### Advantage 1- WOT

**The US is losing it – the proliferation of extra-AUMF Al Qaeda affiliates are overwhelming US counterterrorism efforts**

Kagan, 7/18

[Frederick W., Christopher DeMuth Chair and Director, Critical Threats Project, American Enterprise Institute, “The Continued Expansion of Al Qaeda Affiliates and their Capabilities”, Statement before the House Committee on Foreign Affairs Subcommittee on Terrorism, Nonproliferation, and Trade On “Global al-Qaeda: Affiliates, Objectives, and Future Challenges”, 2013, <http://www.criticalthreats.org/al-qaeda/kagan-continued-expansion-al-qaeda-affiliates-capabilities-july-18-2013>, BJM]

**The war against al Qaeda is not going well**. Afghanistan has seen the most success, since Coalition and Afghan National Security Forces (ANSF) have been able to prevent al Qaeda from re-establishing effective sanctuary in the places from which the 9/11 attacks were planned and launched. The killing of Osama bin Laden has not been followed-up in Pakistan with disruption to the leadership group there on the scale of operations that preceded the Abbottabad raid. Al Qaeda affiliates in Iraq, Syria, Yemen, and West Africa have dramatically expanded their operating areas and capabilities since 2009 and appear poised to continue that expansion. Progress against al Shabaab, the al Qaeda affiliate in Somalia, is **extremely fragile and shows signs of beginning to unravel**. New groups with al Qaeda leanings, although not affiliations, are emerging in Egypt, and old groups that had not previously been affiliated with al Qaeda, such as Boko Haram in Nigeria, appear to be moving closer to it. Current trends point to continued expansion of al Qaeda affiliates and their capabilities, and it is difficult to see how current or proposed American and international policies are likely to contain that expansion, let alone reduce it to 2009 levels or below. Americans must seriously consider the possibility that **we are**, in fact, **starting to lose the war against al Qaeda**. The policy debate about al Qaeda has been bedeviled by competing definitions of the group and, consequently, evaluations of the threat it poses to the United States, as Katherine Zimmerman shows in a major paper that will be forthcoming from the Critical Threats Project at the American Enterprise Institute (AEI) in September. Whereas the Bush Administration saw the group as a global network of cells, the Obama Administration has focused narrowly on the "core group" in Pakistan around bin Laden and, after his death, around his successor, Ayman al Zawahiri. The current administration has also labored to distinguish al Qaeda franchises that have the intent and capability to attack the United States homeland from those that do not, implying (or sometimes stating) that the U.S. should act only against the former while observing the latter to ensure that they do not change course.

**Current AUMF ambiguity is the culprit – it undermines effective counter-terrorism efforts against affiliates**

Chesney et al. ‘13

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The September 2001 AUMF provides for the use of force against the entity ¶ responsible for the 9/11 attacks, as well as those harboring that entity. It ¶ has been clear from the beginning that **the AUMF encompasses al Qaeda and** ¶ **the Afghan Taliban,** respectively. This was the right focus in late 2001, and for a ¶ considerable period thereafter. But for three reasons, **this focus is increasingly** ¶ **mismatched to the threat environment facing the U**nited **S**tates.4¶ **First, the original al Qaeda network has been substantially degraded by** ¶ **the success of the United States and its allies in killing or capturing the network’s** ¶ **leaders and key personnel**. That is not to say that al Qaeda no longer poses a ¶ significant threat to the United States, of course. The information available in the ¶ public record suggests that it does, and thus nothing we say below should be ¶ read to suggest that force is no longer needed to address the threat al Qaeda ¶ poses. Our point is simply that **the original al Qaeda network is no longer the** ¶ **preeminent operational threat to the homeland** that it once was.¶ **Second, the Afghan Taliban are growing increasingly marginal to the AUMF**. As ¶ noted above, **the AUMF extended to the Taliban because of the safe harbor they** ¶ **provided to al Qaeda. That rationale makes far less sense a dozen years later,** ¶ **with the remnants of al Qaeda long-since relocated** to Pakistan’s FATA region. ¶ This issue has gone largely unremarked in the interim because U.S. and coalition ¶ forces all along have been locked in hostilities with the Afghan Taliban, and ¶ thus no **occasion to reassess the AUMF nexus** has ever arisen. Such an occasion ¶ **may** well **loom on the horizon,** however, **as the U**nited **S**tates **draws down** ¶ **in Afghanistan with increasing rapidity**. To be sure, the United States no doubt ¶ will continue to support the Afghan government in its efforts to tamp down ¶ insurgency, and it also will likely continue to mount counterterrorism operations ¶ within Afghanistan. It may even be the case that at some future point, the Taliban ¶ will again provide safe harbor to what remains of al Qaeda, thereby at least ¶ arguably reviving their AUMF nexus. But for the time being, **the days of direct** ¶ **combat engagement with the Afghan Taliban appear to be numbered.**¶ If the decline of the original al Qaeda network and the decline of U.S. interest in ¶ the Afghan Taliban were the only considerations, one might applaud rather ¶ than fret over the declining relevance of the AUMF. **There is**, however, a **third** ¶ **consideration: significant new threats are emerging, ones that are not easily** ¶ **shoehorned into the current AUMF framework.** ¶To a considerable extent, **the new threats stem from the fragmentation of** ¶ **al Qaeda** itself. In this sense, the problem with the original AUMF is not so much ¶ that its primary focus is on al Qaeda, but rather that **it is increasingly difficult to** ¶ **determine with clarity which groups and individuals in al Qaeda’s orbit are** ¶ **sufficiently tied to the core so as to fall within the AUMF**. And given the gravity ¶ of the threat that some of these groups and individuals may pose on an ¶ independent basis, **it also is increasingly odd to premise the legal framework** ¶ **for using force against them on a chain of reasoning that requires a detour** ¶ **through the original, core al Qaeda organization.**¶The fragmentation process has several elements. First, **entities that** at ¶ least arguably **originated as** mere regional cells **of the core network have** ¶ **established a substantial degree of organizational and operational** ¶ **independence,** even while maintaining some degree of correspondence ¶ with al Qaeda’s leaders. Al Qaeda in the Arabian Peninsula **is a good example**. ¶ Al Qaeda in Iraq arguably fits this description as well, though in that case ¶ one might point to a substantial degree of strategic independence as well. ¶ Second, **entities that originated as independent, indigenous organizations** ¶ **have** to varying degrees **established formal ties to al Qaeda**, often rebranding ¶ themselves in the process. A**l** Qaeda in the Islamic Maghreb, formerly known ¶ as the Salafist Group for Call and Combat, **illustrates this path**. **Al Shabaab** ¶ in Somalia arguably **does as well**. **And then there are circumstances (such** ¶ **as the ones currently unfolding in Mali, Libya, and Syria) in which it is** ¶ **not entirely clear where the organizational lines lie** among (i) armed ¶ groups that work in concert with or even at the direction of one of the ¶ aforementioned al Qaeda affiliates; (ii) armed groups that are sympathetic ¶ and in communication with al Qaeda; and (iii) armed groups that are ¶ wholly independent of al Qaeda yet also stem from the same larger milieu ¶ of Salafist extremists.¶ **This situation**—which one of us has described as the emergence of “extraAUMF” threats—**poses a significant problem insofar as counterterrorism policy** ¶ **rests on the AUMF for its legal justification**. In some circumstances it remains ¶ easy to make the case for a nexus to the original al Qaeda network and hence to ¶ the AUMF. But **in a growing number of circumstances, drawing the requisite** ¶ **connection to the AUMF requires an increasingly complex daisy chain of** ¶ **associations—a task that is likely to be very difficult** (and hence subject to ¶ debate) **in some cases, and downright impossible in others**. The emergence of this problem should come as no surprise. **It has been nearly** ¶ **a dozen years since the AUMF’s passage, and circumstances have evolved** ¶ **considerably since then. It was inevitable that threats would emerge that might** ¶ **not fit easily or at all within its scope.** The question is whether Congress should ¶ do anything about this situation, and if so precisely what.

**Our internal link is reverse causal- Clarifying “associated forces” is neccessary for winning the war on terror**

Zimmer ‘13

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The **failure to define al Qaeda properly has confused American policy and strategy.** The enemy was not ¶ just the man shot dead on May 2, 2011, in Abbottabad, Pakistan, nor is it the 1.5 billion Muslims for ¶ whom Osama bin Laden claimed to speak. ¶ The United States should have sought to answer key ¶ questions about the state of al Qaeda after bin Laden’s ¶ death and the succession of Ayman al Zawahiri. What is ¶ al Qaeda? Is it only the group directly headed by Zawahiri? Or is it more expansive? How is al Qaeda operating ¶ today? How do the groups within the al Qaeda network ¶ relate to each other and to the core? Answers to these ¶ questions are necessary to inform the crafting of a successful strategy to counter the real al Qaeda.¶ The year of Osama bin Laden’s death is the year that ¶ the overall al Qaeda network became stronger. **The al** ¶ **Qaeda network benefited significantly from the breakdown in governance across the** M**iddle** E**ast and** N**orth** ¶A**frica**. **Affiliates such as** al Qaeda in the Arabian Peninsula (**AQAP**), al Qaeda in Iraq **(AQI**), and al Qaeda in ¶ the Islamic Maghreb (**AQIM) all** **expanded their area of** ¶ **operations and exploited openings caused by the Arab** ¶ **Spring’s unrest.** Zawahiri, al Qaeda’s new emir, named ¶ two new affiliates: al Shabaab in Somalia, which had ¶ a robust, though covert, relationship with al Qaeda, ¶ and Jabhat al Nusra in Syria, established with the assistance of AQI. **American strategy remained focused on** ¶ **degrading the capabilities of the core group in Pakistan** ¶ **even as the al Qaeda network expanded**.¶ **The al Qaeda network is adaptive, complex, and resilient.** Today, it has a formal organizational structure, with ¶ the core group at its head providing overall direction. ¶ Informal relationships and human networks, one of the ¶ most important of whi’’ch was formed around bin Laden ¶ in the 1980s and 1990s, create an underlying latticed ¶ structure that bridges the formal structure of the network.¶ But **even as the network becomes increasingly** ¶ **decentralized, the core group continues to direct the al** ¶ **Qaeda network.** AQAP, the affiliate most likely to have ¶ assumed control over the al Qaeda network, has deferred ¶ to the core group, and its emir may have even accepted ¶ a formal position as Zawahiri’s deputy. The decentralization of the al Qaeda network has not made it weaker. ¶ On the contrary, **affiliate-to-affiliate relationships may have increased the overall network’s resiliency.** **These** ¶ **relationships may also ensure al Qaeda’s survival even if the core group is defeated completely.**¶ **Al Qaeda affiliates have evolved and now threaten** ¶ **the United States** as much as (if not **more** **than**) **the** ¶ **core group;** they can no longer be dismissed as mere ¶ local al Qaeda franchises. The affiliates have also developed relationships with local militant Islamist groups, ¶ similar to the relationships between al Qaeda core and ¶ Pakistan-based associates, and they have supported the ¶ establishment of like-minded local groups, as the al ¶ Qaeda core did in the 1990s. ¶ Associated groups support the efforts of the core ¶ group and the affiliates and may themselves threaten ¶ American personnel or interests. Public recognition of a ¶ group’s relationship with the network should not be the ¶ sole criterion upon which U.S. policy is based because ¶ al Qaeda senior leadership advocates plausible deniability as to its relationship with various associates to avoid ¶ provoking an American or international reaction to the ¶ group. The al Qaeda–associated Tehrik-e-Taliban Pakistan facilitated the May 2010 Times Square bombing, ¶ for example. **Policies designed to degrade, neutralize,** ¶ **and disrupt the activities of key associates are essential** ¶ **to a sound strategy to defeat al Qaeda.**¶ **The reality is that despite more than a decade of** ¶ **direct and indirect warfare against the group, al Qaeda** ¶ **continues to be a threat to the United States and its** ¶ **interes**ts. The closure of more than 20 diplomatic posts ¶ across the Middle East and North Africa on August 4, ¶ 2013, underscores the group’s continued virulence ¶ and reach. AQAP, the affiliate from which that threat ¶ allegedly emanated, has spearheaded efforts to target ¶ the United States using innovative tactics. Its rise in ¶ the network was predictable in retrospect, yet America’s ¶ strategy did not adjust to effectively counter it. ¶ **Understanding precisely which groups contribute to** ¶ **the al Qaeda network and how they operate within that** ¶ **network will better enable American policymakers and** ¶ **decision makers to develop a comprehensive strategy to** ¶ **defeat al Qaeda. Absent that understanding, the United** ¶ **States will continue to engage in a tactical battle that** ¶ **promises only occasional battleground victories, but no** ¶ **real prospect of winning the war.**

**Now is key- the US must pivot to address the threat from al Qaeda affiliates - Congressional action is critical because it provides public legitimacy and marshals international counterterror cooperation**

Wainstein ‘13

[STATEMENT OF ¶ KENNETH L. WAINSTEIN, PARTNER ¶ CADWALADER, WICKERSHAM & TAFT LLP ¶ BEFORE THE ¶ COMMITTEE ON FOREIGN RELATIONS ¶ UNITED STATES SENATE ¶ CONCERNING ¶ COUNTERTERRORISM POLICIES AND PRIORITIES: ¶ ADDRESSING THE EVOLVING THREAT ¶ PRESENTED ON ¶ MARCH 20, 2013. <http://www.foreign.senate.gov/imo/media/doc/Wainstein_Testimony.pdf> ETB]

It has recently become clear, however, that **the Al Qaeda threat that occupied our** ¶ **attention after 9/11 is no longer the threat that we will need to defend against** in the future. Due ¶ largely to the effectiveness of our counterterrorism efforts, **the centralized leadership** that had ¶ directed Al Qaeda operations from its sanctuary in Afghanistan and Pakistan -- known as “Al ¶ Qaeda Core” -- **is** **now just a shadow of what it once was.** While still somewhat relevant as an ¶ inspirational force, Zawahiri and his surviving lieutenants are reeling from our aerial strikes and ¶ no longer have the operational stability to manage an effective global terrorism campaign. **The** ¶ **result has been a migration of operational authority and control from Al Qaeda Core to its** ¶ **affiliates in other regions of the world, such as Al Qaeda in the Arabian Peninsula, Al Qaeda in** ¶ **Iraq and Al Qaeda in the Islamic Maghreb.** ¶As Andy Liepman of the RAND Corporation cogently explained in a recent article, this ¶ development is subject to two different interpretations. While some commentators diagnose Al ¶ Qaeda as being in its final death throes, **others see this franchising process as evidence that Al** ¶ **Qaeda is “coming back with a vengeance as the new jihadi hydra.”** As is often the case, the truth ¶ likely falls somewhere between these polar prognostications. **Al Qaeda Core is surely weakened,** ¶ **but its nodes around the world have picked up the terrorist mantle and continue to pose a threat** ¶ **to America and its allies** -- as tragically evidenced by the recent violent takeover of the gas ¶ facility in Algeria and the American deaths at the U.S. Mission in Benghazi last September. This ¶ threat has been compounded by a number of other variables, including the opportunities created ¶ for Al Qaeda by the events following the Arab Spring; the ongoing threat posed by Hizballah, its ¶ confederates in Iran and other terrorist groups; and the growing incidence over the past few years ¶ of home-grown violent extremism within the United States, such as the unsuccessful plots ¶ targeting Times Square and the New York subway. ¶ **We are now at a pivot point where we need to reevaluate the means and objectives of our** ¶ **counterterrorism program in light of the evolving threat**. The Executive Branch is currently ¶ engaged in that process and has undertaken a number of policy shifts to reflect the altered threat ¶ landscape. First, it is working to develop stronger cooperative relationships with governments in ¶ countries like Yemen where the Al Qaeda franchises are operating. Second, they are ¶ coordinating with other foreign partners -- like the French in Mali and the African Union ¶ Mission in Somalia -- who are actively working to suppress these new movements. Finally, they ¶ are building infrastructure -- like the reported construction of a drone base in Niger -- that will ¶ facilitate counterterrorism operations in the regions where these franchises operate.¶ **While it is important that the Administration is undergoing** this **strategic reevaluation, it** ¶ **is also important that Congress participate in that process**. Over the past twelve years, **Congress** ¶ **has made significant contributions to** the post-9/11 reorientation of our **counterterrorism** ¶ program. First, it **has been instrumental in strengthening our counterterrorism capabilities**. From ¶ the Authorization for Use of Military Force passed within days of 9/11 to the Patriot Act and its ¶ reauthorization to the critical 2008 amendments to the Foreign Intelligence Surveillance Act, ¶ **Congress has repeatedly answered the government’s call for strong but measured authorities to** ¶ **fight the terrorist adversary.** ¶Second, Congressional action has gone a long way toward institutionalizing measures ¶ that were hastily adopted after 9/11 and creating a lasting framework for what will be a “long ¶ war” against international terrorism. Some argue against such legislative permanence, citing the ¶ hope that today’s terrorists will go the way of the radical terrorists of the 1970’s and largely fade ¶ from the scene over time. That, I’m afraid, is a pipe dream. The reality is that international ¶ terrorism will remain a potent force for years and possibly generations to come. Recognizing ¶ this reality, both Presidents Bush and Obama have made a concerted effort to look beyond the ¶ threats of the day and to focus on regularizing and institutionalizing our counterterrorism ¶ measures for the future -- as most recently evidenced by the Administration’s effort to develop ¶ lasting procedures and rules of engagement for the use of drone strikes. ¶ Finally, **Congressional action has provided one other very important element to our** ¶ **counterterrorism initiatives -- a measure of political legitimacy that could never be achieved** ¶ **through unilateral executive action.** At several important junctures since 9/11**, Congress has** ¶ **undertaken to carefully consider and pass legislation in sensitive areas of executive action**, such ¶ as the legislation authorizing and governing the Military Commissions and the amendments to ¶ our Foreign Intelligence Surveillance Act**. On each such occasion, Congress’ action had the ¶ effect of calming public concerns and providing a level of political legitimacy to the Executive** ¶ **Branch’s counterterrorism efforts. That legitimizing effect** -- and its continuation through ¶ meaningful oversight -- **is critical to maintaining the public’s confidence in the means and methods our government uses in its fight against international terrorism. It also provides assurance to our foreign partners and thereby encourages them to engage in the operational cooperation that is so critical to the success of our combined efforts against international terrorism.**

**Turning the tide is critical – al-Qaeda affiliates pose a high risk of nuclear and biological terrorism**

Allison 12

[Graham,IR Director @ Harvard, Director, Belfer Center for Science and International Affairs; Douglas Dillon Professor of Government, Harvard Kennedy School, "Living in the Era of Megaterror", Sept 7, <http://belfercenter.ksg.harvard.edu/publication/22302/living_in_the_era_of_megaterror.html>. BJM]

Forty years ago this week at the Munich Olympics of 1972, Palestinian terrorists conducted one of the most dramatic terrorist attacks of the 20th century. The kidnapping and massacre of 11 Israeli athletes attracted days of around-the-clock global news coverage of Black September’s anti-Israel message. Three decades later, on 9/11, Al Qaeda killed nearly 3,000 individuals at the World Trade Center and the Pentagon, announcing a new era of megaterror. In an act that killed more people than Japan’s attack on Pearl Harbor, a band of terrorists headquartered in ungoverned Afghanistan demonstrated that individuals and small groups can kill on a scale previously the exclusive preserve of states. Today, how many people can a small group of terrorists kill in a single blow? Had Bruce Ivins, the U.S. government microbiologist responsible for the 2001 anthrax attacks, distributed his deadly agent with sprayers he could have purchased off the shelf, tens of thousands of Americans would have died. Had the 2001 “Dragonfire” report that Al Qaeda had a small nuclear weapon (from the former Soviet arsenal) in New York City proved correct, and not a false alarm, detonation of that bomb in Times Square could have incinerated a half million Americans. In this electoral season, President Obama is claiming credit, rightly, for actions he and U.S. Special Forces took in killing Osama bin Laden. Similarly, at last week’s Republican convention in Tampa, Jeb Bush praised his brother for making the United States safer after 9/11. There can be no doubt that the thousands of actions taken at federal, state and local levels have made people safer from terrorist attacks. Many are therefore attracted to the chorus of officials and experts claiming that the “strategic defeat” of Al Qaeda means the end of this chapter of history. But we should remember a deeper and more profound truth. While applauding actions that have made us safer from future terrorist attacks, we must recognize that they **have not reversed an inescapable reality**: The relentless advance of science and technology is making it possible for smaller and **smaller groups to kill larger and larger numbers of people**. If a Qaeda affiliate, or some terrorist group in Pakistan whose name readers have never heard, acquires highly enriched uranium or plutonium made by a state, they can construct an elementary nuclear bomb capable of killing hundreds of thousands of people. At biotech labs across the United States and around the world, research scientists making medicines that advance human well-being are also capable of making pathogens, like anthrax, that can produce massive casualties. What to do? Sherlock Holmes examined crime scenes using a method he called M.M.O.: motive, means and opportunity. In a society where citizens gather in unprotected movie theaters, churches, shopping centers and stadiums, opportunities for attack abound. Free societies are inherently “target rich.” Motive to commit such atrocities poses a more difficult challenge. In all societies, a percentage of the population will be homicidal. No one can examine the mounting number of cases of mass murder in schools, movie theaters and elsewhere without worrying about a society’s mental health. Additionally, actions we take abroad unquestionably impact others’ motivation to attack us. As Faisal Shahzad, the 2010 would-be “Times Square bomber,” testified at his trial: “Until the hour the U.S. ... stops the occupation of Muslim lands, and stops killing the Muslims ... we will be attacking U.S., and I plead guilty to that.” Fortunately, it is more difficult for a terrorist to acquire the “means” to cause mass casualties. Producing highly enriched uranium or plutonium requires expensive industrial-scale investments that only states will make. If all fissile material can be secured to a gold standard beyond the reach of thieves or terrorists, aspirations to become the world’s first nuclear terrorist can be thwarted. Capabilities for producing bioterrorist agents are not so easily secured or policed. While more has been done, and much more could be done to further raise the technological barrier, as knowledge advances and technological capabilities to make pathogens become more accessible, the means for bioterrorism will come within the reach of terrorists. One of the hardest truths about modern life is that the same advances in science and technology that enrich our lives also empower potential killers to achieve their deadliest ambitions. To imagine that we can escape this reality and return to a world in which we are invulnerable to future 9/11s or worse is an illusion. For as far as the eye can see, **we will live in an era of megaterror.**

**Risk of nuclear terrorism is real and high now**

Bunn, et al, 10/2/13

[ Bunn, Matthew, Valentin Kuznetsov, Martin B. Malin, Yuri Morozov, Simon Saradzhyan, William H. Tobey, Viktor I. Yesin, and Pavel S. Zolotarev. "Steps to Prevent Nuclear Terrorism." Paper, Belfer Center for Science and International Affairs, Harvard Kennedy School, October 2, 2013, Matthew Bunn. Professor of the Practice of Public Policy at Harvard Kennedy School andCo-Principal Investigator of Project on Managing the Atom at Harvard University’s Belfer Center for Science and International Affairs. • Vice Admiral Valentin Kuznetsov (retired Russian Navy). Senior research fellow at the Institute for U.S. and Canadian Studies of the Russian Academy of Sciences, Senior Military Representative of the Russian Ministry of Defense to NATO from 2002 to 2008. • Martin Malin. Executive Director of the Project on Managing the Atom at the Belfer Center for Science and International Affairs. • Colonel Yuri Morozov (retired Russian Armed Forces). Professor of the Russian Academy of Military Sciences and senior research fellow at the Institute for U.S. and Canadian Studies of the Russian Academy of Sciences, chief of department at the Center for Military-Strategic Studies at the General Staff of the Russian Armed Forces from 1995 to 2000. • Simon Saradzhyan. Fellow at Harvard University’s Belfer Center for Science and International Affairs, Moscow-based defense and security expert and writer from 1993 to 2008. • William Tobey. Senior fellow at Harvard University’s Belfer Center for Science and International Affairs and director of the U.S.-Russia Initiative to Prevent Nuclear Terrorism, deputy administrator for Defense Nuclear Nonproliferation at the U.S. National Nuclear Security Administration from 2006 to 2009. • Colonel General Viktor Yesin (retired Russian Armed Forces). Leading research fellow at the Institute for U.S. and Canadian Studies of the Russian Academy of Sciences and advisor to commander of the Strategic Missile Forces of Russia, chief of staff of the Strategic Missile Forces from 1994 to 1996. • Major General Pavel Zolotarev (retired Russian Armed Forces). Deputy director of the Institute for U.S. and Canadian Studies of the Russian Academy of Sciences, head of the Information and Analysis Center of the Russian Ministry of Defense from1993 to 1997, section head - deputy chief of staff of the Defense Council of Russia from 1997 to 1998.<http://belfercenter.ksg.harvard.edu/publication/23430/steps_to_prevent_nuclear_terrorism.html>]

I. Introduction **In 2011, Harvard’s Belfer Center** for Science and International Affairs **and the Russian Academy** **of Sciences’** Institute for U.S. and Canadian Studies **published “The** U.S. – Russia **Joint Threat** **Assessment** on Nuclear Terrorism.” **The assessment analyzed the means**, **motives, and access of would-be nuclear terrorists**, **and concluded that the threat of nuclear terrorism is urgent and real**. **The Washington and Seoul Nuclear Security Summits in 2010 and 2012 established and demonstrated** a **consensus** **among political leaders from around the world that nuclear terrorism poses** **a serious threat to the peace**, security, and prosperity of **our planet**. **For any country, a terrorist** **attack** **with a nuclear device would be an immediate and catastrophic disaster**, **and** the negative effects **would reverberate around the world far beyond the location and moment of the detonation. Preventing a** **nuclear terrorist attack requires** international **cooperation** to secure nuclear materials, especially among those states producing nuclear materials and weapons. As the world’s two greatest nuclear powers, the United States and Russia have the greatest experience and capabilities in securing nuclear materials and plants and, therefore, share a special responsibility to lead international efforts to prevent terrorists from seizing such materials and plants. The depth of convergence between U.S. and Russian vital national interests on the issue of nuclear security is best illustrated by the fact that bilateral cooperation on this issue has continued uninterrupted for more than two decades, even when relations between the two countries occasionally became frosty, as in the aftermath of the August 2008 war in Georgia. Russia and the United States have strong incentives to forge a close and trusting partnership to prevent nuclear terrorism and have made enormous progress in securing fissile material both at home and in partnership with other countries. However, to meet the evolving threat posed by those individuals intent upon using nuclear weapons for terrorist purposes, the United States and Russia need to deepen and broaden their cooperation. The 2011 “U.S. - Russia Joint Threat Assessment” offered both specific conclusions about the nature of the threat and general observations about how it might be addressed. This report builds on that foundation and analyzes the existing framework for action, cites gaps and deficiencies, and makes specific recommendations for improvement. “The U.S. – Russia Joint Threat Assessment on Nuclear Terrorism” (The 2011 report executive summary): • **Nuclear terrorism is a real and urgent threat**. Urgent actions are required to reduce the risk. **The risk is driven by the rise of terrorists who seek to inflict unlimited damage, many of whom have sought justification for their plans in radical interpretations of Islam;** **by the spread of information about the decades-old technology of nuclear weapons**; **by the increased availability of weapons-usable nuclear materials; and by globalization, which makes it easier to move people, technologies, and materials across the world.** • **Making a crude nuclear bomb** would not be easy, but **is potentially within the capabilities of a technically sophisticated terrorist group**, **as numerous government studies have confirmed**. Detonating a stolen nuclear weapon would likely be difficult for terrorists to accomplish, if the weapon was equipped with modern technical safeguards (such as the electronic locks known as Permissive Action Links, or PALs). **Terrorists could**, however, **cut open a stolen** **nuclear weapon and make use of its nuclear material for a bomb of their own**. • **The nuclear material for a bomb is small and difficult to detect, making it a major challenge to stop nuclear smuggling or to recover nuclear material after it has been stolen**. Hence, a primary focus in reducing the risk must be to keep nuclear material and nuclear weapons from being stolen by continually improving their security, as agreed at the Nuclear Security Summit in Washington in April 2010. • **Al-Qaeda has sought nuclear weapons for almost two decades**. **The group has repeatedly attempted to purchase stolen nuclear material or nuclear weapons, and has repeatedly attempted to recruit nuclear expertise**. **Al-Qaeda reportedly conducted tests of conventional explosives for its nuclear program in the desert in Afghanistan**. The group’s nuclear ambitions continued after its dispersal following the fall of the Taliban regime in Afghanistan. **Recent writings from top al-Qaeda leadership are focused on justifying the mass slaughter of civilians, including the use of weapons of mass destruction, and are in all likelihood intended to provide a formal religious justification for nuclear use.** While there are significant gaps in coverage of the group’s activities, al-Qaeda appears to have been frustrated thus far in acquiring a nuclear capability; it is unclear whether the the group has acquired weapons-usable nuclear material or the expertise needed to make such material into a bomb. Furthermore, pressure from a broad range of counter-terrorist actions probably has reduced the group’s ability to manage large, complex projects, but has not eliminated the danger. However, **there is no sign the group has abandoned its nuclear ambitions.** On the contrary, **leadership statements as recently as 2008 indicate that the intention to acquire and use nuclear weapons is as strong as ever.**

**Multiple sources of access and ability to build gun-type nukes overcomes their defense**

Dvorkin 12

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Hundreds of scientific papers and reports have been published on nuclear terrorism. International conferences have been held on this threat with participation of Russian organizations, including IMEMO and the Institute of U.S. and Canadian Studies. Recommendations on how to combat the threat have been issued by the International Luxembourg Forum on Preventing Nuclear Catastrophe, Pugwash Conferences on Science and World Affairs, Russian-American Elbe Group, and other organizations. The UN General Assembly adopted the International Convention for the Suppression of Acts of Nuclear Terrorism in 2005 and cooperation among intelligence services of leading states in this sphere is devel

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

**Nuclear terrorism causes nuclear escalation due to miscalc –it’s rapid and highly likely**

Morgan 09

(Professor of Foreign Studies at Hankuk University, Dennis Ray, December, “World on fire: two scenarios of the destruction of human civilization and possible extinction of the human race” Futures, Vol 41 Issue 10, p 683-693, ScienceDirect)

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

**Nuclear terror attack collapses global economy**

Brill and Luongo ‘13

(Kenneth C. Brill is a former U.S. ambassador to the I.A.E.A.Kenneth N. Luongo is president of the Partnership for Global Security. Both are members of the Fissile Material Working Group, a nonpartisan nongovernmental organization. “Nuclear Terrorism: A Clear Danger” March 15, 2012 <http://www.nytimes.com/2012/03/16/opinion/nuclear-terrorism-a-clear-danger.html?_r=0>, TSW)

**A terrorist nuclear explosion could kill hundreds of thousands, create billions of dollars in damages and undermine the global economy**. **Former Secretary General** Kofi Annan **of the U**nited **N**ations **said that an act of nuclear terrorism “would thrust tens of millions of people into dire poverty” and create “a second death toll throughout the developing world.”**¶ Surely **after such an event, global leaders would produce a strong global system to ensure nuclear securit**y. There is no reason to wait for a catastrophe to build such a system.¶ **The conventional wisdom is that domestic regulations**, U**.N. Security Council resolutions, G-8 initiatives, I.A.E.A. activities and other voluntary efforts will prevent nuclear terrorism. But existing global arrangements for nuclear security lack uniformity and coherence**. There are no globally agreed standards for effectively securing nuclear material. There is no obligation to follow the voluntary standards that do exist and no institution, not even the I.A.E.A., with a mandate to evaluate nuclear security performance.¶ This patchwork approach provides the appearance of dealing with nuclear security; the reality is there are gaps through which a determined terrorist group could drive one or more nuclear devices.

**Causes global depression**

Haas 6

Richard Haas, President, Council on Foreign Relations, PREVENTING CATASTROPHIC NUCLEAR TERRORISM, March 2006, <http://www.cfr.org/content/publications/attachments/NucTerrCSR.pdf>

**A nuclear attack by terrorists against the United States has the potential to** make the terrorist attacks of September 11, 2001, look like a historical footnote. In addition to the immediate horrific devastation, such an attack could **cost trillions of dollars in damages**, potentially **sparking a global economic depression.** Although, during the 2004 presidential campaign, President George W. Bush and Democratic challenger Senator John F. Kerry agreed that terrorists armed with nuclear weapons worried them more than any other national security threat, the U.S. government has yet to elevate nuclear terrorism prevention to the highest priority. Despite several U.S. and international programs to secure nuclear weapons and the materials to make them, major gaps in policy remain.

**Economic collapse causes nuclear war**

Kemp 10

Geoffrey Kemp, Director of Regional Strategic Programs at The Nixon Center, served in the White House under Ronald Reagan, special assistant to the president for national security affairs and senior director for Near East and South Asian affairs on the National Security Council Staff, Former Director, Middle East Arms Control Project at the Carnegie Endowment for International Peace, 2010, The East Moves West: India, China, and Asia’s Growing Presence in the Middle East, p. 233-4

The second scenario, called Mayhem and Chaos, is the opposite of the first scenario; everything that can go wrong does go wrong. **The world economic situation weakens rather than strengthens, and India, China, and Japan suffer a major reduction in their growth rates**, further weakening the global economy. As a result, **energy demand falls** and the price of fossil fuels plummets, **leading to a financial crisis** for the energy-producing states, which are forced to cut back dramatically on expansion programs and social welfare. That in turn leads to **political unrest: and nurtures different radical groups**, including, but not limited to, Islamic extremists. The **internal stability of some countries is challenged**, and there are more “failed states.” Most serious is the **collapse of the democratic government in Pakistan and its takeover by Muslim extremists, who then take possession of a large number of nuclear weapons. The danger of war between India and Pakistan increases significantly. Iran**, always worried about an extremist Pakistan, expands and **weaponizes its nuclear program. That further enhances nuclear proliferation** in the Middle East, with Saudi Arabia, Turkey, and Egypt joining Israel and Iran as nuclear states. Under these circumstances, the potential for nuclear terrorism increases, and **the possibility of a nuclear terrorist attack** in either the Western world or in the oil-producing states **may lead to a further devastating collapse** of the world economic market, with a tsunami-like impact on stability. In this scenario, **major disruptions can be expected, with dire consequences for two-thirds of the planet’s population.**

**Bioterrosim causes extinction**

Ochs 2

**(**Richard, Naturalist – Grand Teton National park with Masters in Natural Resource Management – Rutgers, “Biological Weapons must be abolished immediately” 6-9, http://www.freefromterror.net/other\_articles/abolish.html)

Of all the weapons of mass destruction, the genetically engineered **biological weapons**, many without a known cure or vaccine, **are an extreme danger to the continued survival of life** on earth. Any perceived **military** value **or deterrence pales in comparison to the great risk these weapons pose just sitting in vials in laboratories.** While a "nuclear winter," resulting from a massive exchange of **nuclear weapons**, could also kill off most of life on earth and severely compromise the health of future generations, they **are easier to control**. **Biological weapons**, on the other hand**, can get out of control very easily**, as the recent anthrax attacks has demonstrated. There is no way to guarantee the security of these doomsday weapons because very tiny amounts can be stolen or accidentally released and then grow or be grown to horrendous proportions. The Black Death of the Middle Ages would be small in comparison to the potential damage bioweapons could cause. Abolition of chemical weapons is less of a priority because, while they can also kill millions of people outright, their persistence in the environment would be less than nuclear or biological agents or more localized. Hence, chemical weapons would have a lesser effect on future generations of innocent people and the natural environment. Like the Holocaust, once a localized chemical extermination is over, it is over. With nuclear and biological weapons, the killing will probably never end. Radioactive elements last tens of thousands of years and will keep causing cancers virtually forever. Potentially worse than that, bio-engineered agents by the hundreds with no known cure could wreck even greater calamity on the human race than could persistent radiation. AIDS and ebola viruses are just a small example of recently emerging plagues with no known cure or vaccine. Can we imagine hundreds of such plagues? **HUMAN EXTINCTION IS NOW POSSIBLE**.

### Advantage 2- Firebreaks

#### The AUMF will inevitably expire in the squo – updating the authorization is key to prevent a limitless War on Terror based on article 2 and self-defense justifications that undermine US legitimacy and erode the global firebreak against use of force

**Barnes ‘12**

[Beau, J.D., Boston University School of Law (expected May 2013); M.A. in Law and ¶ Diplomacy (expected May 2013), The Fletcher School of Law and Diplomacy at Tufts ¶ University; B.A., 2006, Lewis & Clark College. Military law Review vol. 221. <https://www.jagcnet.army.mil/DOCLIBS/MILITARYLAWREVIEW.NSF/0/b7396120928e9d5e85257a700042abb5/$FILE/By%20Beau%20D.%20Barnes.pdf> ETB]

**The AUMF must inevitably expire because it is expressly linked to the September 11,** 2001, **attacks** against the United States. Moreover, **because of the impending downfall of Al Qaeda** as we know it, **the statute's demise will come more quickly than most assume.** Although the United States still faces myriad terrorist threats, **the threat from Al Qaeda itself**--the "core" group actually responsible for 9/11--**is dissipating. So long as a substantial terrorist threat continues, however, the United States will require a framework within which to combat terrorist organizations and activities.** Consequently, **Congress should enact a new statute that supersedes the AUMF and addresses the major legal and constitutional issues relating to the use of force by the President that have arisen since the September 11 attacks and will persist in the foreseeable future.**¶A. The AUMF's Inevitable Expiration¶ Although it is difficult to determine exactly when the AUMF will become obsolete, the mere fact that a precise date is unclear should not lead to the conclusion that the AUMF will be perpetually valid. Al Qaeda, the organization responsible for the September 11, 2001, attacks is considered by some to have been already rendered "operationally ineffective" n102 and "crumpled at its core." n103 Moreover, even if Al Qaeda continues to possess the ability to threaten the United States, n104 not all terrorist organizations currently possess a meaningful link to Al Qaeda, rendering the AUMF already insufficient in certain circumstances. Indeed, individuals from across the political spectrum have recognized that the AUMF's focus on those involved in "the terrorist attacks that occurred on September 11, 2001" is outdated and no longer addresses the breadth of threats facing the United States. n105 At a certain point, the [\*84] terrorist groups that threaten the United States targets will no longer have a plausible or sufficiently direct link to the September 11, 2001, attacks. n106¶ This shift has likely already occurred. Former Attorney General Michael Mukasey, writing recently in support of efforts to reaffirm the original AUMF, noted that currently "there are organizations, including the Pakistani Taliban, that are arguably not within its reach." n107 It is similarly unclear if the AUMF extends to organizations like Al Qaeda in the Arabian Penninsula, whose formation as a group--and connection to Al Qaeda's "core"--postdates 9/11 and is indirect at best. n108 Former State Department Legal Adviser John Bellinger has argued that the Obama Administration's reliance on the AUMF for its targeted killing and detention operations is "legally risky" because "[s]hould our military or intelligence agencies wish to target or detain a terrorist who is not part of al-Qaeda, they would lack the legal authority to do so, unless the [\*85] administration expands (and the federal courts uphold) its legal justification." n109 Indeed, "[c]ircumstances alone . . . will put enormous pressure on--and ultimately render obsolete--the legal framework we currently employ to justify these operations." n110¶ While the court of public opinion seems to have accepted the AUMF's inevitable expiration, courts of law appear poised to accept this argument as well. Justice O'Connor's plurality opinion in Hamdi admitted that the AUMF granted "the authority to detain for the duration of the relevant conflict." n111 She also suggested, however, that that authority would terminate at some point, based on "the practical circumstances of [this] conflict," which may be "entirely unlike those of the conflicts that informed the development of the law of war." n112 Justice Kennedy's opinion in Boumediene also hinted that the future contours of the war on terror might force the Court to revisit the extent of the conflict. n113 Lower federal courts have already started to ask some of the questions about the duration of the AUMF's authority, which the Supreme Court has left unaddressed to date. n114¶ [\*86] The Obama Administration has notably disagreed with these assessments, arguing that the AUMF "is still a viable authorization today." n115 The administration's position, however, appears contradictory, as it has simultaneously described the limited reach of the AUMF as "encompass[ing] only those groups or people with a link to the terrorist attacks on 9/11, or associated forces" n116 and celebrated the functional neutralization of Al Qaeda as a continuing threat to U.S. national security. n117 The administration's position, however, remains in the minority. Notwithstanding the administration's continuing fealty to the 2001 statute, as pressures build to address these issues, the "temporal vitality" n118 of the AUMF will continue to be challenged. The successful targeting of those responsible for the attacks of September 11, 2001, will ensure that the AUMF's vitality will not be indefinite.¶ Moreover, even if one rejects as overly optimistic the position that Al Qaeda is currently or will soon be incapable of threatening the United States, the AUMF is already insufficient to reach many terrorist organizations. Assuming a robust Al Qaeda for the indefinite future does not change the disconnected status of certain terrorist groups; as much as it might wish to the contrary, Al Qaeda does not control all Islamist terrorism. n119¶ B. The Consequences of Failing to Reauthorize¶ The AUMF's inevitable expiration, brought about by the increasingly tenuous link between current U.S. military and covert [\*87] operations and those who perpetrated the September 11 attacks, leaves few good options for the Obama Administration. Unless Congress soon reauthorizes military force in the struggle against international terrorists, the administration will face difficult policy decisions. Congress, however, shows no signs of recognizing the AUMF's limited lifespan or a willingness to meaningfully re-write the statute. In light of this reticence, one choice would be for the Obama Administration to acknowledge the AUMF's limited scope and, on that basis, forego detention operations and targeted killings against non-Al Qaeda-related terrorists. For both strategic and political reasons, this is extremely unlikely, especially with a president in office who has already shown a willingness to defy legal criticism and aggressively target terrorists around the globe. n120 Another option would be for the Executive Branch to acknowledge the absence of legal authority, but continue targeted killings nonetheless. For obvious reasons, this option is problematic and unlikely to occur.¶ Therefore, the more likely result is that the Executive Branch, grappling with the absence of explicit legal authority for a critical policy, would need to make increasingly strained legal arguments to support its actions. n121 Thus, the Obama Administration will soon be forced to rationalize ongoing operations under existing legal authorities, which, I argue below, will have significant harmful consequences for the United States. Indeed, the administration faces a Catch-22--its efforts to destroy Al Qaeda as a functioning organization will lead directly to the vitiation of the AUMF. The administration is "starting with a result and finding the legal and policy justifications for it," which often leads to poor policy formulation. n122 Potential legal rationales would perforce rest on exceedingly strained legal arguments based on the AUMF itself, the President's Commander in Chief powers, or the international law of self-defense. n123 [\*88] Besides the inherent damage to U.S. credibility attendant to unconvincing legal rationales, each alternative option would prove legally fragile, destabilizing to the international political order, or both.¶ 1. Effect on Domestic Law and Policy¶ Congress's failure to reauthorize military force would lead to bad domestic law and even worse national security policy. First, a legal rationale based on the AUMF itself will increasingly be difficult to sustain. Fewer and fewer terrorists will have any plausible connection to the September 11 attacks or Al Qaeda, and arguments for finding those connections are already logically attenuated. The definition of those individuals who may lawfully be targeted and detained could be expanded incrementally from the current definition, defining more and more groups as Al Qaeda's "co-belligerents" and "associated forces." n124 But this approach, apart from its obvious logical weakness, would likely be rejected by the courts at some point. n125 The policy of the United States should not be to continue to rely on the September 18, 2001, AUMF.¶ Second, basing U.S. counterterrorism efforts on the President's constitutional authority as Commander in Chief is legally unstable, and therefore unsound national security policy, because a combination of legal difficulties and political considerations make it unlikely that such a rationale could be sustained. This type of strategy would likely run afoul [\*89] of the courts and risk destabilizing judicial intervention, n126 because the Supreme Court has shown a willingness to step in and assert a more proactive role to strike down excessive claims of presidential authority. n127 Politically, using an overly robust theory of the Commander in Chief's powers to justify counterterrorism efforts would, ultimately, be difficult to sustain. President Obama, who ran for office in large part on the promise of repudiating the excesses of the Bush Administration, and indeed any president, would likely face political pressure to reject the claims of executive authority made "politically toxic" by the writings of John Yoo. n128 Because of the likely judicial resistance and political difficulties, claiming increased executive authority to prosecute the armed conflict against Al Qaeda would prove a specious and ultimately futile legal strategy. Simply put, forcing the Supreme Court to intervene and overrule the Executive's national security policy is anathema to good public policy. In such a world, U.S. national security policy would lack stability--confounding cooperation with allies and hindering negotiations with adversaries.¶ There are, of course, many situations where the president's position as Commander in Chief provides entirely uncontroversial authority for military actions against terrorists. In 1998, President Clinton ordered cruise missile strikes against Al Qaeda-related targets in Afghanistan and [\*90] Sudan in response to the embassy bombings in Kenya and Tanzania. In 1986, President Reagan ordered air strikes against Libyan targets after U.S. intelligence linked the bombing of a Berlin discotheque to Libyan operatives. n129 Executive authority to launch these operations without congressional approval was not seriously questioned, and no congressional approval was sought. n130 To be sure, many of the targeted killing operations carried out today fall squarely within the precedent of past practice supplied by these and other valid exercises of presidential authority. Notwithstanding disagreement about the scope of Congress's and the president's "war powers," few would disagree with the proposition that the president needs no authorization to act in self-defense on behalf of the country. However, it is equally clear that not all terrorists pose such a threat to the United States, and thus the [\*91] Commander in Chief cannot justify all counterterrorism operations as "self-defense."¶ A third option would be to conduct all counterterrorism operations as covert operations under the aegis of Title 50. n131 Although the CIA typically carries out such "Title 50 operations," the separate roles of the military and intelligence community have become blurred in recent years. n132 The president must make a "finding" to authorize such operations, n133 which are conducted in secret to provide deniability for the U.S. Government. n134¶ Relying entirely on covert counterterrorism operations, however, would suffer from several critical deficiencies. First, even invoking the cloak of "Title 50," it is "far from obvious" that covert operations are legal without supporting authority. n135 In other words, Title 50 operations, mostly carried out by the CIA, likely also require "sufficient domestic law foundation in terms of either an AUMF or a legitimate claim of inherent constitutional authority for the use of force under Article II." n136 Second, covert operations are by definition kept out of public view, making it difficult to subject them to typical democratic review. In light of "the democratic deficit that already plagues the nation in the legal war [\*92] on terror," n137 further distancing counterterrorism operations from democratic oversight would exacerbate this problem. n138 Indeed, congressional oversight of covert operations--which, presumably, operates with full information--is already considered insufficient by many. n139 By operating entirely on a covert basis, "the Executive can initiate more conflict than the public might otherwise [be] willing to support." n140¶ In a world without a valid AUMF, the United States could base its continued worldwide counterterrorism operations on various alternative domestic legal authorities. All of these alternative bases, however, carry with them significant costs--detrimental to U.S. security and democracy. The foreign and national security policy of the United States should rest on "a comprehensive legal regime to support its actions, one that [has] the blessings of Congress and to which a court would defer as the collective judgment of the American political system about a novel set of [\*93] problems." n141 Only then can the President's efforts be sustained and legitimate.¶ 2. Effect on the International Law of Self-Defense¶ A failure to reauthorize military force would lead to significant negative consequences on the international level as well. Denying the Executive Branch the authority to carry out military operations in the armed conflict against Al Qaeda would force the President to find authorization elsewhere, most likely in the international law of self-defense--the jus ad bellum. n142 Finding sufficient legal authority for the United States's ongoing counterterrorism operations in the international law of self-defense, however, is problematic for several reasons. As a preliminary matter, relying on this rationale usurps Congress's role in regulating the contours of U.S. foreign and national security policy. If the Executive Branch can assert "self-defense against a continuing threat" to target and detain terrorists worldwide, it will almost always be able to find such a threat. n143 Indeed, the Obama Administration's broad understanding of the concept of "imminence" illustrates the danger of allowing the executive to rely on a self-defense authorization alone. n144 [\*94] This approach also would inevitably lead to dangerous "slippery slopes." Once the President authorizes a targeted killing of an individual who does not pose an imminent threat in the strict law enforcement sense of "imminence," n145 there are few potential targets that would be off-limits to the Executive Branch. Overly malleable concepts are not the proper bases for the consistent use of military force in a democracy. Although the Obama Administration has disclaimed this manner of broad authority because the AUMF "does not authorize military force against anyone the Executive labels a 'terrorist,'" n146 relying solely on the international law of self defense would likely lead to precisely such a result.¶ The slippery slope problem, however, is not just limited to the United States's military actions and the issue of domestic control. The creation of international norms is an iterative process, one to which the United States makes significant contributions. Because of this outsized influence, the United States should not claim international legal rights that it is not prepared to see proliferate around the globe. Scholars have observed that the Obama Administration's "expansive and open-ended interpretation of the right to self-defence threatens to destroy the prohibition on the use of armed force . . . ." n147 Indeed, "[i]f other states were to claim the broad-based authority that the United States does, to kill people anywhere, anytime, the result would be chaos." n148¶ [\*95] Encouraging the proliferation of an expansive law of international self-defense would not only be harmful to U.S. national security and global stability, but it would also directly contravene the Obama Administration's national security policy, sapping U.S. credibility. The Administration's National Security Strategy emphasizes U.S. "moral leadership," basing its approach to U.S. security in large part on "pursu[ing] a rules-based international system that can advance our own interests by serving mutual interests." n149 Defense Department General Counsel Jeh Johnson has argued that "[a]gainst an unconventional enemy that observes no borders and does not play by the rules, we must guard against aggressive interpretations of our authorities that will discredit our efforts, provoke controversy and invite challenge." n150 Cognizant of the risk of establishing unwise international legal norms, Johnson argued that the United States "must not make [legal authority] up to suit the moment." n151 The Obama Administration's global counterterrorism strategy is to "adher[e] to a stricter interpretation of the rule of law as an essential part of the wider strategy" of "turning the page on the past [and rooting] counterterrorism efforts within a more durable, legal foundation." n152¶ [\*96] Widely accepted legal arguments also facilitate cooperation from U.S. allies, especially from the United States' European allies, who have been wary of expansive U.S. legal interpretations. n153 Moreover, U.S. strategy vis-a-vis China focuses on binding that nation to international norms as it gains power in East Asia. n154 The United States is an international "standard-bearer" that "sets norms that are mimicked by others," n155 and the Obama Administration acknowledges that its drone strikes act in a quasi-precedential fashion. n156 Risking the obsolescence of the AUMF would force the United States into an "aggressive interpretation" of international legal authority, n157 not just discrediting its [\*97] own rationale, but facilitating that rationale's destabilizing adoption by nations around the world. n158¶ United States efforts to entrench stabilizing global norms and oppose destabilizing international legal interpretations--a core tenet of U.S. foreign and national security policy n159 --would undoubtedly be hampered by continued reliance on self defense under the jus ad bellum to authorize military operations against international terrorists. Given the presumption that the United States's armed conflict with these terrorists will continue in its current form for at least the near term, ongoing authorization at the congressional level is a far better choice than continued reliance on the jus ad bellum. Congress should reauthorize the use of force in a manner tailored to the global conflict the United States is fighting today. Otherwise, the United States will be forced to continue to rely on a statute anchored only to the continued presence of those responsible for 9/11, a group that was small in 2001 and, due to the continued successful targeting of Al Qaeda members, is rapidly approaching zero.

#### We control terminal impact uniqueness - war taboo strong and effective now. Norms prevents miscalc and escalation

Beehner, 12

Council on Foreign Relations senior writer; Truman National Security Project fellow

[Lionel, "Is There An Emerging ‘Taboo’ Against Retaliation?" The Smoke Filled Room, 7-13-12, thesmokefilledroomblog.com/2012/07/13/is-there-an-emerging-taboo-against-retaliation/, accessed 9-22-13, ]

The biggest international news in the quiet months before 9/11 was the collision of a U.S. Navy spy aircraft and a PLA fighter jet in China, during which 24 American crew members were detained. Even though the incident was lampooned on SNL, there was real concern that the incident would blow up, damaging already-tense relations between the two countries. But it quickly faded and both sides reached an agreement. Quiet diplomacy prevailed. Flash-forward a decade later and we have a similar border incident of a spy plane being shot down between Turkey and Syria. Cue the familiar drumbeats for war on both sides. To save face, each side has ratcheted up its hostile rhetoric (even though Syria’s president did offer something of an admission of guilt). But, as in the spring of 2001, I wouldn’t get too worried. One of the least noted global norms to emerge in recent decades has been the persistence of state restraint in international relations. Retaliation has almost become an unstated taboo. Of course, interstate war is obviously not a relic of previous centuries, but nor is it as commonplace anymore, despite persistent flare-ups that have the potential to escalate to full-blown war. Consider the distinct cases of India and South Korea. Both have sustained serious attacks with mass casualties in recent years: South Korea saw 46 of its sailors killed after the Cheonan, a naval vessel, was sunk by North Korea; India saw 200 citizens killed by the Mumbai attacks, orchestrated by Islamist groups with links to Pakistani intelligence. Yet neither retaliated with military force. Why? The short answer might be: Because a response may have triggered a nuclear war (both Pakistan and North Korea are nuclear-armed states). So nukes in this case may have acted as a deterrent and prevented an escalation of hostilities. But I would argue that it was not the presence of nuclear weapons that led to restraint but rather normative considerations. South Korea and India are also both rising democratic powers with fast-growing economies, enemies along their peripheries, and the military and financial backing of the United States. Their leaders, subject to the whims of an electorate, may have faced domestic pressures to respond with force or suffer reputational costs. And yet no escalation occurred and war was averted. Again, I argue that this is because there is an emerging and under-reported norm of restraint in international politics. Even Russia’s invasion of Georgia in August 2008, which may at first appear to disprove this theory, actually upholds it: The Russians barely entered into Georgia proper and could easily have marched onto the capital. But they didn’t. The war was over in 5 days and Russian troops retreated to disputed provinces. Similarly, Turkey will not declare war on Syria, no matter how angry it is that Damascus shot down one of its spy planes. Quiet diplomacy will prevail. In 1999, Nina Tannenwald made waves by proclaiming the emergence of what she called a “nuclear taboo” – that is, the non-use of dangerous nukes had emerged as an important global norm. Are we witnessing the emergence of a similar norm for interstate war? Even as violence rages on in the form of civil war and internal political violence all across the global map, interstate conflict is increasingly rare. My point is not to echo Steven Pinker, whose latest book, The Better Angles of Our Nature, painstakingly details a “civilizing process” and “humanitarian revolution” that has brought war casualties and murder rates down over the centuries. I’m not fully convinced by his argument, but certainly agree with the observation that at the state level, a norm of non-retaliation has emerged. The question is why. Partly, war no longer makes as much sense as in the past because capturing territory is no longer as advantageous as it once was. We no longer live in a world where marauding throngs of Dothraki-like bandits – or what Mancur Olson politely called “non-stationary bandits” – seek to expand their writ over large unconquered areas. This goes on, of course, at the intrastate level, but the rationale for interstate war for conquest is no longer as strong. Interstate wars of recent memory — the Eritrea-Ethiopia conflicts of 1999 and 2005, the Russia-Georgia War of 2008 — upon closer inspection, actually look more like intrastate wars. The latter was fought over two secessionist provinces; the former between two former rebel leaders-turned-presidents who had a falling out. But if we have reached a norm of non-retaliation to threats or attacks, does that mean that deterrence is no longer valid? After all, if states know there will be no response, why not step up the level of attacks? I would argue that the mere threat of retaliation is enough, as evidenced by Turkish leaders’ harsh words toward Syria (there is now a de facto no-fly zone near their shared border). Still, doesn’t restraint send a signal of weakness and lack of resolve? After all, didn’t Seoul’s non-response to the Cheonan sinking only invite Pyongyang to escalate hostilities? Robert Jervis dismisses the notion that a tough response signals resolve as being overly simplified. The observers’ interpretation of the actor and the risks involved also matter. When Schelling writes about the importance of “saving face,” he describes it as the “interdependence of a country’s commitments; it is a country’s reputation for action, the expectations other countries have about its behavior.” Others note that the presence of nuclear weapons forces states, when attacked, to respond with restraint to avoid the risk of nuclear escalation. Hence, we get “limited wars” rather than full-blown conflicts, or what some deterrent theorists describe as the “stability-instability paradox.” This is not a new concept, of course: Thucydides quoted King Archimadus of Sparta: “And perhaps then they see that our actual strength is keeping pace with the language that we use, they will be more inclined to give way, since their land will still be untouched and, in making up their minds, they will be thinking of advantages which they still possess and which have not yet been destroyed.” There will be future wars between states, of course. But **the days when an isolated incident, such as a spy plane being shot down or a cross-border incursion, can unleash a chain of events that lead to interstate wars** I believe are largely over **because of the emergence of restraint as a powerful norm**ative force in international politics, not unlike Tannenwald’s “nuclear taboo.” Turkey and Syria will only exchange a war of words, not actual hostilities. To do otherwise would be a violation of this existing norm.

#### Specifically, erosion of the use of force taboo triggers nuclear conflict between India and Pakistan and China and Taiwan

Obayemi, 6

East Bay Law School professor [Olumide, admitted to the Bars of Federal Republic of Nigeria and the State of California, Golden Gate University School of Law, "Article: Legal Standards Governing Pre-Emptive Strikes and Forcible Measures of Anticipatory Self-Defense Under the U.N. Charter and General International Law," 12 Ann. Surv. Int'l & Comp. L. 19, l/n, accessed 9-19-13, ]

The United States must abide by the rigorous standards set out above that are meant to govern the use of preemptive strikes, because today's international system is characterized by a relative infrequency of interstate war. It has been noted that developing doctrines that lower the threshold for preemptive action could put that accomplishment at risk, and exacerbate regional crises already on the brink of open conflict. n100 This is important as O'Hanlon, Rice, and Steinberg have rightly noted: ...countries already on the brink of war, and leaning strongly towards war, might use the doctrine to justify an action they already wished to take, and the effect of the U.S. posture may make it harder for the international community in general, and the U.S. in particular, to counsel delay and diplomacy. Potential **examples abound**, ranging from Ethiopia and Eritrea, to China and Taiwan, to the Middle East. But perhaps the clearest case is the India-Pakistan crisis. n101 The world must be a safe place to live in. We cannot be ruled by bandits and rogue states. There must be law and order not only in the books but in enforcement as well. No nation is better suited to enforce international law than the United States. The Bush Doctrine will stand the test [\*42] of time and survive. Again, we submit that nothing more would protect the world and its citizens from nuclear weapons, terrorists and rogue states than an able and willing nation like the United States, acting as a policeman of the world within all legal boundaries. This is the essence of the preamble to the United Nations Charter.

#### Indo-Pak nuclear war causes extinction

Starr ’11

(Consequences of a Single Failure of Nuclear Deterrence by Steven Starr February 07, 2011 \* Associate member of the Nuclear Age Peace Foundation \* Senior Scientist for PSR)

Only a single failure of nuclear deterrence is required to start a nuclear war, and the consequences of such a failure would be profound. **Peer-reviewed studies predict** that **less than 1% of** the **nuclear weapons** now deployed in the arsenals of the Nuclear Weapon States, if detonated in urban areas, would immediately kill tens of millions of people, and cause long-term, **catastrophic disruptions** of the global **climate and** massive destruction ofEarth’sprotective **ozone** layer. The result would be a global nuclear famine that could kill up to one billion people. A full-scale war, fought with the strategic nuclear arsenals of the United States and Russia, would so utterly devastate Earth’s environment that most humans and other complex forms of life would not survive. Yet no Nuclear Weapon State has ever evaluated the environmental, ecological or agricultural consequences of the detonation of its nuclear arsenals in conflict. Military and political leaders in these nations thus remain dangerously unaware of the existential danger which their weapons present to the entire human race. Consequently, nuclear weapons remain as the cornerstone of the military arsenals in the Nuclear Weapon States, where nuclear deterrence guides political and military strategy. Those who actively support nuclear deterrence are trained to believe that deterrence cannot fail, so long as their doctrines are observed, and their weapons systems are maintained and continuously modernized. They insist that their nuclear forces will remain forever under their complete control, immune from cyberwarfare, sabotage, terrorism, human or technical error. They deny that the short 12-to-30 minute flight times of nuclear missiles would not leave a President enough time to make rational decisions following a tactical, electronic warning of nuclear attack. The U.S. and Russia continue to keep a total of 2000 strategic nuclear weapons at launch-ready status – ready to launch with only a few minutes warning. Yet both nations are remarkably unable to acknowledge that this high-alert status in any way increases the probability that these weapons will someday be used in conflict. How can strategic nuclear arsenals truly be “safe” from accidental or unauthorized use, when they can be launched literally at a moment’s notice? A cocked and loaded weapon is infinitely easier to fire than one which is unloaded and stored in a locked safe. The mere existence of immense nuclear arsenals, in whatever status they are maintained, makes possible their eventual use in a nuclear war. Our **best scientists** now **tell us** that **such a war would mean the end of human history**. We need to ask our leaders: Exactly what political or national goals could possibly justify risking a nuclear war that would likely cause the extinction of the human race? However, in order to pose this question, we must first make the fact known that existing nuclear arsenals – through their capacity to utterly devastate the Earth’s environment and ecosystems – threaten continued **human existence**. Otherwise, military and political leaders will continue to cling to their nuclear arsenals and will remain both unwilling and unable to discuss the real consequences of failure of deterrence. We can and must end the silence, and awaken the peoples of all nations to the realization that “nuclear war” means “global nuclear suicide”. A Single Failure of Nuclear Deterrence could lead to: \* A nuclear war **between India and Pakistan**; \* 50 Hiroshima-size (15 kiloton) weapons detonated in the mega-cities of both India and Pakistan (there are now 130-190 operational nuclear weapons which exist in the combined arsenals of these nations); \* The deaths of 20 to 50 million people as a result of the prompt effects of these nuclear detonations (blast, fire and radioactive fallout); \* Massive firestorms covering many hundreds of square miles/kilometers (created by nuclear detonations that produce temperatures hotter than those believed to exist at the center of the sun), that would engulf these cities and produce 6 to 7 million tons of thick, black smoke; \* About 5 million tons of smoke that would quickly rise above cloud level into the stratosphere, where strong winds would carry it around the Earth in 10 days; \* A stratospheric smoke layer surrounding the Earth, which would remain in place for 10 years; \* The dense smoke would heat the upper atmosphere, destroy Earth’s protective ozone layer, and block 7-10% of warming sunlight from reaching Earth’s surface; \* 25% to 40% of the protective ozone layer would be destroyed at the mid-latitudes, and 50-70% would be destroyed at northern and southern high latitudes; \* Ozone destruction would cause the average UV Index to increase to 16-22 in the U.S, Europe, Eurasia and China, with even higher readings towards the poles (readings of 11 or higher are classified as “extreme” by the U.S. EPA). It would take 7-8 minutes for a fair skinned person to receive a painful sunburn at mid-day; \* Loss of warming sunlight would quickly produce average surface temperatures in the Northern Hemisphere colder than any experienced in the last 1000 years; \* Hemispheric drops in temperature would be about twice as large and last ten times longer then those which followed the largest volcanic eruption in the last 500 years, Mt. Tambora in 1816. The following year, 1817, was called “The Year Without Summer”, which saw famine in Europe from massive crop failures; \* Growing seasons in the Northern Hemisphere would be significantly shortened. It would be too cold to grow wheat in most of Canada for at least several years; \* World grain stocks, which already are at historically low levels, would be completely depleted; grain exporting nations would likely cease exports in order to meet their own food needs; \* The one billion already hungry people, who currently depend upon grain imports, would likely starve to death in the years following this nuclear war; \* The total explosive power in these 100 Hiroshima-size weapons is less than 1% of the total explosive power contained in the currently operational and deployed U.S. and Russian nuclear forces.

#### So does China-Taiwan

Straits Times 2k

(6-25, Lexis, No one gains in war over Taiwan)

THE DOOMSDAY SCENARIO THE high-intensity scenario postulates a cross-strait war escalating into a full-scale war between the US and China. If Washington were to conclude that splitting China would better serve its national interests, then a full-scale war becomes unavoidable. Conflict on such a scale would embroil other countries far and near and -- horror of horrors -- raise the possibility of a nuclear war. Beijing has already told the US and Japan privately that it considers any country providing bases and logistics support to any US forces attacking China as belligerent parties open to its retaliation. In the region, this means South Korea, Japan, the Philippines and, to a lesser extent, Singapore. If China were to retaliate, east Asia will be set on fire. And the conflagration may not end there as opportunistic powers elsewhere may try to overturn the existing world order. With the US distracted, Russia may seek to redefine Europe's political landscape. The balance of power in the Middle East may be similarly upset by the likes of Iraq. In south Asia, hostilities between India and Pakistan, each armed with its own nuclear arsenal, could enter a new and dangerous phase. Will a full-scale Sino-US war lead to a nuclear war? According to General Matthew Ridgeway, commander of the US Eighth Army which fought against the Chinese in the Korean War, the US had at the time thought of using nuclear weapons against China to save the US from military defeat. In his book The Korean War, a personal account of the military and political aspects of the conflict and its implications on future US foreign policy, Gen Ridgeway said that US was confronted with two choices in Korea -- truce or a broadened war, which could have led to the use of nuclear weapons. If the US had to resort to nuclear weaponry to defeat China long before the latter acquired a similar capability, there is little hope of winning a war against China 50 years later, short of using nuclear weapons. The US estimates that China possesses about 20 nuclear warheads that can destroy major American cities. Beijing also seems prepared to go for the nuclear option. A Chinese military officer disclosed recently that Beijing was considering a review of its "non first use" principle regarding nuclear weapons. Major-General Pan Zhangqiang, president of the military-funded Institute for Strategic Studies, told a gathering at the Woodrow Wilson International Centre for Scholars in Washington that although the government still abided by that principle, there were strong pressures from the military to drop it. He said military leaders considered the use of nuclear weapons mandatory if the country risked dismemberment as a result of foreign intervention. Gen Ridgeway said that should that come to pass, we would see the destruction of civilisation. There would be no victors in such a war. While the prospect of a nuclear Armaggedon over Taiwan might seem inconceivable, it cannot be ruled out entirely, for China puts sovereignty above everything else.

### Plan

**The United States federal government should increase restrictions on the targeted killing and indefinite detention war powers authorities granted to the President of the United States by Public Law 107-40 and modified by the 2012 National Defense Authorization Act by limiting the targets of those authorities to al-Qaeda, the Taliban, or those nations, organizations, or persons who enjoy close and well-established collaboration with al-Qaeda or the Taliban.**

### Solvency

#### Action to clearly define the enemy restricts the executive scope of the AUMF while preserving presidential flexibility and the joint decision-making capabilities

**Cronogue ‘12**

[Graham. Duke University School of Law, J.D. expected 2013; University of North Carolina B.A. 2010. 22 Duke J. Comp. & Int'l L. 377 2011-2012. ETB]

The AUMF must be updated. In 2001, the AUMF authorized force to ¶ fight against America’s most pressing threat, the architects of 9/11. However, much has changed since 2001. Bin Laden is dead, the Taliban ¶ has been deposed, and it is extremist organizations other than al-Qaeda and ¶ the Taliban who are launching many of the attacks against Americans and ¶ coalition partners.124 In many ways, the greatest threat is coming from ¶ groups not even around in 2001, groups such as AQAP and al Shabaab.125¶ Yet these groups do not fall under the AUMF’s authorization of force. ¶ These groups are not based in the same country that launched the attacks, ¶ have different leaders, and were not involved in planning or coordinating ¶ 9/11. Thus, under a strict interpretation of the AUMF, the President is not ¶ authorized to use force against these groups. ¶ Congress needs to specifically authorize force against groups outside of al-Qaeda and the Taliban. Our security concerns demand that the ¶ President can act quickly and decisively when facing threats. The current ¶ authorization does not cover many of these threats, yet it is much more ¶ difficult to achieve this decisiveness if the President is forced to rely solely ¶ on his inherent powers. A clear congressional authorization would clear up ¶ much of this problem. Under Justice Jackson’s framework, granting or ¶ denying congressional authorization ensures that President does not operate ¶ in the “zone of twilight.”126 Therefore, if Congress lays out the exact scope ¶ of the President’s power, naming or clearly defining the targeted actors, the ¶ constitutionality or unconstitutionality of presidential actions will become ¶ much clearer.127¶ Removing the 9/11 nexus to reflect the current reality of war without ¶ writing a carte blanche is the most important form of congressional ¶ guidance regarding target authorization. In order for the President to ¶ operate under the current AUMF, he must find a strong nexus between the ¶ target and the attacks on September 11. As I have shown in this paper, this ¶ nexus is simply non-existent for many groups fighting the United States ¶ today. Yet, the President should want to operate pursuant to congressional ¶ authorization, Justice Jackson’s strongest zone of presidential authority. In ¶ order to achieve this goal, the administration has begun to stretch the ¶ statutory language to include groups whose connection to the 9/11 attacks, ¶ if any, is extraordinarily limited. The current presidential practice only ¶ nominally follows the AUMF, a practice Congress has seemingly ¶ consented to by failing to amend the statute for over ten years. This “stretching” is dangerous as Congress is no longer truly behind the ¶ authorization and has simply acquiesced to the President’s exercise of ¶ broad authority. ¶ The overarching purpose of the new authorization should be to make it ¶ clear that the domestic legal foundation for using military force is not ¶ limited to al-Qaeda and the Taliban but also extends to the many other ¶ organizations fighting the United States. The language in Representative ¶ McKeon’s bill does a fairly good job of achieving this goal by specifically ¶ naming al-Qaeda and the Taliban along with the term “associated force.” ¶ This provision makes it clear the President is still authorized to use force ¶ against those responsible for 9/11 and those that harbored them by ¶ specifically mentioning al-Qaeda and the Taliban. However, the additional ¶ term “associated force” makes it clear that the authorization is not limited ¶ to these two groups and that the President can use force against the allies ¶ and separate branches of al-Qaeda and the Taliban. This creates a very ¶ flexible authorization. ¶ Despite the significant flexibility of the phrase “associated force ¶ engaged in hostilities”, I would propose defining the term or substituting a ¶ more easily understood and limited term. Associated force could mean ¶ many things and apply to groups with varying levels of involvement. ¶ Arguably any group that strongly identifies with or funds al-Qaeda or the ¶ Taliban could be an associated force. Thus, we could end up in the ¶ previously describe situation where group “I” who is in conflict with the ¶ United States or a coalition partner in Indonesia over a completely different ¶ issue becomes a target for its support of an associated force of al-Qaeda. ¶ Beyond that, the United States is authorized to use all necessary force ¶ against any groups that directly aid group “I” in its struggle. ¶ My proposal for the new AUMF would appear as follows: ¶ AFFIRMATION OF ARMED CONFLICT WITH AL-QAEDA, ¶ THE TALIBAN, AND ASSOCIATED FORCES ¶ Congress affirms that— ¶ (1) the United States is engaged in an armed conflict with al-Qaeda, the ¶ Taliban, and associated forces and that those entities continue to ¶ pose a threat to the United States and its citizens, both domestically ¶ and abroad; ¶ a. for the purposes of this statute, an associated force is a ¶ nation, organization, or person who enjoys close and well established collaboration with al-Qaeda or the Taliban and ¶ as part of this relationship has either engaged in or has ¶ intentionally provided direct tactical or logistical support ¶ for armed conflict against the United States or coalition ¶ partners.¶ the President has the authority to use all necessary and appropriate ¶ force during the current armed conflict with al-Qaeda, the Taliban, ¶ and associated forces pursuant to the Authorization for Use of ¶ Military Force (Public Law 107-40; 50 U.S.C. 1541); ¶ (3) the current armed conflict includes nations, organization, and ¶ persons who— ¶ a. are part of al-Qaeda, the Taliban, or associated forces; or ¶ b. engaged in hostilities or have directly supported hostilities ¶ in aid of a nation, organization or person described in ¶ subparagraph (A); ¶ c. or harbored a nation, organization, or person described in ¶ subparagraph (A); and ¶ (4) the President’s authority pursuant to the Authorization for Use of ¶ Military Force includes the authority to detain belligerents, ¶ including persons described in paragraph (3), until the termination ¶ of hostilities. ¶ (5) Nothing in this authorization should be construed to limit the ¶ President’s ability to respond to new and emerging threats or engage ¶ in appropriate and calculated actions of self-defense. ¶ The definition of “associated forces” will add much needed clarity and ¶ provide congressional guidance in determining what groups actually fall ¶ under this provision. Rather than putting faith in the President not to abuse ¶ his discretion, Congress should simply clarify what it means and limit his ¶ discretion to acceptable amounts. The “close and well-established ¶ collaboration” ensures that only groups with very close and observable ties ¶ to al-Qaeda and the Taliban are designated as “associated forces.” While ¶ the requirement that part of their collaboration involve some kind of ¶ tactical or logistical support ensures that those classified as enemy ¶ combatants are actually engaged, or part of an organization that is engaged, ¶ in violence against the United States. Also, requiring that the associated ¶ force’s violence be directed at the United States or a coalition partner and ¶ that this violence is part of its relationship with al-Qaeda or the Taliban is another important limitation. ¶ First, requiring the associated force to engage in violence that is ¶ directed at these nations ensures that “associated force” does not include ¶ countries such as Iran that might have a relationship with al-Qaeda and ¶ give it financial support but are not actually in violent conflict with the ¶ United States. Second, requiring that this violence is made in furtherance of ¶ its relationship with al-Qaeda and the Taliban ensures that the violence that ¶ makes a group an “associated force” is actually related to its collaboration ¶ with al-Qaeda and the Taliban. Without this second provision, a group that supports al-Qaeda would be elevated to an “associated force” if it engaged ¶ in violence with, for instance, Australia over a completely unrelated issue. ¶ While some groups that work closely with and support al-Qaeda ¶ would not be considered associated forces, it is important to limit the scope ¶ of this term. This label effectively elevates the group to the same status as ¶ al-Qaeda and the Taliban and attaches authorization for force against any ¶ group that supports or harbors it. Furthermore, there is little real harm by ¶ narrowly defining associated forces because the groups that do support alQaeda will still be subject to the authorization under the “support” or ¶ “harbor” prongs. Narrowly defining “associated forces” simply prevents ¶ the problem of authorization spreading to supporters of those who are ¶ merely supporters of al-Qaeda. ¶ Compared to Representative McKeon’s proposal, these new ¶ provisions would narrow the scope of authorization. The President would ¶ not be able to use this authorization to attack new groups that both spring ¶ up outside our current theater and have no relation to al-Qaeda, the Taliban ¶ or the newly defined associated forces. However, part (5) of my ¶ authorization would ensure that the President is not unnecessarily restricted ¶ in responding to new and emergent threats from organizations that do not ¶ collaborate and support al-Qaeda. In this way, the proposal incorporates ¶ Robert Chesney’s suggestion, “[i]t may be that it [is] better to draw the ¶ statutory circle narrowly, with language making clear that the narrow ¶ framing does not signify an intent to try and restrict the President’s ¶ authority to act when necessary against other groups in the exercise of ¶ lawful self-defense.”128 The purpose of the new AUMF should not be to ¶ give the President a carte blanche to attack any terrorist or extremist group ¶ all over the world. The purpose of this authorization is to provide clear ¶ authorization for the use of force against al-Qaeda and its allies. Moreover, ¶ if a new group is created that has no relation to any of the relevant actors ¶ defined in this statute, Congress can pass another authorization that ¶ addresses this reality. The purpose of congressional authorization should ¶ not be to authorize the President to act against every conceivable threat to ¶ American interests. In fact, such an authorization would effectively strip ¶ Congress of its constitutional war making powers. Instead, the new ¶ proposal should provide clear domestic authorization for the use of force against those nations that present the greatest threat to the United States ¶ today.

**Obama will adhere to the plan - wants to rely on congressional authority**

**WSJ ‘12**

[Julian Barnes and Evan Perez. December 6. <http://online.wsj.com/article/SB10001424127887323316804578163724113421726.html> ETB]

Obama **administration officials, concerned about the legal justifications behind counterterrorism operations, have preferred to rely on congressional authority for the use of force against al Qaeda, seeing such authority** as more defensible and acceptable to allies.