once U.S. forces are already engaged in hostilities. It is widely believed¶ that once U.S. armed forces are fighting, congress members’ hands are often tied: policy¶ opposition at that stage risks being portrayed as undermining our troops in the field.153¶ Perhaps, it could be argued, the President takes this phenomenon into account and¶ therefore discounts political opposition to threatened force; he can assume that such¶ opposition will dissipate if he carries it through. Even if that is true, before that point¶ occurs, however, members of Congress may have communicated messages domestically¶ and communicated signals abroad that the President will find difficult to counter.154 The bottom line is that a body of recent political science, while confirming the¶ President’s dominant position in setting policy in this area, also reveals that policymaking¶ with respect to threats of force is significantly shaped by domestic politics and¶ that Congress is institutionally positioned to play a powerful role in influencing those¶ politics, even without exercising its formal legislative powers. Given the centrality of¶ threatened force to U.S. foreign policy strategy and security crises, this suggests that the¶ practical war powers situation is not so imbalanced toward the President as many assume. B. Democratic Institutions and the Credibility of Threats A central question among constitutional war powers scholars is whether robust¶ checks – especially congressional ones – on presidential use of force lead to “sound”¶ policy decision-making. Congressionalists typically argue that legislative control over¶ war decisions promotes more thorough deliberation, including more accurate weighing of¶ consequences and gauging of political support of military action.155 Presidentialists¶ usually counter that the executive branch has better information and therefore better¶ ability to discern the dangers of action or inaction, and that quick and decisive military¶ moves are often required to deal with security crises.156 If we are interested in these sorts of functional arguments, then reframing the¶ inquiry to include threatened force prompts critical questions whether such checks also¶ contribute to or detract from effective deterrence and coercive diplomacy and therefore¶ positively or negatively affect the likelihood of achieving aims without resort to war.¶ Here, recent political science provides some reason for optimism, though the scholarship¶ in this area is neither yet well developed nor conclusive. To be sure, “soundness” of policy with respect to force is heavily laden with¶ normative assumptions about war and the appropriate role for the United States in the¶ broader international security system, so it is difficult to assess the merits and¶ disadvantages of constitutional allocations in the abstract. That said, whatever their¶ specific assumptions about appropriate uses of force in mind, constitutional war powers¶ scholars usually evaluate the policy advantages and dangers of decision-making¶ allocations narrowly in terms of the costs and outcomes of actual military engagements¶ with adversaries. The importance of credibility to strategies of threatened force adds important new¶ dimensions to this debate. On the one hand, one might intuitively expect that robust democratic checks would generally be ill-suited for coercive threats and negotiations –¶ that institutional centralization and secrecy of decision-making might better equip nondemocracies¶ to wield threats of force. As Quincy Wright speculated in 1944, autocracies¶ “can use war efficiently and threats of war even more efficiently” than democracies,157¶ especially the American democracy in which vocal public and congressional opposition¶ may undermine threats.158 Moreover, proponents of democratic checks on war powers¶ usually assume that careful deliberation is a virtue in preventing unnecessary wars, but¶ strategists of deterrence and coercion observe that perceived irrationality is sometimes¶ important in conveying threats: “don’t test me, because I might just be crazy enough to¶ do it!”159 On the other hand, some political scientists have recently called into question this¶ view and concluded that the institutionalization of political contestation and some¶ diffusion of decision-making power in democracies of the kind described in the previous¶ section make threats to use force rare but especially credible and effective in resolving¶ international crises without actual resort to armed conflict. In other words, recent¶ arguments in effect turn some old claims about the strategic disabilities of democracies¶ on their heads: whereas it used to be generally thought that democracies were ineffective¶ in wielding threats because they are poor at keeping secrets and their decision-making is¶ constrained by internal political pressures, a current wave of political science accepts this¶ basic description but argues that these democratic features are really strategic virtues.160 Rationalist models of crisis bargaining between states assume that because war is¶ risky and costly, states will be better off if they can resolve their disputes through¶ bargaining rather than by enduring the costs and uncertainties of armed conflict.161¶ Effective bargaining during such disputes – that which resolves the crisis without a resort¶ to force – depends largely on states’ perceptions of their adversary’s capacity to wage an¶ effective military campaign and its willingness to resort to force to obtain a favorable¶ outcome. A state targeted with a threat of force, for example, will be less willing to resist¶ the adversary’s demands if it believes that the adversary intends to wage and is capable of¶ waging an effective military campaign to achieve its ends. In other words, if a state¶ perceives that the threat from the adversary is credible, that state has less incentive to¶ resist such demands if doing so will escalate into armed conflict. The accuracy of such perceptions, however, is often compromised by¶ informational asymmetries that arise from private information about an adversary’s¶ relative military capabilities and resolve that prevents other states from correctly¶ assessing another states’ intentions, as well as by the incentives states have to¶ misrepresent their willingness to fight – that is, to bluff.162 Informational asymmetries¶ increase the potential for misperception and thereby make war more likely; war,¶ consequentially, can be thought of in these cases as a “bargaining failure.”163 Some political scientists have argued in recent decades – contrary to previously common wisdom – that features and constraints of democracies make them better suited than non-democracies to credibly signal their resolve when they threaten force. To bolster their bargaining position, states will seek to generate credible signals of their resolve by taking actions that can enhance the credibility of such threats, such as mobilizing military forces or making “hand-tying” commitments from which leaders cannot back down without suffering considerable political costs domestically.164 These domestic audience costs, according to some political scientists, are especially high for leaders in democratic states, where they may bear these costs at the polls.165 Given the potentially high domestic political and electoral repercussions democratic leaders face from backing down from a public threat, they have considerable incentives to refrain from bluffing. An adversary that understands these political vulnerabilities is thereby more likely to perceive the threats a democratic leader does issue as highly credible, in turn making it more likely that the adversary will yield.166 Other scholars have recently pointed to the special role of legislative bodies in signaling with regard to threatened force. This is especially interesting from the perspective of constitutional powers debates, because it posits a distinct role for Congress – and, again, one that does not necessarily rely on Congress’s ability to pass binding legislation that formally confines the President. Kenneth Schultz, for instance, argues that the open nature of competition within democratic societies ensures that the interplay of opposing parties in legislative bodies over the use of force is observable not just to their domestic publics but to foreign actors; this inherent transparency within democracies – magnified by legislative processes – **provides more information to adversaries** regarding the unity of domestic opponents around a government’s military and foreign policy decisions.167 Political opposition parties can undermine the credibility of some threats by the President to use force if they publicly voice their opposition in committee hearings, public statements, or through other institutional mechanisms. Furthermore, legislative processes – such as debates and hearings – make it difficult to conceal or misrepresent preferences about war and peace. Faced with such institutional constraints, Presidents will incline to be more selective about making such threats and avoid being undermined in that way.168 This restraining effect on the ability of governments to issue threats simultaneously makes those threats that the government issues more credible, if an observer assumes that the President would not be issuing it if he anticipated strong political opposition. Especially when members of the opposition party publicly support an executive’s threat to use force during a crisis, their visible support lends additional credibility to the government’s threat by demonstrating that political conditions domestically favor the use of force should it be necessary.169 In some cases, Congress may communicate greater willingness than the president to use force, for instance through non-binding resolutions.170 Such powerful signals of resolve should in theory make adversaries more likely to back down. The credibility-enhancing effects of legislative constraints on threats are subject to dispute. Some studies question the assumptions underpinning theories of audience costs – specifically the idea that democratic leaders suffer domestic political costs to failing to make good on their threats, and therefore that their threats are especially credible171 – and others question whether the empirical data supports claims that democracies have credibility advantages in making threats.172 Other scholars dispute the likelihood that leaders will really be punished politically for backing down, especially if the threat was not explicit and unambiguous or if they have good policy reasons for doing so.173 Additionally, even if transparency in democratic institutions allows domestic dissent from threats of force to be visible to foreign audiences, it is not clear that adversaries would interpret these mechanisms as political scientists expect in their models of strategic interaction, in light of various common problems of misperception in international relations.174 These disputes are not just between competing theoretical models but also over the links between any of the models and real-world political behavior by states. At this point there remains a dearth of good historical evidence as to how foreign leaders interpret political maneuvers within Congress regarding threatened force. Nevertheless, at the very least, strands of recent political science scholarship cast significant doubt on the intuition that democratic checks are inherently disadvantageous to strategies of threatened force. Quite the contrary, they suggest that legislative checks – or, indeed, even the signaling functions that Congress is institutionally situated to play with respect to foreign audiences interpreting U.S. government moves – can be harnessed in some circumstances to support such strategies. C. Legal Reform and Strategies of Threatened Force Among legal scholars of war powers, the ultimate prescriptive question is whether the President should be constrained more formally and strongly than he currently is by legislative checks, especially a more robust and effective mandatory requirement of congressional authorization to use force. Calls for reform usually take the form of narrowing and better enforcement (by all three branches of government) of purported constitutional requirements for congressional authorization of presidential uses of force or revising and enforcing the War Powers Resolutions or other framework legislation requiring express congressional authorization for such actions.175 As applied to strategies of threatened force, generally **under these proposals the President would lack authority to make good on them** unilaterally (except in whatever narrow circumstances for which he retains his own unilateral authority, such as deterring imminent attacks on the United States). Whereas legal scholars are consumed with the internal effects of war powers law, such as whether and when it constrains U.S. government decision-making, the analysis contained in the previous section shifts attention externally to whether and when U.S. law might influence decision-making by adversaries, allies, and other international actors. In prescriptive terms, if the President’s power to use force is linked to his ability to threaten it effectively, then any consideration of war powers reform on policy outcomes and longterm interests should include the important secondary effects on deterrent and coercive strategies – and how U.S. legal doctrine is perceived and understood abroad.176 Would stronger requirements for congressional authorization to use force reduce a president’s opportunities for bluffing, and if so would this improve U.S. coercive diplomacy by making ensuing threats more credible? Or would it undermine diplomacy by taking some threats off the table as viable policy options? Would stronger formal legislative powers with respect to force have significant marginal effects on the signaling effects of dissent within Congress, beyond those effects already resulting from open political discourse? These are difficult questions, but the analysis and evidence above helps generate some initial hypotheses and avenues for further research and analysis. One might ask at this point why, though, having exposed as a hole in war powers legal discourse the tendency to overlook threatened force, this Article does not take up whether Congress should assert some direct legislative control of threats – perhaps statutorily limiting the President’s authority to make them or establishing procedural conditions like presidential reporting requirements to Congress. This Article puts such a notion aside for several reasons. First, for reasons alluded to briefly above, such limits would be very constitutionally suspect and difficult to enforce.177 Second, even the most ardent war-power congressionalists do not contemplate such direct limits on the President’s power to threaten; they are not a realistic option for reform. Instead, this Article focuses on the more plausible – and much more discussed – possibility of strengthening Congress’s power over the ultimate decision whether to use force, but augments the usual debate over that question with appreciation for the importance of credible threats. A claim previously advanced from a presidentialist perspective is that stronger legislative checks on war powers is harmful to coercive and deterrent strategies, because it establishes easily-visible impediments to the President’s authority to follow through on threats. This was a common policy argument during the War Powers Resolution debates in the early 1970s. Eugene Rostow, an advocate inside and outside the government for executive primacy, remarked during consideration of legislative drafts that any serious restrictions on presidential use of force would mean in practice that “no President could make a credible threat to use force as an instrument of deterrent diplomacy, even to head off explosive confrontations.”178 He continued: In the tense and cautious diplomacy of our present relations with the Soviet Union, as they have developed over the last twenty-five years, the authority of the President to set clear and silent limits in advance is perhaps **the *most* important** of all the powers in our constitutional armory to prevent confrontations that could **carry nuclear implications**. … [I]t is the **diplomatic power the President needs** most under the circumstance of modern life—the power to make a credible threat to use force in order to prevent a confrontation which might escalate.179 In his veto statement on the War Powers Resolution, President Nixon echoed these concerns, arguing that **the law would undermine the credibility of U.S. deterrent** and coercive threats in the eyes of both adversaries and allies – they would know that presidential authority to use force would expire after 60 days, so absent strong congressional support they could assume U.S. withdrawal at that point.180 In short, those who oppose tying the president’s hands with mandatory congressional authorization requirements to use force sometimes argue that doing so incidentally and dangerously ties his hands in threatening it. A critical assumption here is that presidential flexibility, preserved in legal doctrine, enhances the credibility of presidential threats to escalate.

## 4

#### The plan forces Obama to defend his war power – trades off with agenda

**Kriner, 10** --- assistant professor of political science at Boston University

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

**While congressional support leaves the president’s reserve of political capital intact, congressional criticism saps energy from other initiatives on the home front by forcing the president to expend energy and effort defending his international agenda. Political capital spent shoring up support for a president’s foreign policies is capital that is unavailable for his future policy initiatives**. Moreover, any weakening in the president’s political clout may have immediate ramifications for his reelection prospects, as well as indirect consequences for congressional races.59 Indeed, Democratic efforts to tie congressional Republican incumbents to President George W. Bush and his war policies paid immediate political dividends in the 2006 midterms, particularly in states, districts, and counties that had suffered the highest casualty rates in the Iraq War. 60 **In addition to boding ill for the president’s perceived political capital and reputation, such partisan losses in Congress only further imperil his programmatic agenda, both international and domestic.** Scholars have long noted that President Lyndon **Johnson’s dream of a Great Society also perished in the rice paddies of Vietnam. Lacking** the requisite funds in a war-depleted treasury and **the political capital needed to sustain his legislative vision, Johnson gradually let his domestic goals slip away** as he hunkered down in an effort first to win and then to end the Vietnam War. In the same way, **many of** President **Bush’s highest second-term domestic proprieties, such as Social Security and immigration reform, failed perhaps in large part because the administration had to expend so much energy and effort waging a rear-guard action against congressional critics of the war in Iraq.**61 **When making their cost-benefit calculations, presidents surely consider these wider political costs of congressional opposition to their military policies.** If congressional opposition in the military arena stands to derail other elements of his agenda, all else being equal, the president will be more likely to judge the benefits of military action insufficient to its costs than if Congress stood behind him in the international arena.

#### Undermines Obama’s ability to prevent new Iran sanctions – impact is catastrophic war

Dave Lefcourt, retired free lance writer living in Ellicott City, Maryland“Negotiations With Iran Resume Today, Failure to Reach a Permanent Deal Should Not Be An Option” 2/18/2014. http://www.opednews.com/articles/Negotiations-With-Iran-Res-by-Dave-Lefcourt-Agreement\_Iran\_Issues\_Negotiation-140218-703.html

Diplomatic negotiations between the P5+1 and Iran resume today in Vienna. To say these talks are crucial for world peace and avoidance of an unnecessary catastrophic war can not be overstated. A six month temporary agreement was reached in November that has Iran halting its enrichment of uranium to high levels and reducing its stockpile of near weapons grade uranium in exchange for lifting some economic sanctions and access to $4.2 billion in Iranian cash frozen in foreign banks. Yet complications not connected with the direct talks have arisen jeopardizing the chances a permanent deal can be reached. In December, the U.S. Senate, in a particularly misguided bi-partisan effort, had 14 Democrats and 13 Republicans introducing legislation for more sanctions on Iran. President Obama has vowed to veto such a bill and Senate Majority Leader Harry Reid has thus far decided to table the bill preventing a full vote by the full Senate. Such a vote could present a veto proof majority, overriding a presidential veto with the new sanctions being the death blow undermining the talks. It is possible as a direct consequence to the Senate's proclivities Ayatollah Khamenei in a speech yesterday in Tehran said, "The negotiations will lead nowhere". Though he indicated, "Iran will not breach what it has started" as he would continue to support the negotiated effort even though he believed they would not be successful. The West, particularly the U.S. -- and its surrogate Israel- have been obsessed with the possibility of Iran breaking out and developing a nuclear weapon. Iran has maintained its nuclear development is for peaceful purposes while Khamenei has issued a "Fatwa" years ago declaring nuclear weapons as un-Islamic and forcefully rejected the notion Iran would proceed on such a course. But his words have gone underreported in the U.S. corporate media and dismissed out of hand. Meanwhile the U.S. Congress remains firmly under the thumb of AIPAC and the Israeli Lobby as evidenced by the new sanctions bill introduced in the Senate. That misguided effort tells Iran negotiations are fruitless and the U.S. will continue its war like hostility while squeezing that country economically.

## S

#### Obama striking outside of active hostilities—Yemen, Pakistan, Somalia; and legal standards are so blurry it will continue

Miller 2-10

(Greg, National Security Reporter for the Washington Post. “U.S. weighs lethal strike against American citizen” 2-10-14 http://www.washingtonpost.com/world/national-security/us-weighs-lethal-strike-against-american-citizen/2014/02/10/24bc47ac-9268-11e3-b46a-5a3d0d2130da\_story.html//wyoccd)

The Obama administration is weighing whether to approve a lethal strike against a U.S. citizen who is accused of being part of the al-Qaeda terrorist network overseas and involved in ongoing plotting against American targets, U.S. officials said.¶ The officials said no decision has been reached on whether to add the alleged operative to the administration’s kill list, a step that would require Justice Department approval under new counterterrorism guidelines adopted by President Obama last year. U.S. officials have not revealed the identity of the alleged operative or the country where he is believed to be located, citing concern that disclosing those details would send him deeper into hiding and prevent any U.S. strike.¶ But Rep. Mike Rogers (R-Mich.), chairman of the House Intelligence Committee, alluded to the case last week during a public hearing on security threats, accusing the administration of adopting cumbersome counterterrorism policies that have made Americans more vulnerable to attack.¶ “Individuals who would have been previously removed from the battlefield by U.S. counterterrorism operations for attacking or plotting to attack against U.S. interests remain free because of self-imposed red tape,” Rogers said.¶ He added that the new constraints on drone strikes are “endangering the lives of Americans at home and our military overseas in a way that is frustrating to our allies and frustrating to those of us who engage in the oversight of our classified activities.”¶ Al-Qaeda’s core group in Pakistan is closely tied to militant organizations that have carried out cross-border assaults against U.S. forces in Afghanistan. The CIA has carried out hundreds of strikes against the groups in Pakistan.¶ That core group is known to include at least one American, Adam Gadahn. But he is widely considered a spokesman and media figure for al-Qaeda, not an operative whose role in plotting would meet the criteria for placement on U.S. target lists. U.S. counterterrorism officials in recent months have also voiced concern about the potential for American recruits to join al-Qaeda affiliates in Somalia, Yemen and Syria.¶ The prospect of again targeting an American — first reported Monday by the Associated Press — puts Obama in the position of having to revisit one of the most controversial issues of his presidency. Last year the White House acknowledged that four U.S. citizens had been killed in drone strikes during Obama’s time in office. Only one of them — Anwar al-Awlaki, a U.S. native who became a leader of al-Qaeda’s affiliate in Yemen — had been intentionally targeted.¶ The disclosure came amid mounting pressure on the administration from civil liberties groups that questioned the legality of killing an American without due process in court, as well as the secrecy surrounding such decisions. Officials at the American Civil Liberties Union renewed those objections Monday.¶ “The targeted killing of an American being considered right now shows the inherent danger of a killing program based on vague and shifting legal standards, which has made it disturbingly easy for the government to operate outside the law,” said Hina Shamsi, director of the ACLU’s National Security Project. “This new report comes as the administration continues to fight against even basic transparency about the thousands of people who have died in this lethal program, let alone accountability for the wrongful killings of U.S. citizens.”¶ Spokesmen for the White House, CIA and Justice Department declined to comment.¶ In a speech last May, Obama defended the government’s authority to kill Americans accused of plotting with al-Qaeda but said doing so was a measure of last resort that should face special scrutiny from the Justice Department.¶ “The targeting of any American raises constitutional issues that are not present in other strikes,” Obama said. But he also said that when a U.S. citizen “goes abroad to wage war against America” and can’t be captured, “his citizenship should no more serve as a shield than a sniper shooting down on an innocent crowd should be protected from a SWAT team.”¶ The policies Obama approved last year allow counterterrorism strikes beyond active war zones only when the target is thought to pose an imminent and continuing threat to U.S. persons and when there is a “near certainty” of no civilian casualties.¶ There has been no indication from administration officials that the guidelines imposed new constraints on targeting Americans, other than requiring a ruling from the Justice Department, which officials said was done before Awlaki was killed in 2011.¶ So it is unclear what Rogers was referring to in his remark on “self-imposed red tape.” At the same hearing, he cited “a growing risk aversion within our intelligence agencies as al-Qaeda has morphed and spread throughout Yemen, Syria, the Levant and Africa.” A spokesman for Rogers declined to elaborate on his comments.¶ Beyond the CIA drone campaign in Pakistan, the United States has also carried out strikes in Yemen and Somalia. The latter involve the U.S. Joint Special Operations Command, which operates Predator and Reaper remotely piloted aircraft from a base in Djibouti.

#### Obama will broadly define zones of active hostilities to justify status quo use of force

Brooks 13, International Law Prof at Georgetown

(Rosa, The Real Reason the Limits of Drone Use Are Murky: We Can't Decide What 'Terrorists' or 'Conflict' Mean, www.theatlantic.com/international/archive/2013/08/the-real-reason-the-limits-of-drone-use-are-murky-we-cant-decide-what-terrorists-or-conflict-mean/278739/)

Humpty Dumpty knew that arguments about the meaning of words have as much to do with power as with dictionaries, and so it is with drone strikes. Would limiting their use to "active, armed conflicts and for known terrorists" make drone strikes "Acceptable"? Well... it depends what you mean by "active, armed conflicts," what you mean by "known," what you mean by "terrorists," and what you mean by "acceptable." Here's the basic problem. Under international law and U.S. law, there are different rules for armed conflicts than for ordinary, peacetime situations. To put it starkly, in peacetime, you can't just go around killing people. Try it! (No, don't try it, not really). Just consider the likely outcome if you wander outside and bash a passerby over the head with a brick. You know what will happen, right? You'll be arrested and charged with murder. You could try saying to the arresting officer, "But officer, the guy I killed was my enemy," but odds are this will just add a mental health evaluation to your woes. During an armed conflict, though, the rules are different. If you're a combatant, and you see someone approaching who you believe might be an enemy, you get to shoot first and ask questions later. In wartime, soldiers have what's called "combatant immunity:" they don't get prosecuted as murderers for killing other people, provided that their lethal acts are consistent with general law of war principles (these include the principles of distinction, necessity, and proportionality). I'm radically oversimplifying, but you get the basic idea: many things that are unlawful in the absence of an active armed conflict are lawful during an armed conflict, and this applies to drone strikes just as it applies to the use of lethal force via grenade, gun, or slingshot. So, can you lob a grenade -- or fire a Hellfire missile from a Predator drone -- into a building full of sleeping people? Generally yes, if there's an armed conflict, you're a combatant, and you reasonably believe the building is occupied by enemy soldiers. Generally no, if there's no armed conflict. The police, for instance, can't just decide to blow up a house in which suspected felons lie sleeping. So a great deal hinges on whether or not we classify something as an armed conflict -- and this is where Humpty Dumpty comes in. The war in Afghanistan is clearly an armed conflict -- no one disagrees with that premise. But is the U.S. in an "armed conflict" with militants in Pakistan, or suspected Al-Qaeda associates in Yemen, or members of the Al Shabaab organization in Somalia? The Obama administration, like the Bush administration before it, thinks the answer is yes. Their position is that an armed conflict can exist between a state and one or more non-state entities, even if those non-state entities are not publicly identified, their membership criteria cannot be clearly defined, and their activities are geographically dispersed. Many others disagree. In Europe, for instance, as a recent European Council on Foreign Relations report by Anthony Dworkin notes, most legal scholars and courts "[reject] the notion of a de-territorialized global armed conflict between the U.S. and Al-Qaeda," and believe that a "confrontation between a state and a non-state group only rises to the level of an armed conflict if the non-state group meets a threshold for organization... there are intense hostilities between the two parties... [and] fighting [is] concentrated within a specific zone (or zones) of hostilities." Return to the original question: " Should we limit our use of drones to active, armed conflicts and for known terrorists? And would they be acceptable in that case?" Virtually everyone would agree that drone strikes are permissible during active armed conflicts, as long as they otherwise comply with the laws of war (by not targeting civilians, etc.) That's the easy answer. The problem is that we can't seem to agree on what constitutes an "armed conflict" -- and if we can't agree on that, we can't agree on what rules apply, or whether drone strikes are lawful wartime activities or unlawful murders.

## Allies

#### Cooperation dependent on other facets of war on terrorism – detention controversies are periodic.

Archick 13

(Kristin, Specialist in European Affairs @ CRS, “U.S.-EU Cooperation Against Terrorism”, May 21, <http://www.fas.org/sgp/crs/row/RS22030.pdf>, DZ)

U.S.-EU **cooperation against terrorism has led to a new dynamic** in U.S.-EU relations by fostering¶ dialogue on law enforcement and homeland security issues previously reserved for bilateral¶ discussions. **Nevertheless**, some **challenges persist** in fostering closer U.S.-EU cooperation in¶ these fields. Among **the most prominent are data privacy and data protection** concerns. The EU¶ considers the privacy of personal data a basic right and EU rules and regulations strive to keep¶ personal data out of the hands of law enforcement as much as possible. The negotiation of several¶ U.S.-EU information-sharing agreements, from those¶ related to tracking terrorist financial data to¶ sharing airline passenger information, has been complicated by ongoing EU concerns about¶ whether the United States could guarantee a sufficient level of protection for European citizens’¶ personal data. Other **issues that have** led to **periodic tensions include detainee policies**, differences¶ in the U.S. and EU terrorist designation lists (especially regarding Hezbollah), and balancing¶ measures to improve border controls and border se¶ curity with the need to facilitate legitimate¶ transatlantic travel and commerce. **Congressional decisions related to** improving **border controls and transport security**, in particular,¶ **may affect** how future U.S.-EU **cooperation** evolves. In addition, given the European Parliament’s¶ growing influence in many of these policy areas,¶ **Members of Congress may be able to help shape**¶ **Parliament’s views and responses** **through** ongoing contacts and the existing Transatlantic¶ Legislators’ Dialogue (**TLD**). This report exam¶ ines the evolution of U.S.-EU counterterrorism¶ cooperation and the ongoing challenges that may be of interest in the 113¶ th¶ Congress.

#### Spying is a larger internal link to collapse of allied coop on CT

Skinner 13

(Kiron K. Skinner is the director of the Center for International Relations and Politics at Carnegie Mellon University and a research fellow at Stanford University's Hoover Institution [October 25, 2013, “Diplomacy Requires Trust Among Allies,” 10-25-13 http://www.nytimes.com/roomfordebate/2013/10/24/if-were-spying-are-we-still-allies/diplomacy-requires-trust-among-allies]

Trust is so central to maintaining a healthy alliance that the alleged U.S. policy of monitoring the phone conversations or phone records of German Chancellor Angela Merkel and French citizens should be curtailed.¶ Since the 1963 Elysée Treaty was signed, France and Germany have been the anchors for Europe’s democracies. Without these two leading economies, the European Union could not function and a peaceful Europe would be all but impossible to maintain.¶ Their membership in NATO is vital on both sides of the Atlantic. They have provided troops to the U.S.-led international security forces in Afghanistan. Even when they differ, they work together, as in the case of France’s intervention in Mali, when Germany ultimately offered the use of its cargo planes.¶ Diplomacy is based on trust, so when trust is compromised, cooperation -- no matter how longstanding -- gives way to discord. The Obama administration contends that a large portion of U.S. espionage activities are carried out to combat terrorism, but this does not justify the actions brought to light by the recent Edward Snowden-originated revelations. If Washington undermines its own leadership or that of its allies, the collective ability of the West to combat terrorism will be compromised. Allied leaders will have no incentive to put their own militaries at risk if they cannot trust U.S. leadership. Foreign leaders and their publics -- not just the ideological and murderous nonstate actors that have made terrorism a global phenomenon -- may demand retribution against Washington. ¶ Robust U.S. counterterrorism policies are premised on credibility with those who join the U.S. on the front lines. Even though spying on allies has always occurred (U.S. spying on France provided important intelligence in World War II, for example), the digital age allows public revelations of classified behavior to happen in real time -- not decades after the fact. It is little wonder that President Obama has been on the phone with his European counterparts this week. U.S. credibility is on the line.

#### There is zero risk of an intel collapse—allies are too dependent on our intel

Perry and Dodds 13—Nick Perry, AP Correspondent for New Zealand and the South Pacific, and Paisley Dodds, London Bureau Chief for AP [July 16, 2013, “Experts Say US Spy Alliance Will Survive Snowden,” http://www.military.com/daily-news/2013/07/16/experts-say-us-spy-alliance-will-survive-snowden.html]

WELLINGTON, New Zealand—Britain needed U.S. intelligence to help thwart a major terror attack. New Zealand relied on it to send troops to Afghanistan. And Australia used it to help convict a would-be bomber. All feats were the result of a spying alliance known as Five Eyes that groups together five English-speaking democracies, and they point to a vital lesson: American information is so valuable, experts say, that no amount of global outrage over secret U.S. surveillance powers would cause Britain, Canada, Australia and New Zealand to ditch the Five Eyes relationship. The broader message is that the revelations from NSA leaker Edward Snowden are unlikely to stop or even slow the global growth of secret-hunting—an increasingly critical factor in the security and prosperity of nations. "Information is like gold," Bruce Ferguson, the former head of New Zealand's foreign spy agency, the Government Communications Security Bureau, told The Associated Press. "If you don't have it, you don't survive." The Five Eyes arrangement underscores the value of this information—as well as the limitations of the information sharing. The collaboration began during World War II when the allies were trying to crack German and Japanese naval codes and has endured for more than 70 years. The alliance helps avoid duplication in some instances and allows for greater penetration in others. The five nations have agreed not to spy on each other, and in many outposts around the world, Five Eyes agencies work side by side, allowing for information to be shared quickly. But Richard Aldrich, who spent a decade researching a book on British surveillance, said some Five Eyes nations have spied on each other, violating their own rules. The five countries "generally know what's in each other's underwear drawers so you don't need to spy, but occasionally there will be issues when they don't agree"—and when that happens they snoop, Aldrich said. In Five Eyes, the U.S. boasts the most advanced technical abilities and the biggest budget. Britain is a leader in traditional spying, thanks in part to its reach into countries that were once part of the British Empire. Australia has excelled in gathering regional signals and intelligence, providing a window into the growing might of Asia. Canadians, Australians and New Zealanders can sometimes prove useful spies because they don't come under the same scrutiny as their British and American counterparts. "The United States doesn't share information," said Bob Ayers, a former CIA officer, "without an expectation of getting something in return." Britain is home to one of the world's largest eavesdropping centers, located about 300 kilometers (186 miles) northwest of London at Menwith Hill. It's run by the NSA but hundreds of British employees are employed there, including analysts from Britain's eavesdropping agency, the Government Communications Headquarters—or GCHQ. Australia is home to Pine Gap, a sprawling satellite tracking station located in the remote center of the country, where NSA officials work side-by-side with scores of locals. The U.S. also posts three or four analysts at a time in New Zealand, home to the small Waihopai and Tangimoana spy stations. The intelligence-sharing relationship enabled American and British security and law enforcement officials to thwart a major terror attack in 2006—the trans-Atlantic liquid bomb plot to blow up some 10 airliners. The collaboration, sometimes called ECHELON, takes place within strict parameters. Two U.S. intelligence officials, who spoke on condition of anonymity because they weren't authorized to speak about the program to the news media, said only U.S. intelligence officers can directly access their own vast database. A Five Eyes ally can ask to cross-check, say, a suspicious phone number it has independently collected to see if there is any link to the U.S., the officials said. But the ally must first show the request is being made in response to a potential threat to Western interests. Ferguson said that in New Zealand, cooperation with the U.S. improved markedly after the Sept. 11, 2001, terrorist attacks. Still, he said, his agency was kept on a need-to-know basis. He said he never knew what information was being provided to other Five Eyes nations, and none of the countries would have shared all their intelligence anyway. Ferguson said a small country like New Zealand benefited by a ratio of about five-to-one in the information it received compared to what it provided. He said that as chief of the defense force, a role he held before taking over the spy agency in 2006, he could never have sent troops to Afghanistan without the on-the-ground intelligence provided by the U.S. and other allies. He said New Zealand continues to rely on Five Eyes information for most of its overseas deployments, from peacekeeping to humanitarian efforts. The intelligence is vital, he added, for thwarting potential cyber threats. In Australia, prosecutors in 2009 used evidence from a U.S. informant who had been at a terrorist training camp in Pakistan to help convict one of nine Muslim extremists found guilty of planning to bomb an unspecified Sydney target. The Australian Security Intelligence Organisation wrote in an email to The AP that "intelligence sharing between countries is critical to identifying and preventing terrorism and other transnational security threats." Canada's Department of National Defence had a similar response, saying it "takes an active role in building relationships with allies. Collaborating with the personnel of the Five Eyes community in support of mutual defense and security issues is part of this relationship building." Both agencies declined requests to provide more specific information. In the decades since World War II, the allies have formed various other intelligence allegiances, although few as comprehensive or deep as Five Eyes. While the Snowden revelations will test the relationship, it has survived tests in the past. New Zealand has long asserted an independent foreign policy by banning nuclear ships, and some are now calling for the country to go further and opt out of Five Eyes. Lawmaker Russel Norman, co-leader of New Zealand's Green Party, is one of many people calling for a public review of the relationship. "I want to live in a free society, not a total surveillance state," he said. "The old Anglo-American gang of five no longer runs the world." But John Blaxland, a senior fellow at the Australian National University's Strategic and Defence Studies Centre, said politicians Down Under have often criticized the security relationship until they've gotten into power and been briefed on its benefits. Then, he said, they tend to go silent. "The perception is that the advantages are so great, they'd be crazy to give it up," he said.

#### Their Wetzling evidence is awful and is a negative card—literally just says Rule of Law violations might spill over, says nothing about targeted killing

Their Streeter evidence is laughable—From an undergraduate at Liberty University who leads a few student clubs in his major, he is not qualified to speak to whether or not the EU would collapse minus the plan

#### No impact to US-EU relations, and collapse is inevitable

**Leonard 12** (Mark Leonard is co-founder and director of the European Council on Foreign Relations, the first pan-European think tank., 7/24/2012, "The End of the Affair", www.foreignpolicy.com/articles/2012/07/24/the\_end\_of\_the\_affair)

But Obama's stellar personal ratings in Europe hide the fact that the Western alliance has **never loomed smaller** in the imagination of policymakers on either side of the Atlantic. Seen from Washington, there is **not a single problem in the world to be looked at primarily through a transatlantic prism**. Although the administration looks first to Europeans as partners in any of its global endeavors -- from dealing with Iran's nuclear program to stopping genocide in Syria -- it no longer sees the European theater as its core problem or seeks a partnership of equals with Europeans. It was not until the eurozone looked like it might collapse -- threatening to bring down the global economy and with it Obama's chances of reelection -- that the president became truly interested in Europe. Conversely, Europeans have never cared less about what the United States thinks. Germany, traditionally among the most Atlanticist of European countries, has led the pack. Many German foreign-policy makers think it was simply a tactical error for Berlin to line up with Moscow and Beijing against Washington on Libya. But there is nothing accidental about the way Berlin has systematically refused even to engage with American concerns over German policy on the euro. During the Bush years, Europeans who were unable to influence the strategy of the White House would give a running commentary on American actions in lieu of a substantive policy. They had no influence in Washington, so they complained. But now, the tables are turned, with Obama passing continual judgment on German policy while Chancellor Angela Merkel stoically refuses to heed his advice. Europeans who for many years were infantilized by the transatlantic alliance, either using sycophancy and self-delusion about a "special relationship" to advance their goals or, in the case of Jacques Chirac's France, pursuing the even more futile goal of balancing American power, have finally come to realize that they can no longer outsource their security or their prosperity to Uncle Sam. On both sides of the Atlantic, **the ties that held the alliance together are weakening**. On the American side, Obama's biography links him to the Pacific and Africa but not to the old continent. His personal story echoes the demographic changes in the United States that have reduced the influence of Americans of European origin. Meanwhile, on the European side, the depth of the euro crisis has crowded out almost all foreign policy from the agenda of Europe's top decision-makers. The end of the Cold War means that Europeans no longer need American protection, and the U.S. financial crisis has led to a fall in American demand for European products (although U.S. exports to Europe are at an all-time high). What's more, Obama's lack of warmth has precluded him from establishing the sorts of human relationships with European leaders that animate alliances. When asked to name his closest allies, Obama mentions non-European leaders such as Recep Tayyip Erdogan of Turkey and Lee Myung-bak of South Korea. And his transactional nature has led to a neglect of countries that he feels will not contribute more to the relationship -- within a year of being elected, Obama had managed to alienate the leaders of most of Europe's big states, from Gordon Brown to Nicolas Sarkozy to Jose Luis Rodriguez Zapatero. Americans hardly remember, but Europe's collective nose was put out of joint by Obama's refusal to make the trip to Europe for the 2010 EU-U.S. summit. More recently, Obama has reached out to allies to counteract the impression that the only way to get a friendly reception in Washington is to be a problem nation -- but far too late to erase the sense that Europe matters little to this American president. Underlying these superficial issues is a more **fundamental divergence** in the way Europe and the United States are coping with their respective declines. As the EU's role shrinks in the world, Europeans have sought to help build a multilateral, rule-based world. That is why it is they, rather than the Chinese or the Americans, that have pushed for the creation of institutionalized global responses to climate change, genocide, or various trade disputes. To the extent that today's world has not collapsed into the deadlocked chaos of a "G-zero," it is often due to European efforts to create a functioning institutional order. To Washington's eternal frustration, however, Europeans have not put their energies into becoming a full partner on global issues. For all the existential angst of the euro crisis, Europe is not as weak as people think it is. It still has the world's largest market and represents 17 percent of world trade, compared with 12 percent for the United States. Even in military terms, the EU is the world's No. 2 military power, with 21 percent of the world's military spending, versus 5 percent for China, 3 percent for Russia, 2 percent for India, and 1.5 percent for Brazil, according to Harvard scholar Joseph Nye. But, ironically for a people who have embraced multilateralism more than any other on Earth, Europeans have not pooled their impressive economic, political, and military resources. And with the eurozone's need to resolve the euro crisis, the EU may split into two or more tiers -- making concerted action even more difficult. As a result, **European power is too diffuse to be much of a help or a hindrance on many issues**. On the other hand, Obama's United States -- although equally committed to liberal values -- thinks that the best way to safeguard American interests and values is to craft a multipartner world. On the one hand, Obama continues to believe that he can transform rising powers by integrating them into existing institutions (despite much evidence to the contrary). On the other, he thinks that Europe's overrepresentation in existing institutions like the World Bank and the International Monetary Fund is a threat to the consolidation of that order. This is leading a declining America to increasingly turn against Europe on issues ranging from climate change to currencies. The most striking example came at the 2009 G-20 in Pittsburgh, when Obama worked together with the emerging powers to pressure Europeans to give up their voting power at the IMF. As Walter Russell Mead, the U.S. international relations scholar, has written, "[I]ncreasingly it will be in the American interest to help Asian powers rebalance the world power structure in ways that redistribute power from the former great powers of Europe to the rising great powers of Asia today." But the long-term consequence of the cooling of this unique alliance could be the hollowing out of the world order that the Atlantic powers have made. The big unwritten story of the last few decades is the way that a European-inspired liberal economic and political order has been crafted in the shell of the American security order. It is an order that limits the powers of states and markets and puts the protection of individuals at its core. If the United States was the sheriff of this order, the EU was its constitutional court. And now it is being challenged by the emerging powers. Countries like Brazil, China, and India are all relatively new states forged by movements of national liberation whose experience of globalization has been bound up with their new sense of nationhood. While globalization is destroying sovereignty for the West, these former colonies are enjoying it on a scale never experienced before. As a result, they are not about to invite their former colonial masters to interfere in their internal affairs. Just look at the dynamics of the United Nations Security Council on issues from Sudan to Syria. Even in the General Assembly, the balance of power is shifting: 10 years ago, China won 43 percent of the votes on human rights in the United Nations, far behind Europe's 78 percent. But in 2010-11, the EU won less than 50 percent to China's nearly 60 percent, according to research by the European Council on Foreign Relations. Rather than being transformed by global institutions, China's sophisticated multilateral diplomacy is changing the global order itself. As relative power flows Eastward, **it is** perhaps **inevitable** that the Western alliance that kept liberty's flame alight during the Cold War and then sought to construct a liberal order in its aftermath **is fading fast**. It was perhaps inevitable that both Europeans and Americans should fail to live up to each other's expectations of their respective roles in a post-Cold War world. After all, America is still too powerful to happily commit to a multilateral world order (as evidenced by Congress's reluctance to ratify treaties). And Europe is too physically safe to be willing to match U.S. defense spending or pool its resources. What is surprising is that the passing of this alliance has not been mourned by many on either side. The legacy of Barack Obama is that the transatlantic relationship is at its most harmonious and yet least relevant in 50 years. Ironically, it may take the election of someone who is less naturally popular on the European stage for both sides to wake up and realize just what is at stake.

**No spillover — lack of credibility in one commitment doesn’t affect others at all**

Paul K. **MacDonald 11**, Assistant Professor of Political Science at Williams College, and Joseph M. Parent, Assistant Professor of Political Science at the University of Miami, Spring 2011, “Graceful Decline?: The Surprising Success of Great Power Retrenchment,” International Security, Vol. 35, No. 4, p. 7-44

Second, **pessimists** **overstate** **the extent to which a policy of retrenchment can** **damage a great power's capabilities or prestige**. Gilpin, in particular, assumes that a great power's commitments are on equal footing and interdependent. **In practice**, however, **great powers make commitments of varying degrees that are** **functionally independent** of one another. **Concession in one area need not be seen as** **influencing a commitment in another area**.25 **Far from being perceived as interdependent**, **great power commitments are often** **seen as** being **rivalrous**, **so that** **abandoning commitments in one area may actually** **bolster the strength of a commitment in another area**. During the Korean War, for instance, President Harry Truman's administration explicitly backed away from total victory on the peninsula to strengthen deterrence in Europe.26 **Retreat in an area of lesser importance** **freed up resources** **and** **signaled a strong commitment to an area of greater significance**.

#### Soft power doesn’t solve the impact- doesn’t coherently translate into success

Blechman, 2005 (Barry M, founder and president of DFI International Inc., a research and consulting company in Washington, DC (frequent consultant to the US Government),Winter 2004/ “Soft Power: The Means to Success in World Politics,” Political Science Quarterly, Vol. 119, Iss 4; pg. 680-681, proquest)

Soft Power: The Means to Success in World Politics by Joseph S. Nye. New York, Public Affairs, 2004. 208 pp. $25.00.

Joseph Nye has done his usual masterful job in this elegant monograph, describing the many sources of influence in international relations and reminding readers that excessive reliance on military or economic instruments of policy can often trigger backlashes that harm the nation's interests in the longer term. Nye points out that rather than either coercing others to share our objectives or buying their agreement with economic incentives, it is better for the United States to get what it wants because others share our goals. Soft power, he says, is more than influence or persuasion, "it is also the ability to attract, and attraction often leads to acquiescence" (p. 6). Much of the book is devoted to descriptions of the sources of soft power in the United States and other countries, including the nation's values and the styles of individual behavior expressed in the dominant culture and transmitted through both commercial activities (Hollywood movies, for example) and personal contacts, and the nation's policies, particularly when they reflect values that are widely shared around the world. Thus, Nye argues, the United States won the Cold War in part because of the attractiveness of the American form of government and economy, and because American values, or American soft power, eventually came to dominate global perceptions of the two superpowers and induced others to want to share in our vision of the world. Although Nye makes a persuasive case, in the end, the book is unsatisfying because of inherent limitations in the concept of soft power. It is a form of power, yes, but not an instrument of power that can be deployed in specific situations or even one that can be shaped in a meaningful way by the government. Soft power exists, and may be influenced by governmental choices**, but it is more an existential factor in the policy environment than something policy makers can utilize to their advantag**e**. A nation's "attractiveness" to others is not a factor that can be exploited in any coherent way**. Indeed, the chapter "Wielding Soft Power" is devoted solely to public diplomacy-the various means available to the government to communicate the nation's policies and values. But in our interdependent and interactive world, government-inspired communications of all types are only a tiny fraction of the information received by people around the world about the United States. Even if the United States spent a more reasonable amount on its public diplomacy than it does now, as Nye rightfully suggests, it's diplomacy would still be dwarfed by the private sources of information in the United States and abroad, and by the huge volume of interactions among citizens of all nations that take place independent of government actions or inactions

**Credibility theory wrong**

**Drezner 9/16**/13 (Daniel, Swing and a Miss The Sabermetric spat about whether it's important for a president to appear "credible." http://www.foreignpolicy.com/articles/2013/09/16/swing\_and\_a\_miss\_credibility\_syria?print=yes&hidecomments=yes&page=full)

If nothing else, Barack **Obama's Syria policy has succeeded in exposing the widening fissures in America's foreign policy community**. Even with what looks to be a brokered deal that, if implemented, would remove Syria's chemical weapons stockpile, the administration's gyrations over Syria have generated significant consternation in the foreign policy community. **The most intriguing divide,** however**, is over** the question of whether President Obama must respond forcefully to Syria's use of chemical weapons because of concerns about **credibility**. Administration officials have repeatedly argued that if the president fails to follow through on his "red line" comment about chemical weapons by keeping military options at the ready, other actors in the world like Iran and Russia will view the United States as a paper tiger. Earlier this month, Secretary of State John Kerry pleaded with Congress to authorize the use of force in order to preserve the "core to American credibility in foreign policy." Secretary of Defense Chuck Hagel explicitly argued that acting on Syria was necessary to ensure U.S. credibility vis-à-vis Iran. And both Kerry and Hagel suggested in congressional testimony that a failure to act would embolden North Korea to use its chemical weapons stockpile. After rhetoric like this, it's not shocking that GOP Sen. Bob **Corker took to CNN to blast the president for not caring more about U.S. credibility in the region after Obama reversed course.**¶ Influential **pundits have made similar points**. The Council on Foreign Relations's Richard Haass tweeted the importance of making the military option a credible one. Ross Douthat at the New York Times warned that there would be, "unknowable consequences for the credibility of American foreign policy" if Obama failed to rally congressional support for military action, while Roger Cohen reported that, "In Berlin ... the change has been noted. It has also been noted in Tehran, Moscow, Beijing and Jerusalem." Here at Foreign Policy, David Rothkopf argued that action in Syria was essential: "we must also consider what the 'too little, too late' message sends to others in the region who might consider violating the most important norms of international behavior." **It is not hard to find other former policymakers or even straight news stories that articulate this thesis.**¶ **The odd thing about all of this emphasis on "credibility" is that the trend in international relations scholarship has moved in the opposite direction**. **The notion that a country or its leader has a single reputation for resolve or credibility has been pretty much dismissed.** As one recent literature review by University of Alabama political scientist Douglas **Gibler noted, "empirical support for the effects of reputation has been lacking."** Dartmouth professor **Daryl Press**'s Calculating Credibility **argues that the balance of forces on the ground matter far more in how leaders assess each other's intentions than past reputation**. To be sure, reputation and credibility do matter in some well-defined circumstances. Countries that perpetually default on their foreign debts face higher interest rates because of bad prior reputation. Nevertheless, **credibility doesn't matter nearly as much as policymakers claim.**

## Norms

#### **U.S. drone use doesn’t cause prolif – no international precedent**

Etzioni 13, Professor of International Relations @ George Washington University

(Aimtai Etzioni, adviser to the Carter administration, “The Great Drone Debate”, Military Review, 4/2013, http://usacac.army.mil/CAC2/MilitaryReview/Archives/English/MilitaryReview\_20130430\_art004.pdf)

Other critics contend that by the United States ¶ using drones, it leads other countries into making and ¶ using them. For example, Medea Benjamin, the cofounder of the anti-war activist group CODEPINK ¶ and author of a book about drones argues that, “The ¶ proliferation of drones should evoke reﬂection on the ¶ precedent that the United States is setting by killing ¶ anyone it wants, anywhere it wants, on the basis of ¶ secret information. Other nations and non-state entities are watching—and are bound to start acting in ¶ a similar fashion.”60 Indeed scores of countries are ¶ now manufacturing or purchasing drones. There can ¶ be little doubt that the fact that drones have served ¶ the United States well has helped to popularize them. ¶ However, it does not follow that United States ¶ should not have employed drones in the hope that such a show of restraint would deter others. First ¶ of all, this would have meant that either the United ¶ States would have had to allow terrorists in hard-to-reach places, say North Waziristan, to either ¶ roam and rest freely—or it would have had to use ¶ bombs that would have caused much greater collateral damage. ¶ Further, the record shows that even when the ¶ United States did not develop a particular weapon, ¶ others did. Thus, China has taken the lead in the ¶ development of anti-ship missiles and seemingly ¶ cyber weapons as well. One must keep in mind ¶ that the international environment is a hostile ¶ one. Countries—and especially non-state actors—¶ most of the time do not play by some set of selfconstraining rules. Rather, they tend to employ ¶ whatever weapons they can obtain that will further ¶ their interests. The United States correctly does ¶ not assume that it can rely on some non-existent ¶ implicit gentleman’s agreements that call for the ¶ avoidance of new military technology by nation X ¶ or terrorist group Y—if the United States refrains ¶ from employing that technology. I am not arguing that there are no natural norms ¶ that restrain behavior. There are certainly some ¶ that exist, particularly in situations where all parties beneﬁt from the norms (e.g., the granting of ¶ diplomatic immunity) or where particularly horrifying weapons are involved (e.g., weapons of ¶ mass destruction). However drones are but one ¶ step—following bombers and missiles—in the ¶ development of distant battleﬁeld technologies. ¶ (Robotic soldiers—or future ﬁghting machines—¶ are next in line). In such circumstances, the role ¶ of norms is much more limited.

#### Norms fail – international manipulation

Lerner 13 (Ben, is Vice President for Government Relations at the Center for Security Policy in Washington, D.C. “Judging ‘Drones’ From Afar,” http://spectator.org/archives/2013/03/25/judging-drones-from-afar/1

Whatever the potential motivations for trying to codify international rules for using UAVs, such a move would be ill advised. While in theory, every nation that signs onto a treaty governing UAVs will be bound by its requirements, it is unlikely to play out this way in practice. It strains credulity to assume that China, Russia, Iran, and other non-democratic actors will not selectively apply (at best) such rules to themselves while using them as a cudgel with which to bash their rivals and score political points. The United States and its democratic allies, meanwhile, are more likely to adhere to the commitments for which they signed up. The net result: we are boxed in as far as our own self-defense, while other nations with less regard for the rule of law go use their UAVs to take out whomever, whenever, contorting said “rules” as they see fit. One need only look at China’s manipulation of <<LOST>>the Law of the Sea Treaty to justify its vast territorial claims at the expense of its neighbors to see how this often plays out. And who would enforce the treaty’s rules — a third party tribunal? Would it be an apparatus of the United Nations, the same U.N. that assures us that it is not coming after the United States or its allies specifically, even as its investigation takes on as its “immediate focus” UAV operations recently conducted by those countries? The United States already conducts warfare under the norms of centuries of practice of customary international law in areas such as military necessity and proportionality, as well as the norms to which we committed ourselves when we became party to the 1949 Geneva Conventions and the United Nations Charter. These same rules can adequately cover the use of UAVs in the international context. But if the United States were to create or agree to a separate international regime for UAVs, we would subject ourselves to new, politicized “rules” that would needlessly hold back countries that already use UAVs responsibly, while empowering those that do not.

**This is actually a joke, there’s only one mention of the word “middle east” in their internal link card and it says “[Turkey is]**seeking the capability to conduct missions that would run afoul of U.S. interests in Iraq and the broader Middle East **And then they tack on an impact card. That isn’t a scenario.**

**No risk of Middle East war.**

**Maloney and Takeyh 07**

[Susan Maloney and Ray Takeyh, 6/28/2007. Senior fellow for Middle East Policy at the Saban Center for Middle East Studies at the Brookings Institution and senior fellow for Middle East Studies at the Council on Foreign Relations. “Why the Iraq War Won’t Engulf the Mideast,” International Herald Tribune, <http://www.brookings.edu/opinions/2007/0628iraq_maloney.aspx>.

Yet, **the Saudis, Iranians, Jordanians, Syrians, and others are very unlikely to go to war** either to protect their own sect or ethnic group or to prevent one country from gaining the upper hand in Iraq. The reasons are fairly straightforward. First, **Middle Eastern leaders**, like politicians everywhere, **are primarily interested in one thing: self-preservation**. Committing forces to Iraq is an inherently risky proposition, which, **if the conflict went badly, could threaten domestic political stability. Moreover, most Arab armies are geared toward regime protection rather than projecting power and thus have little capability for sending troops** to Iraq. Second, there is cause for concern about the so-called blowback scenario **in which jihadis returning from Iraq destabilize their home countries**, plunging the region into conflict. Middle Eastern leaders are preparing for this possibility. Unlike in the 1990s, when Arab fighters in the Afghan jihad against the Soviet Union returned to Algeria, Egypt and Saudi Arabia and became a source of instability, **Arab security services are being vigilant about who is coming in and going from their countries.** In the last month, the Saudi government has arrested approximately 200 people suspected of ties with militants. Riyadh is also building a 700 kilometer wall along part of its frontier with Iraq in order to keep militants out of the kingdom. Finally, there is no precedent for Arab leaders to commit forces to conflicts in which they are not directly involved. The Iraqis and the Saudis did send small contingents to fight the Israelis in 1948 and 1967, but they were either ineffective or never made it. In the 1970s and 1980s, Arab countries other than Syria, which had a compelling interest in establishing its hegemony over Lebanon, never committed forces either to protect the Lebanese from the Israelis or from other Lebanese. The civil war in Lebanon was regarded as someone else's fight. Indeed, this is the way many leaders view the current situation in Iraq. To Cairo, Amman and Riyadh, the situation in Iraq is worrisome, but in the end it is an Iraqi and American fight. As far as Iranian mullahs are concerned, they have long preferred to press their interests through proxies as opposed to direct engagement. At a time when Tehran has access and influence over powerful Shiite militias, a massive cross-border incursion is both unlikely and unnecessary. So Iraqis will remain locked in a sectarian and ethnic struggle that outside powers may abet, but will remain within the borders of Iraq. **The Middle East is a region both prone and accustomed to civil wars. But given its experience with ambiguous conflicts, the region has also developed an intuitive ability to contain its civil strife and prevent local conflicts from enveloping the entire Middle East.**

**Their impact card mentions a bunch of reasons for escalation other than drones, here are some lines**

**the recent use of active radars is a significant escalation**

**In the absence of China’s willingness to submit to** such mechanisms as **the ICJ, the prospect of conflict increases**

**China won’t use drones to resolve territorial disputes – fears international backlash and creating a precedent for U.S. strikes in the area**

**Erickson**, associate professor at the Naval War College and Associate in Research at Harvard University's Fairbank Centre, **and Strange**, researcher at the Naval War College's China Maritime Studies Institute and graduate student at Zhejiang University, **5-29**-13 (Andrew and Austin, China has drones. Now how will it use them? Foreign Affairs, McClatchy-Tribune, 29 May 2013, http://www.nationmultimedia.com/opinion/China-has-drones-Now-how-will-it-use-them-30207095.html, da 8-3-13) PC

Drones, able to dispatch death remotely, without human eyes on their targets or a pilot's life at stake, make people uncomfortable - even when they belong to democratic governments that presumably have some limits on using them for ill. (On May 23, in a major speech, US President Barack Obama laid out what some of those limits are.) **An** even more **alarming prospect is that unmanned aircraft will be acquired and deployed by authoritarian regimes, with fewer checks on their use of lethal force**.¶ Those worried about exactly that tend to point their fingers at China. In March, after details emerged that China had considered taking out a drug trafficker in Myanmar with a drone strike, a CNN blog post warned, "Today, it's Myanmar. Tomorrow, it could very well be some other place in Asia or beyond." Around the same time, a National Journal article entitled "When the Whole World Has Drones" teased out some of the consequences of Beijing's drone programme, asking, "What happens if China arms one of its remote-piloted planes and strikes Philippine or Indian trawlers in the South China Sea?"¶ Indeed, **the time to fret about when China and other authoritarian countries will acquire drones is over: they have them. The question now is when and how they will use them**. But as with its other, less exotic military capabilities, Beijing has cleared only a technological hurdle - and **its behaviour will continue to be constrained by politics**.¶ China has been developing a drone capacity for over half a century, starting with its reverse engineering of Soviet Lavochkin La-17C target drones that it had received from Moscow in the late 1950s. Today, Beijing's opacity makes it difficult to gauge the exact scale of the programme, but according to Ian Easton, an analyst at the Project 2049 Institute, an American think-tank devoted to Asia-Pacific security matters, by 2011 China's air force alone had over 280 combat drones. In other words, its fleet of unmanned aerial vehicles is already bigger and more sophisticated than all but the United States'; in this relatively new field Beijing is less of a newcomer and more of a fast follower. And the force will only become more effective: the Lijian ("sharp sword" in Chinese), a combat drone in the final stages of development, will make China one of the very few states that have or are building a stealth drone capacity.¶ This impressive arsenal may tempt China to pull the trigger. The fact that a Chinese official acknowledged that Beijing had considered using drones to eliminate the Myanmar drug trafficker, Naw Kham, makes clear that it would not be out of the question for China to launch a drone strike in a security operation against a non-state actor. Meanwhile, as China's territorial disputes with its neighbours have escalated, there is a chance that Beijing would introduce unmanned aircraft, especially since India, the Philippines and Vietnam distantly trail China in drone funding and capacity, and would find it difficult to compete. Beijing is already using drones to photograph the Senkaku/Diaoyu islands it disputes with Japan, as the retired Chinese major-general Peng Guangqian revealed earlier this year, and to keep an eye on movements near the North Korean border.¶ **Beijing**, however, **is unlikely to use its drones lightly. It already faces tremendous criticism from much of the international community for its perceived brazenness in** continental and maritime sovereignty **disputes. With its leaders attempting to allay notions that China's rise poses a threat to the region, injecting drones** conspicuously **into these disputes would prove counterproductive. China also fears setting a precedent for the use of drones in East Asian hotspots that the U**nited **S**tates **could** eventually **exploit**. For now, **Beijing is showing that it understands these risks, and** to date it **has limited its use of drones in these areas to surveillance,** according to recent public statements from China's Defence Ministry.

**No impact to drone prolif**

**Singh 12** (Joseph Singh is a researcher at the Center for a New American Security. “Betting Against a Drone Arms Race,” http://nation.time.com/2012/08/13/betting-against-a-drone-arms-race/)

**Bold predictions** **of a coming drones arms race are all the rage since the uptake in their deployment under** the **Obama** Administration. Noel Sharkey, for example, argues in an August 3 op-ed for the Guardian that rapidly developing drone technology — coupled with minimal military risk — portends an era in which states will become increasingly aggressive in their use of drones. As drones develop the ability to fly completely autonomously, Sharkey predicts a proliferation of their use that will set dangerous precedents, seemingly inviting hostile nations to use drones against one another. Yet, the narrow applications of current drone technology coupled with what we know about state behavior in the international system lend no credence to these ominous warnings. Indeed, critics seem overly-focused on the domestic implications of drone use. In a June piece for the Financial Times, Michael **Ignatieff** **writes** that “virtual **technologies make it easier for democracies to wage war because they eliminate the risk of blood sacrifice** that once forced democratic peoples to be prudent.” Significant public support for the Obama Administration’s increasing deployment of drones would also seem to legitimate this claim. **Yet, there remain** equally **serious diplomatic and political costs** **that emanate from beyond a fickle electorate**, **which will prevent the likes of the increased drone aggression predicted by both Ignatieff and Sharkey.** Most recently, **the** serious **diplomatic scuffle instigated by Syria’s downing a Turkish reconnaissance plane** in June **illustrated the very serious risks of operating any aircraft in foreign territory.** **States launching drones must still weigh the diplomatic and political costs** of their actions, **which make the calculation surrounding their use** **no fundamentally different to any other aerial engagement**. **This recent bout** also **illustrated a salient point regarding drone technology**: **most states maintain at least minimal air defenses** **that can quickly detect and take down drones,** **as the U.S. discovered when it employed drones at the onset of the Iraq invasion, while Saddam Hussein’s surface-to-air missiles were still active.** What the U.S. also learned, however, was that **drones constitute an effective military tool in an extremely narrow strategic context. They are well-suited either in direct support of a broader military campaign, or to conduct targeted killing operations** **against a technologically unsophisticated enemy.** In a nutshell, then, the very contexts in which we have seen drones deployed. Northern Pakistan, along with a few other regions in the world, remain conducive to drone usage given a lack of air defenses, poor media coverage, and difficulties in accessing the region. Non-state actors, on the other hand, have even more reasons to steer clear of drones: – First, they are wildly expensive. At $15 million, the average weaponized drone is less costly than an F-16 fighter jet, yet much pricier than the significantly cheaper, yet equally damaging options terrorist groups could pursue. – Those alternatives would also be relatively more difficult to trace back to an organization than an unmanned aerial vehicle, with all the technical and logistical planning its operation would pose. – Weaponized drones are not easily deployable. Most require runways in order to be launched, which means that any non-state actor would likely require state sponsorship to operate a drone. Such sponsorship is unlikely given the political and diplomatic consequences the sponsoring state would certainly face. – Finally, drones require an extensive team of on-the-ground experts to ensure their successful operation. According to the U.S. Air Force, 168 individuals are needed to operate a Predator drone, including a pilot, maintenance personnel and surveillance analysts. In short, **the doomsday drone scenario** Ignatieff and Sharkey predict **results from an excessive focus on rapidly-evolving military technology.** Instead, **we must return to what we know about state behavior** **in an anarchistic international order.** **Nations will confront the same principles of deterrence**, for example, **when deciding to launch a targeted killing operation regardless of whether they conduct it through a drone or a covert amphibious assault team. Drones may make waging war more domestically palatable, but they don’t change the very serious risks of retaliation for an attacking state**. **Any state otherwise deterred from using force abroad will not significantly increase its power projection on account of acquiring drones.** What’s more, **the very states whose use of drones could threaten U.S. security** – countries like China – **are not democratic**, **which means that the possible political ramifications of the low risk of casualties resulting from drone use are irrelevant**. For all their military benefits, **putting drones into play requires an ability to meet the political and security risks associated with their use.** Despite these realities, there remain a host of defensible arguments one could employ to discredit the Obama drone strategy. The legal justification for targeted killings in areas not internationally recognized as war zones is uncertain at best. Further, the short-term gains yielded by targeted killing operations in Pakistan, Somalia and Yemen, while debilitating to Al Qaeda leadership in the short-term, may serve to destroy already tenacious bilateral relations in the region and radicalize local populations. Yet, **the past decade’s experience with drones bears no evidence of impending instability in the global strategic landscape**. **Conflict may not be any less likely in the era of drones, but the nature of 21st Century warfare remains fundamentally unaltered despite their arrival in large numbers.**

# 2NC

### 2NC- Solves Affirmative

**Disclosing target criteria builds diplomatic credibility, enacts domestic accountability,**

Gregory **McNeal 13**, Associate Professor of Law, Pepperdine University, 3/5/13, “Targeted Killing and Accountability,” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1819583>

Related to defending the process, and using performance data is the possibility that the U.S. government could publish the targeting criteria it follows. That criteria need not be comprehensive, but it could be sufficiently detailed as to give outside observers an idea about who the individuals singled out for killing are and what they are alleged to have done to merit their killing. As Bobby Chesney has noted, "Congress could specify a statutory standard which the executive branch could then bring to bear in light of the latest intelligence, with frequent reporting to Congress as to the results of its determinations."521 What might the published standards entail? First, Congress could clarify the meaning of associated forces, described in Part I and II. In the alternative, it could do away with the associated forces criteria altogether, and instead name each organization against which force is being authorized,522 such an approach would be similar to the one followed by the Office of Foreign Assets Control when it designates financial supporters of terrorism for sanctions.523¶ The challenge with such a reporting and designation strategy is that it doesn’t fit neatly into the network based targeting strategy and current practices outlined in Parts I-III. If the U.S. is seeking to disrupt networks, then how can there be reporting that explains the networked based targeting techniques without revealing all of the links and nodes that have been identified by analysts? Furthermore, for side payment targets, the diplomatic secrecy challenges identified in Part I remain --- there simply may be no way the U.S. can publicly reveal that it is targeting networks that are attacking allied governments. These problems are less apparent when identifying the broad networks the U.S. believes are directly attacking American interests, however publication of actual names of targets will be nearly impossible (at least ex ante) under current targeting practices.¶ As was discussed above, the U.S. government and outside observers may simply be using different benchmarks to measure success. Some observers are looking to short term gains from a killing while others look to the long term consequences of the targeted killing policy. Should all of these metrics and criteria be revealed? Hardly. However, the U.S. should articulate what strategic level goals it is hoping to achieve through its targeted killing program. Those goals certainly include disrupting specified networks. Articulating those goals, and the specific networks the U.S. is targeting may place the U.S. on better diplomatic footing, and would certainly engender mechanisms of domestic political accountability.

**The CP shapes the development of global norms on drones and actively builds legitimacy---that means it solves their perception deficits because all their ev is only about the way that drones are perceived now, not how they’re perceived after a vigorous defense by the U.S.**

Kenneth **Anderson 10**, Professor of International Law at American University, 3/8/10, “Predators Over Pakistan,” The Weekly Standard, <http://www.weeklystandard.com/print/articles/predators-over-pakistan>

But a thorough reading of the Predator coverage calls to mind how the detention, interrogation, and rendition debates proceeded over the years after 9/11. As Brookings scholar Benjamin Wittes observes, those arguments also had elements of both legal sense and sensibility. Ultimately the battle of international legal legitimacy was lost, even though detention at Guantánamo continues for lack of a better option. It is largely on account of having given up the argument over legitimacy, after all, that it never occurred to the Obama administration not to Mirandize the Christmas Bomber. Baseline perceptions of legitimacy have consequences. ¶ Nor is the campaign to delegitimize targeted killing only about the United States. Legal moves in European courts have already been made against Israeli officials involved in targeted killing against Hamas in the Gaza war. Unsavory members of the U.N. act alongside the world’s most fatuously self-regarding human rights groups to press for war crimes prosecutions. All of this is merely an opening move in a larger campaign to stigmatize and delegitimize targeted killing and drone attacks. What can be done to Israelis can eventually be done to CIA officers. Perhaps a London bookmaker can offer odds on how soon after the Obama administration leaves office CIA officers will be investigated by a court, somewhere, on grounds related to targeted killing and Predator drone strikes. And whether the Obama administration’s senior lawyers will rise to their defense—or, alternatively, submit an amicus brief calling for their prosecution. ¶ Thus it matters when the U.N. special rapporteur on extrajudicial execution, Philip Alston, **demands**, as he did recently, that the U.S. government **justify the legality of its targeted killing program.** Alston, a professor at New York University, is a measured professional and no ideologue, and he treads delicately with respect to the Obama administration—but he treads. Likewise it matters when, in mid-January, the ACLU handed the U.S. government a lengthy FOIA request seeking extensive information on every aspect of targeted killing through the use of UAVs. The FOIA request emphasizes the legal justification for the program as conducted by the U.S. military and the CIA. ¶ Legal justification matters, partly for reasons of legitimacy and partly because the United States is, and wants to be, a polity governed by law. This includes international law, at least insofar as it means something other than the opinions of professors and motley member-states at the U.N. seeking to extract concessions. International law, it is classically said, consists of what states consent to by treaty. Add to this “customary law”—as evidenced by how states actually behave and as provided in their statements, their so-called opinio juris. Customary law is evidenced when states do these things because they see them as binding obligations of law, done from a sense of legal obligation—not merely habit, policy, or convenience, practices that they might change at any moment because they did not engage in them as a matter of law. ¶ What the United States says regarding the lawfulness of its targeted killing practices matters. It matters both that it says it, and then of course it matters what it says. The fact of its practices is not enough, because they are subject to many different legal interpretations: The United States has to assert those practices as lawful, and declare its understanding of the content of that law. This is for two important reasons: first to preserve the U.S. government’s views and rights under the law; and second, to make clear what it regards as binding law not just for itself, but for others as well. ¶ Other states, the United Nations, international tribunals, NGOs, and academics can cavil and disagree with what the United States thinks is law. But no Great Power’s consistently reiterated views of international law, particularly in the field of international security, can be dismissed out of hand. It is true of the United States and it is also true of China. It is not a matter of “good” Great Powers or “bad.” Nor is it merely “might makes right.” It is, rather, a mechanism that keeps international law grounded in reality, and not a plaything of utopian experts and enthusiasts, departing this earth for the City of God. It remains tethered to the real world both as law and practice, conditioned by how states see and act on the law. ¶ The venerable U.S. view of the “law of nations” is one of moderate moral realism—the world “as it is,” as the president correctly put it in his Nobel Prize address. It is not the vision of radical utopians and idealists; neither is it that of radical skeptics about the very existence of law in international affairs. On the contrary, the time-honored American view has always been pragmatic about international law (thereby acting to preserve it from radical internationalism and radical skepticism). But upholding the American view requires more than simply dangling the inference that if the United States does it, it means the United States must intend it as law. Traditional international law requires more than that, for good reason. The U.S. government should provide an affirmative, aggressive, and uncompromising defense of the legal sense and sensibility of targeted killing. The U.S. government’s interlocutors and critics are not wrong to demand one, even those whose own conclusions have long since been set in stone. ¶ A clear statement of legal position **need not be an invitation to negotiate or alter it**, even when others loudly disagree. In international law, a state’s assertion that its policies are lawful, particularly such an assertion from a great power in matters of international security, is an **important element all by itself in making it lawful**, or at least not unlawful. But in vast areas of security, self-defense, and the use of force, the U.S. government has in recent years left a huge deficit as to how its actions constitute a coherent statement of international law. ¶ For once, Washington should move to get ahead of a contested issue of international legal legitimacy and “soft law.” Why else have an Obama administration, if not to get out in front on a practice that it has ramped up on grounds of both necessity and humanitarian minimization of force? The CIA has taken a few baby steps by selectively leaking some collateral damage data to a few reporters. But the CIA is going to have to say more. The U.S. government needs to defend targeted killings as both lawful, and as an important step forward in the development of more sparing and discriminating—more humanitarian—weaponry.

#### Transparency solves allied perception and blowback while maintaining the CT benefits of targeted killings

Michael Aaronson 13, Professorial Research Fellow and Executive Director of cii – the Centre for International Intervention – at the University of Surrey, and Adrian Johnson, Director of Publications at RUSI, the book reviews editor for the RUSI Journal, and chair of the RUSI Editorial Board, “Conclusion,” in Hitting the Target?: How New Capabilities are Shaping International Intervention, ed. Aaronson & Johnson, http://www.rusi.org/downloads/assets/Hitting\_the\_Target.pdf

The Obama administration faces some tough dilemmas, and analysts should be careful not to downplay the security challenges it faces. It must balance the principles of justice and accountability with a very real terrorist threat; and reconcile the need to demonstrate a credibly tough security policy with the ending of a long occupation of Afghanistan while Al-Qa’ida still remains active in the region. Nevertheless, more transparency would provide demonstrable oversight and accountability without sacrificing the necessary operational secrecy of counter-terrorism. It might also help assuage the concern of allies and their publics who worry about what use the intelligence they provide might be put to. A wise long-term vision can balance the short-term demands to disrupt and disable terrorist groups with a longer-term focus to resolve the grievances that give rise to radicalism, and also preclude inadvertently developing norms of drone use that sit uneasily with the civilised conduct of war. Drones are but one kinetic element of a solution to terrorism that is, ultimately, political.

### Object Fiat

#### No link: Object of the resolution is “authority” not “war powers”--restricting authority requires reducing the permission to act, not the ability to act.

#### Taylor, 1996 (Ellen, 21 Del. J. Corp. L. 870 (1996), Hein Online)

The term authority is commonly thought of in the context of the law of agency, and the Restatement (Second) of Agency defines both power and authority.'89 Power refers to an agent's ability or capacity to produce a change in a legal relation (whether or not the principal approves of the change), and authority refers to the power given (permission granted) to the agent by the principal to affect the legal relations of the principal; the distinction is between what the agent can do and what the agent may do.

#### Key to education: Internal constraints are key neg ground – it matches the academic debate

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

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

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

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

**CP focuses the debate on policy specifics – that’s key**

**Bradley**, professor of law at Duke, **and Morrison**, professor of law at Columbia, May **2013**

(Curtis A. and Trevor W., PRESIDENTIAL POWER, HISTORICAL PRACTICE, AND LEGAL CONSTRAINT, 113 Colum. L. Rev. 1097, Lexis)

**The relationship between law and presidential power is** **not merely a matter of academic debate**. **Whether**, **how**, **and to what extent presidential decisionmaking is subject to legal constraint is a central issue in the practice of modern government**, as illustrated by two recent episodes. First, in March 2011, the Obama Administration initiated military operations against Libya without congressional authorization, and then continued them past the statutory sixty-day limit set forth in the War Powers Resolution. Critics treated this episode as evidence that the executive branch did not take seriously constitutional and statutory limits [\*1100] on the use of military force. n8 Despite a low likelihood that courts would resolve the dispute, however, the Obama Administration offered public legal justifications, based heavily on arguments from historical practice, for both the initial deployment of military force in Libya and its continuation past the sixty-day point. n9 The felt need of the executive branch to justify itself in legal terms might be puzzling if the law were not playing any constraining role, but it is difficult to discern precisely what that role might have been.

Second, in the summer of 2011, a confrontation developed between the Obama Administration and Republican leaders in Congress over whether to raise the statutory debt ceiling to accommodate the government's increased borrowing. When a legislative extension of the ceiling appeared unlikely, some commentators suggested, based on either novel constitutional arguments or pure policy grounds, that the President could and should unilaterally exceed the debt ceiling. n10 Others insisted that such unilateral action would be unconstitutional because it would usurp Congress's constitutional authority "to borrow money on the credit of the United States." n11 President Obama did not attempt to address the issue unilaterally and instead continued to seek a legislative extension of the ceiling, which he ultimately obtained. Nor did the President attempt or even threaten a unilateral extension when the issue resurfaced in late 2012 and early 2013 in connection with the so-called "fiscal cliff," by which time such an action appeared to be off the table altogether. It might be that the President felt constrained not to pursue a unilateral extension by legal concerns about such a course of action, but it is also possible that political considerations would have driven the President to a similar decision. n12 In this context too, then, the role of law is unclear.

Episodes like these underscore the importance of thinking carefully not just about the general question whether the President is constrained by law, but **more particularly about what it means to say that the President is so constrained**, **and how such constraints operate**. On issues of executive power unlikely to come before the courts, one familiar idea - espoused by James Madison in The Federalist Papers - is that members of Congress have sufficient personal motivations and professional resources to protect Congress's institutional prerogatives [\*1101] from executive incursions. n13 A number of scholars have concluded, however, that such checking is not as consistent or robust as is often assumed, and that whether Congress curbs presidential power depends more often on partisan political considerations or situation-specific policy objections than on any systematic effort to protect institutional prerogatives. n14 If Congress is not as reliable a check on presidential power as Madison and others envisioned, there is arguably a greater need for other mechanisms of constraint in this area, including legal constraints. In the absence of judicial review, however, it is fair to ask how the legal constraints might operate.

#### It’s the core question of the topic, whether or not the President needs additional restrictions to solve for the harms

#### Key to negative ground: Core generic at the heart of the topic

#### Leads to worst forms of CPs: Forces us to read international actor CPs, which is comparatively worse for the aff

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### Codification DA

**Executive clarification of and transparency on TK policy solves allies and norms---allies’ main anger stems from interpretive disagreements regarding the content of the administration’s policy---Dworkin concludes that clarifying a narrower policy solves even without codifying that policy into law**

Anthony **Dworkin 13**, senior policy fellow at the European Council on Foreign Relations, Actually, drones worry Europe more than spying, ecfr.eu/content/entry/commentary\_actually\_drones\_worry\_europe\_more\_than\_spying

**But** if the United States is serious about working toward international standards on drone strikes, as Obama and his officials have sometimes suggested, then Europe is the obvious place to start. And **there are a number of steps the administration could take to make an agreement with European countries more likely**.

For a start, **it should cut back the number of drone strikes and be much more open about the reasons for the attacks it conducts and the process for reviewing them after the fact**. **It should** also **elaborate its criteria for determining who poses an imminent threat in a way that keeps attacks within tight limits.** And, as U.S. forces prepare to withdraw from Afghanistan in 2014, it should keep in mind the possibility of declaring the war against al Qaeda to be over.

All this said, Europe also has some tough decisions to make, and it is unclear whether European countries are ready to take a hard look at their views about drone strikes, addressing any weaknesses or inconsistencies in their own position. If they are, **the next few years could offer a breakthrough in developing international standards** for the use of this new kind of weapon, before the regular use of drones spreads across the globe.

## Allies

### 2NC- NSA Thumps

#### 1NC Skinner evidence concludes that spying concerns destroy intel sharing—causes massive European backlash and distrust; dries up intel sharing and o/w drones concerns

#### US-EU intel sharing should have either been WRECKED by NSA concerns are will never collapse

Smale 13

(Alison, writer for NYT. “Amid New Storm in U.S.-Europe Relationship, a Call for Talks on Spying” 10-25-13 http://www.nytimes.com/2013/10/26/world/europe/fallout-over-american-spying-revelations.html?\_r=0//wyoccd)

BERLIN — While President Obama has tried to soften the blow, this week’s disclosures about the extent of America’s spying on its European allies have added to a series of issues that have sharply eroded confidence in the United States’ leadership at a particularly difficult moment.¶ The sharp words from Germany, France and others this week are part of a broader set of frustrations over issues like the Syrian civil war, the danger posed to the global economy by Washington’s fiscal fights and the broader perception that President Obama himself — for all his promises to rebuild relations with allies after the presidency of George W. Bush — is an unreliable partner.¶ This American administration is “misreading and miscalculating the effects” of its deeds in a Europe that is less ready than it once was to heed the United States, said Annette Heuser, executive director of the Bertelsmann Foundation, a research organization in Washington.¶ Early on Friday, Chancellor Angela Merkel of Germany and President François Hollande of France emerged from a meeting of European leaders to call for talks with the United States on new rules for their intelligence relationship. A statement from the European leaders said a “lack of trust” could undermine trans-Atlantic intelligence cooperation.¶ Earlier in the week the European Parliament had acted to suspend an agreement with the United States that allows it to track the finances of terrorist groups, citing suspicions that the United States authorities were tapping European citizens’ personal financial data.¶ The disclosures contained in the documents leaked by the former National Security Agency contractor Edward J. Snowden have crystallized a growing sense in Europe that post-Sept. 11 America has lost some of the values of privacy and accountability that have been the source of the world’s admiration for its version of democracy.¶ So fierce was the anger in Berlin over suspicions that American intelligence had tapped into Ms. Merkel’s cellphone that Elmar Brok of Germany, the chairman of the European Parliament’s foreign affairs committee and a pillar of trans-Atlantic exchanges since 1984, spoke Friday of America’s security establishment as a creepy “state within a state.”¶ Since Sept. 11, 2001, he said, “the balance between freedom and security has been lost.”¶ To be sure, the United States and Europe are like a bickering couple that will never break up. For all the sharp words, they cannot even begin to contemplate an actual divorce. Many of the European complaints about the United States also seem directed mainly at a domestic audience, and may not result in concrete changes to a relationship that has weathered many storms.

#### Spying controversies take out the advantage—severely shakes trust and collapses EFFECTIVE intel—program likely to hamper coop for years

Brumfield and Smith-Spark 13

(Ben and Laura, CNN. “EU leaders warn U.S. spying scandal may hamper fight against terror” 10-25-13 http://www.cnn.com/2013/10/25/world/europe/europe-summit-nsa-spying///wyoccd)

(CNN) -- European leaders warned Friday that reports of widespread spying on world leaders by the U.S. National Security Agency have raised "deep concerns" among Europeans and could affect the cooperation needed for effective intelligence gathering.¶ "A lack of trust could prejudice the necessary cooperation in the field," the leaders said in a joint statement issued at the conclusion of a two-day European Union summit in Brussels, Belgium.¶ Spanish Prime Minister Mariano Rajoy announced that Madrid has summoned U.S. Ambassador James Costos over the matter. The U.S. Embassy in Madrid declined to comment, saying that Rajoy's statement stands for itself.¶ German Chancellor Angela Merkel said the assertions that the U.S. National Security Agency spied on her and other world leaders had "severely shaken" relationships between Europe and the United States, and trust will have to be rebuilt. Germany's Angela Merkel: Relations with U.S. 'severely shaken'¶ "Obviously, words will not be sufficient," Merkel told reporters Thursday in Brussels. "True change is necessary."¶ Germany and France intend to seek talks with the United States "with the aim of finding before the end of the year an understanding on mutual relations in that field," the EU leaders' statement said. Other nations are welcome to join these talks, it noted.¶ French President Francois Hollande, speaking in Brussels, said the aim of the talks would be to establish a joint cooperation framework with the United States "so we put an end to these practices and ... these monitoring schemes."¶ Hollande said there is an "ongoing dialog" with the United States over its past actions, but the priority is establishing a "code of conduct" for the present and future.¶ This is essential because France and its European allies "cannot accept" the kind of monitoring which has gone on, whose purpose "is not just political -- it is mainly an economic issue," Hollande said.¶ "It is relevant to the markets, to the prices, to the mergers and acquisitions. This is where the monitoring may have the highest impact -- on jobs in particular," he said.¶ The main purpose of intelligence efforts is tackling terrorism and ensuring security, he said, but no one should have to fear their personal data being used.¶ Meanwhile, Merkel is under pressure to take a strong stance back home, where her conservative party is in negotiations with the Social Democratic Party, known as the SPD, to form a grand coalition government.¶ In remarks quoted Friday by the German newspaper Der Spiegel, SPD chief Sigmar Gabriel criticized the outgoing government's handling of spying allegations made this summer.¶ "Of course, it is outrageous that an American secret service would tap the chancellor's cell phone," Gabriel said. "I recall quite well, though, that some politicians and, by the way, the media, too, declared the NSA affair as over and done with. We cannot repeat that error."¶ Gabriel said the SPD would "vehemently push in the coalition talks for the effective protection, not only of the chancellor's privacy, but just as hard for that of 82 million other citizens in Germany.¶ "It's about more than just a bugging scandal with the chancellor. It's about freedom and civil rights in the digital age."¶ At the summit, EU leaders discussed data protection and privacy.¶ 'Lack of trust'¶ Angela Merkel raised the surveillance issue in a phone call with U.S. President Barack Obama on Wednesday after the German government said it had information that the United States might have monitored her cell phone.¶ On Thursday, White House spokesman Jay Carney repeated what he had said Wednesday -- that Obama assured Merkel that the United States is not monitoring and will not monitor her communications. He did not say anything about possible past monitoring.¶ The German spying allegation came in the same week that the French daily newspaper Le Monde reported claims that the NSA intercepted more than 70 million phone calls in France over a 30-day period.¶ Der Spiegel reported in June that leaks from government contractor-turned-whistleblower Edward Snowden detailed how the agency bugged EU offices in Washington and New York, and conducted an "electronic eavesdropping operation" that tapped into an EU building in Brussels.¶ Merkel spoke with Obama by phone in July about allegations that the United States was conducting surveillance on its European allies.¶ The Guardian newspaper -- citing a document obtained from Snowden -- reported Thursday that the NSA monitored phone conversations of 35 world leaders. The confidential memo is from 2006, prior to Obama's election as president. None of the world leaders is identified.¶ Their phone numbers were among 200 handed over to the NSA by a U.S. official, the memo states. It says that the NSA encouraged "senior officials in its 'customer' departments, such as the White House, State and the Pentagon, to share their 'Rolodexes' so the agency can add the phone numbers of leading foreign politicians to their surveillance systems," even though tracking until then had yielded "little reportable intelligence," the Guardian reported.¶ 'Significant challenges'¶ In a USA Today op-ed published online Thursday night, Obama's homeland security and counterterrorism adviser Lisa Monaco conceded that recent "disclosures have created significant challenges in our relationships." To address them, the President has ordered a "review (of) our surveillance capabilities, including with our foreign partners," she wrote.¶ "We want to ensure we are collecting information because we need it and not because we can," said Monaco.¶ Michael Desch, a professor of political science at the University of Notre Dame, said this is "an important piece of evidence that our technological capabilities have far outstripped our thinking about how we should use those capabilities to best advance U.S. national security."¶ While the allegations of U.S. spying on world leaders will soon drop out of the headlines, Desch said, "the larger problem of the disconnect between our capabilities and our thinking about how to use them (will) remain for years to come."¶ He added the diplomatic fallout resulting from the controversy "should encourage U.S. leaders to ask, even if we have the technical capability to target these leaders, whether it is in our interest to do so."

### 2NC- AT: NSA Reforms Solve

#### Only LEGAL restraints on NSA would solve the despute—issue has spilled over, blocks aff solvency

Karnitsching 2-9

(Matthew, Wall Street Journal. “NSA Flap Strains Ties With Europe” 2-9-14 http://online.wsj.com/news/articles/SB10001424052702303874504579372832399168684?mg=reno64-wsj&url=http%3A%2F%2Fonline.wsj.com%2Farticle%2FSB10001424052702303874504579372832399168684.html//wyoccd)

BERLIN—A furor in Europe over new reports of National Security Agency surveillance is undermining U.S. efforts to move beyond the affair and has thrown plans for a trans-Atlantic trade agreement into question just weeks before talks are scheduled to resume.¶ U.S. officials have engaged in a diplomatic offensive in recent weeks aimed at putting European fears over the data collection to rest. But a wave of European media reports based on information provided by former intelligence contractor Edward Snowden have provided further details of the U.S. surveillance programs, confounding Washington's efforts.¶ Tensions worsened Friday after the disclosure of a recorded phone conversation in which a top State Department official made derogatory comments about the European Union to a colleague.¶ Officials on both sides of the Atlantic say privately the NSA spying dispute in particular is weighing heavily on the already complicated negotiations over a trans-Atlantic trade deal, known officially as the Transatlantic Trade and Investment Partnership, or TTIP.¶ European leaders initially had high hopes for an agreement, which they believed could breathe life into the region's stagnant economy. But some senior officials now fear that the negotiations, which began last year and are set to resume next month in Brussels, will stall over data privacy and other issues that have come to light as a result of the spying affair.¶ Similar crises have characterized the U.S. relationship with Europe going to back to the Vietnam War. Nonetheless, with the U.S. increasingly focused on strengthening ties in Asia, there is a broader danger for Europe that the dispute will prompt the U.S. to turn its back on the Continent, say some veterans of the trans-Atlantic alliance. "There is a steady erosion of the foundation of cooperation," said John Kornblum, a former Assistant Secretary of State and U.S. ambassador to Germany who spent decades working for the State Department in Europe. "Each time this happens, there's a wearing away of the commonality."¶ The outcry over NSA eavesdropping has been most pronounced in Germany, a country whose history of dictatorship has left the population particularly sensitive to violations of personal privacy. A recent poll for German broadcaster ARD suggested that only 35% of Germans consider the U.S. to be a reliable partner, the lowest result since George W. Bush was president.¶ German media carry daily updates on the affair and Mr. Snowden, who two weeks ago appeared in a lengthy prime time interview with a public television broadcaster, enjoys broad political support among Germans.¶ For the U.S., repairing relations with Germany, a longtime ally and Europe's political and economic fulcrum, has become a top priority as Washington works toward a trans-Atlantic trade agreement.¶ Germany wants the U.S. to commit to not spy against it by signing a "no-spy accord." But Washington has so far resisted putting legal constraints on its foreign intelligence collectionamid worries that other countries would ask for similar treatment.¶ Instead, the U.S. has tried to use diplomacy to soothe German nerves. President Barack Obama granted a rare interview to German television in the White House last month in which he defended U.S. intelligence gathering while also pledging that there would be no further surveillance of Chancellor Angela Merkel's phone during his presidency. The president also invited Ms. Merkel to visit Washington later this year.¶ The president's interview was followed by visits to Germany in recent days by both Secretary of State John Kerry, who met personally with Ms. Merkel, and Secretary of Defense Chuck Hagel.¶ "We've been through a rough period in the last months," Mr. Kerry told reporters during the visit. "But I'm pleased to be here to direct our focus toward the future and to strengthen the trust and confidence that has always characterized this relationship."¶ The chancellor, a woman known to choose her words carefully, has been particularly critical of the U.S.'s response to the affair, warning in a recent speech that a U.S. course in which "the ends justify the means" would only "sow distrust."¶ On Friday, a spokeswoman for Ms. Merkel said the chancellor regarded comments by a U.S. diplomat on Europe's role in Ukraine as "absolutely unacceptable." Victoria Nuland, Assistant Secretary of State for Europe, was recorded saying "f—— the EU" in a private conversation with a colleague about Ukraine.¶ Officials in Berlin said Ms. Merkel wouldn't normally comment on a diplomatic flap and that her censure of the comments reflected her deep frustration over the U.S.'s handling of the NSA affair.¶ Speaking to a group of business leaders in Berlin on Tuesday, John Emerson, the U.S. ambassador to Germany, expressed regret over the monitoring of Ms. Merkel's phone, but said it would be a mistake to let such issues stand in the way of a trade agreement.¶ "It is essential that we rebuild the trust that has been shaken," he said.¶ Shortly after his remarks, however, German media reported that U.S. intelligence had tapped not just Ms. Merkel's phone, but that of her predecessor, Gerhard Schröder, as well.¶ Mr. Schröder, now the chairman of a pipeline company controlled by state-owned Russian oil and gas giant OAO Gazprom, OGZPY +2.02% reacted with anger to the report, telling a German newspaper that the U.S. had "gone too far."¶ "The U.S. has no respect for a loyal ally or the sovereignty of our country," Mr. Schröder said.¶ The White House declined to comment on the reports.¶ German parliamentarians, meanwhile, are planning a special investigation into the NSA practices, including public hearings. The planned probe suggests the affair is unlikely to blow over soon.¶ Philipp Missfelder, Ms. Merkel's point person for the trans-Atlantic relationship, said during a visit to New York this week that it was up to the U.S. to take steps to restore trust. "If they don't do that, the alliance will suffer permanent damage," he told German radio.

### 2NC- Cred Doesn’t Spillover

#### Extend Macdonald evidence—credibility in one arena doesn’t affect another—they’re independent. lack of credibility in one area frees up more room for cred in others

**Credibility can’t affect the structural reasons why heg solves war**

**Maher 11**---adjunct prof of pol sci, Brown. PhD expected in 2011 in pol sci, Brown (Richard, The Paradox of American Unipolarity: Why the United States May Be Better Off in a Post-Unipolar World, Orbis 55;1)

**The U**nited **S**tates **should start planning** now for **the inevitable decline of its preeminent position** in world politics. By taking steps now, the United States will be able to position itself to exercise maximum influence beyond its era of preponderance. This will be America’s fourth attempt at world order. The first, following World War I and the creation of the League of Nations, was a disaster. The second and third, coming in 1945 and 1989-1991, respectively, should be considered significant achievements of U.S. foreign policy and of creating world order. This fourth attempt at world order will go a long way in determining the basic shape and character of world politics and international history for the twenty-first century. The most fundamental necessity for the United States is to create a stable political order that is likely to endure, and that provides for stable relations among the great powers. The United States and other global stakeholders must prevent a return to the 1930s, an era defined by open trade conflict, power competition, and intense nationalism. Fortunately, the United States is in a good position to do this. **The global political order that now exists is largely of American creation. Moreover, its** forward **presence** **in Europe and East Asia will** likely **persist for decades** to come, **ensuring that the U**nited **S**tates **will remain a major player in these regions**. **The disparity in military power between the U**nited **S**tates **and the rest of the world is profound, and this gap will not close in the next several decades at least**. In creating a new global political order for twenty-first century world politics, the United States will have to rely on both the realist and liberal traditions of American foreign policy, which will include deterrence and power balancing, but also using international institutions to shape other countries’ preferences and interests. Adapt International Institutions for a New Era of World Politics. The United States should seek to ensure that the global rules, institutions, and norms that it took the lead in creating---which reflect basic American preferences and interests, thus constituting an important element of American power---outlive American preeminence. We know that institutions acquire a certain ‘‘stickiness’’ that allow them to exist long after the features or forces at the time of their creation give way to a new landscape of global politics. **The transaction costs of creating a whole new international**---**or even regional**--- **institutional architecture that would compete with the American post-World** **War II vintage would be enormous. Institutions** **such as the** International Monetary Fund (**IMF), World Bank, and** World Trade Organization (**WTO), all reflect** basic **American preferences for an open trading system and**, with a few exceptions, **have near-universal membership and overwhelming legitimacy**. **Even states with which the U**nited **S**tates **has significant** political, economic, or diplomatic **disagreement**---China, Russia, and Iran---**have strongly desired membership in these ‘‘Made in USA’’ institutions. Shifts in the global balance of power will be reflected in these institutions**---such as the decision at the September 2009 Pittsburgh G-20 summit to increase China’s voting weight in the IMF by five percentage points, largely at the expense of European countries such as Britain and France. **Yet these institutions**, if their evolution is managed with deftness and skill, **will disproportionately benefit the U**nited **S**tates **long after the demise of its** **unparalleled position in world politics.** **In this sense, the U**nited **S**tates **will be able to ‘‘lock in’’ a durable international order that will continue to reflect its** own basic **interests** and values.Importantly, the United States should seek to use its vast power in the broad interest of the world, not simply for its own narrow or parochial interests. During the second half of the twentieth century the United States pursued its own interests but also served the interests of the world more broadly. And there was intense global demand for the collective goods and services the United States provided. The United States, along with Great Britain, are history’s only two examples of liberal empires. Rather than an act of altruism, this will improve America’s strategic position. States and societies that are prosperous and stable are less likely to display aggressive or antagonistic behavior in their foreign policies. There are things the United States can do that would hasten the end of American preeminence, and acting in a seemingly arbitrary, capricious, and unilateral manner is one of them. The more the rest of the world views the American-made world as legitimate, and as serving their own interests, the less likely they will be to seek to challenge or even transform it.19 Cultivate Balance of Power Relationships in Other Regions. **The U**nited **S**tates **enjoys better relations with most states than these states do with their regional neighbors**. South and East Asia are regions in which distrust, resentment, and outright hostility abound. **The U**nited **S**tates **enjoys** relatively **strong** (if far from perfect) strategic **relationships with** most of the **major states in Asia**, including Japan, India, Pakistan, and South Korea. The United States and China have their differences, and a more intense strategic rivalry could develop between the two. However, right now the relationship is generally stable. With the possible exception of China (but perhaps **even Beijing views the American military presence** in East Asia **as an assurance against Japanese revanchism**), these **countries prefer a U.S. presence in Asia**, **and** in fact **view** good **relations with the U**nited **S**tates **as indispensable for their own security.**

### Norms

**No US precedent---not causal**

Kenneth **Anderson 11**, Professor of International Law at American University, 10/9/11, “What Kind of Drones Arms Race Is Coming?,” <http://www.volokh.com/2011/10/09/what-kind-of-drones-arms-race-is-coming/#more-51516>

New York Times national security correspondent Scott Shane has an opinion piece in today’s Sunday Times predicting an “arms race” in military drones. **The methodology** essentially **looks at the US as the leader**, followed by Israel – countries that have built, deployed and used drones in both surveillance and as weapons platforms. It **then** looks **at the list of other countries that are following** fast in **US footsteps to** both **build and deploy, as well as purchase or sell the technology** – noting, correctly, that the list is a long one, starting with China. The predicament is put this way: Eventually, the United States will face a military adversary or terrorist group armed with drones, military analysts say. But what the short-run hazard experts foresee is not an attack on the United States, which faces no enemies with significant combat drone capabilities, but the political and legal challenges posed when another country follows the American example. The Bush administration, and even more aggressively the Obama administration, embraced an extraordinary principle: that the United States can send this robotic weapon over borders to kill perceived enemies, even American citizens, who are viewed as a threat. “**Is this the world we want to live in?” asks** Micah **Zenko**, a fellow at the Council on Foreign Relations. “**Because we’re creating it**.” **By** **asserting that “we’re” creating it,** **this is a claim that there is an arms race among states over military drones**, **and that it is a** **consequence of the US creating the technology and deploying it** – **and then**, beyond the technology, **changing the normative legal and moral rules in the international community about using it across borders**. In effect, **the combination of those two, technological and normative, forces other countries in strategic competition with the US to follow suit**. (The other unstated premise underlying the whole opinion piece is a studiously neutral moral relativism signaled by that otherwise unexamined phrase “perceived enemies.” Does it matter if they are not merely our “perceived” but are our actual enemies? Irrespective of what one might be entitled to do to them, is it so very difficult to conclude, even in the New York Times, that Anwar al-Awlaki was, in objective terms, our enemy?) **It sounds like it must be true. But is it?** **There are a** **number of reasons to doubt** **that moves by other countries are an arms race in the sense that the US “created” it or** **could** have **stop**ped **it**, **or that something different would have happened had the US** **not pursued the technology or not used it in the ways it has against non-state terrorist actors**. Here are a couple of quick reasons why I don’t find this thesis very persuasive, and what I think the real “arms race” surrounding drones will be. Unmanned aerial vehicles have clearly got a big push from the US military in the way of research, development, and deployment. But the reality today is that the technology will transform civil aviation, in many of the same ways and for the same reasons that another robotic technology, driverless cars (which Google is busily plying up and down the streets of San Francisco, but which started as a DARPA project). **UAVs will eventually move into many roles in ordinary aviation, because it is cheaper, relatively safer, more reliable** – and it will eventually include cargo planes, crop dusting, border patrol, forest fire patrols, and many other tasks. There is a reason for this – **the avionics involved are simply not so complicated as to be beyond the abilities of many, many states**. Military applications will carry drones many different directions, from next-generation unmanned fighter aircraft able to operate against other craft at much higher G stresses to tiny surveillance drones. But the flying-around technology for aircraft that are generally sizes flown today is not that difficult, and **any substantial state that feels like developing them will be able to do so**. But the point is that **this was happening anyway**, **and the technology was already available**. **The US** might have been first, but it **hasn’t sparked an arms race** **in any sense that absent the US push, no one would have done this**. **That’s just a fantasy reading** of where the technology in general aviation was already going; **Zenko’s ‘original sin’ attribution of this to the US opening Pandora’s box is** **not a credible understanding of the development and applications of the technology**. **Had the US not moved on this**, **the result would have been a US playing catch-up to someone else**. For that matter, the off-the-shelf technology for small, hobbyist UAVs is simple enough and available enough that terrorists will eventually try to do their own amateur version, putting some kind of bomb on it. Moving on from the avionics, **weaponizing the craft is also not difficult**. The US stuck an anti-tank missile on a Predator; this is also not rocket science. Many states can build drones, many states can operate them, and crudely weaponizing them is also not rocket science. **The US didn’t spark an arms race; this would occur** **to any state with a drone**. To the extent that there is real development here, it lies in the development of specialized weapons that enable vastly more discriminating targeting. The details are sketchy, but there are indications from DangerRoom and other observers (including some comments from military officials off the record) that US military budgets include amounts for much smaller missiles designed not as anti-tank weapons, but to penetrate and kill persons inside a car without blowing it to bits, for example. This is genuinely harder to do – but still not all that difficult for a major state, whether leading NATO states, China, Russia, or India. **The question is whether it would be a bad thing to have states competing to come up with weapons technologies that are … more discriminating**.

**Zero chance that U.S. self-restraint causes any other country to give up their plans for drones**

Max **Boot 11**, the Jeane J. Kirkpatrick Senior Fellow in National Security Studies at the Council on Foreign Relations, 10/9/11, “We Cannot Afford to Stop Drone Strikes,” Commentary Magazine, <http://www.commentarymagazine.com/2011/10/09/drone-arms-race/>

**The New York Times engages in** some **scare-mongering** today **about a drone** ams **race**. Scott Shane notes correctly other **nations such as China are building their own drones** and in the future U.S. forces could be attacked by them–our forces will not have a monopoly on their use forever. Fair enough, **but he goes further, suggesting our** current **use of drones** to target terrorists **will backfire:** **If China**, for instance, **sends killer drones** into Kazakhstan **to hunt** minority **Uighur Muslims** it accuses of plotting terrorism, **what will the U**nited **S**tates **say?** What if India uses remotely controlled craft to hit terrorism suspects in Kashmir, or Russia sends drones after militants in the Caucasus? American officials who protest will likely find their own example thrown back at them. “The problem is that we’re creating an international norm” — asserting the right to strike preemptively against those we suspect of planning attacks, argues Dennis M. Gormley, a senior research fellow at the University of Pittsburgh and author of Missile Contagion, who has called for tougher export controls on American drone technology. “The **copycatting** is what I worry about most.” This **is a** **familiar trope** **of liberal critics who are** **always claiming we should forego “X” weapons system** or capability, **otherwise our enemies will adopt it too.** **We** have **heard this with regard to ballistic missile defense**, ballistic missiles, **nuclear weapons**, chemical and biological weapons, land mines, **exploding bullets, and other fearsome weapons**. Some have even suggested the U.S. should abjure the first use of nuclear weapons–and cut down our own arsenal–to encourage similar restraint from Iran. **The argument** **falls apart** rather quickly **because it is founded on a false premise: that other nations will follow our example**. In point of fact, Iran is hell-bent on getting nuclear weapons no matter what we do; **China is hell-bent on getting drones**; and so forth. **Whether and under what circumstances they will use those weapons remains an open question–but there is** **little reason** **to think** **self-restraint on our part will be matched by equal self-restraint on theirs**. Is Pakistan avoiding nuking India because we haven’t used nuclear weapons since 1945? Hardly. The reason is that India has a powerful nuclear deterrent to use against Pakistan. If there is one lesson of history it is a strong deterrent is a better upholder of peace than is unilateral disarmament–which is what the New York Times implicitly suggests. **Imagine if we did refrain from drone strikes against al-Qaeda**–**what would be the consequence?** If we were to stop the strikes, **would China really decide to take a softer line on Uighurs or Russia on Chechen separatists?** **That seems unlikely** **given the viciousness those states already employ in their battles against ethnic separatists**–which at least in Russia’s case already includes the suspected assassination of Chechen leaders abroad. What’s the difference between sending a hit team and sending a drone? **While a decision on our part to stop drone strikes would be** **unlikely to alter Russian or Chinese thinking**, **it would have one immediate consequence**: **al-Qaeda would be strengthened** **and could** **regenerate the ability to attack our homeland**. Drone strikes are the only effective weapon we have to combat terrorist groups in places like Pakistan or Yemen where we don’t have a lot of boots on the ground or a lot of cooperation from local authorities. We cannot afford to give them up in the vain hope it will encourage disarmament on the part of dictatorial states.

# 1NR

**Prolif impact outweighs and turns their East asia and Middle East scenario**

**DUNN 2007**

PhD, former Assistant Director of the U.S. Arms Control and Disarmament Agency and Ambassador to the 1985 Nuclear Non- Proliferation Treaty Review Conference (Lewis Dunn, Proliferation Papers, “Deterrence Today: Roles, Challenges, and Responses.”)

On the one hand, among many U.S. defense experts and officials it has become almost a cliché to state that an alleged *asymmetry of stakes* between the United States (and/or other outsiders) and a regional nuclear power would make it much more difficult to provide credible nuclear security assurances along the lines suggested above. That purported asymmetry of stakes also is widely seen by those same experts and officials as putting the United States (or other outsiders) at a fundamental disadvantage in any crisis with a regional power and shifting the deterrence balance in its favor. Emphasis on the impact of a perceived asymmetry of stakes partly reflects a view that the intensity of the stakes in any given crisis or confrontation is dependent most on what has been called “the proximity effect”: stakes’ intensity is a function of geography. Concern about an asymmetry of stakes also gains support from the fact that a desire to deter the United States or other outsiders probably is one incentive motivating some new or aspiring nuclear . This line of argument should not be accepted at face value. To the contrary, in two different ways, the stakes for the United States (and other outsiders) in a crisis or confrontation with a regional nuclear adversary would be extremely high. To start, what is at stake is the likelihood of cascades of proliferation in Asia and the Middle East. Such proliferation cascades almost certainly would bring greater regional instability, global political and economic disruption, a heightened risk of nuclear conflict, and a jump in the risk of terrorist access to nuclear weapons. Equally important, nuclear blackmail let alone **nuclear use against U.S.** and other outsiders’ forces, those of U.S. regional allies and friends, or any of their homelands would greatly heighten the stakes for the United States and other outsiders. **Perceptions of** American **resolve** and credibility **around the globe**, the likelihood that an initial nuclear use would be followed by a virtual **collapse of a** six-decades’ plus **nuclear taboo**, and the danger of runaway proliferation all would be at issue. So viewed, **how** the United States and others respond is likely to have a far-reaching impact on their own security as well as longer term global security and stability.

**B) And terrorism has its own impact --- triggers full scale war**

**Hellman ‘8** (Martin E. Hellman\* \* Martin E. Hellman is a member of the National Academy of Engineering and Professor Emeritus at Stanford University. His current project applies risk analysis to nuclear deterrence)

Nuclear proliferation and the specter of nuclear terrorism are creating additional possibilities for triggering a **nuclear war**. If an American (or Russian) city were devastated by an act of nuclear terrorism, the public **outcry for immediate,** decisive **action would be** even **stronger than Kennedy** had to deal **with** when the **Cuban missiles** first became known to the American public. While the action would likely not be directed against Russia, it might be threatening to Russia (e.g., on its borders) or one of its allies and precipitate a crisis **that resulted in a full-scale nuclear war.** Terrorists with an apocalyptic mindset **might even** attempt to **catalyze a full-scale nuclear war by disguising their act to look like an attack by the U.S. or Russia.**

**(C) Tie-breaker – strong alliances solve the use of WMD**

**ROSS 1999** - Douglas Ross, Professor of Political Science – Simon Fraser University, Winter 1998/1999, International Journal, Vol. 54, No. 1, “Canada’s Functional Isolationism And The Future Of Weapons Of Mass Destruction”, Lexis

Thus, an easily accessible tax base has long been available for spending much more on international security than recent governments have been willing to contemplate. Negotiating the landmines ban, discouraging trade in small arms, promoting the United Nations arms register are all worthwhile, popular activities that polish the national self-image. But they should all be supplements to, not substitutes for, a proportionately equitable commitment of resources to the management and prevention of international conflict – and thus the containment of the WMD threat. Future American governments will not ‘police the world’ alone. For almost fifty years the Soviet threat compelled disproportionate military expenditures and sacrifice by the United States. That world is gone. Only by enmeshing the capabilities of the United States and other leading powers in a co-operative security management regime where the burdens are widely shared does the world community have any plausible hope of avoiding **warfare involving nuclear or other WMD**.

**(D) We control escalation and miscalc ladder**

**Caves ’10**, John P. Caves, Senior Research Fellow in the Center for the Study of Weapons of Mass Destruction at the National Defense University, “Avoiding a Crisis of Confidence in the U.S. Nuclear Deterrent”, <http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ada514285>

Perceptions of a compromised U.S. nuclear deterrent as described above would have profound policy implications, particularly if they emerge at a time when a nucleararmed great power is pursuing a more aggressive strategy toward U.S. allies and partners in its region in a bid to enhance its regional and global clout. ■ A dangerous period of vulnerability would open for the United States and those nations that depend on U.S. protection while the United States attempted to rectify the problems with its nuclear forces. As it would take more than a decade for the United States to produce new nuclear weapons, ensuing events could preclude a return to anything like the status quo ante. ■ The assertive, nuclear-armed great power, and other major adversaries, could be willing to challenge U.S. interests more directly in the expectation that the United States would be less prepared to threaten or deliver a military response that could lead to direct conflict. They will want to keep the United States from reclaiming its earlier power position. ■ Allies and partners who have relied upon explicit or implicit assurances of U.S. nuclear protection as a foundation of their security could lose faith in those assurances. They could compensate by accommodating U.S. rivals, especially in the short term, or acquiring their own nuclear deterrents, which in most cases could be accomplished only over the mid- to long term. A more nuclear world would likely ensue over a period of years. ■ Important U.S. interests could be compromised or abandoned, or a **major war** could occur as adversaries and/or the United States **miscalculate** new boundaries of deterrence and provocation. At worst, war could lead to state-on-state employment of weapons of mass destruction (WMD) on a scale far more catastrophic than what nuclear-armed terrorists alone could inflict. Continuing Salience of Nuclear Weapons Nuclear weapons, like all instruments of national security, are a means to an end— national security—rather than an end in themselves. Because of the catastrophic destruction they can inflict, resort to nuclear weapons should be contemplated only when necessary to defend the Nation’s vital interests, to include the security of our allies, and/or in response to comparable destruction inflicted upon the Nation or our allies, almost certainly by WMD. The retention, reduction, or elimination of nuclear weapons must be evaluated in terms of their contribution to national security, and in particular the extent to which they contribute to the avoidance of circumstances that would lead to their employment. Avoiding the circumstances that could lead to the employment of nuclear weapons involves many efforts across a broad front, many outside the military arena. Among such efforts are reducing the number of nuclear weapons to the level needed for national security; maintaining a nuclear weapons posture that minimizes the likelihood of inadvertent, unauthorized, or illconsidered use; improving the security of existing nuclear weapons and related capabilities; reducing incentives and closing off avenues for the proliferation of nuclear and other WMD to state and nonstate actors, including with regard to fissile material production and nuclear testing; enhancing the means to detect and interdict the transfer of nuclear and other WMD and related materials and capabilities; and strength ening our capacity to defend against nuclear and other WMD use. For as long as the United States will depend upon nuclear weapons for its national security, those forces will need to be reliable, adequate, and credible. Today, the United States fields the most capable strategic nuclear forces in the world and possesses globally recognized superiority in any conventional military battlespace. No state, even a nuclear-armed near peer, rationally would directly challenge vital U.S. interests today for fear of inviting decisive defeat of its conventional forces and risking nuclear escalation from which it could not hope to claim anything resembling victory. But power relationships are never static, and current realities and trends make the scenario described above conceivable unless corrective steps are taken by the current administration and Congress. Consider the challenge posed by China. It is transforming its conventional military forces to be able to project power and compete militarily with the United States in East Asia, 1 and is the only recognized nuclear weapons state today that is both modernizing and expanding its nuclear forces. 2 It weathered the 2008 financial crisis relatively well, avoiding a recession and already resuming robust economic growth. 3 Most economists expect that factors such as openness to foreign investment, high savings rates, infrastructure investments, rising productivity, and the ability to leverage access to a large and growing market in commercial diplomacy are likely to sustain robust economic growth for many years to come, affording China increasing resources to devote to a continued, broadbased modernization and expansion of its military capabilities. In contrast, the 2008 financial crisis was the most severe for the United States since the Great Depression, 4 and it led in 2009 to the largest Federal budget deficit—by far—since the Second World War 5 (much of which is financed by borrowing from China). Continuing U.S. military operations in Iraq and Afghanistan are expensive, as will be the necessary refurbishment of U.S. forces when those con flicts end. Those military expenses, however, are expected to be eclipsed by the burgeoning entitlement costs of the aging U.S. “baby boomer” generation. 6 As The Economist recently observed: China’s military build-up in the past decade has been as spectacular as its economic growth. . . . There are growing worries in Washington, DC, that China’s military power could challenge America’s wider military dominance in the region. China insists there is nothing to worry about. But even if its leadership has no plans to displace American power in Asia . . . America is right to fret this could change. 7 As an emerging nuclear-armed near peer like China narrows the wide military power gap that currently separates it from the United States, Washington could find itself more, rather than less, reliant upon its nuclear forces to deter and contain potential challenges from great power competitors. The resulting security dynamics may resemble the Cold War more than the U.S. “unipolar moment” of the 1990s and early 2000s. Concerns about Longterm Reliability With continuing U.S. dependence upon nuclear forces to deter conflict and contain challenges from (re-)emerging great power(s), perceptions of the reliability, adequacy, and credibility of those forces will determine how well they serve those purposes. Perception is all important when it comes to nuclear weapons, which have not been operationally employed since 1945 and not tested (by the United States) since 1992, and, hopefully, will never have to be employed or tested again. If U.S. nuclear forces are to **deter** other nuclear-armed great powers, the individual weapons must be perceived to work as intended (reliability), the overall forces must be perceived as adequate to deny the adversary the achievement of his goals regardless of his actions (adequacy), and U.S. leadership must be perceived as prepared to employ the forces under conditions that it has communicated via its declaratory policy (credibility) These perceptions must be, of course, those of the leadership of adversaries that we seek to deter (as well as of the allies that we seek to assure), but they also need to be **those of the U.S. leadership** lest our leaders fail to convey the confidence and resolve necessary to shape adversaries’ perceptions to achieve deterrence. Weapons reliability is the essential foundation for deterrence since there can be no adequacy or credibility without it.

**Turns Pakistan scenario**

**COES 2011** (Ben, former speechwriter for George H.W. Bush, September 30, “The Disease of a Weak President,” <http://dailycaller.com/2011/09/30/the-disease-of-a-weak-president/>

The disease of a weak president usually begins with the Achilles’ heel all politicians are born with — the desire to be popular. It leads to pandering to different audiences, people and countries and creates a sloppy, incoherent set of policies. Ironically, it ultimately results in that very politician **losing the trust and respect of friends and foes alike.**

In the case of Israel, those of us who are strong supporters can at least take comfort in the knowledge that Tel Aviv will do whatever is necessary to protect itself from potential threats from its unfriendly neighbors. While it would be preferable for the Israelis to be able to count on the United States, in both word and deed, the fact is right now they stand alone. Obama and his foreign policy team have undercut the Israelis in a multitude of ways. Despite this, I wouldn’t bet against the soldiers of Shin Bet, Shayetet 13 and the Israeli Defense Forces.

But Obama’s weakness could — in other places — have implications far, far worse than anything that might ultimately occur in Israel. The triangular plot of land that connects Pakistan, India and China is held together with much more fragility and is built upon a truly foreboding foundation of religious hatreds, radicalism, resource envy and nuclear weapons. If you can only worry about preventing one foreign policy disaster, worry about this one.

Here are a few unsettling facts to think about: First, Pakistan and India have fought three wars since the British de-colonized and left the region in 1947. All three wars occurred before the two countries had nuclear weapons. Both countries now possess hundreds of nuclear weapons, enough to wipe each other off the map many times over.

Second, Pakistan is 97% Muslim. It is a question of when — not if — Pakistan elects a radical Islamist in the mold of Ayatollah Khomeini as its president. Make no mistake, it will happen, and when it does the world will have a far greater concern than Ali Khamenei or Mahmoud Ahmadinejad and a single nuclear device.

Third, China sits at the northern border of both India and Pakistan. China is strategically aligned with Pakistan. Most concerning, China covets India’s natural resources. Over the years, it has slowly inched its way into the northern tier of India-controlled Kashmir Territory, appropriating land and resources and drawing little notice from the outside world.

In my book, Coup D’Etat, I consider this tinderbox of colliding forces in Pakistan, India and China as a thriller writer. But thriller writers have the luxury of solving problems by imagining solutions on the page. In my book, when Pakistan elects a radical Islamist who then starts a war with India and introduces nuclear weapons to the theater, America steps in and removes the Pakistani leader through a coup d’état. I wish it was that simple.

The more complicated and difficult truth is that we, as Americans, must take sides. We must be willing to be unpopular in certain places. Most important, **we must be ready and willing to threaten our military might on behalf of our allies**. And our allies are Israel and India.

There are many threats out there — Islamic radicalism, Chinese technology espionage, global debt and half a dozen other things that smarter people than me are no doubt worrying about. But the single greatest threat to America is none of these. **The single greatest threat** facing America and our allies **is a weak U.S. president.** It doesn’t have to be this way. President Obama could — if he chose — develop a backbone and lead. Alternatively, America could elect a new president. It has to be one or the other. The status quo is simply not an option.

**Weakness is the biggest internal link into credibility- answers their** Waxman ev

**GRACIA 2013** - political scientist and a former senior adviser to the Human Services and International Affairs committees at the Hawaii State Legislature, Danny de Gracia, “DE GRACIA: How Obama’s scandals weaken U.S. diplomacy and security”, June 12, 2013, http://communities.washingtontimes.com/neighborhood/making-waves-hawaii-perspective-washington-politic/2013/jun/12/de-gracia-how-obamas-scandals-weaken-us-diplomacy-/

Once a bright light among nations for freedom, innovation and prosperity, the United States of America is now in its death throes as a collapsing empire. Even as large stars that burn out in space often transform into black holes, America’s burdensome government is turning the entire nation into a swirling gyre of political darkness, scandal and public discontent. Nations that are prosperous are seldom paranoid. The emphasis on razor-wire defined borders guarded by assault rifle toting paramilitaries and internal security maintained by armies of secret police is a mark of third world scarcity rather than first world prosperity. When a nation is prosperous, its emphasis is on advancing commerce, science, exploration, philosophy and the arts. When a nation is weak, the apparatus of the state is **directed towards** counterinsurgency, **anti-terrorism**, border security **and internal suppression**. Since all states are at their core a compulsory jurisdictional monopoly for determining the “price” of justice and security, the worse an economy gets, the more a state’s security apparatus is deployed as a pretext for revenue collection. As Thucydides famously wrote in History of the Peloponnesian War, “the revenues of the state increasing, tyrannies were by their means established almost everywhere.” The problem that President Barack Obama faces in this state of decline is that America’s **allies and enemies alike** are carefully observing the health of the United States. What political scientists call high politics ― the realm of decision-making that involves matters of national survival ― is very much **a game of perception**. Foreign **leaders constantly ponder** whether it is in their nation’s best interest to **continue to side with the U**nited **S**tates or whether they should develop their own regional alliances and security agreements. As an example, the question of whether to side with the United States on matters involving Syria or to side with Russia and China increasingly **hinges on whether the U.S. is perceived as a reliable power**. The message that Obama’s wave of scandals projects to the world is that the United States is becoming increasingly unstable and her leadership’s diplomatic assurances may not be at all sincere or enforceable. This ultimately restricts our future diplomatic credibility and national security.

#### Prolif is fast- tech advances mean quicker spread

Kassenova 12

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The broad applications for dual-use goods and technology in everyday life result in constant flows of proliferation-sensitive items across borders. And this poses a real danger. Gradual acquisition of components and technology from various sources that can enable a non state or state actor to build a WMD program is a more likely proliferation threat than an actor acquiring an already-built weapon from an external source. The best illustration of how real this threat is in the nuclear realm is the story of the A. Q. Khan network. Pakistani scientist A. Q. Khan and his associates successfully exploited gaps in controls of nuclear exports in Pakistan and expense of meeting other national objectives and can, in fact, have positive effects in areas such as trade and competitiveness. Each state must work, to the best of its ability, to prevent WMD proliferation. Governments should have the legal authority and institutional capacity to implement the licensing of sensitive trade, as well as the means to enforce any controls they have in place to prevent intentional illegal activity. They should also compile restricted items into a comprehensive national control list. A successful system requires close working relationships between government and industry, and whenever possible, governments should provide incentives to companies to be especially diligent when it comes to sensitive trade. Finally, for a national strategic trade control system to work, close cooperation between countries at the regional and international level is critical. There will never be enough capacity or expertise to fully implement strategic trade controls. But no contribution to the common goal is too small. Working to limit WMD proliferation will make the world safer for all countries.¶ beyond during the 1980s and 1990s. The network assisted Iran, North Korea, and Libya in acquiring a whole range of nuclear weapons–relevant items.¶ According to a recent report by nonproliferation expert Joshua Pollack, India, surprisingly, was the fourth customer of the Khan network, procuring uranium-enrichment technology.¶ Unfortunately for the proliferation outlook, progress in high-tech industries especially in the fields of electronics and biotechnology, as well as the expansion of nuclear power and the globalization of trade, further exacerbate the challenge of firewalling international trade from WMD proliferation.¶

#### The AFF spills over to destabilize all presidential war powers.

Heder ’10

(Adam, J.D., magna cum laude , J. Reuben Clark Law School, Brigham Young University, “THE POWER TO END WAR: THE EXTENT AND LIMITS OF CONGRESSIONAL POWER,” St. Mary’s Law Journal Vol. 41 No. 3, <http://www.stmaryslawjournal.org/pdfs/Hederreadytogo.pdf>)

This constitutional silence invokes Justice Rehnquist’s oftquoted language from the landmark “political question” case, Goldwater v. Carter . 121 In Goldwater , a group of senators challenged President Carter’s termination, without Senate approval, of the United States ’ Mutual Defense Treaty with Taiwan. 122 A plurality of the Court held, 123 in an opinion authored by Justice Rehnquist, that this was a nonjusticiable political question. 124 He wrote: “In light of the absence of any constitutional provision governing the termination of a treaty, . . . the instant case in my view also ‘must surely be controlled by political standards.’” 125 Notably, Justice Rehnquist relied on the fact that there was no constitutional provision on point. Likewise, there is **no constitutional provision** on whether Congress has the legislative power to **limit, end, or otherwise redefine the scope of a war**. Though Justice Powell argues in Goldwater that the Treaty Clause and Article VI of the Constitution “add support to the view that the text of the Constitution does not unquestionably commit the power to terminate treaties to the President alone,” 126 **the same cannot be said about Congress’s legislative authority** to terminate or limit a war in a way that goes beyond its explicitly enumerated powers. There are no such similar provisions that would suggest Congress may decline to exercise its appropriation power but nonetheless legally order the President to cease all military operations. Thus, the case for deference to the political branches on this issue is even greater than it was in the Goldwater context. Finally, the Constitution does not imply any additional powers for Congress to end, limit, or redefine a war. The textual and historical evidence suggests the Framers purposefully **declined to grant Congress such powers**. And as this Article argues, granting Congress this power would be **inconsistent with the general war powers structure of the Constitution.** Such a reading of the Constitution would **unnecessarily empower Congress** and **tilt the scales heavily in its favor**. More over, it would strip the President of his Commander in Chief authority to direct the movement of troops at a time **when the Executive’s expertise is needed.** 127 And fears that the President will grow too powerful are unfounded, given the reasons noted above. 128 In short, the Constitution does not impliedly afford Congress any authority to prematurely terminate a war above what it explicitly grants. 129 Declaring these issues nonjusticiable political questions would be the most practical means of balancing the textual and historical demands, the structural demands, and the practical demands that complex modern warfare brings . Adjudicating these matters would only lead the courts to engage in impermissible line drawing — lines that would both confus e the issue and add layers to the text of the Constitution in an area where the Framers themselves declined to give such guidance.