# 1NC

## 1

The aff must specify statutory or judicial restrictions—

“And/or” means one or the other or both

CED ‘9

(http://dictionary.reference.com/browse/and%2For)

and/or

— conj

( coordinating ) used to join terms when **either one or the other or both** is indicated: passports and/or other means of identification

Vote neg—plan text clarity key to specific negative ground and tests the core question of the resolution—where the authority is located—

Presumption

CMS ‘3

(http://www.chicagomanualofstyle.org/CMS\_FAQ/CapitalizationTitles/CapitalizationTitles32.html, accessed 10/16/07, re-accessed at <http://www.chicagomanualofstyle.org/qanda/data/faq/topics/CapitalizationTitles/faq0015.html>, 8/19/2013)

Q. When I refer to the government of the United States in text, should it be US Federal Government or US federal government? A. **The government of the** United States **is not a single official entity**. Nor is it when it is referred to as the federal government or the U.S. government or the U.S. federal government. It’s just a government, which, like those in all countries, has some official bodies that act and operate in the name of government: the Congress, the Senate, the Department of State, etc.

Aff conditionality – violates “Resolved”

Random House Unabridged Dictionary, 1997

(http://www.infoplease.com/dictionary/resolved)

firm in purpose or intent; determined

## 2

Congressional restraints spill over to destabilize all presidential war powers.

Heder ’10

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

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

That goes nuclear

Li ‘9

Zheyao, J.D. candidate, Georgetown University Law Center, 2009; B.A., political science and history, Yale University, 2006. This paper is the culmination of work begun in the "Constitutional Interpretation in the Legislative and Executive Branches" seminar, led by Judge Brett Kavanaugh, “War Powers for the Fourth Generation: Constitutional Interpretation in the Age of Asymmetric Warfare,” 7 Geo. J.L. & Pub. Pol'y 373 2009 WAR POWERS IN THE FOURTH GENERATION OF WARFARE

A. The Emergence of Non-State Actors

Even as the quantity of nation-states in the world has increased dramatically since the end of World War II, the institution of the nation-state has been in decline over the past few decades. Much of this decline is the direct result of the waning of major interstate war, which primarily resulted from the introduction of nuclear weapons.122 The proliferation of nuclear weapons, and their immense capacity for absolute destruction, has ensured that conventional wars remain limited in scope and duration. Hence, "both the size of the armed forces and the quantity of weapons at their disposal has declined quite sharply" since 1945.123 At the same time, concurrent with the decline of the nation-state in the second half of the twentieth century, non-state actors have increasingly been willing and able to use force to advance their causes. In contrast to nation-states, who adhere to the Clausewitzian distinction between the ends of policy and the means of war to achieve those ends, non-state actors do not necessarily fight as a mere means of advancing any coherent policy. Rather, they see their fight as a life-and-death struggle, wherein the ordinary terminology of war as an instrument of policy breaks down because of this blending of means and ends.124 It is the existential nature of this struggle and the disappearance of the Clausewitzian distinction between war and policy that has given rise to a new generation of warfare. The concept of fourth-generational warfare was first articulated in an influential article in the Marine Corps Gazette in 1989, which has proven highly prescient. In describing what they saw as the modem trend toward a new phase of warfighting, the authors argued that: In broad terms, fourth generation warfare seems likely to be widely dispersed and largely undefined; the distinction between war and peace will be blurred to the vanishing point. It will be nonlinear, possibly to the point of having no definable battlefields or fronts. The distinction between "civilian" and "military" may disappear. Actions will occur concurrently throughout all participants' depth, including their society as a cultural, not just a physical, entity. Major military facilities, such as airfields, fixed communications sites, and large headquarters will become rarities because of their vulnerability; the same may be true of civilian equivalents, such as seats of government, power plants, and industrial sites (including knowledge as well as manufacturing industries). 125 It is precisely this blurring of peace and war and the demise of traditionally definable battlefields that provides the impetus for the formulation of a new theory of war powers. As evidenced by Part M, supra, the constitutional allocation of war powers, and the Framers' commitment of the war power to two co-equal branches, was not designed to cope with the current international system, one that is characterized by the persistent machinations of international terrorist organizations, the rise of multilateral alliances, the emergence of rogue states, and the potentially wide proliferation of easily deployable weapons of mass destruction, nuclear and otherwise. B. The Framers' World vs. Today's World The Framers crafted the Constitution, and the people ratified it, in a time when everyone understood that the state controlled both the raising of armies and their use. Today, however, the threat of terrorism is bringing an end to the era of the nation-state's legal monopoly on violence, and the kind of war that existed before-based on a clear division between government, armed forces, and the people-is on the decline. 126 As states are caught between their decreasing ability to fight each other due to the existence of nuclear weapons and the increasing threat from non-state actors, it is clear that the Westphalian system of nation-states that informed the Framers' allocation of war powers is no longer the order of the day. 127 As seen in Part III, supra, the rise of the modem nation-state occurred as a result of its military effectiveness and ability to defend its citizens. If nation-states such as the United States are unable to adapt to the changing circumstances of fourth-generational warfare-that is, if they are unable to adequately defend against low-intensity conflict conducted by non-state actors-"then clearly [the modem state] does not have a future in front of it.' 128 The challenge in formulating a new theory of war powers for fourthgenerational warfare that remains legally justifiable lies in the difficulty of adapting to changed circumstances while remaining faithful to the constitutional text and the original meaning. 29 To that end, it is crucial to remember that the Framers crafted the Constitution in the context of the Westphalian system of nation-states. The three centuries following the Peace of Westphalia of 1648 witnessed an international system characterized by wars, which, "through the efforts of governments, assumed a more regular, interconnected character."' 130 That period saw the rise of an independent military class and the stabilization of military institutions. Consequently, "warfare became more regular, better organized, and more attuned to the purpose of war-that is, to its political objective."' 1 3' That era is now over. Today, the stability of the long-existing Westphalian international order has been greatly eroded in recent years with the advent of international terrorist organizations, which care nothing for the traditional norms of the laws of war. This new global environment exposes the limitations inherent in the interpretational methods of originalism and textualism and necessitates the adoption of a new method of constitutional interpretation. While one must always be aware of the text of the Constitution and the original understanding of that text, that very awareness identifies the extent to which fourth-generational warfare epitomizes a phenomenon unforeseen by the Framers, a problem the constitutional resolution of which must rely on the good judgment of the present generation. 13 Now, to adapt the constitutional warmarking scheme to the new international order characterized by fourth-generational warfare, one must understand the threat it is being adapted to confront. C. The Jihadist Threat The erosion of the Westphalian and Clausewitzian model of warfare and the blurring of the distinction between the means of warfare and the ends of policy, which is one characteristic of fourth-generational warfare, apply to al-Qaeda and other adherents of jihadist ideology who view the United States as an enemy. An excellent analysis of jihadist ideology and its implications for the rest of the world are presented by Professor Mary Habeck. 133 Professor Habeck identifies the centrality of the Qur'an, specifically a particular reading of the Qur'an and hadith (traditions about the life of Muhammad), to the jihadist terrorists. 134 The jihadis believe that the scope of the Qur'an is universal, and "that their interpretation of Islam is also intended for the entire world, which must be brought to recognize this fact peacefully if possible and through violence if not."' 135 Along these lines, the jihadis view the United States and her allies as among the greatest enemies of Islam: they believe "that every element of modern Western liberalism is flawed, wrong, and evil" because the basis of liberalism is secularism. 136 The jihadis emphasize the superiority of Islam to all other religions, and they believe that "God does not want differing belief systems to coexist."' 37 For this reason, jihadist groups such as al-Qaeda "recognize that the West will not submit without a fight and believe in fact that the Christians, Jews, and liberals have united against Islam in a war that will end in the complete destruction of the unbelievers.' 138 Thus, the adherents of this jihadist ideology, be it al-Qaeda or other groups, will continue to target the United States until she is destroyed. Their ideology demands it. 139 To effectively combat terrorist groups such as al-Qaeda, it is necessary to understand not only how they think, but also how they operate. Al-Qaeda is a transnational organization capable of simultaneously managing multiple operations all over the world."14 It is both centralized and decentralized: al-Qaeda is centralized in the sense that Osama bin Laden is the unquestioned leader, but it is decentralized in that its operations are carried out locally, by distinct cells."4 AI-Qaeda benefits immensely from this arrangement because it can exercise direct control over high-probability operations, while maintaining a distance from low-probability attacks, only taking the credit for those that succeed. The local terrorist cells benefit by gaining access to al-Qaeda's "worldwide network of assets, people, and expertise."' 42 Post-September 11 events have highlighted al-Qaeda's resilience. Even as the United States and her allies fought back, inflicting heavy casualties on al-Qaeda in Afghanistan and destroying dozens of cells worldwide, "al-Qaeda's networked nature allowed it to absorb the damage and remain a threat." 14 3 This is a far cry from earlier generations of warfare, where the decimation of the enemy's military forces would generally bring an end to the conflict. D. The Need for Rapid Reaction and Expanded Presidential War Power By now it should be clear just how different this conflict against the extremist terrorists is from the type of warfare that occupied the minds of the Framers at the time of the Founding. Rather than maintaining the geographical and political isolation desired by the Framers for the new country, today's United States is an international power targeted by individuals and groups that will not rest until seeing her demise. The Global War on Terrorism is not truly a war within the Framers' eighteenth-century conception of the term, and the normal constitutional provisions regulating the division of war powers between Congress and the President do not apply. Instead, this "war" is a struggle for survival and dominance against forces that threaten to destroy the United States and her allies, and the fourth-generational nature of the conflict, highlighted by an indiscernible distinction between wartime and peacetime, necessitates an evolution of America's traditional constitutional warmaking scheme. As first illustrated by the military strategist Colonel John Boyd, constitutional decision-making in the realm of war powers in the fourth generation should consider the implications of the OODA Loop: Observe, Orient, Decide, and Act. 44 In the era of fourth-generational warfare, quick reactions, proceeding through the OODA Loop rapidly, and disrupting the enemy's OODA loop are the keys to victory. "In order to win," Colonel Boyd suggested, "we should operate at a faster tempo or rhythm than our adversaries." 145 In the words of Professor Creveld, "[b]oth organizationally and in terms of the equipment at their disposal, the armed forces of the world will have to adjust themselves to this situation by changing their doctrine, doing away with much of their heavy equipment and becoming more like police."1 46 Unfortunately, the existing constitutional understanding, which diffuses war power between two branches of government, necessarily (by the Framers' design) slows down decision- making. In circumstances where war is undesirable (which is, admittedly, most of the time, especially against other nation-states), the deliberativeness of the existing decision-making process is a positive attribute. In America's current situation, however, in the midst of the conflict with al-Qaeda and other international terrorist organizations, the existing process of constitutional decision-making in warfare may prove a fatal hindrance to achieving the initiative necessary for victory. As a slow-acting, deliberative body, Congress does not have the ability to adequately deal with fast-emerging situations in fourth-generational warfare. Thus, in order to combat transnational threats such as al-Qaeda, the executive branch must have the ability to operate by taking offensive military action even without congressional authorization, because only the executive branch is capable of the swift decision-making and action necessary to prevail in fourth-generational conflicts against fourthgenerational opponents.

## 3

#### Iran strategy working—Congressional rebuke to command in chief flexibility spoils negotiations—results in Iran strikes and prolif

Joel Rubin, Politico, 10/20/13, Iran’s diplomatic thaw with the West, dyn.politico.com/printstory.cfm?uuid=FBFABC3B-C9A8-47F8-A9AC-BC886BCE0552

Congratulations, Congress. Your Iran strategy is working. Now what?

The diplomatic thaw between Iran and the West is advancing, and faster than most of us had imagined. This is the result of years of painstaking efforts by the Obama administration and lawmakers to pressure the Islamic Republic into deciding whether it’s in Iran’s interest to pursue diplomacy or to continue suffering under crushing economic sanctions and international isolation.

Now that Iran has made a clear decision to engage seriously in diplomatic negotiations with the West over its nuclear program, its intentions should be tested. Members of Congress should be open to seizing this opportunity by making strategic decisions on sanctions policy.

The economic sanctions against Iran that are in place have damaged the Iranian economy. A credible military threat — with more than 40,000 American troops in the Persian Gulf — stands on alert. International inspectors are closely monitoring Iran’s every nuclear move. Iran has not yet made a decision to build a bomb, does not have enough medium-enriched uranium to convert to weapons grade material for one bomb and has neither a workable nuclear warhead nor a means to deliver it at long ranges. If Iran were to make a dash for a bomb, the U.S. intelligence community estimates that it would take roughly one to two years to do so.

Congress, with its power to authorize sanctions relief, plays a crucial role in deciding whether a deal will be achieved. This gives Congress the opportunity to be a partner in what could potentially be a stunning success in advancing our country’s security interests without firing a shot.

Consider the alternative: If the administration negotiates a deal that Congress blocks, and Congress becomes a spoiler, Iran will most likely continue to accelerate its nuclear program. Then lawmakers would be left with a stark choice: either acquiesce to an unconstrained Iranian nuclear program and a potential Iranian bomb or endorse the use of force to attempt to stop it. Most military experts rate the odds of a successful bombing campaign low and worry that failed strikes would push Iran to get the bomb outright.

Iran and the United States need a political solution to this conflict. Now is the time to test the Iranians at the negotiating table, not push them away.

Congress is also being tested, but the conventional wisdom holds that lawmakers won’t show the flexibility required to make a deal. Such thinking misses the political volatility just beneath the surface: Americans simply don’t support another war in the Middle East, as the congressional debate over Syria made crystal clear. Would they back much riskier military action in Iran?

Fortunately for Congress, President Barack Obama was agile enough to seize the diplomatic route and begin to eliminate Syria’s chemical weapons. These results are advancing U.S. security interests. And members of Congress breathed a collective sigh of relief as well as they didn’t have to either vote to undercut the commander in chief on a security issue or stick a finger in the eye of their constituents.

The same can happen on Iran. By pursuing a deal, Obama can provide Congress with an escape hatch, where it won’t have to end up supporting unpopular military action or have to explain to its constituents why it failed to block an Iranian bomb. A verifiable deal with Iran that would prevent it from acquiring a nuclear weapon would require sanctions relief from Congress. But that’s an opportunity to claim victory, not a burden. And it would make Congress a partner with the president on a core security issue. Congress could then say, with legitimacy, that its tough sanctions on Iran worked — and did so without starting another unpopular American war in the Middle East.

#### Iran proliferation causes nuclear war

Edelman, distinguished fellow – Center for Strategic and Budgetary Assessments, ‘11

(Eric S, “The Dangers of a Nuclear Iran,” *Foreign Affairs*, January/February)

The reports of the Congressional Commission on the Strategic Posture of the United States and the Commission on the Prevention Of Weapons of Mass Destruction Proliferation and Terrorism, as well as other analyses, have highlighted the risk that a nuclear-armed Iran could trigger additional nuclear proliferation in the Middle East, even if Israel does not declare its own nuclear arsenal. Notably, Algeria, Bahrain, Egypt, Jordan, Saudi Arabia,Turkey, and the United Arab Emirates— all signatories to the Nuclear Nonproliferation Treaty (npt)—have recently announced or initiated nuclear energy programs. Although some of these states have legitimate economic rationales for pursuing nuclear power and although the low-enriched fuel used for power reactors cannot be used in nuclear weapons, these moves have been widely interpreted as hedges against a nuclear-armed Iran. The npt does not bar states from developing the sensitive technology required to produce nuclear fuel on their own, that is, the capability to enrich natural uranium and separate plutonium from spent nuclear fuel. Yet enrichment and reprocessing can also be used to accumulate weapons-grade enriched uranium and plutonium—the very loophole that Iran has apparently exploited in pursuing a nuclear weapons capability. Developing nuclear weapons remains a slow, expensive, and di⁄cult process, even for states with considerable economic resources, and especially if other nations try to constrain aspiring nuclear states’ access to critical materials and technology. Without external support, it is unlikely that any of these aspirants could develop a nuclear weapons capability within a decade.

There is, however, at least one state that could receive significant outside support: Saudi Arabia. And if it did, proliferation could accelerate throughout the region. Iran and Saudi Arabia have long been geopolitical and ideological rivals. Riyadh would face tremendous pressure to respond in some form to a nuclear-armed Iran, not only to deter Iranian coercion and subversion but also to preserve its sense that Saudi Arabia is the leading nation in the Muslim world. The Saudi government is already pursuing a nuclear power capability, which could be the first step along a slow road to nuclear weapons development. And concerns persist that it might be able to accelerate its progress by exploiting its close ties to Pakistan. During the 1980s, in response to the use of missiles during the Iran-Iraq War and their growing proliferation throughout the region, Saudi Arabia acquired several dozen css-2 intermediate-range ballistic missiles from China. The Pakistani government reportedly brokered the deal, and it may have also oªered to sell Saudi Arabia nuclear warheads for the css-2s, which are not accurate enough to deliver conventional warheads eªectively. There are still rumors that Riyadh and Islamabad have had discussions involving nuclear weapons, nuclear technology, or security guarantees. This “Islamabad option” could develop in one of several diªerent ways. Pakistan could sell operational nuclear weapons and delivery systems to Saudi Arabia, or it could provide the Saudis with the infrastructure, material, and technical support they need to produce nuclear weapons themselves within a matter of years, as opposed to a decade or longer. Not only has Pakistan provided such support in the past, but it is currently building two more heavy-water reactors for plutonium production and a second chemical reprocessing facility to extract plutonium from spent nuclear fuel. In other words, it might accumulate more fissile material than it needs to maintain even a substantially expanded arsenal of its own. Alternatively, Pakistan might oªer an extended deterrent guarantee to Saudi Arabia and deploy nuclear weapons, delivery systems, and troops on Saudi territory, a practice that the United States has employed for decades with its allies. This arrangement could be particularly appealing to both Saudi Arabia and Pakistan. It would allow the Saudis to argue that they are not violating the npt since they would not be acquiring their own nuclear weapons. And an extended deterrent from Pakistan might be preferable to one from the United States because stationing foreign Muslim forces on Saudi territory would not trigger the kind of popular opposition that would accompany the deployment of U.S. troops. Pakistan, for its part, would gain financial benefits and international clout by deploying nuclear weapons in Saudi Arabia, as well as strategic depth against its chief rival, India. The Islamabad option raises a host of difficult issues, perhaps the most worrisome being how India would respond. Would it target Pakistan’s weapons in Saudi Arabia with its own conventional or nuclear weapons? How would this expanded nuclear competition influence stability during a crisis in either the Middle East or South Asia? Regardless of India’s reaction, any decision by the Saudi government to seek out nuclear weapons, by whatever means, would be highly destabilizing. It would increase the incentives of other nations in the Middle East to pursue nuclear weapons of their own. And it could increase their ability to do so by eroding the remaining barriers to nuclear proliferation: each additional state that acquires nuclear weapons weakens the nonproliferation regime, even if its particular method of acquisition only circumvents, rather than violates, the NPT.

n-player competition

Were Saudi Arabia to acquire nuclear weapons, the Middle East would count three nuclear-armed states, and perhaps more before long. It is unclear how such an n-player competition would unfold because most analyses of nuclear deterrence are based on the U.S.- Soviet rivalry during the Cold War. It seems likely, however, that the interaction among three or more nuclear-armed powers would be more prone to miscalculation and escalation than a bipolar competition. During the Cold War, the United States and the Soviet Union only needed to concern themselves with an attack from the other. Multipolar systems are generally considered to be less stable than bipolar systems because coalitions can shift quickly, upsetting the balance of power and creating incentives for an attack. More important, emerging nuclear powers in the Middle East might not take the costly steps necessary to preserve regional stability and avoid a nuclear exchange. For nuclear-armed states, the bedrock of deterrence is the knowledge that each side has a secure second-strike capability, so that no state can launch an attack with the expectation that it can wipe out its opponents’ forces and avoid a devastating retaliation. However, emerging nuclear powers might not invest in expensive but survivable capabilities such as hardened missile silos or submarinebased nuclear forces. Given this likely vulnerability, the close proximity of states in the Middle East, and the very short flight times of ballistic missiles in the region, any new nuclear powers might be compelled to “launch on warning” of an attack or even, during a crisis, to use their nuclear forces preemptively. Their governments might also delegate launch authority to lower-level commanders, heightening the possibility of miscalculation and escalation. Moreover, if early warning systems were not integrated into robust command-and-control systems, the risk of an unauthorized or accidental launch would increase further still. And without sophisticated early warning systems, a nuclear attack might be unattributable or attributed incorrectly. That is, assuming that the leadership of a targeted state survived a first strike, it might not be able to accurately determine which nation was responsible. And this uncertainty, when combined with the pressure to respond quickly,would create a significant risk that it would retaliate against the wrong party, potentially triggering a regional nuclear war.

## 4

The affirmative re-inscribes the primacy of liberal legalism as a method of restraint

Margulies ‘11

Joseph, Joseph Margulies is a Clinical Professor, Northwestern University School of Law. He was counsel of record for the petitioners in Rasul v. Bush and Munaf v. Geren. He now is counsel of record for Abu Zubaydah, for whose torture (termed harsh interrogation by some) Bush Administration officials John Yoo and Jay Bybee wrote authorizing legal opinions. Earlier versions of this paper were presented at workshops at the American Bar Foundation and the 2010 Law and Society Association Conference in Chicago., Hope Metcalf is a Lecturer, Yale Law School. Metcalf is co-counsel for the plaintiffs/petitioners in Padilla v. Rumsfeld, Padilla v. Yoo, Jeppesen v. Mohammed, and Maqaleh v. Obama. She has written numerous amicus briefs in support of petitioners in suits against the government arising out of counterterrorism policies, including in Munaf v. Geren and Boumediene v. Bush., “Terrorizing Academia,” http://www.swlaw.edu/pdfs/jle/jle603jmarguilies.pdf

In an observation more often repeated than defended, we are told that the attacks of September 11 “changed everything.” Whatever merit there is in this notion, it is certainly true that 9/11—and in particular the legal response set in motion by the administration of President George W. Bush—left its mark on the academy. Nine years after 9/11, it is time to step back and assess these developments and to offer thoughts on their meaning. In Part II of this essay, we analyze the post-9/11 scholarship produced by this “emergency” framing. We argue that legal scholars writing in the aftermath of 9/11 generally fell into one of three groups: unilateralists, interventionists, and proceduralists. Unilateralists argued in favor of tilting the allocation of government power toward the executive because the state’s interest in survival is superior to any individual liberty interest, and because the executive is best able to understand and address threats to the state. Interventionists, by contrast, argued in favor of restraining the executive (principally through the judiciary) precisely to prevent the erosion of civil liberties. Proceduralists took a middle road, informed by what they perceived as a central lesson of American history.1 Because at least some overreaction by the state is an inevitable feature of a national crisis, the most one can reasonably hope for is to build in structural and procedural protections to preserve the essential U.S. constitutional framework, and, perhaps, to minimize the damage done to American legal and moral traditions. Despite profound differences between and within these groups, legal scholars in all three camps (as well as litigants and clinicians, including the authors) shared a common perspective—viz., that repressive legal policies adopted by wartime governments are temporary departures from hypothesized peacetime norms. In this narrative, metaphors of bewilderment, wandering, and confusion predominate. The country “loses its bearings” and “goes astray.” Bad things happen until at last the nation “finds itself” or “comes to its senses,” recovers its “values,” and fixes the problem. Internment ends, habeas is restored, prisoners are pardoned, repression passes. In a show of regret, we change direction, “get back on course,” and vow it will never happen again. Until the next time, when it does. This view, popularized in treatments like All the Laws but One, by the late Chief Justice Rehnquist,2 or the more thoughtful and thorough discussion in Perilous Times by Chicago’s Geoffrey Stone,3 quickly became the dominant narrative in American society and the legal academy. **This narrative also figured heavily in the many challenges to Bush-era policies,** including by the authors. The narrative permitted litigators and legal scholars to draw upon what elsewhere has been referred to as America’s “civic religion”4 and to cast the courts in the role of hero-judges5 **whom we hoped would restore legal order.**6 But by framing the Bush Administration’s response as the latest in a series of regrettable but temporary deviations from a hypothesized liberal norm, the legal academy ignored the more persistent, and decidedly illiberal, authoritarian tendency in American thought to demonize communal “others” during moments of perceived threat. Viewed in this light, what the dominant narrative identified as a brief departure caused by a military crisis is more accurately seen as part of a recurring process of intense stigmatization tied to periods of social upheaval, of which war and its accompanying repressions are simply representative (and particularly acute) illustrations. It is worth recalling, for instance, that the heyday of the Ku Klux Klan in this country, when the organization could claim upwards of 3 million members, was the early-1920s, and that the period of greatest Klan expansion began in the summer of 1920, almost immediately after the nation had “recovered” from the Red Scare of 1919–20.7 Klan activity during this period, unlike its earlier and later iterations, focused mainly on the scourge of the immigrant Jew and Catholic, and flowed effortlessly from the anti-alien, anti-radical hysteria of the Red Scare. Yet this period is almost entirely unaccounted for in the dominant post-9/11 narrative of deviation and redemption, which in most versions glides seamlessly from the madness of the Red Scare to the internment of the Japanese during World War II.8 And because we were studying the elephant with the wrong end of the telescope, we came to a flawed understanding of the beast. In Part IV, we argue that the interventionists and unilateralists came to an incomplete understanding by focusing almost exclusively on what Stuart Scheingold called “the myth of rights”—the belief that if we can identify, elaborate, and secure judicial recognition of the legal “right,” **political structures and policies will adapt their behavior to the requirements of the law** and change will follow more or less automatically.9 Scholars struggled to define the relationship between law and security primarily through exploration of structural10 and procedural questions, and, to a lesser extent, to substantive rights. And they examined the almost limitless number of subsidiary questions clustered within these issues. Questions about the right to habeas review, for instance, generated a great deal of scholarship about the handful of World War II-era cases that the Bush Administration relied upon, including most prominently Johnson v. Eisentrager and Ex Parte Quirin. 11 Regardless of political viewpoint, a common notion among most unilateralist and interventionist scholars was that when law legitimized or delegitimized a particular policy, **this would have a direct and observable effect on actual behavior**. The premise of this scholarship, in other words, was that policies “struck down” by the courts, or credibly condemned as lawless by the academy, would inevitably be changed—and that this should be the focus of reform efforts. Even when disagreement existed about the substance of rights or even which branch should decide their parameters, it reflected shared acceptance of the primacy of law, often to the exclusion of underlying social or political dynamics. Eric Posner and Adrian Vermeule, for instance, may have thought, unlike the great majority of their colleagues, that the torture memo was “standard fare.”12 But their position nonetheless accepted the notion that if the prisoners had a legal right to be treated otherwise, then the torture memo authorized illegal behavior and must be given no effect.13 Recent developments, however, cast doubt on two grounding ideas of interventionist and unilateralist scholarship—viz., that post-9/11 policies were best explained as responses to a national crisis (and therefore limited in time and scope), and that the problem was essentially legal (and therefore responsive to condemnation by the judiciary and legal academy). One might have reasonably predicted that in the wake of a string of Supreme Court decisions limiting executive power, apparently widespread and bipartisan support for the closure of Guantánamo during the 2008 presidential campaign, and the election of President Barack Obama, which itself heralded a series of executive orders that attempted to dismantle many Bush-era policies, the nation would be “returning” to a period of respect for individual rights and the rule of law. Yet the period following Obama’s election has been marked by an increasingly retributive and venomous narrative surrounding Islam and national security. **Precisely when the dominant narrative would have predicted change** and redemption, we have seen retreat and retrenchment. This conundrum is not adequately addressed by dominant strands of post-9/11 legal scholarship. In retrospect, it is surprising that much post-9/11 scholarship appears to have set aside critical lessons from previous decades as to the relationship among law, society and politics.14 Many scholars have long argued in other contexts that rights—or at least the experience of rights—are subject to political and social constraints, particularly for groups subject to historic marginalization. Rather than self-executing, rights are better viewed as contingent political resources, capable of mobilizing public sentiment and generating social expectations.15 From that view, a victory in Rasul or Boumediene no more guaranteed that prisoners at Guantánamo would enjoy the right to habeas corpus than a victory in Brown v. Board16 guaranteed that schools in the South would be desegregated.17 Rasul and Boumediene, therefore, should be seen as part (and probably only a small part) of a varied and complex collection of events, including the fiasco in Iraq, the scandal at the Abu Ghraib prison, and the use of warrantless wiretaps, as well as seemingly unrelated episodes like the official response to Hurricane Katrina. These and other events during the Bush years merged to give rise to a powerful social narrative critiquing an administration committed to lawlessness, content with incompetence, and engaged in behavior that was contrary to perceived “American values.”18 Yet the very success of this narrative, culminating in the election of Barack Obama in 2008, produced quiescence on the Left, even as it stimulated massive opposition on the Right. The result has been the emergence of a counter-narrative about national security that has produced a vigorous social backlash such that most of the Bush-era policies will continue largely unchanged, at least for the foreseeable future.19 Just as we see a widening gap between judicial recognition of rights in the abstract and the observation of those rights as a matter of fact, there appears to be an emerging dominance of proceduralist approaches, which take as a given that rights dissolve under political pressure, and, thus, are best protected by basic procedural measures. But that stance falls short in its seeming readiness to trade away rights in the face of political tension. First, it accepts the tropes du jour surrounding radical Islam—namely, that it is a unique, and uniquely apocalyptic, threat to U.S. security. In this, proceduralists do not pay adequate heed to the lessons of American history and sociology. And second, it endorses too easily the idea that procedural and structural protections will protect against substantive injustice in the face of popular and/or political demands for an outcome-determinative system that cannot tolerate acquittals. Procedures only provide protection, however, if there is sufficient political support for the underlying right. Since the premise of the proceduralist scholarship is that such support does not exist, it is folly to expect the political branches to create meaningful and robust protections. In short, a witch hunt does not become less a mockery of justice when the accused is given the right to confront witnesses. And a separate system (especially when designed for demonized “others,” such as Muslims) cannot, by definition, be equal. In the end, we urge a fuller embrace of what Scheingold called “the politics of rights,” which recognizes the contingent character of rights in American society. We agree with Mari Matsuda, who observed more than two decades ago that rights are a necessary but not sufficient resource for marginalized people with little political capital.20 To be effective, therefore, we must look beyond the courts and grapple with the hard work of long-term change with, through and, perhaps, in spite of law. These are by no means new dilemmas, but the post-9/11 context raises difficult and perplexing questions that deserve study and careful thought as our nation settles into what appears to be a permanent emergency.

That causes endless violence – extinction

The alternative is to vote negative to endorse political, rather than legal restrictions on Presidential war powers authority

Dossa ‘99

Shiraz, Department of Political Science, St. Francis Xavier University, Antigonish, Nova Scotia, “Liberal Legalism: Law, Culture and Identity,” The European Legacy, Vol. 4, No. 3, pp. 73-87,1

No discipline in the rationalized arsenal of modernity is as rational, impartial, objective as the province of law and jurisprudence, in the eyes of its liberal enthusiasts. Law is the exemplary countenance of the conscious and calculated rationality of modern life, **it is the** emblematic face of liberal civilization. Law and legal rules symbolize the spirit of science, the march of human progress. As Max Weber, the reluctant liberal theorist of the ethic of rationalization, asserted: judicial formalism enables the legal system to operate like a technically **rational machine**. Thus it guarantees to individuals and groups within the system a relative of maximum of freedom, and greatly increases for them the possibility of predicting the legal consequences of their action. In this reading, law encapsulates the western capacity to bring order to nature and human beings, to turn the ebb and flow of life into a "rational machine" under the tutelage of "judicial formalism".19 Subjugation of the Other races in the colonial empires was motivated by power and rapacity, but it was justified and indeed rationalized, by an appeal to the civilizing influence of religion and law: western Christianity and liberal law. To the imperialist mind, "the civilizing mission of law" was fundamental, though Christianity had a part to play in this program.20 Liberal colonialists visualized law, civilization and progress as deeply connected and basic, they saw western law as neutral, universally relevant and desirable. The first claim was right in the liberal context, the second thoroughly false. In the liberal version, the mythic and irrational, emblems of thoughtlessness and fear, had ruled all life-forms in the past and still ruled the lives of the vast majority of humanity in the third world; in thrall to the majesty of the natural and the transcendent, primitive life flourished in the environment of traditionalism and lawlessness, hallmarks of the epoch of ignorance. By contrast, liberal ideology and modernity were abrasively unmythic, rational and controlled. Liberal order was informed by knowledge, science, a sense of historical progress, a continuously improving future. But this canonical, secular, bracing self-image, is tendentious and substantively illusory: it blithely scants the bloody genealogy and the extant historical record of liberal modernity, liberal politics, and particularly liberal law and its impact on the "lower races" (Hobson). In his Mythology of Modern Law, Fitzpatrick has shown that the enabling claims of liberalism, specifically of liberal law, are not only untenable but implicated in canvassing a racist justification of its colonial past and in eliding the racist basis of the structure of liberal jurisprudence.21 Liberal law is mythic in its presumption of its neutral, objective status. Specifically, the liberal legal story of its immaculate, analytically pure origin obscures and veils not just law's own ruthless, violent, even savage and disorderly trajectory, but also its constitutive association with imperialism and racism.22 In lieu of the transcendent, divine God of the "lower races", modern secular law postulated the gods of History, Science, Freedom. Liberal law was to be the instrument for realizing the promise of progress that the profane gods had decreed. Fitzpatrick's invasive surgical analysis lays bare the underlying logic of law's self-articulation in opposition to the values of cultural-racial Others, and its strategic, continuous reassertion of liberalism's superiority and the civilizational indispensability of liberal legalism. Liberal law's self-presentation presupposes a corrosive, debilitating, anarchic state of nature inhabited by the racial Others and lying in wait at the borders of the enlightened modern West. This mythological, savage Other, creature of raw, natural, unregulated fecundity and sexuality, justified the liberal conquest and control of the racially Other regions.23 Law's violence and resonant savagery on behalf of the West in its imperial razing of cultures and lands of the others, has been and still is, justified in terms of the necessary, beneficial spread of liberal civilization. Fitzpatrick's analysis parallels the impassioned deconstruction of this discourse of domination initiated by Edward Said's Orientalism, itself made possible by the pioneering analyses of writers like Aime Cesaire and Frantz Fanon. Fitzpatrick's argument is nevertheless instructive: his focus on law and its machinations unravels the one concrete province of imperial ideology that is centrally modern and critical in literally transforming and refashioning the human nature of racial Others. For liberal law carries on its back the payload of "progressive", pragmatic, **instrumental modernity**, its ideals of order and rule of law, its articulation of human rights and freedom, its ethic of procedural justice, its hostility to the sacred, to transcendence or spiritual complexity, its recasting of politics as the handmaiden of the nomos, its valorization of scientism and rationalization in all spheres of modern life. Liberal law is not synonymous with modernity tout court, but it is the exemplary voice of its rational spirit, **the custodian of its civilizational ambitions.** For the colonized Others, no non-liberal alternative is available: a non-western route to economic progress is inconceivable in liberal-legal discourse. For even the truly tenacious in the third world will never cease to be, in one sense or another, the outriders of modernity: their human condition condemns them to **playing perpetual catch-up**, eternally subservient to Western economic and technological superiority in a epoch of self-surpassing modernity.24 If the racially Other nations suffer exclusion globally, the racially other minorities inside the liberal loop enjoy the ambiguous benefits of inclusion. As legal immigrants or refugees, they are entitled to the full array of rights and privileges, as citizens (in Canada, France, U.K., U.S—Germany is the exception) they acquire civic and political rights as a matter of law. Formally, they are equal and equally deserving. In theory liberal law is inclusive, but concretely it is routinely **partial and invidious**. Inclusion is conditional: it depends on how robustly the new citizens wear and deploy their cultural difference. Two historical facts account for this phenomenon: liberal law's role in western imperialism and the Western claim of civilizational superiority that pervades the culture that sustains liberal legalism. Liberal law, as the other of the racially Other within its legal jurisdiction, differentiates and locates this other in the enemy camp of the culturally raw, irreducibly foreign, making him an unreliable ally or citizen. Law's suspicion of the others socialized in "lawless" cultures is instinctive and undeniable. Liberal law's constitutive bias is in a sense incidental: the real problem is racism or the racist basis of liberal ideology and culture.25 The internal racial other is not the juridical equal in the mind of liberal law but the juridically and humanly inferior Other, the perpetual foreigner.

## 5

#### Immigration reform is up—Obama has leverage—that’s key to overcome GOP obstructionism

Jeff Mason, Reuters, 10/19/13, Analysis: Despite budget win, Obama has weak hand with Congress , health.yahoo.net/news/s/nm/analysis-despite-budget-win-obama-has-weak-hand-with-congress

Democrats believe, however, that Obama's bargaining hand may be strengthened by the thrashing Republicans took in opinion polls over their handling of the shutdown.

"This shutdown re-emphasized the overwhelming public demand for compromise and negotiation. And that may open up a window," said Ben LaBolt, Obama's 2012 campaign spokesman and a former White House aide.

"There's no doubt that some Republican members (of Congress) are going to oppose policies just because the president's for it. But the hand of those members was significantly weakened."

If he does have an upper hand, Obama is likely to apply it to immigration reform. The White House had hoped to have a bill concluded by the end of the summer. A Senate version passed with bipartisan support earlier this year but has languished in the Republican-controlled House.

"It will be hard to move anything forward, unless the Republicans find the political pain of obstructionism too much to bear," said Doug Hattaway, a Democratic strategist and an adviser to Hillary Clinton's 2008 presidential campaign.

"That may be the case with immigration - they'll face pressure from business and Latinos to advance immigration reform," he said.

#### The plan reverses these dynamics—sparks an inter-branch fight derailing the agenda

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

Raising or Lowering Political Costs by Affecting Presidential Political Capital

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

While congressional support leaves the president's reserve of political capital intact, congressional criticism saps energy from other initiatives on the home front by forcing the president to expend energy and effort defending his international agenda. Political capital spent shoring up support for a president's foreign policies is capital that is unavailable for his future policy initiatives. Moreover, any weakening in the president's political clout may have immediate ramifications for his reelection prospects, as well as indirect consequences for congressional races." Indeed, Democratic efforts to tie congressional Republican incumbents to President George W. Bush and his war policies paid immediate political dividends in the 2006 midterms, particularly in states, districts, and counties that had suffered the highest casualty rates in the Iraq War.6°

In addition to boding ill for the president's perceived political capital and reputation, such partisan losses in Congress only further imperil his programmatic agenda, both international and domestic. Scholars have long noted that President Lyndon Johnson's dream of a Great Society also perished in the rice paddies of Vietnam. Lacking both the requisite funds in a war-depleted treasury and the political capital needed to sustain his legislative vision, Johnson gradually let his domestic goals slip away as he hunkered down in an effort first to win and then to end the Vietnam War. In the same way, many of President Bush's highest second-term domestic priorities, such as Social Security and immigration reform, failedperhaps in large part because the administration had to expend so much energy and effort waging a rear-guard action against congressional critics of the war in Iraq.

When making their cost-benefit calculations, presidents surely consider these wider political costs of congressional opposition to their military policies. If congressional opposition in the military arena stands to derail other elements of his agenda, all else being equal, the president will be more likely to judge the benefits of military action insufficient to its costs than if Congress stood behind him in the international arena

#### Obama’s push locks-up a House vote, but the window is narrow

Bill Scher, The Week, 10/18/13, How to make John Boehner cave on immigration, theweek.com/article/index/251361/how-to-make-john-boehner-cave-on-immigration

Speaker John Boehner (R-Ohio) generally adheres to the unwritten Republican rule that bars him from allowing votes on bills opposed by a majority of Republicans, even if they would win a majority of the full House.

But he's caved four times this year, allowing big bills to pass with mainly Democratic support. They include repealing the Bush tax cuts for the wealthiest Americans; providing Hurricane Sandy relief; expanding the Violence Against Women act to better cover immigrants, Native Americans, and LGBT survivors of abuse; and this week's bill raising the debt limit and reopening the federal government.

Many presume the Republican House is a black hole sucking President Obama's second-term agenda into oblivion. But the list of Boehner's past retreats offers a glimmer of hope, especially to advocates of immigration reform. Though it has languished in the House, an immigration overhaul passed with bipartisan support in the Senate, and was given a fresh push by Obama in the aftermath of the debt limit deal.

The big mystery that immigration advocates need to figure out: What makes Boehner cave? Is there a common thread? Is there a sequence of buttons you can push that forces Boehner to relent?

Two of this year's caves happened when Boehner was backed up against hard deadlines: The Jan. 1 fiscal cliff and the Oct. 17 debt limit. Failure to concede meant immediate disaster. Reject the bipartisan compromise on rolling back the Bush tax cuts, get blamed for jacking up taxes on every taxpayer. Reject the Senate's three-month suspension of the debt limit, get blamed for sparking a global depression. Boehner held out until the absolute last minute both times, but he was not willing to risk blowing the deadline.

A third involved the response to an emergency: Hurricane Sandy. Conservative groups were determined to block disaster relief because — as with other federal disaster responses — the $51 billion legislative aid package did not include offsetting spending cuts. Lacking Republican votes, Boehner briefly withdrew the bill from consideration, unleashing fury from New York and New Jersey Republicans, including Gov. Chris Christie. While there wasn't a hard deadline to meet, disaster relief was a time-sensitive matter, and the pressure from Christie and his allies was unrelenting. Two weeks after pulling the bill, Boehner put it on the floor, allowing it to pass over the objections of 179 Republicans.

The fourth cave occurred in order to further reform and expand a government program: The Violence Against Women Act. The prior version of the law had been expired for over a year, as conservatives in the House resisted the Senate bill in the run-up to the 2012 election. But after Mitt Romney suffered an 18-point gender gap in his loss to Obama, and after the new Senate passed its version again with a strong bipartisan vote, Boehner was unwilling to resist any longer. Two weeks later, the House passed the Senate bill with 138 Republicans opposed.

Unfortunately for immigration advocates, there is no prospect of widespread pain if reform isn't passed. There is no immediate emergency, nor threat of economic collapse.

But there is a deadline of sorts: The 2014 midterm elections.

If we've learned anything about Boehner this month, it's that he's a party man to the bone. He dragged out the shutdown and debt limit drama for weeks, without gaining a single concession, simply so his most unruly and revolutionary-minded members would believe he fought the good fight and stay in the Republican family. What he won is party unity, at least for the time being.

What Boehner lost for his Republicans is national respectability. Republican Party approval hit a record low in both the most recent NBC/Wall Street Journal poll and Gallup poll.

Here's where immigration advocates have a window of opportunity to appeal to Boehner's party pragmatism. Their pitch: The best way to put this disaster behind them is for Republicans to score a big political victory. You need this.

A year after the Republican brand was so bloodied that the Republican National Committee had to commission a formal "autopsy," party approval is the worst it has ever been. You've wasted a year. Now is the time to do something that some voters will actually like.

There's reason to hope he could be swayed. In each of the four cases in which he allowed Democrats to carry the day, he put the short-term political needs of the Republican Party over the ideological demands of right-wing activists.

Boehner will have to do another round of kabuki. He can't simply swallow the Senate bill in a day. There will have to be a House version that falls short of activists' expectations, followed by tense House-Senate negotiations. Probably like in the most formulaic of movies, and like the fiscal cliff and debt limit deals, there will have to be an "all-is-lost moment" right before we get to the glorious ending. Boehner will need to given the room to do all this again.

But he won't do it without a push. A real good push.

#### Immigration reform key to semiconductors

Toohey 12

(Brian, SIA President, May 24, 2012, “TechElect Advances Proposals to Create and Sustain American Jobs”http://www.semiconductors.org/blog/techelect\_advances\_proposals\_to\_create\_and\_sustain\_american\_jobs/?print=y)

A new nonpartisan campaign called TechElect, launched by the Information Technology Industry Council (ITI), is bringing together America’s technology and innovation leaders to promote the issues that are important to our industries and to share ideas with the presidential campaigns. TechElect’s top priorities – outlined in a document titled “Six Steps to Jobs, Prosperity and Innovation” – align with many of the core priorities of the semiconductor industry. For example, TechElect supports boosting math, science, and engineering skills in our students and protecting America’s technological leadership through strategic investments in scientific research. SIA strongly advocates for government investments in both STEM education and research funding – two of the fundamental building blocks of our industry’s future. TechElect also encourages immigration reform that allows the world’s best and brightest minds to stay in America so they can create products and jobs here. Our industry has long supported this effort, and SIA was pleased to see Sen. John Cornyn (R-Texas) introduce legislation that would reform the immigration policy that is causing the U.S. to lose many job creators to competitors abroad. Last week, I was pleased to participate in TechElect’s first conference call, during which I discussed advancing the priorities that will expand our industry and boost the economy. Here are some of the topics I covered: The semiconductor industry is a great American success story. Semiconductors were invented in America, and the U.S. still leads the industry today in terms of innovation, manufacturing and design. Today, semiconductors are one of America’s top exports, and the U.S. is the leading provider of semiconductor technology to the rest of the world. The semiconductor industry has helped build the major technology breakthroughs of the last 50 years, and our greatest potential lies ahead. Semiconductors create jobs and drive our economy. Our industry employs almost 400,000 Americans directly, and semiconductor technology enables millions of additional high-tech jobs in the U.S. We’ve just scratched the surface of our potential. Eight of the top 20 U.S. corporate patent recipients are semiconductor companies, showing that the rapid pace of innovation across our industry is unrivaled. Long-term, basic research – performed at universities and funded by the industry and the federal government – is critical to sustaining the pipeline of discoveries that fuel our industry and the economy. That’s why our industry invests $20 billion in research and development annually. That’s 17 percent of total sales, which is one of the top rates of any industry.

With smart government policies – including investments in basic research, corporate tax reform, and high-skilled immigration reform – the semiconductor industry can continue to create jobs, drive economic growth and develop the technologies needed to solve our most pressing challenges.

**Semiconductors are key to US nuclear modernization**

**Chandratre et al 7**

(V.B. Chandratre et al 7, Menka Tewani, R.S. Shastrakar, V. Shedam, S. K. Kataria and P. K. Mukhopadhyay Electronics Division, Bhabha Atomic Research Centre “AN APPROACH TO MODERNIZING NUCLEAR INSTRUMENTATION: SILICON-BASED SENSORS, ASIC AND HMC” October, <http://www.barc.ernet.in/publications/nl/2007/200710-2.pdf>)

Modernization of nuclear instrumentation is pursued for realizing the goal of compact portable nuclear instruments, detector mount electronics and related instrumentation that can be designed, developed and manufactured, to mitigate contemporary instrumentation challenges. The activity aims at indigenous design and development of crucial components of nuclear instrumentation. Efforts are also undertaken to develop the critical microelectronics technologies to fulfill the gaps in nuclear instruments “ end to end”. The activity’s objective has been fulfilled by working in close collaboration with semiconductor foundries and HMC (Hybrid Micro Circuits) facilities. Various ASIC, sensors, IP cores, HMC, display devices and critical instrumentation modules developed, are discussed. The design and development of nuclear instruments require a variety of high performance components and sensors. Till recently these components were available and activity based on this approach has grown mature, with good expertise in related areas but has availability and obsolescence issues. As the technologies have moved up, various competing devices, techniques and technologies are available today. It’s important and as well prudent to catch up with these cutting edge developments, for a very strong reason that we have not been able to catch up with previous technology movements. Technology updates are difficult and have higher lead times with steeper learning curve. The Electronics Division has taken a modest initiative in fulfilling the gap in this area. Care has been taken to develop critical instrumentation by an approach of “mix and match”, integrating the newer development in the existing instrumentation on the basis of merit and requirements. Nuclear instrumentation has been a strong driver for technology developments worldwide. The low / medium energy instrumentation requirements we meet fairly with combination of NIM, CAMAC, FASTBUS and VME-based instrumentation. With use of the sensors of higher granularity, higher event rate, imaging and tracking requirements coupled with complex trigger mechanism, the approach has changed to low power detector mount electronics or monolithic sensor with electronics. Rapid developments in semiconductor technology have aided in realizing this concept.

**Loss of US nuclear primacy causes global nuclear war**

**Caves 10**

(John P. Caves Jr., Senior Research Fellow in the Center for the Study of Weapons of Mass Destruction at the National Defense University, January 2010, “Avoiding a Crisis of Confidence in the U.S. Nuclear Deterrent,” Strategic Forum, No. 252)

Perceptions of a compromised U.S. nuclear deterrent as described above would have profound policy implications, particularly if they emerge at a time when a nuclear-armed great power is pursuing a more aggressive strategy toward U.S. allies and partners in its region in a bid to enhance its regional and global clout. A dangerous period of vulnerability would open for the United States and those nations that depend on U.S. protection while the United States attempted to rectify the problems with its nuclear forces. As it would take more than a decade for the United States to produce new nuclear weapons, ensuing events could preclude a return to anything like the status quo ante. The assertive, nuclear-armed great power, and other major adversaries, could be willing to challenge U.S. interests more directly in the expectation that the United States would be less prepared to threaten or deliver a military response that could lead to direct conflict. They will want to keep the United States from reclaiming its earlier power position. Allies and partners who have relied upon explicit or implicit assurances of U.S. nuclear protection as a foundation of their security could lose faith in those assurances. They could compensate by accommodating U.S. rivals, especially in the short term, or acquiring their own nuclear deterrents, which in most cases could be accomplished only over the mid- to long term. A more nuclear world would likely ensue over a period of years. Important U.S. interests could be compromised or abandoned, or a major war could occur as adversaries and/or the United States miscalculate new boundaries of deterrence and provocation. At worst, war could lead to state-on-state employment of weapons of mass destruction (WMD) on a scale far more catastrophic than what nuclear-armed terrorists alone could inflict.

## 6

The executive branch should establish ex ante transparency of targeted killing standards and procedures.

The United States federal government should maintain its current targeted killing program.

The status quo is always an option – proving the CP worse does not justify the plan. Logical decision-making is the most portable skill.

And, presumption remains negative—the counterplan is less change and a tie goes to the runner.

Executive order establishing transparency of targeting decisions resolves drone legitimacy and resentment

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

4. Procedural Requirements

Currently, officials in the executive branch carry out all such ex ante review of out-of-battlefield targeting and detention decisions, reportedly with the involvement of the President, but without any binding and publicly articulated standards governing the exercise of these authorities. n163 All ex post review of targeting is also done internally within the executive branch. There is no public accounting, or even acknowledgment, of most strikes, their success and error rates, or the extent of any collateral damage. Whereas the Department of Defense provides solatia or condolence payments to Afghan civilians who are killed or injured as a result of military actions in Afghanistan (and formerly did so in Iraq), there is no equivalent effort in areas outside the active conflict zone. n164

Meanwhile, the degree of ex post review of detention decisions depends on the location of detention as opposed to the location of capture. Thus, [\*1219] Guantanamo detainees are entitled to habeas review, but detainees held in Afghanistan are not, even if they were captured far away and brought to Afghanistan to be detained. n165

Enhanced ex ante and ex post procedural protections for both detention and targeting, coupled with transparency as to the standards and processes employed, serve several important functions: they can minimize error and abuse by creating time for advance reflection, correct erroneous deprivations of liberty, create endogenous incentives to avoid mistake or abuse, and increase the legitimacy of state action.

a. Ex Ante Procedures

Three key considerations should guide the development of ex ante procedures. First, any procedural requirements must reasonably respond to the need for secrecy in certain operations. Secrecy concerns cannot, for example, justify the lack of transparency as to the substantive targeting standards being employed. There is, however, a legitimate need for the state to protect its sources and methods and to maintain an element of surprise in an attack or capture operation. Second, contrary to oft-repeated rhetoric about the ticking time bomb, few, if any, capture or kill operations outside a zone of active conflict occur in situations of true exigency. n166 Rather, there is often the time and need for advance planning. In fact, advance planning is often necessary to minimize damage to one's own troops and nearby civilians. n167 Third, the procedures and standards employed must be transparent and sufficiently credible to achieve the desired legitimacy gains.

These considerations suggest the value of an independent, formalized, ex ante review system. Possible models include the Foreign Intelligence [\*1220] Surveillance Court (FISC), n168 or a FISC-like entity composed of military and intelligence officials and military lawyers, in the mode of an executive branch review board. n169

Created by the Foreign Intelligence Surveillance Act (FISA) in 1978, n170 the FISC grants ex parte orders for electronic surveillance and physical searches, among other actions, based on a finding that a "significant purpose" of the surveillance is to collect "foreign intelligence information." n171 The Attorney General can grant emergency authorizations without court approval, subject to a requirement that he notify the court of the emergency authorization and seek subsequent judicial authorization within seven days. n172 The FISC also approves procedures related to the use and dissemination of collected information. By statute, heightened restrictions apply to the use and dissemination of information concerning U.S. persons. n173 Notably, the process has been extraordinarily successful in protecting extremely sensitive sources and methods. To date, there has never been an unauthorized disclosure of an application to or order from the FISC court.

An ex parte review system for targeting and detention outside zones of active hostility could operate in a similar way. Judges or the review board would approve selected targets and general procedures and standards, while still giving operators wide rein to implement the orders according to the approved standards. Specifically, the court or review board would determine whether the targets meet the substantive requirements and would [\*1221] evaluate the overarching procedures for making least harmful means-determinations, but would leave target identification and time-sensitive decisionmaking to the operators. n174

Moreover, there should be a mechanism for emergency authorizations at the behest of the Secretary of Defense or the Director of National Intelligence. Such a mechanism already exists for electronic surveillance conducted pursuant to FISA. n175 These authorizations would respond to situations in which there is reason to believe that the targeted individual poses an imminent, specific threat, and in which there is insufficient time to seek and obtain approval by a court or review panel as will likely be the case in instances of true imminence justifying the targeting of persons who do not meet the standards applicable to operational leaders. As required under FISA, the reviewing court or executive branch review board should be notified that such an emergency authorization has been issued; it should be time-limited; and the operational decisionmakers should have to seek court or review board approval (or review, if the strike has already taken place) as soon as practicable but at most within seven days. n176

Finally, and critically, given the stakes in any application namely, the deprivation of life someone should be appointed to represent the potential target's interests and put together the most compelling case that the individual is not who he is assumed to be or does not meet the targeting criteria.

The objections to such a proposal are many. In the context of proposed courts to review the targeting of U.S. citizens, for example, some have argued that such review would serve merely to institutionalize, legitimize, and expand the use of targeted drone strikes. n177 But this ignores the reality of their continued use and expansion and imagines a world in which targeted [\*1222] killings of operational leaders of an enemy organization outside a zone of active conflict is categorically prohibited (an approach I reject n178). If states are going to use this extraordinary power (and they will), there ought to be a clear and transparent set of applicable standards and mechanisms in place to ensure thorough and careful review of targeted-killing decisions. The formalization of review procedures along with clear, binding standards will help to avoid ad hoc decisionmaking and will ensure consistency across administrations and time.

Some also condemn the ex parte nature of such reviews. n179 But again, this critique fails to consider the likely alternative: an equally secret process in which targeting decisions are made without any formalized or institutionalized review process and no clarity as to the standards being employed. Institutionalizing a court or review board will not solve the secrecy issue, but it will lead to enhanced scrutiny of decisionmaking, particularly if a quasi-adversarial model is adopted, in which an official is obligated to act as advocate for the potential target.

That said, there is a reasonable fear that any such court or review board will simply defer. In this vein, FISC's high approval rate is cited as evidence that reviewing courts or review boards will do little more than rubber-stamp the Executive's targeting decisions. n180 But the high approval rates only tell part of the story. In many cases, the mere requirement of justifying an application before a court or other independent review board can serve as an internal check, creating endogenous incentives to comply with the statutory requirements and limit the breadth of executive action. n181 Even if this system does little more than increase the attention paid to the stated requirements and expand the circle of persons reviewing the factual basis for the application, those features in and of themselves can lead to increased reflection and restraint.

Additional accountability mechanisms, such as civil or criminal sanctions in the event of material misrepresentations or omissions, the granting of far-reaching authority to the relevant Inspectors General, and meaningful ex post review by Article III courts, n182 are also needed to help further minimize abuse.

Conversely, some object to the use of courts or court-like review as stymying executive power in wartime, and interfering with the President's Article II powers. n183 According to this view, it is dangerous and potentially unconstitutional to require the President's wartime targeting decisions to be subject to additional reviews. These concerns, however, can be dealt with through emergency authorization mechanisms, the possibility of a presidential override, and design details that protect against ex ante review of operational decisionmaking. The adoption of an Article II review board, rather than an Article III-FISC model, further addresses some of the constitutional concerns.

Some also have warned that there may be no "case or controversy" for an Article III, FISC-like court to review, further suggesting a preference for an Article II review board. n184 That said, similar concerns have been raised with respect to FISA and rejected. n185 Drawing heavily on an analogy to courts' roles in issuing ordinary warrants, the Justice Department's Office of Legal Counsel concluded at the time of enactment that a case and controversy existed, even though the FISA applications are made ex parte. n186 [\*1224] Here, the judges would be issuing a warrant to kill rather than surveil. While this is significant, it should not fundamentally alter the legal analysis. n187 As the Supreme Court has ruled, killing is a type of seizure. n188 The judges would be issuing a warrant for the most extreme type of seizure. n189

It is also important to emphasize that a reviewing court or review board would not be "selecting" targets, but determining whether the targets chosen by executive branch officials met substantive requirements much as courts do all the time when applying the law to the facts. Press accounts indicate that the United States maintains lists of persons subject to capture or kill operations lists created in advance of specific targeting operations and reportedly subject to significant internal deliberation, including by the President himself. n190 A court or review board could be incorporated into the existing ex ante decisionmaking process in a manner that would avoid interference with the conduct of specific operations reviewing the target lists but leaving the operational details to the operators. As suggested above, emergency approval mechanisms could and should be available to deal with exceptional cases where ex ante approval is not possible.

Additional details will need to be addressed, including the temporal limits of the court's or review board's authorizations. For some high-level operatives, inclusion on a target list would presumably be valid for some set period of [\*1225] time, subject to specific renewal requirements. Authorizations based on a specific, imminent threat, by comparison, would need to be strictly time-limited, and tailored to the specifics of the threat, consistent with what courts regularly do when they issue warrants.

In the absence of such a system, the President ought to, at a minimum, issue an executive order establishing a transparent set of standards and procedures for identifying targets of lethal killing and detention operations outside a zone of active hostilities. n192 To enhance legitimacy, the procedures should include target list reviews and disposition plans by the top official in each of the agencies with a stake in the outcome the Secretary of Defense, the Director of the CIA, the Secretary of State, the Director of Homeland Security, and the Director of National Intelligence, with either the Secretary of Defense, Director of National Intelligence, or President himself, responsible for final sign-off. n193 In all cases, decisions should be unanimous, or, in the absence of consensus, elevated to the President of the United States. n194 Additional details will need to be worked out, including critical questions about the standard of proof that applies. Given the stakes, a clear and convincing evidentiary standard is warranted. n195

While this proposal is obviously geared toward the United States, the same principles should apply for all states engaged in targeting operations. n196 States would ideally subject such determinations to independent review or, alternatively, clearly articulate the standards and procedures for their decisionmaking, thus enhancing accountability.

b. Ex Post Review

For targeted-killing operations, ex post reviews serve only limited purposes. They obviously cannot restore the target's life. But retrospective review either by a FISC-like court or review board can serve to identify errors or overreaching and thereby help avoid future mistakes. This can, and ideally would, be supplemented by the adoption of an additional Article III damages mechanism. n197 At a minimum, the relevant Inspectors General should engage in regular and extensive reviews of targeted-killing operations. Such post hoc analysis helps to set standards and controls that then get incorporated into ex ante decisionmaking. In fact, post hoc review can often serve as a more meaningful and often more searching inquiry into the legitimacy of targeting decisions. Even the mere knowledge that an ex post review will occur can help to protect against rash ex ante decisionmaking, thereby providing a self-correcting mechanism.

Ex post review should also be accompanied by the establishment of a solatia and condolence payment system for activities that occur outside the active zone of hostilities. Extension of such a system beyond Afghanistan and Iraq would help mitigate resentment caused by civilian deaths or injuries and would promote better accounting of the civilian costs of targeting operations. n198

## Solvency

Drone court is unworkable—doesn’t solve legitimacy

Vladeck, professor of law – American University Washington College of Law, 2/27/’13

(Stephen I., “Statement of Stephen I. Vladeck Professor of Law and Associate Dean for Scholarship American University Washington College of Law,” TARGETING AMERICAN TERRORISTS OVERSEAS; HOUSE JUDICIARY COMMITTEE, CQ)

This ties together with the related point of just how difficult it would be to actually have meaningful ex ante review in a context in which time is so often of the essence. If, as I have to think is true, many of the opportunities for these kinds of operations are fleeting and often open and close within a short window then a requirement of judicial review in all cases might actually prevent the government from otherwise carrying out authority that, in at least some cases, most would agree it has. This possibility is exactly why FISA itself was enacted with a pair of emergency provisions (one for specific emergencies;18 one for the beginning of a declared war19), and comparable emergency exceptions in this context would almost necessarily swallow the rule. Indeed, the narrower a definition of imminence that we accept, the more this becomes a problem, since the time frame in which the government could simultaneously demonstrate that a target (1) poses such a threat to the United States; and (2) cannot be captured through less lethal measures will necessarily be a vanishing one. Even if judicial review were possible in that context, it's hard to imagine that it would produce wise, just, or remotely reliable decisions. That brings me to perhaps the biggest problem we should all have with a "drone court"-the extent to which, even if one could design a legally and practically workable regime in which such a tribunals could operate, its existence would put irresistible pressure on federal judges to sign off even on those cases in which they have doubts. As a purely practical matter, it would be next to impossible meaningfully to assess imminence, the existence of less lethal alternatives, or the true nature of a threat that an individual suspect poses in advance of a targeted killing operation. Indeed, it would be akin to asking law enforcement officers to obtain judicial review before they use lethal force in defense of themselves or third persons when the entire legal question turns on what was actually true in the moment, as opposed to what might have been predicted to be true ex ante. At its core, this is why the analogy to search warrants utterly breaks down and why it would hardly be surprising if judges in those circumstances approved a far greater percentage of applications than they might have on a complete after-the-fact record. Judges, after all, are humans. In the process, the result would be that such ex ante review would do little other than to add the vestiges of legitimacy to operations the legality of which might have otherwise been questioned ex post. Put another way, ex ante review in this context would most likely lead to a more expansive legal framework within which the targeted killing program could operate, one sanctioned by judges asked to decide these cases behind closed doors; without the benefit of adversary parties, briefing, or presentation of the facts; and with the very real possibility that the wrong decision could directly lead to the deaths of countless Americans. Thus, even if it were legally and practically possible, a drone court would be a very dangerous idea.

## adv 1

No impact—drones make wars less intense

McGinnis, senior professor – Northwestern Law, ‘10

(John O., 104 Nw. U. L. Rev. Colloquy 366)

It is not as if in the absence of AI wars or weapons will cease to exist. The way to think about the effects of AI on war is to think of the consequences of substituting technologically advanced robots for humans on the battlefield. In at least three ways, that substitution is likely to be beneficial to humans. First, robots make conventional forces more effective and less vulnerable to certain weapons of mass destruction, like chemical and biological weapons. Rebalancing the world to make such weapons less effective, even if marginally so, must be counted as a benefit. Second, one of the reasons that conventional armies deploy lethal force is to protect the human soldiers against death or serious injury. If only robots are at stake in a battle, a nation is more likely to use non-lethal force, such as stun guns and the like. The United States is in fact considering outfitting some of its robotic forces with non-lethal weapon-ry. Third, AI-driven weaponry gives an advantage to the developed world and particularly to the United States, be-cause of its advanced capability in technological innovation. Robotic weapons have been among the most successful in the fight against Al-Qaeda and other groups waging asymmetrical warfare against the United States. The Predator, a robotic airplane, has been successfully targeting terrorists throughout Afghanistan and Pakistan, and more technologi-cally advanced versions are being rapidly developed. Moreover, it does so in a targeted manner without the need to launch large-scale wars to hold territory--a process that would almost certainly result in more collateral damage. n61 If one believes that the United States is on the whole the best enforcer of rules of conduct that make for a peaceful and prosperous world, this development must also be counted as a benefit.

Existing norms solve and precedent isn’t key

Anderson, professor of international law – American University, ‘13

(Kenneth, "The Case for Drones", https://www.commentarymagazine.com/articles/the-case-for-drones/)

The objection to civilian deaths draws out a related criticism: Why should the United States be able to conduct these drone strikes in Pakistan or in Yemen, countries that are not at war with America? What gives the United States the moral right to take its troubles to other places and inflict damage by waging war? Why should innocent Pakistanis suffer because the United States has trouble with terrorists? The answer is simply that like it or not, the terrorists are in these parts of Pakistan, and it is the terrorists that have brought trouble to the country. The U.S. has adopted a moral and legal standard with regard to where it will conduct drone strikes against terrorist groups. It will seek consent of the government, as it has long done with Pakistan, even if that is contested and much less certain than it once was. But there will be no safe havens. If al-Qaeda or its affiliated groups take haven somewhere and the government is unwilling or unable to address that threat, America’s very long-standing view of international law permits it to take forcible action against the threat, sovereignty and territorial integrity notwithstanding. This is not to say that the United States could or would use drones anywhere it wished. Places that have the rule of law and the ability to respond to terrorists on their territory are different from weakly governed or ungoverned places. There won’t be drones over Paris or London—this canard is popular among campaigners and the media but ought to be put to rest. But the vast, weakly governed spaces, where states are often threatened by Islamist insurgency, such as Mali or Yemen, are a different case altogether. 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.

China won’t use drones offensively

Erickson, associate professor – Naval War College, associate in research – Fairbank Centre @ Harvard, 5/23/’13

(Andrew, China Has Drones. Now What?", www.foreignaffairs.com/articles/136600/andrew-erickson-and-austin-strange/china-has-drones-now-what)

Beijing, however, is unlikely to use its drones lightly. It already faces tremendous criticism from much of the international community for its perceived brazenness in continental and maritime sovereignty disputes. With its leaders attempting to allay notions that China's rise poses a threat to the region, injecting drones conspicuously into these disputes would prove counterproductive. China also fears setting a precedent for the use of drones in East Asian hotspots that the United States could eventually exploit. For now, Beijing is showing that it understands these risks, and to date it has limited its use of drones in these areas to surveillance, according to recent public statements from China's Defence Ministry. What about using drones outside of Chinese-claimed areas? That China did not, in fact, launch a drone strike on the Myanmar drug criminal underscores its caution. According to Liu Yuejin, the director of the anti-drug bureau in China's Ministry of Public Security, Beijing considered using a drone carrying a 20-kilogram TNT payload to bomb Kham's mountain redoubt in northeast Myanmar. Kham had already evaded capture three times, so a drone strike may have seemed to be the best option. The authorities apparently had at least two plans for capturing Kham. The method they ultimately chose was to send Chinese police forces to lead a transnational investigation that ended in April 2012 with Kham's capture near the Myanmar-Laos border. The ultimate decision to refrain from the strike may reflect both a fear of political reproach and a lack of confidence in untested drones, systems, and operators. The restrictive position that Beijing takes on sovereignty in international forums will further constrain its use of drones. China is not likely to publicly deploy drones for precision strikes or in other military assignments without first having been granted a credible mandate to do so. The gold standard of such an authorisation is a resolution passed by the UN Security Council, the stamp of approval that has permitted Chinese humanitarian interventions in Africa and anti-piracy operations in the Gulf of Aden. China might consider using drones abroad with some sort of regional authorisation, such as a country giving Beijing explicit permission to launch a drone strike within its territory. But even with the endorsement of the international community or specific states, China would have to weigh any benefits of a drone strike abroad against the potential for mishaps and perceptions that it was infringing on other countries' sovereignty - something Beijing regularly decries when others do it. The limitations on China's drone use are reflected in the country's academic literature on the topic. The bulk of Chinese drone research is dedicated to scientific and technological topics related to design and performance. The articles that do discuss potential applications primarily point to major combat scenarios -such as a conflagration with Taiwan or the need to attack a US aircraft carrier - which would presumably involve far more than just drones. Chinese researchers have thought a great deal about the utility of drones for domestic surveillance and law enforcement, as well as for non-combat-related tasks near China's contentious borders. Few scholars, however, have publicly considered the use of drone strikes overseas. Yet there is a reason why the United States has employed drones extensively despite domestic and international criticism: it is much easier and cheaper to kill terrorists from above than to try to root them out through long and expensive counterinsurgency campaigns. Some similar challenges loom on China's horizon. Within China, Beijing often considers protests and violence in the restive border regions, such as Xinjiang and Tibet, to constitute terrorism. It would presumably consider ordering precision strikes to suppress any future violence there. Even if such strikes are operationally prudent, China's leaders understand that they would damage the country's image abroad, but they prioritise internal stability above all else. Domestic surveillance by drones is a different issue; there should be few barriers to its application in what is already one of the world's most heavily policed societies. China might also be willing to use stealth drones in foreign airspace without authorisation if the risk of detection were low enough; it already deploys intelligence-gathering ships in the exclusive economic zones of Japan and the United States, as well as in the Indian Ocean. Still, although China enjoys a rapidly expanding and cutting-edge drone fleet, it is bound by the same rules of the game as the rest of the military's tools. Beyond surveillance, the other non-lethal military actions that China can take with its drones are to facilitate communications within the Chinese military, support electronic warfare by intercepting electronic communications and jamming enemy systems, and help identify targets for Chinese precision strike weapons, such as missiles. Beijing's overarching approach remains one of caution - something Washington must bear in mind with its own drone programme.

No SCS conflict—China can’t afford to escalate

Allen Carlson, Cornell University Associate Professor, 2/21/13, China Keeps the Peace at Sea, www.foreignaffairs.com/articles/139024/allen-carlson/china-keeps-the-peace-at-sea?page=show

At times in the past few months, China and Japan have appeared almost ready to do battle over the Senkaku (Diaoyu) Islands --which are administered by Tokyo but claimed by both countries -- and to ignite a war that could be bigger than any since World War II. Although Tokyo and Beijing have been shadowboxing over the territory for years, the standoff reached a new low in the fall, when the Japanese government nationalized some of the islands by purchasing them from a private owner. The decision set off a wave of violent anti-Japanese demonstrations across China.

In the wake of these events, the conflict quickly reached what political scientists call a state of equivalent retaliation -- a situation in which both countries believe that it is imperative to respond in kind to any and all perceived slights. As a result, it may have seemed that armed engagement was imminent. Yet, months later, nothing has happened. And despite their aggressive posturing in the disputed territory, both sides now show glimmers of willingness to dial down hostilities and to reestablish stability.

Some analysts have cited North Korea's recent nuclear test as a factor in the countries' reluctance to engage in military conflict. They argue that the detonation, and Kim Jong Un's belligerence, brought China and Japan together, unsettling them and placing their differences in a scarier context. Rory Medcalf, a senior fellow at the Brookings Institution, explained that "the nuclear test gives the leadership in both Beijing and Tokyo a chance to focus on a foreign and security policy challenge where their interests are not diametrically at odds."

The nuclear test, though, is a red herring in terms of the conflict over the disputed islands. In truth, the roots of the conflict -- and the reasons it has not yet exploded -- are much deeper. Put simply, China cannot afford military conflict with any of its Asian neighbors.

It is not that China believes it would lose such a spat; the country increasingly enjoys strategic superiority over the entire region, and it is difficult to imagine that its forces would be beaten in a direct engagement over the islands, in the South China Sea or in the disputed regions along the Sino-Indian border. However, Chinese officials see that even the most pronounced victory would be outweighed by the collateral damage that such a use of force would cause to Beijing's two most fundamental national interests -- economic growth and preventing the escalation of radical nationalist sentiment at home. These constraints, rather than any external deterrent, will keep Xi Jinping, China's new leader, from authorizing the use of deadly force in the Diaoyu Islands theater.

For over three decades, Beijing has promoted peace and stability in Asia to facilitate conditions amenable to China's economic development. The origins of the policy can be traced back to the late 1970s, when Deng Xiaoping repeatedly contended that to move beyond the economically debilitating Maoist period, China would have to seek a common ground with its neighbors. Promoting cooperation in the region would allow China to spend less on military preparedness, focus on making the country a more welcoming destination for foreign investment, and foster better trade relations. All of this would strengthen the Chinese economy. Deng was right. Today, China's economy is second only to that of the United States.

The fundamentals of Deng's grand economic strategy are still revered in Beijing. But any war in the region would erode the hard-won, and precariously held, political capital that China has gained in the last several decades. It would also disrupt trade relations, complicate efforts to promote the yuan as an international currency, and send shock waves through the country's economic system at a time when it can ill afford them. There is thus little reason to think that China is readying for war with Japan.

At the same time, the specter of rising Chinese nationalism, although often seen as a promoter of conflict, further limits the prospects for armed engagement. This is because Beijing will try to discourage nationalism if it fears it may lose control or be forced by popular sentiment to take an action it deems unwise. Ever since the Tiananmen Square massacre put questions about the Chinese Communist Party's right to govern before the population, successive generations of Chinese leaders have carefully negotiated a balance between promoting nationalist sentiment and preventing it from boiling over. In the process, they cemented the legitimacy of their rule. A war with Japan could easily upset that balance by inflaming nationalism that could blow back against China's leaders. Consider a hypothetical scenario in which a uniformed Chinese military member is killed during a firefight with Japanese soldiers. Regardless of the specific circumstances, the casualty would create a new martyr in China and, almost as quickly, catalyze popular protests against Japan.

Demonstrators would call for blood, and if the government (fearing economic instability) did not extract enough, citizens would agitate against Beijing itself. Those in Zhongnanhai, the Chinese leadership compound in Beijing, would find themselves between a rock and a hard place.

It is possible that Xi lost track of these basic facts during the fanfare of his rise to power and in the face of renewed Japanese assertiveness. It is also possible that the Chinese state is more rotten at the core than is understood. That is, party elites believe that a diversionary war is the only way to hold on to power -- damn the economic and social consequences.

But Xi does not seem blind to the principles that have served Beijing so well over the last few decades. Indeed, although he recently warned unnamed others about infringing upon China's "national core interests" during a foreign policy speech to members of the Politburo, he also underscored China's commitment to "never pursue development at the cost of sacrificing other country's interests" and to never "benefit ourselves at others' expense or do harm to any neighbor."

## adv 2

No groupthink

Anthony Hempell 4 [User Experience Consulting Senior Information Architect, “Groupthink: An introduction to Janis' theory of concurrence-seeking tendencies in group work., http://www.anthonyhempell.com/papers/groupthink/, March 3]

In the thirty years since Janis first proposed the groupthink model, **there is still little agreement as to the validity of the model in assessing decision-making behaviour** (Park, 2000). **Janis' theory** is often criticized because it **does not present a framework that is suitable for** empirical testing; instead, the evidence for groupthink comes from largely qualitative, historical or archival methods (Sunstein, 2003). Some critics go so far as to say that **Janis's work relies on "anecdote, casual observation, and intuitive appeal rather than** rigorous research" (Esser, 1998, cited in Sunstein, 2003, p.142). While some studies have shown support for the groupthink model, the **support tends to be mixed or conditional** (Esser, 1998); some studies have revealed that a closed leadership style and external threats (in particular, time pressure) promote groupthink and defective decision making (Neck & Moorhead, 1995, cited by Choi & Kim, 1999); **the effect of group cohesiveness is still inconclusive** (Mullen, Anthony, Salas & Driskel, 1994, cited by Choi & Kim, 1999). Janis's model tends to be supported by studies that employ a qualitative case-study approach **as opposed to experimental research, which tends to either partially support or not support Janis's thesis** (Park, 2000). The lack of success in experimental validation of groupthink may be due to difficulties in operationalizing and conceptualizing it as a testable variable (Hogg & Hains, 1998; Park, 2000).

Some **researchers have criticized Janis for categorically denouncing groupthink as a negative phenomenon** (Longley & Pruitt, 1980, cited in Choi & Kim, 1999). Sniezek (1992) argues that there are instances where concurrence-seeking may promote group performance. When used to explain behaviour in a practical setting, **groupthink has been frames as a detrimental group process; the result of this has been that many corporate** training programs have created strategies for avoiding groupthink in the workplace (Quinn, Faerman, Thompson & McGrath, 1990, cited in Choi & Kim, 1999).

Another criticism of groupthink is that Janis overestimates the link between the decision-making process and the outcome (McCauley, 1989; Tetlock, Peterson, McGuire, Chang & Feld, 1992; cited in Choi & Kim, 1999). Tetlock et al argue that there are many other factors between the decision process and the outcome. The outcome of any decision-making process, they argue, will only have a certain probability of success due to various environmental factors (such as luck).

A large-scale study researching decision-making in seven major American corporations concluded that decision-making worked best when following a sound information processing method; however these groups also showed signs of groupthink, in that they had strong leadership which attempted to persuade others in the group that they were right (Peterson et al, 1998, cited in Sunstein, 2003).

Esser (1998) found that groupthink characteristics were correlated with failures; however cohesiveness did not appear to be a factor: groups consisting of strangers, friends, or various levels of previous experience together did not appear to effect decision-making ability. Janis' claims of insulation of groups and groups led by autocratic leaders did show that these attributes were indicative of groupthink symptoms.

Moorhead & Montanari conducted a study where they concluded that groupthink symptoms had no significant effect on group performance, and that "the relationship between groupthink-induced decision defects and outcomes were not as strong as Janis suggests" (Moorhead & Montanari, 1986, p. 399; cited by Choi & Kim, 1999).

Overall, the groupthink hypothesis appears to be valuable as a descriptive, analytic and heuristic tool (Esser, 1998) **but is not a good model for empirical testing;** it attempts to explain a complex phenomenon but is **difficult to operationalize into testable variables**. While some areas of Janis' theory have been supported by empirical or experimental, others remain ambiguous or even contradictory (Sunstein, 2003). When reading the assessments of others, it begs the question of whether groupthink is suited to being used as a model for empirical analysis: is it fair to measure groupthink theory on the basis of laboratory tests, when in real life groupthink occurs within a complex and volatile environment? Janis's original method was one of inductive reasoning from archival records and case studies; perhaps it is better left as a qualitative model that can help illuminate the inexact spheres of organizational behaviour and communications theory.

Drones are sustainable—US government won’t react to backlash

Benjamin Wittes, editor in chief of Lawfare and a Senior Fellow in Governance Studies at the Brookings Institution. He is the author of several books and a member of the Hoover Institution's Task Force on National Security and Law, 2/27/13, In Defense of the Administration on Targeted Killing of Americans, www.lawfareblog.com/2013/02/in-defense-of-the-administration-on-targeted-killing-of-americans/

This view has currency among European allies, among advocacy groups, and in the legal academy. Unfortunately for its proponents, it has no currency among the three branches of government of the United States. The courts and the executive branch have both taken the opposite view, and the Congress passed a broad authorization for the use of force and despite many opportunities, has never revisited that document to impose limitations by geography or to preclude force on the basis of co-belligerency—much less to clarify that the AUMF does not, any longer, authorize the use of military force at all. Congress has been repeatedly briefed on U.S. targeting decisions, including those involving U.S. persons.[5] It was therefore surely empowered to either use the power of the purse to prohibit such action or to modify the AUMF in a way that undermined the President’s legal reasoning. Not only has it taken neither of these steps, but Congress has also funded the relevant programs. Moreover, as I noted above, Congress’s recent reaffirmation of the AUMF in the 2012 NDAA with respect to detention, once again contains no geographical limitation. There is, in other words, a consensus among the branches of government on the point that the United States is engaged in an armed conflict that involves co-belligerent forces and follows the enemy to the new territorial ground it stakes out. It is a consensus that rejects the particular view of the law advanced by numerous critics. And it is a consensus on which the executive branch is entitled to rely in formulating its legal views.

#### Their backlash link is about drone strikes, not all drone tech – no current strikes against AQIM – their card:

Zenko, CFR Center for Preventive Action Douglas Dillon fellow, 2013

(Micah, Council Special Report No. 65, January 2013, “Reforming U.S. Drone Strike Policies,” http://www.cfr.org/wars-and-warfare/reforming-us-drone-strike-policies/p29736?co=C009601)

In his Nobel Peace Prize acceptance speech, President Obama declared: “Where force is necessary, we have a moral and strategic interest in binding ourselves to certain rules of conduct. Even as we confront a vicious adversary that abides by no rules, I believe the United States of America must remain a standard bearer in the conduct of war.”63 Under President Obama drone strikes have expanded and intensified, and they will remain a central component of U.S. counterterrorism operations for at least another decade, according to U.S. officials.64 But much as the Bush administration was compelled to reform its controversial coun- terterrorism practices, it is likely that the United States will ultimately be forced by domestic and international pressure to scale back its drone strike policies. The Obama administration can preempt this pressure by clearly articulating that the rules that govern its drone strikes, like all uses of military force, are based in the laws of armed conflict and inter- national humanitarian law; by engaging with emerging drone powers; and, most important, by matching practice with its stated policy by limiting drone strikes to those individuals it claims are being targeted (which would reduce the likelihood of civilian casualties since the total number of strikes would significantly decrease).

The choice the United States faces is not between unfettered drone use and sacrificing freedom of action, but between drone policy reforms by design or drone policy reforms by default. Recent history dem- onstrates that domestic political pressure could severely limit drone strikes in ways that the CIA or JSOC have not anticipated. In support of its counterterrorism strategy, the Bush administration engaged in the extraordinary rendition of terrorist suspects to third countries, the use of enhanced interrogation techniques, and warrantless wiretapping. Although the Bush administration defended its policies as critical to protecting the U.S. homeland against terrorist attacks, unprecedented domestic political pressure led to significant reforms or termination.

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Recommendations 23

Compared to Bush-era counterterrorism policies, drone strikes are vulnerable to similar—albeit still largely untapped—moral outrage, and they are even more susceptible to political constraints because they occur in plain sight. Indeed, a negative trend in U.S. public opinion on drones is already apparent. Between February and June 2012, U.S. support for drone strikes against suspected terrorists fell from 83 per- cent to 62 percent—which represents less U.S. support than enhanced interrogation techniques maintained in the mid-2000s.65 Finally, U.S. drone strikes are also widely opposed by the citizens of important allies, emerging powers, and the local populations in states where strikes occur.66 States polled reveal overwhelming opposition to U.S. drone strikes: Greece (90 percent), Egypt (89 percent), Turkey (81 percent), Spain (76 percent), Brazil (76 percent), Japan (75 percent), and Pakistan (83 percent).67

This is significant because the United States cannot conduct drone strikes in the most critical corners of the world by itself. Drone strikes require the tacit or overt support of host states or neighbors. If such states decided not to cooperate—or to actively resist—U.S. drone strikes, their effectiveness would be immediately and sharply reduced, and the likelihood of civilian casualties would increase. This danger is not hypothetical. In 2007, the Ethiopian government terminated its U.S. military presence after public revelations that U.S. AC-130 gun- ships were launching attacks from Ethiopia into Somalia. Similarly, in late 2011, Pakistan evicted all U.S. military and intelligence drones, forc- ing the United States to completely rely on Afghanistan to serve as a staging ground for drone strikes in Pakistan. The United States could attempt to lessen the need for tacit host-state support by making signifi- cant investments in armed drones that can be flown off U.S. Navy ships, conducting electronic warfare or missile attacks on air defenses, allow- ing downed drones to not be recovered and potentially transferred to China or Russia, and losing access to the human intelligence networks on the ground that are critical for identifying targets.

According to U.S. diplomats and military officials, active resis- tance—such as the Pakistani army shooting down U.S. armed drones— is a legitimate concern. In this case, the United States would need to either end drone sorties or escalate U.S. military involvement by attack- ing Pakistani radar and antiaircraft sites, thus increasing the likelihood of civilian casualties.68 Beyond where drone strikes currently take place, political pressure could severely limit options for new U.S. drone bases.

24 Reforming U.S. Drone Strike Policies

For example, the Obama administration is debating deploying armed drones to attack al-Qaeda in the Islamic Maghreb (AQIM) in North Africa, which would likely require access to a new airbase in the region. To some extent, anger at U.S. sovereignty violations is an inevitable and necessary trade-off when conducting drone strikes. Nevertheless, in each of these cases, domestic anger would partially or fully abate if the United States modified its drone policy in the ways suggested below.

#### But our effort in Africa is only surveillance – and drones can’t solve AQIM – Obama will never commit

Giorgis, visiting fellow at the Foundation for the Defense of Democracies and former senior official in the Ethiopian government, 8/13/2013

(Dawit, “Absent from Africa,” http://www.ethiomedia.com/2013report/4600.html)

For Africans, the concern is that President Obama did not read the second half of Mr. Mandela’s quote. In both the Libyan and Malian crises, America opted for a supporting role while Europe, and especially France, took the lead. With the French expected to pull out as soon as they are able, how long can we realistically expect Mali and the region to remain secure without U.S. help? Similarly, can Libya stabilize itself without extensive assistance? The president’s reluctance to lead the fight against Islamist extremists in Africa is particularly worrying, as Al Qaeda affiliates and other jihadi groups increasingly destabilize the continent.

Despite President Obama’s assertions to the contrary, the Global War on Terror is very much alive. That’s why the United States has ramped up its drone capabilities in Africa. America maintains drone-operations bases in Burkina Faso, where surveillance drones feed French forces in Mali with intelligence on Al Qaeda affiliates. Similar programs are active in Ethiopia, the Seychelles and Djibouti, while South Sudan, Kenya and Uganda are rumored to have active drone bases as well. The Pentagon also established a new drone base in Niger at the beginning of this year to monitor Islamist extremists and other groups in the region. Although it is not inconceivable that the two countries could one day agree upon the use of armed drones, the agreement only stipulates the use of unmanned surveillance drones.

If the United States were simply claiming an end to the War on Terror while at the same time conducting a well-thought-out campaign to end the jihadi threat to Africa, most African governments would not be concerned. But U.S. policy currently precludes meaningful engagement on the African continent, instead focusing on “African solutions to African problems.” This effectively means that because the United States is apprehensive of committing its own forces in the wake of bruising conflicts in Afghanistan and Iraq, it is only willing to send drones to troubled areas that do not directly impact its interests.

But expanding drone bases in Africa will not offset the recent gains made by Al Qaeda’s affiliates across the region. And it is not as if the African militaries can handle the job themselves. Indeed, the U.S. military has little to no confidence in African troops. Michael Sheehan, assistant secretary of defense for special operations,told a Senate Armed Services subcommittee in April of this year that troops from the Economic Community of West African States deployed in Mali, now under the UN mandate, are a “completely incapable force.” Sheehan concluded that unless African troops were better trained, Al Qaeda would attempt to take back the territory it had conceded. Since the United States is only willing to commit drones, how does he propose to train them?

African problems are growing. In the Sahel, Al Qaeda has affiliates and sympathetic groups, including the Movement for Unity and Jihad in West Africa, Ansar Dine and Al Qaeda in the Islamic Maghreb (AQIM). Elsewhere, in the Horn of Africa, Somali Al Qaeda affiliate Al Shabaab is still actively fighting to retake territory lost to African Union forces, while in West Africa, Nigerian jihadist group Boko Haram—whose members have been tied to AQIM—continues to wage war against the government.

Unfortunately, solutions to these problems are less apparent. African governments that are prepared to combat radical Islamists lack training and leadership, and even the more professional African militaries don’t have the appropriate resources or training. For example, Chad, one of the poorest countries in the world, whose soldiers have been involved in some of the fiercest fighting and are credited with some of the biggest successes combating jihadi forces in Mali, withdrew its two thousand troops from the battlefield because it does not have the resources to fight a protracted war.

American surveillance drones are not helping. They are merely giving American intelligence agencies an accurate picture of what is happening on the ground. This may suggest that Washington now understands the challenge, but remains reluctant to become involved in a meaningful capacity.

#### Still just surveillance – and they’re insufficient

Mitchell, writer for Foreign Policy Journal, 10/25/2013

(Jon, “The Africa Pivot: America’s New Battleground,” http://www.foreignpolicyjournal.com/2013/10/25/the-africa-pivot-americas-new-battleground/)

While most foreign policy analysts and the mainstream media focus on the “Asia pivot,” signifying the strategic military shift from the Middle East to East Asia, the Obama administration has quietly and simultaneously deployed elsewhere. While the Pentagon is indeed shifting military forces to Asia, there is also a very low-key, military shift to Africa.

According to investigative journalist Nick Turse, the military’s not-so-public perception of Africa is that “Africa is the battlefield of tomorrow, today.”[1] Despite Africa Command’s (AFRICOM) claim of a “small footprint,” the U.S. military presence has increased and continues to expand in the face of Africa-based terrorist groups.

Described as the hub for drone operations in Africa and the Middle East, Camp Lemonnier is strategically located in Djibouti, only 500 miles from Somalia and less than 100 miles from Yemen.[2] The site is the only permanent U.S. military base in Africa, according to Colonel Tom Davis, AFRICOM’s Director of Public Affairs. However, this representation does not account for the low-key U.S. forces operating out of other bases and posts throughout Africa.[3] The Obama administration has increasingly utilized surveillance operations and Special Forces raids to capture or kill High Value Targets (HVTs) in the War on Terror. Africa has seen a surge in these strategies, which are more desirable to an American public plagued by a decade of large-scale conflicts.[4]

The military carries out an array of missions in Africa from base construction to Special Forces raids, surveillance support, and training and advisory deployments.[5] A spokesman from AFRICOM states that a “small presence of personnel” conduct missions in “several locations.”[6] To be more accurate, the Department of Defense (DoD) operates on various levels in approximately 49 of 54 African countries.[7]

The Pentagon is attempting to contain and combat the spread of terrorism in Africa, particularly al-Qaeda affiliates.[8] Threats include Al-Shabab, Boko Haram, and Al-Qaeda in the Islamic Maghreb (AQIM).[9] AFRICOM’s primary mission is counter-terrorism, prompting the increase of personnel and resources that contribute to that mission.[10] In addition to increased personnel and military hardware, U.S. bases have expanded and new ones are being strategically built in multiple African countries.

Camp Lemonnier itself has physically expanded and improved between 2009 and 2012, at the cost of $390 million.[11] Most interestingly, $220 million went toward a Special Operations Compound, known as “Task Force Compound.”[12] On a larger scale, the Department of Defense proposed a plan to Congress with $1.4 billion in improvement and expansion projects for Camp Lemonnier over the next 25 years.[13]

At Camp Simba, a Kenyan naval base, the Navy is constructing a runway extension to accommodate large cargo aircraft that could land and supply U.S. troops.[14] Camp Simba holds approximately sixty U.S. personnel who work with Kenyan military forces and humanitarian projects.[15]

Smaller military sites such as Forward Operating Sites (FOS) and Cooperative Security Locations (CSL) have seen improvements and increased activity. For example, a CSL in Entebbe, Uganda[16] was a rugged outpost in 2009, but has since transformed into a busy joint-base with a much larger number of helicopters and airplanes. AFRICOM would neither confirm nor deny its existence.[17]

However, TomDispatch came across contracting documents for a private contracting company to provide fixed-wing airlift services for the DoD in the Central African Region.[18] This would allow the U.S. military to transport personnel, weapons, and supplies to multiple countries within reach of CSL Entebbe including Uganda, Central African Republic, South Sudan, and the Democratic Republic of the Congo.[19] A U.S. Army Africa briefing from July 2012 mentions CSL Entebbe and the contractors who flew “secret surveillance missions” in manned surveillance aircraft.[20]

New bases and forward sites are also being built to accommodate DoD surveillance drones that support the Intelligence, Surveillance, and Reconnaissance (ISR) function of AFRICOM’s counter-terrorism objective. U.S. personnel in Africa widely support the surveillance and intelligence capacity via surveillance aircraft; however, not enough surveillance is carried out. According to Army General David Rodriguez, intelligence-gathering needs to drastically increase as AFRICOM’s current surveillance capabilities only meet 7% of the necessary ISR requirements for Africa.[21] Surveillance missions conducted in African countries support U.S. Special Forces operations and benefit the host nations’ militaries in order to fight terrorism.[22]

Drone operations from Camp Lemonnier expanded so much that the DoD had to build an airport taxiway extension to handle the day-to-day drone operations, which made up 30% of flight operations at the military base.[23] However, Djibouti has experienced five drone crashes since 2011, prompting the Djiboutian government to ask that drone operations be removed from its capital’s airport and sent to Chabelley, Djibouti, a more remote airstrip.[24] Drone flights from Camp Lemonnier ended in September 2013, and resumed in Chabelley according to U.S. defense officials.[25] The Djiboutian government has a positive military relationship with the U.S. and the DoD is still able to conduct drone strikes in targeted regions, although this change may affect the frequency of such operations.[26]

Other U.S. installations have been established in Ethiopia, Kenya, Burkina Faso, Uganda, Niger, and South Sudan.[27] Since 2007, approximately a dozen air bases have been set up.[28] A civilian airport in Arba Minch, Ethiopia hosts Air Force Reaper drones while the international airport in Ouagadougou, Burkina Faso is home to DoD personnel, including private contractors, who conduct surveillance operations from aircraft and previously ran a fusion cell for intelligence operations.[29]

Most recently, the Pentagon opened a new base in Niger for reconnaissance and surveillance on Islamic militants.[30] The base sits next to the capital’s international airport in Niamey and houses approximately 100 U.S. personnel (mostly intelligence analysts, security personnel, and logistics specialists) and Air Force Predator drones,[31] although the small U.S. base could expand to as many as 300 DoD personnel.[32] The surveillance missions flown from this base will improve the quality of intelligence gathered on terrorist groups and militants in Mali, Nigeria, and Libya.

Terrorists won’t use WMD

Forest 12 (James, PhD and Director of Terrorism Studies and an associate professor at the United States Military Academy, “Framework for Analyzing the Future Threat of WMD Terrorism,” Journal of Strategic Security, Volume 5, Number 4, Article 9, Winter 2012, <http://scholarcommons.usf.edu/cgi/viewcontent.cgi?article=1193&context=jss>) \*\*NOTE---CBRN weapon = chemical, biological, radiological or nuclear weapon

The terrorist group would additionally need to consider whether a WMD attack would be counterproductive by generating, for example, condemnation among the group's potential supporters. This possible erosion in support, in turn, would degrade the group's political legitimacy among its constituencies, who are viewed as critical to the group's long-term survival. By crossing this WMD threshold, the group could feasibly undermine its popular support, encouraging a perception of the group as deranged mass murders, rather than righteous vanguards of a movement or warriors fighting for a legitimate cause.16 The importance of perception and popular support—or at least tolerance—gives a group reason to think twice before crossing the threshold of catastrophic terrorism. A negative perception can impact a broad range of critical necessities, including finances, safe haven, transportation logistics, and recruitment. Many terrorist groups throughout history have had to learn this lesson the hard way; the terrorist groups we worry about most today have learned from the failures and mistakes of the past, and take these into consideration in their strategic deliberations. Furthermore, a WMD attack could prove counterproductive by provoking a government (or possibly multiple governments) to significantly expand their efforts to destroy the terrorist group. Following a WMD attack in a democracy, there would surely be a great deal of domestic pressure on elected leaders to respond quickly and with a massive show of force. A recognition of his reality is surely a constraining factor on Hezbollah deliberations about attacking Israel, or the Chechen's deliberations about attacking Russia, with such a weapon.

No risk of bioterror

Keller 13 (Rebecca, 7 March 2013, Analyst at Stratfor, “Bioterrorism and the Pandemic Potential,” Stratfor, http://www.stratfor.com/weekly/bioterrorism-and-pandemic-potential)

The risk of an accidental release of H5N1 is similar to that of other infectious pathogens currently being studied. Proper safety standards are key, of course, and experts in the field have had a year to determine the best way to proceed, balancing safety and research benefits. Previous work with the virus was conducted at biosafety level three out of four, which requires researchers wearing respirators and disposable gowns to work in pairs in a negative pressure environment. While many of these labs are part of universities, access is controlled either through keyed entry or even palm scanners. There are roughly 40 labs that submitted to the voluntary ban. Those wishing to resume work after the ban was lifted must comply with guidelines requiring strict national oversight and close communication and collaboration with national authorities. The risk of release either through accident or theft cannot be completely eliminated, but given the established parameters the risk is minimal. The use of the pathogen as a biological weapon requires an assessment of whether a non-state actor would have the capabilities to isolate the virulent strain, then weaponize and distribute it. Stratfor has long held the position that while terrorist organizations may have rudimentary capabilities regarding biological weapons, the likelihood of a successful attack is very low. Given that the laboratory version of H5N1 -- or any influenza virus, for that matter -- is a contagious pathogen, there would be two possible modes that a non-state actor would have to instigate an attack. The virus could be refined and then aerosolized and released into a populated area, or an individual could be infected with the virus and sent to freely circulate within a population. There are severe constraints that make success using either of these methods unlikely. The technology needed to refine and aerosolize a pathogen for a biological attack is beyond the capability of most non-state actors. Even if they were able to develop a weapon, other factors such as wind patterns and humidity can render an attack ineffective. Using a human carrier is a less expensive method, but it requires that the biological agent be a contagion. Additionally, in order to infect the large number of people necessary to start an outbreak, the infected carrier must be mobile while contagious, something that is doubtful with a serious disease like small pox. The carrier also cannot be visibly ill because that would limit the necessary human contact.

#### No impact to oil shocks

Perumal, business reporter – Gulf Times, 9/14/’11

(Santhosh, <http://www.gulf-times.com/site/topics/article.asp?cu_no=2&item_no=458158&version=1&template_id=48&parent_id=28>)

Oil price shocks are not always costly for oil-importing countries as a 25% increase in oil prices causes their GDP (gross domestic product) to fall by about half of 1% or less, according to an International Monetary Fund (IMF) working paper. “Across the world, oil price shock episodes have generally not been associated with a contemporaneous decline in output but, rather, with increases in both imports and exports,” the paper said. There is evidence of lagged negative effects on output, particularly for the Organisation for Economic Cooperation and Development (OECD) economies, but the magnitude has typically been small, said the paper, authored by Tobias N Rasmussen and Agustín Roitman. For a given level of world GDP, the paper found that oil prices have a negative effect on oil-importing countries and also that cross-country differences in the magnitude of the impact depend to a large extent on the relative magnitude of oil imports.  “The effect is still not particularly large, however, with our estimates suggesting that a 25% increase in oil prices will cause a loss of real GDP in oil-importing countries of less than half of 1%, spread over 2–3 years,” the authors said.

One likely explanation for this relatively modest impact is that part of the greater revenue accruing to oil exporters will be recycled in the form of imports or other international flows, thus contributing to keep up demand in oil-importing economies, the paper said. “The negative impact of oil price shocks on oil-importing countries is partly offset by concurrent increases in exports and other income flows,” it said.

Decline doesn’t cause war

Morris Miller, Professor of Administration @ the University of Ottawa, ‘2K

(Interdisciplinary Science Review, v 25 n4 2000 p ingenta connect)

The question may be reformulated. Do wars spring from a popular reaction to a sudden economic crisis that exacerbates poverty and growing disparities in wealth and incomes? Perhaps one could argue, as some scholars do, that it is some dramatic event or sequence of such events leading to the exacerbation of poverty that, in turn, leads to this deplorable denouement. This exogenous factor might act as a catalyst for a violent reaction on the part of the people or on the part of the political leadership who would then possibly be tempted to seek a diversion by finding or, if need be, fabricating an enemy and setting in train the process leading to war. According to a study under- taken by Minxin Pei and Ariel Adesnik of the Carnegie Endowment for International Peace, there would not appear to be any merit in this hypothesis. After studying ninety-three episodes of economic crisis in twenty-two countries in Latin America and Asia in the years since the Second World War they concluded that:19 Much of the conventional wisdom about the political impact of economic crises may be 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).

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## Iran

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#### Most probable

James A. **Russell,** Senior Lecturer, National Security Affairs, Naval Postgraduate School, **‘9** (Spring) “Strategic Stability Reconsidered: Prospects for Escalation and Nuclear War in the Middle East” IFRI, Proliferation Papers, #26, http://www.ifri.org/downloads/PP26\_Russell\_2009.pdf

Strategic stability in the region is thus undermined by various factors: (1) asymmetric interests in the bargaining framework that can introduce unpredictable behavior from actors; (2) the presence of non-state actors that introduce unpredictability into relationships between the antagonists; (3) incompatible assumptions about the structure of the deterrent relationship that makes the bargaining framework strategically unstable; (4) perceptions by Israel and the United States that its window of opportunity for military action is closing, which could prompt a preventive attack; (5) the prospect that Iran’s response to pre-emptive attacks could involve unconventional weapons, which could prompt escalation by Israel and/or the United States; (6) the lack of a communications framework to build trust and cooperation among framework participants. These systemic weaknesses in the coercive bargaining framework all suggest that escalation by any the parties could happen either on purpose or as a result of miscalculation or the pressures of wartime circumstance. Given these factors, it is disturbingly easy to imagine scenarios under which a conflict could quickly escalate in which the regional antagonists would consider the use of chemical, biological, or nuclear weapons. It would be a mistake to believe the nuclear taboo can somehow magically keep nuclear weapons from being used in the context of an unstable strategic framework. Systemic asymmetries between actors in fact suggest a certain increase in the probability of war – a war in which escalation could happen quickly and from a variety of participants. Once such a war starts, events would likely develop a momentum all their own and decision-making would consequently be shaped in unpredictable ways. The international community must take this possibility seriously, and muster every tool at its disposal to prevent such an outcome, which would be an unprecedented disaster for the peoples of the region, with substantial risk for the entire world.

#### Turns terror

Inbar, 6

[Efraim, Professor of Political Science at Bar-Ilan University and the Director of the Begin-Sadat (BESA) Center for Strategic Studies. “ THE NEED TO BLOCK A NUCLEAR IRAN,” Middle East Review of International Affairs, Vol. 10, No. 1 (March 2006)]

Furthermore, as the nuclear taboo is eroding at the interstate level, Iran, or a faction, or even individual officials in the government may decide to pass a nuclear device to a terrorist organization, such as Hamas or Hizballah, to be used against Israel or a "heretic" (Muslim or Christian) regime.23 This possibility is intensified by the fact that the weapons are apparently institutionally under the control of hardliners even in the context of the Iranian government, such as the Islamic Revolutionary Guard Corps. The "crazy state" posture may be conducive toward Iranian nuclear largesse to other radical Islamic groups operating outside the Middle East. The Iranians have used proxies to carry out attacks against their enemies in the past. An indirect mode of operation would put many capitals in the world in danger and make Iran a somewhat less likely subject to retaliation. In any case, a nuclear Iran might provide emboldened global Jihadist terrorist groups a haven where they think they are immune to Western reach.

A nuclear Iran would also enhance Iranian hegemony in the strategic energy sector, by its mere location along the oil-rich Persian Gulf area and the Caspian Basin. These two adjacent regions form the "energy ellipse," which holds over 70 percent of the world's proven oil and over 40 percent of natural gas reserves.24 Giving revolutionary Iran a better ability to intimidate the governments controlling parts of this huge energy reservoir would further strengthen Iran’s position in the region and world affairs. Such a position would also make Iran's containment even more difficult and would necessarily embolden Islamic radicals everywhere.

## Deal Coming Now

Pollack, Brookings Institution senior fellow, 9-22-13

[Kenneth, former CIA analyst and NSA official, “Short of a Deal, Containing Iran Is the Best Option” <http://www.nytimes.com/2013/09/23/opinion/short-of-a-deal-containing-iran-is-the-best-option.html?emc=edit_tnt_20130922&tntemail0=y&_r=0&pagewanted=print>, accessed 9-22-13, TAP]

WASHINGTON — THIS week, Iran’s new president, Hassan Rouhani, will address the United Nations General Assembly. His message is likely to be a sharp change from the adolescent belligerence of his hard-line predecessor, Mahmoud Ahmadinejad. Mr. Rouhani is a genuine reformer — but his desire to move Iran in a new direction should not blind the United States to the difficulties of achieving a diplomatic solution.¶ Mr. Rouhani has hinted that he is willing to compromise on aspects of Iran’s nuclear program for the sake of repairing relations with the rest of the world and having economic sanctions on Iran removed. But he has also warned that he cannot hold off his hard-line rivals forever, and it is unclear whether the Iranians will be willing to make the kind of concessions that America and its allies want. Ultimately, it is the supreme leader, Ayatollah Ali Khamenei, not Mr. Rouhani, who would make the final decision on a deal. He has shown little inclination for one, although recent statements from the leadership offer hope that their position may be softening.

#### Iran is looking to compromise on its nuclear program – Obama’s perceived flexibility is key

Benen, writer for MSNBC and producer of the Rachel Maddow show, 9/20/2013

(Steve, “When crises become opportunities,” http://maddowblog.msnbc.com/\_news/2013/09/20/20599445-when-crises-become-opportunities?lite)

When it comes to the Middle East, progress has never moved in a straight line. There are fits and starts, ebbs and flows. There are heartening breakthroughs and crushing disappointments, occasionally at the same time.

That said, while the domestic political establishment's attention seems focused elsewhere, there's reason to believe new opportunities are materializing in the region in ways that were hard to even imagine up until very recently.

This morning, for example, the Organization for the Prohibition of Chemical Weapons (OPCW) announced that Syria has taken its first steps towards detailing its stockpiles. Michael Luhan, a spokesperson for the Hague-based chemical weapons regulator, said in a statement, "The OPCW has received an initial disclosure from the Syrian Government of its chemical weapons programme, which is now being examined by the Technical Secretariat of the Organisation."

Meanwhile, Iranian President Hasan Rouhani has a new op-ed in the Washington Post arguing that the United States and the rest of the world "must work together to end the unhealthy rivalries and interferences that fuel violence and drive us apart" through a policy of "constructive engagement."

The New York Times added that Iranian leaders, "seizing on perceived flexibility in a private letter from President Obama, have decided to gamble on forging a swift agreement over their nuclear program with the goal of ending crippling sanctions."

David Sanger summarized the bigger picture nicely.

Only two weeks after Washington and the nation were debating a unilateral military strike on Syria that was also intended as a forceful warning to Iran about its nuclear program, President Obama finds himself at the opening stages of two unexpected diplomatic initiatives with America's biggest adversaries in the Middle East, each fraught with opportunity and danger.

Without much warning, diplomacy is suddenly alive again after a decade of debilitating war in the region. After years of increasing tension with Iran, there is talk of finding a way for it to maintain a face-saving capacity to produce a very limited amount of nuclear fuel while allaying fears in the United States and Israel that it could race for a bomb.

The surprising progress has come so suddenly that a senior American diplomat described this week's developments as "head spinning."

So what happens next?

The consensus among many foreign policy observers is that developments in Syria and Iran are linked in ways that may or may not be helpful to the United States. Max Fisher explained well yesterday that President Obama's pragmatism "has sent exactly the right signals to Iran, particularly at this very sensitive moment."

Obama has been consistently clear, even if some members of his administration were not, that his big overriding goal is for Syrian leader Bashar al-Assad to stop using chemical weapons. First he was going to do that with strikes, meant to coerce Assad. Then, in response to the Russian proposal, Obama signaled he would back off the strikes if Assad gave up his chemical weapons, which is exactly what Obama has always said he wants. He's been consistent as well as flexible, which gave Assad big incentives to cooperate when he might have otherwise dug in his heels.

There are some awfully significant -- and promising -- parallels here with the U.S. standoff with Iran. Obama has been clear that he wants Iran to give up its rogue uranium-enrichment program and submit to the kind of rigorous inspections that would guarantee that its nuclear program is peaceful. He's also been clear that the United States is using severe economic sanctions to coerce Tehran to cooperate and that it would use military force if necessary. The implicit (and sometimes explicit) message to Iran has been: If you abandon your enrichment program, we'll make it worth your while by easing off.

Here's where the parallel with Syria is really important: Iranian leaders distrust the United States deeply and fear that Obama would betray them by not holding up his end of the bargain. That's been a major hurdle to any U.S.-Iran nuclear deal. But seeing Assad's deal with Obama work out (so far) sends the message to Iran that it can trust the United States. It also sends the message that making concessions to the United States can pay off. Iran's supreme leader has been talking a lot lately about flexibility and diplomacy toward the West. So it's an ideal moment for Obama to be demonstrating flexibility and diplomacy toward the Middle East.

Effective negotiations likely—this postdates and is more conclusive

Susanne Maloney, Senior Fellow, Saban Center for Middle East Policy, Brookings Institution, 10/18/13, Time Ripe for Iranian Nuclear Accord?, [www.cfr.org/arms-control-disarmament-and-nonproliferation/time-ripe-iranian-nuclear-accord/p31660?cid=rss-analysisbriefbackgroundersexp-time\_ripe\_for\_iranian\_nuclear\_-101813](http://www.cfr.org/arms-control-disarmament-and-nonproliferation/time-ripe-iranian-nuclear-accord/p31660?cid=rss-analysisbriefbackgroundersexp-time_ripe_for_iranian_nuclear_-101813)

Predictions with Iran are incredibly dangerous, as I think you know. But I'm very optimistic. I'm not irrationally exuberant. There has been just a little bit too much adoration of the new tone that we've heard from Iran, and I think that it's important to remember that we're only beginning to see the first real tangible signs of change within the country.

But it's quite clear that Rouhani was elected with a mission and a mandate to find some way out of the nuclear mess and rehabilitate Iran's role in the world and fix its economy. The only way that he can do this is to come to an agreement with the international community. The negotiators and the officials that we have seen in New York and Geneva have made very clear that they are empowered, prepared, and willing. I think it's also clear that the [Obama] administration sees the opportunity before it and is attempting to seize that opportunity.

## CMR DA

#### Plan collapses CMR—the military will ignore the aff—kills heg

Mackubin Thomas Owens, professor of national security affairs in the National Security Affairs Department of the Naval War College, Spring 2012, WHAT MILITARY OFFICERS NEED TO KNOW ABOUT CIVIL-MILITARY RELATIONS, http://www.usnwc.edu/getattachment/1ef74daf-ebff-4aa4-866e-e1dd201d780e/What-Military-Officers-Need-to-Know-about-Civil-Mi.aspx

CIVILIAN CONTROL INVOLVES NOT ONLY THE EXECUTIVE BRANCH

It involves Congress as well. As the constitutional scholar Edward Corwin once famously observed, the Constitution is an “invitation to struggle for the privilege of directing American foreign policy” between Congress and the president.13 But **there is a similar tension at work with** regard to **civil-military relations**. Those who neglect the congressional role in American civil-military relations are missing an important element.14

The military has two civilian masters, and this has implications for civil-military relations that officers must understand. For instance, while the president and secretary of defense control the military when it comes to the use of force, including strategy and rules of engagement, Congress controls the military directly with regard to force size, equipment, and organization, and indirectly regarding doctrine and personnel. Indeed, Congress is the “force planner” of last resort.

The U.S. military accepts civilian control by both Congress and the president but offers advice intended to maintain its own institutional and professional autonomy. **On use of force, the military is usually granted a good deal of leeway regarding the terms and conditions** for such use.

By not dissenting from executive-branch policy, American military officers implicitly agree to support presidential decisions on the budget and the use of force, but they also must recognize an obligation to provide their alternative personal views in response to Congress. However, officers must recognize that Congress exerts its control with less regard for military preferences than for the political considerations of its individual members and committees. Thus congressional control of the military is strongly influenced by political considerations, by what Samuel Huntington called “structural,” or domestic, imperatives as opposed to strategic ones.

When the president and Congress are in agreement, the military complies. **When the two branches are in disagreement, the military tends to side with the branch that** most **favors its own views**, but **never to** the point of direct **disobedience to** orders of **the commander in chief**. Military officers are obligated to share their views with Congress. Doing so should not be treated as an “end run” undermining civilian control of the military.15

THE ABSENCE OF A COUP

The absence of a coup does not indicate that civil-military relations are healthy or that civilian control has not eroded. All too often, officers seem to believe that if the United States does not face the prospect of a Latin American– or African-style military coup d’état, all is well in the realm of civil-military relations. But this is a straw man. A number of scholars, including Richard Kohn, Peter Feaver, the late Russell Weigley, Michael Desch, and Eliot Cohen, have argued that although there is no threat of a coup on the part of the military, American civil-military relations have nonetheless deteriorated over the past two decades.16

Their concern is that the American military “has grown in influence to the point of being able to impose its own perspective on many policies and decisions,” which manifests itself in “repeated efforts on the part of the armed forces to frustrate or evade civilian authority when that opposition seems likely to preclude outcomes the military dislikes.” **The result is an unhealthy civil-military pattern that “**could alter the character of American government and **undermine national defense**.”

#### Nuclear war

Frederick Kagan and Michael O’Hanlon 7, Fred’s a resident scholar at AEI, Michael is a senior fellow in foreign policy at Brookings, “The Case for Larger Ground Forces”, April, <http://www.aei.org/files/2007/04/24/20070424_Kagan20070424.pdf>

We live at a time when wars not only rage in nearly every region but threaten to erupt in many places where the current relative calm is tenuous. To view this as a strategic military challenge for the United States is not to espouse a specific theory of America’s role in the world or a certain political philosophy. Such an assessment flows directly from the basic bipartisan view of American foreign policy makers since World War II that overseas threats must be countered before they can directly threaten this country’s shores, that the basic stability of the international system is essential to American peace and prosperity, and that no country besides the United States is in a position to lead the way in countering major challenges to the global order. Let us highlight the threats and their consequences with a few concrete examples, emphasizing those that involve key strategic regions of the world such as the Persian Gulf and East Asia, or key potential threats to American security, such as the spread of nuclear weapons and the strengthening of the global Al Qaeda/jihadist movement. The Iranian government has rejected a series of international demands to halt its efforts at enriching uranium and submit to international inspections. What will happen if the US—or Israeli—government becomes convinced that Tehran is on the verge of fielding a nuclear weapon? North Korea, of course, has already done so, and the ripple effects are beginning to spread. Japan’s recent election to supreme power of a leader who has promised to rewrite that country’s constitution to support increased armed forces—and, possibly, even nuclear weapons— may well alter the delicate balance of fear in Northeast Asia fundamentally and rapidly. Also, in the background, at least for now, SinoTaiwanese tensions continue to flare, as do tensions between India and Pakistan, Pakistan and Afghanistan, Venezuela and the United States, and so on. Meanwhile, the world’s nonintervention in Darfur troubles consciences from Europe to America’s Bible Belt to its bastions of liberalism, yet with no serious international forces on offer, the bloodletting will probably, tragically, continue unabated. And as bad as things are in Iraq today, they could get worse. What would happen if the key Shiite figure, Ali al Sistani, were to die? If another major attack on the scale of the Golden Mosque bombing hit either side (or, perhaps, both sides at the same time)? Such deterioration might convince many Americans that the war there truly was lost—but the costs of reaching such a conclusion would be enormous. Afghanistan is somewhat more stable for the moment, although a major Taliban offensive appears to be in the offing. Sound US grand strategy must proceed from the recognition that, over the next few years and decades, the world is going to be a very unsettled and quite dangerous place, with Al Qaeda and its associated groups as a subset of a much larger set of worries. The only serious response to this international environment is to develop armed forces capable of protecting America’s vital interests throughout this dangerous time. Doing so requires a military capable of a wide range of missions—including not only deterrence of great power conflict in dealing with potential hotspots in Korea, the Taiwan Strait, and the Persian Gulf but also associated with a variety of Special Forces activities and stabilization operations. For today’s US military, which already excels at high technology and is increasingly focused on re-learning the lost art of counterinsurgency, this is first and foremost a question of finding the resources to field a large-enough standing Army and Marine Corps to handle personnel intensive missions such as the ones now under way in Iraq and Afghanistan. Let us hope there will be no such large-scale missions for a while. But preparing for the possibility, while doing whatever we can at this late hour to relieve the pressure on our soldiers and Marines in ongoing operations, is prudent. At worst, the only potential downside to a major program to strengthen the military is the possibility of spending a bit too much money. Recent history shows no link between having a larger military and its overuse; indeed, Ronald Reagan’s time in office was characterized by higher defense budgets and yet much less use of the military, an outcome for which we can hope in the coming years, but hardly guarantee. While the authors disagree between ourselves about proper increases in the size and cost of the military (with O’Hanlon preferring to hold defense to roughly 4 percent of GDP and seeing ground forces increase by a total of perhaps 100,000, and Kagan willing to devote at least 5 percent of GDP to defense as in the Reagan years and increase the Army by at least 250,000), we agree on the need to start expanding ground force capabilities by at least 25,000 a year immediately. Such a measure is not only prudent, it is also badly overdue.

## CP

## 2nc ov

We solve adv 1---their internal link author

Ingersoll and Kelley, Business Insider, 1-9-13

[Geoffrey and Michael, “America Is Setting A Dangerous Precedent For The Drone Age” http://www.businessinsider.com/america-is-setting-a-dangerous-precedent-for-the-drone-age-2013-1

The decisions America makes today regarding drone policy could come back to haunt it sooner than later.

Micah Zenko of the Council of Foreign Relations makes this argument in a new report:

A major risk is that of proliferation. Over the next decade, the U.S. near-monopoly on drone strikes will erode as more countries develop and hone this capability. In this uncharted territory, U.S. policy provides a powerful precedent for other states and nonstate actors that will increasingly deploy drones with potentially dangerous ramifications.

Jim Michaels of USA Today reports that 75 countries, including Iran and China, have developed or acquired drone technology in the wake of America's prolific program.

**The situation places the U.S. in a possibly very brief window of leadership — and** transparency is the key first step to this leadership.

U.S. policy is to consider "all military-age males in a strike zone as combatants ... unless there is explicit intelligence posthumously proving them innocent." America targets these individuals using a "disposition matrix" that serves to keep track of the ever-evolving procedures and legal justifications for placing suspects on the U.S. "kill list."

And the Obama administration refuses to reveal its methods or justifications for bombing a target, indicated by a recent ruling to deny a FOIA request regarding the targeted killing of the 16-year-old American-born son of former Al-Qaeda propagandist Anwar al-Awlaki.

From Judge Colleen McMahon's opinion:

I find myself stuck in a paradoxical situation in which I cannot solve a problem because of contradictory constraints and rules - a veritable Catch-22. I can find no way around the thicket of laws and precedents that effectively allow the Executive Branch of our Government to proclaim as perfectly lawful certain actions that seem on their face incompatible with our Constitution and laws, while keeping the reasons for their conclusion a secret.

So the U.S. has the benefit of the doubt, even when it carries out "signature strikes" in which the identities of those killed on the ground is unknown and the decision to strike hinges upon recognition of certain undisclosed behaviors and tendencies.

That's a powerful precedent.

Imagine China conducting strikes inside Japan, or its own borders (e.g. Tibet) while using the current administration's same opaque, one-size fits all statement that each strike only happens after "rigorous standards and process of review" — essentially, "nevermind the evidence, trust us."

That wouldn't fly, but right now America is not in a very strong position to criticize such a situation. That's why, as Zenko argues, the U.S. must reform its policies or risk losing its moral and strategic advantage.

A few months ago, the election spurred Obama to codify its rules and regulations regarding drone strikes because "there was concern that the levers might no longer be in our hands," one anonymous official told Scott Shane of the New York Times.

Well that time is approaching, and it won't be a Mitt Romney or Marco Rubio in control. It'll be North Korea's Kim Jung Un, China's Hu Jintao, or Iran's Ahmed Ahmadinejad.

Which means that it may be time to show the drone "playbook" so extrajudicial killings don't become a blindly accepted aspect of international foreign policy.

[UPDATE 10:19 p.m.] As Daphne Eviatar, Senior Counsel in Human Rights First's Law and Security Program, noted last week in Reuters, laying out U.S. policy "would be a brave and principled move on Obama’s part. It would also go a long way toward developing global confidence that, despite past mistakes, Washington is waging its fight against terrorism in accordance with the rule of law."

And this one

Micah Zenko, Douglas Dillon fellow in the Center for Preventive Action at the Council on Foreign Relations, January 2013, “Reforming U.S. Drone Strike Policies,” CFR Special Report #65, i.cfr.org/content/publications/attachments/Drones\_CSR65.pdf‎

Recommendations

In his Nobel Peace Prize acceptance speech, President Obama declared: “Where force is necessary, we have a moral and strategic interest in binding ourselves to certain rules of conduct. Even as we confront a vicious adversary that abides by no rules, I believe the United States of America must remain a standard bearer in the conduct of war.”63 Under President Obama drone strikes have expanded and intensified, and they will remain a central component of U.S. counterterrorism operations for at least another decade, according to U.S. officials.64 But much as the Bush administration was compelled to reform its controversial counterterrorism practices, it is likely that the United States will ultimately be forced by domestic and international pressure to scale back its drone strike policies. The Obama administration can preempt this pressure by clearly articulating that the rules that govern its drone strikes, like all uses of military force, are based in the laws of armed conflict and international humanitarian law; by engaging with emerging drone powers; and, most important, by matching practice with its stated policy by limiting drone strikes to those individuals it claims are being targeted (which would reduce the likelihood of civilian casualties since the total number of strikes would significantly decrease).

Solves backlash to the drone program and signaling

Zenko, Douglas Dillon fellow in the Center for Preventive Action at the Council on Foreign Relations, January 2013

(Micah, “Reforming U.S. Drone Strike Policies,” CFR Special Report #65, i.cfr.org/content/publications/attachments/Drones\_CSR65.pdf‎)

History shows that how states adopt and use new military capabilities is often influenced by how other states have—or have not—used them in the past. Furthermore, norms can deter states from acquiring new technologies.72 Norms—sometimes but not always codified as legal regimes—have dissuaded states from deploying blinding lasers and landmines, as well as chemical, biological, and nuclear weapons. A well-articulated and internationally supported normative framework, bolstered by a strong U.S. example, can shape armed drone prolifera- tion and employment in the coming decades. Such norms would not hinder U.S. freedom of action; rather, they would internationalize already-necessary domestic policy reforms and, of course, they would be acceptable only insofar as the limitations placed reciprocally on U.S. drones furthered U.S. objectives. And even if hostile states do not accept norms regulating drone use, the existence of an international norma- tive framework, and U.S. compliance with that framework, would pre- serve Washington’s ability to apply diplomatic pressure. Models for developing such a framework would be based in existing international laws that emphasize the principles of necessity, proportionality, and distinction—to which the United States claims to adhere for its drone strikes—and should be informed by comparable efforts in the realms of cyber and space.

In short, a world characterized by the proliferation of armed drones—used with little transparency or constraint—would under- mine core U.S. interests, such as preventing armed conflict, promoting human rights, and strengthening international legal regimes. It would be a world in which targeted killings occur with impunity against anyone deemed an “enemy” by states or nonstate actors, without accountability for legal justification, civilian casualties, and proportionality. Perhaps more troubling, it would be a world where such lethal force no longer heeds the borders of sovereign states. Because of drones’ inherent advantages over other weapons platforms, states and nonstate actors would be much more likely to use lethal force against the United States and its allies.

Much like policies governing the use of nuclear weapons, offensive cyber capabilities, and space, developing rules and frameworks for innovative weapons systems, much less reaching a consensus within the U.S. government, is a long and arduous process. In its second term, the Obama administration has a narrow policy window of opportunity to pursue reforms of the targeted killings program. The Obama admin- istration can proactively shape U.S. and international use of armed drones in nonbattlefield settings through transparency, self-restraint, and engagement, or it can continue with its current policies and risk the consequences. To better secure the ability to conduct drone strikes, and potentially influence how others will use armed drones in the future, the United States should undertake the following specific policy recommendations.

Executive Branch

The president of the United States should

■■ limit targeted killings to individuals who U.S. officials claim are being targeted—the leadership of al-Qaeda and affiliated forces or individ- uals with a direct operational role in past or ongoing terrorist plots against the United States and its allies—and bring drone strike prac- tices in line with stated policies;

■■ either end the practice of signature strikes or provide a public account- ing of how it meets the principles of distinction and proportionality that the Obama administration claims;

■■ review its current policy whereby the executive authority for drone strikes is split between the CIA and JSOC, as each has vastly different legal authorities, degrees of permissible transparency, and oversight;

■■ provide information to the public, Congress, and UN special rappor- teurs—without disclosing classified information—on what proce- dures exist to prevent harm to civilians, including collateral damage mitigation, investigations into collateral damage, corrective actions based on those investigations, and amends for civilian losses; and

■■ never conduct nonbattlefield targeted killings without an account- able human being authorizing the strike (while retaining the poten- tial necessity of autonomous decisions to use lethal force in warfare in response to ground-based antiaircraft fire or aerial combat).

Solves backlash to the drone program

Washington Post, 3/24/’12

(“Additional review for drone killings,” Editorial Board)

DOMESTIC AND international strictures empower the president to use lethal force, including targeted drone strikes, to protect the country against attack. That is so whether the target is a foreign national or a U.S. citizen; and it is true whether the target is located on a traditional battlefield or ensconced in a foreign country that is unwilling or unable to assist in capture.

President Obama was on solid ground in relying on such authorities when he reportedly ordered a drone strike in Yemen last fall that took the life of Anwar al-Aulaqi. Mr. Aulaqi was a U.S. citizen, a radical cleric and, according to the administration, an operational leader of al-Qaeda in the Arab Peninsula. We supported dismissal of a lawsuit brought by Mr. Aulaqi’s father that sought to force the administration to disclose the criteria for placing someone on the “kill list” — a legal gambit that would have invited unprecedented judicial intervention into battlefield decisions in the absence of congressional or legal authorization.

But the legitimacy of such targeted strikes against U.S. citizens would be bolstered by additional review. That’s especially so when the government decides, not in a moment of urgency but with due deliberation, essentially to sentence an American to death. Most Americans may well feel there is something odd about insisting that America’s enemies have rights the instant they are detained, while targets of assassination have no protections at all.

## signal

Obama key to signal and sustainability

Singer, director – Center for 21st Century Security and Intelligence @ Brookings, and Wright, senior fellow – Brookings, 2/7/’13

(Peter W. and Thomas, "Obama, own your secret wars", www.nydailynews.com/opinion/obama-secret-wars-article-1.1265620)

It is time for a new approach. And all that is required of the President is to do the thing that he does perhaps best of all: to speak.

Obama has a unique opportunity — in fact, an urgent obligation — to create a new doctrine, unveiled in a major presidential speech, for the use and deployment of these new tools of war.

While the Republicans tried to paint the President as weak on security issues in the 2012 elections, history will record instead that his administration pushed into new frontiers of war, most especially in the new class of technologies that move the human role both geographically and chronologically further from the point of action on the battlefield.

The U.S. military’s unmanned systems, popularly known as “drones,” now number more than 8,000 in the air and 12,000 on the ground. And in a parallel development, the U.S. Cyber Command, which became operational in 2010, has added an array of new (and controversial) responsibilities — and is set to quintuple in size.

This is not just a military matter. American intelligence agencies are increasingly using these technologies as the tips of the spear in a series of so-called “shadow wars.” These include not only the more than 400 drone strikes that have taken place from Pakistan to Yemen, but also the deployment of the Stuxnet computer virus to sabotage Iranian nuclear development, the world’s first known use of a specially designed cyber weapon.

Throughout this period, the administration has tried to have it both ways — leaking out success stories of our growing use of these new technologies but not tying its hands with official statements and set policies.

This made great sense at first, when much of what was happening was ad hoc and being fleshed out as it went along.

But that position has become unsustainable. The less the U.S. government now says about our policies, the more that vacuum is becoming filled by others, in harmful ways.

By acting but barely explaining our actions, we’re creating precedents for other states to exploit. More than 75 countries now have military robotics programs, while another 20 have advanced cyber war capacities. Rest assured that nations like Iran, Russia and China will use these technologies in far more crude and indiscriminate ways — yet will do so while claiming to be merely following U.S. footsteps.

In turn, international organizations — the UN among them — are pushing ahead with special investigations into potential war crimes and proposing new treaties.

Our leaders, meanwhile, stay mum, which isolates the U.S. and drains its soft power.

The current policy also makes it harder to respond to growing concerns over civilian casualties. Indeed, Pew polling found 96% levels of opposition to U.S. drones in the key battleground state of Pakistan, a bellwether of the entire region. It is indisputable than many civilians have been harmed over the course of hundreds of strikes. And yet it is also indisputable that various groups have incentives to magnify such claims.

Yet so far, U.S. officials have painted themselves into a corner — either denying that any collateral losses have occurred, which no one believes, or reverting to the argument that we cannot confirm or deny our involvement, which no one believes, either.

Finally, the domestic support and legitimacy needed for the use of these weapons is in transition. Polling has found general public support for drone strikes, but only to a point, with growing numbers in the “not sure” category and growing worries around cases of targeting U.S. citizens abroad who are suspected of being terrorists.

The administration is so boxed in that, even when it recently won a court case to maintain the veil of semi-silence that surrounds the drone strike program, the judge described the current policy as having an “Alice in Wonderland” feel.

The White House seems to be finally starting to realize the problems caused by this disconnect of action but no explanation. After years of silence, occasional statements by senior aides are acknowledging the use of drones, while lesser-noticed working level documents have been created to formalize strike policies and even to explore what to do about the next, far more autonomous generation of weapons.

These efforts have been good starts, but they have been disjointed and partial. Most important, they are missing the much-needed stamp of the President’s voice and authority, which is essential to turn tentative first steps into established policy.

Much remains to be done — and said — out in the open.

This is why it’s time for Obama’s voice to ring loud and clear. Much as Presidents Harry Truman and Dwight Eisenhower were able keep secret aspects of the development of nuclear weapons, even as they articulated how and when we would use them, Obama should publicly lay out criteria by which the United States will develop, deploy and use these new weapons.

The President has a strong case to make — if only he would finally make it. After all, the new weapons have worked. They have offered new options for military action that are more accurate and proportionate and less risky than previously available methods.

But they have also posed many new complications. Explaining our position is about embracing both the good and the bad. It is about acknowledging the harms that come with war regardless of what technology is being used and making clear what structures of accountability are in place to respond.

It’s also about finally defining where America truly stands on some of the most controversial questions. These include the tactics of “signature” strikes, where the identity is not firmly identified, and “double tap” strikes, where rescuers aiding victims of a first attack are also brought under fire. These have been reported as occurring and yet seem to run counter to the principles under which the programs have been defended so far.

The role of the President is not to conduct some kind of retrospective of what we have done and why, but to lay out a course of the future. What are the key strategic goals and ethical guidelines that should drive the development and use of these new technologies? Is current U.S. and international law sufficient to cover them?

There are also crucial executive management questions, like where to draw the dividing line between military and civilian intelligence agency use of such technologies, and how to keep a growing range of covert actions from morphing into undeclared and undebated wars.

And, finally, the President must help resolve growing tensions between the executive branch and an increasingly restive Congress, including how to handle situations where we create the effect of war but no U.S. personnel are ever sent in harm’s way.

Given the sprawling complexity of these matters, only the President can deliver an official statement on where we stand. If only we somehow had a commander in chief who was simultaneously a law professor and Nobel Peace Prize winner!

The President’s voice on these issues won’t be a cure-all. But it will lay down a powerful marker, shaping not just the next four years but the actions of future administrations.

#### CP sends the most powerful signal (while avoiding Congressional confrontation)

Zbigniew Brzezinski, national security advisor under U.S. President Jimmy Carter, 12/3/12, Obama's Moment, www.foreignpolicy.com/articles/2012/12/03/obamas\_moment

In foreign affairs, the central challenge now facing President Barack Obama is how to regain some of the ground lost in recent years in shaping U.S. national security policy. Historically and politically, in America's system of separation of powers, it is the president who has the greatest leeway for decisive action in foreign affairs. He is viewed by the country as responsible for Americans' safety in an increasingly turbulent world. He is seen as the ultimate definer of the goals that the United States should pursue through its diplomacy, economic leverage, and, if need be, military compulsion. And the world at large sees him -- for better or for worse -- as the authentic voice of America.

To be sure, he is not a dictator. Congress has a voice. So does the public. And so do vested interests and foreign-policy lobbies. The congressional role in declaring war is especially important not when the United States is the victim of an attack, but when the United States is planning to wage war abroad. Because America is a democracy, public support for presidential foreign-policy decisions is essential. But no one in the government or outside it can match the president's authoritative voice when he speaks and then decisively acts for America.

This is true even in the face of determined opposition. Even when some lobbies succeed in gaining congressional support for their particular foreign clients in defiance of the president, for instance, many congressional signatories still quietly convey to the White House their readiness to support the president if he stands firm for "the national interest." And a president who is willing to do so publicly, while skillfully cultivating friends and allies on Capitol Hill, can then establish such intimidating credibility that it is politically unwise to confront him. This is exactly what Obama needs to do now.

## At: groupthink

#### The CP’s transparency makes the president accountable

Eric Posner, Professor of Law, The University of Chicago Law School, and Adrian Vermeule, Professor of Law, Harvard Law School, 2007, The Credible Executive, 74 U. Chi. L. Rev. 865

As we noted earlier, legal scholars rarely note the problem of executive credibility, preferring to dwell on the problem of aggrandizement by ill-motivated presidents. Ironically, this assumption that presidents seek to maximize power has obscured one of the greatest constraints on aggrandizement, namely, the president's own interest in maintaining his credibility. Neither a well-motivated nor an ill-motivated president can accomplish his goals if the public does not trust him. n34 This concern with reputation may **put a** far greater check **on the president's actions than** do the **reactions of the other branches of the government.**

#### Self-restraint solves the case without altering executive legal authority

Nathan Alexander Sales, Assistant Professor of Law, George Mason University School of Law, 8/29/2012, Self-Restraint and National Security, http://jnslp.com/2012/08/29/self-restraint-and-national-security/

As we’ve seen, certain officials within military and intelligence agencies – general counsels, legal advisors, and other watchdogs – are responsible for ensuring that national security operations comply with the relevant domestic and international legal requirements. These players intervene to rule out missions they believe would cross a legal line. But sometimes they go beyond that basic function – ensure compliance with the law, full stop – and reject operations that, while lawful, are thought to be undesirable on policy grounds. That is, they impose self-restraints that are stricter than the applicable laws. Why?

One way to answer that question is to consider the individual and institutional incentives that color the behavior of military and intelligence officials. Looking at the government’s national security apparatus through the lens of public choice theory (especially the idea that bureaucrats are rationally self interested actors who seek to maximize their utility152) and basic agency relationships (e.g., the relationships between senior policymakers and the subordinates who act on their behalf153) reveals a complex system in which power is distributed among a number of different nodes. The executive branch “is a ‘they,’ not an ‘it.’”154 The national security community in particular is subdivided into various semiautonomous entities, each of which promotes its own parochial interests within the system and, in so doing, checks the like ambitions of rival entities;155 the government thus is subject to what Neal Katyal has called the “internal separation of powers.”156 These basic insights into how military and intelligence agencies operate suggest several possible explanations for why self-restraint occurs. As elaborated in this Part, such constraints might result from systematic asymmetries in the expected value calculations of senior policymakers and their lawyers. In addition, as explained in Part IV, self-restraint might occur due to bureaucratic empire building by officials who review operations for compliance with domestic and international law.

A. A Simple Framework

One possible explanation for why the government stays its own hand is expected value asymmetry. This reluctance to push the envelope is a rational and predictable response to powerful bureaucratic incentives. Officials tend to be cautious because the costs they expect to incur as a result of forward-leaning and aggressive action usually are greater than the expected benefits. Similarly, government employment rules and other mechanisms make it easier to internalize onto individual bureaucrats the costs of a failed operation than the benefits of a successful one.157 National security players typically have more to lose from boldness than to gain, and that asymmetry inclines them to avoid risky behavior.158 While all members of the national security community experience some cost-benefit asymmetry, senior policymakers and their lawyers seem especially cautious. Attorneys who review proposed operations for legality therefore look askance at risky missions. They tend to veto proposals that, while legal, could inspire propaganda campaigns by adversaries, expose officials to ruinous investigations, or worse. The result is self-restraint – officials rule out operations that they regard as lawful because of fears they will prove too costly.

#### External checks unnecessary

Nathan Alexander Sales, Assistant Professor of Law, George Mason University School of Law, 8/29/2012, Self-Restraint and National Security, http://jnslp.com/2012/08/29/self-restraint-and-national-security/

Bureaucrats will have an incentive not to push the boundaries of their powers for another reason – **the risk that aggressive conduct will provoke Congress to restrict their** delegated **authorities** or otherwise subject them to stricter limits. One account of Congress’s decision to delegate legislative power to administrative agencies emphasizes expertise and information asymmetries. Bureaucrats, the theory goes, have more information than their legislator principals about the conditions that prevail in the regulated field and the outcomes that are likely to result from various policy choices. Knowing this, Congress establishes a “discretionary window” in which the agency is given authority to act. Stephenson, supra note 18, at 288. The scope of delegated power thus ordinarily will be broader than the scope of exercised power. But if bureaucrats push to the limit, they run the risk of alienating their legislator principals. **Bureaucrats therefore will tend to stay their own hands to dissuade Congress from narrowing the range of options available to them**. Posner & Vermeule, supra note 3, at 901; Stephenson, supra note 18, at 301.

## --- Solves Modeling

Solves drone modeling

Twomey, JD candidate – Trinity College Dublin, 3/14/’13

(Laura, “Setting a Global Precedent: President Obama's Codification of Drone Warfare,” Cambridge Journal of International and Comparative Law Blog)

It is clear that, as the first State to deploy remote targeting technology in a non international armed conflict, the legal framework forged by the US during President Obama's second term will set significant precedent for the future practice of the estimated 40 States developing their own drone technology.

On 7 March 2013, members of the European Parliament expressed deep concern about the “unwelcome precedent” the programme sets, citing its “destabilising effect on the international legal framework” that “destroys ... our common legal heritage.” This 'destabilising effect' arises from the classified and seemingly amorphous substantive legal basis for the programme and the apparent lack of procedural standards in place. It remains to be seen if the classified 'rulebook' will be released for public scrutiny, and allay these concerns.

Reliance on international law in world order is based on consent, consensus, good faith and, crucially in this instance, reciprocity. The US programme may harbour short term gains in the pursuit of al-Qaeda operatives, however, if the aforementioned substantive legal justifications continue to be invoked, it risks engendering long term disadvantages. Pursuing this policy encourages other States to adopt similar policies. Administration officials have cited particular concern about setting precedent for Russia, Iran and China, all of which are developing their own remote targeting technology.

It is therefore suggested that the Administration should take this opportunity to codify the rules, clarify terms where ambiguity may currently allow for broader interpretations, and to bring its regulations in line with the existing framework of international law. This legal framework should then be made available to the public, with covert operational necessities redacted. This could set a valuable legal precedent, of particular importance at this turning point wherein international law must adapt to the 21st century model of warfare, a model which lacks a clear enemy and a demarcated battlefield.

## AT: Object Fiat

#### Internal constraints are key neg ground – it matches the academic debate

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

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

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

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

## AT: Links to Politics

#### Only Congressional moves to reclaim war power authority triggers the war power and politics disad

William Howell, Sydney Stein professor in American politics at the University of Chicago, 9/3/13, All Syria Policy Is Local, www.foreignpolicy.com/articles/2013/09/03/all\_syria\_policy\_is\_local\_obama\_congress?page=full

From a political standpoint, seeking congressional approval for a limited military strike against the Syrian regime, as President Barack Obama on Saturday announced he would do, made lots of sense. And let's be clear, **this call has everything to do with political considerations**, and close to nothing to do with a newfound commitment to constitutional fidelity.

The first reason is eminently local. Obama has proved perfectly willing to exercise military force without an express authorization, as he did in Libya -just as he has expanded and drawn down military forces in Afghanistan, withdrawn from Iraq, significantly expanded the use of drone strikes, and waged a largely clandestine war on terrorism with little congressional involvement. The totality of Obama's record, which future presidents may selectively cite as precedent, hardly aligns with a plain reading of the war powers described in the first two articles of the constitution.

Obama isn't new in this regard. Not since World War II has Congress declared a formal war. And since at least the Korean War, which President Harry Truman conveniently called a "police action," commanders-in-chief have waged all sorts of wars -small and large -without Congress's prior approval.

Contemporary debates about Congress's constitutional obligations on matters involving war have lost a good deal of their luster. Constitutional law professors continue to rail against the gross imbalances of power that characterize our politics, and members of whichever party happens to be in opposition can be counted on to decry the abuses of war powers propagated by the president. **But these criticisms** -no matter their interpretative validity -**rarely gain serious political traction**. Too often they appear as arguments of convenience, duly cited in the lead-up to war, but serving primarily as footnotes rather than banner headlines in the larger case against military action.

**Obama's recent decision to seek congressional approval is not going to upend a half-century of practice that has shifted the grounds of military decision-making decisively in the president's favor**, any more than it is going to imbue the ample war powers outlined in Article I with newfound relevance and meaning. For that to happen, Congress itself must claim for itself its constitutional powers regarding war.

Obama did not seek Congress's approval because on that Friday stroll on the White House lawn he suddenly remembered his Con Law teaching notes from his University of Chicago days. He did so for political reasons. Or more exactly, he did so to force members of Congress to go on the record today in order to mute their criticisms tomorrow.

And let's be clear, **Congress** -for all its dysfunction and gridlock -**still has the capacity to kick up a good dust storm** over the human and financial costs of military operations. Constitutional musings from Capitol Hill -of the sort a handful of Democrats and Republicans engaged in this past week -rarely back the president into a political corner. The mere prospect of members of Congress casting a bright light on the human tolls of war, however, will catch any president's attention. Through hearings, public speeches, investigations, and floor debates, members of Congress can fix the media's attention -and with it, the public's -on the costs of war, which can have political repercussions both at home and abroad.

Think, then, about the stated reasons for some kind of military action in Syria. No one is under the illusion that a short, targeted strike is going to overturn the Assad regime and promptly restore some semblance of peace in the region. In the short term, the strike might actually exacerbate and prolong the conflict, making the eventual outcome even more uncertain. And even the best-planned, most-considered military action won't go exactly according to plan. Mishaps can occur, innocent lives may be lost, terrorists may be emboldened, and anti-American protests in the region will likely flare even hotter than they currently are.

The core argument for a military strike, however, centers on the importance of strengthening international norms and laws on chemical and biological weapons, with the hope of deterring their future deployment. The Assad regime must be punished for having used chemical weapons, the argument goes, lest the next autocrat in power considering a similar course of action think he can do so with impunity.

But herein lies the quandary. The most significant reasons for military action are abstract, largely hidden, and temporally distant. The potential downsides, though, are tangible, visible, and immediate. And in a domestic political world driven by visual imagery and the shortest of time horizons, it is reckless to pursue this sort of military action without some kind of political cover.

Were Obama to proceed without congressional authorization, he would invite House Republicans to make all sorts of hay about his misguided, reckless foreign policy. But by putting the issue before Congress, these same Republicans either must explain why the use of chemical weapons against one's people does not warrant some kind of military intervention; or they must concede that some form of exacting punishment is needed. Both options present many of the same risks for members of Congress as they do for the president. But crucially, if they come around to supporting some form of military action -and they just might -**members of Congress will have an awfully difficult time criticizing the president for the fallout**.

Will the decision on Saturday hamstring the president in the final few years of his term? **I doubt it.** Having gone to Congress on this crisis, must he do so on every future one? No. Consistency is hardly the hallmark of modern presidents in any policy domain, and certainly not military affairs. Sometimes presidents seek Congress's approval for military action, other times they request support for a military action that is already up and running, and occasionally they reject the need for any congressional consent at all. And for good or ill, it is virtually impossible to discern any clear principle that justifies their choices.

The particulars of every specific crisis -its urgency, perceived threat to national interests, connection to related foreign policy developments, and what not -can be expected to furnish the president with ample justification for pursuing whichever route he would like. Like jurists who find in the facts of a particular dispute all the reasons they need for ignoring inconvenient prior case law, presidents can characterize contemporary military challenges in ways that render past ones largely irrelevant. Partisans and political commentators will point out the inconsistencies, but their objections are likely to be drowned out in rush to war.

**Obama's decision does not usher in a new era of presidential power**, nor does it permanently remake the way we as a nation go to war. **It reflects a temporary political calculation** -and in my view, the right one -of a president in a particularly tough spot. Faced with a larger war he doesn't want, an immediate crisis with few good options, and yet a moral responsibility to act, he is justifiably expanding the circle of decision-makers. But don't count on it to remain open for especially long.

## Terror

## 2nc groupthink

No groupthink—multiple checks—their Chehab card is a law student—he also thinks there are tons of alt causes

Chehab, Georgetown Law Center, 2012

[Ahmad, 3-30-12, “Retrieving the Role of Accountability in the Targeted Killings Context: A Proposal for Judicial Review” http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2031572, p.30-3, accessed 9-15-13, TAP]

The practical, pragmatic justification for the COAACC derives largely from considering social psychological findings regarding the skewed potential associated with limiting unchecked decision-making in a group of individuals. As an initial point, psychologists have long pointed out how individuals frequently fall prey to cognitive illusions that produce systematic errors in judgment.137 People simply do not make decisions by choosing the optimal outcome from available alternatives, but instead employ shortcuts (i.e., heuristics) for convenience.138 Cognitive biases like groupthink can hamper effective policy deliberations and formulations.139 Groupthink largely arises when a group of decision-makers seek conformity and agreement, thereby avoiding alternative points of view that are critical of the consensus position.140 This theory suggests that some groups—particularly those characterized by a strong leader, considerable internal cohesion, internal loyalty, overconfidence, and a shared world view or value system—suffer from a deterioration in their capacity to engage in critical analysis.141 Many factors can affect such judgment, including a lack of crucial information, insufficient timing for decision-making, poor judgment, pure luck, and/or unexpected actions by adversaries.142 Moreover, decision-makers inevitably tend to become influenced by irrelevant information,143 seek out data and assessments that confirm their beliefs and personal hypotheses notwithstanding contradictory evidence,144 and “[i]rrationally avoid choices that represent extremes when a decision involves a trade-off between two incommensurable values.”145 Self-serving biases can also hamper judgment given as it has been shown to induce well-intentioned people to rationalize virtually any behavior, judgment or action after the fact.146 The confirmation and overconfidence bias, both conceptually related to groupthink, also result in large part from neglecting to consider contradictory evidence coupled with an irrational persistence in pursuing ideological positions divorced from concern of alternative viewpoints.147 Professor Cass Sunstein has described situations in which groupthink produced poor results precisely because consensus resulted from the failure to consider alternative sources of information.148 The failures of past presidents to consider alternative sources of information, critically question risk assessments, ensure neutral-free ideological sentiment among those deliberating,149 and/or generally ensure properly deliberated national security policy has produced prominent and devastating blunders,150 including the Iraq War of 2003,151 the Bay of Pigs debacle in the 1960’s,152 and the controversial decision to wage war against Vietnam.153 Professor Sunstein also has described the related phenomenon of “group polarization,” which includes the tendency to push group members toward a “more extreme position.”154 Given that both groupthink and group polarization can lead to erroneous and ideologically tainted policy positions, the notion of giving the President unchecked authority in determining who is eligible for assassination can only serve to increase the likelihood for committing significant errors.155 The reality is that psychological mistakes, organizational ineptitude, lack of structural coherence and other associated deficiencies are inevitable features in Executive Branch decision-making.

This administration doesn’t link

Pillar, 13 -- Brookings Foreign Policy Senior Fellow

[Paul, "The Danger of Groupthink," The National Interest, 2-26-13, webcache.googleusercontent.com/search?q=cache:6rnyjYlVKY0J:www.brookings.edu/research/opinions/2013/02/26-danger-groupthink-pillar+&cd=3&hl=en&ct=clnk&gl=us, accessed9-21-13, mss]

David Ignatius has an interesting take on national security decision-making in the Obama administration in the wake of the reshuffle of senior positions taking place during these early weeks of the president's second term. Ignatius perceives certain patterns that he believes reinforce each other in what could be a worrying way. One is that the new team does not have as much “independent power” as such first-term figures as Clinton, Gates, Panetta and Petraeus. Another is that the administration has “centralized national security policy to an unusual extent” in the White House. With a corps of Obama loyalists, the substantive thinking may, Ignatius fears, run too uniformly in the same direction. He concludes his column by stating that “by assembling a team where all the top players are going in the same direction, he [Obama] is perilously close to groupthink.” We are dealing here with tendencies to which the executive branch of the U.S. government is more vulnerable than many other advanced democracies, where leading political figures with a standing independent of the head of government are more likely to wind up in a cabinet. This is especially true of, but not limited to, coalition governments. Single-party governments in Britain have varied in the degree to which the prime minister exercises control, but generally room is made in the cabinet for those the British call “big beasts”: leading figures in different wings or tendencies in the governing party who are not beholden to the prime minister for the power and standing they have attained. Ignatius overstates his case in a couple of respects. Although he acknowledges that Obama is “better than most” in handling open debate, he could have gone farther and noted that there have been egregious examples in the past of administrations enforcing a national security orthodoxy, and that the Obama administration does not even come close to these examples. There was Lyndon Johnson in the time of the Vietnam War, when policy was made around the president's Tuesday lunch table and even someone with the stature of the indefatigable Robert McNamara was ejected when he strayed from orthodoxy. Then there was, as the most extreme case, the George W. Bush administration, in which there was no policy process and no internal debate at all in deciding to launch a war in Iraq and in which those who strayed from orthodoxy, ranging from Lawrence Lindsey to Eric Shinseki, were treated mercilessly. Obama's prolonged—to the point of inviting charges of dithering—internal debates on the Afghanistan War were the **polar opposite** of this. Ignatius also probably underestimates the contributions that will be made to internal debate by the two most important cabinet members in national security: the secretaries of state and defense. He says John Kerry “has the heft of a former presidential candidate, but he has been a loyal and discreet emissary for Obama and is likely to remain so.” The heft matters, and Kerry certainly qualifies as a big beast. Moreover, the discreet way in which a member of Congress would carry any of the administration's water, as Kerry sometimes did when still a senator, is not necessarily a good indication of the role he will assume in internal debates as secretary of state. As for Chuck Hagel, Ignatius states “he has been damaged by the confirmation process and will need White House cover.” But now that Hagel's nomination finally has been confirmed, what other “cover” will he need? It's not as if he ever will face another confirmation vote in the Senate. It was Hagel's very inclination to flout orthodoxy, to arrive at independent opinions and to voice those opinions freely that led to the fevered opposition to his nomination.

## Aqim

#### Drone strikes against AQIM are still hypothetical and unlikely – they’re obviously not key

Chesney, professor of law at UT, 10/1/2012

(Robert, “Using Force Against AQIM: The AUMF, the NDAA, and Inherent National Self-Defense Authority,” http://www.lawfareblog.com/2012/10/aqim-aumf-ndaa-inherent-presidential-power/)

This article in the Wall Street Journal, by Julian Barnes and Siobhan Gorman, draws attention to US government plans to ramp up counterterrorism efforts in Libya, including in particular efforts targeting al Qaeda in the Islamic Maghreb (“AQIM”), in the aftermath of the attacks on the US consulate and safe house in Benghazi. According to Barnes and Gorman, this effort for the moment appears focused on working with regional governments rather than entailing direct action by US assets:

The U.S. is preparing for a stepped-up counterterrorism campaign against al Qaeda’s affiliate in North Africa in response to the Sept. 11 attack on the American consulate in Libya, said current and former officials. … The government is considering additional deployments of Predator or Reaper drones to supplement those already in the region. While the pilotless aircraft carry missiles, current talks under way revolve around their utility as surveillance tools. …The thrust of the efforts would be to help governments in North Africa suppress al Qaeda in the Islamic Maghreb, known as AQIM, and other militant groups, officials said.

That said, a more direct US response remains a possibility:

The administration hasn’t ruled out a direct U.S. response, officials said.

So let’s hypothesize a drone strike on an AQIM target. What might be the domestic law justification for such an attack? It will be tempting to simply point to the AUMF (as supported by the NDAA, though note that the NDAA focuses on detention not targeting). This argument could work, but for reasons I explore in detail in my “Beyond the Battlefield, Beyond al Qaeda” paper the question is in fact a complicated and difficult one thanks to persistent–indeed, growing–uncertainty regarding the precise organizational scope of the AUMF (among other things). Indeed, the WSJ article does a nice job of highlighting the stew of organizational affiliations that may be in play in connection with the Benghazi attacks, noting the possibility that those presenet included members of local militias, AQIM, and even–quite disturbingly–someone associated with al Qaeda in Iraq (AQI).

But nevermind all that. Couldn’t a strike on AQIM just as well be predicated on the authority of the President to use force in self-defense in the aftermath of an actual attack? The situation is rather similar the situation following the 1998 East Africa embassy bombings carried out by al Qaeda, when the Clinton Administration launched a barrage of cruise missiles on al Qaeda targerts in both Afghanistan and the Sudan on a stand-alone Article II self-defense theory (there having been no AUMF at the time). The Benghazi attacks were much smaller in scale of course, and this may have implications for the proper scale of any resultant use of force in the name of self-defense. Still, the comparison suggests there may be no need to bend over backwards to bring the AUMF to bear on the situation. Unless, of course, we were to capture and detain, rather than kill, an AQIM target. All that said, I don’t actually expect to see direct action of either kind conducted by the United States, at least not overtly. I think it’s far more likely that we will work through and with North African governments to the maximum extent possible, supplementing their efforts with training, intelligence, and other aid.

[end article]

#### At worst France drones solve

Agence France Presse 7/15/2013

(http://www.huffingtonpost.com/2013/07/15/france-reaper-drone-us\_n\_3600549.html)

Plans to sell US Reaper drones to France advanced Monday as Congress raised no objections to the contract, Pentagon officials said.

The Defense Security Cooperation Agency, which oversees foreign military sales, had notified Congress on June 27 of the proposed contract, and lawmakers voiced no opposition during a 15-day review period.

"Congress did not propose any joint resolution of disapproval. The case can proceed to be offered," Lorna Jons of the DSCA told AFP.

French Defense Minister Jean-Yves Le Drian had announced on June 11 plans to buy 12 Reaper aircraft from the United States, a purchase worth about $874 million, or 670 million Euros.

An initial two drones, currently in production by San Diego-based manufacturer General Atomics Aeronautical Systems, are due to be delivered to France by the end of the year.

The robotic aircraft will repace Harfang drones, which are technologically less advanced.

The NATO-led air war in Libya in 2011 and the French military intervention in Mali this year have underscored France's shortage of surveillance drones, which have transformed warfare in the past decade since being introduced on a large-scale in the US wars in Iraq and Afghanistan.

In its notification to Congress, the DSCA said the project would provide France with up to 16 MQ-9 Reapers, as well as "associated equipment, parts, training and logistical support" at a cost of $1.5 billion.

## 2nc no WMD

Specifically for AQIM

**Coll**, president – The New America Foundation, **3/4**/’13

(Steve, http://www.newyorker.com/talk/comment/2013/03/04/130304taco\_talk\_coll)

But there are derivative groups whose lines of work are hard to differentiate from those of Somali pirate gangs or the Sicilian Mafia. AQIM, for example, is a shabby network that includes kidnappers and drug racketeers, whose main income in recent years has come from ransom payments and the smuggling of Colombian cocaine and Moroccan hashish through the Sahara. AQIM and its splinters enforced a brutal Islamist ideology when they captured territory in Mali last year, and a breakaway unit attacked a remote gas field in eastern Algeria in January. These groups, however, lack a demonstrated capacity to strike in Europe or across the Atlantic. Lumping them in with more potent jihadist groups, on scant evidence of their connections, is a prescription for ascribing indefinite and elastic war powers to the White House.

They’re bad at terrorism

Celso 12 (Anthony, PhD and Professor of Security Studies at Angelo State University, “Al Qaeda Affiliates Operating in Failed States: The Next Front in the War on Terror,” 2012 European Intelligence and Security Informatics Conference, <http://www.csis.pace.edu/~ctappert/dps/EISIC2012/data/4782a263.pdf>)

Despite Al Qaeda central’s support and the financial rents from kidnapping and smuggling operations, AQIM has failed to seriously complicate Algerian security. Confined to remote areas of the Northeastern Mountains and the Sahel, the group is highly fractured and its criminal operations (tobacco, arms, and drugs) have degraded its jihadist credentials.39 The contrast between AQIM’s aspirations and its capability is striking. Numerous threats of war against colonial France have resulted in only kidnapping and killing of hostages. AQIM’s calls for the re-conquest of Al Andaluz have failed to culminate in attacks on the Spanish mainland or assaults against its Spanish colonial enclaves of Ceuta and Melilla.

## Oil shocks

#### Even big shocks don’t damage the economy

David **Blair 11**, Centre for Global Energy Studies, “Oil rise has not hit recovery, says Iraq”, April, <http://www.cges.co.uk/media/articles/2011/04/07/oil-rise-has-not-hit-recovery-says-iraq>

The latest rise in oil prices has not damaged the global economic recovery or restrained consumer demand, according to Iraq’s deputy prime minister. Hussain al-Shahristani, who oversees his country’s energy policy, gave a sanguine appraisal of the oil market while addressing a conference in Paris on Wednesday. Along with Mohammed al-Hamli, the oil minister of the United Arab Emirates, he indicated that members of Opec, the oil cartel, saw no need to respond to the latest price rise by increasing their own output. The cost of a barrel of Brent crude climbed above $123 on Wednesday, marking a rise of 4.52 per cent for the most important benchmark since the beginning of March. But Mr Shahristani said: “So far, we have not seen any serious impact on world growth. China is growing strongly, the demand is there, even at these price levels.” His view contrasts with the International Energy Agency’s assessment that oil prices above $95 place the world economy in a “danger zone”. Iraqi output averaged 2.75m barrels per day in February, according to the Centre for Global Energy Studies, making the country the third-biggest producer in Opec. Members of the club with spare capacity, particularly Saudi Arabia, raised production in response to the loss of output from Libya. But Mr Hamli argued that Opec members lacked the ability to influence prices. “There is little we can do in terms of price control, which is set by international markets. However, by keeping the market well supplied, we are making an important contribution towards world economic recovery,” he said. “The oil and gas market needs to focus on the fundamental fact that oil and gas supplies are plentiful, rather than on unfounded fears of future shortages.” Mr Hamli declined to specify an ideal oil price. Ali Naimi, the Saudi oil minister and de facto leader of Opec, has said he favours $70 – $80 per barrel, a range he once lifted to $90. But Mr Hamli implicitly criticised ministers who talked in these terms. “Oil ministers in the past, from time to time, they keep changing the threshold for the best price of oil, sometimes they say $75 is the best price, sometimes $80.”

## Norms

## 2nc at china impact

Their impact is alarmism—US lead is locked in and other modernization makes their impact inevitable

Moss, writer – The Diplomat, former editor for the Asia-Pacific – Jane’s Defence Weekly, 3/2/’13

(Trefor, “Here Come…China’s Drones,” http://thediplomat.com/2013/03/02/here-comes-chinas-drones/?all=true)

Unmanned systems have become the legal and ethical problem child of the global defense industry and the governments they supply, rewriting the rules of military engagement in ways that many find disturbing. And this sense of unease about where we’re headed is hardly unfamiliar. Much like the emergence of drone technology, the rise of China and its reshaping of the geopolitical landscape has stirred up a sometimes understandable, sometimes irrational, fear of the unknown. It’s safe to say, then, that Chinese drones conjure up a particularly intense sense of alarm that the media has begun to embrace as a license to panic. China is indeed developing a range of unmanned aerial vehicles/systems (UAVs/UASs) at a time when relations with Japan are tense, and when those with the U.S. are delicate. But that **hardly justifies claims** that “drones have taken center stage in an escalating arms race between China and Japan,” or that the “China drone threat highlights [a] new global arms race,” as some observers would have it. This hyperbole was perhaps fed by a 2012 U.S. Department of Defense report which described China’s development of UAVs as "alarming." That’s quite unreasonable. All of the world’s advanced militaries are adopting drones, not just the PLA. That isn’t an arms race, or a reason to fear China, it’s just the direction in which defense technology is naturally progressing. Secondly, while China may be demonstrating impressive advances, Israel and the U.S. retain a substantial lead in the UAV field, with China—alongside Europe, India and Russia— still in the second tier. And thirdly, China is modernizing in all areas of military technology – unmanned systems being no exception.

Pivot makes it inevitable but no impact

Zhouin 12 (Dillon, graduate of the International Relations Program at the University of Massachusetts Boston, PolicyMic, “China Drones Prompt Fears of a Drone Race With the US”, <http://www.policymic.com/articles/19753/china-drones-prompt-fears-of-a-drone-race-with-the-us>, ZBurdette)

During China’s twice-a-year show, visitors got to see an impressive and, to some, alarming fleet of drones developed by Chinese companies, including many models resembling U.S. drones with their body shape, flight specs, and their missile and surveillance capabilities. It’s evident that China intends to take full advantage of using unmanned aerial vehicles (UAVs) to achieve its national interests – including their territorial disputes over the Senkaku Islands and South China Sea. The U.S. and the World should, therefore, be concerned with this development given that this may lead to a drone race between the top two producers of drones – the U.S. and China. In a world whose militaries and governments are buzzing about the potential of the drones, it is no surprise that China is working to bring their drone program up to speed to compete with America just as President Obama is executing his "Asia Pivot" through strengthening U.S. military, political and economic presence in Asia. China is rising – as evident in its growing economic and military power – but the U.S. should not treat the Chinese drone program as a cause for panic. If the U.S. works towards countermeasures against drones from rival states – like China – the risk posed by the development of competing drone programs can be minimized allowing the U.S. to implement its "Asia Pivot" with one less impediment. The Rise of the Drones Drones are the strategic tools of the future, especially when it comes to the political contests between the major players in global affairs. The Department of Defense’s Defense Science Board (DSB) released a report on the future of drones as a potent tool of great powers like the U.S. and China. The report notes that drones are fast becoming a “tipping point” in global affairs because: “Armed forces in the United States and around the world have actively embraced unmanned systems. The advantages of these systems in terms of persistence, endurance and generally lower costs and deployment footprint have been highlighted in recent conflicts ... Unmanned systems have become an established part of military operations and will play an increasing role in the modern military machine.” The value of the drone lies in its capacity to radically expand a military’s ability to gather intelligence and expand its ability to project its power beyond limits faced by frontline personnel. It can also carry out the unpleasant business of neutralizing enemies, including Anwar al-Awlaki and Abu Yahya al-Libi, Al Qaeda’s last number two leaders, with some civilian casualties. However, the drone is not as precise or accurate as described by the defense industry – as shown by a joint study published by Stanford Law School and NYU School of Law, which detailed the considerable toll taken on civilians in Pakistan – and causes unintended consequences in its search and kill operations in multiple areas of U.S. intelligence operations. The U.S. remains the leading market for drones, but other powers like China, Russia, Europe and the Middle East are also working to develop their own drone capabilities. Unlike the other powers, China is the most prolific developer of a rival drone program to America's program. The DSB report said “[i]n a worrisome trend, China has ramped up research in recent years faster than any other country.” China’s New “Dragons” in the Sky Like the U.S., China has given its new fleet of UAVs unique code names – which often include the character for “dragon” or "long" – and designed them with comparable capabilities as their U.S. counterparts. Many of its newer models – including the CH-4, the Wing Loong and Xianglong – appears to be copies of the U.S. Reaper, Predator and Global Hawk designs. The drone program has had a profound effect on China’s defense industry. The DSB report notes that “[China] displayed its first unmanned system model at the Zhuhai air show five years ago, and now every major manufacturer for the Chinese military has a research center devoted to unmanned systems.” One unique aspect of the Chinese drone program is that the cost of the drones are significantly cheaper than those made by the U.S. and Israel. For example, according to Wired, "[t]he Wing Loong [the Chinese equivalent of the U.S. Reaper] reportedly comes at a rather incredible bargain price of $1 million (£625,000), compared to the Reaper's varying price tags in the $30 million (£18.7 million) range." For China, their nascent drone program provides a valuable tool for projecting its power in Asia, especially in a time when it’s engaged in territorial disputes with its neighbors. More importantly, China feels a need to meet the threat in perceives in President Obama’s so-called “Asia Pivot.” The drones could act as the ideal surveillance tool in tracking U.S. and its Asian allies' military movements in the event of a crisis or international spat and act as a proxy weapon to deter assertive behavior over the South China Sea and Senkaku Islands. At the same time, the cheaper Chinese drones are a hot export product line for the Chinese defense industry. Many African and Asian states have placed orders for the economic Chinese drones. "We've been contacting many countries, especially from Africa and Asia," Guo Qian, a director at a division of the state-owned China Aerospace Science and Technology Corporation. The geostrategic impact of the advent of these new "dragons" is to stoke fears of a drone race between the U.S. and China, which have already manifested at the Pentagon. Worried About the Dragons’ Reach The U.S. is deeply concerned with the speed of the Chinese drone program and the growing resources being devoted to the program. The main concern, according to the DSB report, is as follows: “The military significance of China’s move into unmanned systems is alarming. [China] has a great deal of technology, seemingly unlimited resources and clearly is leveraging all available information on Western unmanned systems development. China might easily match or outpace U.S. spending on unmanned systems, rapidly close the technology gaps and become a formidable global competitor in unmanned systems.” Basically, the U.S. is afraid that it won't be able to keep up with a China that has invested itself in a intensive government-sponsored effort to compete with the U.S. drone program in terms of technical quality, quantity, and as a export product to clients in the developing world. On a strategic level, the Chinese drones could be the "tipping point" for giving the Chinese the edge in possible future disputes in Asia with the U.S. as it attempts to create regional security as part of its "Asia Pivot." There are several facts that provide some solace to the U.S. as China's drones are far from being a real challenge to the American drone program. First, the Chinese drones are nowhere as sophisticated as U.S. drones in their range and proper hardware for optic systems and motors to power the "dragons." The DSB report notes that the U.S. technical systems are almost unrivaled at present. Second, China lacks the manpower to properly support their new fleet of drones. Whereas the U.S. has been training and honing a large force of UAV pilots, technicians and operation managers for 15 years. Finally, the U.S. drone program is about 20 years ahead of the Chinese program. The current models on show are considered to be prototypes and not finished products. The Chinese also have not had a chance to gain real experience with their drones during real operation. The U.S. shouldn't be alarmed given these facts. Nor should it be overly critical of the Chinese drone program. Scott Shane of The New York Times observes that the U.S. has set the "international norms" for using drones: "If China, for instance, sends killer drones into Kazakhstan to hunt minority Uighur Muslims it accuses of plotting terrorism, what will the United States say? What if India uses remotely controlled craft to hit terrorism suspects in Kashmir, or Russia sends drones after militants in the Caucasus? American officials who protest will likely find their own example thrown back at them." The U.S. needs to take countermeasures against future risks from Chinese drones, but it needs not be overly alarmed or antsy. Clearly, President Obama and the U.S. has a need to work hard to keep the U.S. ahead of the competition from the "dragons" in order to implement the "Asia Pivot" and pursue U.S. interest in a balance of power in the region.

## Asia

#### No risk of Asia war – Peaceful China and multilateral institutions

Bitzinger and Desker, 9

[Richard, Senior Fellow at the S. Rajaratnam School of International Studies, Barry, Dean of the S. Rajaratnam School of International Studies and Director of the Institute of Defense and Strategic Studies, Nanyang Technological University, Singapore, “ Why East Asian War is Unlikely,” Survival | vol. 50 no. 6 | December 2008–January 2009

The Asia-Pacific region can be regarded as a zone of both relative insecurity and strategic stability. It contains some of the world’s most significant flashpoints – the Korean peninsula, the Taiwan Strait, the Siachen Glacier – where tensions between nations could escalate to the point of major war. It is replete with unresolved border issues; is a breeding ground for transnational terrorism and the site of many terrorist activities (the Bali bombings, the Manila superferry bombing); and contains overlapping claims for maritime territories (the Spratly Islands, the Senkaku/Diaoyu Islands) with considerable actual or potential wealth in resources such as oil, gas and fisheries. Finally, the Asia-Pacific is an area of strategic significance with many key sea lines of communication and important chokepoints. Yet despite all these potential crucibles of conflict, the Asia-Pacific, if not an area of serenity and calm, is certainly more stable than one might expect. To be sure, there are separatist movements and internal struggles, particularly with insurgencies, as in Thailand, the Philippines and Tibet. Since the resolution of the East Timor crisis, however, the region has been relatively free of open armed warfare. Separatism remains a challenge, but the break-up of states is unlikely. Terrorism is a nuisance, but its impact is contained. The North Korean nuclear issue, while not fully resolved, is at least moving toward a conclusion with the likely denuclearisation of the peninsula. Tensions between China and Taiwan, while always just beneath the surface, seem unlikely to erupt in open conflict any time soon, especially given recent Kuomintang Party victories in Taiwan and efforts by Taiwan and China to re-open informal channels of consultation as well as institutional relationships between organisations responsible for cross-strait relations. And while in Asia there is no strong supranational political entity like the European Union, there are many multilateral organisations and international initiatives dedicated to enhancing peace and stability, including the Asia-Pacific Economic Cooperation (APEC) forum, the Proliferation Security Initiative and the Shanghai Co-operation Organisation. In Southeast Asia, countries are united in a common geopolitical and economic organisation – the Association of Southeast Asian Nations (ASEAN) – which is dedicated to peaceful economic, social and cultural development, and to the promotion of regional peace and stability. ASEAN has played a key role in conceiving and establishing broader regional institutions such as the East Asian Summit, ASEAN+3 (China, Japan and South Korea) and the ASEAN Regional Forum. All this suggests that war in Asia – while not inconceivable – is unlikely. This is not to say that the region will not undergo significant changes. The rise of China constitutes perhaps the most significant challenge to regional security and stability – and, from Washington’s vantage point, to American hegemony in the Asia-Pacific. The United States increasingly sees China as its key peer challenger in Asia: China was singled out in the 2006 Quadrennial Defense Review as having, among the ‘major and emerging powers … the greatest potential to compete militarily with the United States’.1 Although the United States has been the hegemon in the Asia-Pacific since the end of the Second World War, it will probably not remain so over the next 25 years. A rising China will present a critical foreign-policy challenge, in some ways more difficult than that posed by the Soviet Union during the Cold War.2 While the Soviet Union was a political and strategic competitor, China will be a formidable political, strategic and economic competitor. This development will lead to profound changes in the strategic environment of the Asia-Pacific. Still, the rise of China does not automatically mean that conflict is more likely; the emergence of a more assertive China does not mean a more aggressive China. While Beijing is increasingly prone to push its own agenda, defend its interests, engage in more nationalistic – even chauvinistic – behaviour (witness the Olympic torch counter-protests), and seek to displace the United States as the regional hegemon, this does not necessarily translate into an expansionist or warlike China. If anything, Beijing appears content to press its claims peacefully (if forcefully) through existing avenues and institutions of international relations, particularly by co-opting these to meet its own purposes. This ‘soft power’ process can be described as an emerging ‘Beijing Consensus’ in regional international affairs. Moreover, when the Chinese military build-up is examined closely, it is clear that the country’s war machine, while certainly worth taking seriously, is not quite as threatening as some might argue.

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#### Passage likely—Obama pushing, Boehner has space and a path for viable legislation, momentum favors reform

Alec Macgillis, TNR, 10/24/13, <http://www.newrepublic.com/article/115341/immigration-reform-may-actually-pass>

But the natural optimist in me thinks that the odds for some sort of serious immigration reform happening in the months ahead are better than many realize. A few reasons why, in no particular order:

Boehner has space. To the extent that there was any logic to the Speaker’s letting the government shutdown and debt-ceiling brinkmanship drag out as long as he did, it was that he had strengthened his position with his caucus’s hard-right flank and thereby created some room to maneuver on other fronts. “Boehner’s hold is a little stronger than it was” a few months ago, his near-predecessor as speaker, the lobbyist supreme Bob Livingston, told me when I ran into him at a function Wednesday night.

Well, there is no better opportunity for Boehner to show that this is the case – to retroactively justify a gambit that cost the country billions of dollars – than to press forward with immigration reform. To do that will require more than just casual comments like the one he tossed off Wednesday – it will require making clear that the leadership is serious about this and setting aside time on the calendar for it.

But wouldn’t pushing the issue forward mean once again breaking the not-so-hallowed Hastert Rule, which requires leadership to bring up for a vote only measures supported a majority of the caucus? Well, yes and no. There is increasing talk of taking a piecemeal route in the House – with, among others, one Dream Act-style measure to legalize those who came into the country as minors, one to stiffen border enforcement, one to expand visas for skilled foreign workers, and, yes, one to provide some sort of eventual path to citizenship for illegal immigrants beyond the Dreamers. The latter would not get a majority of House GOP support, but perhaps if brought through in a stream of other measures would not set off the Hastert Rule alarms as loudly. There would remain the question of how to reconcile whatever passed with the comprehensive reform bill already passed by the Senate – House conservatives say they are wary of a conference committee. But **the fact remains that there is a** conceivable **path forward** – if Boehner wants to pursue it. “He’s in a much stronger place for himself job-security-wise all around,” says one House Democratic aide.

It’s in the Republicans’ interest. Why would the cautious, conflict-averse Boehner want to put himself through the hassle, even if he does have a path forward? Because, of course, he and so many other leaders of his party and the conservative movement – Paul Ryan, Karl Rove, Grover Norquist – grasp that the party cannot continue be seen as obstructing immigration reform by the country’s growing legions of Hispanic and Asian-American voters. Yes, many of the same leaders were warning the hard-liners in the House and Senate off of the defund-Obamacare government-shutdown path to no avail, but those warnings were highly ambivalent, a matter of tactical disagreement after years in which the leaders had been banging the same anti-Obamacare drum. Whereas in this case the leaders are truly in favor of immigration reform, even if just for reasons of self-preservation.

It’s not Obamacare. This is the other reason why Boehner might be able to push forward on this front: as incendiary an issue as immigration reform has been for many Republican voters in recent years, it’s actually less threatening than the two-headed beast of Obamacare and government spending. For one thing, it predates Obama as an issue – it was fellow Republicans George W. Bush and John McCain who were most identified with the 2007 push. For another, some of the most ardent anti-Obamacare soldiers are in favor of immigration reform to varying degrees, from Idaho Rep. Raul Labrador to border congressmen like New Mexico's Steve Pearce to the evangelical groups that have come out for reform. “In the grand scheme of Republican issues, it just doesn’t match up to Obamacare – that’s health care and Obama. That’s partly because they haven’t yet made it about Obama,” said the House Democratic aide.

Follow the money. Put simply: the pro-reform side has lots of it, the opponents not so much. Again, this is a crucial contrast with the battles over Obamacare, where the Club for Growth, Koch Brothers and the like are spending heavily to thwart the reformers, even to the point of punishing Republican state legislators who dare to contemplate embracing federal funds for Medicaid expansion. In the immigration realm, the big bucks are coming from these guys.

The pro-reform side isn’t giving up. This is the element too often discounted in drawn-out legislative battles: the energy and resolve of the footsoldiers. And it has not abated as much on the pro-reform side as much as the pessimistic Beltway take on the issue would have one think. There are millions of people in this country with a huge stake in this fight, and plenty others who have taken up arms in their support, and not just in the usual places: I was amazed to see several dozen people agitating for reform at the annual Fancy Farm political picnic in far western Kentucky, in August. Advocates have gotten further than ever before – they’ve gotten a bipartisan vote in their favor in the Senate, and they’ve gotten key agreements between the AFL-CIO and Chamber of Commerce and growers and farmworkers in California, among others. They’re not about to give up now. “This is the absolute best opportunity we have to pass reform,” says Angelica Salas, executive director of the Coalition for Humane Immigrant Rights of Los Angeles. “If we were going to leave it to the national pundits, this issue would have died a long time ago, but the reality is that it’s in the hands of the immigration rights movement and people are not going to end the fight until there’s a fix to this cruel situation that we’re living in.”

Obama wants to make it happen. One might think this would be the biggest obstacle for reform, in that Republicans would be unwilling to grant the president a legislative triumph. In fact, Democrats are having to contend with the reverse, a suspicion among many House Republicans that Obama and the Democrats secretly want reform to fail, so that they can keep bludgeoning Republicans with the issue among Hispanic voters. **This is hogwash**, as far as Obama is concerned: he desperately wants a major achievement in his second term, not least given the troubles that have arisen in implementing his main first-term one. As for the Republicans’ suspicion, there’s an easy way to keep Democrats from using immigration as a wedge issue: voting for a reform package. “It’s a self-fulfilling prophecy,” says the Democratic House aide.

#### Obama pushing capital on immigration—it works

Reid Epstein, Politico, 10/17/13, Obama’s latest push features a familiar strategy, dyn.politico.com/printstory.cfm?uuid=00B694F1-5D59-4D13-B6D1-FC437A465923

President Barack Obama made his plans for his newly won political capital official — he’s going to hammer House Republicans on immigration.

And it’s evident from his public and private statements that Obama’s latest immigration push is, in at least one respect, similar to his fiscal showdown strategy: yet again, the goal is to boost public pressure on House Republican leadership to call a vote on a Senate-passed measure.

“The majority of Americans think this is the right thing to do,” Obama said Thursday at the White House. “And it’s sitting there waiting for the House to pass it. Now, if the House has ideas on how to improve the Senate bill, let’s hear them. Let’s start the negotiations. But let’s not leave this problem to keep festering for another year, or two years, or three years. This can and should get done by the end of this year.”

And yet Obama spent the bulk of his 20-minute address taking whack after whack at the same House Republicans he’ll need to pass that agenda, culminating in a jab at the GOP over the results of the 2012 election — and a dare to do better next time.

“You don’t like a particular policy or a particular president? Then argue for your position,” Obama said. “Go out there and win an election. Push to change it. But don’t break it. Don’t break what our predecessors spent over two centuries building. That’s not being faithful to what this country’s about.”

Before the shutdown, the White House had planned a major immigration push for the first week in October. But with the shutdown and looming debt default dominating the discussion during the last month, immigration reform received little attention on the Hill.

Immigration reform allies, including Obama’s political arm, Organizing for Action, conducted a series of events for the weekend of Oct. 5, most of which received little attention in Washington due to the the shutdown drama. But activists remained engaged, with Dream Act supporters staging a march up Constitution Avenue, past the Capitol to the Supreme Court Tuesday, to little notice of the Congress inside.

Obama first personally signaled his intention to re-emerge in the immigration debate during an interview Tuesday with the Los Angeles Univision affiliate, conducted four hours before his meeting that day with House Democrats.

Speaking of the week’s fiscal landmines, Obama said: “Once that’s done, you know, the day after, I’m going to be pushing to say, call a vote on immigration reform.”

When he met that afternoon in the Oval Office with the House Democratic leadership, Obama said that he planned to be **personally engaged in selling the reform package** he first introduced in a Las Vegas speech in January.

Still, during that meeting, Obama knew so little about immigration reform’s status in the House that he had to ask Rep. Xavier Becerra (D-Calif.) how many members of his own party would back a comprehensive reform bill, according to a senior Democrat who attended.

The White House doesn’t have plans yet for Obama to participate in any new immigration reform events or rallies — that sort of advance work has been hamstrung by the 16-day government shutdown.

But the president emerged on Thursday to tout a “broad coalition across America” that supports immigration reform. He also invited House Republicans to add their input specifically to the Senate bill — an approach diametrically different than the House GOP’s announced strategy of breaking the reform into several smaller bills.

White House press secretary Jay Carney echoed Obama’s remarks Thursday, again using for the same language on immigration the White House used to press Republicans on the budget during the shutdown standoff: the claim that there are enough votes in the House to pass the Senate’s bill now, if only it could come to a vote.

“When it comes to immigration reform … we’re confident that if that bill that passed the Senate were put on the floor of the House today, it would win a majority of the House,” Carney said. “And I think that it would win significant Republican votes.”

#### Momentum—the shutdown dampened dynamics blocking passaged

Mark Liasson, and Frank Sherry, NPR, 10/23/13, Obama Wants To Pivot To Immigration Reform, But Can It Work?, www.npr.org/templates/story/story.php?storyId=240291587

LIASSON: And unlike the healthcare law, the president's number one achievement in his first term, an immigration overhaul is actually popular with strong majorities across both parties. A comprehensive bill passed the Senate by a big bipartisan margin, but in the House there's been little movement. On Monday, at a Christian Science Monitor breakfast, Chamber of Commerce head Tom Donahue said the business community will push the House to take up the issue.

TOM DONAHUE: The Chamber is keeping up the push for reform. It's an opportunity to show the world we can get a big thing done that we can all benefit from.

LIASSON: After the political damage the Republicans suffered from the shutdown, immigration reform advocates like Frank Sharry says it's in Republicans interests to work with the Senate on immigration.

FRANK SHARRY: I think the pro-shutdown politics makes immigration reform more likely. There's a real demand within the Republican caucus from some that they can do more than shut down the government and threaten the world economy, and so those voices are saying, what can we do in a bipartisan basis that shows we can do big things?

And immigration reform is the issue that's waiting to be grabbed by them.

## at: kuhnamm and cassata

Says it’s possible the paragraph after

Kuhnhenn & Cassata, AP, 10-25-13

[Jim & Donna, The Associated Press, “Obama calls for immigration law by end of the year”, Lexis, AFB]

The Senate measure has stalled in the House, where most Republicans reject a comprehensive approach and many question offering citizenship to people who broke U.S. immigration laws to be in this country.

Mary washington’s card ends

Still, White House officials say they believe that the partial government shutdown, rather than poisoning the political atmosphere, may have created an opportunity for collaboration with Republicans seeking to repair their image, which polls show took a hit during the prolonged fight over financing the government and extending the nation's borrowing limit.

Moreover, Obama made a point of underscoring support for an immigration bill from the members of the business community, traditional Republican allies who criticized GOP tactics that led to the partial shutdown and to brinkmanship over a potentially economy-jarring default on U.S. debt.

The White House took notice when Speaker John Boehner, R-Ohio, indicated on Wednesday that he was hopeful that immigration legislation could be done before year's end.

## at: link turn

Roberts says authority restrictions short-circuits Obama coop

Roberts, The Guardian, 5-24-13

[Dan, “Obama drone oversight proposal prompts concern over 'kill courts'” http://www.theguardian.com/world/2013/may/24/obama-drone-vetting-kill-courts, accessed 9-18-13, TAP]

The president has asked Congress to consider establishing a special court or oversight board to authorise lethal action outside warzones under a new counter-terrorism doctrine which he says will end the "boundless war on terror".¶ But responses to his speech from leading campaign groups, though broadly welcoming, highlight how little change Obama is proposing to the underlying principle that the US has a legal right to kill suspected terrorists abroad without trial.¶ In his speech on Thursday, Obama suggested that in the future drone attacks would be limited, and that they would be carried out primarily by the US military rather than the CIA.¶ Obama said that US military intervention abroad did not guarantee the safety of Americans at home, and often fomented extremism. "A perpetual war – through drones or special forces or troop deployments – will prove self-defeating and alter our country in troubling ways," he said.¶ But he defended his administration's decision to launch hundreds of such strikes in recent years, insisting they were more discriminating than other military options such as aerial bombing and had helped prevent terrorist attacks.¶ Obama also said he would ask Congress to review his proposal for future drone strikes to be subject to court review or an independent oversight board.¶ "The establishment of a special court to evaluate and authorise lethal action has the benefit of bringing a third branch of government into the process, but raises serious constitutional issues about presidential and judicial authority," he said.

He concludes that it’s just rhetoric – authority is key

Roberts, The Guardian, 5-24-13

[Dan, “Obama drone oversight proposal prompts concern over 'kill courts'” http://www.theguardian.com/world/2013/may/24/obama-drone-vetting-kill-courts, accessed 9-18-13, TAP]

The establishment of a special court to evaluate and authorise lethal action has the benefit of bringing a third branch of government into the process, but raises serious constitutional issues about presidential and judicial authority," he said.

Their card ends

Zeke Johnson, director of Amnesty International USA's Security with Human Rights Campaign, said: "What's needed on drones is not a 'kill court' but rejection of the radical redefinition of 'imminence' used to expand who can be killed as well as independent investigations of alleged extrajudicial executions and remedy for victims.

"The president was right to call for repeal of the 2001 authorisation for use of military force, but he doesn't need to wait for Congress to act on this. He can unequivocally reject the 'global war' legal theory today, once and for all, and put an end to the indefinite detention, military commissions and unlawful killings it has been used to justify."

This view was echoed by the American Civil Liberties Union, which welcomed new restrictions against so-called 'signature strikes' on suspicious groups but warned the notion of legal authority for targeted assassinations remained deeply flawed.

"To the extent the speech signals an end to signature strikes, recognises the need for congressional oversight, and restricts the use of drones to threats against the American people, the developments on targeted killings are promising," said ACLU director Anthony Romero. "Yet the president still claims broad authority to carry out target killings far from any battlefield, and there is still insufficient transparency. We continue to disagree fundamentally with the idea that due process requirements can be satisfied without any form of judicial oversight by regular federal courts."

## at: goldsmith

He also concludes current backlash can’t collapse the program, which takes out the 1ac internal link

Goldsmith, Harvard University law professor, 2012

[Jack, 11-9-12, “Counterterrorism Legal Policy in Obama’s Second Term” http://www.lawfareblog.com/2012/11/counterterrorism-legal-policy-in-obamas-second-term/, accessed 9-29-13, TAP]

One important consequence of President Obama’s re-election will be the further entrenchment, and legitimation, of the basic counterterrorism policies that Obama continued, with tweaks, from the late Bush administration. We will have four more years of a Democratic president presiding over military detention without trial, military commission trials (at least for the 9/11 conspirators, if not for more), broad warrantless surveillance, drone strikes around the globe, and covert war more generally. These policies will of course be scrutinized by the many watchers of the presidency. But they will receive less pushback than they would have received under a republican president. Not only does the public generally trust the former constitutional law professor and civil liberties champion more than a republican president to carry out these policies (this is the Nixon going to China phenomenon). But in addition, many on the left (in Congress and the NGO community, and perhaps the press) who might otherwise be uncomfortable with these policies will give President Obama a freer hand than they would a republican president. The paradoxical bottom line: aggressive counterterrorism policies will, as a general matter, become more entrenched as a result of Obama’s election, compared to a Romney presidency.

Mary washington’s card ends

One objection to this conclusion is that President Obama – more focused on his historical legacy, freed from re-election worries, and less concerned about negative political consequences of counterterrorism policies he deems appropriate – will seek to change course on counterterrorism policy. He is already getting pressure to do so from various quarters. But I doubt that these pressures will lead to large changes in policy.

As I have argued before, these pressures might well lead President Obama to release as many GTMO detainees as possible (e.g. the Yemenis technically cleared for transfer), when (and if) the security situation permits. Whether his administration will continue to push (in the face of congressional opposition) to close GTMO and ramp up civilian trials of GTMO detainees is a harder call, I think. I am sure it wants to do this, all things equal. But I don’t think Congress is going to back down in its opposition to these initiatives, I don’t think the President is going to disregard congressional restrictions in this area, and I don’t think that a large-scale fight on this issue with Congress will be consistent with the administration’s other political goals. That said, the President clearly wants to avoid responsibility for GTMO remaining open after eight years in the oval office, so I think he will continue to disagree with Congress nominally on the issue so that he can later say that he tried his best.

Yes backlash – here’s drone court specific ev

**Ruppert 13** (Madison, “Support and opposition arises for FISA-style secret court to oversee drone assassinations”, <http://endthelie.com/2013/02/09/support-and-opposition-arises-for-fisa-style-secret-court-to-oversee-drone-assassinations/#axzz2bx3jQR6b>, ZBurdette)

The response to what the New York Times calls “the hidden bureaucracy directing lethal drone strikes” appears to be even more hidden bureaucracy in the style of the secret Foreign Intelligence Surveillance Court (FISC), built upon the Foreign Intelligence Surveillance Act (FISA).

While it is claimed that having a court approve the adding of names to a kill list, at least for American citizens, “is no longer beyond the realm of political possibility,” according to Robert Chesney, a law professor at the University of Texas, this proposal is still problematic.

The idea has been promoted by legislators like Senator Dianne Feinstein, according to the Washington Post, and yet it faces significant obstacles like the “almost-certain opposition from the executive branch to a dilution of the president’s authority to protect the country against looming threats.”

Both parties hate the plan – so the act of fiat guarantees a firestrorm

**Muñoz 13** (Carlo, “No court for drone oversight, says GOP”, The Hill, 02/13/13, <http://thehill.com/blogs/defcon-hill/policy-and-strategy/282687-no-court-for-drones-says-gop>, ZBurdette)

Senate Republicans on Tuesday ruled out placing armed drone strikes under the authority of a special court, arguing the move would be a dangerous intrusion on presidential power.

Sen. Dianne Feinstein (D-Calif.) last week raised the idea of creating a new oversight court for drones that would be patterned after the checks and balances that govern surveillance.

But senior Republicans in the Senate dismissed that plan as unrealistic, and warned it would undermine critical counterterrorism efforts.

“I think it is a terrible idea,” Sen. Lindsey Graham (R-S.C.) told The Hill.

A new court would be “the biggest intrusion ... in the history of [this] country” on the president’s authority as commander in chief, Graham said.

The recent release of a white paper that spells out the administration’s rationale for drone attacks against terrorism suspects overseas — including U.S. citizens — has put pressure on both parties to put the operations on firmer ground.

Sen. John McCain (R-Ariz.) said the concerns about drone oversight could be resolved by handing the program over to the military.

“You just need to move it to the Department of Defense,” McCain told reporters. “We are talking about using equipment to kill people.”

While “there may be some role to play” for the CIA and the U.S. intelligence community, placing armed drones under the exclusive control of the Pentagon “solves the problem” of balancing oversight with national security, McCain said.

Feinstein floated the idea of an oversight court patterned after the Foreign Intelligence and Surveillance Act (FISA) after last week’s confirmation hearing for John Brennan, President Obama’s pick to head the CIA.

Brennan stressed in his public testimony that the administration only authorizes lethal force against U.S. citizens as a “last resort to save lives when there is no other alternative.”

But some lawmakers argue that the drone powers cannot continue to be treated as a presidential prerogative.

FISA established a special federal court to approve surveillance on suspected foreign spies working inside the United States. Feinstein, the chairwoman of the Senate Intelligence Committee, suggested a similar federal court could be created to review possible targets compiled by the CIA for lethal drone attacks.

But the creation of a FISA-like court for drone strikes has been met with fierce resistance from Republicans who say protecting the nation must always come first.

“We don’t allow [the judicial branch] to control the commander in chief’s decision to send people into battle,” Graham said. “Courts are not trained for this. They are not in the targeting business. Who the enemy is composed of and who represents a threat is a military decision, not a criminal decision.”

Asked whether he would support McCain’s notion of fully transitioning the program to the Pentagon, Graham replied: “That might make a lot of sense [and] I might be open to that.”

Sen. Chuck Grassley (R-Iowa), who was one of several Republicans pushing for the release of the classified legal rulings on drones, also rejected a court as the wrong approach.

“There would have to be an analysis other than FISA,” Grassley said. “I am not saying there should not be some curbs on the [administration’s] power over drones, but I do not think it can be a court [system].”

One powerful Democrat said he shares concerns about bureaucratic red tape hampering the president. Senate Armed Services Committee Chairman Carl Levin (D-Mich.) said some kind of “independent review” of the White House counterterrorism program was necessary — but not necessarily involving a judge.

“We have got to at least consider some ways ... to have some kind of independent review of the targets,” he said, “[but] I am not sure courts are the right way to do it.”

One problem with a courts-based approach, according to Levin and Grassley, is the lengthy review process that comes with it.

Many times, the window of time to take out suspected terror targets via drone strikes is very small. Grassley said a drawn-out review process in the courts could result in U.S. military and intelligence officials missing an opportunity to take out a terror suspect.

“In most instances of FISA, you are trying to track people that [pose] an imminent danger, sometime down the road,” Grassley said. “When you are commander in chief, you need to be able to act right now.”

Former Defense Secretary Robert Gates has also questioned the viability of legal reviews of the strikes due to the time constraints inherent to the operations, according to Levin.

Sen. Kelly Ayotte (R-N.H.) suggested the oversight role for the armed drone program can and should fall to Capitol Hill.

“There needs to be more robust congressional oversight of the drone program,” she said, adding the FISA-like court approach “is not workable, in light of how quick you have to move once you find a target.”

Empirics are conclusive

**Berger 8/12/13** (Judson, Fox, “Yemen drone strikes may revive war-powers battle between administration, Congress”, <http://www.foxnews.com/politics/2013/08/12/yemen-drone-strikes-could-revive-war-powers-battle-between-administration/>, ZBurdette)

The escalation of drone strikes in Yemen, presumably in response to the ongoing Al Qaeda threat, and other technology-based military options could fuel calls to re-write laws that govern such actions to give Congress greater oversight over the administration's remote-controlled warfare.

"Some of these campaigns by the administration clearly constitute an act of war," said Jonathan Turley, an attorney and professor at George Washington University Law School.

To date, the administration has claimed broad latitude in its authority to launch limited military operations -- including drone strikes -- without congressional authorization. There's no indication this time will be any different.

A total of nine suspected drone strikes reportedly have been recorded in Yemen since late July, taking out dozens of alleged Al Qaeda operatives and other militants. The most recent strike was on Saturday. The Washington Post reported last week that the strikes were authorized by the Obama administration in connection with the ongoing terror threat.

If challenged on the strikes, the president is likely to argue that the operation is contained and does not require congressional authorization. He has in the past.

This debate flared during the 2011 operation in Libya, when the administration launched a series of air and drone strikes in support of the campaign against Muammar Qaddafi.

Transparency requests prove

**Glaser 13** (John, “Congress Considers Limiting President’s Drone Authority”, February 05, 2013, <http://news.antiwar.com/2013/02/05/congress-considers-limiting-presidents-drone-authority/>, ZBurdette)

A small but growing opposition in Congress to the Obama administration’s targeted killing policies is beginning to demand hearings and accountability, after a leaked legal memo this week revealed the President’s rationale for assassinating US citizens.

“It has to be in the agenda of this Congress to reconsider the scope of action of drones and use of deadly force by the United States around the world because the original authorization of use of force, I think, is being strained to its limits,” said Senator Chris Coons, a Democrat.

According to congressional aides the Senate Foreign Relations Committee likely will hold hearings on US drone policy in the near future.

Rep. Steny Hoyer, the No. 2 Democrat in the House, said Tuesday that “it deserves a serious look at how we make the decisions in government to take out, kill, eliminate, whatever word you want to use, not just American citizens but other citizens as well.”

A bipartisan group of 11 senators wrote a letter to President Obama requesting he provide his administration’s official legal memos justifying the use of armed drones to kill American citizens without due process.

The request was issued on Monday, the same day that NBC News published an exclusive story based on a leaked Department of Justice “white paper” that was provided to Senate committees months ago.

The memo, while not the official documents the senators have repeatedly requested, laid out the government’s case for targeted assassinations of US citizens accused of being terrorists even when there is no active intelligence accusing them of carrying out a specific terrorist attack.

“We ask that you direct the Justice Department to provide Congress, specifically the Judiciary and Intelligence Committees, with any and all legal opinions that lay out the executive branch’s official understanding of the President’s authority to deliberately kill American citizens,” the eight Democrats and three Republicans wrote.

“We should be concerned when the White House is acting as judge, jury and executioner,” Naureen Shah, a lecturer at Columbia Law School said. “And there’s no one outside of the White House who has real oversight over that process. What’s put forward here is there’s no role for the courts, not even after the fact.”

“Anyone should be concerned when the president and his lawyers make up their own interpretation of the law or their own rules,” Mary Ellen O’Connell, a law professor at the University of Notre Dame and an authority on international law and the use of force told NBC News.

“This is a very, very dangerous thing that the president has done,” she added.

The senators even suggested that they would hold up the nominations of Chuck Hagel and John Brennan if the President does not comply.

“The executive branch’s cooperation on this matter will help avoid an unnecessary confrontation that could affect the Senate’s consideration of nominees for national security positions,” they warned.

As Marcy Wheeler points out, this is at least the 12th time this group of senators has requested the Obama administration’s legal documents on this matter. All have been met with stiff rejection.

## at: winners win

But the counterplan has Obama assert restraint over opposition from Congressional hawks which means he can steamroll them on immigrants

**Loomis 7** (Dr. Andrew J. Loomis is a Visiting Fellow at the Center for a New American Security, and Department of Government at Georgetown University, “Leveraging legitimacy in the crafting of U.S. foreign policy”, March 2, 2007, pg 36-37, <http://citation.allacademic.com//meta/p_mla_apa_research_citation/1/7/9/4/8/pages179487/p179487-36.php>)

American political analyst Norman Ornstein writes of the domestic context, In a system where a President has limited formal power, perception matters. The reputation for success—the belief by other political actors that even when he looks down, a president will find a way to pull out a victory—is the most valuable resource a chief executive can have. Conversely, the widespread belief that the Oval Office occupant is on the defensive, on the wane or without the ability to win under adversity can lead to disaster, as individual lawmakers calculate who will be on the winning side and negotiate accordingly. In simple terms, winners win and losers lose more often than not. Failure begets failure. In short, a president experiencing declining amounts of political capital has diminished capacity to advance his goals. As a result, political allies perceive a decreasing benefit in publicly tying themselves to the president, and an increasing benefit in allying with rising centers of authority. A president’s incapacity and his record of success are interlocked and reinforce each other. Incapacity leads to political failure, which reinforces perceptions of incapacity. This feedback loop accelerates decay both in leadership capacity and defection by key allies. The central point of this review of the presidential literature is that the sources of presidential influence—and thus their prospects for enjoying success in pursuing preferred foreign policies—go beyond the structural factors imbued by the Constitution. Presidential authority is affected by ideational resources in the form of public perceptions of legitimacy. The public offers and rescinds its support in accordance with normative trends and historical patterns, non-material sources of power that affects the character of U.S. policy, foreign and domestic.

## impact uq

Reform key to semiconducter industry

Moritz 1/28

(Michael – Chairman @ Sequoia capital, “Immigration Reform: Stop Ejecting the Brightest Minds From America” January 28, 2013, http://www.linkedin.com/today/post/article/20130128153456-25760-immigration-reform-stop-ejecting-the-brightest-minds-from-america)

Let's hope Congress does not flinch as it begins the debate about immigration reform because the future is passing through security – in the wrong direction. It leaves the United States on every departing airplane carrying a foreign born student who has graduated from an American university with an advanced degree in the sciences, technology, engineering and math. The majority of these people want to stay in the United States but because of existing immigration laws, they have no choice but to leave. In Silicon Valley, which has always been blind to any attribute other than ability, everyone knows that the remarkable achievements of the foreign born have led to the formation of companies such as Google, Intel, Sun Microsystems, nVidia, Yahoo! PayPal and scores of others that are less well known. Of the last eleven early stage companies that have allied themselves with Sequoia Capital, seven have had immigrants among their founding lineup. This is not a sudden or recent phenomenon; it has been the leitmotif of our business since the 1970s. However, the number of startups would be even higher if we weren’t ejecting foreign-born students and if we welcomed their contemporaries who have been educated overseas. Today, it is impossible to satisfy Silicon Valley's appetite for engineers and scientists with people born in America. The xenophobia underlying current immigration policy has three consequences for the U.S. technology industry. First, the know-how for all sorts of new companies is being expelled from America. Second, it makes it even harder to fill the job vacancies at existing U.S. based semiconductor, biotech, networking and software companies. Third, it means that University labs, which have sown the seeds for so many commercial breakthroughs of the past seventy-five years, are deprived of the young faculty members who can be counted on for bursts of inspiration and originality. In the massive global IQ competition, the United States is shooting itself in the foot.

## impacts

#### Immigration reform necessary to sustain the economy and competitiveness

Javier Palomarez, Forbes, 3/6/13, The Pent Up Entrepreneurship That Immigration Reform Would Unleash, www.forbes.com/sites/realspin/2013/03/06/the-pent-up-entrepreneurship-that-immigration-reform-would-unleash/print/

The main difference between now and 2007 is that today the role of immigrants and their many contributions to the American economy have been central in the country’s national conversation on the issue. Never before have Latinos been so central to the election of a U.S. President as in 2012. New evidence about the economic importance of immigration reform, coupled with the new political realities presented by the election, have given reform a higher likelihood of passing. As the President & CEO of the country’s largest Hispanic business association, the U.S. Hispanic Chamber of Commerce (USHCC), which advocates for the interests of over 3 million Hispanic owned businesses, I have noticed that nearly every meeting I hold with corporate leaders now involves a discussion of how and when immigration reform will pass. The USHCC has long seen comprehensive immigration reform as an economic imperative, and now the wider business community seems to be sharing our approach. It is no longer a question of whether it will pass. Out of countless conversations with business leaders in virtually every sector and every state, a consensus has emerged: our broken and outdated immigration system hinders our economy’s growth and puts America’s global leadership in jeopardy. Innovation drives the American economy, and without good ideas and skilled workers, our country won’t be able to transform industries or to lead world markets as effectively as it has done for decades. Consider some figures: Immigrant-owned firms generate an estimated $775 billion in annual revenue, $125 billion in payroll and about $100 billion in income. A study conducted by the New American Economy found that over 40 percent of Fortune 500 companies were started by immigrants or children of immigrants. Leading brands, like Google, Kohls, eBay, Pfizer, and AT&T, were founded by immigrants. Researchers at the Kauffman Foundation released a study late last year showing that from 2006 to 2012, one in four engineering and technology companies started in the U.S. had at least one foreign-born founder — in Silicon Valley it was almost half of new companies. There are an estimated 11 million undocumented workers currently in the U.S. Imagine what small business growth in the U.S. would look like if they were provided legal status, if they had an opportunity for citizenship. Without fear of deportation or prosecution, imagine the pent up entrepreneurship that could be unleashed. After all, these are people who are clearly entrepreneurial in spirit to have come here and risk all in the first place. Immigrants are twice as likely to start businesses as native-born Americans, and statistics show that most job growth comes from small businesses. While immigrants are both critically-important consumers and producers, they boost the economic well-being of native-born Americans as well. Scholars at the Brookings Institution recently described the relationship of these two groups of workers as complementary. This is because lower-skilled immigrants largely take farming and other manual, low-paid jobs that native-born workers don’t usually want. For example, when Alabama passed HB 56, an immigration law in 2012 aimed at forcing self-deportation, the state lost roughly $11 billion in economic productivity as crops were left to wither and jobs were lost. Immigration reform would also address another important angle in the debate – the need to entice high-skilled immigrants. Higher-skilled immigrants provide talent that high-tech companies often cannot locate domestically. High-tech leaders recently organized a nationwide “virtual march for immigration reform” to pressure policymakers to remove barriers that prevent them from recruiting the workers they need. Finally, and perhaps most importantly, fixing immigration makes sound fiscal sense. Economist Raul Hinojosa-Ojeda calculated in 2010 that comprehensive immigration reform would add $1.5 trillion to the country’s GDP over 10 years and add $66 billion in tax revenue – enough to fully fund the Small Business Administration and the Departments of the Treasury and Commerce for over two years. As Congress continues to wring its hands and debate the issue, lawmakers must understand what both businesses and workers already know: The American economy needs comprehensive immigration reform.

#### Reform key to healthcare industry

McDaniel 2/25

(Paul, PhD in Geography and Urban Regional Analysis, MS in Geography, MA in Education Leadership, BS in Geography, works as an Immigrant Entrepreneur and Innovation Fellow at the Immigration Policy Center. Previously, he served as Project Researcher in the Center for Citizenship and Immigrant Communities at Catholic Legal Immigration Network, “Skilled Immigrants Filling U.S. Health Care Needs” February 25, 2013, http://immigrationimpact.com/2013/02/25/skilled-immigrants-filling-u-s-health-care-needs/)

As the debate around immigration reform continues one of the cornerstones of ongoing discussions is what kinds of skilled immigrants the U.S. needs. There is no doubt that high-skilled immigrants play an important role in America’s innovation economy, and particularly in those industries agglomerated in the Silicon Valleys and Research Triangles of the United States. However, it’s important to remember that high-skilled immigrants play a host of other critical roles in our society, namely in our healthcare industry. As the country’s population grows—and grows older—there is a large gap that can continue to be filled by immigrant primary-care/family practice physicians, nurses, and other healthcare workers.

We know healthcare workers are critically important to communities throughout the country. Some areas, however, experience shortages and are underserved. The Department of Health and Human Services (HHS) reports that, as of January 2013, there were 5,864 primary-care Health Professional Shortage Areas (HPSAs) with 57 million people living in them. Recent research finds that the United States is experiencing an expanding shortage of primary-care physicians and this shortage is expected to worsen in the coming decades. Using population and demographic projections, a 2012 study in the Annals of Family Medicine suggests that by 2025 the United States will require nearly 52,000 more primary-care physicians—a demand likely driven by population growth and aging.

Considering the aging baby boom generation as part of the demographic puzzle, a February 2013 Migration Policy Institute (MPI) report states that:

“Baby boomers represent the majority of working nurses in the country. Their retirement, starting now in increasing numbers, is expected to increase employment opportunities for nurses. As baby boomers age, meanwhile, they will drive up demand for health care services. Illnesses associated with aging and high rates of obesity generate multiple chronic conditions that require complex, and sometimes costly, care management. The market for home care and long-term care is likely to grow.”

The MPI report and other research suggest that internationally educated nurses may be attractive to hospitals with particular language, cross-cultural, and population needs.

Therefore, addressing the growing shortage of doctors, nurses, and other healthcare workers is another thread in the tapestry of immigration reform. Future-flow discussions should consider ways to streamline the movement of immigrant and non-immigrant (temporary) primary-care physicians, for example, to work in underserved and shortage areas within the United States. With immigration reform and future healthcare needs in mind, items to consider include expanding and streamlining the number of pathways for medical professionals from abroad, such as employment-based green cards for permanent residency, H-1B visas, and the Conrad 30 visa-waiver program for J-1 visa-holders. (The Conrad 30 program is designed particularly to route foreign-born medical professionals to designated shortage and underserved areas).

In other words, facilitating the participation of foreign-born medical professionals in the U.S. healthcare system involves not only options for permanent residency, but also efficient legal avenues for those who wish to come to the U.S. temporarily. Considering long-term demographic trends, and the needs of employers and communities, it is clear that medical professionals from abroad will prove integral to addressing our healthcare challenges and must be an important part of immigration reform discussions.

**Key to prevent bioterror attack**

**Sklar 2**

(Holly, Nationally Syndicated Columnist, Author, Policy Analyst, and Strategist, “Rolling the Dice on Our Nation’s Health”, Common Dreams, 12-19, <http://www.commondreams.org/views02/1219-07.htm>)

Imagine if the first people infected in a smallpox attack had no health insurance and delayed seeking care for their flu-like symptoms. The odds are high. Pick a number from one to six. Would you bet your life on a roll of the dice? Would you play Russian Roulette with one bullet in a six-chamber gun? One in six Americans under age 65 has no health insurance. The uninsured are more likely to delay seeking medical care, go to work sick for fear of losing their jobs, seek care at overcrowded emergency rooms and clinics, and be poorly diagnosed and treated. The longer smallpox--or another contagious **disease**--goes undiagnosed, the more it will spread, with the insured and uninsured infecting each other. Healthcare is literally a matter of life and death. Yet, more than 41 million Americans have no health insurance of any kind, public or private. The uninsured rate was 14.6 percent in 2001--up 13 percent since 1987. The rate is on the rise with increased healthcare costs, unemployment and cutbacks in Medicaid and the State Children's Health Insurance Program (SCHIP). One in four people with household incomes less than $25,000 is uninsured. One in six full-time workers is uninsured, including half the full-time workers with incomes below the official poverty line. The share of workers covered by employment health plans drops from 81 percent in the top fifth of wage earners to 68 percent in the middle fifth to 33 percent in the lowest fifth, according to the Economic Policy Institute. As reports by the American College of Physicians, Kaiser Family Foundation and many others have shown, lack of health insurance is associated with lack of preventive care and substandard treatment inside and outside the hospital. The uninsured are at much higher risk for chronic diseaseand disability, and have a 25 percent greater chance of dying (adjusting for physical, economic and behavioral factors). To make matters worse, a health crisis is often an economic crisis. "Medical bills are a factor in nearly half of all personal bankruptcy filings," reports the National Academy of Sciences Institute of Medicine. The U.S. is No. 1 in healthcare spending per capita, but No. 34--tied with Malaysia--when it comes to child mortality rates under age five. The U.S. is No. 1 in healthcare spending, but the only major industrialized nation not to provide some form of universal coverage. We squander billions of dollars in the red tape of myriad healthcare eligibility regulations, forms and procedures, and second-guessing of doctors by insurance gatekeepers trained in cost cutting, not medicine. Americans go to Canada for cheaper prices on prescription drugs made by U.S. pharmaceutical companies with U.S. taxpayer subsidies. While millions go without healthcare, top health company executives rake in the dough. A report by Families USA found that the highest-paid health plan executives in ten companies received average compensation of $11.7 million in 2000, not counting unexercised stock options worth tens of millions more. The saying, "An ounce of prevention is worth a pound of cure," couldn't be truer when it comes to healthcare. Yet, we provide universal coverage for seniors through Medicare, but not for children. We have economic disincentives for timely diagnosis and treatment of diseases. Universal healthcare is a humane and cost-effective solution to the growing healthcare crisis. Universal coverage won't come easy, but neither did Social Security or Medicare, which now serves one in seven Americans. Many proposals for universal healthcare build on the foundation of "Medicare for All," albeit an improved Medicare adequately serving seniors and younger people alike. Healthcare is as essential to equal opportunity as public education and as essential to public safety as police and fire protection. If your neighbor's house were burning, would you want 911 operators to ask for their fire insurance card number before sending--or not sending--fire trucks? Healthcare ranked second behind terrorism and national security as the most critical issue for the nation in the 2002 Health Confidence Surveyreleased by the Employee Benefit Research Institute. The government thinks the smallpox threat is serious enough to start inoculating militaryand medical personnelwith a highly risky vaccine. **It's time to stop delaying** universal **healthcare, which will save lives everyday while boosting our readiness for any bioterror attack**.

## focus link

Passage is likely but narrowing the window undermines passage

Sean Sullivan, 10/24/13, Why Obama is racing against the clock on immigration, www.washingtonpost.com/blogs/the-fix/wp/2013/10/24/why-obama-is-racing-against-the-clock-on-immigration/?wprss=rss\_politics&clsrd

President Obama used a very urgent tone Thursday in remarks designed to press House Republicans to pass immigration reform, calling on them at least twice to try to get it done “this year.”

“Let’s not wait,” the president said. “It doesn’t get easier to just put it off. Let’s do it now.”

Politically speaking, the president is right. **The longer the immigration debate drags on, the lower the odds it will culminate in a bill on his desk.**

Here’s why.

Every day that goes by is a day closer to the 2014 midterm elections. And the months leading up to Election Day are a time for lawmakers to campaign, raise money, and do everything they can to hold on to their jobs. It’s not a time for a contentious legislative debate that could complicate the fall campaign.

That’s why history has shown that little gets done legislatively right before the election. Members are in their districts and states more and more often and less and less willing to take risks in Congress.

And immigration reform is a risky proposition for many House Republicans. Despite national polls showing the public largely in favor of overhauling the nation’s laws, the calculus is often different back home. This is in large part why months after the Senate passed a sweeping bipartisan immigration bill, the House has yet to act.

But that doesn’t mean it won’t. Republicans have already moved ahead on some piecemeal measures. And House Speaker John A. Boehner (R-Ohio) said Wednesday that he was “hopeful” something could get done by the end of the year.

Coming off a fiscal battle that badly damaged the Republican brand, there is, arguably, more political incentive for Boehner to act on immigration than there has been in the past. Republicans need to repair their image. Helping pass broadly popular reforms is one way to do that.

But there isn’t much time left on the legislative calendar this year, and it’s not clear whether Boehner will bring immigration to a vote before the year is up. But this much we do know: Every day that goes by makes it increasingly difficult to pass new immigration laws.