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**Restrictions on war powers create areas where the President can NOT act**

**Fisher 12**—Louis, Scholar in Residence at The Constitution Project; served for four decades at the Library of Congress, as Senior Specialist, Congressional Research Service [“Basic Principles of the War Power,” 2012, Journal of National Security Law & Policy, 5 J. Nat'l Security L. & Pol'y 319]

The second value that the Founders embraced in the Commander-in-Chief Clause is accountability. Hamilton in Federalist No. 74 wrote that the direction of war "most peculiarly demands those qualities which distinguish the exercise of power by a single hand." The power of directing war and emphasizing the common strength "forms a usual and essential part in the definition of the **executive authority**." n29 Presidential leadership is essential but it cannot operate outside legislative control. The President is subject to the rule of law, **including statutory and judicial restrictions**.

**Second strike means they don’t meet**

**COURT OF APPEALS 12** [STATE OF WASHINGTON DEPARTMENT OF HEALTH, THE COURT OF APPEALS OF THE STATE OF WASHINGTON, DIVISION I, RANDALL KINCHELOE Appellant. vs. Respondent, BRIEF OF APPELLANT, http://www.courts.wa.gov/content/Briefs/a01/686429%20Appellant%20Randall%20Kincheloe's.pdf]

3. The ordinary definition of the term "restrictions" also does not include the reporting and monitoring or supervising terms and conditions that are included in the 2001 Stipulation. Black's Law Dictionary, 'fifth edition,(1979) defines "restriction" as; A limitation often imposed in a deed or lease respecting the use to which the property may be put.

The term "restrict' is also cross referenced with the term "restrain." Restrain is defined as;

To limit, confine, abridge, narrow down, restrict, obstruct, impede, hinder, stay, destroy. To prohibit from action; to put compulsion on; to restrict; to hold or press back. To keep in check; to hold back from acting, proceeding, or advancing, either by physical or moral force, or by interposing obstacle, to repress or suppress, to curb.

**Vote Neg—Smaller predictable case list comes for Prohibitions only, and allowing modifications creates a bi-directional topic where they can IMPROVE war-fighting by the president.**

**politics**

**Iran sanctions won’t be extended**

**ABDI 11 – 15 – 13 Policy Director, National Iranian American Council** [Jamal Abdi, Tide Turns Towards Diplomacy as Key Senators Oppose New Iran Sanctions, <http://www.huffingtonpost.com/jamal-abdi/tide-turns-towards-diplom_b_4283626.html>]

President Obama and the White House have been engaged in a battle in the Senate to block the chamber from passing new sanctions that could derail ongoing negotiations with Iran. The White House has been clear: new sanctions could kill the talks and put the U.S. on a "path to war."

Groups including NIAC, FCNL, Peace Action, Americans for Peace Now, J Street, and International Campaign for Human Rights in Iran have all come out against new Senate sanctions. Groups including AIPAC and Foundation for Defense of Democracies are, as usual, advocating more sanctions. AIPAC even says they will explicitly try to kill a deal.

But it looks like the pro-diplomacy side is winning.

Senators Carl Levin, Christopher Murphy, and Dianne Feinstein have all now come out in opposition to new Iran sanctions, saying they will instead support the ongoing negotiations with Iran. And today, even Senator John McCain (R-AZ) told the BBC today he will not support new sanctions **for now**, saying, "I am skeptical of talks with Iran but willing to give the Obama administration a couple months."

Here are the three Senators who are leading the charge to protect diplomacy from a new sanctions push:

Senator Carl Levin (D-MI), Chairman of the Senate Armed Services Committee: "Whether it is a 10%, 40% or 60% chance [that the change is real], it should be tested and probed. We should not at this time impose additional sanctions."

Senator Dianne Feinstein (D-CA), Chairwoman of the Senate Select Committee on Intelligence: "I am baffled by the insistence of some senators to undermine the P5+1 talks. I will continue to support these negotiations and oppose any new sanctions as long as we are making progress toward a genuine solution."

Senator Chris Murphy (D-CT), Member of the Senate Foreign Relations Committee: "At this critical juncture in these negotiations when Iran may be on the verge of making serious concessions regarding its nuclear program, I worry it would be counterproductive for Congress to authorize a new round of sanctions, diminishing American leverage and weakening the hands of Secretary Kerry and his counterparts in the P5+1."

While the House of Representatives voted in support of new sanctions just days before Rouhani's inauguration, a recent letter calling for the Senate to support new sanctions drew less than half as many supporters as a previous letter supporting diplomacy and calling for sanctions to be traded in for Iranian nuclear concessions.

Now, it is now up to the Senate to decide whether to pass a sanctions bill opposed by the White House. The chamber has yet to advance their own bill despite prodding from hawks like Mark Kirk (R-IL) and Lindsey Graham (R-SC). The most likely path for the new sanctions was the National Defense Authorization Act, expected to be on the Senate floor next week. But with the two Senators who will manage the bill - Levin and McCain - now opposed to adding sanctions, U.S. negotiators are likely to have more space to conduct talks and secure a framework for a deal without Congressional interference.

**The standing of the executive is the crucial internal link – key to diplomacy**

**LEVERETT 11 – 7 – 13 Profs of International Relations – Penn State & American University** [Flynt Leverett and Hillary Mann Leverett, America’s Moment of Truth on Iran , <http://iranian.com/posts/view/post/23789>]

America’s Iran policy is at a crossroads. Washington can abandon its counterproductive insistence on Middle Eastern hegemony, negotiate a nuclear deal grounded in the Nuclear Non-Proliferation Treaty (NPT), and get serious about working with Tehran to broker a settlement to the Syrian conflict. In the process, the United States would greatly improve its ability to shape important outcomes there. Alternatively, America can continue on its present path, leading ultimately to strategic irrelevance in one of the world’s most vital regions—with negative implications for its standing in Asia as well.

U.S. policy is at this juncture because the costs of Washington’s post-Cold War drive to dominate the Middle East have risen perilously high. President Obama’s self-inflicted debacle over his plan to attack Syria after chemical weapons were used there in August showed that America can no longer credibly threaten the effective use of force to impose its preferences in the region. While Obama still insists “all options are on the table” for Iran, the reality is that, if Washington is to deal efficaciously with the nuclear issue, it will be through diplomacy.

In this context, last month’s Geneva meeting between Iran and the P5+1 brought America’s political class to a strategic and political moment of truth. Can American elites turn away from a self-damaging quest for Middle Eastern hegemony by coming to terms with an independent regional power? Or are they so enthralled with an increasingly surreal notion of America as hegemon that, to preserve U.S. “leadership,” they will pursue a course further eviscerating its strategic position?

The proposal for resolving the nuclear issue that Iran’s foreign minister, Javad Zarif, presented in Geneva seeks answers to these questions. It operationalizes the approach advocated by Hassan Rohani and other Iranian leaders for over a decade: greater transparency on Iran’s nuclear activities in return for recognizing its rights as a sovereign NPT signatory—especially to enrich uranium under international safeguards—and removal of sanctions. For years, the Bush and Obama administrations rejected this approach. Now Obama must at least consider it.

The Iranian package provides greater transparency on Tehran’s nuclear activities in two crucial respects. First, it gives greater visibility on the conduct of Iran’s nuclear program. Iran has reportedly offered to comply voluntarily for some months with the Additional Protocol (AP) to the NPT—which it has signed but not yet ratified and which authorizes more proactive and intrusive inspections—to encourage diplomatic progress. Tehran would ratify the AP—thereby committing to its permanent implementation—as part of a final deal.

Second, the package aims to validate Iran’s declarations that its enrichment infrastructure is not meant to produce weapons-grade fissile material. Iran would stop enriching at the near-20 percent level of fissile-isotope purity needed to fuel the Tehran Research Reactor and cap enrichment at levels suitable for fueling power reactors. Similarly, Iran is open to capping the number of centrifuges it would install—at least for some years—at its enrichment sites in Natanz and Fordo.

Based on conversations with Iranian officials and political figures in New York in September (during Rohani and Zarif’s visit to the UN General Assembly) and in Tehran last month, it is also possible to identify items that the Iranian proposal almost certainly does not include. Supreme Leader Ayatollah Seyed Ali Khamenei has reportedly given President Rohani and his diplomats flexibility in negotiating a settlement—but he has also directed that they not compromise Iran’s sovereignty. Thus, the Islamic Republic will not acquiesce to American (and Israeli) demands to suspend enrichment, shut its enrichment site at Fordo, stop a heavy-water reactor under construction at Arak, and ship its current enriched uranium stockpile abroad.

On one level, the Iranian package is crafted to resolve the nuclear issue based on the NPT, within a year. Iran’s nuclear rights would be respected; transparency measures would reduce the proliferation risks of its enrichment activities below what Washington tolerates elsewhere. On another level, though, the package means to test America’s willingness and capability to resolve the issue on this basis. It tests this not just for Tehran’s edification, but also for that of other P5+1 states, especially China and Russia, and of rising powers like India and South Korea.

America can fail the Iranian test in two ways. First, the Obama administration—reflecting America’s political class more broadly—may prove unwilling to acknowledge Iran’s nuclear rights in a straightforward way, insisting on terms for a deal that effectively suborn these rights and violate Iranian sovereignty.

**There are powerful constituencies**—e.g., the Israel lobby, neoconservative Republicans, their Democratic “fellow travelers,” and U.S.-based Iran “experts”—that oppose any deal recognizing Iran’s nuclear rights. They understand that acknowledging these rights would also mean accepting the Islamic Republic as an enduring entity representing legitimate national interests; to do so, America would have to abandon its post-Cold War pretensions to Middle Eastern hegemony.

Those pretensions have proven dangerously corrosive of America’s ability to accomplish important objectives in the Middle East, and of its global standing. Just witness the profoundly self-damaging consequences of America’s invasion and occupation of Iraq, and how badly the “global war on terror” has eviscerated the perceived legitimacy of American purposes in the Muslim world.

But, as the drama over Obama’s call for military action against Syria indicates, America’s political class remains deeply attached to imperial pretense—even as the American public turns away from it. If Washington could accept the Islamic Republic as a legitimate regional power, it could work with Tehran and others on a political solution to the Syrian conflict. Instead, Washington reiterates hubristic demands that President Bashar al-Assad step down before a political process starts, and relies on a Saudi-funded “Syrian opposition” increasingly dominated by al-Qa’ida-like extremists.

If Obama does not conclude a deal recognizing Iran’s nuclear rights, it will confirm suspicions already held by many Iranian elites—including Ayatollah Khamenei—and in Beijing and Moscow about America’s real agenda vis-à-vis the Islamic Republic. It will become undeniably clear that U.S. opposition to indigenous Iranian enrichment is not motivated by proliferation concerns, but by determination to preserve American hegemony—and Israeli military dominance—in the Middle East. If this is so, why should China, Russia, or rising Asian powers continue trying to help Washington—e.g., by accommodating U.S. demands to limit their own commercial interactions with Iran—obtain an outcome it does not actually want?

America can also fail Iran’s test if it is unable to provide comprehensive sanctions relief as part of a negotiated nuclear settlement. The Obama administration now acknowledges what we have noted for some time—that, beyond transitory executive branch initiatives, lifting or even substantially modifying U.S. sanctions to support diplomatic progress **will take congressional action.**

During Obama’s presidency, many U.S. sanctions initially imposed by executive order have been written into law. These bills—signed, with little heed to their long-term consequences, by Obama himself—have also greatly expanded U.S. secondary sanctions, which threaten to punish third-country entities not for anything they’ve done in America, but for perfectly lawful business they conduct in or with Iran. The bills contain conditions for removing sanctions stipulating not just the dismantling of Iran’s nuclear infrastructure, but also termination of Tehran’s ties to movements like Hizballah that Washington (foolishly) designates as terrorists and the Islamic Republic’s effective transformation into a secular liberal republic.

The Obama administration may have managed to delay passage of yet another sanctions bill for a few weeks—but **Congressional Democrats no less than congressional Republicans have made publicly clear that they will not relax conditions for removing existing sanctions to help Obama conclude and implement a nuclear deal.** If their obstinacy holds, why should others respect Washington’s high-handed demands for compliance with its extraterritorial (hence, illegal) sanctions against Iran?

Going into the next round of nuclear talks in Geneva on Thursday, it is unambiguously plain that Obama **will have to spend enormous political capital** to realign relations with Iran. America’s **future standing as a great power** depends significantly on his readiness to do so.

**PLAN kills the executive**

**KRINER 10**—Assistant professor of political science at Boston University [Douglas L. Kriner, “After the Rubicon: Congress, Presidents, and the Politics of Waging War”, pg. 276-77]

One of the mechanisms by which congressional opposition influences presidential cost-benefit calculations is by sending signals of American disunity to the target state. Measuring the effects of such congressional signals on the calculations of the target state is always difficult. In the case of Iraq it is exceedingly so, given the lack of data on the non-state insurgent actors who were the true “target” of the American occupation after the fall of the Hussein regime. Similarly, in the absence of archival documents, such as those from the Reagan Presidential Library presented in chapter 5, it is all but impossible to measure the effects of congressional signals on the administration’s perceptions of the military costs it would have to pay to achieve its objectives militarily.

By contrast. measuring the domestic political costs of congressional opposition, while still difficult, is at least a tractable endeavor. Chapter 2 posited two primary pathways through which congressional opposition could raise the political costs of staying the course militarily for the president. **First, high-profile congressional challenges** to a use of force can affect real or anticipated public opinion and bring popular pressures to bear on the president to change course. Second, congressional opposition to the president’s conduct of military affairs **can compel him to spend considerable political capital in the military arena to the detriment of other major items on his programmatic agenda**. On both of these dimensions, congressional opposition to the war in Iraq appears to have had the predicted effect.

**US/Iran war & Iranian prolif**

**WORLD TRIBUNE 11 – 13** – 13 [Obama said to suspend Iran sanctions without informing Congress, <http://www.worldtribune.com/2013/11/13/obama-said-to-suspend-iran-sanctions-without-informing-congress/>]

The administration has also pressured Congress to suspend plans for new sanctions legislation against Iran. The sources said the White House effort has encountered resistance from both Democrats and Republicans, particularly those in the defense and foreign affairs committees.

“I urge the White House and the Senate to learn from the lessons of the past and not offer sanctions relief in return for the false hopes and empty promises of the Iranian regime,” Rep. Ileana Ros-Lehtinen, chairwoman of the House Middle East and North Africa Subcommittee, said. “Instead, new rounds of sanctions must be implemented to gain further leverage because any misstep in calculations at this juncture will have devastating and irreversible consequences that will be difficult to correct retroactively.”

On Nov. 12, the White House warned that **additional sanctions on Iran would mean war with the United States.** White House press secretary Jay Carney, in remarks meant to intensify pressure on Congress, said sanctions **would end the prospect of any diplomatic solution** to Iran’s crisis.

“The American people do not want a march to war,” Carney said. “It is important to understand that if pursuing a resolution diplomatically is disallowed or ruled out, what options then do we and our allies have to prevent Iran from acquiring a nuclear weapon?”

Still, the Senate Banking Committee has agreed to delay any vote on sanctions legislation until a briefing by Secretary of State John Kerry on Nov. 13. The sources said Kerry was expected to brief the committee on the P5+1 talks in Geneva that almost led to an agreement with Teheran.

“The secretary will be clear that putting new sanctions in place would be a mistake,” State Department spokeswoman Jen Psaki said on Nov. 12. “We are still determining if there’s a diplomatic path forward. What we are asking for right now is a pause, a temporary pause, in sanctions.”

**Iran war escalates**

**White**, July/August 20**11** (Jeffrey—defense fellow at the Washington Institute for Near East Policy, What Would War With Iran Look Like, National Interest, p. <http://www.the-american-interest.com/article-bd.cfm?piece=982>)

A U.S.-Iranian war would probably not be fought by the **U**nited **S**tates and Iran alone. Each would have partners or allies, both willing and not-so-willing. Pre-conflict commitments, longstanding relationships, the course of operations and other factors would place the **U**nited **S**tates and Iran at the center of more or less structured coalitions of the marginally willing. A Western coalition could consist of the United States and most of its traditional allies (but very likely not Turkey, based on the evolution of Turkish politics) in addition to some Persian Gulf states, Jordan and perhaps Egypt, depending on where its revolution takes it. Much would depend on whether U.S. leaders could persuade others to go along, which would mean convincing them that U.S. forces could shield them from Iranian and Iranian-proxy retaliation, or at least substantially weaken its effects. Coalition warfare would present a number of challenges to the U.S. government. Overall, it would lend legitimacy to the action, but it would also constrict U.S. freedom of action, perhaps by limiting the scope and intensity of military operations. There would thus be tension between the desire for a small coalition of the capable for operational and security purposes and a broader coalition that would include marginally useful allies to maximize legitimacy. The U.S. administration would probably not welcome Israeli participation. But if Israel were directly attacked by Iran or its allies, Washington would find it difficult to keep Israel out—as it did during the 1991 Gulf War. That would complicate the U.S. ability to manage its coalition, although it would not necessarily break it apart. Iranian diplomacy and information operations would seek to exploit Israeli participation to the fullest. Iran would have its own coalition. Hizballah in particular could act at Iran’s behest both by attacking Israel directly and by using its asymmetric and irregular warfare capabilities to expand the conflict and complicate the maintenance of the U.S. coalition. The escalation of the Hizballah-Israel conflict could draw in Syria and Hamas; Hamas in particular could feel compelled to respond to an Iranian request for assistance. Some or all of these satellite actors might choose to leave Iran to its fate, especially if initial U.S. strikes seemed devastating to the point of decisive. But their involvement would **spread the conflict** to the entire eastern Mediterranean and perhaps beyond, complicating both U.S. military operations and coalition diplomacy.

**Exec CP**

**Text: The Office of Legal Counsel should determine that the Executive Branch lacks the authority to assert immunity from judicial review by establishing a cause of action allowing civil suits brought against the United States by those unlawfully injured by targeted killing operations, their heirs, or their estates in security cleared legal proceedings. The President should require the Office of Legal Counsel to publish all opinions about Executive action. The Executive Branch should comply with the suggestions by the President and the Office of Legal Counsel. The Executive Branch should end drone strikes in Pakistan and Yemen. The Executive Branch should convene and sign onto an international convention on the regulation of the sale and military use of drones modeled off of the Convention on Certain Conventional Weapons including a provision that has a United Nations investigatory body investigate and monitor states for enforcement.**

**The CP is competitive and solves the case—OLC rulings do not actually remove authority but nevertheless hold binding precedential value on the executive.**

Trevor W. **Morrison**, October **2010**. Professor of Law, Columbia Law School. “STARE DECISIS IN THE OFFICE OF LEGAL COUNSEL,” Columbia Law Review, 110 Colum. L. Rev. 1448, Lexis.

On the other hand, an OLC that says "yes" too often is not in the client's long-run interest. n49 Virtually all of OLC's clients have their own legal staffs, including the White House Counsel's Office in the White House and the general counsel's offices in other departments and agencies. Those offices are capable of answering many of the day-to-day issues that arise in those components. They typically turn to OLC when the issue is sufficiently controversial or complex (especially on constitutional questions) that some external validation holds special value. n50 For example, when a department confronts a difficult or delicate constitutional question in the course of preparing to embark upon a new program or course of action that raises difficult or politically sensitive legal questions, it has an interest in being able to point to a credible source affirming the  [\*1462]  legality of its actions. n51 The in-house legal advice of the agency's general counsel is unlikely to carry the same weight. n52 Thus, even though those offices might possess the expertise necessary to answer at least many of the questions they currently send to OLC, in some contexts they will not take that course because a "yes" from the in-house legal staff is not as valuable as a "yes" from OLC. But that value depends on OLC maintaining its reputation for serious, evenhanded analysis, not mere advocacy. n53

The risk, however, is that OLC's clients will not internalize the long-run costs of taxing OLC's integrity. This is in part because the full measure of those costs will be spread across all of OLC's clients, not just the client agency now before it. The program whose legality the client wants OLC to review, in contrast, is likely to be something in which the client has an immediate and palpable stake. Moreover, the very fact that the agency has come to OLC for legal advice will often mean it thinks there is  [\*1463]  at least a plausible argument that the program is lawful. In that circumstance, the agency is unlikely to see any problem in a "yes" from OLC.

Still, it would be an overstatement to say that OLC risks losing its client base every time it contemplates saying "no." One reason is custom. In some areas, there is a longstanding tradition - rising to the level of an expectation - that certain executive actions or decisions will not be taken without seeking OLC's advice. One example is OLC's bill comment practice, in which it reviews legislation pending in Congress for potential constitutional concerns. If it finds any serious problems, it writes them up and forwards them to the Office of Management and Budget, which combines OLC's comments with other offices' policy reactions to the legislation and generates a coordinated administration position on the legislation. n54 That position is then typically communicated to Congress, either formally or informally. While no statute or regulation mandates OLC's part in this process, it is a deeply entrenched, broadly accepted practice. Thus, although some within the Executive Branch might find it frustrating when OLC raises constitutional concerns in bills the administration wants to support as a policy matter, and although the precise terms in which OLC's constitutional concerns are passed along to Congress are not entirely in OLC's control, there is no realistic prospect that OLC would ever be cut out of the bill comment process entirely. Entrenched practice, then, provides OLC with some measure of protection from the pressure to please its clients.

But there are limits to that protection. Most formal OLC opinions do not arise out of its bill comment practice, which means most are the product of a more truly voluntary choice by the client to seek OLC's advice. And as suggested above, although the Executive Branch at large has an interest in OLC's credibility and integrity, the preservation of those virtues generally falls to OLC itself. OLC's nonlitigating function makes this all the more true. Whereas, for example, the Solicitor General's aim of prevailing before the Supreme Court limits the extent to which she can profitably pursue an extreme agenda inconsistent with current doctrine, OLC faces no such immediate constraint. Whether OLC honors its oft-asserted commitment to legal advice based on its best view of the law depends largely on its own self-restraint.

2. Formal Requests, Binding Answers, and Lawful Alternatives. - Over time, OLC has developed practices and policies that help maintain its independence and credibility. First, before it provides a written opinion, n55 OLC typically requires that the request be in writing from the head or general counsel of the requesting agency, that the request be as specific and concrete as possible, and that the agency provide its own written  [\*1464]  views on the issue as part of its request. n56 These requirements help constrain the requesting agency. Asking a high-ranking member of the agency to commit the agency's views to writing, and to present legal arguments in favor of those views, makes it more difficult for the agency to press extreme positions.

Second, as noted in the Introduction, n57 OLC's legal advice is treated as binding within the Executive Branch until withdrawn or overruled. n58 As a formal matter, the bindingness of the Attorney General's (or, in the modern era, OLC's) legal advice has long been uncertain. n59 The issue has never required formal resolution, however, because by longstanding tradition the advice is treated as binding. n60 OLC protects that tradition today by generally refusing to provide advice if there is any doubt about whether the requesting entity will follow it. n61 This guards against "advice-shopping by entities willing to abide only by advice they like." n62 More broadly, it helps ensure that OLC's answers matter. An agency displeased with OLC's advice cannot simply ignore the advice. The agency might  [\*1465]  construe any ambiguity in OLC's advice to its liking, and in some cases might even ask OLC to reconsider its advice. n63 But the settled practice of treating OLC's advice as binding ensures it is not simply ignored.

In theory, the very bindingness of OLC's opinions creates a risk that agencies will avoid going to OLC in the first place, relying either on their general counsels or even other executive branch offices to the extent they are perceived as more likely to provide welcome answers. This is only a modest risk in practice, however. As noted above, legal advice obtained from an office other than OLC - especially an agency's own general counsel - is unlikely to command the same respect as OLC advice. n64 Indeed, because OLC is widely viewed as "the executive branch's chief legal advisor," n65 an agency's decision not to seek OLC's advice is likely to be viewed by outside observers with skepticism, especially if the in-house advice approves a program or initiative of doubtful legality.

OLC has also developed certain practices to soften the blow of legal advice not to a client's liking. Most significantly, after concluding that a client's proposed course of action is unlawful, OLC frequently works with the client to find a lawful way to pursue its desired ends. n66 As the OLC Guidelines put it, "when OLC concludes that an administration proposal is impermissible, it is appropriate for OLC to go on to suggest modifications that would cure the defect, and OLC should stand ready to work with the administration to craft lawful alternatives." n67 This is a critical component of OLC's work, and distinguishes it sharply from the courts. In addition to "providing a means by which the executive branch lawyer can contribute to the ability of the popularly-elected President and his administration to achieve important policy goals," n68 in more instrumental terms the practice can also reduce the risk of gaming by OLC's clients. And that, in turn, helps preserve the bindingness of OLC's opinions. n69

 [\*1466]  To be sure, OLC's opinions are treated as binding only to the extent they are not displaced by a higher authority. A subsequent judicial decision directly on point will generally be taken to supersede OLC's work, and always if it is from the Supreme Court. OLC's opinions are also subject to "reversal" by the President or the Attorney General. n70 Such reversals are rare, however. As a formal matter, Dawn Johnsen has argued that "the President or attorney general could lawfully override OLC only pursuant to a good faith determination that OLC erred in its legal analysis. The President would violate his constitutional obligation if he were to reject OLC's advice solely on policy grounds." n71 Solely is a key word here, especially for the President. Although his oath of office obliges him to uphold the Constitution, n72 it is not obvious he would violate that oath by pursuing policies that he thinks are plausibly constitutional even if he has not concluded they fit his best view of the law. It is not clear, in other words, that the President's oath commits him to seeking and adhering to a single best view of the law, as opposed to any reasonable or plausible view held in good faith. Yet even assuming the President has some space here, it is hard to see how his oath permits him to reject OLC's advice solely on policy grounds if he concludes that doing so is indefensible as a legal matter. n73 So the President needs at least a plausible legal basis for  [\*1467]  disagreeing with OLC's advice, which itself would likely require some other source of legal advice for him to rely upon.

The White House Counsel's Office might seem like an obvious candidate. But despite recent speculation that the size of that office during the Obama Administration might reflect an intention to use it in this fashion, n74 it continues to be virtually unheard of for the White House to reverse OLC's legal analysis. For one thing, even a deeply staffed White House Counsel's Office typically does not have the time to perform the kind of research and analysis necessary to produce a credible basis for reversing an OLC opinion. n75 For another, as with attempts to rely in the first place on in-house advice in lieu of OLC, any reversal of OLC by the White House Counsel is likely to be viewed with great skepticism by outside observers. If, for example, a congressional committee demands to know why the Executive Branch thinks a particular program is lawful, a response that relies on the conclusions of the White House Counsel is unlikely to suffice if the committee knows that OLC had earlier concluded otherwise. Rightly or wrongly, the White House Counsel's analysis is likely to be treated as an exercise of political will, not dispassionate legal analysis. Put another way, the same reasons that lead the White House to seek OLC's legal advice in the first place - its reputation for  [\*1468]  providing candid, independent legal advice based on its best view of the law - make an outright reversal highly unlikely. n76

Of course, the White House Counsel's Office may well be in frequent contact with OLC on an issue OLC has been asked to analyze, and in many cases is likely to make it abundantly clear what outcome the White House prefers. n77 But that is a matter of presenting arguments to OLC in support of a particular position, not discarding OLC's conclusion when it comes out the other way. n78The White House is not just any other client, and so the nature of - and risks posed by - communications between it and OLC on issues OLC is analyzing deserve special attention. I take that up in Part III. n79 My point at this stage is simply that the prospect of literal reversal by the White House is remote and does not meaningfully threaten the effective bindingness of OLC's decisions.

**The CP is the only way to internationalize the legal norms of drone regulation**

**Boyle 13** – Professor of Political Science @ La Salle University [Michael J. Boyle (Former Lecturer in International Relations and Research Fellow in the Centre for the Study of Terrorism and Political Violence @ University of St. Andrews), “The costs and consequences of drone warfare,” International Affairs 89: 1 (2013) pg. 1–29

The same logic operates on the international level. Lethal drones will eventually be in the hands of those who will use them with fewer scruples than President Obama has. Without a set of internationally recognized standards or norms governing their sale and use, drones will proliferate without control, be misused by governments and non-state actors, and become an instrument of repression for the strong. One remedy might be an international convention on the sale and use of drones which could establish guidelines and norms for their use, perhaps along the lines of the Convention on Certain Conventional Weapons (CCW) treaty, which attempted to spell out rules on the use of incendiary devices and fragment-based weapons.158 While enforcement of these guidelines and adherence to rules on their use will be imperfect and marked by derogations, exceptions and violations, the presence of a convention may reinforce norms against the flagrant misuse of drones and induce more restraint in their use than might otherwise be seen. Similarly, a UN investigatory body on drones would help to hold states accountable for their use of drones and begin to build a gradual consensus on the types of activities for which drones can, and cannot, be used.159 As the progenitor and leading user of drone technology, the US now has an opportunity to show leadership in developing an international legal architecture which might avert some of the worst consequences of their use.

**Yemen PIC**

**The United States Federal Government should limit the President's war powers authority to assert, on behalf of the United States, immunity from judicial review by establishing a cause of action allowing civil suits brought against the United States by those unlawfully injured by targeted killing operations outside the Yemeni Republic, their heirs, or their estates in security cleared legal proceedings.**

**Case**

**1NC Accountability**

**1NC Yemen**

**Yemen instability won’t cause full collapse or war – history shifts the burden of proof**

**Caton 10** Dr. Steve C. Caton is Professor of Contemporary Arab Studies in the Department of Anthropology at Harvard University. Yemen: not on the verge of collapse Posted By Steven C. Caton Wednesday, August 11, 2010 - 2:56 PM Share http://mideast.foreignpolicy.com/posts/2010/08/11/yemen\_not\_on\_the\_verge\_of\_collapse

History may provide some perspective. There has been a state or dawlah in Yemen for thousands of years, whether the Sabaean state that built Marib Dam and was the reputed homeland of the Queen of Sheba, or the Islamic state created shortly after the advent of Islam which lasted for a thousand years, or the republican state that came into being in 1962 and has lasted until the present day, despite two bitter civil wars. To be sure, the state has waxed and waned in power and contracted or expanded in territory during this history, and it has faced formidable outside opponents, beginning with the Romans and most recently with al-Qaeda, but it has never fully collapsed or disappeared from the scene. It is unlikely to do so in the present in spite of arguments that the current regime is at a tipping point and about to fall apart because of an unprecedented number of seemingly intractable problems facing it (an ever weakening economy, unsustainable water consumption, projected diminished oil reserves, conflicts between the state and certain regional populations, rampant corruption, and let us not forget al-Qaeda).

To those who would say to me, "How do you know it is not at a tipping point?" I can only respond with, "How do you know that it is?" and remind ourselves of the longue durée of Yemeni history.

But what does it mean to be a "weak state" in contemporary Yemen? Again, some historical perspective is helpful, though thankfully we need not go back three thousand years. When the current president of Yemen, Ali Abdullah Saleh, came to power in 1978 I remember people taking bets in the country's expatriate community that he would not last a year. Not only has he expanded his own personal power, he has managed to consolidate and broaden the state's presence in the country. In 1978, there were few military checkpoints along Yemen's highways; I could go from the capital, Sana'a, to the western town of Marib and be stopped at most two times along the way by state authorities. Now there are over a dozen such stops and identity papers are checked. Military outposts can be seen on most mountain-tops. And there is an administrative system doing the state's business in even the most far-flung regions of the county. Paved roads, state-run or sponsored schools, clinics, and hospitals represent a different aspect of state power and legitimacy, and perhaps they are more effective in that they penetrate into the everyday lives of people. Usually none of this context is taken into account when the western press glibly asserts that the state can barely control the capital, let alone the hinterlands beyond it.

**AQAP lacks the means and motive to escalate**

**Friedman 11** (Benjamin H., staff writer, “Al Qaeda's Mythical Unity” National Interest 6/6 < http://nationalinterest.org/print/blog/the-skeptics/al-qaedas-mythical-unity-5575>

The real [4] al-Qaeda is a fragmented and unmanageable movement. In the 1990s, it achieved limited success [5] in getting other jihadists to join in attacking the West. It was not managerial innovation but the U.S. invasion of Afghanistan and other governments’ pressures that destroyed the limited hierarchy al-Qaeda Central had achieved. Its scattered remnant in Pakistan controls little locally and less abroad. The leaders have cachet but lack the material incentives that real managers distribute to exercise authority. Al-Qaeda became bunches of guys [6] with diminished capability.\* The myth is destructive to counterterrorism. Because tightly-run organizations are better at mass violence than disparate movements, the myth creates needless fear that encourages overly ambitious and expensive policies, like the war in Afghanistan. The myth increases the number of enemies we face, taking focus from real ones. Most jihadist militants hate Americans but don’t try to kill us. They fight locally. Attacking them risks making them into what we fear they are and stoking nationalistic resentment that increases their popularity. My anecdotal sense is that events since 9/11 have increasingly brought commentators around to truth. Even so, the media, for simplicity’s sake, tends towards the myth. And the Obama administration, despite improving [7] upon its predecessors’ absurdly [8] broad definition of our terrorist enemies, still overstates al-Qaeda Central’s unity and control of affiliates. More importantly, U.S. policies still pay insufficient attention to the distinction among various al-Qaeda entities. Here are three recent examples of this rhetorical error and its consequences: (1) Since bin Laden’s death, U.S. officials [9], analysts [10], and [11] pundits [12] have claimed that the cache of emails found in his compound contradict recent intelligence reports downplaying his control. The emails, we are told, show that he was still running the show and that al-Qaeda Central remained potent. Last week, however, McClatchy quoted [13] more anonymous officials suggesting that to al-Qaeda types in Pakistan and beyond, bin Laden was like a “cranky old uncle” that you respectfully listen to and ignore. The Washington Post reported [14] that the emails show al-Qaeda leaders in Pakistan complaining about depleted funds, declining popularity, and CIA drones decimating their ranks. The White House seems conflicted about which view of al-Qaeda to take. It commendably wants to belittle al-Qaeda, robbing it of mystique by portraying bin Laden as pathetic and weak [15]. On the other hand, it needs the threat of a powerful al-Qaeda to justify the war in Afghanistan and other controversial policies. (2) Media reports [16] often give the impression that al-Qaeda in the Arabian Peninsula (AQAP) are the core of the militant group (Ansar al-Sharia) revolting in Yemen’s south. The implication is al-Qaeda could soon control territory for the first time. Too little attention is given to the uncertain role AQAP plays among Yemen’s militants and its limited ties to al-Qaeda Central. Bin Laden apparently asked [17] AQAP’s leader to attack Americans rather than gathering territory locally, suggesting that its commitment to attacking us may be limited. The point is not that we should ignore al-Qaeda terrorists in Yemen. But uncertainty about their role in Yemen and intent cautions against undifferentiated assaults on their leaders, let alone those of Ansar al-Sharia.

**Yemen instability key to US-Saudi military cooperation**

**Blanchard 12** Christopher M. Blanchard Specialist in Middle Eastern Affairs Saudi Arabia: Background and U.S. Relations November 27, 2012 http://www.fas.org/sgp/crs/mideast/RL33533.pdf

In recent years, Saudi Arabia has been drawn more closely into the affairs of its problematic southern neighbor, as Yemen’s government has struggled to defeat northern Al Houthi rebels amid continuing attacks from a resurgent Al Qaeda in the Arabian Peninsula. A Saudi military campaign against Al Houthi fighters along the border in 2009 exposed several weaknesses in U.S.-trained and supplied Saudi military forces, and the unrest in Yemen in 2011 raised the prospect of chaos that could directly destabilize the kingdom. In response, Saudi officials intervened forcefully to direct Yemeni President Ali Abdullah Saleh to accept the terms of a GCCnegotiated transition agreement. Whether the agreement will be implemented as planned remains unclear. Saudi authorities pledged $3.25 billion in support to Yemen at the May 2012 Friends of Yemen conference in Riyadh.

Instability in Yemen and the presence there of Al Qaeda in the Arabian Peninsula (AQAP) are of mutual concern to the United States and Saudi Arabia. Saudi Arabia has long sought to shape political and security conditions in Yemen as a means of preventing discrete threats from emerging on the kingdom’s southern flank. Many Yemenis view Saudi involvement in Yemen— particularly Saudi patronage relationships with various Yemeni tribal groups—as an attempt to perpetuate divisions in Yemeni society and prevent a unified Yemen from threatening Saudi interests. At present, there appears to be significant U.S.-Saudi intelligence cooperation with regard to the AQAP threat. Unverified press reports suggest that Saudi intelligence services are using double agents to collect information and sabotage AQAP operations. AQAP’s leadership and many of its senior operatives are Saudis who fled to Yemen after the failure of the 2003-2008 Al Qaeda campaign in the kingdom. Saudi officials in Yemen were targeted in assassinations and kidnappings during 2012.

While recent events suggest that significant changes have occurred in Yemen, the core dilemmas facing the United States look very much the same as they have since Yemeni unification in the early 1990s. Saudi Arabia and the United States share an interest in eliminating transnational terrorist threats in Yemen, but may differ on their preferred ends and means regarding Yemen’s long term stability and development.

**Solves multiple scenarios for Middle East war and contains Yemen instability**

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U.S.-Saudi security cooperation is becoming steadily more important as Iran expands its capabilities for asymmetric warfare in the Gulf, increases its long-range missile forces, and moves toward a capability to build and deploy nuclear weapons. The same is true of the enduring threat from terrorism, dealing with Iraq’s weakness and uncertain political leadership, the problems of Yemen, and instability and piracy in the Red Sea area and Indian Ocean.

The United States needs all the friends it can find in the Gulf. It faces serious uncertainties in reshaping its security posture in the region as its forces depart from Iraq. These include Iraq’s uncertain future political stance and government, the inability to predict Iranian actions and alignments, the uncertain outcome of the Israeli-Palestinian peace process, and uncertainties surrounding the success or failure of the conflicts in Afghanistan and Pakistan.

Saudi Arabia and Reshaping the U.S. Strategic Posture in the Gulf

At the same time, several factors are clear. There is no possible “end state” to the U.S. presence in the Gulf nor an end to the need for the strongest possible U.S. security ties to Saudi Arabia and other friendly states in the region.

The United State as must reshape its military posture in the Gulf as it withdraws from the Gulf, as well as reshape its power projection capabilities and contingency plans. It must shape its force posture and cooperation with its regional allies to become more effective in hybrid warfare and in a spectrum of conflicts ranging from covert and proxy warfare to long-range missile defenses and extended regional deterrence—addressing the military side of the risk that Iran may become a nuclear power and giving its allies an incentive not to acquire their own nuclear weapons and long-range missiles.

Iran remains an emerging challenge. It is deeply involved in strategic competition with the United States and its friends and allies in the region. It is developing steadily better capabilities to attack shipping, targets in the Gulf, and targets on the Saudi and southern Gulf coast, and it is using asymmetric warfare in doing so. It is fielding significant long-range missile forces and may acquire nuclear weapons.

If the United States is to deter other regional states from proliferation in reaction to Iran, and make its statements about offering “extended regional deterrence” a credible option, it must show it will do its best to create effective regional partners in the southern Gulf, as well as try to build a strategic partnership with Iraq.

At the same time, neither the United States nor its Gulf allies have any reason to seek open confrontation with Iran. This is particularly true of the Gulf states. “Speak softly and carry a big stick” may not be an old Arab proverb, but Arab leaders have long practiced this with considerable success.

The United States can still count on some support from allies like Britain and France, but the fact remains that it will have to rely on Saudi Arabia and other Gulf states. The same forces that have made the United States and Saudi Arabia key de facto partners in Gulf security will become even more important in the future.

Regardless of the outcome of Iraq’s effort to forge a new government, it will not become a major regional military power again for at least a decade. If the United States is to have any major strategic partner in the Gulf, it is going to be Saudi Arabia.

As General David Petraeus and others have explained, the war against terrorism and extremism is going to be a long war, likely to go on for the next 10 to 20 years. The Gulf region is going to be one of the centers of this conflict. Al Qa’ida is not suddenly going away, and new organizations are certain to emerge. Nations like Yemen and Somalia present serious long-term risks of becoming centers of terrorist activity.

The United States faces growing pressures to limit its military spending and commitments, and it has steadily increasing needs for regional allies with strong and interoperable forces to deter and contain regional threats and fight alongside U.S. forces if necessary.

It may or may not be possible to move forward quickly in an Israeli-Palestinian peace agreement, but it is vital to minimize the tensions between our Arab allies and Israel. King Abdullah’s peace plan may differ sharply with Israel’s position, but it shows that the United States can sell arms to Saudi Arabia with minimal risk of this impacting on Israel’s security. In fact, strong U.S. security ties to Saudi Arabia offer Israel a far better alternative than Saudi Arabia turning to European or other suppliers and questioning U.S. support if it faces a crisis with Iran.

**1NC Nuclear Terrorism**

**Zero risk of nuclear terrorism**

**Chapman 12** 5/22, \*Stephen Chapman is a columnist and editorial writer for the Chicago Tribune, “CHAPMAN: Nuclear terrorism unlikely,” http://www.oaoa.com/articles/chapman-87719-nuclear-terrorism.html, AJ

Ever since Sept. 11, 2001, Americans have had to live with the knowledge that the next time the terrorists strike, it could be not with airplanes capable of killing thousands but atomic bombs capable of killing hundreds of thousands. The prospect has created a sense of profound vulnerability. It has shaped our view of government policies aimed at combating terrorism (filtered through Jack Bauer). It helped mobilize support for the Iraq war. Why are we worried? Bomb designs can be found on the Internet. Fissile material may be smuggled out of Russia. Iran, a longtime sponsor of terrorist groups, is trying to acquire nuclear weapons. A layperson may figure it’s only a matter of time before the unimaginable comes to pass. Harvard’s Graham Allison, in his book “Nuclear Terrorism,” concludes, “On the current course, nuclear terrorism is inevitable.” But remember: After Sept. 11, 2001, we all thought more attacks were a certainty. Yet al-Qaida and its ideological kin have proved unable to mount a second strike. Given their inability to do something simple — say, shoot up a shopping mall or set off a truck bomb — it’s reasonable to ask whether they have a chance at something much more ambitious. Far from being plausible, argued Ohio State University professor John Mueller in a presentation at the University of Chicago, “the likelihood that a terrorist group will come up with an atomic bomb seems to be **vanishingly small**.” The events required to make that happen comprise a multitude of Herculean tasks. First, a terrorist group has to get a bomb or fissile material, perhaps from Russia’s inventory of decommissioned warheads. If that were easy, one would have already gone missing. Besides, those devices are probably no longer a danger, since weapons that are not maintained quickly become what one expert calls “radioactive scrap metal.” If terrorists were able to steal a Pakistani bomb, they would still have to defeat the arming codes and other safeguards designed to prevent unauthorized use. As for Iran, no nuclear state has ever given a bomb to an ally — for reasons even the Iranians can grasp. Stealing some 100 pounds of bomb fuel would require help from rogue individuals inside some government who are prepared to jeopardize their own lives. Then comes the task of building a bomb. It’s not something you can gin up with spare parts and power tools in your garage. It requires millions of dollars, a safe haven and advanced equipment — plus people with specialized skills, lots of time and a willingness to die for the cause. Assuming the jihadists vault over those Himalayas, they would have to deliver the weapon onto American soil. Sure, drug smugglers bring in contraband all the time — but seeking their help would confront the plotters with possible exposure or extortion. This, like every other step in the entire process, means expanding the circle of people who know what’s going on, multiplying the chance someone will blab, back out or screw up. That has heartening implications. If al-Qaida embarks on the project, it has only a minuscule chance of seeing it bear fruit. Given the formidable odds, it probably won’t bother. None of this means we should stop trying to minimize the risk by securing nuclear stockpiles, monitoring terrorist communications and improving port screening. But it offers good reason to think that in this war, it appears, the worst eventuality is **one that will never happen**.

**1NC Pakistan Instability**

**Military crackdowns control Pakistan instability**

**Bandow 09** – Senior Fellow at the Cato Institute (Doug, “Recognizing the Limits of American Power in Afghanistan,” Huffington Post, 11/31/09, <http://www.cato.org/pub_display.php?pub_id=10924>, MMarcus)

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

**Won’t escalate -- Paki loose nukes aren’t a threat.**

**Innocent 10** - foreign policy analyst at the Cato Institute (Malou, “Away from McChrystal and Back to the Basics,” Huffington Post, 6/28/10, <http://www.cato.org/pub_display.php?pub_id=11934>, MMarcus)

Pakistan has an elaborate command and control system in place that complies with strict Western standards, and the country's warheads, detonators, and missiles are not stored fully-assembled, but are scattered and physically separated throughout the country. In short, **the danger of militants seizing Pakistan's nuclear weapons in some Rambo-like scenario remains highly unlikely.**

**Econ**

**Empirics prove no war.**

**Miller 1**—Morris Miller is an adjunct economics professor at the University of Ottawa [Jan.-Mar, 2001, “Poverty: A Cause of War?” *Peace Magazine*, http://peacemagazine.org/archive/v17n1p08.htm]

Economic Crises?

Some scholars have argued that it is not poverty, as such, that contributes to the support for armed conflict, but rather some catalyst, such as an economic crisis. However, a study by Minxin Pei and Ariel Adesnik shows that this hypothesis lacks merit. After studying 93 episodes of economic crisis in 22 countries in Latin American and Asia since World War II, they concluded that much of the conventional thinking about the political impact of economic crisis is wrong:

"The severity of economic crisis—as measured in terms of inflation and negative growth—bore no relationship to the collapse of regimes ... or (in democratic states, rarely) to an outbreak of violence... In the cases of dictatorships and semi-democracies, the ruling elites responded to crises by increasing repression (thereby using one form of violence to abort another)."

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

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

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

Although it is pervasive, the assumption that countries’ economic growth rates strongly affect their political stability has not been subjected to a great deal of careful empirical analysis, and evidence from social science research to date does not unambiguously support it. Theoretical models of civil wars, coups d’etat, and transitions to and from democracy often specify slow economic growth as an important cause or catalyst of those events, but empirical studies on the effects of economic growth on these phenomena have produced mixed results. Meanwhile, the effects of economic growth on the occurrence or incidence of social unrest seem to have **hardly been studied in recent years**, as empirical analysis of contentious collective action has concentrated on political opportunity structures and dynamics of protest and repression.

This paper helps fill that gap by rigorously re-examining the effects of short-term variations in economic growth on the occurrence of several forms of political instability in countries worldwide over the past few decades. In this paper, we do not seek to develop and test new theories of political instability. Instead, we aim to subject a hypothesis common to many prior theories of political instability to more careful empirical scrutiny. The goal is to provide a detailed empirical characterization of the relationship between economic growth and political instability in a broad sense. In effect, we describe the conventional wisdom as seen in the data. We do so with statistical models that use smoothing splines and multiple lags to allow for nonlinear and dynamic effects from economic growth on political stability. We also do so with an instrumented measure of growth that explicitly accounts for endogeneity in the relationship between political instability and economic growth. To our knowledge, ours is the first statistical study of this relationship to simultaneously address the possibility of nonlinearity and problems of endogeneity. As such, we believe this paper offers what is probably the most rigorous general evaluation of this argument to date.

As the results show, some of our findings are surprising. Consistent with conventional assumptions, we find that social unrest and civil violence are more likely to occur and democratic regimes are more susceptible to coup attempts around periods of slow economic growth. At the same time, our analysis shows no significant relationship between variation in growth and the risk of civil-war onset, and results from our analysis of regime changes contradict the widely accepted claim that economic crises cause transitions from autocracy to democracy. While we would hardly pretend to have the last word on any of these relationships, our findings do suggest that the relationship between economic growth and political stability is neither as uniform nor as strong as the conventional wisdom(s) presume(s). We think these findings also help explain why the global recession of 2008–2010 has failed thus far to produce the wave of coups and regime failures that some observers had anticipated, in spite of the expected and apparent uptick in social unrest associated with the crisis.

**Drone norms**

**Circumvention**

**Wartime will force Obama to resist. The intractable battle creates a national diversion and impairs military wartime decisions**

**Lobel 8**—Professor of Law @ University of Pittsburgh [Jules Lobel, “Conflicts Between the Commander in Chief and Congress: Concurrent Power over the Conduct of War,” Ohio State Law Journal, Vol. 69, 2008, pg. 391]

The critical difficulty with a contextual approach is its inherent ambiguity and lack of clarity, which tends to sharply shift the balance of power in favor of a strong President acting in disregard of congressional will. For example, the application of the Feldman and Issacharoff test asking whether the **congressional restriction** makes realistic sense in the modern world would yield no coherent separation of powers answer if applied to the current Administration’s confrontation with Congress. It would undoubtedly **embolden the President to ignore Congress’s strictures**. The President’s advisors would argue that the McCain Amendment’s ban on cruel and inhumane treatment, or FISA’s requirement of a warrant, does not make realistic sense in the context of the contemporary realities of the war on terror in which we face a shadowy, ruthless nonstate enemy that has no respect for laws or civilized conduct, a conclusion hotly disputed by those opposed to the President’s policies. Focusing the debate over whether Congress has the power to control the treatment of detainees on the President’s claim that the modern realities of warfare require a particular approach will merge the separation of powers inquiry of who has the power with the political determination of what the policy ought to be. Such an approach is likely to encourage the President to **ignore and violate legislative wartime enactments** whenever he or she believes that a statute does not make realistic sense—that is, when it conflicts with a policy the President embraces. 53

The contextual approach has a “zone of twilight” quality that Justice Jackson suggested in Youngstown. 54 Often constitutional norms matter less than political realities—**wartime reality often favors a strong President who will overwhelm** both Congress and the courts. While it is certainly correct— as Jackson noted—that neither the Court nor the Constitution will preserve separation of powers where Congress is too politically weak to assert its authority, a fluid contextual approach is an invitation to Presidents to push beyond the constitutional boundaries of their powers and **ignore legislative enactments that seek to restrict their wartime authority**.

Moreover, another substantial problem with a contextual approach in the war powers context is that the judiciary is unlikely to resolve the dispute. 55 The persistent refusal of the judiciary to adjudicate the constitutionality of the War Powers Resolution strongly suggests that courts will often refuse to intervene to resolve disputes between the President and Congress over the constitutionality of a statute that a President claims impermissibly interferes with her conduct of an ongoing war. 56 This result leaves the political branches to engage in an **intractable dispute** over the statute’s constitutionality that **saps the nation’s energy, diverts focus** from the political issues in dispute, and **endangers the rule of law**.

Additionally, in wartime it is often important for issues relating to the exercise of war powers to be resolved quickly. Prompt action is not usually the forte of the judiciary.

If, however, a constitutional consensus exists or could be consolidated that Congress has the authority to check the President’s conduct of warfare, that consensus might help embolden future Congresses to assert their power. Such a consensus might also help prevent the **crisis, chaos, and stalemate** that may result when the two branches assert competing constitutional positions and, as a practical matter, judicial review is unavailable to resolve the dispute.

Moreover, the adoption of a contextual, realist approach will **undermine rather than aid the cooperation and compromise** between the political branches that is so **essential to success in wartime**. In theory, an unclear, ambiguous division of power between the branches that leaves each branch uncertain of its legal authority could further compromise and cooperation. However, **modern social science research** suggests that the opposite occurs. 57 Each side in the dispute is likely to grasp onto aspects or factors within the ambiguous or complex reality to support its own self-serving position. This **self-serving bias** hardens each side’s position and allows the **dispute to drag on**, as has happened with the ongoing, unresolved dispute over the constitutionality of the War Powers Resolution. Pg. 407-409

**AND, War power fights undermine US deterrence**

**Newton 12**—Professor of Law @ Vanderbilt University [Michael A. Newton, “Inadvertent Implications of the War Powers Resolution,” Case Western Reserve Journal of International Law, Vol. 45, No. 1, 2012]

The corollary to this modern reality, and the second of three inadvertent implications of the Resolution, is that our enemies now focus on American **political will as the Achilles heel** of our vast capabilities. Prior to the War Powers Resolution, President Eisenhower understood that it was necessary to "seek the **cooperation of the Congress**. Only with that can we give the reassurance needed to **deter aggression**." 62 President Clinton understood the importance of clear communication with the Congress and the American people in order to sustain the political legitimacy that is a vital element of modern military operations. Justifying his bombing of targets in Sudan, he argued that the "risks from inaction, to America and the world, would be far greater than action, for that would embolden our enemies, leaving their ability and their willingness to strike us intact."13 In his letter to Congress "consistent with the War Powers Resolution," the president reported that the strikes "were a necessary and proportionate response to the imminent threat of further terrorist attacks against U.S. personnel and facilities" and "were intended to prevent and deter additional attacks by a clearly identified terrorist threat."6 ' The following day, in a radio address to the nation, the president explained his decision to take military action, stating, "Our goals were to disrupt bin Laden's terrorist network and destroy elements of its infrastructure in Afghanistan and Sudan. And our goal was to destroy, in Sudan, the factory with which bin Laden's network gas."\*6 Citing "compelling evidence that the bin Laden network was poised to strike at us again" and was seeking to acquire chemical weapons, the president declared that we simply could not ignore the threat posed, and hence ordered the strikes. 66 Similarly, President Clinton understood that intervention in Bosnia could not be successful absent some national consensus, which had been slow to form during the long Bosnian civil war.6 1

Secretary of State George Schultz provided perhaps the most poignant and pointed example of this truism in his testimony to Congress regarding the deployment of US Marines into Lebanon to separate the warring factions in 1982. On September 21, 1983, he testified before the Senate Foreign Relations Committee and provided a chilling premonition of the bombing that would come only one month later and kill 241 Americans, which was the bloodiest day in the Marine Corps since the battle of Iwo Jima.6" Seeking to bolster legislative support and to better explain the strategic objectives, he explained that:

It is not the mission of our marines or of the [Multinational Force in Lebanon] as a whole to maintain the military balance in Lebanon by themselves. Nevertheless, their presence remains one crucial pillar of the structure of stability behind the legitimate Government of Lebanon, and an important weight in the scales.

To remove the marines would put both the Government and what we are trying to achieve in jeopardy. This is why our **domestic controversy over the war powers** has been so disturbing. Uncertainty about the American commitment can only weaken our effectiveness. Doubts about our staying power can only cause political aggressors to **discount our presence** or to **intensify their attacks** in hopes of hastening our departure.

An accommodation between the President and Congress to resolve this dispute will help **dispel** those **doubts** about our staying power and strengthen our political hand." Pg. 189-190

**That risks nuclear war. Deterrence prevents Kim Jong-Un from igniting the tinder box**

**Kline 13**—Comment Editor and Writer @ National Post [Jesse Kline (Master of Journalism degree from the University of British Columbia), “Deterrence is the best way to prevent war with North Korea,” National Post, April 9, 2013, pg. http://fullcomment.nationalpost.com/2013/04/09/jesse-kline-deterrence-is-the-best-way-to-prevent-war-with-north-korea/]

Another day, another provocation from North Korea. Last week the reclusive regime threatened to launch a **nuclear strike** against the United States, blocked South Korean workers from entering the Kaesong industrial complex and evacuated the Russian and British embassies, warning Western diplomats the country could not ensure their safety in the event of war. This week, the North has reportedly moved missile launchers to its east coast and threatened to shut down the industrial complex it jointly operates with the South. On Tuesday it warned1 foreigners to get out of South Korea because of the threat of "**thermonuclear war**." This all sounds bad, but there's little reason to panic, so long as the Obama administration makes it abundantly clear that any act of war will result in the full might of the U.S. military bearing down on North Korea.

Ever since the Korean War ended in 1953, the Kim regime has been bringing the peninsula to the brink and then backing off once the international community agrees to concessions. This is especially true any time South Korea elects a new president or conducts war games with the United States—two events that have taken place in recent weeks.

Appeasement seemed like a viable option until it became apparent that the North was developing weapons of mass destruction. As it turned out, constantly giving in to the North Koreans failed to stop them from developing a nuclear weapon and only encouraged the regime to continue playing games with the international community.

The North keeps playing these game because it works. By ratcheting up the rhetoric against the U.S. and South Korea, Kim Jong-Un is able to keep his population in a constant state of fear—always worried about the enemy at the gates. He is also able to shore up support from the military and justify spending money on defence instead of feeding the population, while pressuring the international community into giving aid to the cash-strapped country.

Kim Jong-Un is moving the world to the brink of war only because past experience has shown that he'll get something out of it. The truth is that there is very little chance of North Korea deliberately starting a conflict, as the regime is surely aware that it would be crushed by the American army in a head-to-head conflict.

The U.S. has put South Korea under its nuclear umbrella—i.e., a first strike against the South would trigger an American second strike. Barack Obama has also done a fairly **good job of not showing weakness** in the face of North Korean aggression by continuing joint war games with the South and flying nuclear-capable bombers to the peninsula. The only real threat of war occurs if either side trips up. And by preparing his forces for war, Kim Jong-Un has created a situation in which one wrong move by edgy soldiers guarding the demilitarized zone could **ignite the tinder box**.

Yet there is no reason to believe that standard deterrence mechanisms will not work in this situation. During the Cold War there was a very real threat of nuclear war between the United States and the Soviet Union, but it was prevented largely because of deterrence programs such as MAD (Mutually Assured Destruction). Other nuclear-armed rivals such as India and Pakistan have also prevented war using the same principals.  Kim Jong-Un may appear crazy, but there's no indication that he has a death wish.

However, as former U.S. secretary of state Henry Kissinger once said, "Deterrence requires a combination of power, the will to use it, and the assessment of these by the potential aggressor. Moreover, deterrence is the product of those factors and not the sum. **If any one of them is zero, deterrence fails**."

The North Koreans are betting that the American publicare in no mood for war, following Iraq and Afghanistan. And although war should be prevented at all costs, there probably would be support in the U.S. for the kind of fight the Americans are best at: Go in, kick ass and get out—nation building be damned. Flying B-2 bombers to Korea indicated that Washington was in no mood for games, but the announcement Sunday that the Pentagon will be delaying a planned missile test sends the opposite signal.

In order for deterrence to work, Washington has to be abundantly clear that any act of war will provoke a swift, and deadly, American response. And that any nuclear weapon—detonated anywhere in the world—using North Korean technology will result in Washington turning Pyongyang into a wasteland.

So long as Kim Jong-Un and his cronies believe there is a real and credible threat from the United States, there is very little to worry about. Cancelling planned displays of American firepower and not being explicit about U.S. support for countries such as South Korea and Japan, will only **embolden North Korea**—making the **powder keg more likely to blow**.

**Solvency**

**The plan wouldn’t solve drone prolif --- countries would perceive secrecy and hypocrisy as a rubber stamp**

**Rona 13** (Gabor Rona, international legal director at Human Rights First, “The Pro-Rule of Law Argument Against a ‘Drone Court,’” The Hill, February 27, 2013, http://thehill.com/blogs/congress-blog/judicial/285041-the-pro-rule-of-law-argument-against-a-drone-court)

A “drone court” would be unjust because the proposed target would be unable to appear and make the case for preserving his life. A secret judicial process in which the right to life is at stake but the owner of that life has no say is an affront both to American values and international legal principles.

While doing much harm, a “drone court” would do little, if any, good. Supporters like the idea because it appears to provide some check on the President’s secretive exercise of this lethal unilateral power. But what judge would risk preventing the interception of a terrorist? What’s more likely is that the drone court would be a rubber stamp, creating only the appearance, not the reality, of justice.

In wartime, the president may authorize killing of members of enemy armed forces or anyone else directly participating in hostilities. In an unconventional war such as this one, where the definition of the “enemy” and its “armed forces” isn’t always clear, the president needs to disclose how he defines that enemy and determines who is a member of its armed forces or otherwise participating in its fight against the United States, so that we can have some assurance he’s not killing the wrong people. A secret court would have no special expertise in making that determination.

Outside an active armed conflict, the legal standards are different: a suspect can be targeted for death only if he poses an “imminent threat” to human life that cannot be thwarted by non-lethal means. Here a “drone court” would be especially useless. We wouldn’t want the military to have to jump through judicial hoops to thwart a truly imminent attack. If the threat is imminent, there is, by definition, no time to seek judicial review, and if there is time, the threat is, by definition, not imminent.

But a “drone court” would be worse than ineffective: it would harm national security. Throughout the “war on terror,” policies that offend international law, including the broad scope of the government's claimed authority to kill, have inhibited allies from sharing essential intelligence with the United States and damaged the country’s reputation as a beacon on human rights. **A secret court would only reinforce the perception that the U**nited **S**tates **concocts its own secret rules while insisting that other countries follow the international public ones.**

**Modeling**

**Impacts not in context of i/l. No ev the courts of states like China and Russia have judicial systems that can restrain drone strikes.**

**No causal link between U.S. drone doctrine and other’ countries choices---means can’t set a precedent**

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

New York Times national security correspondent Scott Shane has an opinion piece in today’s Sunday Times predicting an “arms race” in military drones. The methodology essentially looks at the US as the leader, followed by Israel – countries that have built, deployed and used drones in both surveillance and as weapons platforms. It then looks at the list of other countries that are following fast in US footsteps to both build and deploy, as well as purchase or sell the technology – noting, correctly, that the list is a long one, starting with China. The predicament is put this way:

Eventually, the United States will face a military adversary or terrorist group armed with drones, military analysts say. But what the short-run hazard experts foresee is not an attack on the United States, which faces no enemies with significant combat drone capabilities, but the political and legal challenges posed when another country follows the American example. The Bush administration, and even more aggressively the Obama administration, embraced an extraordinary principle: that the United States can send this robotic weapon over borders to kill perceived enemies, even American citizens, who are viewed as a threat.

“Is this the world we want to live in?” asks Micah Zenko, a fellow at the Council on Foreign Relations. “Because we’re creating it.”

By asserting that “we’re” creating it, this is a claim that there is an arms race among states over military drones, and that it is a consequence of the US creating the technology and deploying it – and then, beyond the technology, changing the normative legal and moral rules in the international community about using it across borders. In effect, the combination of those two, technological and normative, forces other countries in strategic competition with the US to follow suit. (The other unstated premise underlying the whole opinion piece is a studiously neutral moral relativism signaled by that otherwise unexamined phrase “perceived enemies.” Does it matter if they are not merely our “perceived” but are our actual enemies? Irrespective of what one might be entitled to do to them, is it so very difficult to conclude, even in the New York Times, that Anwar al-Awlaki was, in objective terms, our enemy?)

It sounds like it must be true. But is it? There are a number of reasons to doubt that moves by other countries are an arms race in the sense that the US “created” it or could have stopped it, or that something different would have happened had the US not pursued the technology or not used it in the ways it has against non-state terrorist actors. Here are a couple of quick reasons why I don’t find this thesis very persuasive, and what I think the real “arms race” surrounding drones will be.

Unmanned aerial vehicles have clearly got a big push from the US military in the way of research, development, and deployment. But the reality today is that the technology will transform civil aviation, in many of the same ways and for the same reasons that another robotic technology, driverless cars (which Google is busily plying up and down the streets of San Francisco, but which started as a DARPA project). UAVs will eventually move into many roles in ordinary aviation, because it is cheaper, relatively safer, more reliable – and it will eventually include cargo planes, crop dusting, border patrol, forest fire patrols, and many other tasks. There is a reason for this – the avionics involved are simply not so complicated as to be beyond the abilities of many, many states. Military applications will carry drones many different directions, from next-generation unmanned fighter aircraft able to operate against other craft at much higher G stresses to tiny surveillance drones. But the flying-around technology for aircraft that are generally sizes flown today is not that difficult, and any substantial state that feels like developing them will be able to do so.

But the point is that this was happening anyway, and the technology was already available. The US might have been first, but it hasn’t sparked an arms race in any sense that absent the US push, no one would have done this. That’s just a fantasy reading of where the technology in general aviation was already going; Zenko’s ‘original sin’ attribution of this to the US opening Pandora’s box is not a credible understanding of the development and applications of the technology. Had the US not moved on this, the result would have been a US playing catch-up to someone else. For that matter, the off-the-shelf technology for small, hobbyist UAVs is simple enough and available enough that terrorists will eventually try to do their own amateur version, putting some kind of bomb on it.

Moving on from the avionics, weaponizing the craft is also not difficult. The US stuck an anti-tank missile on a Predator; this is also not rocket science. Many states can build drones, many states can operate them, and crudely weaponizing them is also not rocket science. The US didn’t spark an arms race; this would occur to any state with a drone. To the extent that there is real development here, it lies in the development of specialized weapons that enable vastly more discriminating targeting. The details are sketchy, but there are indications from DangerRoom and other observers (including some comments from military officials off the record) that US military budgets include amounts for much smaller missiles designed not as anti-tank weapons, but to penetrate and kill persons inside a car without blowing it to bits, for example. This is genuinely harder to do – but still not all that difficult for a major state, whether leading NATO states, China, Russia, or India. The question is whether it would be a bad thing to have states competing to come up with weapons technologies that are … more discriminating.

**U.S. drone use doesn’t set a precedent, restraint doesn’t solve it, and norms don’t apply to drones at all in the first place**

Amitai **Etzioni 13**, professor of international relations at George Washington University, March/April 2013, “The Great Drone Debate,” Military Review, <http://usacac.army.mil/CAC2/MilitaryReview/Archives/English/MilitaryReview_20130430_art004.pdf>

Other critics contend that by the United States using drones, it leads other countries into making and using them. For example, Medea Benjamin, the cofounder of the anti-war activist group CODEPINK and author of a book about drones argues that, “The proliferation of drones should evoke reﬂection on the precedent that the United States is setting by killing anyone it wants, anywhere it wants, on the basis of secret information. Other nations and non-state entities are watching—and are bound to start acting in a similar fashion.”60 Indeed scores of countries are now manufacturing or purchasing drones. There can be little doubt that the fact that drones have served the United States well has helped to popularize them. However, it does not follow that United States should not have employed drones in the hope that such a show of restraint would deter others. First of all, this would have meant that either the United States would have had to allow terrorists in hardto-reach places, say North Waziristan, to either roam and rest freely—or it would have had to use bombs that would have caused much greater collateral damage.

Further, the record shows that even when the United States did not develop a particular weapon, others did. Thus, China has taken the lead in the development of anti-ship missiles and seemingly cyber weapons as well. One must keep in mind that the international environment is a hostile one. Countries—and especially non-state actors— most of the time do not play by some set of selfconstraining rules. Rather, they tend to employ whatever weapons they can obtain that will further their interests. The United States correctly does not assume that it can rely on some non-existent implicit gentleman’s agreements that call for the avoidance of new military technology by nation X or terrorist group Y—if the United States refrains from employing that technology.

I am not arguing that there are no natural norms that restrain behavior. There are certainly some that exist, particularly in situations where all parties beneﬁt from the norms (e.g., the granting of diplomatic immunity) or where particularly horrifying weapons are involved (e.g., weapons of mass destruction). However drones are but one step—following bombers and missiles—in the development of distant battleﬁeld technologies. (Robotic soldiers—or future ﬁghting machines— are next in line). In such circumstances, the role of norms is much more limited.

**No ‘global precedent’ is affected by anything the U.S. does---states will inevitably pursue drones**

Robert **Wright 12**, “The Incoherence of a Drone-Strike Advocate,” 11/14/12, http://www.theatlantic.com/international/archive/2012/11/the-incoherence-of-a-drone-strike-advocate/265256/

Naureen Shah of Columbia Law School, a guest on the show, had raised the possibility that America is setting a dangerous precedent with drone strikes. If other people start doing what America does--fire drones into nations that house somebody they want dead--couldn't this come back to haunt us? And haunt the whole world? Shouldn't the U.S. be helping to establish a global norm against this sort of thing? Host Warren Olney asked Boot to respond.

Boot started out with this observation:

I think the precedent setting argument is overblown, because I don't think other countries act based necessarily on what we do and in fact we've seen lots of Americans be killed by acts of terrorism over the last several decades, none of them by drones but they've certainly been killed with car bombs and other means.

That's true--no deaths by terrorist drone strike so far. But I think a fairly undeniable premise of the question was that the arsenal of terrorists and other nations may change as time passes. So answering it by reference to their current arsenal isn't very illuminating. In 1945, if I had raised the possibility that the Soviet Union might one day have nuclear weapons, it wouldn't have made sense for you to dismiss that possibility by noting that none of the Soviet bombs dropped during World War II were nuclear, right?

As if he was reading my mind, Boot immediately went on to address the prospect of drone technology spreading. Here's what he said:

You know, drones are a pretty high tech instrument to employ and they're going to be outside the reach of most terrorist groups and even most countries. But whether we use them or not, the technology is propagating out there. We're seeing Hezbollah operate Iranian supplied drones over Israel, for example, and our giving up our use of drones is not going to prevent Iran or others from using drones on their own. So I wouldn't worry too much about the so called precedent it sets..."

**Heg**

No internal link

**Decline doesn’t cause war [GREEN]**

**Fettweis 11**—Professor of Poli Sci @ Tulane University [Christopher J. Fettweis, “The Superpower as Superhero: Hubris in U.S. Foreign Policy,” Paper prepared for presentation at the 2011 meeting of the American Political Science Association, September 1-4, Seattle, WA, September 2011, pg. http://ssrn.com/abstract=1902154]

The final and in some ways most important pathological belief generated by hubris places the United States at the center of the current era of relative peace. “All that stands between civility and genocide, order and mayhem,” explain Kaplan and Kristol, “is American power.”68 This belief is a variant of what is known as the “hegemonic stability theory,” which proposes that international peace is only possible when there is one country strong enough to make and enforce a set of rules.69 Although it was first developed to describe economic behavior, the theory has been applied more broadly, to explain the current proliferation of peace. At the height of Pax Romana between roughly 27 BC and 180 AD, for example, Rome was able to bring an unprecedented level of peace and security to the Mediterranean. The Pax Britannica of the nineteenth century brought a level of stability to the high seas. Perhaps the current era is peaceful because the United States has established a de facto Pax Americana in which no power is strong enough to challenge its dominance, and because it has established a set of rules that are generally in the interests of all countries to follow. Without a benevolent hegemon, some strategists fear, instability may break out around the globe.70 Unchecked conflicts could bring humanitarian disaster and, in today’s interconnected world, economic turmoil that could ripple throughout global financial markets. There are good theoretical and empirical reasons, however, to doubt that U.S hegemony is the primary cause of the current stability.¶ First, the hegemonic-stability argument shows the classic symptom of hubris: It overestimates the capability of the United States, in this case to maintain global stability. No state, no matter how strong, can impose peace on determined belligerents. **The U.S. military** may be the most imposing in the history of the world, but it **can only police the system if the other members** generally **cooperate**. Self-policing must occur, in other words; if other states had not decided on their own that their interests are best served by peace, then no amount of international constabulary work by the United States could keep them from fighting. The five percent of the world’s population that lives in the United States simply cannot force peace upon an unwilling ninety-five percent. Stability and unipolarity may be simply coincidental.¶ In order for U.S. hegemony to be the explanation for global stability, the rest of the world would have to expect reward for good behavior and fear punishment for bad. Since the end of the Cold War, the United States has not been especially eager to enforce any particular rules. Even rather incontrovertible evidence of genocide has not been enough to inspire action. Hegemonic stability can only take credit for influencing those decisions that would have ended in war without the presence, whether physical or psychological, of the United States. Since most of the world today is free to fight without U.S. involvement, something else must be preventing them from doing so.71 **Stability exists in many places where no hegemony is present**. Ethiopia and Eritrea are hardly the only states that could go to war without the slightest threat of U.S. intervention, yet few choose to do so.¶ Second, it is worthwhile to repeat one of the most basic observations about misperception in international politics, one that is magnified by hubris: Rarely are our actions as consequential upon their behavior as we believe them to be. The **ego-centric bias** suggests that while it may be natural for U.S. policymakers to interpret their role as crucial in the maintenance of world peace, they are almost certainly overestimating their own importance. At the very least, the United States is probably not as central to the myriad decisions in foreign capitals that help maintain international stability as it thinks it is.¶ Third, if U.S. security guarantees were the primary cause of the restraint shown by the other great and potentially great powers, then those countries would be demonstrating an amount of **trust** in the intentions, judgment and wisdom of another that would be **without precedent in** international **history**. If the states of Europe and the Pacific Rim detected a good deal of danger in the system, relying entirely on the generosity and sagacity (or, perhaps the naiveté and gullibility) of Washington would be the height of strategic irresponsibility. Indeed it is hard to think of a similar choice: When have any capable members of an alliance virtually disarmed and allowed another member to protect their interests? It seems more logical to suggest that the other members of NATO and Japan just **do not share the same perception of threat** that the United States does. If there was danger out there, as so many in the U.S. national security community insist, then the grand strategies of the allies would be quite different. Even during the Cold War, U.S. allies were not always convinced that they could rely on U.S. security commitments. Extended deterrence was never entirely comforting; few Europeans could be sure that United States would indeed sacrifice New York for Hamburg. In the absence of the unifying Soviet threat, their trust in U.S. commitments for their defense would presumably be lower—if in fact that commitment was at all necessary outside of the most pessimistic works of fiction.¶ Furthermore, in order for hegemonic stability logic to be an adequate explanation for restrained behavior, allied states must not only be fully convinced of the intentions and capability of the hegemon to protect their interests; they must also trust that the hegemon can interpret those interests correctly and consistently. As discussed above, the allies do not feel that the United States consistently demonstrates the highest level of strategic wisdom. In fact, they often seem to look with confused eyes upon our behavior, and are unable to explain why we so often find it necessary to go abroad in search of monsters to destroy. They will participate at times in our adventures, but minimally and reluctantly.¶ Finally, while believers in hegemonic stability as the primary explanation for the long peace have articulated a logic that some find compelling, they are rarely able to cite much evidence to support their claims. In fact, **the** limited **empirical data** we have suggests that there is little connection between the relative level of U.S. activism and international stability. During the 1990s, the United States cut back on defense fairly substantially, spending $100 billion less in real terms in 1998 that it did in 1990, which was a twenty-five percent reduction.72 To defense hawks and other believers in hegemonic stability, this irresponsible “peace dividend” endangered both national and global security. “No serious analyst of American military capabilities doubts that the defense budget has been cut much too far to meet America’s responsibilities to itself and to world peace,” argued Kristol and Kagan.”73 If global stability were unrelated to U.S. hegemony, however, one would not have expected an increase in conflict and violence.¶ The verdict from the last two decades is fairly plain: The world grew more peaceful while the United States cut its forces.74 No state believed that its security was endangered by a less-capable U.S. military, or at least none took any action that would suggest such a belief. **No defense establishments were enhanced** to address power vacuums; **no security dilemmas drove insecurity or arms races; no regional balancing occurred** after the stabilizing presence of the U.S. military was diminished. The rest of the world acted as if the threat of international war was not a pressing concern, despite the reduction in U.S. capabilities. The incidence and magnitude of global conflict declined while the United States cut its military spending under President Clinton, and kept declining as the Bush Administration ramped that spending back up. The two phenomena are unrelated.¶ These figures will not be enough to convince skeptics. Military spending figures by themselves are insufficient to disprove a connection between overall U.S. actions and international stability, and one could also presumably argue that spending is not the only or even the best indication of hegemony, that it is instead U.S. foreign political and security commitments that maintain stability. Since neither was significantly altered during this period, instability should not be expected. Alternately, advocates of hegemonic stability could believe that relative rather than absolute spending is decisive in bringing peace. Although the United States cut back on its spending during the 1990s, its relative advantage never wavered.¶ However, two points deserve to be made. First, even if it were true that either U.S. commitments or relative spending account for global pacific trends, it would remain the case that stability can be maintained at drastically lower levels. In other words, even if one can be allowed to argue in the alternative for a moment and suppose that there is in fact a level of engagement below which the United States cannot drop without increasing international disorder, a rational grand strategist would still cut back on engagement and spending until that level is determined. Basic logic suggests that the United States ought to spend the minimum amount of its blood and treasure while seeking the maximum return on its investment. And if, as many suspect, this era of global peace proves to be inherently stable because normative evolution is typically **unidirectional**, then no increase in conflict would ever occur, irrespective of U.S. spending.75 Abandoning the mission to stabilize the world would save untold trillions for an increasingly debt-ridden nation.¶ Second, it is also worth noting that if opposite trends had unfolded, if other states had reacted to news of cuts in U.S. defense spending with more aggressive or insecure behavior, then surely hegemonists would note that their expectations had been justified. If increases in conflict would have been interpreted as evidence for the wisdom of internationalist strategies, then logical consistency demands that the lack thereof should at least pose a problem. As it stands, the only evidence we have regarding the relationship between U.S. power and international stability suggests that **the two are unrelated**. Evidently the rest of the world can operate quite effectively without the presence of a global policeman. Those who think otherwise base their view on **faith alone**.¶ It requires a good deal of hubris for any actor to consider itself indispensable to world peace. Far from collapsing into a whirlwind of chaos, the chances are high that the world would look much like it does now if the United States were to cease regarding itself as God’s gladiator on earth. The people of the United States would be a lot better off as well.

**1NC – multilat**

**Decline causes multilateralism and a soft landing**

**He 10**—Professor of Political Science at Utah State University [Kai He (Postdoctoral fellow in the Princeton-Harvard China and the World Program at Princeton University (2009–2010) and a Bradley fellow of the Lynda and Harry Bradley Foundation (2009–2010), “The hegemon’s choice between power and security: explaining US policy toward Asia after the Cold War,” Review of International Studies (2010), 36, pg. 1121–1143]

When US policymakers perceive a rising or a stable hegemony, the anarchic nature of the international system is no longer valid in the mind of US policymakers because the preponderant power makes the US immune from military threats. In the self-perceived, hierarchic international system with the US on the top, power-maximisation becomes the strategic goal of the US in part because of the ‘lust for power’ driven by human nature and in part because of the disappearance of the security constraints imposed by anarchy. Therefore, selective engagement and hegemonic dominion become two possible strategies for the US to maximise its power in the world. The larger the power gap between the US and others, the more likely selective engagement expands to hegemonic dominion. When US policymakers perceive a declining hegemony in that the power gap between the hegemon and others is narrowed rather than widened, US policymakers begin to **change their hierarchic view** of the international system. The rapid decline of relative power causes US policymakers to worry about security imposed by anarchy even though the US may remain the most powerful state in the system during the process of decline. Offshore balancing and multilateralism, therefore, become two possible policy options for the US to maximise its security under anarchy. The possible budget constraints during US decline may lead to military withdrawals from overseas bases. In addition, the **US becomes** more **willing to pay the** initial **‘lock-in’ price of multilateral institutions** in order to constrain other states’ behaviour for its own security.

US foreign policy towards Asia preliminarily supports the power-perception hegemonic model. When President George H. W. Bush came to power, the US faced ‘dual deficits’ even though the US won the Cold War and became the hegemon by default in the early 1990s. The domestic economic difficulty imposed a declining, or at least uncertain, hegemony to the Bush administration. Consequently, Bush had to withdraw troops from Asia and conducted a reluctant offshore balancing strategy in the early 1990s. Although the US still claimed to keep its commitments to Asian allies, the US words with the sword became unreliable at best.

During President Clinton’s first tenure, how to revive US economy became the first priority of the administration. The perception of a declining hegemon did not totally fade until the middle of the 1990s when the US economy gradually came out of the recession. Multilateral institutions, especially APEC, became Clinton’s diplomatic weapon to open Asia’s market and boost US economy. In addition, the US also endorsed the ARF initiated by the ASEAN states in order to retain its eroding political and military influence after the strategic retreats in the early 1990s.

However, the US ‘new economy’ based on information technology and computers revived policymakers’ confidence in US hegemony after the Asian miracle was terminated by the 1997 economic crisis. The second part of the 1990s witnessed a rising US hegemony and the George W. Bush administration reached the apex of US power by any measure in the early 21st century. Therefore, since Clinton’s second tenure in the White House, US foreign policy in general and towards Asia in particular has become more assertive and power-driven in nature. Besides reconfirming its traditional military alliances in Asia, the US deepened its military engagement in the region through extensive security cooperation with other Asian states.

The selective engagement policy of the US in the late 1990s was substantially expanded by the Bush administration to hegemonic dominion after 9/11. The unrivalled hegemony relieved US of concerns over security threats from any other states in the international system. The ‘lust for power’ without constraints from anarchy drove US policymakers to pursue a hegemonic dominion policy in the world. The ‘pre-emption strategy’ and proactive missile defence programs reflected the power-maximising nature of the hegemonic dominion strategy during the George W. Bush administration.

What will the US do in the future? The power-perception hegemonic model suggests that the US cannot escape the fate of other great powers in history. When US hegemony is still rising or at a stable stage, no one can stop US expansion for more power. When its economy can no longer afford its power-oriented strategy, the US will face the same strategic burden of ‘imperial overstretch’ that Great Britain suffered in the 19th century. However, the power-perception hegemonic model also argues that US foreign policy depends on how US policymakers perceive the rise and fall of US hegemony.

If historical learning can help US policymakers cultivate a prudent perception regarding US hegemony, the early implementation of offshore balancing and **multilateralism may facilitate the soft-landing** **of declining US hegemony**. More importantly, the real danger is whether the US can make a right choice between power and security when US hegemony begins to decline. If US policymakers cannot learn from history but insist on seeking more power instead of security even though US hegemony is in decline, the likelihood of **hegemonic war** will increase. However, if US policymakers choose security over power when US hegemony is in decline, offshore balancing and multilateralism can help the US maximise security in the future anarchic, multipolar world. Pg. 1141-1143

**Extinction**

**Masciulli 11**—Professor of Political Science @ St Thomas University [Joseph Masciulli, “The Governance Challenge for Global Political and Technoscientific Leaders in an Era of Globalization and Globalizing Technologies,” Bulletin of Science, Technology & Society February 2011 vol. 31 no. 1 pg. 3-5]

What is most to be feared is enhanced global disorder resulting from the combination of **weak global regulations**; the unforeseen destructive consequences of **converging tech**nologies and economic globalization; military competition among the great powers; and the prevalent biases of short-term thinking held by most leaders and elites. But no practical person would wish that such a disorder scenario come true, given all the weapons of mass destruction (**WMD**s) available now or which will surely become available in the foreseeable future. As converging technologies united by IT, cognitive science, nanotechnology, and robotics advance synergistically in monitored and unmonitored laboratories, we may be blindsided by these future developments brought about by technoscientists with a variety of good or destructive or mercenary motives. The current laudable but problematic openness about publishing scientific results on the Internet would contribute greatly to such negative outcomes.

To be sure, if the global disorder-emergency scenario occurred because of postmodern terrorism or rogue states using biological, chemical, or nuclear WMDs, or a regional war with nuclear weapons in the Middle East or South Asia, there might well be a positive result for global governance. Such a global emergency might unite the global great and major powers in the conviction that a global concert was necessary for their survival and planetary survival as well. In such a global great power concert, basic rules of economic, security, and legal order would be uncompromisingly enforced both globally and in the particular regions where they held hegemonic status. That concert scenario, however, is flawed by the limited legitimacy of its structure based on the members having the greatest hard and soft power on planet Earth.

At the base of our concerns, I would argue, are **human proclivities for narrow, short-term thinking tied to** individual self-interest or corporate and **national interests** in decision making. For globalization, though propelled by technologies of various kinds, “remains an essentially human phenomenon . . . and the main drivers for the establishment and uses of disseminative systems are hardy perennials: profit, convenience, greed, relative advantage, curiosity, demonstrations of prowess, ideological fervor, malign destructiveness.” These human drives and capacities will not disappear. Their “manifestations now extend considerably beyond more familiarly empowered governmental, technoscientific and corporate actors to include even individuals: terrorists, computer hackers and rogue market traders” (Whitman, 2005, p. 104).

In this dangerous world, if people are to have their human dignity recognized and enjoy their human rights, above all, to life, security, a healthy environment, and freedom, we need new forms of comprehensive global regulation and control. Such **effective global leadership** **and governance** with robust enforcement powers **alone can adequately respond to destructive current global problems, and prevent new ones**. However, successful human adaptation and innovation to our current complex environment through the social construction of effective global governance will be a daunting collective task for global political and technoscientific leaders and citizens. For our global society is caught in “the whirlpool of an accelerating process of modernization” that has for the most part “been left to its own devices” (Habermas, 2001, p. 112). We need to progress in human adaptation to and innovation for our complex and problematical global social and natural planetary environments through global governance. I suggest we need to begin by ending the prevalent biases of short-termism in thinking and acting and the false values attached to the narrow self-interest of individuals, corporations, and states.

I agree with Stephen Hawking that the long-term future of the human race must be in space. It will be difficult enough to avoid disaster on planet Earth in the next hundred years, let alone the next thousand, or million. . . . There have been a number of times in the past when its survival has been a question of touch and go. The Cuban missile crisis in 1962 was one of these. The frequency of such occasions is likely to increase in the future. We shall need great care and judgment to negotiate them all successfully. But I’m an optimist. If we can avoid disaster for the next two centuries, our species should be safe, as we spread into space. . . . But we are entering an increasingly dangerous period of our history. Our population and our use of the finite resources of planet Earth, are growing exponentially, along with our technical ability to change the environment for good or ill. But our genetic code still carries the selfish and aggressive instincts that were of survival advantage in the past. . . . Our only chance of long term survival is not to remain inward looking on planet Earth, but to spread out into space. We have made remarkable progress in the last hundred years. But if we want to continue beyond the next hundred years, our future is in space.” (Hawking, 2010)

Nonetheless, to reinvent humanity pluralistically in outer space and beyond will require securing our one and only global society and planet Earth through effective global governance in the foreseeable future. And **our dilemma is that** the enforcement powers of **multilateral institutions are not likely to be strengthened because** of the competition for greater (relative, not absolute) hard and soft power by the **great** and major **powers**. They **seek** their **national** or alliance **superiority**, or at least, parity, for the sake of their state’s survival and security now. Unless the global disorder-emergency scenario was to occur soon—God forbid—the great powers will most likely, recklessly and tragically, leave global survival and security to their longer term agendas. Pg. 4-5

**2NC CP**

**SCS tension inevitable but won’t escalate, even if they win a huge internal link**

Michal **Meidan 12**, China Analyst at the Eurasia Group, 8/7/12, “Guest post: Why tensions will persist, but not escalate, in the South China Sea,” <http://blogs.ft.com/beyond-brics/2012/08/07/guest-post-why-tensions-will-persist-but-not-escalate-in-the-south-china-sea/#axzz2Cbw54ORc>

These tensions are likely to persist. And Beijing is not alone in perpetuating them. Vietnam and the Philippines, concerned with the shifting balance of powers in the region, are pushing their maritime claims more aggressively and increasing their efforts to internationalise the question by involving both ASEAN and Washington. Attempts to come up with a common position in ASEAN have failed miserably but as the US re-engages Asia, it is drawn into the troubled waters of the South China Sea.¶ Political dynamics in China – with a once in a decade leadership transition coming up, combined with electoral politics in the US and domestic constraints for both Manila and Hanoi – all augur that the South China Sea will remain turbulent. No government can afford to appear weak in the eyes of domestic hawks or of increasingly nationalistic public opinions. The risk of a miscalculation resulting in prolonged standoffs or skirmishes is therefore higher now than ever before. But there are a number of reasons to believe that even these skirmishes are unlikely to escalate into broader conflict.¶ First, despite the strong current of assertive forces within China, cooler heads are ultimately likely to prevail. While a conciliatory stance toward other claimants is unlikely before the leadership transition, China’s top brass will be equally reluctant to significantly escalate the situation, since this will send southeast Asian governments running to Washington. Hanoi and Manila also recognize that despite their need for assertiveness to appease domestic political constituencies, a direct confrontation with China is overly risky.¶ Second, military pundits in China also realize that the cost of conflict is too high, since it will strengthen Washington’s presence in the region and disrupt trade flows. And even China’s oil company CNOOC, whose portfolio of assets relies heavily on the South China Sea, is diversifying its interests in other deepwater plays elsewhere, as its attempted takeover of Nexen demonstrates.

**Chinese compliance with the missile prolif regime demonstrates that domestic politics and security calculations, not norms, drive their behavior.**

Edward **Friedman**, September **2008**. Professor of Political Science, specializing in Chinese politics, @ University of Wisconsin, Madison. “Review of Reluctant Restraint: The Evolution of China’s Nonproliferation Policies and Practices, 1980–2004, by Evan S. Medeiros,” Perspectives on Politics 6.3.

In this book, Evan Medeiros seeks to explain the Chinese Communist regime’s policies on nuclear proliferation and missile proliferation, comparing the Mao era with the postMao era. The rich data that he vividly presents is a synthesis of interviews with specialists in both the PRC and the U.S., as well as key writings from both countries. The result is a magisterial study of encyclopedic breadth that will serve as a solid reference for all concerned with changes and continuities in Chinese nonproliferation policies. Medeiros concludes that “U.S. policy played a decisive role” in “positive change in the direction of greater support for WMD nonproliferation” (p. 260). The U.S. is said to have fostered an epistemic community of Chinese specialists through engagement in the post-Mao era. Constructivism helps one comprehend how ruling groups in Beijing came to see WMD nonproliferation to be in China’s interest. Realism is said to be incapable of explaining these changes. Actually, the wonderful data unearthed by the thorough research of the subtle and knowledgeable Medeiros is more complex than the conclusions he draws from it. Medeiros ﬁnds that while China moved from enabling nuclear proliferation in the Mao era to joining those who would stop nuclear proliferation in the post-Mao era, China continues to be a major proliferator of missiles and missile technology. While Medeiros suggests that signiﬁcant progress has been made on missile nonproliferation, the data shows otherwise. The enigma is why the creation of an epistemic community would work for nuclear weapons but not for missiles. I would maintain that looking at China’s real international interests and Beijing’s domestic politics offers more powerful and persuasive hypotheses than does constructivism. Is it credible that Mao-era leaders could not understand Chinese interests and therefore irrationally promoted nuclear weapons proliferation until enlightened American specialists helped the Chinese to see their true interests? To be sure, interests can change. The point is to explain how. Even before the PRC was ofﬁcially established, Mao sent specialists to “ban the bomb” peace conferences in Europe with instructions to begin purchasing what was needed for a Chinese nuclear project. Alliance with Stalin’s regime allowed Chinese scientists to learn about nuclear technology. When Khrushchev refused to deliver the bomb, Mao pushed a project to speed WMD production, even though it increased Chinese famine deaths. Mao understood his anti-Soviet interest and Chinese national interest to mean that for China to be a world power, equal to Russia and America, China would have to acquire WMD. The episteme that is decisive is China’s national identity as a world power at least the equal of the most powerful. Before China had a secure second strike deterrent, the PRC was temporarily more vulnerable. Both Kennedy and Brezhnev looked into destroying China’s nuclear facilities. Mao, as the leader of a vulnerable nation, responded by promoting nuclear proliferation to cause problems for the two superpowers and by seeking détente with Nixon to deter Brezhnev. Obtaining nuclear weapons and missiles to deliver them was a top Chinese interest. To become a world power equal to other great powers, China had to risk an era of vulnerability. Ambitious post-Mao leaders share Mao’s view of China’s hegemonic status. Once China had a decisive, deterrent second strike in the post-Mao era, however, the interests of the PRC were redeﬁned. China’s rulers then did not want to see other nations in their region going nuclear. China opposed India becoming a nuclear power. It works to end the North Korean nuclear program because North Korean WMD could prod Japan, the economic colossus of the region, to go nuclear, something Chinese leaders very much do not want to happen, as Medeiros notes. Hardheaded real interests of an ambitious ruling group whose situation fundamentally changes explain why China could ﬁrst be a nuclear proliferator and then an opponent of proliferation. China still wants to be the dominant power in its region. In addition, post-Mao growth creates a Chinese need for oil and nuclear power, as Medeiros writes. Once China needs energy from the Middle East to keep its economy going, a nuclear Iran destabilizing the Middle East is no longer in China’s interests. Focusing on the creation of an epistemic community calls attention away from the actual changing interest dynamics that shape Chinese policy-making. In addition, although Medeiros claims that sanctions do not work, his data shows that U.S. sanctions against Chinese proliferation have in the past had an impact on Chinese policy. Whether sanctions on China will work in an era when the American economy is weaker and China’s is stronger is another question. Why, then, has China remained a missile proliferator? Medeiros’s excellent study again provides the data. Families of ruling groups make lots of money on these deals. China ﬁnds that the Missile Technology Control Regime (MTCR), like so many IOs, serves American interests. China regards missiles to Pakistan and Iran as balancing America and its friends. For Beijing, Chinese missile proliferation is stabilizing. China sees American Theater Missile Defense (TMD) with Japan and American Patriot missiles to Taiwan as undermining Chinese dominance in the region. The MTCR serves American interests by allowing America to proliferate but not China. So China proliferates missiles. These differences in attitude to the MTCR and TMD matter because analysts understand policy possibilities with China in terms of “the extent to which China supports current international institutions” (p. l). While ruling groups in Beijing understand their international policy goal as making China “a great power” with “comprehensive national power”(p.2), observers debate whether China imagines itself achieving this goal by acting as a revisionist power that challenges the international institutions constructed by the previous hegemon, the United States. Since post-Mao China welcomed IMF advice, World Bank loans, and membership in the WTO, specialists agree that China is not acting as a revisionist power—that is, except in realms such as good governance. The Communist Party of China (CCP) government works to undermine a universal regime of human rights and to offer itself as an alternative to international ﬁnancial institutions (IFI) good governance conditionality aimed at nudging corrupt authoritarian rulers in the direction of transparency, accountability, and democracy. Ruling groups in Beijing can distinguish which international norms are congruent with the interests of an authoritarian CCP and which are not. In short, that Beijing does not act as an out-and-out revisionist regime does not mean that it seeks to integrate with the dominant institutions of the international system in missile proliferation or anything else. A bi-polar choice of revisionism versus integration omits China’s actual policy alternative. CCP ruling groups seek to use existing international institutions that serve their interests but not to subordinate China to international organizations understood as serving the interests of America or of democratization. Medeiros does not sufﬁciently appreciate how much a self-conﬁdent, world power China seeks to establish itself as a global pole. It has created its own international organization for dealing with Africa. In Southeast Asia, it prefers to work through the APT, which excludes America and India and Australia, instead of working mainly through Asia-Paciﬁc Economic Cooperation (APEC), seen as a tool of the U.S. In Central Asia, China works through the Shanghai Cooperation Organization (SCO), which excludes America. In fact, China has used the SCO to expel the American military from Central Asia. In short, Medeiros’s framing of the issue, whether China is integrating with international norms, obscures how much the CCP regime imagines itself as a source of international norms that are, for the authoritarian CCP, superior to international norms that serve American interests. Without acting as a revisionist power, ruling groups in Beijing, as with missile proliferation, reject international norms that serve American interests. The serious clash of interests at stake is not examined by Medeiros. As one would expect from the superior work of a toprank professional, Medeiros provides data that others can ﬁnd contradictory to his constructivist hypothesis. What is missing from Medeiros’s wonderful scholarship is a coming to grips with a harsh reality: Chinese interests conﬂict with American interests. Those clashes have to be managed to maintain the peace. They cannot be wished away by imagining a shared China-America episteme.

**2NC Turns Case – Saudi Oil**

**AND US-Saudi military cooperation on Yemen key to Saudi regime stability**

**Eakin 12** Hugh Eakin traveled to Saudi Arabia on an IRP Gatekeeper Editors trip organized by the International Reporting Project in Washington, D.C. http://www.nybooks.com/blogs/nyrblog/2012/may/21/saudi-arabia-and-new-us-war-yemen/

But Saudi counterterrorism efforts are also an important element **in achieving consensus and legitimacy for the Saudi regime itself**. Many young Saudis are growing increasingly impatient with their government’s oppressive status quo, and not a little of their ire is directed against the Interior Ministry, which has been blamed for arbitrary arrests of activists and human rights lawyers. **Yet many I spoke to also seem to fear the chaos and violence that has engulfed so many of the country’s neighbors**. In the early 2000s, when the Saudi government sponsored national dialogues to bring together activists, reformers, conservatives, and Islamists from across the ideological spectrum to suggest avenues of change, the country’s counterterrorism approach was one issue on which there was near universal agreement. (Participants in one of these dialogues explicitly endorsed a strategy of repentence and reconciliation for extremists.)

Turning Saudi Arabia into the US’s indispensable ally in Yemen—while making Yemen the central conflict in the US-led war against terrorism—**has considerable strategic value for Crown** Prince **Nayef**, who was named the heir apparent to King Abdullah last fall. **As US-Saudi collaboration on security and counterterrorism has increased, the regime has largely avoided US pressure on human rights and domestic reform**s. And while it keeps the terror threat at bay, at least within its own borders, **the Interior Ministry can hold up Yemen as the example of what might happen at home if its broad powers were curbed**. Whether that argument will continue to assuage the country’s youth remains an open question.

**Turns their economy and oil impacts**

**Stenslie 12** [Dr. Stig Stenslie is head of the Asia Branch of the Norwegian Defence Staff. He has held visiting fellowships at, among others, the Norwegian Institute for Defence Studies in Oslo, National University in Singapore and Columbia University in New York. He holds a doctorate in Political Science from the University of Oslo. He is the author of several articles and books on the contemporary Middle East, the most recent being Regime Stability in Saudi Arabia: The Challenge of Succession (Routledge, 2011) and, with Kjetil Selvik, Stability and Change in the Modern Middle East (IB Tauris, 2011).] No spring in Saudi Arabia Published May 25, 2012 Uncategorized Leave a Comment Tags: Al Saud, Arab spring, regime stability, Saudi Arabia

**How stable is Saudi Arabia?**

The question raised is actualized by the “Arab spring”. Tunisia’s Ben Ali, Egypt’s Husni Mubarak, Libya’s Muammar al-Qadhafi, and Yemen’s Ali Abdallah Salih’s are all history. In Syria the life of Bashar al-Asad is hanging by a thread.

**A** similar **uprising in Saudi Arabia might have even greater consequences**.

Saudi Arabia is the only country in the world that bears the family name of its rulers, Al Saud. The family – of almost 5000 members – manages the country as a family business. **All state institutions are designed to the family’s own survival**, and it controls the society through an ingenious alliance system. Tribes, religious leaders, and merchant families are all coopted. **The loss of the royal family – the centre of gravity – would almost certainly lead to collapse**, as in Libya.

**Collapse will have repercussions far beyond the Arabian Peninsula, as Saudi Arabia is Islam’s geo-religious center as well as the world’s only oil superpower.**

Out of the world’s known oil reserves, Saudi Arabia has one-fifth beneath its deserts. **Historically, crises** in the Middle East **led to high oil prices, followed by global economic recessions**. This was the case in the wake of the Yom Kippur War in 1973, the revolution in Iran in 1979, the outbreak of the war between Iraq and Iran in 1980 and Iraq’s invasion of Kuwait in 1990. **The last year of unrest in the Middle East has not significantly affected oil prices**, surprisingly, many people would argue. **But the collapse of Saudi Arabia will trigger panic in the market.**

**\*2NC AT: Civil War**

**No civil war risk**

**Phillips, 11 –** lecturer at the Center for International Security Studies at the University of Sydney (Sarah, “Who Tried to Kill Ali Abdullah Saleh? The hidden feud behind the revolution in Yemen.,” 6/13, http://www.foreignpolicy.com/articles/2011/06/13/who\_tried\_to\_kill\_ali\_abdullah\_saleh?page=0,2)

At around the same time, the relationship between Saleh and the country's most prominent tribal figure, Sheikh Abdullah al-Ahmar (the deceased patriarch of the family involved in the recent fighting, and not related to Ali Mohsen), also soured markedly. The Sanhan rivalries increased too, with insiders noting privately that Saleh and his sons and nephews attempted to undermine the influence of the Sanhan old guard using tactics of intimidation and humiliation. The families within the tribe increasingly split between two main factions: the Afaash clan (those related to Saleh) and the Qadhi clan (those related to Ali Mohsen). Yet even though Saleh's family may try to avenge the attempt on his life, Yemen is not necessarily headed for a long civil war. Despite the situation's obvious combustibility, several factors could still help pull the country back from the brink. First, though Saleh's son commands the Republican Guard, many of the guardsmen have family and tribal kinsmen in Ali Mohsen's 1st Armored Division and the tribes that support the Ahmar family. The relatively narrow geographical and tribal origins of these three key groups could help to at least limit the potential for resorting to deadly force over an extended period. Second, though Yemen's famously gun-toting culture is often touted as a reason to fear civil war, it could also work the other way. Ordinary Yemenis are acutely aware that violence can spiral exponentially as a result of small miscalculations. The fact that the protesters have been resolutely nonviolent despite the regime's violence against them is just one indication of how well this is understood. A final factor is Yemen's political and tribal culture. In tribal conflicts, the goal is less to vanquish an opponent than to demonstrate the ability to apply symbolic force in defense of one's position and then negotiate a solution in which both sides retain honor. Although this tends to lay a foundation for theatrical brinkmanship in which the cost of miscalculation is real and high, it also means that violent outbursts tend to be relatively short-lived. So far, the casualties caused by the fighting between the Ahmars and those loyal to Saleh have been less than one might expect, considering the amount of firepower used.

**\*2NC AT: AQAP**

**AQAP lacks operational capacity**

**Boone 11**—journalist based in Yemen. Has contributed to the Washington Post, the Los Angeles Times, Time Magazine, Foreign Policy, the Christian Science Monitor, the Guardian, the Independent, the Sunday Telegraph, and Global Post. (Jeb, Yemen: the new front line in the war for Obama’s second term, 5/7/11, http://jebboone.com/2011/05/07/yemen-the-new-front-line-in-the-war-for-obamas-second-term/)

However, contrary to popular belief, AQAP is most likely comprised of around 100 religious fanatics somewhere in Shabwa. The operational strength and resources of AQAP is highly overestimated by western governments and analysts. If we look back on AQAP’s three biggest operations since the organization’s founding in January of 2009, we can clearly see that not only are they executed fairly cheaply (AQAP even bragged about this in an issue of inspire) but they really don’t take much skill to pull off. Not to mention, **all the following operations ended in failure**.

**Threat of AQAP exaggerated.**

**Aljazeera 11** (August 8, 2011, Abubakr Al-Shamahi, Taking a chance on a democratic Yemen, http://english.aljazeera.net/indepth/opinion/2011/08/2011847134790380.html)

The other outside power with major interests in Yemen is the United States of America. When dealing with Yemen, the Americans usually perceive everything through the lens of terrorism and al-Qaeda. President Saleh has successfully convinced the Americans of the al-Qaeda threat in the country, and has thereby been able to get much in the way of weaponry, equipment, and training from the Americans. This has then often been used against non-Qaeda problems in the country, such as the Houthi rebels in the northern Saada province. The Americans now privately accept the fact that the issue of AQAP has been **overblown** by the Yemeni government, and that it was a useful tool for Saleh to garner support from the US. This explains the less-than-supportive US statements issued in recent months about Saleh and a transition to democracy. However, there still appears to be some hesitation in calling for Saleh to step down immediately. The American support for the GCC proposal, which only calls for Saleh to step down in 30 days, is increasingly bizarre, with him currently out of the country, his sons controlling many government institutions, a growing economic and humanitarian disaster, and attacks against protesters and individual activists continuing. This can only be described as the result of the remnants of the old policies on Yemen refusing to go away. The old fear of abandoning the country to al-Qaeda has meant that Saleh's threats are partly believed, despite the protest movement's full opposition to al-Qaeda ideology. A democracy in Yemen would be a coup for the US, and would give the argument for democracy in the Arab and Muslim world a strong push, especially after the Iraq debacle. Rescuing the Yemeni economy would also severely limit support for AQAP and extremist ideology in general.

**AQAP in Yemen isn’t a threat – divided**

**Spencer 11** - retired British infantry commander. He is a strategic analyst on political, security, and trade issues of the Middle East and North Africa and a specialist on Yemen (James, “A False Dawn for Yemen’s Militants” 6/8, http://www.foreignaffairs.com/articles/67883/james-spencer/a-false-dawn-for-yemens-militants

Although AQAP describes itself as one organization, in practice the group is split in two: the domestic Yemeni group and those terrorists who fled Saudi Arabia. The two wings operate in separate areas using different methods. Indeed, their different tactics, and particularly their different weapons, suggest that they have little contact with each other. The more nationally focused faction of AQAP, based in the Abyan-Shabwa-Marib area, is of little threat to the West. Its cause is largely directed against the Saleh regime, meaning that with the demise of Saleh and his system of patronage, much of its raison d'être will end; where it does not, the tribes will drive it out since it will have outlived its usefulness. The special operations group of AQAP, mostly constituted of transnational jihadis, remains a danger -- although more so to Saudi Arabia than to the West, for reasons of geography. Nevertheless, Saleh's political demise is likely to lead to the reform of the Yemeni state's many overlapping security organizations; this, in turn, will lead to the end of much of the unofficial cooperation between AQAP and sympathizers in the state security apparatus on which AQAP has depended to plan and mount its operations, such as the follow-up attack against the South Koreans. As a consequence, AQAP will find it far harder to achieve its attacks. From AQAP's limited use of suicide bombers to date, it would appear that AQAP does not have access to a large cadre of volunteers; similarly, the group's relatively slow pace of attacks suggests that it does not have many competent bomb-makers. Clearly, if Ibrahim al-Asiri, AQAP's master bomb-maker, can be removed from the picture, much of the special operations group's capability will be lost.

**2NC Uniqueness**

**Stable because of the WOT and US protection**

**Stenslie 12** [Dr. Stig Stenslie is head of the Asia Branch of the Norwegian Defence Staff. He has held visiting fellowships at, among others, the Norwegian Institute for Defence Studies in Oslo, National University in Singapore and Columbia University in New York. He holds a doctorate in Political Science from the University of Oslo. He is the author of several articles and books on the contemporary Middle East, the most recent being Regime Stability in Saudi Arabia: The Challenge of Succession (Routledge, 2011) and, with Kjetil Selvik, Stability and Change in the Modern Middle East (IB Tauris, 2011).] No spring in Saudi Arabia Published May 25, 2012 Uncategorized Leave a Comment Tags: Al Saud, Arab spring, regime stability, Saudi Arabia

During the past year there have been tensions between Riyadh and the Obama administration, among other things related to the President’s demand that Mubarak should step down and public criticism of the Saudi military intervention to crush the riots in Bahrain.

Yet, the countries are not on a collision course.

The Obama administration has announced planned arms sales to Saudi Arabia worth up to $60 billion, and the **countries are cooperating closely in the fight against terror**. Both countries consider Iran as being a serious threat. **The leaders in Washington know the potential consequences of an uprising in Saudi Arabia, and guard themselves well to fuel more protests by criticizing the regime**.

No family dynasty has been around forever. But in the immediate future there is little evidence that the Al Saud is history.

**2NC AT: Yemen Matters More**

**1NC Ev**

**2NC Link Wall**

**Instability in Yemen forces necessary military cooperation – assumes your link turns and in the context of our impact**

**Cordesman 10** Anthony H. Cordesman holds the Arleigh A. Burke Chair in Strategy at the Center for Strategic and International Studies in Washington, D.C. http://csis.org/publication/us-saudi-security-cooperation-and-impact-us-arms-sales

The United States and Saudi Arabia now **have to contend with** the fact that **Yemen** is a horribly impoverished state with primitive infrastructure, serious water problems, and a far larger population than its drug-driven economy and limited oil exports can support. Also, Yemen has a steadily weaker government with only tenuous influence and control in many tribal areas.

**The United States and Saudi Arabia now cooperate in providing** both economic and **security** aid **to Yemen**. The United States has sought to build up Yemeni forces and counterterrorism capabilities, has carried out drone strikes on Al Qa’ida in the Arabian Peninsula (AQIP) targets, has seen AQIP train terrorists for attacks on the United States, and fears that Yemen could become the center of a new Al Qa’ida base for both regional and international operations.

**Saudi Arabia not only supports counterterrorism operations in Yemen, but has had to deal with a new, low-level border war caused by** strikes by **a Yemeni** Shi’ite **rebel group** called the Houthi, which some Saudi officials believe has backing from Iran. These raids across the Saudi-Yemeni border reached a crisis point in November 2009 and forced the Saudi armed forces to intervene, resulting in three months of combat and a tenuous cease-fire. This situation is further complicated by significant regional tensions between the aging government of Field Marshal Ali Abdullah Saleh in North Yemen and South Yemen, which has created a third source of low-level conflict in Yemen and could split the country.

**This aspect of U.S.-Saudi cooperation seems likely to be necessary for years to come**. A hostile or radicalized Yemen could be a much more serious threat to both countries, as well as to the flow of oil through the Gulf. Moreover both countries have a strong incentive—along with allies like Egypt—in ensuring the stability of the Red Sea region in the face of internal problems in Djibouti and the Sudan and continuing tensions between Ethiopia and Eritrea. The Strait of Hormuz and Suez Cancel and Sumed pipelines, as well as the security of Saudi Arabia’s key port at Jeddah and petroleum city at Yanbu, are all key security considerations.

**AQAP’s attacks in Yemen create collaboration**

**Eakin 12** Hugh Eakin traveled to Saudi Arabia on an IRP Gatekeeper Editors trip organized by the International Reporting Project in Washington, D.C. http://www.nybooks.com/blogs/nyrblog/2012/may/21/saudi-arabia-and-new-us-war-yemen/

Paradoxically, **AQAP’s recent offensive seems to have led** instead **to greater collaboration between Saudi and US officials**—and, if reports are to believed, reliance on the Saudi rehabilitation approach. Saudi counterterrorism agents helped investigate the Christmas Day bomb plot, and in 2010 they discovered the AQAP plot to put bombs designed by al-Asiri on cargo planes—**intelligence which they shared with the US** and other “friendly countries” (Saudi officials apparently even gave US officials the tracking numbers of the bomb packages). Moreover, the Saudi rehabilitation center may have been a key asset in uncovering the 2010 plot: According to Yemeni officials, the tip about the cargo bombs came from an Saudi national, Jabir al-Fayfi, who had been released from Guantanamo and gone through the rehabilitation center in Riyadh before joining AQAP in Yemen, apparently as a plant.

If this report is accurate, it may indicate the methods used by the Saudis to disrupt the most recent bomb plot as well. According to press accounts, the agent who infiltrated the bombmaker al-Asiri’s cell in recent months also supplied the US with information about Fahd al-Quso, a Yemeni terrorist wanted in the 2000 bombing of the USS Cole who was killed in a drone attack on May 6. (Saudi officials have until now declined to comment on their involvement in the recent events.)

One conclusion, then, may be that the Saudi government has not only been able to use the country’s vulnerability to extremist movements to gain new insight into al-Qaeda and the recruiting process; it can also draw on rehabilitated former jihadists to further its intelligence efforts. Moreover, Saudi Arabia has long cultivated ties with various Yemeni tribal leaders, and with deep historic connections between southwest Saudi Arabia and Yemen, Saudi agents are well placed to penetrate the deep tribal networks in which AQAP is said to be embedded.

But al-Asiri and other Saudi members of AQAP have yet to be caught, and the 2009 assassination attempt suggests the Saudi approach can sometimes backfire. (Saudi officials also acknowledge that a small number of those who have been rehabilitated have returned to jihadism, including several former Guantanamo detainees who later joined AQAP.) In any case, the Saudi border with Yemen is 1,100 miles long, much of it in the remote desert of the Empty Quarter, which is extremely difficult to secure; and Interior Ministry officials say that those same tribal networks help al-Qaeda members smuggle arms into Saudi Arabia and undertake cross border operations.

What seems clear is that **Saudi Arabia has become a key backer**—and at times coordinator—**of the accelerating US drone war and special operations offensive in Yemen**, partly for its own security interests. Interior Ministry officials in Riyadh speak enthusiastically about the US drone program, and on May 12, drone strikes allegedly killed some eleven AQAP suspects, two of them Saudi nationals. (It is worth noting, following the controversial killing of US citizen Anwar al-Awlaki, that Saudi Arabia does not appear to have many qualms about killing its own citizens in Yemen.)

**Key to Saudi relations which is key to structural stability**

**Committee on Foreign Relations 10** SAUDI ARABIA AND SYRIA: IMPROVING BILATERAL RELATIONS, ADVANCING U.S. INTERESTS \_\_\_\_\_\_\_\_\_\_ A MINORITY STAFF REPORT prepared for the use of the COMMITTEE ON FOREIGN RELATIONS UNITED STATES SENATE One Hundred Eleventh Congress Second Session July 21, 2010

Cooperation on Yemen. Saudi Arabia exercises far more leverage in Yemen than does the United States. As the United States seeks to prevent state failure in Yemen and to counter the threat of terrorism emanating from al-Qaeda in the Arabian Peninsula, **there is potential for improved cooperation**. Indeed, **considerable international cooperation, including with the Kingdom, is already in evidence through the Friends of Yemen Group**. But to achieve lasting results, **a closer alignment of the U.S. and Saudi approaches would be helpful**. For example, job creation for the 40% of the Yemeni population that is estimated to be unemployed-- especially youth--is critical. Saudi Arabia and other Gulf Cooperation Council member states could play an important role in this regard. In addition, the distribution of cash payments to Yemeni President Saleh and the tribal leaders contributes to a lack of transparency in governance and is thus part of the problem, not the solution.

**There are issues with US-Saudi relations, BUT Yemen instability solves them**

**Johnsen 11** Gregory Johnsen, Near East Studies Scholar, Princeton University Resetting U.S. Policy Toward Yemen Policy Innovation Memorandum No. 8

Given the messy and deep-seated problems in Yemen, the United States must be realistic about what it can accomplish. With limited resources and an even more limited public appetite for additional foreign policy burdens at this time, the United States has to leverage the power and influence of regional actors, principally Saudi Arabia and the GCC. **Although relations with the kingdom have grown increasingly contentious since the onset of the Arab Awakening, there is room for cooperation on Yemen**. Much like the United States' relationship with Mexico, Saudi Arabia views its neighbor to the south as a source of instability and potential problems for years to come. **As great as the threat of an unstable Yemen is for the United States, it is even greater for Saudi Arabia**.

The kingdom is still willing to hedge its bets, but there is a growing realization within Riyadh that despite Saleh's return he will never be able to reunite the country. The longer Saleh remains president, the worse the situation in Yemen will become. Both the United States and Saudi Arabia broadly agree on the main problems: the lack of a political transition, the danger of AQAP, and the simmering threat of Yemen's fragile economy. Neither country can solve the challenge of Yemen unilaterally, but together they can help arrest the country's downward descent.

**Yemen key to broader US-Saudi relations**

**Center of Foreign Relations 11** Center of Foreign Relations F. Gregory Gause III Council Special Report No. 63 December 2011 Saudi Arabia in the New Middle East

Cooperation in the counterterrorism field has improved dramatically in the decade since the 9/11 attacks and the mutual suspicions that followed. It remains for the United States to continue on this path, emphasizing to the Saudis the mutual threat that al-Qaeda and its various regional franchises pose. They understand, but also need to be reminded regularly that fanning the flames of sectarian tensions provides al-Qaeda with fertile ground for recruitment. **U.S.-Saudi cooperation on Yemen is a major element of counterterrorism for both sides. U.S. officials should emphasize to** their **Saudi** interlocutors **that continued cooperation on Yemeni issues is part of the overall U.S. regional security and counterterrorism profile**. The United States can be more cooperative on Yemeni issues and Syrian issues as they develop, if Saudi Arabia recognizes the counterproductive moves it has made on sectarian issues and on Iraq. This is an area where transactional diplomacy needs to be practiced more directly.

**2NC Terrorism**

**No risk of nuclear terrorism – that’s Chapman 12 – multiple barriers: obtaining a bomb from a state with heavily-guarded facilities, constructing a bomb, scientists, transporting the bomb, detonating the bomb – the chances are extremely low especially considering the increasing number of steps**

**It’s extremely unlikely**

**Mueller 8** 1/1, \*John Mueller: Department of Political Science, Ohio State University, “THE ATOMIC TERRORIST: ASSESSING THE LIKELIHOOD,” http://polisci.osu.edu/faculty/jmueller/APSACHGO.PDF, AJ

A terrorist atomic bomb is commonly held to be the single most serious threat to the national security of the United States. Assessed in appropriate context, that could actually be seen to be a rather cheering conclusion because the likelihood that a terrorist group will come up with an atomic bomb seems to be vanishingly small. Moreover, the degree to which al-Qaeda--the chief demon group and one of the few terrorist groups to see value in striking the United States--has sought, or is capable of, obtaining such a weapon seems to have been **substantially exaggerated**. If there has been a "failure of imagination," perhaps it has been in the inability or unwillingness to consider the difficulties confronting the atomic terrorist. Terrorist groups seem to have exhibited only limited desire and even less progress in going atomic. This may be because, after brief exploration, they have discovered that the tremendous effort required is scarcely likely to be successful. Warnings about the possibility that small groups could fabricate nuclear weapons have been repeatedly uttered at least since 1946 when A-bomb maker J. Robert Oppenheimer agreed that "three or four men" could smuggle atomic bomb units into New York and "blow up the whole city" (Allison 2004, 104), a massive and absurd exaggeration of the capacity of atomic bombs of the time. Such assertions proliferated after the 1950s when the "suitcase bomb" appeared to become a practical possibility. And it has now been over three decades since terrorism specialist Brian Jenkins published his warnings about how the "widespread distribution of increasingly sophisticated and increasingly powerful man-portable weapons will greatly add to the terrorist's arsenal" and about how "the world's increasing dependence on nuclear power may provide terrorists with weapons of mass destruction" (1975, 33). Or since John McPhee ominously reported that "to many people who have participated in the advancement of the nuclear age, it seem not just possible but more and more apparent that nuclear explosions will again take place in cities" (1974, 3). We continue to wait. It is essential to note, however, that making a bomb is an **extraordinarily difficult** task. Thus, a set of counterterrorism and nuclear experts interviewed in 2004 by Dafna Linzer for the Washington Post pointed to the "enormous technical and logistical obstacles confronting would-be nuclear terrorists, and to the fact that neither al-Qaeda nor any other group has come close to demonstrating the means to overcome them." Allison nonetheless opines that a dedicated terrorist group, al-Qaeda in particular, could get around all the problems in time and eventually steal, produce, or procure a "crude" bomb or device, one that he however acknowledges would be "large, cumbersome, unsafe, unreliable, unpredictable, and inefficient" (2004, 97; see also Bunn and Wier 2006, 139; Pluta and Zimmerman 2006, 61). In his recent book, Atomic Bazaar: The Rise of the Nuclear Poor, William Langewiesche spends a great deal of time and effort assessing the process by means of which a terrorist group could come up with a bomb. Unlike Allison, he concludes that it "remains very, very unlikely. It's a possibility, but unlikely." Also: The best information is that no one has gotten anywhere near this. I mean, if you look carefully and practically at this process, you see that it is an enormous undertaking full of risks for the would-be terrorists. And so far there is no public case, at least known, of any appreciable amount of weapons-grade HEU [highly enriched uranium] disappearing. And that's the first step. If you don't have that, you don't have anything. It is also worth noting that, although nuclear weapons have been around now for well over half a century, no state has ever given another state--even a close ally, much less a terrorist group--a nuclear weapon (or chemical, biological, or radiological one either, for that matter) that the recipient could use independently. For example, during the Cold War, North Korea tried to acquire nuclear weapons from its close ally, China, and was firmly refused (Oberdorfer 2005; see also Pillar 2003, xxi). There could be some danger from private (or semi-private) profiteers, like the network established by Pakistani scientist A. Q. Khan. However, its activities were rather easily penetrated by intelligence agencies (the CIA, it is very likely, had agents within the network), and the operation was abruptly closed down when it seemed to be the right time (Langewiesche 2007, 169-72). Since they are unlikely to be able to buy or steal a useable bomb and since they are further unlikely to have one handed off to them by an established nuclear state, terrorists would need to manufacture the device themselves. Because of the dangers and difficulties of transporting and working with plutonium, a dedicated terrorist group, it is generally agreed, would choose to try to use highly enriched uranium (Kamp 1996, 33; Keller 2002; Milhollin 2002, 46-47; Rees 2003, 44-45; Linzer 2004; Allison 2004, 96-97; Goldstein 2004, 131-32; Cameron 2004, 84; Wirz and Egger 2005, 500; Bunn and Wier 2006, 135; Langewiesche 2007, 21-23).8 The goal would be to get as much of this stuff as necessary (more than 100 pounds is required to reach critical mass) and then fashion it into an explosive.9 Most likely this would not be a bomb that can be dropped or hurled, but rather an "improvised nuclear device" (IND) that would be set off at the target by a suicidal detonation crew. 7 The process is a daunting one, and it requires that a whole cascade of events click perfectly and in sequence. This is a key issue. Those, like Allison, who warn about the likelihood of a terrorist bomb, argue that a terrorist group could, if often with great difficulty, surmount each obstacle--that doing so in each case is "not impossible." But it is vital to point out that while it may be "not impossible" to surmount each individual step, the likelihood that a group could surmount a series of them rather quickly does approach impossibility. Let us assess the problem. Procuring fissile material. To begin with, stateless groups are simply incapable of manufacturing the required fissile material for a bomb since the process requires an enormous effort on an industrial scale (Milhollin 2002, 45-46; Allison 2004; Cameron 2004, 83; Bunn and Wier 2006, 136-37; Bunn and Wier 2006, 136-37; Langewiesche 2007, 20; Perry et al. 2007). Moreover, they are unlikely to be supplied with the material by a state for the same reasons a state is unlikely to give them a workable bomb. Thus, they would need to steal or illicitly purchase this crucial material. Although there is legitimate concern that some material, particularly in Russia, may be somewhat inadequately secured (though things have improved considerably), it is under lock and key, and even sleepy, drunken guards, notes Langewiesche, will react with hostility (and noise) to a raiding party. Thieves also need to know exactly what they want and where it is, and this presumably means trusting bribed, but not necessarily dependable, insiders. And to even begin to pull off such a heist, they need to develop a highly nuanced "sense for streets" in foreign lands filled with people who are often congenitally suspicious of strangers (2007, 33-48). Corruption in some areas may provide an opportunity to buy the relevant material, but purchasers of illicit goods and services would have to pay off a host of greedy confederates, any one of whom could turn on them or, either out of guile or incompetence, furnish them with stuff that is useless. If terrorists were somehow successful at obtaining a critical mass of relevant material, they would then have to transport it hundreds of miles out of the country over unfamiliar terrain and probably while being pursued by security forces (Langewiesche 2007, 48-50). Although he remains concerned that a terrorist group could buy or steal a nuclear device or be given one by an established nuclear country (2007, 93), Younger is quick to enumerate the difficulties the group would confront when trying to fabricate one on their own. He stresses that uranium is "exceptionally difficult to machine" while "plutonium is one of the most complex metals ever discovered, a material whose basic properties are sensitive to exactly how it is processed. Both need special machining technology that has evolved through a process of trial and error." Even if there is some desire for the bomb by terrorists (something assessed more fully below), fulfillment of that desire is obviously another matter. Even alarmists Bunn and Wier contend that the atomic terrorists' task "would clearly be among the most difficult types of attack to carry out" or "one of the most difficult missions a terrorist group could hope to try" (2006, 133-34, 147). But, stresses George Tenet, a terrorist atomic bomb is "possible" or "not beyond the realm of possibility" (Tenet and Harlow 2007, 266, 279).

**2NC Pakistan Instability**

**No impact to Pakistan instability – the Pakistani military is strong and can crackdown on any instabilities, security measures ensures there's no risk of loose nukes or terrorist attacks, empirics prove that years of instability haven’t escalated – that’s Bandow and Innocent**

**Pakistan Military controls instability and escalation**

**Simon and Stevenson 9** – adjunct Senior Fellow at the Council on Foreign Relations and Professor of Strategic Studies at the US Naval War College, (Steven and Jonathan, “Afghanistan: How Much is Enough?” Survival, 51:5, 47 – 67, October 2009 http://www.informaworld.com/smpp/section?content=a915362559&fulltext=7132409)

The United States' next logical move would be to intensify pressure, raising civilian casualties, increasing political pressure on the Kabul and Islamabad regimes, and ultimately weakening them, which would only help al-Qaeda and the Taliban. In fact, some evidence of this dynamic has already materialised, as the Pakistani government has faced difficulties in dealing with hundreds of thousands of Pakistanis displaced by the military campaign, undertaken at Washington's behest, in the Swat Valley. Certainly worries about Islamabad's ability to handle the Taliban on its own are justified. Some Taliban members are no doubt keen on regime change in favour of jihadists, as noted by Bruce Riedel, who headed up the Obama administration's 60-day policy review.29 But Pakistan's military capabilities should not be given short shrift. The Pakistani army, however preoccupied by India, is seasoned and capable, and able to respond decisively to the Taliban should its activities reach a critical level of destabilisation. Inter-Services Intelligence, devious though it may be, would be loath to allow the transfer of nuclear weapons to the Taliban.

**2NC AT: Econ**

**No war – interdependence and institutional checks**

**Barnett ‘9** (Thomas P.M. Barnett, senior managing director of Enterra Solutions LLC, “The New Rules: Security Remains Stable Amid Financial Crisis,” 8/25/2009)

When the global financial crisis struck roughly a year ago, the blogosphere was ablaze with all sorts of scary predictions of, and commentary regarding, ensuing conflict and wars -- a rerun of the Great Depression leading to world war, as it were. Now, as global economic news brightens and recovery -- surprisingly led by China and emerging markets -- is the talk of the day, it's interesting to look back over the past year and realize how globalization's first truly worldwide recession has had virtually no impact whatsoever on the international security landscape. None of the more than three-dozen ongoing conflicts listed by GlobalSecurity.org can be clearly attributed to the global recession. Indeed, the last new entry (civil conflict between Hamas and Fatah in the Palestine) predates the economic crisis by a year, and three quarters of the chronic struggles began in the last century. Ditto for the 15 low-intensity conflicts listed by Wikipedia (where the latest entry is the Mexican "drug war" begun in 2006). Certainly, the Russia-Georgia conflict last August was specifically timed, but by most accounts the opening ceremony of the Beijing Olympics was the most important external trigger (followed by the U.S. presidential campaign) for that sudden spike in an almost two-decade long struggle between Georgia and its two breakaway regions. Looking over the various databases, then, we see a most familiar picture: the usual mix of civil conflicts, insurgencies, and liberation-themed terrorist movements. Besides the recent Russia-Georgia dust-up, the only two potential state-on-state wars (North v. South Korea, Israel v. Iran) are both tied to one side acquiring a nuclear weapon capacity -- a process wholly unrelated to global economic trends. And with the United States effectively tied down by its two ongoing major interventions (Iraq and Afghanistan-bleeding-into-Pakistan), our involvement elsewhere around the planet has been quite modest, both leading up to and following the onset of the economic crisis: e.g., the usual counter-drug efforts in Latin America, the usual military exercises with allies across Asia, mixing it up with pirates off Somalia's coast). Everywhere else we find serious instability we pretty much let it burn, occasionally pressing the Chinese -- unsuccessfully -- to do something. Our new Africa Command, for example, hasn't led us to anything beyond advising and training local forces. So, to sum up: \* No significant uptick in mass violence or unrest (remember the smattering of urban riots last year in places like Greece, Moldova and Latvia?); \* The usual frequency maintained in civil conflicts (in all the usual places); \* Not a single state-on-state war directly caused (and no great-power-on-great-power crises even triggered); \* No great improvement or disruption in great-power cooperation regarding the emergence of new nuclear powers (despite all that diplomacy); \* A modest scaling back of international policing efforts by the system's acknowledged Leviathan power (inevitable given the strain); and \* No serious efforts by any rising great power to challenge that Leviathan or supplant its role. (The worst things we can cite are Moscow's occasional deployments of strategic assets to the Western hemisphere and its weak efforts to outbid the United States on basing rights in Kyrgyzstan; but the best include China and India stepping up their aid and investments in Afghanistan and Iraq.) Sure, we've finally seen global defense spending surpass the previous world record set in the late 1980s, but even that's likely to wane given the stress on public budgets created by all this unprecedented "stimulus" spending. If anything, the friendly cooperation on such stimulus packaging was the most notable great-power dynamic caused by the crisis. Can we say that the world has suffered a distinct shift to political radicalism as a result of the economic crisis? Indeed, no. The world's major economies remain governed by center-left or center-right political factions that remain decidedly friendly to both markets and trade. In the short run, there were attempts across the board to insulate economies from immediate damage (in effect, as much protectionism as allowed under current trade rules), but there was no great slide into "trade wars." Instead, the World Trade Organization is functioning as it was designed to function, and regional efforts toward free-trade agreements have not slowed. Can we say Islamic radicalism was inflamed by the economic crisis? If it was, that shift was clearly overwhelmed by the Islamic world's growing disenchantment with the brutality displayed by violent extremist groups such as al-Qaida. And looking forward, austere economic times are just as likely to breed connecting evangelicalism as disconnecting fundamentalism. At the end of the day, the economic crisis did not prove to be sufficiently frightening to provoke major economies into establishing global regulatory schemes, even as it has sparked a spirited -- and much needed, as I argued last week -- discussion of the continuing viability of the U.S. dollar as the world's primary reserve currency. Naturally, plenty of experts and pundits have attached great significance to this debate, seeing in it the beginning of "economic warfare" and the like between "fading" America and "rising" China. And yet, in a world of globally integrated production chains and interconnected financial markets, such "diverging interests" hardly constitute signposts for wars up ahead. Frankly, I don't welcome a world in which America's fiscal profligacy goes undisciplined, so bring it on -- please! Add it all up and it's fair to say that this global financial crisis has proven the great resilience of America's post-World War II international liberal trade order.

**Circumvention**

**Deterrence is key to avoid a thermonuclear Korean war – Obama’s resolve is crucial – that’s Kline**

**The peninsula is tinderbox. Miscalc risks an all-out war that draws in the US and China**

**Salmon 13**—South Korea-based freelance journalist and author who has written two books on the Korean war [Andrew Salmon, “Korean nightmare: Experts ponder potential conflict,” CNN, March 27, 2013, http://tinyurl.com/jvmsmdy]

Seoul (CNN) -- It's **Asia's nightmare scenario**: War breaking out on the Korean peninsula.

With Korea lying at the heart of Northeast Asia, the world's third largest zone of economic activity after Western Europe and North America, experts say **global capital markets would suffer** devastating collateral damage, but the catastrophic loss of human life -- and potential **nuclear fallout** -- would be far, far worse.

Fortunately, no analysts believe "Korean War II" is imminent; the armistice ending the 1950-53 conflict that buried millions continues to hold, despite North Korea's nullification in March. And with regime maintenance Pyongyang's paramount policy, few think it would risk an attack.

But Kim Jong Un's experience and rationality is being questioned following his recent missile and nuclear tests, his annulment of the armistice and his bellicose vitriol -- extreme even by Pyongyang standards.

Despite annulling the armistice, a consistent Pyongyang demand has been a full peace treaty and it also wants direct talks with the United States, which Washington has resisted, preferring instead multilateral discussions.

Agreement with U.S.

Now, North Korea's actions are fueling concern; so much so that South Korea and the U.S. recently announced they had signed an agreement to firm up contingency plans should North Korea follow through on its threats.

It follows joint military exercises between the allies, which included flights by U.S. B-52 bombers over South Korea.

At the time, Pentagon spokesman George Little said the flights were to ensure the combined forces were "battle-trained and trained to employ air power to deter aggression."

Military strategists are clearly preparing for all eventualities. And it seems the South's citizens are also bracing for possible conflict.

The Asan Institute, a Seoul think tank, found that in 2012, ordinary South Koreans of all age groups believed war was more likely than not

'Invasion unlikely'

At present, a second 1950-style North Korean invasion seems unlikely, but possibilities that could **ignite the peninsula tinderbox** exist.

"I don't think any parties want **all-out war**, but scenarios to arrive at that outcome are some kind of **miscalculation** or inadvertent escalation," said Dan Pinkston, who heads the International Crisis Group's Seoul office. "The problem is that, considering recent developments, the escalation ladder has been getting shorter."

After fatal incidents in 2010, South Korea eased its rules of engagement, enabling speedier counter attacks to Northern attacks such as naval or artillery strikes.

And in February, South Korea's top general told Seoul's National Assembly of plans for **pre-emptive strikes** if intelligence indicated North Korean nuclear attack preparations.

Pre-emption is critical, given the close proximity of the two Koreas.

"Once we detect long range artillery and missiles being prepared, we would have no choice but to strike," said Kim Byung-ki, a professor at Seoul's Korea University; it takes only three minutes for a North Korean plane to reach Seoul, and under a minute for artillery shells to hit.

America committed

Analysts fear a limited Northern attack might provoke a Southern response, **sparking a spiral of escalation and the dreaded "big war."** With Seoul and Washington bound by treaty, America would have to commit. "Politically, the U.S. would have to be seen to support South Korea," said James Hardy, Asia Editor at defense publication IHS Jane's. "If it did not, its defense policy in Asia-Pacific would be in tatters."

North Korea's 1.1 million strong Korean People's Army, or KPA, is nearly double the size of the 640,000-person South Korean military and the 28,000 U.S. troops stationed in Korea.

Much of North Korea's military is believed to be decrepit: It lacks fuel, fields outdated equipment, and some troops are undernourished, but it wields two niche threats: special forces and artillery.

In a report in March last year, the commander of U.S. and U.N. forces in South Korea, General James Thurman, warned that North Korea has continued to improve the capabilities of the world's largest special operations force -- highly trained specialists in unconventional, high-risk missions.

Pyongyang fields 60,000 special forces, according to Gen. Thurman -- and more than 13,000 artillery pieces, most of it deeply dug in along the DMZ, and ranged on Seoul; the dense capital sprawls just 30 miles (48 kilometers) south of the border.

Moreover, with its main-force numbers and weight of firepower, the KPA might be able to concentrate offensive units with enough mass to punch across the fortified DMZ, through South Korean second echelon defenses, and barrel toward the Seoul region, an area with 24 million people.

Still, given the KPA's logistic weakness and inability to sustain battlefield operations, analysts expect an offensive lasting only three days to one week, after which Pyongyang could negotiate from a position of strength.

Commando force

Meanwhile, could South Korean forces hold long enough for U.S. troops to massively reinforce? Could U.S. forces operate effectively with their bases in Korea -- and possibly Japan, Okinawa and Guam-- under attack by KPA commandos and missiles? These are the imponderables.

Commandos would provide the KPA's spearhead, infiltrating by air, sea and probably under civilian cover to assault South Korean infrastructure and U.S. bases, degrading Seoul's command and communications capabilities and stemming U.S. reinforcements, said Kim of Korea University. Chaos would likely be increased by electronic jamming measures and cyber attacks. Meanwhile, KPA artillery could fire thousands of shells in their opening barrage, Kim estimated.

Still, questions hang over the KPA's war-worthiness. During Pyongyang parades, goose-stepping battalions display the world's finest close-order drill, but under U.S. aerial bombardment, might Kim's legions -- like Saddam Hussein's -- crack?

It seems unlikely. When North Korean troops have engaged -- notably in Yellow Sea clashes in 1999, 2002 and 2010, and in commando raids in 1968 and 1996 -- they have proven skilled and motivated.

But neither special forces nor artillery are war winners alone: They cannot seize and hold ground. The KPA's biggest weakness is the vulnerability of its main force units once they begin to maneuver.

Aerial bombardment

The U.S. and South Korea could fight a three-dimensional battle: KPA infantry and armored units would be pummeled by 24-7 U.S. aerial bombardment; its forces would also be vulnerable to heli-borne envelopment; and, because Korea is a peninsula, the North could be flanked by sea in amphibious operations.

Still, if the KPA ran the 30-mile gauntlet from the border and broke into Seoul, a city vaster than Stalingrad, it would be easy to cut off but difficult to evict. Close combat among Korea's hills and streets could prove murderous.

"They're not Saddam's army, they're likely to fight like the Japanese in the Pacific," said Pinkston, referring to Japan's last-ditch island stands of 1944-5. "They would be paranoid about what would happen if they surrendered."

Destroying North Korean artillery shelling Seoul -- much of it emplaced in tunnels that have been dug over decades -- would be another stern task. Kim noted that U.S. "bunker buster" bombs used in Iraq were originally designed for use against North Korea.

Seoul and Washington possess precision-guided munitions. Bombs or missiles bursting in bunker entrances could bury KPA artillery and air force units, analysts say. But the South Korean capital would likely take a severe pounding -- possibly with unconventional weapons.

Bio hazard

Last March, Thurman said: "If North Korea employs biological weapons, it could use highly pathogenic agents such as anthrax or the plague. In the densely populated urban terrain of the ROK, this represents a tremendous psychological weapon."

A marine or airborne landing to its rear are options to take out North Korea's gun line; the question is how much damage Seoul would suffer before such operations could be launched. KPA missiles are an additional threat: As coalition forces discovered in Gulf War I, finding and destroying mobile launchers is tremendously difficult.

Yet with U.S. air power constantly degrading KPA units, communications, headquarters and logistics nationwide, experts see no way for Pyongyang to win a sustained war. If South Korea and the U.S. attack into the North, the wild card is Beijing, with whom Pyongyang has a mutual defense treaty.

Northern Korea guards China's northeast: throughout history, a strategic flank. In 1950, with North Korea largely overrun by U.N. forces, Beijing intervened, saving the state from extinction. Pundits say Beijing would not support a Pyongyang offensive, but would defend her -- suggesting Kim's regime could survive a war, as his grandfather did.

"China will support North Korea, but only on North Korean territory," said Choi Ji-wook, head North Korea researcher at Seoul's Korea Institute of National Unification. "They will not support a North Korean army attacking South Korean territory."

Tough stance

Washington wants a tougher Chinese stance toward North Korea, but it is unclear whether Beijing's six-decade policy of support has altered significantly.

While supporting a vote to impose tougher sanctions on North Korea after its nuclear test, China recently criticized an announcement from the U.S. that it was beefing up defense systems along the U.S. West Coast.

"Bolstering missile defenses will only intensify antagonism, and it doesn't help to solve the issue," Hong Lei, a spokesman for the Chinese Ministry of Foreign Affairs, said at a regular news briefing in Beijing.

And regardless of the Chinese role, Kim Jong Un, North Korea's young leader, possesses a doomsday option: The nuclear button.

Currently, Pyongyang is not believed to have a missile-mounted nuclear warhead, but it may in years to come. Experts believe the North has rockets able to hit Japan or South Korea with air, land or sea-delivered nuclear devices or dirty bombs. If Kim detonated a nuclear device, it would guarantee apocalyptic retaliation and war crimes trials for any regime survivors -- but if all looked lost, that possibility stands.

"We've never been in a situation where a nuclear-armed country has had to make that kind of call," mused Hardy. "If the leadership is going down like the Third Reich, this kind of last gasp action is possible," added Pinkston.

Were the regime in Pyongyang overthrown by war, the positives would be extensive. South Korea would gain a land connection to the Eurasian continent; a strategic casus belli would evaporate; northern Korea could be rebuilt and its people ushered into the global community; and Northeast Asia could advance toward regional integration.

But given the destructiveness of modern weaponry and the dense populations of both Koreas, experts pray "Korean War II" never happens.

"The casualties in a short time would be unlike anything we have seen before: **hundreds of thousands in days, millions in weeks**," said Pinkston. "The fighting in Iraq, Afghanistan and Syria would **pale in comparison**."

**The war will kill over 30 million in Northeast Asia. Knock on impacts include 100s of million starving and destruction of ozone**

**Hayes & Hamel-Green 9**—Professor of International Relations @ RMIT University & Professor of Peace Studies @ Victoria University [Peter Hayes (Director of the Nautilus Institute) & Michael Hamel-Green (Executive Dean of the Faculty of Arts, Education and Human Development), 'The path not taken, the way still open: denuclearizing the Korean Peninsula and Northeast Asia', The Asia-Pacific Journal: Japan Focus, vol. 50, December 14, 2009, pp. 1-20]

At worst, there is the possibility of nuclear attack1, whether by intention, **miscalculation**, or merely accident, leading to the resumption of Korean War hostilities. On the Korean Peninsula itself, **key population centres are well within short or medium range missiles**. The whole of Japan is likely to come within North Korean missile range. Pyongyang has a population of over **2 million**, Seoul (close to the North Korean border) **11 million**, and Tokyo over **20 million**. Even a **limited nuclear exchange** would result in a holocaust of unprecedented proportions.

But the catastrophe within the region would not be the only outcome. New research indicates that even a limited nuclear war in the region would rearrange our global climate far more quickly than global warming. Westberg draws attention to new studies modelling the effects of even a limited nuclear exchange involving approximately 100 Hiroshima-sized 15 kt bombs2 (by comparison it should be noted that the United States currently deploys warheads in the range 100 to 477 kt, that is, individual warheads equivalent in yield to a range of 6 to 32 Hiroshimas).The studies indicate that the **soot** from the fires produced would lead to a decrease in global temperature by 1.25 degrees Celsius for a period of 6-8 years.3 In Westberg’s view:

That is not global winter, but the nuclear darkness will cause a deeper drop in temperature than at any time during the last 1000 years. The temperature over the continents would decrease substantially more than the global average. A decrease in rainfall over the continents would also follow…The period of nuclear darkness will cause much greater decrease in grain production than 5% and it will continue for many years...**hundreds of millions of people will die from hunger**…To make matters even worse, such amounts of smoke injected into the stratosphere would cause a huge reduction in the Earth’s **protective ozone**.4

These, of course, are not the only consequences. Reactors might also be targeted, causing further mayhem and downwind radiation effects, superimposed on a smoking, radiating ruin left by nuclear next-use. Millions of refugees would flee the affected regions.   The direct impacts, and the follow-on impacts on the **global economy** via ecological and food insecurity, could make the present global financial crisis pale by comparison.  How the great powers, especially the nuclear weapons states respond to such a crisis, and in particular, whether nuclear weapons are used in response to nuclear first-use, could make or break the global non proliferation and disarmament regimes.  There could be many unanticipated impacts on regional and global security relationships5, with subsequent nuclear breakout and geopolitical turbulence, including possible loss-of-control over fissile material or warheads in the chaos of nuclear war, and aftermath **chain-reaction** affects involving other potential proliferant states. The Korean nuclear proliferation issue is not just a regional threat but a global one that warrants priority consideration from the international community.

**Executive fail**

Not our disad

Obama fights the plan / circumvents – Lobell

War power fights send a signal of weakness – causes uncertainty about effectiveness of commitments – that’s Newton.

**More ev – Obama will circumvent drone courts**

**Miller 13** (Greg Miller, intelligence reporter at the Washington Post, “Lawmakers Propose Giving Federal Judges Role in Drone Strikes, but Hurdles Wait,” The Washington Post, February 8, 2013, <http://www.washingtonpost.com/world/national-security/proposal-to-give-federal-judges-a-role-in-drone-strikes-faces-hurdles/2013/02/08/66f53508-721a-11e2-8b8d-e0b59a1b8e2a_story.html>)

A proposal to give federal ­judges a direct role in the nation’s drone campaign gained new momentum this week with a signal from senior lawmakers that they intend to consider creating a special court to oversee the selection of targets for lethal strikes.

But the idea — cited by Sen. Dianne Feinstein (D-Calif.), among others, as a way to impose new accountability on the drone program — faces significant legal and logistical hurdles, according to U.S. officials and legal experts.

**Among the main obstacles is almost-certain opposition from the executive branch to a dilution of the president’s authority** to protect the country against looming threats. Others include the difficulty of putting judges in a position to approve the killing of individuals — possibly including American citizens — even if they have not been convicted of a crime.

In more practical terms, U.S. officials expressed concern that a judicial review would lead to delays that might erode the country’s ability to preempt terrorist attacks.

The idea “is **politically** and practically **difficult** and, therefore, unlikely to happen in the end,” said Robert Chesney, an expert on national security law at the University of Texas. “But it seems more likely today than it did just a few weeks ago.”

**Restricitons inev**

**Plan doesn’t solve – just says some legislative architecture would be good – not about the plan**

**Recent cases prove courts won’t meaningfully restrict Obama**

**ZEISBERG 12 University of Michigan, Ann Arbor**. [Mariah Zeisberg, BOOK REVIEW: POWER AND CONSTRAINT: THE ACCOUNTABLE PRESIDENCY AFTER 9/11, Winter, 2012, Tulsa Law Review, 48 Tulsa L. Rev. 195]

Goldsmith's investigation into the robustness of presidential constraint is also underdeveloped in places. When comparing Presidents Bush and Obama, Goldsmith insists that despite its "rhetoric" of presidential power, the Obama administration's policy outputs are strikingly similar to those of the late Bush presidency. n32 But when analyzing judicial checks, Goldsmith takes rhetoric at face value. This is a problem because, however bold the Court's rhetoric in the Hamdi, n33 Padilla, n34 Rasul, n35 Hamdan, n36 and Boumedienne n37 cases, the Court was **highly deferential** on the concrete policy outcomes these rulings would require from the government. n38 Kim Scheppele argues that by ruling in favor of petitioners' habeas rights, but repeatedly deferring the question of what the content of those rights amounted to, the Supreme Court created a **new and insidious form of judicial deference**. n39 The courts after 9/11 were "very active, right from the start ... .[But] what does it mean to keep winning cases if nothing in fact changes?" n40 It is unclear to what extent these judicial interventions should be construed as "constraining." Goldsmith's book could have illuminated that question had it offered a more thoughtful and consistent standard on the question of whether rhetoric, or only policy, is a notable political outcome.

**Short term perception impact**

**Courts won’t restrict and the decision wouldn’t be enforced**

**SCHEPPELE 12 Laurance S. Rockefeller Professor of Sociology and Public Affairs in the Woodrow Wilson School and University Center for Human Values; Director of the Program in Law and Public Affairs, Princeton University** [Kim Lane Scheppele, The New Judicial **Deference**, Boston University Law Review, 92 B.U. L. Rev. 89 2012]

The case for self-regarding courts can be made even more strongly, on the evidence we've seen in this Article. As long as courts still exercise a certain degree of deference to the way that governments are dealing with specific cases, courts can avoid incurring the wraths of those governments. Governments care primarily in times of crisis about having a green light to go on detaining those whom they want to detain and about stringing out the day of reckoning when proof has to be provided. If governments receive that deference, then governments have **no reasons to attack the courts** when the courts assert themselves on matters of relatively abstract principle. If courts stay within these limits, doing whatever they feel they need to do to the law while letting the governments prevail on the facts, then governments are likely to appear to follow the court decisions, insist on their respect for the courts, and in general let courts get away with issuing governments these "defeats." Of course, governments would probably prefer to do whatever they want without being hauled before courts to justify their actions, but as long as being hauled before courts comes with the territory of being a constitutional state, new judicial deference may be the best they can expect.

As we have seen, courts have slapped the government on the wrist and forced it to readjust its policies at the margins. But courts have not required the release of detainees, the immediate provision of evidence against them, or absolutely normal tribunals. It is much easier for governments to comply with court decisions when those court decisions do not in fact second-guess concrete decisions of the government to detain specific individuals in a crisis. In fact, court decisions that issue a lot of smoke and noise but do little to require immediate action may appear to be upholding constitutional principles while in fact strengthening the hands of governments who can then rightly say that they are doing what the law requires.

After 9/11, then, courts have been willing to stand up to governments in times of crisis, using their substantial heft against the government's bulked-up war powers. Governments, in turn, have been willing to comply with court decisions because doing so has not really threatened the immediate actions they have already taken.

**Courts will abstain**

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**Abstention** from deciding an issue altogether, under the political question doctrine, **is the ultimate form of deference.** n81 The Supreme Court articulated the modern doctrine in Baker v. Carr. n82 Although, like Chevron, the modern doctrine contains a formal component - "a textually demonstrable constitutional commitment of the issue to a coordinate political department" - the outcome often hinges on "prudential," or functional, considerations, particularly in foreign affairs cases. n83 The functional justifications for abstention under the political question doctrine fall into two categories. First, there are issues that courts are incompetent to evaluate - because they lack "judicially manageable standards" or would require "a policy determination of a kind clearly for nonjudicial discretion." n84 Second, courts should not decide issues that would have collateral consequences in the form of "embarrassment" or "lack of respect" to the other branches. n85 Despite its declining use in domestic cases, the political question doctrine still has great force in foreign affairs. n86 In fact, courts have added extra-Baker functional justifications for abstaining in foreign affairs controversies - the difficulty of obtaining extraterritorial evidence, the high stakes involved, and the extreme sensitivity of these issues. n87

**Xec flex bad**

Not our disad

**Norms**

**Solv**

Court don’t solve transparency or norms – secrecy and hypocrisy is perceived as a rubber stamp

**A drone court wouldn’t solve U.S. credibility**

**Johnson 13**—Jeh Johnson, former Pentagon General Counsel [March 18, 2013, “Keynote address at the Center on National Security at Fordham Law School: A “Drone Court”: Some Pros and Cons,” http://www.lawfareblog.com/2013/03/jeh-johnson-speech-on-a-drone-court-some-pros-and-cons/]

The problem is that the American public is suspicious of executive power shrouded in secrecy.

In the absence of an official picture of what our government is doing, and by what authority, many in the public fill the void by envisioning the worst. They see dark images of civilian and military national security personnel in the basement of the White House—acting, as Senator Angus King put it, as “prosecutor, judge, jury and executioner”—going down a list of Americans, deciding for themselves who shall live and who shall die, pursuant to a process and by standards no one understands.

Our government, in speeches given by the Attorney General,[2] John Brennan,[3] Harold Koh,[4] and myself,[5] makes official disclosures of large amounts of information about its efforts, and the legal basis for those efforts, but it is **never enough**, because the public doesn’t know what it doesn’t know, but knows there are things their government is still withholding from them.

The revelation 11 days ago that the executive branch does not claim the authority to kill an American non-combatant—something that was not, is not, and should never be an issue—is big news, and trumpeted as a major victory for congressional oversight.

A senator who filibusters the government’s secrecy is compared in iconic terms to Jimmy Stewart.

At the same time, through continual unauthorized leaks of sensitive information, our government looks to the American public as undisciplined and hypocritical. One federal court has characterized the government’s position in FOIA litigation as “Alice in Wonderland,”[6] while another, this past Friday, referred to it as “neither logical nor plausible.”[7]

An anonymous, unclassified white paper leaked to NBC News prompts more questions than it answers.

Our government finds itself in a lose-lose proposition: it fails to officially confirm many of its counterterrorism successes, and fails to officially confirm, deny or clarify unsubstantiated reports of civilian casualties.

Our government’s good efforts for the safety of the people risks an erosion of support by the people.

It is in this atmosphere that the idea of a national security court as a solution to the problem—an idea that for a long time existed only on the margins of the debate about U.S. counterterrorism policy but is now entertained by more mainstream thinkers such as Senator Diane Feinstein and a man I respect greatly, my former client Robert Gates—has gained momentum.

To be sure, a national security court composed of a bipartisan group of federal judges with life tenure, to approve targeted lethal force, would bring some added levels of credibility, independence and rigor to the process, and those are worthy goals.

In the eyes of the American public, judges are for the most part respected for their independence.

In the eyes of the international community, a practice that is becoming increasingly controversial would be placed on a more credible footing.

A national security court would also help answer the question many are asking: what do we say to other nations who acquire this capability? A group of judges to approve targeted lethal force would set a standard and an example.

Further, as so-called “targeted killings” become more controversial with time, I believe there are some decision-makers within the Executive Branch who actually wouldn’t mind the added comfort of judicial imprimatur on their decisions.

But, we must be **realistic about the degree of added credibility** such a court can provide. Its proceedings would necessarily be ex parte and in secret, and, like a FISA court, I suspect almost all of the government’s applications would be granted, because, like a FISA application, the government would be sure to present a compelling case. So, at the same time the New York Times editorial page promotes a FISA-like court for targeted lethal force, it derides the FISA court as a “rubber stamp” because it almost never rejects an application.[8] **How long before a “drone court” operating in secret is criticized in the same way?**

**No war**

Deterrence, past tech – Singh

**Drones don’t lower the threshold for conflict. [FINISH]**

Samuel **Issacharoff and** Richard H. **Pildes**, 6/1/**2013**. NYU School of Law. “Drones and the Dilemma of Modern Warfare,” New York University Public Law and Legal Theory Working Papers, Paper 404, http://lsr.nellco.org/nyu\_plltwp/404/.

In our view, there are four myths about the modern use of drones to target specific, identifiable individuals for lethal force. The first myth is that targeting specific individuals for death is a modern innovation in military practice. But targeted killings have long been a part of military practice; the invention of the long rifle, for example, gave snipers the ability to pick off opposing field officers. The modern practice, however, begins with the discrete act of seeking out military enemies outside normal wartime engagements based on an individualized assessment of the threat they present. The use of lethal force is not incidental to a battlefield objective of capturing a particular piece of territory but becomes a distinct response to the generalized threat posed by a particular individual. Killing is now not secondary to a distinct military objective but becomes the objective itself because of a specific determination about the threat posed by the continued operation of an individual. At a more fundamental level, as Eyal Benvenisti argues, the laws of war had two major premises that fail in modern asymmetric conflict. First, it was possible to distinguish military and civilian objectives, and, second, battle could be directed to military objectives, as with the capturing of territory or overtaking a military installation. Neither premise necessarily characterizes military engagements in asymmetric war—or put another way, the military objective becomes killing itself. 28 The object of the targeted attack changes as well, in a way that seems morally defensible. Drones enable military planners to focus on high-level targets, and there is a further morality in that—we should appreciate a technology that can discriminate between low-level and high-level combatants, and minimize the loss of life to foot soldiers of the other side by concentrating fire on the leaders. Precision targeted killings should be seen as a substantial humanitarian advance in warfare, assuming that use of force is justified in the first place. Whereas the tradition LOAC placed the foot soldier at greatest risk of being killed in combat, the new targeted killing regime initially redirected lethal force to the command structure of the enemy. In our view, it is a mistake to focus exclusively on the level of force being used without also understanding that the targets (if accurately identified) bear a moral culpability for unlawful warfare completely distinct from anything that could be attributed to conventional soldiers in a stateauthorized war, especially in the case of conscript armies. As the technology improved, most notably with drones, the targets could expand from the command structure to operational centers, as with attacks on remote sites at which enemy combatants trained or assembled. A second myth concerning targeted killings as a new form of warfare is that this ability to project force from a distance itself raises new legal issues. But this view is simply an exercise at drawing a technological line that, in our view, has little moral or legal force in and of itself. Drones present the same legal issues as any other weapons system involving the delivery of lethal force. Advances in military technology have always been about the ability to project force from a distance. Drones are a technology, the latest technological development in the history of warfare, but they do not change the legal issues, under either domestic or international law, relevant to deciding whether particular uses of force are justified. In technologically advanced countries, militaries have long been in the business of delivering lethal force at great distances from their targets. The U.S. Navy has engaged enemy personnel by firing cruise missiles from ships in the Mediterranean into Libya, Iraq, and Sudan. Air Force pilots frequently take off from bases far removed from the actual theater of conflict and drop their bombs based on computer-generated targeting information from thousands of feet above the ground; the bombing campaign over Serbia during the Kosovo war, for example, involved pilots taking off from the Midwest in the United States and returning there. Ancient advances, such as catapults and longbows, involved the delivery of force from a distance, instead of hand-to-hand personalized combat. U.S. drone operations reportedly follow the same rules of engagement and use the same procedures as manned aircraft that use weapons to support ground troops. 29 At least the military’s use of drones operates within the same military chain of command, subject to civilian oversight, as all other uses of military force. 30 One can view the technological advances that make drone warfare possible with horror or with fascination, but the idea of projected force beyond hand-to-hand warfare does not of itself present radically new legal issues. As the philosopher David Luban rightly concludes, targeted killings “are no different in principle from other wartime killings, and they have to be judged by the same standards of necessity and proportionality applied to warfare in general: sometimes they are justified, sometimes not.” 31 A third prevalent misconception, in our view, is that drones and targeted killing pose a major threat to the humanitarian purposes and aims of the laws of war. The key principles of the laws of war are the principles of necessity, distinction and proportionality—the principles that force should intentionally be used only against military targets and that the damage to individual citizens should be minimized and proportionate. Drones, as against other uses of military force, better realize these principles than any other technology currently available. Indeed, they allow for the most discriminating uses of force in the history of military technology and warfare, in contexts in which the use of force is otherwise justified. If the alternative is sending US ground forces into Yemen or the frontier regions of Pakistan, the result will be far greater loss of civilian life, and far greater loss of combatant lives, than with drone technology. A more subtle concern that perhaps underlies the humanitarian critique of targeted killings is that drone warfare might make the use of force “too easy.” Since powerful states do not have to put their own pilots or soldiers directly at risk, will they resort to force and violence more easily? This is a serious issue, but some historical perspective might help put this concern in a broader frame. Throughout the modern history of warfare, there has been concern that humanitarian developments in the way war is conducted will, perversely, make it more likely that states will go to war. The argument is essentially that there is a Faustian tradeoff between the laws of war and the initial decision to go to war. This is an enduring, moral complex issue that has attended virtually every effort in the paradoxical-sounding project of making warfare more humane; pacifists in the 19th century objected to the formation of the International Committee of the Red Cross and its efforts to mitigate the horrors of war. 32 Moreover, the same paradox surrounds even purely humanitarian aid during wartime; in some contexts, access to such aid has become a strong economic incentive to continue the war, for the very purpose of extracting more of this financial assistance. 33 A more complicated picture emerges if we shift from the perspective of the civilian leaders who authorize the use of force to those who actually deliver that force. One of the consequences created by individuating the responsibility of specific enemies, combined with drone technology, is the possibility of a much greater sense of personal responsibility and accountability on the part of drone operators for lethal uses of force than that exhibited by prior generations of fighters. At least some drone operators report exactly this kind of experience of personal responsibility for their actions, including their mistakes, that was much less likely in earlier generations when “the enemy” was faceless and undifferentiated in most circumstances. 34 Of course, if such a perverse tradeoff does end up driving state practice, the same concern could be applied to the use of force for humanitarian purposes, as in Libya. Did the use of drones in the Libya operation make humanitarian interventions “too easy?” The right question, it seems to us, should focus on whether the use of force is justified in the first place. Moreover, one should be careful not to romanticize traditional combat and the pressures toward excessive violence it nearly always unleashes. To the extent the humanitarian critique of the use of drones is that sending in ground troops acts as a restraint on the use of force, compared to the use of force from remote locations, such as with drones technology, this idea might have matters backwards, at least once the decision to use force at all has been made (and made, hopefully, for appropriate and lawful reasons). Dramatic overuse of force is most likely when scared kids come under attack on an active battlefield and respond with massive uses of force directed at only vaguely identified targets. Remoteness from the immediate battlefield—with operators able to see much more of what is going on—almost surely enables much more deliberative responses. One Air Force combat officer who became a drone operator supports this conclusion; he comments that compared to conventional combat, both in the air and on the ground, the distance involved with drones enable operations to be “deliberate instead of reactionary;” 35 compared to manned combat flights, he experienced drones as affording “the ability to think clearly at zero knots and one G”; 36 and he observed that other “methods of warfare could be, and often were, much more destructive” 37 —indeed, he goes so far as to comment that when marines were sent into operations, they “broke things and killed people” while drones enabled U.S. military force to be “less brutal.” 38 Whether one accepts or not this particular self-reported drone operator experience, a realistic appraisal of all the costs and benefits of the use of drones must confront the “compared to what” question. Perhaps in some contexts, if drones were not available, no force would be used; but in many cases, it seems likely that much greater force would be used instead. Put another way, powerful nation-states are unlikely to remain passive in the face of significant risks to the physical security of their citizens and property that emanate from other nations that are unwilling or unable to control these threats. Nor is it clear why states should be understood to have a moral obligation to permit their citizens and territory to be attacked. If states have the capacity to do so, they will neutralize these threats through killing or capture; and at times, the humanitarian costs of capture, in terms of harm to and loss of innocent life will be great, and at other times, capture might not be practicable for any number of reasons (a complex issue to which we return below). As a result, it seems to us that any general humanitarian critique of the targeted killing has a moral obligation to offer a credible, practical alternative that a state can realistically employ to protect the lives of its citizens and that better serves the humanitarian aims of the laws of war.

**Modeling**

**Drone proliferation isn’t a US-motivated arms race – states are developing drones because they have an economic and security incentive to do so – that’s Anderson.**

**Restrained norms don’t set a precedent – states make tactical decisions about military tech purely on the basis of self interest – that’s Etzioni**

**The ‘drone precedent’ arg is incoherent---their claim is that other states will use drones in far different ways than the U.S. does---proves our drone policies are irrelevant, and pretexts at best for what states will inevitably do**

Kenneth **Anderson 13**, Professor of International Law at American University, June 2013, “The Case for Drones,” Commentary, Vol. 135, No. 6

This critique often leads, however, to the further objection that the American use of drones is essentially laying the groundwork for others to do the same. Steve Coll wrote in the New Yorker: "America's drone campaign is also creating an ominous global precedent. Ten years or less from now, China will likely be able to field armed drones. How might its Politburo apply Obama's doctrines to Tibetan activists holding meetings in Nepal?"

The United States, it is claimed, is arrogantly exerting its momentary technological advantage to do what it likes. It will be sorry when other states follow suit. But the United States does not use drones in this fashion and has claimed no special status for drones. The U.S. government uses drone warfare in a far more limited way, legally and morally, and entirely within the bounds of international law. The problem with China (or Russia) using drones is that they might not use them in the same way as the United States. The drone itself is a tool. How it is used and against whom -- these are moral questions. If China behaves malignantly, drones will not be responsible. Its leaders will be.