# 1NC

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#### Interpretation - Targeted killings are directed at specific persons

Alston 2011

[Philip, John Norton Pomeroy Professor of Law, New York University School of Law. The author was UN Special Rapporteur on extrajudicial, summary or arbitrary executions from 2004 until 2010. “ARTICLE: The CIA and Targeted Killings Beyond Borders” Harvard National Security Journal, 2 Harv. Nat'l Sec. J. 283, Nexis

In a targeted killing, the specific goal of the operation is to use lethal force. This distinguishes targeted killings from unintentional, accidental, or reckless killings, or killings made without conscious choice. It also distinguishes them from law enforcement operations, e.g., against a suspected suicide bomber. Under such circumstances, it may be legal for law enforcement personnel to shoot to kill based on the imminence of the threat, but the goal of the operation, from its inception, should not be to kill.¶ Although in most circumstances targeted killings violate the right to life, in the exceptional circumstance of armed conflict, they may be legal. This is in contrast to other terms with which "targeted killing" has sometimes been interchangeably used, such as "extrajudicial execution," "summary execution," and "assassination," all of which are, by definition, illegal. n44 Consistent with the detailed analysis developed by Nils Melzer, n45 this Article adopts the following definition: a targeted killing is the intentional, premeditated, and deliberate use of lethal force, by States or their agents acting under color of law, or by an organized armed group in armed conflict, against a specific individual who is not in the physical custody of the perpetrator. n46

#### B. Violation: The plan restricts signature strikes.

#### C. Standards

#### Ground. Our interp allows all parts of targeted killings to be restricted, while reserving assassinations, summary executions, and signature strikes as CP ground.

#### Precision – it’s key to topic education

Anderson 2011

[Kenneth, Professor at Washington College of Law, American University; and Hoover Institution visiting fellow, member of Hoover Task Force on National Security and Law; nonresident senior fellow, Brookings Institution. “Inside Executive Branch Policy-Making on Drone Strikes” The Volokh Conspiracy, Nexis]

A crucial distinction - one first made public, so far as I know, by these Wall Street Journal reporters a couple of years ago - is between targeting "high value" terrorist targets, "personality strikes," on the one hand, and so-called "signature strikes" on groups of fighters, on the other, often low level fighters who, for example, might be moving from Pakistan to Afghanistan to fight US and Aghan forces there. The personality strikes are at the core of the US's counterterrorism program, whereas the signature strikes are much more part of the counterinsurgency campaign - attacking safe havens, fighters who would otherwise wind up in Afghanistan, etc. (A distinct legal debate, as Charlie Savage has reported in the Times, took place over the legal authority for engaging in signature strikes in places outside of Afghanistan and Pakistan's border regions, such as Yemen, but it appear to have been resolved at this point in favor of a legal view that such strikes are permitted, but as a policy matter do not make sense for the United States at this point.) Much of the policy debate within the administration seems to have revolved around the extent of signature strikes which, by their nature, attack a group of people who the US has identified as fighters, rather than individual as in a targeted killing. Indeed, this illustrates the important point that as drone uses ramify, targeted killing is only one such use (and targeted killing, too, might be carried out with a human team; targeted killing and drone warfare only partly overlap). Signature strikes are supposed to produce a larger number of people killed, because the people being targeted are supposed to be groups of fighters. But the larger number of casualties raised these other concerns within the administration: Officials asked what precautions were being taken to aim at highly valued targets, rather than foot soldiers. "Donilon and others said, 'O.K., I got it; it's war and it's confusing. Are we doing everything we can to make sure we are focused on the target sets we want?'" said a participant in the discussions. "You can kill these foot soldiers all day, every day and you wouldn't change the course of the war." A senior Obama administration official declined to comment on Mr. Donilon's closed-door discussions but said that he wasn't second-guessing the CIA's targeting methodology and pointed to his long-standing support for the program. The official said the White House wanted to use the drone program smartly to pick off al Qaeda leaders and the Haqqanis. "It's about keeping our eyes on the ball," the official said.¶ In the end, it appears that there is greater discussion over interagency concerns about targeting, but the final decisions remain with the CIA. Or, as the article's closing quote put it:¶ "It's not like they took the car keys away from the CIA," a senior official said. "There are just more people in the car."

#### D. T is a voter for fairness and topic education, and extra T is voter because the aff dejustifies the resolution.

### 1NC

#### The votes for immigration reform have been secured - it’s Obama’s top priority

Epstein 10-17

(Reid Epstein, writer for POLITICO, “Obama’s latest push features a familiar strategy” 10/17/13, <http://www.politico.com/story/2013/10/barack-obama-latest-push-features-familiar-strategy-98512_Page2.html>, KB)

President Barack Obama made his plans for his newly won political capital official — he’s going to hammer House Republicans on immigration.¶ And it’s evident from his public and private statements that Obama’s latest immigration push is, in at least one respect, similar to his fiscal showdown strategy: yet again, the goal is to boost public pressure on House Republican leadership to call a vote on a Senate-passed measure.¶ “The majority of Americans think this is the right thing to do,” Obama said Thursday at the White House. “And it’s sitting there waiting for the House to pass it. Now, if the House has ideas on how to improve the Senate bill, let’s hear them. Let’s start the negotiations. But let’s not leave this problem to keep festering for another year, or two years, or three years. This can and should get done by the end of this year.”¶ And yet Obama spent the bulk of his 20-minute address taking whack after whack at the same House Republicans he’ll need to pass that agenda, culminating in a jab at the GOP over the results of the 2012 election — and a dare to do better next time.¶ “You don’t like a particular policy or a particular president? Then argue for your position,” Obama said. “Go out there and win an election. Push to change it. But don’t break it. Don’t break what our predecessors spent over two centuries building. That’s not being faithful to what this country’s about.”¶ Before the shutdown, the White House had planned a major immigration push for the first week in October. But with the shutdown and looming debt default dominating the discussion during the last month, immigration reform received little attention on the Hill.¶ Immigration reform allies, including Obama’s political arm, Organizing for Action, conducted a series of events for the weekend of Oct. 5, most of which received little attention in Washington due to the the shutdown drama. But activists remained engaged, with Dream Act supporters staging a march up Constitution Avenue, past the Capitol to the Supreme Court Tuesday, to little notice of the Congress inside.¶ Obama first personally signaled his intention to re-emerge in the immigration debate during an interview Tuesday with the Los Angeles Univision affiliate, conducted four hours before his meeting that day with House Democrats.¶ Speaking of the week’s fiscal landmines, Obama said: “Once that’s done, you know, the day after, I’m going to be pushing to say, call a vote on immigration reform.”¶ When he met that afternoon in the Oval Office with the House Democratic leadership, Obama said that he planned to be personally engaged in selling the reform package he first introduced in a Las Vegas speech in January.¶ Still, during that meeting, Obama knew so little about immigration reform’s status in the House that he had to ask Rep. Xavier Becerra (D-Calif.) how many members of his own party would back a comprehensive reform bill, according to a senior Democrat who attended.¶ The White House doesn’t have plans yet for Obama to participate in any new immigration reform events or rallies — that sort of advance work has been hamstrung by the 16-day government shutdown.¶ But the president emerged on Thursday to tout a “broad coalition across America” that supports immigration reform. He also invited House Republicans to add their input specifically to the Senate bill — an approach diametrically different than the House GOP’s announced strategy of breaking the reform into several smaller bills.¶ White House press secretary Jay Carney echoed Obama’s remarks Thursday, again using for the same language on immigration the White House used to press Republicans on the budget during the shutdown standoff: the claim that there are enough votes in the House to pass the Senate’s bill now, if only it could come to a vote.¶ “When it comes to immigration reform … we’re confident that if that bill that passed the Senate were put on the floor of the House today, it would win a majority of the House,” Carney said. “And I think that it would win significant Republican votes.”¶ Before the resolution of the shutdown and default standoff, Carney was more circumspect about the prospect of immigration reform passing the House. Earlier in the week, Carney wouldn’t venture a guess about whether the White House believes a new immigration push from the president would actually work.¶ “Congress is a difficult institution to make predictions about,” Carney said Wednesday. “Our view is simply that it’s the right thing to do, and we’re going to push for it.”

#### The plan causes an inter-branch fight that derails Obama’s agenda

Kriner 10

Douglas Kriner, Assistant Profess of Political Science at Boston University, 2010, After the Rubicon: Congress, Presidents, and the Politics of Waging War, p. 67-69

Raising or Lowering Political Costs by Affecting Presidential Political Capital Shaping both real and anticipated public opinion are two important ways in which Congress can raise or lower the political costs of a military action for the president. However, focusing exclusively on opinion dynamics threatens to obscure the much broader political consequences of domestic reaction—particularly congressional opposition—to presidential foreign policies. At least since Richard Neustadt's seminal work Presidential Power, presidency scholars have warned that costly political battles in one policy arena frequently have significant ramifications for presidential power in other realms. Indeed, two of Neustadt's three "cases of command"—Truman's seizure of the steel mills and firing of General Douglas MacArthur—explicitly discussed the broader political consequences of stiff domestic resistance to presidential assertions of commander-in-chief powers. In both cases, Truman emerged victorious in the case at hand—yet, Neustadt argues, each victory cost Truman dearly in terms of his future power prospects and leeway in other policy areas, many of which were more important to the president than achieving unconditional victory over North Korea." 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." 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.6° 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 both 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 priorities, such as Social Security and immigration reform, failedperhaps 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. 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

#### PC is key – the window is closing

Wilson and Eilperin 10-17

(Scott and Juliet, Washington Post, 10-17-13, “Obama to refocus on key aspects of agenda,” Lexis, accessed 10-18-13, BS)

New York University public service professor Paul C. Light is pessimistic that Obama can accomplish much in coming months. He said Obama is running out of time to get things done in the face of GOP resistance and the decline of influence that comes with a second term. "I don't think that he'll get anything. His agenda is finished," Light said. "It's a political tragedy, because he's got more knowledge about the job and less juice to get it done." Keith Hennessey, who served as President George W. Bush's top economic adviser, said people shouldn't overstate the significance of Wednesday's political accord. "Substantively, the net result is they've pressed 'pause.' And that's it," said Hennessey, adding that while Obama "played defense successfully," that does not mean he will now be able to go on offense. Hennessey said it will be hard for the president and congressional Republicans to reconcile their competing fiscal goals - Obama wants to ease across-the-board budget cuts, known as the sequester, while the GOP wants broad entitlement reforms. In addition, he said, the way the White House will likely campaign for its priorities could deepen the partisan divide. "If the president portrays this as this battle between light and dark, it's hard for people to be simultaneously cooperating across party lines on other issues," he said. Obama sounded a conciliatory tone Wednesday night. "We could get all these things done even this year if everybody comes together in a spirit of how are we going to move this country forward and put the last three weeks behind us," he said. But the president's greatest opportunities in coming months are likely to come in areas where he can act on his own, both domestically and in foreign affairs. "His path to success is going to come through every single place that you can squeeze some authority which he has," said John Podesta, who chairs the liberal think tank Center for American Progress. "That is where you've got to focus your attention and where you could spend your political capital."

#### Immigration reform is key to the economy

Krudy 13

(Edward, “Analysis: Immigration reform could boost U.S. economic growth” Jan 29, 2013, Reuters)

The sluggish U.S. economy could get a lift if President Barack Obama and a bipartisan group of senators succeed in what could be the biggest overhaul of the nation's immigration system since the 1980s. Relaxed immigration rules could encourage entrepreneurship, increase demand for housing, raise tax revenues and help reduce the budget deficit, economists said. By helping more immigrants enter the country legally and allowing many illegal immigrants to remain, the United States could help offset a slowing birth rate and put itself in a stronger demographic position than aging Europe, Japan and China. "Numerous industries in the United States can't find the workers they need, right now even in a bad economy, to fill their orders and expand their production as the market demands," said Alex Nowrasteh, an immigration specialist at the libertarian Cato Institute. The emerging consensus among economists is that immigration provides a net benefit. It increases demand and productivity, helps drive innovation and lowers prices, although there is little agreement on the size of the impact on economic growth. President Barack Obama plans to launch his second-term push for a U.S. immigration overhaul during a visit to Nevada on Tuesday and will make it a high priority to win congressional approval of a reform package this year, the White House said. The chances of major reforms gained momentum on Monday when a bipartisan group of senators agreed on a framework that could eventually give 11 million illegal immigrants a chance to become American citizens. Their proposals would also include means to keep and attract workers with backgrounds in science, technology, engineering and mathematics. This would be aimed both at foreign students attending American universities where they are earning advanced degrees and high-tech workers abroad. An estimated 40 percent of scientists in the United States are immigrants and studies show immigrants are twice as likely to start businesses, said Nowrasteh. Boosting legal migration and legalizing existing workers could add $1.5 trillion to the U.S. economy over the next 10 years, estimates Raul Hinojosa-Ojeda, a specialist in immigration policy at the University of California, Los Angeles. That's an annual increase of 0.8 percentage points to the economic growth rate, currently stuck at about 2 percent. REPUBLICANS' HISPANIC PUSH Other economists say the potential benefit to growth is much lower. Richard Freeman, an economist at Harvard, believes most of the benefits to the economy from illegal immigrants already in the United States has already been recorded and legalizing their status would produce only incremental benefits. While opposition to reform lingers on both sides of the political spectrum and any controversial legislation can easily meet a quick end in a divided Washington, the chances of substantial change seem to be rising. Top Republicans such as Governor Bobby Jindal of Louisiana are not mincing words about the party's need to appeal to the Hispanic community and foreign-born voters who were turned off by Republican candidate Mitt Romney's tough talk in last year's presidential campaign. A previous Obama plan, unveiled in May 2011, included the creation of a guest-worker program to meet agricultural labor needs and something similar is expected to be in his new proposal. The senators also indicated they would support a limited program that would allow companies in certain sectors to import guest workers if Americans were not available to fill some positions. An additional boost to growth could come from rising wages for newly legalized workers and higher productivity from the arrival of more highly skilled workers from abroad. Increased tax revenues would help federal and state authorities plug budget deficits although the benefit to government revenues will be at least partially offset by the payment of benefits to those who gain legal status. In 2007, the Congressional Budget Office estimated that proposed immigration reform in that year would have generated $48 billion in revenue from 2008 to 2017, while costing $23 billion in health and welfare payments. There is also unlikely to be much of a saving on enforcement from the senators' plan because they envisage tougher border security to prevent further illegal immigration and a crackdown on those overstaying visas. One way to bump up revenue, according to a report co-authored by University of California, Davis economist Giovanni Peri, would be to institute a cap-and-trade visa system. Peri estimated it could generate up to $1.2 billion annually. Under such a system, the government would auction a certain number of visas employers could trade in a secondary market. "A more efficient, more transparent and more flexible immigration system would help firms expand, contribute to more job creation in the United States, and slow the movement of operations abroad," according to a draft report, soon to be published as part of a study by the Hamilton Project, a think tank. There was no immediate sign that either the Obama or the senators' plan would include such a system. The long-term argument for immigration is a demographic one. Many developed nations are seeing their populations age, adding to the burden of pension and healthcare costs on wage-earners. Immigration in the United States would need to double to keep the working-age population stable at its current 67 percent of total population, according to George Magnus, a senior independent economic adviser at UBS in London, While Magnus says a change of that magnitude may prove too politically sensitive, the focus should be on attracting highly skilled and entrepreneurial immigrants in the way Canada and Australia do by operating a points system for immigrants rather than focusing mainly on family connections. "The trick is to shift the balance of migration towards those with education (and) skills," he added. HARD ROAD Academics at major universities such as Harvard and the Massachusetts Institute of Technology often lament that many of their top foreign graduates end up returning to their home countries because visas are hard to get. "We have so much talent that is sitting here in the universities," said William Kerr, a professor at Harvard Business School. "I find it very difficult to swallow that we then make it so hard for them to stay." The last big amnesty for illegal immigrants was in 1986 when President Ronald Reagan legalized about 3 million already in the country. Numerous studies have shown that subsequently their wages rose significantly. Research on how immigration affects overall wages is inconclusive. George Borjas at Harvard says immigration has created a small net decrease in overall wages for those born in the United States, concentrated among the low-skilled, while Giovani Peri at UC Davis found that immigration boosts native wages over the long run. Hinojosa-Ojeda stresses that any reform needs to make it easier for guest workers to enter the country to avoid a new build-up of illegal workers. "If we don't create a mechanism that can basically bring in 300,000 to 400,000 new workers a year into a variety of labor markets and needs, we could be setting ourselves up for that again," said Hinojosa-Ojeda. Nowrasteh at Cato also believes an expanded guest worker program would stem illegal immigration and allow industries to overcome labor shortages. He found that harsher regulations in recent years in Arizona were adversely affecting agricultural production, increasing financial burdens on business and even negatively impacting the state's struggling real estate market. Some large companies have fallen foul of tougher enforcement regulations. Restaurant chain Chipotle Mexican Grill Inc fired roughly 500 staff in 2010 and 2011 after undocumented workers were found on its payrolls. Putting the chill on other employers, it is now subject of an ongoing federal criminal investigation into its hiring. "The current system doesn't seem to work for anyone," Chipotle spokesman Chris Arnold said.

#### Collapse causes nuclear conflicts

Harris and Burrows 9

Mathew J. Burrows counselor in the National Intelligence Council and Jennifer Harris a member of the NIC’s Long Range Analysis Unit “Revisiting the Future: Geopolitical Effects of the Financial Crisis” The Washington Quarterly 32:2 https://csis.org/files/publication/twq09aprilburrowsharris.pdf

Increased Potential for Global Conflict¶ Of course, the report encompasses more than economics and indeed believes the¶ future is likely to be the result of a number of intersecting and interlocking¶ forces. With so many possible permutations of outcomes, each with ample opportunity for unintended consequences, there is a growing sense of insecurity.¶ Even so, history may be more instructive than ever. While we continue to¶ believe that the Great Depression is not likely to be repeated, the lessons to be¶ drawn from that period include the harmful effects on fledgling democracies and¶ multiethnic societies (think Central Europe in 1920s and 1930s) and on¶ the sustainability of multilateral institutions (think League of Nations in the¶ same period). There is no reason to think that this would not be true in the¶ twenty-first as much as in the twentieth century. For that reason, the ways in¶ which the potential for greater conflict could grow would seem to be even more¶ apt in a constantly volatile economic environment as they would be if change¶ would be steadier.¶ In surveying those risks, the report stressed the likelihood that terrorism and¶ nonproliferation will remain priorities even as resource issues move up on the¶ international agenda. Terrorism’s appeal will decline if economic growth¶ continues in the Middle East and youth unemployment is reduced. For those¶ terrorist groups that remain active in 2025, however, the diffusion of¶ technologies and scientific knowledge will place some of the world’s most¶ dangerous capabilities within their reach. Terrorist groups in 2025 will likely be a¶ combination of descendants of long established groupsinheriting¶ organizational structures, command and control processes, and training¶ procedures necessary to conduct sophisticated attacksand newly emergent¶ collections of the angry and disenfranchised that become self-radicalized,¶ particularly in the absence of economic outlets that would become narrower¶ in an economic downturn.¶ The most dangerous casualty of any economically-induced drawdown of U.S.¶ military presence would almost certainly be the Middle East. Although Iran’s¶ acquisition of nuclear weapons is not inevitable, worries about a nuclear-armed¶ Iran could lead states in the region to develop new security arrangements with¶ external powers, acquire additional weapons, and consider pursuing their own¶ nuclear ambitions. It is not clear that the type of stable deterrent relationship¶ that existed between the great powers for most of the Cold War would emerge¶ naturally in the Middle East with a nuclear Iran. Episodes of low intensity¶ conflict and terrorism taking place under a nuclear umbrella could lead to an¶ unintended escalation and broader conflict if clear red lines between those states¶ involved are not well established. The close proximity of potential nuclear rivals¶ combined with underdeveloped surveillance capabilities and mobile¶ dual-capable Iranian missile systems also will produce inherent difficulties in¶ achieving reliable indications and warning of an impending nuclear attack. The¶ lack of strategic depth in neighboring states like Israel, short warning and missile¶ flight times, and uncertainty of Iranian intentions may place more focus on¶ preemption rather than defense, potentially leading to escalating crises.Types of conflict that the world continues¶ to experience, such as over resources, could¶ reemerge, particularly if protectionism grows and¶ there is a resort to neo-mercantilist practices.¶ Perceptions of renewed energy scarcity will drive¶ countries to take actions to assure their future¶ access to energy supplies. In the worst case, this¶ could result in interstate conflicts if government¶ leaders deem assured access to energy resources,¶ for example, to be essential for maintaining domestic stability and the survival of¶ their regime. Even actions short of war, however, will have important geopolitical¶ implications. Maritime security concerns are providing a rationale for naval¶ buildups and modernization efforts, such as China’s and India’s development of¶ blue water naval capabilities. If the fiscal stimulus focus for these countries indeed¶ turns inward, one of the most obvious funding targets may be military. Buildup of¶ regional naval capabilities could lead to increased tensions, rivalries, and¶ counterbalancing moves, but it also will create opportunities for multinational¶ cooperation in protecting critical sea lanes. With water also becoming scarcer in¶ Asia and the Middle East, cooperation to manage changing water resources is¶ likely to be increasingly difficult both within and between states in a more¶ dog-eat-dog world

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#### Targeted killing’s vital to counterterrorism---disrupts leadership and makes carrying out attacks impossible

Byman 2013

(Daniel L., Research Director of Saban Center for Middle East Policy, “Why Drones Work: The Case for Washington's Weapon of Choice”, Foreign Affairs, July/August 2013, <http://www.brookings.edu/research/articles/2013/06/17-drones-obama-weapon-choice-us-counterterrorism-byman>)

The Obama administration relies on drones for one simple reason: they work. According to data compiled by the New America Foundation, since Obama has been in the White House, U.S. drones have killed an estimated 3,300 al Qaeda, Taliban, and other jihadist operatives in Pakistan and Yemen. That number includes over 50 senior leaders of al Qaeda and the Taliban—top figures who are not easily replaced. In 2010, Osama bin Laden warned his chief aide, Atiyah Abd al-Rahman, who was later killed by a drone strike in the Waziristan region of Pakistan in 2011, that when experienced leaders are eliminated, the result is “the rise of lower leaders who are not as experienced as the former leaders” and who are prone to errors and miscalculations. And drones also hurt terrorist organizations when they eliminate operatives who are lower down on the food chain but who boast special skills: passport forgers, bomb makers, recruiters, and fundraisers.¶ Drones have also undercut terrorists’ ability to communicate and to train new recruits. In order to avoid attracting drones, al Qaeda and Taliban operatives try to avoid using electronic devices or gathering in large numbers. A tip sheet found among jihadists in Mali advised militants to “maintain complete silence of all wireless contacts” and “avoid gathering in open areas.” Leaders, however, cannot give orders when they are incommunicado, and training on a large scale is nearly impossible when a drone strike could wipe out an entire group of new recruits. Drones have turned al Qaeda’s command and training structures into a liability, forcing the group to choose between having no leaders and risking dead leaders.

#### Restricting targeted killing as a first resort outside active hostilities collapses counter-terrorism by signaling availability of safe havens and immunity from strikes

Corn 13

Geoffrey Corn 13, Professor of Law and Presidential Research Professor, South Texas College of Law, 5/16/13, Statement before the Senate Armed Services Committee, CQ Congressional Testimony, lexis

3. What is the geographic scope of the AUMF and under what circumstances may the United States attack belligerent targets in the territory of another country?¶ 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 him to dictate when and where he will be subject to lawful attack.¶ I believe this balance between legal authority and policy and diplomatic considerations is reflected in what is commonly termed the "unable or unwilling" test for assessing when attacking an enemy belligerent capability in the territory of another country is permissible. First, it should be noted that the legality of an attack against an enemy belligerent is determined exclusively by the law of armed conflict when the country where he is located provides consent for such action (is the target lawful within the meaning of the law and will attack of the target comply with the targeting principles of distinction, proportionality and precautions in the attack). In the unusual circumstance where a lawful object of attack associated with al Qaeda and therefore falling within the scope of the AUMF is identified in the territory of another country not providing consent for U.S. military action, policy and diplomacy play a decisive role in the attack decision-making process. Only when the U.S. concludes that the country is unable or unwilling to address the threat will attack be authorized, which presupposes that the nature of the target is determined to be sufficiently significant to warrant a non-consensual military action in that territory. I believe the Executive is best positioned to make these judgments, and that to date they have been made judiciously. I also believe that imposing a statutory scope limitation would vest terrorist belligerent operatives with the benefits of the sovereignty of the state they exploit for sanctuary. It strikes me as far more logical to continue to allow the President to address these sovereignty concerns through diplomacy, focused on the strategic interests of the nation.

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#### Text: The Executive branch of the United States should make necessary adjustments to its targeted killing policy to ensure compliance with relevant domestic and international law, including principles of necessity, distinction, and proportionality. The Executive branch should publicly articulate its legal rationale for its targeted killing policy, including the process and safeguards in place for target selection.

#### CP resolves drone legitimacy and resentment

Daskal 13 – THEIR AUTHOR

Jennifer Daskal, Fellow and Adjunct Professor, Georgetown Center on National Security and the Law, Georgetown University Law Center, April 2013, ARTICLE: THE GEOGRAPHY OF THE BATTLEFIELD: A FRAMEWORK FOR DETENTION AND TARGETING OUTSIDE THE "HOT" CONFLICT ZONE, 161 U. Pa. L. Rev. 1165

4. Procedural Requirements¶ Currently, officials in the executive branch carry out all such ex ante review of out-of-battlefield targeting and detention decisions, reportedly with the involvement of the President, but without any binding and publicly articulated standards governing the exercise of these authorities. n163 All ex post review of targeting is also done internally within the executive branch. There is no public accounting, or even acknowledgment, of most strikes, their success and error rates, or the extent of any collateral damage. Whereas the Department of Defense provides solatia or condolence payments to Afghan civilians who are killed or injured as a result of military actions in Afghanistan (and formerly did so in Iraq), there is no equivalent effort in areas outside the active conflict zone. n164¶ Meanwhile, the degree of ex post review of detention decisions depends on the location of detention as opposed to the location of capture. Thus, [\*1219] Guantanamo detainees are entitled to habeas review, but detainees held in Afghanistan are not, even if they were captured far away and brought to Afghanistan to be detained. n165¶ Enhanced ex ante and ex post procedural protections for both detention and targeting, coupled with transparency as to the standards and processes employed, serve several important functions: they can minimize error and abuse by creating time for advance reflection, correct erroneous deprivations of liberty, create endogenous incentives to avoid mistake or abuse, and increase the legitimacy of state action.¶ a. Ex Ante Procedures¶ Three key considerations should guide the development of ex ante procedures. First, any procedural requirements must reasonably respond to the need for secrecy in certain operations. Secrecy concerns cannot, for example, justify the lack of transparency as to the substantive targeting standards being employed. There is, however, a legitimate need for the state to protect its sources and methods and to maintain an element of surprise in an attack or capture operation. Second, contrary to oft-repeated rhetoric about the ticking time bomb, few, if any, capture or kill operations outside a zone of active conflict occur in situations of true exigency. n166 Rather, there is often the time and need for advance planning. In fact, advance planning is often necessary to minimize damage to one's own troops and nearby civilians. n167 Third, the procedures and standards employed must be transparent and sufficiently credible to achieve the desired legitimacy gains.¶ These considerations suggest the value of an independent, formalized, ex ante review system. Possible models include the Foreign Intelligence [\*1220] Surveillance Court (FISC), n168 or a FISC-like entity composed of military and intelligence officials and military lawyers, in the mode of an executive branch review board. n169¶ Created by the Foreign Intelligence Surveillance Act (FISA) in 1978, n170 the FISC grants ex parte orders for electronic surveillance and physical searches, among other actions, based on a finding that a "significant purpose" of the surveillance is to collect "foreign intelligence information." n171 The Attorney General can grant emergency authorizations without court approval, subject to a requirement that he notify the court of the emergency authorization and seek subsequent judicial authorization within seven days. n172 The FISC also approves procedures related to the use and dissemination of collected information. By statute, heightened restrictions apply to the use and dissemination of information concerning U.S. persons. n173 Notably, the process has been extraordinarily successful in protecting extremely sensitive sources and methods. To date, there has never been an unauthorized disclosure of an application to or order from the FISC court.¶ An ex parte review system for targeting and detention outside zones of active hostility could operate in a similar way. Judges or the review board would approve selected targets and general procedures and standards, while still giving operators wide rein to implement the orders according to the approved standards. Specifically, the court or review board would determine whether the targets meet the substantive requirements and would [\*1221] evaluate the overarching procedures for making least harmful means-determinations, but would leave target identification and time-sensitive decisionmaking to the operators. n174¶ Moreover, there should be a mechanism for emergency authorizations at the behest of the Secretary of Defense or the Director of National Intelligence. Such a mechanism already exists for electronic surveillance conducted pursuant to FISA. n175 These authorizations would respond to situations in which there is reason to believe that the targeted individual poses an imminent, specific threat, and in which there is insufficient time to seek and obtain approval by a court or review panel as will likely be the case in instances of true imminence justifying the targeting of persons who do not meet the standards applicable to operational leaders. As required under FISA, the reviewing court or executive branch review board should be notified that such an emergency authorization has been issued; it should be time-limited; and the operational decisionmakers should have to seek court or review board approval (or review, if the strike has already taken place) as soon as practicable but at most within seven days. n176¶ Finally, and critically, given the stakes in any application namely, the deprivation of life someone should be appointed to represent the potential target's interests and put together the most compelling case that the individual is not who he is assumed to be or does not meet the targeting criteria.¶ The objections to such a proposal are many. In the context of proposed courts to review the targeting of U.S. citizens, for example, some have argued that such review would serve merely to institutionalize, legitimize, and expand the use of targeted drone strikes. n177 But this ignores the reality of their continued use and expansion and imagines a world in which targeted [\*1222] killings of operational leaders of an enemy organization outside a zone of active conflict is categorically prohibited (an approach I reject n178). If states are going to use this extraordinary power (and they will), there ought to be a clear and transparent set of applicable standards and mechanisms in place to ensure thorough and careful review of targeted-killing decisions. The formalization of review procedures along with clear, binding standards will help to avoid ad hoc decisionmaking and will ensure consistency across administrations and time.¶ Some also condemn the ex parte nature of such reviews. n179 But again, this critique fails to consider the likely alternative: an equally secret process in which targeting decisions are made without any formalized or institutionalized review process and no clarity as to the standards being employed. Institutionalizing a court or review board will not solve the secrecy issue, but it will lead to enhanced scrutiny of decisionmaking, particularly if a quasi-adversarial model is adopted, in which an official is obligated to act as advocate for the potential target.¶ That said, there is a reasonable fear that any such court or review board will simply defer. In this vein, FISC's high approval rate is cited as evidence that reviewing courts or review boards will do little more than rubber-stamp the Executive's targeting decisions. n180 But the high approval rates only tell part of the story. In many cases, the mere requirement of justifying an application before a court or other independent review board can serve as an internal check, creating endogenous incentives to comply with the statutory requirements and limit the breadth of executive action. n181 Even if this system does little more than increase the attention paid to the stated requirements and expand the circle of persons reviewing the factual basis for the application, those features in and of themselves can lead to increased reflection and restraint.¶ Additional accountability mechanisms, such as civil or criminal sanctions in the event of material misrepresentations or omissions, the granting of far-reaching authority to the relevant Inspectors General, and meaningful ex post review by Article III courts, n182 are also needed to help further minimize abuse.¶ Conversely, some object to the use of courts or court-like review as stymying executive power in wartime, and interfering with the President's Article II powers. n183 According to this view, it is dangerous and potentially unconstitutional to require the President's wartime targeting decisions to be subject to additional reviews. These concerns, however, can be dealt with through emergency authorization mechanisms, the possibility of a presidential override, and design details that protect against ex ante review of operational decisionmaking. The adoption of an Article II review board, rather than an Article III-FISC model, further addresses some of the constitutional concerns.¶ Some also have warned that there may be no "case or controversy" for an Article III, FISC-like court to review, further suggesting a preference for an Article II review board. n184 That said, similar concerns have been raised with respect to FISA and rejected. n185 Drawing heavily on an analogy to courts' roles in issuing ordinary warrants, the Justice Department's Office of Legal Counsel concluded at the time of enactment that a case and controversy existed, even though the FISA applications are made ex parte. n186 [\*1224] Here, the judges would be issuing a warrant to kill rather than surveil. While this is significant, it should not fundamentally alter the legal analysis. n187 As the Supreme Court has ruled, killing is a type of seizure. n188 The judges would be issuing a warrant for the most extreme type of seizure. n189¶ It is also important to emphasize that a reviewing court or review board would not be "selecting" targets, but determining whether the targets chosen by executive branch officials met substantive requirements much as courts do all the time when applying the law to the facts. Press accounts indicate that the United States maintains lists of persons subject to capture or kill operations lists created in advance of specific targeting operations and reportedly subject to significant internal deliberation, including by the President himself. n190 A court or review board could be incorporated into the existing ex ante decisionmaking process in a manner that would avoid interference with the conduct of specific operations reviewing the target lists but leaving the operational details to the operators. As suggested above, emergency approval mechanisms could and should be available to deal with exceptional cases where ex ante approval is not possible.¶ Additional details will need to be addressed, including the temporal limits of the court's or review board's authorizations. For some high-level operatives, inclusion on a target list would presumably be valid for some set period of [\*1225] time, subject to specific renewal requirements. Authorizations based on a specific, imminent threat, by comparison, would need to be strictly time-limited, and tailored to the specifics of the threat, consistent with what courts regularly do when they issue warrants.¶ In the absence of such a system, the President ought to, at a minimum, issue an executive order establishing a transparent set of standards and procedures for identifying targets of lethal killing and detention operations outside a zone of active hostilities. n192 To enhance legitimacy, the procedures should include target list reviews and disposition plans by the top official in each of the agencies with a stake in the outcome the Secretary of Defense, the Director of the CIA, the Secretary of State, the Director of Homeland Security, and the Director of National Intelligence, with either the Secretary of Defense, Director of National Intelligence, or President himself, responsible for final sign-off. n193 In all cases, decisions should be unanimous, or, in the absence of consensus, elevated to the President of the United States. n194 Additional details will need to be worked out, including critical questions about the standard of proof that applies. Given the stakes, a clear and convincing evidentiary standard is warranted. n195¶ While this proposal is obviously geared toward the United States, the same principles should apply for all states engaged in targeting operations. n196 States would ideally subject such determinations to independent review or, alternatively, clearly articulate the standards and procedures for their decisionmaking, thus enhancing accountability.¶ b. Ex Post Review¶ For targeted-killing operations, ex post reviews serve only limited purposes. They obviously cannot restore the target's life. But retrospective review either by a FISC-like court or review board can serve to identify errors or overreaching and thereby help avoid future mistakes. This can, and ideally would, be supplemented by the adoption of an additional Article III damages mechanism. n197 At a minimum, the relevant Inspectors General should engage in regular and extensive reviews of targeted-killing operations. Such post hoc analysis helps to set standards and controls that then get incorporated into ex ante decisionmaking. In fact, post hoc review can often serve as a more meaningful and often more searching inquiry into the legitimacy of targeting decisions. Even the mere knowledge that an ex post review will occur can help to protect against rash ex ante decisionmaking, thereby providing a self-correcting mechanism.¶ Ex post review should also be accompanied by the establishment of a solatia and condolence payment system for activities that occur outside the active zone of hostilities. Extension of such a system beyond Afghanistan and Iraq would help mitigate resentment caused by civilian deaths or injuries and would promote better accounting of the civilian costs of targeting operations. n198

### 1NC

#### Restrictions on executive war powers DO NOTHING for the state of political legal exception we live in and only gives further justification for violent intervention on the basis of legality

Dyzenhaus 05

(David, is a professor of Law and Philosophy at the University of Toronto, and a Fellow of the Royal Society of Canada, “Schmitt v. Dicey: Are States of Emergency Inside or Outside the Legal Order?” Cardozo Law Review 27)

Rossiter had in mind Lincoln's actions during the Civil War, including the proclamation by which Lincoln, without the prior authority of Congress, suspended habeas corpus. n35 Lincoln, he said, subscribed to a theory that in a time of emergency, the President could assume whatever legislative, executive, and judicial powers he thought necessary to preserve the nation, and could in the process break the "fundamental laws of the nation, if such a step were unavoidable." n36 This power included one ratified by the Supreme Court: "an almost unrestrained power to act toward insurrectionary citizens as if they were enemies of the United States, and thus place them outside the protection of the Constitution." Rossiter's difficulties here illustrate rather than solve the tensions inherent in the idea of constitutional dictatorship. On the one hand, he wants to assert that emergency rule in a liberal democracy can be constitutional in nature. "Constitutional" implies restraints and limits in accordance not only with law, but with fundamental laws. These laws are not the constitution that is in place for ordinary times; rather, they are the laws that govern the management of exceptional times - the eleven criteria that he developed for constitutional dictatorship. The criteria are either put within the discretion of the dictator - they are judgments about necessity - or are couched as limits that should be enshrined either in the constitution or in legislation. However, Rossiter does not properly address the fact that judgments about necessity are for the dictator to make, which means that these criteria are not limits or constraints but merely factors about which the dictator will have to decide. Other criteria look more like genuine limits. Moreover, they are limits that could be constitutionally enshrined - for example, the second criterion, which requires that the person who makes the decision that there is an emergency should not be the person who assumes dictatorial powers. Yet, as we have seen, Rossiter's foremost example of the modern constitutional dictator, Lincoln, not only gave himself dictatorial powers but, Rossiter supposes, had no choice but to do this. Moreover, if these criteria are constitutionally enshrined, so that part of the constitution is devoted to the rules that govern the time when the rest of the constitution might be suspended, they still form part of the constitution. So, no less than the ordinary constitution, what we can think of as the exceptional or emergency constitution - the constitution that governs the state of emergency - is subject to suspension should the dictator deem this necessary. This explains why, on the other hand, Rossiter equated emergency rule with potentially unlimited dictatorship, with Locke's idea of prerogative. And Rossiter said, "whatever the theory, in moments of extreme national emergency the facts have always been with ... John Locke." So Rossiter at one and the same time sees constitutional dictatorship as unconstrained in nature and as constrainable by principles - his eleven criteria. The upshot is that "constitutional" turns out not to mean what we usually take it to mean; rather, it is a misleading name for the hope that the person who assumes dictatorial powers does so because of a good faith evaluation that this is really necessary and with the honest and steadfast intention to return to the ordinary way of doing things as soon as possible. Giorgio Agamben is thus right to remark that the bid by modern theorists of constitutional dictatorship to rely on the tradition of Roman dictatorship is misleading. n39 They rely on that tradition in an effort to show that dictatorship is constitutional or law-governed. But in fact they show that dictatorship is in principle absolute - the dictator is subject to whatever limits he deems necessary, which means to no limits at all. As H.L.A. Hart described the sovereign within the tradition of legal positivism, the dictator is an uncommanded commander. n40 He [\*2015] operates within a black hole, in Agamben's words, "an emptiness of law." n41 Agamben thus suggests that the real analogue to the contemporary state of emergency is not the Roman dictatorship but the institution of iustitium, in which the law is used to produce a "juridical void" - a total suspension of law. n42 And in coming to this conclusion, Agamben sides with Carl Schmitt, his principal interlocutor in his book. However, it is important to see that Schmitt's understanding of the state of exception is not quite a legal black hole, a juridically produced void. Rather, it is a space beyond law, a space which is revealed when law recedes, leaving the state, represented by the sovereign, to act. In substance, there might seem to be little difference between a legal black hole and space beyond law since neither is controlled by the rule of law. But there is a difference in that nearly all liberal legal theorists find the idea of a space beyond law antithetical, even if they suppose that law can be used to produce a legal void. This is so especially if such theorists want to claim for the sake of legitimacy that law is playing a role, even if it is the case that the role law plays is to suspend the rule of law. Schmitt would have regarded such claims as an attempt to cling to the wreckage of liberal conceptions of the rule of law brought about by any attempt to respond to emergencies through the law. They represent a vain effort to banish the exception from legal order. Because liberals cannot countenance the idea of politics uncontrolled by law, they place a veneer of legality on the political, which allows the executive to do what it wants while claiming the legitimacy of the rule of law. We have seen that Rossiter presents a prominent example which supports Schmitt's view, and as I will now show, it is a depressing fact that much recent post 9/11 work on emergencies is also supportive of Schmitt's view. II. Responding to 9/11 For example, Bruce Ackerman in his essay, The Emergency Constitution, n43 starts by claiming that we need "new constitutional concepts" in order to avoid the downward spiral in protection of civil liberties that occurs when politicians enact laws that become increasingly repressive with each new terrorist attack. n44 We need, he says, to rescue the concept of "emergency powers ... from fascist thinkers like Carl Schmitt, who used it as a battering ram against liberal [\*2016] democracy." n45 Because Ackerman does not think that judges are likely to do, or can do, better than they have in the past at containing the executive during an emergency, he proposes mainly the creative design of constitutional checks and balances to ensure, as did the Roman dictatorship, against the normalization of the state of emergency. Judges should not be regarded as "miraculous saviors of our threatened heritage of freedom." n46 Hence, it is better to rely on a system of political incentives and disincentives, a "political economy" that will prevent abuse of emergency powers. He calls his first device the "supramajoritarian escalator" n48 - basically the requirement that a declaration of a state of emergency requires legislative endorsement within a very short time, and thereafter has to be renewed at short intervals, with each renewal requiring the approval of a larger majority of legislators. The idea is that it will become increasingly easy with time for even a small minority of legislators to bring the emergency to an end, thus decreasing the opportunities for executive abuse of power. n49 The second device requires the executive to share security intelligence with legislative committees and that a majority of the seats on these committees belong to the opposition party. Ackerman does see some role for courts. They will have a macro role should the executive flout the constitutional devices. While he recognizes both that the executive might simply assert the necessity to suspend the emergency constitution and that this assertion might enjoy popular support, he supposes that if the courts declare that the executive is violating the constitution, this will give the public pause and thus will decrease incentives on the executive to evade the constitution. n51 In addition, the courts will have a micro role in supervising what he regards as the inevitable process of detaining suspects without trial for the period of the emergency. Suspects should be brought to court and some explanation should be given of the grounds of their detention, not so that they can contest it - a matter which Ackerman does not regard as practicable - but in order both to give the suspects a public identity so that they do not disappear and to provide a basis for compensation once the emergency is over in case the executive turns out to have fabricated [\*2017] its reasons. He also wishes to maintain a constitutional prohibition on torture, which he thinks can be enforced by requiring regular visits by lawyers. Not only is the judicial role limited, but it is clear that Ackerman does not see the courts as having much to do with preventing a period of "sheer lawlessness." n53 Even within the section on the judiciary, he says that the real restraint on the executive will be the knowledge that the supramajoritarian escalator might bring the emergency to an end, whereupon the detainees will be released if there is no hard evidence to justify detaining them. In sum, according to Ackerman, judges have at best a minimal role to play during a state of emergency. We cannot really escape from the fact that a state of emergency is a legally created black hole, a lawless void. It is subject to external constraints, controls on the executive located at the constitutional level and policed by the legislature. But internally, the rule of law does next to no work; all that we can reasonably hope for is decency. But once one has conceded that internally a state of emergency is more or less a legal black hole because the rule of law, as policed by judges, has no or little purchase, it becomes difficult to understand how external legal constraints, the constitutionally entrenched devices, can play the role Ackerman sets out. Recall that Ackerman accepts that the reason we should not give judges more than a minimal role is the history of judicial failure to uphold the rule of law during emergencies in the face of executive assertions of a necessity to operate outside of law's rule. For that reason, he constructs a political economy to constrain emergency powers. But that political economy still has to be located in law in order to be enforceable, which means that Ackerman cannot help but rely on judges. But why should we accept his claim that we can rely on judges when the executive asserts the necessity of suspending the exceptional constitution, the constitution for the state of emergency, when one of his premises is that we cannot so rely? Far from rescuing the concept of emergency powers from Schmitt, Ackerman's devices for an emergency constitution, an attempt to update Rossiter's model of constitutional dictatorship, fails for the same reasons that Rossiter's model fails. Even as they attempt to respond to Schmitt's challenge, they seem to prove the claim that Schmitt made in late Weimar that law cannot effectively enshrine a distinction between constitutional dictatorship and dictatorship. They appear to be vain attempts to find a role for law while at the same time conceding that law has no role. Of course, this last claim trades on an ambiguity in the idea of the rule of law between, on the one hand, the rule of law, understood as the rule of substantive principles, and, on the other, rule by law, where as long as there is a legal warrant for what government does, government will be considered to be in compliance with the rule of law. Only if one holds to a fairly substantive or thick conception of the rule of law will one think that there is a point on a continuum of legality where rule by law ceases to be in accordance with the rule of law. Ackerman's argument for rule by law, by the law of the emergency constitution, might not answer Schmitt's challenge. But at least it attempts to avoid dignifying the legal void with the title of rule of law, even as it tries to use law to govern what it deems ungovernable by law. The same cannot be said of those responses to 9/11 that seem to suggest that legal black holes are not in tension with the rule of law, as long as they are properly created. While it is relatively rare to find a position that articulates so stark a view, it is quite common to find positions that are comfortable with grey holes, as long as these are properly created. A grey hole is a legal space in which there are some legal constraints on executive action - it is not a lawless void - but the constraints are so insubstantial that they pretty well permit government to do as it pleases. And since such grey holes permit government to have its cake and eat it too, to seem to be governing not only by law but in accordance with the rule of law, they and their endorsement by judges and academics might be even more dangerous from the perspective of the substantive conception of the rule of law than true black holes.

#### The affirmative purports to stand against war, but they do so in the name of humanity, security, rights and justice - They betray a universalism which can only result in imperialism and more war, turning the aff.

Rasch 2k

(William. "Conflict as a Vocation: Carl Schmitt and the Possibility of Politics." Theory Culture Society 17.1)

Schmitt would recognize these as the right questions to ask, would recognize them, in fact, as his own questions. They go to the heart of the nature and possibility of conflict (which is to say -- of politics), for wars conducted in the name of the universal normative instance are wars fought to end all wars, conflicts conducted in the name of the self-transcendence of all conflict. But what if, afterwards, we find out that the heaven of consensus and reconciliation turns out to be a realm in which conflict has been outlawed in the name of the good, the efficient, the comfortable? In a world where conflict has been outlawed, how is opposition to be staged? As uncorked agreement? It is precisely against this type of outlawry of opposition in the service of the status quo - more accurately, in the service of the unfolding and global expansion of a new type of moral and economic imperialism -- that Schmitt launches his counterattack. Since, to his mind, the non-decomposable sovereignty of the autonomous state is the only form of resistance available the fight against this seemingly relentless expansion, it is to the philosopher of state sovereignty par excellence, Hobbes, that he is drawn. Schmitt's "Kampf mit Weimar-Genf-Versailles" is quite explicitly an updated version of an older "Kampf mit Rom". In an interesting and clever move, Schmitt notices that Cole's guild-socialism, Laski's liberalism and French syndicalism all share arguments and perspectives with the social philosophers of Roman Catholicism as well as those of other Churches and sects, arguments that are aimed at relativizing the power of the state. Both the call to follow the dictates of conscience and the more explicit appeal to the higher morality as embodied in international structures (like the League or international revolutionary movements) are political weapons. The battle between "internationalism" and "nationalism", then, is not simply fought between the forces of freedom and oppression, but rather between the authority of one type of sovereign power and another. But, Schmitt warns: The Roman Catholic Church is no pluralist entity, and in its [the Church's] battle against the state, pluralism, at least since the 16th century, is on the side of the national states. A pluralist social theory contradicts itself if it wishes to remain pluralist and still play off the monism and universalism of the Roman Catholic Church, as secularized in the Second or Third International, against the state. To repeat: the battle, as he sees it, is between a sham and a true pluralism, between a pluralism in the service of a universal morality (accompanied, not so coincidentally, by a universal economy) and a pluralism in which no contestant can claim the moral high ground. It is the latter, morally neutral pluralism, based on autonomous entities, that best represents the structures and possibilities of a Schmittian form of politics. We can re-figure this debate is even more classical terms. What Schmitt argues for is a politics commensurable with the conditions found in the Earthly City, and what he argues against is the "fanaticism" of judging this terrestrial domain with standards only applicable in the City of God. Through his choice of Hobbes and the notion of state sovereignty may be deemed unfortunate and can be contested, his aim is to reconstruct a space of legitimate conflict as a space of secular politics. This space must remain immune to moral and theological infections; the Earthly City must retain a legitimacy that is autonomous from the moral but other-worldly claims of the City of God, claims that can only be redeemed at the end of history --- which is to say, not on this earth. Accordingly, his critique of the "humanism" of modern liberalism is akin to an older critique of religious fanaticism. Despite his Catholicism, Schmitt is much like the Luther who supported the princes, even though he recognized their greed and cruelty, against the prophetic iconoclasts and the Armageddon of the peasant uprisings. The eschatology of religious or secular revolutions is precisely anti-political. They advocate change to outlaw change. They oppose the order of the world in order to welcome the Messiah. Once His arrival is imminent (no matter how long imminence lasts), opposition to the order of the world becomes sin. They wage wars, repeatedly, to end war. They wage wars, but not just any wars; they wage just wars. "They", the particular instance, wage wars in the name of the universal principle, in the name of humanity, outlawing all opposition: as, for example, was attempted in the "war-guilt" clause of the Versailles Treaty, which turned a war of competing national interests into a just war against an unjust enemy; and as was attempted in the Kellogg-Briand Pact of 1928, turning wars in the national interest into crimes, and wars in the interest of the universal principle into crusades. "Imperialism does not conduct national wars", Schmitt ironically observes, referring to what he sees as the particularly modern, i.e. legal and economic, form of imperialism conducted by the Anglo-American world; "at most it conducts wars that serve international politics; it conducts no unjust, only just wars"; or, as Wyndham Lewis was to put it a few years after the Second World War: "But what war that was ever fought was an unjust war, except of course that waged by the enemy?"

#### Our alternative is to recognize the necessity of the opposition. Sovereignty necessarily functions in exception to the law. This exception is necessary to avoid the universal violence of the Law and the affirmative.

Rasch 2k

(William. "Conflict as a Vocation: Carl Schmitt and the Possibility of Politics." Theory Culture Society 17.1)

It is not difficult to see that the polemical elevation of sovereignty over the rule of law replicates a lively historical opposition, one that can be perhaps best evoked by that happy pair, Hobbes and Locke. Within the liberal tradition, the rule of law invokes reason and calculability in its battles against the arbitrary and potentially despotic whim of an unrestrained sovereign. The legitimacy of the sovereign is thus replaced by a legality that claims to provide its own immanent and unforced legitimacy. Predictable and universally accessible reason - the normative validity of an "uncorked consensus", to use the words of a prominent modern exponent - gently usurps, so it is claimed, the place that would otherwise be occupied by a cynical, pragmatic utilitarianism and the tyranny of a dark, incalculable will. The rule of law brings all the comforts of an uncontroversial, rule-based, normative security as if legality preceded by way of simple logical derivation, abolishing above all the necessity of decisions. Schmitt clearly will have none of this and in various writings attempts to expose what he considers to be the two-fold fallacy of the liberal position. As we have seen, if taken at its word, legality, or the rule of law, is seen by Schmitt to be impotent; it can neither legitimize nor effectively defend itself against determined enemies in times of crisis. Were law truly the opposite of force, it would cease to exist. But this self-description is deceptive, for if judged by its deeds, the same liberal regime that enunciates the self-evidence validity of universal norms strives to enact a universal consensus that is, indeed, far from uncorked. The rule of law inevitably reveals itself, precisely during moments of crisis, as the force of law, perhaps, not every bit as violent and "irrational" as the arbitrary tyrant, but nonetheless compelling and irresistible - indeed, necessarily so. Thus, Schmitt would argue the distinction between "decision", "force" and sovereignty", on the one hand, and the "rule of law", on the other, is based on a blithe and simple illusion. What agitates Schmitt is not the force, but the deception. More precisely, what agitates Schmitt is what he perceives to be the elimination of politics in the name of a higher legal or moral order. In its claim to a universal, normative, rule-bound validity, the liberal sleight-of-hand reveals itself to be not the opposite of force, but a force that outlaws opposition. In resurrecting the notion of sovereignty, therefore, Schmitt sees himself as one who rescues a legitimate notion of politics. Of course, this rescue attempt is itself political, a battle over the correct definition of politics. That is, we are not merely dealing with a logical problem, and not merely dealing with a desire to provide constitutional mechanisms that would prevent the self-dissolution of the constitution. Rather, we are dealing with a contest between a particularist notion of politics, in which individual conflicts can be resolved, but in which antagonism as a structure and reservoir of possible future conflicts is never destroyed, versus politics as the historical unfolding and pacific expansion of the universal morality. To evoke the long shadows of an ongoing contemporary debate, we are dealing with the difference between a politics of dissensus and a politics of consensus. Whereas the latter ideology entails an explicit or implicit belief in the "highest good" that can be rationally discerned and achieved, a "right regime", to use Leo Strauss's term, or the "just society" that hopes to actualize aspects of the City of God here on earth, the former stresses the necessity of determining a workable order where no single order bears the mantle of necessity, in fact, where all order is contingent, hence imperfect, and thus seeks to make the best of an inherently contradictory world by erecting structures that minimize self-inflicted damage. In Schmitt's eyes, the elements of such a structure must be the manifold of sovereign states. The liberal says there can only be one world-wide sovereign, the sovereignty of a universal moral and legal order. Schmitt counters with a plurality of equal sovereigns, for only in this way, he believes, can the economic and moral extinction of politics be prevented. Politics, on this view, is not the means by which the universally acknowledged good is actualized, but the mechanism that negotiates and limits disputes in the absence of any universally acknowledged good. Politics exists, in other words, because the just society does not.

#### This requires the unchecked authority of the executive to respond to the exception.

Nagan and Haddad 12

(Winston and Aitza, "Sovereignty in Theory and Practice." San Diego International Law Journal 13)

Although Schmitt was German, his ideas about sovereignty, and the political exception have had influence on the American theory and practice of sovereignty. Carl Schmitt was a philosophic theorist of sovereignty during the Third Reich. n375 His ideas about sovereignty and its above the law placement in the political culture of the State have important parallels in the developing discourse in the United States about the scope of presidential authority and power. His views have attracted the attention of American theorists. Schmitt developed his view of sovereignty on the concept described as "the exception". n376 This idea suggests that the sovereign or executive may invoke the idea of exceptional powers which are distinct from the general theory of the State. In Schmitt's view, the normal condition of the functions of the theory of a State, rides with the existence of the idea of the "exception." The exception is in effect intrinsic to the idea of a normal State. In his view, [\*487] the normal legal order of a State depends on the existence of an exception. n377 The exception is based on the continuing existence of an existential threat to the State and it is the sovereign that must decide on the exception. n378 In short, the political life of a State comprises allies and enemies. For the purpose of Statecraft, "an enemy exists only when at least potentially, one fighting collectivity of people confronts another similar collectivity." n379 In this sense, the political reality of the State always confronts the issue of the survival of the group. This reality is explained as follows. The political is the most intense and extreme antagonism, and every concrete antagonism becomes that much more political the closer it approaches the most extreme point, that of the friend-enemy grouping. \*\*\* As an ever present possibility [war] is the leading presupposition which determines in a characteristic way human action and thinking and hereby creates a specifically political behavior.\*\*\* A world in which the possibility of war is utterly eliminated, a completely pacified globe, would be a world without the distinction between friend and enemy and hence a world without politics. n380 Schmitt's view bases the supremacy of the exception on the supremacy of politics and power. n381 Thus, the exception, as rooted in the competence of the executive, is not dependent on law for its authority but on the conditions of power and conflict, which are implicitly pre-legal. n382 The central idea is that in an emergency, the power to decide based on the exception accepts its normal superiority over law on the basis that the suspension of the law is justified by the pre-legal right to self-preservation. n383 Schmitt's view is a powerful justification for the exercise of extraordinary powers, which he regards as ordinary, by executive authority. This is a tempting view for executive officers but it may not be an adequate explanation of the interplay of power, legitimacy, and the constitutional foundations of a rule of law State. In a later section, we draw on insights from the New Haven School, which deals empirically with the problem of power and the problem of constituting authority using the methods of contextual mapping. Nonetheless, Schmitt's view provides support for theorists who seek to enlarge executive power on the unitary presidency theory.

## Case

### Norms

#### Drone arms race inevitable

USA Today 13

(1/9, http://www.usatoday.com/story/news/world/2013/01/08/experts-drones-basis-for-new-global-arms-race/1819091/, “Experts: Drones basis for new global arms race”, AB)

The success of U.S. drones in Iraq and Afghanistan has triggered a global arms race, raising concerns the remotely piloted aircraft could fall into unfriendly hands, military experts say. The number of countries that have acquired or developed drones expanded to more than 75, up from about 40 in 2005, according to the Government Accountability Office, the investigative arm of Congress. Iran and China are among the countries that have fielded their own systems. "People have seen the successes we've had," said Lt. Gen. Larry James, the Air Force's deputy chief of staff for intelligence, surveillance and reconnaissance. The U.S. military has used drones extensively in Afghanistan, primarily to watch over enemy targets. Armed drones have been used to target terrorist leaders with missiles that are fired from miles away.

#### Drone prolif now AND US restrictions don’t solve

Anderson 10 (Kenneth Anderson is a law professor at Washington College of Law, American University, a research fellow of the Hoover Institution at Stanford University and a Non-Resident Visiting Fellow at the Brookings Institution, April 10th 2010, “Acquiring UAV Technology”, http://www.volokh.com/2010/04/09/acquiring-uav-technology/, AB)

I’ve noticed a number of posts and comments around the blogosphere on the spread of UAV technology. Which indeed is happening; many states are developing and deploying UAVs of various kinds. The WCL National Security Law Brief blog, for example, notes that India is now acquiring weaponized UAVs: India is reportedly preparing to have “killer” unmanned aerial vehicles (UAVs) in response to possible threats from Pakistan and China. Until now India has denied the use of armed UAVs, but they did use UAVs that can detect incoming missile attacks or border incursions. The importance of obtaining armed UAVs grew enormously after the recent attack on paramilitary forces in Chhattisgarh that killed 75 security personnel. Sources reveal that the Indian Air Force (IAF) has been in contact with Israeli arms suppliers in New Delhi recently. The IAF is looking to operate Israeli Harop armed UAVs from 2011 onwards, and other units of the armed forces will follow. I’ve also read comments various places suggesting that increased use of drone technologies by the United States causes other countries to follow suit, or to develop or acquire similar technologies. In some cases, the dangling implication is that if the US would not get involved in such technologies, others would not follow suit. In some relatively rare cases of weapons technologies, the US refraining from undertaking the R&D, or stopping short of a deployable weapon, might induce others not to build the same weapon. Perhaps the best example is the US stopping its development of blinding laser antipersonnel weapons in the 1990s; if others, particularly the Chinese, have developed them to a deployable weapon, I’m not aware of it. The US stopped partly in relation to a developing international campaign, modeled on the landmines ban campaign, but mostly because of a strong sense of revulsion and pushback by US line officers. Moreover, there was a strong sense that such a weapon (somewhat like chemical weapons) would be not deeply useful on a battlefield – but would be tremendously threatening as a pure terrorism weapon against civilians. In any case, the technologies involved would be advanced for R&D, construction, maintenance, and deployment, at least for a while. The situation is altogether different in the case of UAVs. The biggest reason is that the flying-around part of UAVs – the avionics and control of a drone aircraft in flight – is not particularly high technology at all. It is in range of pretty much any functioning state military that flies anything at all. The same for the weaponry, if all you’re looking to do is fire a missile, such as an anti-tank missile like the Hellfire. It’s not high technology, it is well within the reach of pretty much any state military. Iran? Without thinking twice. Burma? Sure. Zimbabwe? If it really wanted to, probably. So it doesn’t make any substantial difference whether or not the US deploys UAVs, not in relation to a decision by other states to deploy their own. The US decision to use and deploy UAVs does not drive others’ decisions one way or the other. They make that decision in nearly all cases – Iran perhaps being an exception in wanting to be able to show that they can use them in or over the Iraqi border – in relation to their particular security perceptions. Many states have reasons to want to have UAVs, for surveillance as well as use of force. It is not as a counter or defense to the US use of UAVs. The real issue is not flying the plane or putting a missile on it. The question is the sensor technology (and related communication links) – for two reasons. One is the ability to identify the target; the other is to determine the level, acceptable or not, of collateral damage in relation to the target. That’s the technologically difficult part. And yet it is not something important to very many of the militaries that might want to use UAVs, because not that many are going to be worried about the use of UAVs for discrete, targeted killing. Not so discrete and not so targeted will be just fine – and that does not require super-advanced technology. China might decide that it wants an advanced assassination platform that would depend on such sensors, and in any case be interested in investing in such technology for many reasons – but that is not going to describe Iran or very many other places that are capable of deploying and using weaponized UAVs. Iran, for example, won’t have super advanced sensor technology (unless China sells it to them), but they will have UAVs. (The attached weaponry follows the same pattern. Most countries will find a Hellfire type missile just fine. The US will continue to develop smaller weapons finally capable of a single person hit. Few others will develop it, partly because they don’t care and partly because its effectiveness depends on advanced sensors that they are not likely to have.) Robots are broadly defined by three characteristics – computation, sensor inputs, and gross movement. Movement in the case of a weaponized robot includes both movement and the use of its weapon – meaning, flying the UAV and firing a weapon. The first of those, flying the UAV, is available widely; primitive weapons are available widely as well, and so is the fundamental computational power. Sensors are much, much more difficult – but only to the extent that a party cares about discretion in targeting. But it is not the case that they are making these decisions on account of US decisions about UAVs; UAVs are useful for many other reasons for many other parties, all on their own.

#### They don’t solve Chinese drone deployment- their Gertz evidence says China already deployed drones in hotspots and they’re planning to do more- norms cant reverse squo deployments and don’ts pillover fast enough to prevent future deployments

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

**Erickson and Strange 5-29**

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 Asian war

Kato ‘8

(Yoichi, bureau chief of the American General Bureau of the Asahi Shimbun, “Return from 9/11 PTSD to Global Leader,” Washington Quarterly, Fall 2008, lexis)

The challenges that the Asia Pacific will face in the foreseeable future will not likely require the actual use of force or will likely be low intensity if they do. Both major potential flashpoints--North Korea and the Taiwan Strait--are showing a decline in tension. North Korea has recently provided a report of its nuclear facilities, although the contents have turned out to be far from satisfactory to other members of the six-party talks and the path to final denuclearization is not yet clear. Taiwan has elected a new president, Ma Ying-jeou, who has demonstrated more willingness for and flexibility in working with mainland China; and as a result, cross-strait tension has substantially declined. China has been continuing its military buildup and has engaged in some provocative actions, such as its January 2007 antisatellite test, but it has not shown any intention to challenge U.S. supremacy openly in the immediate future. For the time being, especially with the Beijing Olympic Games this year and the Shanghai World Exposition in 2010, it is widely speculated that China will concentrate on the peaceful growth of its economy while avoiding any military adventurism against the United States.

#### No US-China War – econ, deterrence, resilient relations

Harding 12

(Harry, American political scientist specializing in Chinese politics and foreign affairs, founding dean of the Batten School of Leadership and Public Policy at the University of Virginia, previously served as dean of the Elliott School of International Affairs, advised several US Presidents on developments in the PRC; August, “American Visions of the Future of U.S.-China Relations: Competition, Cooperation, and Conflict,” in Tangled Titans, ed. David Shambaugh, Rowland & Littlefield, p. 406 – Kurr)

Fortunately, an essentially confrontational relationship is also unlikely, especially in the sense of a direct military conflict. The high degree of economic interdependence between the two countries has already created a relatively resilient relationship since the costs of a fundamental break between the two countries would be very high for each of them.24 Equally important, the cost of military conflict, especially given the fact that both China and the U.S. are nuclear powers, will be a significant deterrent against military conflict. Although China and the U.S. may not be compelled to cooperate, in other words, they may be compelled to avoid confrontation. Moreover, the probability of the most worrying of the triggers events identified above – a unilateral declaration of independence by Taiwan – is presently quite low, as is the risk that China would try to compel unification through the use of force. In this case a system of mutual deterrence prevents any party from crossing any of the other’s “red lines,” which have been clearly identified and communicated. Another possible trigger event, the collapse of the North Korean regime, has a somewhat higher probability, and the two countries’ red lines are less clear, but their ability to communicate quickly and avoid open conflict over that issue, while worth bolstering, is probably adequate, unless the overall relationship had deteriorated further prior to the event. Here again, mutual deterrence will play an important role in preventing the descent into military confrontation.

#### No escalation over Taiwan– China won’t use nuclear weapons

Pike ’04 (John, Global Security, China’s Options in the Taiwan Confrontation, http://www.globalsecurity.org/military/ops/taiwan-prc.htm)

China would almost certainly not contemplate a nuclear strike against Taiwan, nor would Beijing embark on a course of action that posed significant risks of the use of nuclear weapons. The mainland's long term goal is to liberate Taiwan, not to obliterate it, and any use of nuclear weapons by China would run a substantial risk of the use of nuclear weapons by the United States. An inability to control escalation beyond "demonstrative" detonations would cause utterly disproportionate destruction.

**No risk of drone wars**

Joseph **Singh 12**, researcher at the Center for a New American Security, 8/13/12, “Betting Against a Drone Arms Race,” http://nation.time.com/2012/08/13/betting-against-a-drone-arms-race/#ixzz2eSvaZnfQ

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.

**Internal and external accountability mechanisms are effective now---and they’ll stay that way as drone missions increase**

Jack **Goldsmith 12**, Harvard Law professor and a member of the Hoover Task Force on National Security and Law, 3/19/12, “Fire When Ready,” http://www.foreignpolicy.com/articles/2012/03/19/fire\_when\_ready

In this new age of drone warfare, probing the constitutional legitimacy of targeted killings has never been more vital. The Obama administration has carried out well over 200 drone strikes in its first three years, and the practice promises to ramp up even more in the next few years as the United States decreases its footprint in Afghanistan and relies even more heavily on special operations and covert actions centered around the use of drones. There are contested legal issues surrounding drone strikes, and -- in contrast to issues like military detention and military commissions -- courts have not pushed back against the presidency on this issue. But judicial review is not the only constitutional check on the presidency, especially during war. Awlaki's killing and others like it have solid legal support and are embedded in an unprecedentedly robust system of legal and political accountability that includes courts but also includes other institutions and actors as well.

When the Obama administration made the decision to kill Awlaki, it did not rely on the president's constitutional authority as commander in chief. Rather, it relied on authority that Congress gave it, and on guidance from the courts. In September 2001, Congress authorized the president "to use all necessary and appropriate force against those nations, organizations, or persons he determines" were responsible for 9/11. Whatever else the term "force" may mean, it clearly includes authorization from Congress to kill enemy soldiers who fall within the statute. Unlike some prior authorizations of force in American history, the 2001 authorization contains no geographical limitation. Moreover, the Supreme Court, in the detention context, has ruled that the "force" authorized by Congress in the 2001 law could be applied against a U.S. citizen. Lower courts have interpreted the same law to include within its scope co-belligerent enemy forces "associated" with al Qaeda who are "engaged in hostilities against the United States."

International law is also relevant to targeting decisions. Targeted killings are lawful under the international laws of war only if they comply with basic requirements like distinguishing enemy soldiers from civilians and avoiding excessive collateral damage. And they are consistent with the U.N. Charter's ban on using force "against the territorial integrity or political independence of any state" only if the targeted nation consents or the United States properly acts in self-defense. There are reports that Yemen consented to the strike on Awlaki. But even if it did not, the strike would still have been consistent with the Charter to the extent that Yemen was "unwilling or unable" to suppress the threat he posed. This standard is not settled in international law, but it is sufficiently grounded in law and practice that no American president charged with keeping the country safe could refuse to exercise international self-defense rights when presented with a concrete security threat in this situation. The "unwilling or unable" standard was almost certainly the one the United States relied on in the Osama bin Laden raid inside Pakistan.

These legal principles are backed by a system of internal and external checks and balances that, in this context, are without equal in American wartime history. Until a few decades ago, targeting decisions were not subject to meaningful legal scrutiny. Presidents or commanders typically ordered a strike based on effectiveness and, sometimes, moral or political considerations. President Harry Truman, for example, received a great deal of advice about whether and how to drop the atomic bomb on Hiroshima and Nagasaki, but it didn't come from lawyers advising him on the laws of war. Today, all major military targets are vetted by a bevy of executive branch lawyers who can and do rule out operations and targets on legal grounds, and by commanders who are more sensitive than ever to legal considerations and collateral damage. Decisions to kill high-level terrorists outside of Afghanistan (like Awlaki) are considered and approved by lawyers and policymakers at the highest levels of the government.

### Pakistan

#### Plan doesn’t solve Pakistan relations- their Rodriguez ev and their Cavallaro says any strikes trigger a collapse of relations and delegitimize the government because they violate pakistan’s sovereignty- plan doesn’t end all strikes.

#### No Central Asian war – the SCO checks conflict

Maksutov ‘6

**(**Ruslan, Stockholm International Peace Research Institute, “The Shanghai Cooperation Organization: A Central Asian Perspective”, August, http://www.sipri.org/contents/worldsec/Ruslan.SCO.pdf/download)

As a starting point, it is fair to say that all Central Asian countries—as well as China and Russia—are interested in security cooperation within a multilateral framework, such as the SCO provides. For Central Asia this issue ranks in importance with that of economic development, given the explosive environment created locally by a mixture of external and internal threats. Central Asia is encircled by four of the world’s eight known nuclear weapon states (China, India, Russia and Pakistan), of which Pakistan has a poor nuclear non-proliferation profile and Afghanistan is a haven for terrorism and extremism. Socio-economic degradation in Central Asian states adds to the reasons for concern and makes obvious the interdependence between progress in security and in development. Some scholars argue that currently concealed tendencies evolving in various states of Central Asia—such as the wide-ranging social discontent with oppressive regimes in the region, and the growing risks of state collapse and economic decline—all conducive to the quick growth of radical religious movements, could have far-reaching implications for regional stability once they come more into the light. 41 At first sight, the instruments established by the SCO to fulfil its declared security- building objectives seem to match the needs that Central Asian states have defined against this background. While the existence of the SCO further reduces the already remote threat of conventional interstate war in the region, 42 it allows for a major and direct focus on the non-state, non-traditional and transnational threats that now loom so large by comparison.

#### No escalation—no vital interests for great power war in Central Asia.

Weitz ‘6

Richard Weitz, senior fellow and associate director of the Center for Future Security Strategies at the Hudson Institute, Summer 2006. The Washington Quarterly, lexis.

Central Asian security affairs have become much more complex than during the original nineteenth-century great game between czarist Russia and the United Kingdom. At that time, these two governments could largely dominate local affairs, but today a variety of influential actors are involved in the region. The early 1990s witnessed a vigorous competition between Turkey and Iran for influence in Central Asia. More recently, India and Pakistan have pursued a mixture of cooperative and competitive policies in the region that have influenced and been affected by their broader relationship. The now independent Central Asian countries also invariably affect the region's international relations as they seek to maneuver among the major powers without compromising their newfound autonomy. Although Russia, China, and the United States substantially affect regional security issues, they cannot dictate outcomes the way imperial governments frequently did a century ago. Concerns about a renewed great game are thus exaggerated. The contest for influence in the region does notdirectly challenge the vital national interests of China, Russia, or the United States, the most important extraregional countries in Central Asian security affairs. Unless restrained, however, competitive pressures risk impeding opportunities for beneficial cooperation among these countries. The three external great powers have incentives to compete for local allies, energy resources, and military advantage, but they also share substantial interests, especially in reducing terrorism and drug trafficking. If properly aligned, the major multilateral security organizations active in Central Asia could provide opportunities for cooperative diplomacy in a region where bilateral ties traditionally have predominated.

#### They can’t solve Pakistan instability- their Rafiq ev say current gains by insurgents are collapsing stability, the plan doesn’t reverse that

**Alt causes overwhelm**

**Yusuf ‘13**

(Humua, former Pakistan Scholar at the Woodrow Wilson International Center; February, “Tahirul Qadri’s rise and its potential impact on Pakistan’s stability,” NOREF, <http://www.peacebuilding.no/var/ezflow_site/storage/original/application/61c24c70cd70df8c8d96ced4f1e7e88e.pdf> - JAK)

**In terms of** political **stability in Pakistan, the most dangerous trend** highlighted by Qadri’s protest **is** **the** growing **disconnect between Pakistan’s political elite**, whether civilian or military, **and the public**. While elite considerations focused on institutional power plays and sectarian counterbalances, Qadri’s supporters endured freezing temperatures and rain to demand improved governance. ¶ The majority of protesters hailed from Pakistan’s expanding middle class, which amounts to 70 million people, or 40% of the population, if the undocumented economy is also included in the estimate (Sherani, 2012). In a country urbanising at the fastest rate in South Asia – 50% of the population will live in cities by 2025, up from one-third at present – this demographic is key to Pakistan’s political future. ¶ According to news reports, Qadri’s supporters included teachers, civil servants and small-business owners from second-tier cities such as Multan, Sheikhupura and Bahawalpur or semi-urban towns with basic health-care and education facilities. Many supporters were mobilised through Qadri’s MQI charity. MQI has attracted a middleclass support base by offering affordable secular education and health care: in addition to 572 schools and 42 colleges, MQI runs cultural centres, 3,000 libraries, and more than 100 free health clinics and blood banks, while the Minhaj University in Lahore offers courses in business administration, mathematics, information technology and Islamic studies (Mustafa, 2013). ¶ These supporters were attracted by Qadri’s call for the preelection screening of all candidates to prevent law breakers and tax evaders from running for office. In interviews with the media during the protest Qadri’s supporters repeatedly demanded employment opportunities, fewer power outages, consistent gas supply, inflation control and decreased corruption – in other words, better governance and service delivery. This is the same constituency that made cricketer-turned-politician Imran Khan a serious political contender on the basis of his campaign promise to eradicate government corruption within 90 days. ¶ Conclusion ¶ Qadri’s January protest thus demonstrated how **Pakistan’s leadership is becoming** increasingly **disconnected** from public sentiment **at a time when a progressively politicised**, urban middle **class is seeking** democratic rule, **good governance** and effective service delivery. Institutional power plays are undermining the consolidation of a durable civilian government, which is necessary to address issues of service delivery, law and order, and social cohesion. **As Pakistan’s population is increasingly polarised** along sectarian, ethnic and linguistic lines, **the failure to redress genuine grievances about governance is likely to fuel divisiveness and violence, and points to** continued political **instability** **in Pakistan’s** medium-term **future**.

#### No impact

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

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

#### Transition will be peaceful and won’t cause war with India.

Puntambekar, Indian Defence Review, 1/14/11 (Puntambekar, Ashish, "Possible Collapse of Pakistan: Quantifying the fallout," http://www.indiandefencereview.com/geopolitics/Possible-Collapse-of-Pakistan-Quantifying-the-Fallout.html)

The Stratfor article however has important strategic implications for South Asia , If Stratfor’s information is correct, it would mean that the US and Europe have no real interest or strategic rationale any more for keeping Pakistan together. They will let it fail as it will then allow them to independently target the militants in the various breakaway states. Balochistan has been wanting independence for a long time now. It is a movement which has found renewed strength since last year when Musharraf killed the Balochi leader Akbar Khan Bugti. The most likely scenario then would be that sensing a weak central government, the Balochis, who are warriors, will make the first move and declare independence. If Sindh also simultaneously decides to pull out of the union, or if there is civil war in the province, there is no way that the Pakistani Military will be able to fight on two or three different fronts and still keep its troops on the Indian border. This kind of scenario is not impossible. The Pakistani army is already demoralized after the defeat it suffered at the hands of the Taliban in southern Waziristan. In that incident the Taliban captured more than 200 regular army troops, and later released them in what amounted to a humiliating reversal for the army. This may have had a lasting impact on troop morale throughout Pakistan, and in any case, fighting on three different fronts is difficult for any army from a logistical standpoint.

#### Pakistan’s arsenal is secure, even if there is instability military control continues

HSNW 09(Homeland Security Newswire,”The security of Pakistan's nuclear arsenal” May 8th, 2009

http://homelandsecuritynewswire.com/security-pakistans-nuclear-arsenal-dinshaw-mistry)

Over the past decade, Pakistan has strengthened its nuclear command and control mechanisms, and this suggests that its nuclear weapons are generally secure. In 1999-2000, Pakistan established a National Command Authority (NCA) to control its nuclear assets. The Strategic Plans Division (SPG) of the NCA oversees an estimated 10,000 security personnel who guard Pakistan’s strategic infrastructure. The SPG is under the military’s Joint Chiefs of Staff Committee, and is headed by a three-star general. Thus, while Pakistan’s civilian leaders head the NCA (which is chaired by Pakistan’s president with the prime minister serving as vice-chairman), Pakistan’s military retains significant control of its nuclear assets. While the NCA was established in 1999-2000, key aspects of Pakistan’s nuclear security were strengthened only after revelations in 2003 of Pakistani scientist A. Q. Khan’s nuclear technology exports. The NCA then monitored more closely the activities of Pakistan’s nuclear laboratories and scientists. It also developed a personnel reliability program, and strengthened its protection and accounting mechanism for nuclear fissile material. Further, Pakistan’s nuclear weapons are now believed to be fitted with permissive action links (PALs) that create additional barriers against unauthorized use — these were originally absent from Pakistan’s nuclear devices.Thus, Pakistan has significantly strengthened its nuclear command and control mechanisms.

**Indo-Pak war does not cause extinction**

**Ball ‘6**

(Desmond, prof at the Strategic and Defense Studies Centre at the Australian National Univ, “The Probabilities of On the Beach: Assessing ‘Armageddon Scenarios’ in the 21st Century,” Working Paper No. 401, Strategic and Defence Studies Centre at The Australian National University, <http://rspas.anu.edu.au/papers/sdsc/wp/wp_sdsc_401.pdf>)

Analysis of these incidents suggests that nuclear war is in fact more likely between India and Pakistan than it ever was between the United States and the Soviet Union during the Cold War. On the other hand, the relatively **small nuclear stockpiles mean that** the resultant **casualties would be much less than would have occurred in a**n all-out **US-Soviet strategic nuclear exchange**. Pakistan is especially vulnerable. Its total population is about 150 million, of whom more than half are under fifteen years of age and nearly a third are under nine. Only five cities have more than a million people—Karachi (15 million), Lahore (6 million), the Islamabad/Rawalpindi conurbation (2 million), Faisalabad (3 million) and Hyderabad (2 million). In-house **studies by India’s nuclear planners have shown that only about 15 weapons would ever be required** against these cities.34 Three warheads with nominal yields of only 20 kilotons each targeted on each of the five cities would kill perhaps 2-3 million people. Fifteen 1 megaton weapons, also allocated three to each city, could kill perhaps 10- 12 million. In June 2002 US Defense Secretary Donald Rumsfeld visited both New Delhi and Islamabad and briefed his counterparts about a Pentagon study that concluded that a nuclear war between the two countries could result in 12 million deaths. A detailed study of the consequences of a nuclear conflict between India and Pakistan was published in June 2002. It assumed two scenarios. The first involved the explosion of ten 15 kiloton bombs over five Indian and five Pakistani cities (Bangalore, Bombay, Calcutta, Madras and New Delhi in India and Faisalabad, Islamabad, Karachi, Lahore and Rawalpindi in Pakistan). This produced around 1.7 million immediate deaths and 0.9 million severe injuries in India and 1.2 million deaths and 0.6 million severe injuries in Pakistan. The second scenario involved 24 25 kiloton weapons, 12 detonated on eight Pakistani cities and 12 on seven Indian cities. The immediate deaths from blast and fire were estimated to be around 8 million, but the ground-bursts would also produce substantial fallout. About 22.1 million people would die fairly quickly from exposure to lethal radiation doses, while another eight million would suffer severe radiation sickness; most of the very young, old and infirm would die. About half of the 30-35 million deaths would be in Pakistan and half in India. **About 99 percent of the Indian population and 93 percent of the Pakistani population would survive**.35

**Deterrence prevents war**

**Waltz ‘00**

(Kenneth, poli sci prof at Columbia University, research associate of the Institute of War and Peace Studies, Winter/Spring, Georgetown Journal of International Affairs, Vol. 1, No. 1, “Interview: Is Kenneth Waltz Still M.A.D. about Nukes?” Interviewed by Jeremy Goldberg and Parag Khanna, http://www.ciaonet.org/olj/gjia/gjia\_winspr00f.html)

Stability in the subcontinent now exists; it had not existed since World War II and the partition of India and Pakistan. Now **with nuclear weapons on both sides, India and Pakistan can no longer fight even a conventional war** over Kashmir, as former General Beg and former General Sardarji both admitted. But we still fear instability such as the intractable dispute over the Kashmir. Yet the bitterness between the United States and the Soviet Union was deep enough during the Cold War, and **deterrence worked. Why would India and Pakistan be different?** Does India and Pakistan’s common border increase the risk? Probably not in a modern world where there are airplanes and missiles that can reach anywhere. What difference does it make that you’ve got a common border as long as it’s perfectly easy for the two countries in an adversarial relationship to reach each other? **Geographic proximity may shrink warning time, but nuclear deterrence does not depend on being able to react with split–second timing.** What’s the hurry? If you have received a damaging blow from another country and you’re going to retaliate, what difference does it make if you retaliate now, ten minutes from now, or tomorrow? A country still has that same fear of the retaliation, and it’s that fear of retaliation that deters.

### Solvency

**Obama will inevitably use drone strikes despite [congressional/court] oversight**

**CNN 13**

(Eliott McLaughlin, Jamie Crawford and Joe Sterling, 05/23/13, “Obama: U.S. will keep deploying drones -- when they are only option”, http://www.cnn.com/2013/05/23/politics/obama-terror-speech, AB)

Washington (CNN) -- **Drone strikes are a necessary evil**, **but one that must be used** with **more** temperance **as the United States' security situation evolves**, President Barack **Obama said** Thursday.¶ **America prefers to** capture, interrogate and **prosecute terrorists, but there are times when this isn't possible**, Obama said in a speech at the National Defense University in Washington. Terrorists intentionally hide in hard-to-reach locales and putting boots on the ground is often out of the question, he said.¶ Thus, **when the United States is faced with a threat from terrorists** in a country where the government has only tenuous or no influence, **drones strikes are the only option** -- and they're legal because **America "is at war with al Qaeda, the Taliban and their associated forces**," Obama said.¶ He added, however, "**To say a military tactic is legal, or even effective, is not to say it is wise or moral in every instance**. For the same progress that gives us the technology to strike half a world away also demands the discipline to constrain that power -- or risk abusing it."¶ **Increased oversight is important, but not easy**, Obama said. **While he has considered a special court** or independent oversight board, those **options are problematic**, so he plans to talk with Congress to determine how best to handle the deployment of drones, he said.¶ The nation's image was a theme throughout the speech, as Obama emphasized some actions in recent years -- drone strikes and Guantanamo Bay key among them -- risk creating more threats. **The nature of threats against the United States have changed since he took** **office** -- **they've become** more **localized** -- **and** so, too, **must efforts to combat them**, he said.¶ "From our use of drones to the detention of terror suspects, the decisions that we are making now will define the type of nation and world that we leave to our children," he said.¶ Today, **al Qaeda** **operatives** in Pakistan and Afghanistan **worry more about protecting their own skin than attacking America**, he said, **but the threat is more diffuse,** extending into places such as Yemen, Iraq, Somalia and North Africa. And **al Qaeda's ideology helped fuel attacks like the ones at the Boston Marathon and** U.S. diplomatic compound in **Benghazi**.¶ Obama said the use of lethal force extends to U.S. citizens as well.¶ On Wednesday, his administration disclosed for the first time that four Americans had been killed in counterterrorist drone strikes overseas, including one person who was targeted by the United States.¶ "When a U.S. citizen goes abroad to wage war against America -- and is actively plotting to kill U.S. citizens; and when neither the United States, nor our partners are in a position to capture him before he carries out a plot -- 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," Obama said.¶ To stop terrorists from gaining a foothold, drones will be deployed, Obama said, but only when there is an imminent threat; no hope of capturing the targeted terrorist; "near certainty" that civilians won't be harmed; and "there are no other governments capable of effectively addressing the threat." Never will a strike be punitive, he said.¶ Those who die as collateral damage "will haunt us for as long as we live," the president said, but he emphasized that the targeted individuals aim to exact indiscriminate violence, "and the death toll from their acts of terrorism against Muslims dwarfs any estimate of civilian casualties from drone strikes."¶ **It's not always feasible to send in Special Forces**, as in the Osama bin Laden raid, **to stamp out terrorism**, and even if it were, the introduction of troops could mean more deaths on both sides, Obama said.¶ "**The result would be more U.S. deaths, more Blackhawks down**, more **confrontations with local** **populations and an inevitable mission creep** in support of such raids **that could easily escalate into new wars**," he said.¶ **The American public is split** on where and how drones should be used, according to a March poll by Gallup.¶ Although **65% of respondents said drones should be used against suspected terrorists** abroad, only 41% said drones should be used against American citizens who are suspected terrorists in foreign countries.

**No political will to implement the plan**

**Druck**, JD – Cornell Law, **‘12**

(Judah, 98 Cornell L. Rev. 209)

There are obvious similarities between the causes and effects of the public scrutiny associated **with** the **larger wars** discussed above. In each situation, **the** **U**nited **S**tates **was faced with** some, or even all, of **the traditional costs associated with war: a draft, an increasingly large military industry, logistical sacrifices** (such as rationing and other noncombat expenses), **and significant military casualties.** n114 Americans looking to keep the United States out of foreign affairs ob-viously had a great deal on the line, **which provided sufficient incentive to scrutinize military policy.** In the face of these potentially colossal harms, **the public was willing to assert a significant voice, which** in turn **increased the willingness of politicians to challenge and** subsequently **shift presidential policy.** As a result, public scrutiny and activism placed a President under constant scrutiny in one war, delayed U.S. intervention in another, and even helped end two wars entire-ly. Thus, we may extract a general principle from these events: when faced with the prospect of a war requiring heavy domestic sacrifices, and absent an incredibly compelling reason to engage in such a war (as seen in World War II, for example), n115 the public is properly incentivized to emerge and exert social (and, consequently, political) pressure in order to engage and shift foreign policy. However, as we will see, the converse is true as well. B. The Introduction of Technology-Driven Warfare and Shifting Wartime Doctrines The recent **actions in Libya illustrate the culmination of a shift toward a new era of warfare, one that upsets the system of social and political checks on presidential military action.** Contrary to the series of larger conflicts fought in the twen-tieth century, **this new era has ushered in a system of war devoid of** some of the fundamental aspects of war, including the **traditional costs** discussed above. Specifically, through the advent of military technology, especially in the area of robotics, **modern-day hostilities no longer require domestic sacrifices**, thereby **concealing the burden of war from main-stream consciousness.** n116 **By** using fewer troops and **introducing drones** and other [\*228] forms of mechanized warfare **into hostile areas** more frequently, n117 **an increased number of recent conflicts have managed to avoid** many **domestic casualties, economic damages, and drafts.** n118 In a way, **less is on the line when drones**, rather than people, **take fire** from enemy combatants, and this reality displaces many hindrances and considerations when deciding whether to use drones in the first place. n119 This move toward a limited form of warfare has been termed **the "Obama Doctrine**," which "**emphasizes air power and surgical strikes, rather than boots on the ground."** n120 Under this military framework, as indicated by the recent use of drones in the Middle East, the traditional harms associated with war might become increasingly obsolete as technolo-gy replaces the need for soldiers. Indeed, given the increased level of firepower attached to drones, we can imagine a situation where large-scale military engagements are fought without any American soldiers being put in harm's way, without Americans having to ration their food purchases, and without teenagers worrying about being drafted. n121 For example, "with no oxygen-and sleep-needing human on board, Predators and other [unmanned aerial vehicles] can watch over a potential target for 24 hours or more - then attack when opportunity knocks." n122 Thus, **if** the recent **actions in Libya are any indication** of what the future will look like, **we can predict a major shift in the way the** **U**nited **S**tates **carries out wars .** n123 [\*229] C. The Effects of Technology-Driven Warfare on Politics and Social Movements The practical effects of this move toward a technology-driven, and therefore limited, proxy style of warfare are mixed. On the one hand, the removal of American soldiers from harm's way is a clear benefit, n124 as is the reduced harm to the American public in general. For that, we should be thankful. But there is another effect that is less easy to identify: pub-lic apathy. By increasing the use of robotics and decreasing the probability of harm to American soldiers, modern war-fare has "affected the way the public views and perceives war" by turning it into "the equivalent of sports fans watching war, rather than citizens sharing in its importance." n125 As a result, **the American public has** slowly **fallen victim to the numbing effect of technology-driven warfare; when the risks of harm to American soldiers** abroad and civilians at home **are diminished, so too is the public's level of interest in foreign military policy.** n126 **In the political sphere, this effect snowballs into both an uncaring public not able** (**or willing**) **to** effectively **mobi-lize in order to challenge presidential action** and enforce the WPR, **and a Congress whose own willingness to check presidential military action is heavily tied to public opinion.** n127 **Recall**, for example, **the case of the Mayaguez, where** potentially **unconstitutional action went unchecked because the mission was** perceived to be **a success.** n128 Yet we can imagine that **most missions involving drone strikes will be "successful" in the eyes of** [\*230] **the public**: even if a strike misses a target, the only "loss" one needs to worry about is the cost of a wasted missile, and the ease of deploying another drone would likely provide a quick remedy. **Given** the **political risks associated with making critical statements about military action**, especially if that action results in success, n129 **we can expect even less congressional** WPR **en-forcement as more military engagements are supported** (**or**, at the very least, **ignored**) **by the public.** In this respect, the political reaction to the Mayaguez seems to provide an example of the rule, rather than the exception, in gauging politi-cal reactions within a technology-driven warfare regime. Thus, **when the public becomes more apathetic** about foreign affairs as a result of the limited harms associated with technology-driven warfare, and Congress's incentive to act consequently diminishes, **the President is freed from any possible** WPR **constraints** we might expect him to face, **regardless of any potential legal issues.** n130 Perhaps unsurpris-ingly, nearly all of the constitutionally problematic conflicts carried out by presidents involved smaller-scale military actions, rarely totaling more than a few thousand troops in direct contact with hostile forces. n131 Conversely, conflicts that have included larger forces, which likely provided sufficient incentive for public scrutiny, have generally complied with domestic law. n132 The result is that **as wars become more limited**, n133 **unilateral presidential action will likely become even more un-checked as the triggers for** WPR **enforcement** **fade away.** In contrast with the social and political backlash witnessed during the Civil War, World War I, the Vietnam War, and the Iraq War, **contemporary military actions provide insuffi-cient incentive to prevent something as innocuous and limited as a drone strike.** Simply put, **technology-driven warfare is not conducive to the formation of a substantial check on presidential action.** n134

# 2NC

## K

### 2NC AT: Perm - Do Both

#### PERM IMPOSSIBLE - we must choose between universalization of values or recognition of enmity

Moreiras 04

[Director of European Studies at Duke, Alberto, “A God without Sovereignty. Political Jouissance. The Passive Decision”, CR: The New Centennial Review 4.3, p. 79-80, Project MUSE]

The friend/enemy division is peculiar at the highest level, at the level of the order of the political. This peculiarity ultimately destroys the under- standing of the political as based on and circumscribed by the friend/enemy division. The idea of **an order of the political presupposes that the enemies of the order as such**—that is, the enemy configuration that can overthrow a given order, or even the very idea of an order of the political—**are generated from the inside**: enemies of the order are not properly external enemies. This is so **because the order of the political**, as a principle of division, as division itself, **always already** regulates, and thus **subsumes, its** externality: **externality is produced by the order** as such, and it is a function of the order. Or rather: a principle of division can have no externality. Beyond the order, there can be enemies, if attacked, but they are not necessarily enemies of the order: they are simply ignorant of it. At the highest level of the political, at the highest level of the friend/ enemy division, there where the very existence of a given order of the political is at stake, the order itself secretes its own enmity. Enmity does not precede the order: it is in every case produced by the order. **The friend/enemy division is** therefore a division that is **subordinate to the primary ordering division**, produced from itself. The friend/enemy division is therefore not supreme: **a nomic antithesis generates it**, **and** thus **stands above** it. The order of the political rules over politics. The political ontology implied inthe notion ofan order of the political deconstructs the **political** ontology ciphered in the friend/enemy division, and vice versa. They are mutually incompatible**. Either the friend/enemy division is supreme**, for a determination of the political, **or the order of the political is** supreme**. Both** of them **cannot simultaneously be supreme. The gap between them is** strictly **untheorizable.** If the friend/enemy division obtains independently of all the other antitheses as politically primary, then there is no order of the political. If there is an order of the political, the order produces its own political divisions.

#### The affirmative imagines that the problem with drones is that our use of them is illegal. This only serves to legitimate legal strikes as reasonable and legitimate. This renders all life killable and turns the aff

Hayes 2013

(Heather Ashley Hayes, Asst Prof of Rhetoric, Whitman College. “Violent Subjects: A Rhetorical Cartography of Bodies, Spaces, and Technologies in the Global War on Terror.” A Dissertation SUBMITTED TO THE FACULTY OF UNIVERSITY OF MINNESOTA BY Heather Ashley Hayes IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE OF DOCTOR OF PHILOSOPHY Ronald Walter Greene, Adviser, April 2013)

Another line of argument over drone production and use centers around whether or not U.S. drone strikes are counterproductive in terms of diminishing adherence to and recruitment for militant groups in the Pakistani and Afghani regions. As Owen Bowcott, a legal affairs correspondent with The Guardian explains, “the CIA’s programme of ‘targeted’ drone killings in Pakistan’s tribal heartlands is counterproductive, kills large numbers of civilians, and undermines respect for international law.”139 He goes on to note that the research he cites is particularly powerful, namely because “coming from American lawyers rather than overseas human rights groups, the criticisms are likely to be more influential in U.S. domestic debates over the legality of drone warfare.” Additionally, Leila Hudson, Colin S. Owens, and Matt Flannes, all affiliated with the School of Middle Eastern and North African Studies at the University of Arizona note that drone use can be critiqued in another realm: military efficiency. As they note, “the erosion of trust and lack of clarity in U.S. drone policy produces strategic and tactical confusion within U.S. defense and intelligence agencies. This confusion proves unhelpful as exit strategies for the Afghan war are debated and continuing evaluation of U.S.- Pakistani relations are assessed behind closed doors.”140 Yet another interesting approach to drone critique comes from Daniel Klaidman, former Newsweek journalist and author, who, in June of 2012, gave an account of how President Barack Obama was first informed of a newly emerging (and now common) practice of “signature striking.” Signature strikes target groups of suspected militants, without determining identity. These stem from different procedural norms than targeted strikes, which identify individuals with ties to militant organizations and aim for a surgical missile launch against the individual rather than the group. Klaidman recounts the moment that the president was informed about the nature of signature strikes:

Sometimes called “crowd killing,” signature strikes are deeply unpopular in Pakistan. Obama struggled to understand the concept. Steve Kappes, the CIA’s deputy director, offered a blunt explanation. “Mr. President, we can see that there are a lot of military-age males down there, men associated with terrorist activity, but we don’t always know who they are.” Obama reacted sharply. “That’s not good enough for me,” he said. But he was still listening. Hayden forcefully defended the signature approach. You could take out a lot more bad guys when you targeted groups instead of individuals, he said. And there was another benefit: the more afraid militants were to congregate, the harder it would be for them to plot, plan, or train for attacks against America and its interests...Obama remained unsettled. “The president’s view was ‘OK, but what assurances do I have that there aren’t women and children there?” according to a source familiar with his thinking. “How do I know that this is working? Who makes these decisions? Where do they make them, and where’s my opportunity to intervene?”141

As per Klaidman’s depiction, further developed in his recent book-length treatment of the subject,142 President Obama remained the voice of concern and dissent in many of the discussions about unmanned aerial vehicles and their deployment, particularly over the killing of women and children and over the legal and procedural mandates necessary for the program to “be legal”. This is a sharply contrasted position to Obama’s chief counterterrorism advisor, now CIA Director, John Brennan, quoted as replying to Obama’s misgivings about the program: “We’re killing these sons of bitches faster than they can grow them.”143 Additionally, this new discourse supplements the growing idea of legal drone processes by making a distinction among various genres of strikes. Overall, dissent and critique around the program has come from many sites, ranging from Obama’s own concerns about legality and particular “innocent bodies” (i.e. women and children) to academic qualms with international law and United States military efficiency. Yet few, if any, voices indict the program beyond its legality and its judicial and processual implications. Even in Obama’s concern over signature strike action, innocent life is reconfigured as young in the body of a child and feminine in the body of a woman. His own authority as president in making decisions is a primary rationale for interrogating strike deployment. A discourse of reasonability is normalized, even in dissent. Journalists, politicians, and academics harp on the drone program’s effectiveness in targeting the terrorists it is supposed to target and its legality in adhering to an always already established system of transnational legal norms. When leading American news outlets publish forums on the topic (e.g. The New York Times forum of September 2012, cited above) these mechanisms for objection are further embedded in the circulation of knowledges and practices with regard to drones. The January 2013 announcement of John Brennan’s transition from counterterrorism advisor into a more legally articulated role of CIA Director points to the very practices of this normalization. Yet, while forms of dissent against drones become normalized in particular discourses and practices, others evaporate from view. Circulatory exploration, with a look to the rhetoricoviolence of the space of drone warfare, allows several longtime drone activists to emerge, who are/have been organizing in the regions most affected by unmanned aerial vehicle attack. Among these activists is Pakistani politician and former cricketer Imran Khan.

Pakistani drone activist and leader of the Tehreek-e-Insaf party (Pakistan Movement for Justice), Imran Khan, leading a drone protest in Pashtun Tribal Lands of Pakistan, Khan has remained mostly ignored by Western media, politicians, and academics discussing the implication of drone attacks, despite being an ardent opponent of drone use since 1998, before the American election of George W. Bush and before the September 11, 2001 attacks by al-Qaeda against U.S. targets. His only mentions in U.S. and British media came after Khan led a protest against drone use in the tribal region of Pakistan in October of 2012. While Khan had led more than a hundred similar protests in the same region since 2002, this one was halted by the Pakistani government, due to the fact that Khan allowed leaders from the United States anti-war organization Code Pink to be a part of the protest, namely vocal anti-drone activist Medea Benjamin. Expressing fear that a￼￼￼ large rally featuring American protesters could safely be held in the South Waziristan region, the Pakistani government blocked access to the protest, and shut it down. Benjamin, Code Pink’s founder, hailed the trip as a success directly as a result of American involvement rather than Khan’s organizing efforts, noting the value as: “to show the face of the American people that believe that the lives of Pakistanis are as valuable as the lives of any American.”145

Khan becomes an even more fascinating case study in the normalizing power of everyday practice and discourse over drones when looking to his few remarks in English on the drone program. In two interviews with American media (one on a CNN video logged program and one on a CNN program airing at 8am EST), Khan offered powerful critiques of the unmanned aerial vehicle program that differ from the normalized discourses I have discussed. In an interview with Jim Clancey on CNN’s News Stream (now cancelled due to low ratings), Khan remarked, “According to many international reports, only 2% of high level targets are killed. So who are these 98%?...I just do not understand how anyone can sit in front of a computer screen, press some buttons, and kill people...this is inhuman.”146 Khan went on to expand his position on drones in an interview with Elliot Spitzer on CNN’s In the Arena (also cancelled in late 2011 due to

low ratings): “Look, I’m sitting in Pakistan. I’m telling you the impact drone attacks are having in this country. And I’m telling you that the more drone attacks the more anti- Americanism, the more anti-Americanism the more radicalization. The more radicalization, there is only one beneficiary, and that’s al-Qaeda.”147

While Khan adheres to the discourse of effectiveness in his comments about drone attack’s ability to boost membership in militant Islamic organizations found in some Western sources, he also cites his positional authority as a member of the Pakistani population as a primary vantage point. And, the differences in his tone between 2011 and 2012 are notable, where he grows much more hostile to drones from a human, rather than legal, perspective, venturing to call their very use inhuman. Additionally, Khan’s political efforts in Pakistan have been in the name of an Islamist republic. Throughout the 2000s, while protesting the increasing use and development of U.S. drone technology, Khan also sided with Muttahida Majlis-e-Amal, a coalition of theocratic parties in Pakistan, on a number of controversial anti-American positions. These included strong opposition of U.S. military presence in Pakistan and the abolition of corporate use of any Pakistani lands so that there could be a redistribution of that wealth back to peasant populations of the tribal regions. For all practical purposes, his prominent disagreement with al-Qaeda appears to be over their mass scale violence, not over violence more generally. In fact, in May of 2005, when Khan learned of a case of Qur’an desecration at the United States’ Guantánamo Bay’s detention facility, he made a sweeping appeal to Islamic journalists that Islam was “under attack” by the United States, a claim which has been credited with the deaths of over 16 people in anti-American riots in the neighboring Afghanistan. Khan defends the violence, arguing “To throw the Qur'an in the toilet is the greatest violation of a Muslim's human rights...When you speak out, people react. Violence is regrettable, but that's not the point.”148 In this sense, it is clear that the violence of the drone attacks are not what Khan necessarily opposes but rather the particular type of constituted violence against human beings. In this case, the violence is perpetrated against Pakistani citizens.  
With both Western critique of drone attacks and Khan’s position in mind, what does this normalization of some and exclusion of other forms of protest and dissent mean for understanding the circulation of drone warfare and its relationship to rhetoricoviolence? Judith Butler has offered one frame for consideration here, in her fundamental question about what human life is grievable. As she argues, “lives are supported and maintained differently, and there are radically different ways in which human vulnerability is distributed across the globe. Certain lives will be highly protected, and the abrogation of their claims to sanctity will be sufficient to mobilize the forces of war. Other lives will not find such fast and furious support and will not even qualify as ‘grievable’.”149 To return to Jackson’s opening arguments about remaking the world in particular ways, Butler’s claims are realized in the circulation and culture of drone warfare through the United States. Khan finds the lives lost in drone strikes highly grievable, and a compelling piece of the map that should operate to end their use in his view. Most Western critics of the program find the same lives lost grievable only insofar as they represent violations of international law and/or the standards of military operational efficiency. I argue that more than being a materialist rhetoric, the U.S. drone program has generated a new set of everyday practices, institutions, and subjects that flow through a larger network of power within the global war on terror. This flow has endless directions and functions to not only open up available spigots but also to close some of them off. In other words, the program allows for subject positions to appear on a map in one place, while simultaneously possessing the power to move those subject positions into other available spaces. In this case, the two available subject positions could be understood as grievable or not grievable. The drone program demonstrates the falsity and impotence an oppositional binary between rhetoric and violence offers in helping explicate increasingly complex problems of the global war on terror, particularly in transnational contexts. As a materialist rhetoric, rhetoricoviolence lends itself to working outside of the bounds of this binary, particularly in its assumptions that rhetoric and violence are most potent when they travel together, indistinguishable from one another. So if Butler’s precarity of life is well reflected in the revelations and concealments within the circulation of the drone program, how does that precarity get extended to the technological politics of governance in which the U.S. drone program is steeped? As she notes, “when we think that others have taken themselves out of the human community as we know it, is a test of our very humanity.” This test of humanity strikes at the heart of many discursive moves about drones’ legality and processual articulation, and echoes another argument by Martin Luther King, Jr. In discussing the Vietnam War, King predicted, “When machines and computers, profit motives and property rights are considered more important than people, the giant triplets of racism, militarism and economic exploitation are incapable of being conquered.” While the concealing capability found in the rhetoricoviolence of drones begins to articulate one possible realization of King’s claims in practice, next I look to the ways technological warfare (in this case, the drone program) uses these revelations and concealments to reconfigure modes of governance.

### AT State

#### Universalism effaces the us/them distinction to form a unified whole – it causes global psychosis, resulting in genocidal war and lashout

Reinhard 2k4

[Kenneth, Professor of Jewish Studies at UCLA, 2004, “Towards a Political Theology- Of the Neighbor,” online: <http://www.cjs.ucla.edu/Mellon/Towards_Political_Theology.pdf>]

If the concept of the political is defined, as Carl Schmitt does, in terms of the Enemy/Friend opposition, the world we find ourselves in today is one from which the political may have already disappeared, or at least has mutated into some strange new shape. A world not anchored by the “us” and “them” binarisms that flourished as recently as the Cold War is one subject to radical instability, both subjectively and politically, as Jacques Derrida points out in The Politics of Friendship: The effects of this destruction would be countless: the ‘subject’ in question would be looking for new reconstitutive enmities; it would multiply ‘little wars’ between nation states; it would sustain at any price so-called ethnic or genocidal struggles; it would seek to pose itself, to find repose, through opposing still identifiable adversaries – China, Islam? Enemies without which … it would lose its political being … without an enemy, and therefore without friends, where does one then find oneself, qua a self? (PF 77) If one accepts Schmitt’s account of the political, the disappearance of the enemy results in something like global psychosis: since the mirroring relationship between Us and Them provides a form of stability, albeit one based on projective identifications and repudiations, the loss of the enemy threatens to destroy what Lacan calls the “imaginary tripod” that props up the psychotic with a sort of pseudo-subjectivity, until something causes it to collapse, resulting in full-blown delusions, hallucinations, and paranoia. Hence, for Schmitt, a world without enemies is much more dangerous than one where one is surrounded by enemies; as Derrida writes, the disappearance of the enemy opens the door for “an unheard-of violence, the evil of a malice knowing neither measure nor ground, an unleashing incommensurable in its unprecedented – therefore monstrous –forms; a violence in the face of which what is called hostility, war, conflict, enmity, cruelty, even hatred, would regain reassuring and ultimately appeasing contours, because they would be identifiable” (PF 83).

## Norms

### 2NC No Modeling

#### Zero chance of precedent setting – other countries don’t act based on the United States policy

Wright 12

(Robert Wright, finalist for the Pulitzer Prize, former writer and editor at The Atlantic, “The Incoherence of a Drone-Strike Advocate” NOV 14 2012, <http://www.theatlantic.com/international/archive/2012/11/the-incoherence-of-a-drone-strike-advocate/265256/>, KB)

Naureen Shah of Columbia Law School, a guest on the show, had raised the possibility that America is setting a dangerous precedent with drone strikes. If other people start doing what America does--fire drones into nations that house somebody they want dead--couldn't this come back to haunt us? And haunt the whole world? Shouldn't the U.S. be helping to establish a global norm against this sort of thing? Host Warren Olney asked Boot to respond.¶ Boot started out with this observation:¶ I think the precedent setting argument is overblown, because I don't think other countries act based necessarily on what we do and in fact we've seen lots of Americans be killed by acts of terrorism over the last several decades, none of them by drones but they've certainly been killed with car bombs and other means.¶ That's true--no deaths by terrorist drone strike so far. But I think a fairly undeniable premise of the question was that the arsenal of terrorists and other nations may change as time passes. So answering it by reference to their current arsenal isn't very illuminating. In 1945, if I had raised the possibility that the Soviet Union might one day have nuclear weapons, it wouldn't have made sense for you to dismiss that possibility by noting that none of the Soviet bombs dropped during World War II were nuclear, right?¶ As if he was reading my mind, Boot immediately went on to address the prospect of drone technology spreading. Here's what he said:¶ You know, drones are a pretty high tech instrument to employ and they're going to be outside the reach of most terrorist groups and even most countries. But whether we use them or not, the technology is propagating out there. We're seeing Hezbollah operate Iranian supplied drones over Israel, for example, and our giving up our use of drones is not going to prevent Iran or others from using drones on their own. So I wouldn't worry too much about the so called precedent it sets..."

#### No one will follow US lead on drones – especially Russia and China

Boot ‘11

[Max Boot is a leading military historian and foreign-policy analyst. The Jeane J. Kirkpatrick Senior Fellow in National Security Studies at the Council on Foreign Relations in New York, he is the author of the critically acclaimed New York Times bestseller "Invisible Armies: An Epic History of Guerrilla Warfare from Ancient Times to the Present." <http://www.commentarymagazine.com/2011/10/09/drone-arms-race/> ETB]

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.

### 2NC No Drone Wars

#### No drone wars – deterrence checks – the states that would threaten the US aren’t democratic which means they wouldn’t model anyway – that’s Singh

#### Drones will only ever be used in highly permissive environments that lack air defense

Michael W. Lewis 12, Associate Professor of Law at Ohio Northern University Pettit College of Law, Spring 2012, “ARTICLE: SYMPOSIUM: THE 2009 AIR AND MISSILE WARFARE MANUAL: A CRITICAL ANALYSIS: Drones and the Boundaries of the Battlefield,” Texas International Law Journal, p. lexis

Like any weapons system drones have significant limitations in what they can achieve. Drones are extremely vulnerable to any type of sophisticated air defense system. They are slow. Even the jet-powered Avenger recently purchased by the Air Force only has a top speed of around 460 miles per hour, n20 meaning that it cannot escape from any manned fighter aircraft, not even the outmoded 1970s-era fighters that are still used by a number of nations. n21 Not only are drones unable to escape manned fighter aircraft, they also cannot hope to successfully fight them. Their air-to-air weapons systems are not as sophisticated as those of manned fighter aircraft, n22 and in the dynamic environment of an air-to-air engagement, the drone operator could not hope to match the situational awareness n23 of the pilot of manned fighter aircraft. As a result, the outcome of any air-to-air engagement between drones and manned fighters is a foregone conclusion. Further, drones are not only vulnerable to manned fighter aircraft, they are also vulnerable to jamming. Remotely piloted aircraft are dependent upon a continuous signal from their operators to keep them flying, and this signal is vulnerable to disruption and jamming. n24 If drones were [\*299] perceived to be a serious threat to an advanced military, a serious investment in signal jamming or disruption technology could severely degrade drone operations if it did not defeat them entirely. n25

These twin vulnerabilities to manned aircraft and signal disruption could be mitigated with massive expenditures on drone development and signal delivery and encryption technology, n26 but these vulnerabilities could never be completely eliminated. Meanwhile, one of the principal advantages that drones provide - their low cost compared with manned aircraft n27 - would be swallowed up by any attempt to make these aircraft survivable against a sophisticated air defense system. As a result, drones will be limited, for the foreseeable future, n28 to use in "permissive" environments in which air defense systems are primitive n29 or non-existent. While it is possible to find (or create) such a permissive environment in an inter-state conflict, n30 permissive environments that will allow for drone use will most often be found in counterinsurgency or counterterrorism operations.

### 2NC US-China

#### No US-China war – economic interdependence has created resiliency, the cost is too high, and deterrence checks – that’s Harding 12

#### They know it would be economic suicide

Bremmer, 10

president of Eurasia Group and author (Ian Bremmer, “China vs. America: Fight of the Century,” Prospect, March 22, 2010, <http://www.prospectmagazine.co.uk/2010/03/china-vs-america-fight-of-the-century/>)

China will not mount a military challenge to the US any time soon. Its economy and living standards have grown so quickly over the past two decades that it’s hard to imagine the kind of catastrophic event that could push its leadership to risk it all. Beijing knows that no US government will support Taiwanese independence, and China need not invade an island that it has largely co-opted already by offering Taiwan’s business elite privileged investment opportunities.

#### Their impact ev is about China invading Taiwan – that wont happen

Bhakal ‘12

(Maitreya Bhakal Book Reviewer (freelance) at Random House Publishers India Pvt. Ltd.

Freelance Editor at Cactus Communications “Five reasons why China will not invade Taiwan, and an analysis of Cross-strait Relations” 25 January, 2012 http://indiaschinablog.blogspot.com/2011/08/analysing-cross-strait-relations-and-5.html, TSW)

Five reasons why China will not invade Taiwan¶ Journalists and analysts never forget to dutifully remind us that China has not "ruled out" the use of force against Taiwan. What they do not remind us with such regularity however, is that the Chinese leadership has regularly stressed that they seek peaceful reunification of Taiwan with the mainland. China has deployed, they say, 1500 missiles targeting Taiwan (or 2000, if one is feeling so inclined), due to which Taiwan should be regularly supplied with US arms to enable it to defend itself. They find the subtle politics of China's missile deployments beyond the scope of their understanding. What they also fail to address is why China should redeploy or dismantle a major part of its defense arsenal (and one that faces the South China Sea and defends China's most populated areas) just to placate Taiwan and US hawks. Moreover, even if the missiles were withdrawn, they could be redeployed at any time. These missiles are seen as an important deterrent to Taiwan's independence and potential US intervention. ¶ Whatever the media wants its readers to believe, the only major reason why China would actually consider an invasion is if Taiwan declares independence. This is in no danger of happening in the near future. Especially given Ma's recent victory and his pledge of the "Three Nos" - "No independence, No unification, No use of force". It is reasonable to assume that the majority of the Taiwanese public agree with him, and are happy with the status quo (the latter has been demonstrated by numerous opinion polls as well). Here are five major reasons why a full-fledged Chinese invasion of the island is more suited for a video game rather than reality.¶ 5. Economics:¶ China has always placed economics at the forefront of most other matters. Despite the often-tumultuous state of Sino-Indian relations (and an unresolved border dispute), trade has touched $63 billion. China is India's second largest trading partner. In the Senkaku island dispute with Japan, Deng Xiaoping, as soon as he came into power in 1978, proposed that China and Japan jointly explore the oil and gas deposits near the disputed islands without touching on the issue of sovereignty. China has also sought joint exploration in the resource-rich Spratlys, a solution which is the right step forward and is in fact more urgent than sovereignty, which the Philippines and Vietnam and have so far been reluctant to do. ¶ China doesn't mind waiting and biding its time until sovereignty issues get resolved. As Deng Xiaoping famously remarked regarding the Senkaku dispute, "It does not matter if this question is shelved for some time, say, 10 years. Our generation is not wise enough to find common language on this question. Our next generation will certainly be wiser. They will certainly find a solution acceptable to all". Unlike his predecessor Jiang Zemin, Hu Jintao has used a softer approach towards Taiwan, promoting stronger economic and cultural ties, high-level official visits and direct flights in order to reduce tensions.¶ This pragmatic approach is on display even in the Taiwan dispute. China is Taiwan's largest trading partner, and Taiwan is China's seventh largest. Two-thirds of all Taiwanese companies have made investments in China in recent years. In 2010, China (including Hong Kong) accounted for over 29.0% of Taiwan's total trade and 41.8% of Taiwan's exports. The ECFA was heavily tilted in Taiwan's favor. It cut tariffs on 539 Taiwanese exports to China and 267 Chinese products entering Taiwan. Under the agreement, approximately 16.1 % of exports to China and 10.5 % of imports to China will be tariff free by 2013. Taiwanese firms have invested $200 billion in the mainland, and trade between the two sides has exceeded $150 billion. ¶ Taiwanese trade with China. Source: Reuters¶ Both China and Taiwan have a lot to lose by fighting with each other. Another factor to consider is the incalculable loss that an invasion will have on the Chinese economy, not to mention scaring away potential investors.¶ 4. Alienation of the people:¶ China is, quite rightly, obsessed with "stability", President Hu's watchword. Analysts agree that this is one of the main reasons why it is not being "tough" on North Korea - that it wants a stable neighbor with no refugee spillover. With hundreds of protests happening in China every year, it most certainly wouldn't want yet another headache on its hands and alienate the island's inhabitants (even more than they are at the moment). There is very less support for reunification on the island, and opinion polls make clear that only a tiny minority of Taiwanese identify themselves as "Chinese".¶ The Anti-Secession Law also explicitly states in Article 9:¶ In the event of employing and executing non-peaceful means and other necessary measures as provided for in this Law, the state shall exert its utmost to protect the lives, property and other legitimate rights and interests of Taiwan civilians and foreign nationals in Taiwan, and to minimize losses. At the same time, the state shall protect the rights and interests of the Taiwan compatriots in other parts of China in accordance with law. ¶ A Chinese invasion might inevitably lead to riots and international condemnation. China would thus risk flushing down the toilet many years' hard work of patient diplomacy (in convincing other countries of its "peaceful rise"). This would in turn cause them to inch even closer to America, were they would be welcomed with open arms. ¶ 3. The threat of American intervention:¶ The United States of America, the responsible superpower, has been engaged in more military conflicts around this world than any other. Since the Second World War, the US has: ¶ Attempted to overthrow more than 50 governments, most of them democratically-elected.¶ Attempted to suppress a populist or national movement in 20 countries.¶ Grossly interfered in democratic elections in at least 30 countries.¶ Dropped bombs on the people of more than 30 countries.¶ Attempted to assassinate more than 50 foreign leaders.¶ Hence, the plain fact that needs to be realized is that the United States is more prone to violent outbursts than any other country.¶ The PLA doctrinal textbook, Zhanyixue, explicitly states that China is not in the same league as "advanced countries" (The entire document never mentions the United States by name), argues Thomas J. Christensen in China’s Revolution in Doctrinal Affairs: Recent Trends in the Operational Art of the Chinese People’s Liberation Army (CNA, 2005). He further states,¶ Moreover, unlike in the heady early days of the Great Leap Forward, PLA strategists do not envision China closing that overall gap anytime soon. There is no stated expectation of short-cuts or leapfrogging to great power military status. In other words, China will have to accept that its relative technological backwardness and weakness in power projection will persist for a long time.¶ And then goes on to quote the text of Zhanyixue explicitly: ¶ “Our military equipment has gone through major upgrading (很大提高) in comparison with the past, but in comparison to advanced countries, whether it be now or even a relatively long period from now, there will still be a relatively large gap (仍有较 大的差距)................The most prominent objective reality that the PLA will face in fighting future campaigns is that in [the area of] military equipment, the enemy will be superior and we will be inferior."¶ As is clear, Chinese policy-makers are realists, and thus can be relied upon to heavily weigh the consequences of a possible US intervention.¶ 2. China wants peace:¶ China is one of the few rising powers in the whole of human history to announce peaceful intentions and no desire to rule or establish hegemony over the world. In what might come as a shock to most people who consider media reports as a textbook for Chinese foreign policy, China has, on the whole, been a peaceful nation and has not engaged in military action unless provoked. And the military action that it has been involved in in its modern history has been extremely limited in its duration and objectives. Barring a misadventure with Vietnam in 1979 (which was also quite limited), China has only used war as a last resort, when it was left with no other alternative.¶ Resolutions of boundary disputes can be generally considered as a fundamental indication whether a country is pursuing expansionist or peaceful policies (which is one reason why a thorough analysis of China's border disputes has been neglected by almost all western media outlets and analysts). China has had the highest number of border disputes of any country in the world and with no intention of living in an unfriendly atmosphere over a peace of land, has successfully handled and offered substantial compromises (this is the other reason) in most of them. China borders 14 countries by land; and as a result of territorial dismemberment and unequal treaties, the PRC government, when it came into power, found itself involved in territorial disputes with all of them. The way in which China resolved those disputes stands as testimony to its desire of peace at any cost and serves as an example to other countries. China has, in the interests of peace and stability on its borders, adopted a negotiation tactic favorable to rival claimants that other countries would do well to emulate. Many of these claimants were countries much weaker than China. China was under no obligation to offer such substantial compromises. The portion of land that China received in border settlements with various neighbouring countries is shown below.¶ Afghanistan - 0%¶ Tajikistan - 4%¶ Nepal - 6%¶ Burma - 18%¶ Kazakhstan - 22%¶ Mongolia - 29%¶ Kyrgyzstan - 32%¶ North Korea - 40%¶ Laos - 50%¶ Vietnam - 50%¶ Russia - 50%¶ Pakistan - 54%¶ Some of this land was strategically important (such as the Wakhan corridor that was disputed with Afghanistan) and extremely rich in resources (such as the Pamir mountain range in case of Tajikistan). China has also not reiterated its claims on a majority of the territory which was seized from it by the unequal treaties (even if it meant being cut off from the strategic Sea of Japan). In the map below, the gray area was part of China when the Qing dynasty was at its height, and then was snatched away from it due to unequal treaties. China has pursued claims on no more than 7% of these territories.¶ China has generally been known to attack when it has been taken advantage of or construed as weak, or when the enemy was at its very doorstep, such as during the Korean war. The Sino-Indian war of 1962 stands as a textbook example of this strategy. Nehru, the then Indian PM, rejecting all Chinese offers for negotiations, constituted a "Forward Policy" of pushing forward to enemy lines and made belligerent statements about China ("I have ordered the Indian army to throw out the Chinese"), implicitly announcing Indian intentions to attack. Some of the Indian outposts established under this policy went even further than Chinese ones. China, correctly interpreting these actions as hostile and viewing India through the prism of British imperialist intentions on Tibet (as India had made itself the British successor in all matters regarding Tibet and China), made multiple diplomatic protests against the Forward Policy, but Nehru ignored them and never thought that China would have the guts to attack. After China finally did attack and occupied the disputed areas, it declared a unilateral ceasefire and withdraw to pre-war status quo borders without occupying an inch of territory. Chinese intentions were just to teach India a lesson. It had no interest in occupying any territory.¶ Hence, a peaceful South China Sea and Taiwan strait is in China's interest. As China rises, the last thing it wants to do is anything that might be construed as provocative. It has indicated that it wants a peace treaty with Taiwan, and indeed, negotiating a peace agreement was one of the points that President Hu introduced as a blueprint for cross-strait relations in December 2008. Ma made a campaign promise to sign a peace treaty in the run up to the 2008 elections, but reneged on it after becoming president. Such a treaty will not only assure China's maritime neighbors (including rival claimants in the South China Sea) of China's peaceful intentions, but will have the effect of also formally ending the Chinese Civil War. ¶ 1. Taiwan is not going to declare independence:¶ The most important reason why China has not yet considered an invasion. Ma has explicitly declared that he is not seeking independence, and the voters seem to be siding with him and are happy with the status quo. And so is China. Chinese leaders have a penchant for putting issues on the backburner. They adapt to changing situations and are happy to do what they can (business) and leave for future generations what they cannot (reunification).¶ So what next? Chinese leaders will be happy to admit - they don't know. As long as both sides are happy with the status quo, there seems to be no reason to fret. As long as Taiwan does not declare independence, there seems to be no reason to worry about a military conflict. And since a majority of the Taiwanese people are happy to be were they are, rocking the boat is the last thing leaders on both sides of the strait would want to do. Both economies are growing, and people are living happily on both sides. Every generation of leaders thus hands over this problem to the next one, with the hope that they might one day either solve it, or preserve the status quo and hand over the headache to their successors. ¶ Hence, discussion of a Chinese invasion serves little purpose other than to be used by various "foreign-policy analysts" to justify their grants and pass their time. There ought to be no doubt that a full-blown invasion would be a nightmare for China, and it simply wouldn't do it. Or, as Jim Hacker would say - Not just that it shouldn't, but it couldn't, and if it could, it wouldn't, would it?

## Solvency

### 2NC Circumvention

#### Executive branch lawyers will circumvent

Cheng, co-director – Institute for Global Law, Justice, & Policy and professor @ NYU Law, ‘12

(Tai-Heng, 106 A.J.I.L. 710)

Lubell's analysis of drone attacks shows the limits of his method in clarifying the law as it stands. He explains that "IHL and human rights law can lead to differing conclusions" about the legality of drone attacks (p. 258). Under human rights law, "the intentional killing of the individuals is likely to have been unlawful" (p. 255). In contrast, in an armed conflict, "[t]argeting [persons] could be lawful under IHL if they are seen to be non-civilians" (p. 257). Although he proposes various criteria for selecting between human rights law and IHL, Lubell ultimately concludes: "While the concurrent applicability of human rights and IHL is a legal reality, the lack of an agreed approach to interpretation leads to difficulties of implementation in practice" (pp. 258-59), resulting in "difficulty in achieving certainty on this matter" (p. 258). Ruys's survey of state practice to determine whether customary international law currently permits the use of force against nonstate actors in a foreign state illustrates the limits of his method in identifying clear legal rules, even within a single legal regime. He concedes that the legal significance of relevant incidents is open to interpretation. For example, whether the invasion of Afghanistan by the United States and its allies extended the right of self-defense to armed attacks by nonstate actors is open to "a wide range of possible interpretative outcomes depending on one's point of view" (p. 442). Similarly, a "possible interpretation" of Turkey's attacks on Iraqi Kurds in 2008 (p. 461) is that it changed the law to authorize force against nonstate actors, but an observer could also conclude that "States felt uncomfortable about setting a new precedent" (p. 462). Likewise, when Ethiopian troops were sent in 2006 into Somalia to fight the Union of Islamic Courts that threatened Ethiopia, the lack of legal debates among states about Ethiopia's actions "impede[s] the analysis" of that incident (p. 470). Based on his review of events, Ruys proposes that the attack **[\*713]** on these nonstate actors is "not unambiguously illegal" (p. 487). This triple negative assessment of legality leaves much room for further clarification of the law. Lubell's and Ruys's analyses of preemptive self-defense also show how policy appraisals of what the law ought to be can shape the law as it stands. Both authors argue that customary international law prohibits the use of preemptive force against a nonimminent threat. Lubell supports his contention with a Security Council resolution that "strongly condemn[ed] Israel for carrying out a pre-emptive strike [in 1981] against the Osiraq nuclear reactor in Iraq" (p. 61). However, he also concedes that this evidence of *opinio juris* against preemptive attacks is inconclusive because the resolution "can be the result of a number of factors, including a perception that the circumstances of that particular case may not have warranted an attack due to a lack of exhaustion of viable alternatives as well as no imminent need" (*id.*). Faced with this inconclusive evidence of state practice and *opinio juris*, the reader might infer that Lubell believes that preemptive self-defense is legally prohibited for policy reasons. Quoting Rosalyn Higgins, he emphasizes a "primary and fundamental concern . . . that preemption will become 'a pretext for unprovoked aggression'" (p. 62). Ruys similarly rejects the legality of preemptive self-defense on policy grounds. As noted, Ruys argues that the 2003 invasion of Iraq by the United States and its allies did not constitute state practice and *opinio juris* permitting preemptive self-defense because, inter alia, the states that supported the invasion did not justify it with a broad reading of Article 51 of the UN Charter and "a majority of States apparently held the opinion that the operation violated the UN Charter" (pp. 317-18). His footnotes show, however, that, while many states opposed the invasion, the number was far short of "a majority of States" in the world and that some of those states criticized the invasion as illegitimate rather than a violation of the Charter (p. 317 nn.338-39). Ruys also acknowledges that Michael Reisman has found numerous statements by states about the legality of preemptive force but minimizes their importance as "political sabre-rattling . . . rather than as reliable manifestations of States' *opinio juris*" (pp. 333-34). Based on these interpretations of evidence, Ruys concludes that "it is impossible to identify *de lege lata* a general right of pre-emptive--and a fortiori preventive--self-defence" (p. 342). Taken alone, this analysis of preemptive self-defense might persuade some readers. Yet when studied alongside Ruys's analysis of the use of force against terrorists, doubts emerge. Just as Ruys's evidence for the acceptance of preemptive self-defense is mixed, his evidence for the legality of use of force against nonstate actors is not entirely persuasive. While Ruys dismisses statements by states in favor of preemptive self-defense as political and not legal, he characterizes the acquiescence of some states to the use of force against nonstate actors to be "a fickle barometer of *opinio juris*" (p. 462). However, although he claims that a right of preemptive self-defense does not exist because no evidence clearly supports it, Ruys concludes in contrast, as noted, that the use of force against nonstate actors is "not unambiguously illegal" (p. 487) in spite of the equivocal evidence. Although his assessment about the legality of force against nonstate actors is couched in qualified terms, the practical difference with his position on preemptive force is sharp. If policy makers accept his view, they may choose to attack, without clearly breaking the law, nonstate actors who have attacked the state of those policy makers. However, if they use force preemptively against a state or nonstate actor, they will have acted unlawfully. Certainly, one might finely parse the evidence to argue that state practice as well as *opinio juris* in support of the use of force against nonstate actors was stronger than the evidence in support of preemptive force, thereby justifying Ruys's conclusions that the former is "not unambiguously illegal" while the latter remains clearly illegal. However, another equally plausible--and perhaps more compelling--explanation is that Ruys was guided by his differing policy appraisals of the use of force against nonstate actors versus the use of preemptive force. When considering the use of force against nonstate actors, Ruys emphasizes "the delicacy of balancing the national security interests of a State that falls victim to non-State attacks and the fundamental rights to sovereignty" **[\*714]** (*id.*). He explicitly acknowledges the competing policy concerns of magnified "destructive potential" of terrorists through modern technologies (p. 488) versus the risks of "increased legitimacy of the non-State group [once they are attacked] or a further degradation of the authority of the 'host State' . . . [or] military escalation" (*id.*). In contrast, Ruys appraises preemptive force as "highly undesirable from a *de lege ferenda* perspective" because it would usurp the Security Council's responsibility for keeping international peace and because the right to use preemptive force would be open to abuse (p. 324). While acknowledging that supporters of preemptive self-defense "stress time and again . . . the increasing speed and destructive potential of modern weaponry" (p. 257), Ruys neither explicitly assesses the weight of this policy concern relative to the potential for abuse nor explains why he chose not to do so. These methodological observations about Ruys's and Lubell's findings do not significantly diminish their contribution to international legal scholarship. Quite the contrary. Their books are not just studies on the use of force. They are also case studies of contemporary positivism. Ruys's and Lubell's methods reveal how much it has in common with other international legal theories. As discussed earlier, Lubell recognizes that the choice between IHL and human rights law can lead to different conclusions about the legality *vel non* of drone attacks, but the methods of choosing among legal theories remain unclear. This conclusion is consistent with Martii Koskemenmi's recent critical legal studies research showing uncertainty about the legality of actions where different legal regimes may apply to the same international problem and where each regime may lead to a different legal conclusion. n1 Ruys asserts that the legal significance of "incidents"--a term of art proposed by Reisman to describe basic epistemic units in international law n2 --is determined by claims and counterclaims among states (p. 51). This view comes close to the conceptualization of law in policy-oriented jurisprudence as an ongoing process of communication among relevant actors, n3 with which international legal process and constructivist international relations theories also seem to agree. n4

### 2NC Obama Ignores

#### Obama will ignore congressional/court acts to limit drones

Weber ‘13

[Peter Weber is a senior editor at TheWeek.com, and has handled the editorial night shift since the website launched in 2008. A graduate of Northwestern University, Peter has worked at Facts on File and The New York Times Magazine. February 6, 2013. <http://theweek.com/article/index/239716/will-congress-curb-obamas-drone-strikes> ETB]

One problem for lawmakers, says The New York Times in an editorial, is that when it comes to drone strikes, the Obama team "utterly rejects the idea that Congress or the courts have any right to review such a decision in advance, or even after the fact." Along with citing the law authorizing broad use of force against al Qaeda, the white paper also "argues that judges and Congress don't have the right to rule on or interfere with decisions made in the heat of combat." And most troublingly, Obama won't give Congress the classified document detailing the legal justification used to kill American al Qaeda operative Anwar al-Awlaki.

#### Limitations fail – they’re ignored

Alston 11

(Philip, professor of Law at NYU School of Law, 2011, “The CIA and Targeted Killings Beyond Borders,” Harvard National Security Journal, no. 283, Lexis, accessed 7/9/13, BS)

This Article focuses on the accountability of the Central Intelligence Agency (CIA) in relation to targeted killings, under both United States law and international law. As the CIA, often in conjunction with Department of Defense (DOD) Special Operations forces, becomes more and more deeply involved in carrying out extraterritorial targeted killings both through kill/capture missions and drone-based missile strikes in a range of countries, the question of its compliance with the relevant legal standards becomes ever more urgent. Assertions by Obama administration officials, as well as by many scholars, that these operations comply with international standards are undermined by the total absence of any forms of credible transparency or verifiable accountability. The CIA's internal control mechanisms, including its Inspector General, have had no discernible impact; executive control mechanisms have either not been activated at all or have ignored the issue; congressional oversight has given a "free pass" to the CIA in this area; judicial review has been effectively precluded; and external oversight has been reduced to media coverage that is all too often dependent on information leaked by the CIA itself. As a result, there is no meaningful domestic accountability for a burgeoning program of international killing. This in turn means that the United States cannot possibly satisfy its obligations under international law to ensure accountability for its use of lethal force, either under IHRL or IHL. The result is the steady undermining of the international rule of law and the setting of legal precedents which will inevitably come back to haunt the United States before long when invoked by other states with highly problematic agendas.

### 1NC Drone Lobby

#### The drone lobby makes oversight useless

Michaels 13

(Martin Michaels, Mint Press staff writer, “The Human Side Of Drones: Congress Fails In Oversight” May 13, 2013, <http://www.mintpressnews.com/the-human-side-of-drones-congress-fails-in-oversight/158722/>, KB)

The drone lobby?¶ Standing in the way of proper congressional oversight has been the burgeoning drone lobby, an emerging force contributing to Congressional campaigns.¶ “This is all about money when it comes down to it. The fact that there is an unmanned Aerial Systems Caucus in Congress says it all. It’s shameful when you look at the millions of dollars the industry spends on both lobbying and contributing to Congressional candidates,” Benjamin said¶ “You see the collusion between our elected officials and the drone industry,” Benjamin said.¶ Drones represent big money

for manufacturers and local communities promised thousands of manufacturing jobs.¶ A recent study by the Teal Group, an aviation and defense consulting firm, estimated that global spending on unmanned aircraft will almost double over the next decade, from $5.9 billion annually to $11.3 billion. Most of that growth will be in the United States.¶ The same study estimated that the drone industry would create 23,000 new jobs in the U.S. by 2025.¶ Political action committees affiliated with drone manufacturers donated a total of $2.3 million to the nearly 60 members of the bipartisan House Unmanned Systems Caucus, according to First Street Research. Seventy-seven percent of these donations went to Republicans.

# 1NR

**Top Level**

#### Effective use of drones key to prevent militant rise in Pakistan – no blowback

Nadim 12

visiting scholar at the Woodrow Wilson Center¶ (Hussain, How Drones Changed the Game in Pakistan, nationalinterest.org/how-drones-changed-the-game-pakistan-7290)

**Regardless of what the news agencies in Pakistan claim about the negative effects of drone strikes, the weapon is proving to be a game changer for the U.S. war on terrorism**. And surprisingly, the Pakistani Army quietly admits to this fact. Just the way Stinger missiles shifted the balance of power in favor of the United States in the 1980s, drones are producing the same results. The **critics** of unmanned strikes, **who claim that drones are contributing to growing radicalization in Pakistan, haven’t looked around enough—or they would realize that much of the radicalization already was established by the Taliban** in the 1990s. The real tragedy is that it is acceptable for the Taliban to radicalize and kill, but it is considered a breach of sovereignty for the United States, in pursuit of those radicalizing Pakistan’s people, to do the same. **There is so much protest over the drones because the media reports about them are biased**. Although people on ground in war zones contend that **the drone strikes have very few civilian casualties** and, with time, have become extremely precise, the media presents quite a different story to boost its ratings. **Many in Pakistan, especially in the army, understand the positive impact of this weapon. Drones are coming in handy for two reasons: their precision and psychological effect**. Many analysts of this subject have been concerned only with the military aspect, such as whether or not drones are precise enough and the casualties they incur. But **part of what works in favor of the United States is the psychological impact—the fear that drones have instilled in the militants. The fact that the United States might strike day or night, inside the militant compound or outside while traveling in the convoys, works to deter militants and restrict their operations**. **This tilts the balance of power in favor of the United States.** Most of the people in **the Pakistani Army** whom I interviewed on the subject **were positive about the drone strikes and their direct correlation with a decrease in terrorist attacks in Pakistan**. The majority focused on the psychological impact of the drones and how **they have put militants on the run**, forcing them to sleep under trees at night, though it must be said that army officials showed some concern about cases in which the same psychological impact is experienced by civilians. Locals I talked to are frustrated over the fear that they might get hit by a drone if the militants are hiding in their neighborhood. But this frustration may have a positive impact as it motivates civilians to flush out and close doors to militants who seek refuge in their areas. Surprisingly, **there isn’t as much anti-Americanism as one would suspect in areas where the United States is conducting drone strikes, largely because the locals are fed up with the influx of militants in their areas and have suffered because of terrorism.** However, urban centers, which have suffered the least from terrorism, are far more radicalized and anti-American. Hence, we see large anti-drone rallies in the cities of Punjab, where people have little first-hand experience with drones. The anti-American lot in these places will start a rally for any reason at all as long as they get to burn a few American flags.

**Retaining the legal option of first resort killing is key to military training---breaking that paradigm collapses operational effectiveness**

**Corn 10**

Geoffrey Corn 10, Professor of Law and Presidential Research Professor, South Texas College of Law, 2010, “Mixing Apples and Hand Grenades: The Logical Limit of Applying Human Rights Norms to Armed Conﬂict,” International Humanitarian Legal Studies 1 (2010) 52–94

Furthermore, while it might be tempting to assume that shifting from one use of force paradigm to another is a simple task, those familiar with the relationship between training and operational eﬀectiveness know this is a highly complex process. As a result, eﬀective training must be mission driven, which means that preparation for armed conﬂict must focus primarily on developing a warrior ethos derived from the armed conﬂict use of force paradigm: deadly force as a measure of ﬁrst resort. 134 Therefore, soldiers are trained to employ deadly force against such targets, irrespective of the conduct they encounter. Furthermore, based on the relative clarity provided by the rule of military objective pursuant to which operational opponents are subject to attack with maximum lethality and all other individuals are the object of protection, it is the minimization of the harmful eﬀects of lawful targeting of military objectives that is the focus or proportionality analysis.

**Specifically, special forces conduct first-resort targeted killings outside of armed conflict zones**

**Bachmann 13**

Sascha-Dominik Bachmann 13, Reader in International Law (University of Lincoln), 2013, “Targeted Killings: Contemporary Challenges, Risks and Opportunities,” Journal of Conflict and Security Law, doi: 10.1093/jcsl/krt007

Targeted killing has also been used by the USA in theatres of actual combat operations, such as Afghanistan and Iraq, as well as outside these theatres of war and as part of CIA and US military run covert operations in Pakistan. The USA is using drone strikes and Special Forces there to conduct pre-emptive as well as defensive targeted killing operations against Al-Qaeda and the Taliban. The argument is brought forward that such operations are necessary to protect US forces and its allies in Afghanistan and to disrupt the existent terrorist infrastructure. The focus of such operations is on the so-called ‘Tribal Areas’ of Pakistan, Waziristan, where the Taliban have effectively established an autonomous sphere of influence to the exclusion of the central government in Peshawar.32 Other such covert operations have seen CIA operated drone strikes in Yemen, Somalia as well Sudan, where a lack of cooperation and/or relative capabilities of the respective governments have created areas which are outside effective state control.33

**Special forces readiness is key to counter-prolif---solves nuclear war**

**Thomas 13**

Jim Thomas 13, Vice President and Director of Studies at the Center for Strategic and Budgetary Assessments, and Chris Dougherty is a Research Fellow at the Center for Strategic and Budgetary Assessments, 2013, “BEYOND THE RAMPARTS THE FUTURE OF U.S. SPECIAL OPERATIONS FORCES,” <http://www.csbaonline.org/wp-content/uploads/2013/05/SOF-Report-CSBA-Final.pdf>

WMD do not represent new threats to U.S. security interests, but as nascent nuclear powers grow their arsenals and aspirants like Iran continue to pursue nuclear capabilities, the threat of nuclear proliferation, as well as the potential for the actual use of nuclear weapons, will increase. Upheaval in failing or outlaw states like Libya and Syria, which possess chemical weapons and a range of missiles, highlights the possibility that in future instances of state collapse or civil war, such weapons could be used by failing regimes in an act of desperation, fall into the hands of rebel forces, or be seized by parties hostile to the United States or its interests. SOF can contribute across the spectrum of counter-WMD efforts, from stopping the acquisition of WMD by hostile states or terrorist groups to preventing their use. The global CT network SOF have built over the last decade could be repurposed over the next decade to become a global counter-WMD network, applying the same logic that it takes a network to defeat a network. Increasing the reach and density of a global counter-WMD network will require expanding security cooperation activities focused on counter-proliferation. Finally, SOF may offer the most viable strategic option for deposing WMD-armed regimes through UW campaigns should the need arise.

**Targeting low-level militants is key to all aspects of counter-terror---in-depth network analysis means the people we target don’t seem important to observers, but they’re actually vital to the effectiveness of terror groups**

**McNeal 13**

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>

This becomes obvious when one considers that national security bureaucrats will look beyond criticality and vulnerability, and also engage in network-based analysis. Network-based analysis looks at terrorist groups as nodes connected by links, and assesses how components of that terrorist network operate together and independently of one another.143 Contrary to popular critiques of the targeting process that liken it to a “haphazardly prosecuted assassination program,” in reality modern targeting involves applying pressure to various nodes and links within networks to disrupt and degrade their functionality.144¶ To effectively pursue a network-based approach, bureaucrats rely in part on what is known as “pattern of life analysis” which involves “connecting the relationships between places and people by tracking their patterns of life.” This analysis draws on the interrelationships among groups “to determine the degree and points of their interdependence,” it assesses how activities are linked and looks to “determine the most effective way to influence or affect the enemy system.”145 While the enemy moves from point to point, reconnaissance or surveillance tracks and notes every location and person visited. Connections between the target, the sites they visit, and the persons they interact with are documented, built into a network diagram, and further analyzed.146 Through this process links and nodes in the enemy's network emerge.147 The analysis charts the “social, economic and political networks that underpin and support clandestine networks,”148 identifying key decision-makers and those who support or influence them indirectly.149 This may mean that analysts will track logistics and money trails, they may identify key facilitators and non-leadership persons of interests, and they will exploit human and signals intelligence combined with computerized knowledge integration that generates and cross-references thousands of data points to construct a comprehensive picture of the enemy network.150 “This analysis has the effect of taking a shadowy foe and revealing his physical infrastructure . . . as a result, the network becomes more visible and vulnerable, thus negating the enemy’s asymmetric advantage of denying a target.”151¶ Viewing targeting in this way demonstrates how seemingly low-level individuals such as couriers and other “middle-men” in decentralized networks such as al Qaeda are oftentimes critical to the successful functioning of the enemy organization.152 Targeting these individuals can “destabilize clandestine networks by compromising large sections of the organization, distancing operatives from direct guidance, and impeding organizational communication and function.”153 Moreover, because clandestine networks rely on social relationships to manage the trade-off between maintaining secrecy and security, attacking key nodes can have a detrimental impact on the enemy’s ability to conduct their operations.154 Thus, while some individuals may seem insignificant to the outside observer, when considered by a bureaucrat relying on network based analytical techniques, the elimination of a seemingly low level individual might have an important impact on an enemy organization. Moreover, because terrorist networks rely on secrecy in communication, individuals within those networks may forge strong ties that remain dormant for the purposes of operational security.155 This means that social ties that appear inactive or weak to a casual observer such as an NGO, human rights worker, journalist, or even a target’s family members may in fact be strong ties within the network.156 Furthermore, because terrorist networks oftentimes rely on social connections between charismatic leaders to function, disrupting those lines of communication can significantly impact those networks.157

**Targeting low-level operatives is key to the entire war on terror---just because their authors don’t understand why, that doesn’t mean they’re right**

**McNeal 13**

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>

While al Qaeda has relied heavily on social hierarchy and key individuals to inspire action at lower levels,158 it can best be understood as a decentralized social network. Such social networks have hubs and nodes that can be targeted with strikes aimed at pressuring the network to harass it, leveraging the deaths of middle-men to disable it, and desynchronizing the network by targeting decision-makers and figureheads to alienate operatives and leaders.159 Of course networks are notably resistant to the loss of any one node, therefore the focus of targeting is to identify the critical person whose removal will cause the most damage to the network, and to remove sufficient critical nodes simultaneously, such that the network cannot reroute linkages.160 For example, Osama Bin Laden's courier, Abu Ahmed al-Kuwaiti, was Bin Laden's sole means of communicating with the rest of al Qaeda. By tracking al-Kuwaiti, analysts could determine the links and nodes in Bin Laden’s network. Moreover, if the government chose to kill al-Kuwaiti, a mere courier, it would have prevented Bin Laden from leading his organization (desynchronizing the network) until Bin Laden could find a trustworthy replacement. Finding such a replacement would be a difficult task considering that al Kuwaiti lived with Bin Laden, and was his trusted courier for years.161 Similarly the example of the U.S. experience in Iraq is instructive:¶ Al-Qaeda in Iraq task organized itself across a range of operational and support specialties that required the services of “facilitators, financiers, computer specialists, or bomb makers.” Attacking these leverage points enabled [attackers] to attempt to destroy the clandestine network's functionality; to damage the network “so badly that it cannot perform any function or be restored to a usable condition without being entirely rebuilt.” This deprofessionalized the network and imposed additional recruitment and training costs that further diminished operational capacity.162¶ As these examples demonstrate, sometimes targeting even low-level operatives can make a contribution to the U.S. war effort against al Qaeda and associated forces. Of course, there are legal consequences associated with this dispersal of al Qaeda and associated forces into a network, and to the manner in which the U.S. government determines if individuals are sufficiently tied to groups with whom the U.S. sees itself at war. Perhaps one of the biggest challenges is that to an external observer, it is not clear what criteria apply to identify an individual or a group as an associated force.163 As one NGO critic has stated, “It's difficult to see how any killings carried out in 2012 can be justified as in response to [the attacks that took place] in 2001. Some states seem to want to invent new laws to justify new practices.”164 However, just because it’s difficult for a worker at an NGO to see the relationship, it does not mean that the relationship does not exist. Nevertheless, the legal challenges have not been lost on the Obama administration, as Daniel Klaidman noted:¶ [President Obama] understood that in the shadow wars, far from conventional battlefields, the United States was operating further out on the margins of the law. Ten years after 9/11, the military was taking the fight to terrorist groups that didn't exist when Congress granted George Bush authority to go to war against al- Qaeda and the Taliban. Complicated questions about which groups and individuals were covered . . . were left to the lawyers. Their finely grained distinctions and hair-splitting legal arguments could mean the difference between who would be killed and who would be spared.165¶ Accountability for these “finely grained” legal distinctions is bound up in bureaucratic analysis that is not readily susceptible to external review. It relies on thousands of data points, spread across geographic regions and social relationships making it inherently complex and opaque. Accordingly, the propriety of adding an individual to a kill-list will be bound up in the analyst’s assessment of these targeting factors, and the reliability of the intelligence information underlying the assessment. How well that information is documented, how closely that information is scrutinized, and by whom, will be a key factor in any assessment of whether targeted killings are accountable.

### Case

#### No risk of war- militaries wont launch strikes even during times of tension

Louden 08 [Bruce, The Australian's South Asia correspondent. http://www.theaustralian.news.com.au/story/0,25197,24746635-25837,00.html]

THE doomsayers' published assessments tell the grim story: upwards of 12 million people killed on the first day of a nuclear exchange, more than 150 million dead in a longer nuclear conflict. Devastation and destruction on a scale that is almost unimaginable. A catastrophe that would vastly transcend that seen at Hiroshima and Nagasaki at the end of World War II. That is why, as India and Pakistan muscle up to each other after the Mumbai massacre and leaders from across the world hurry to counsel cool heads and caution in New Delhi and Islamabad, the unspoken fear everywhere is that the two South Asian neighbours could be pushed into the unthinkable: their fourth war, and one in which they would mobilise their nuclear arsenals. It is, it must be said, an unlikely prospect. No one in either capital -- even among the hotheads -- is thinking in those terms. Experienced strategic analysts rule it out. "Don't even think about it. It ain't going to happen," one says. But as the crisis over terrorism across South Asia deepens and jihadist groups linked to al-Qa'ida launch devastating attacks such as the one in Mumbai last week -- attacks designed to exacerbate tensions between India and Pakistan -- there is, in the view of most analysts, always the potential for events to tumble out of control and lead to a doomsday nuclear conflagration, with enormous loss of life. "South Asia's a nuclear tinderbox," a leading military analyst in New Delhi tells The Australian. "Yes, of course, I'd just about rule it out in the context of the face-off following the Mumbai attack. "But it's always there, always nagging at the edges of the constant tensions in the subcontinent. And there's no doubt that Osama (bin Laden) is doing his bit to stir the pot and do what he can to increase those tensions, since conflict between India and Pakistan serves the jihadist cause." Yesterday, US military officials in Washington, DC, closely monitoring the situation described the military temperature between the two neighbours as "pretty low right now", adding that although Pakistan has moved some aircraft and air defence units closer to the Indian border since the Mumbai attack, "on the nuclear side there is nothing". Which is hardly surprising, for the political will in both sides, despite the muscle-flexing, is overwhelmingly against resort to their nuclear arsenals. India, since it demonstrated its nuclear capability in 1998, has maintained a firm no-first-strike policy and a few days ago Pakistan's President Asif Ali Zardari turned longstanding Pakistani policy on its head (some believe to the annoyance of the country's powerful generals) by articulating a similar stance. On both sides there is a mood of extreme caution on the subject of any possible use of nuclear weapons, matched only by the intense secrecy that surrounds their arsenals.