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## 1

Obama is effectively fighting off Iran sanctions now

Jim Lobe, Inter Press Service 12/27, Iran sanctions bill: Big test of Israel lobby power, http://www.arabamericannews.com/news/index.php?mod=article&cat=World&article=8046

This week’s introduction by a bipartisan group of 26 senators of a new sanctions bill against Iran could result in the biggest test of the political clout of the Israel lobby here in decades.

The White House, which says the bill could well derail ongoing negotiations between Iran and the U.S. and five other powers over Tehran’s nuclear program and destroy the international coalition behind the existing sanctions regime, has already warned that it will veto the bill if it passes Congress in its present form.

The new bill, co-sponsored by two of Congress’s biggest beneficiaries of campaign contributions by political action committees closely linked to the powerful American Israel Public Affairs Committee (AIPAC), would impose sweeping new sanctions against Tehran if it fails either to comply with the interim deal it struck last month in Geneva with the P5+1 (U.S., Britain, France, Russia, China plus Germany) or reach a comprehensive accord with the great powers within one year.

To be acceptable, however, such an accord, according to the bill, would require Iran to effectively dismantle virtually its entire nuclear program, including any enrichment of uranium on its own soil, as demanded by Israeli Prime Minister Benjamin Netanyahu.

The government of President Hassan Rouhani has warned repeatedly that such a demand is a deal-breaker, and even Secretary of State John Kerry has said that a zero-enrichment position is a non-starter.

The bill, the Nuclear Weapon Free Iran Act, also calls for Washington to provide military and other support to Israel if its government “is compelled to take military action in legitimate self-defense against Iran’s nuclear weapon program.”

The introduction of the bill last week by Republican Sen. Mark Kirk and Democratic Sen. Robert Menendez followed unsuccessful efforts by both men to get some sanctions legislation passed since the Geneva accord was signed Nov. 24.

Kirk at first tried to move legislation that would have imposed new sanctions immediately in direct contradiction to a pledge by the P5+1 in the Geneva accord to forgo any new sanctions for the six-month life of the agreement in exchange for, among other things, enhanced international inspections of Iran’s nuclear facilities and a freeze on most of its nuclear program.

Unable to make headway, Kirk then worked with Menendez to draw up the new bill which, because of its prospective application, would not, according to them, violate the agreement. They had initially planned to attach it to a defense bill before the holiday recess. But the Democratic leadership, which controls the calendar, refused to go along.

Their hope now is to pass it – either as a free-standing measure or as an amendment to another must-pass bill after Congress reconvenes Jan. 6.

To highlight its bipartisan support, the two sponsors gathered a dozen other senators from each party to co-sponsor it.

Republicans, many of whom reflexively oppose President Barack Obama’s positions on any issue and whose core constituencies include Christian Zionists, are almost certain to support the bill by an overwhelming margin. If the bill gets to the floor, the main battle will thus take place within the Democratic majority.

The latter find themselves torn between, on the one hand, their loyalty to Obama and their fear that new sanctions will indeed derail negotiations and thus make war more likely, and, on the other, their general antipathy for Iran and the influence exerted by AIPAC and associated groups as a result of the questionable perception that Israel’s security is uppermost in the minds of Jewish voters and campaign contributors (who, by some estimates, provide as much as 40 percent of political donations to Democrats in national campaigns).

The administration clearly hopes the Democratic leadership will prevent the bill from coming to a vote, but, if it does, persuading most of the Democrats who have already endorsed the bill to change their minds will be an uphill fight. If the bill passes, the administration will have to muster 34 senators of the 100 senators to sustain a veto – a difficult but not impossible task, according to Congressional sources.

That battle has already been joined. Against the 13 Democratic senators who signed onto the Kirk-Menendez bill, 10 Democratic Senate committee chairs urged Majority Leader Harry Reid, who controls the upper chamber’s calendar, to forestall any new sanctions legislation.

The plan’s authority restriction is a loss for Obama—causes defections

Dr. Andrew J. Loomis, Visiting Fellow at the Center for a New American Security, and Department of Government at Georgetown University, 3/2/2007, Leveraging legitimacy in the crafting of U.S. foreign policy, http://citation.allacademic.com//meta/p\_mla\_apa\_research\_citation/1/7/9/4/8/pages179487/p179487-36.php

Declining political authority encourages defection. 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.

Those defections overwhelm Obama—results in new sanctions that collapse negotiations and cause war

Davnie 1/5 (William Davnie, retired after 26 years in the Foreign Service, served as chief of staff in the office of provincial affairs in Iraq, AND Kate Gould, the legislative associate for Middle East policy at the Friends Committee on National, “Iran sanctions bill threatens progress; pressure is on Franken, Klobuchar”, Star Tribune, January 5, 2014, <http://www.startribune.com/opinion/commentaries/238660021.html>)

The historic Geneva deal to limit Iran’s nuclear program is scheduled to go into effect later this month. Once it does, the world will be farther away from a devastating war and a nuclear-armed Iran. As U.S. Rep. Betty McCollum, D-Minn., rightly pointed out, “this initial deal is a triumph for engagement and tough diplomacy.” However, **the U.S. Senate could reverse that progress through a vote on new sanctions as early as this week,** putting the United States and Iran on a collision course toward war.

For the first time in a decade, the Geneva deal presses pause on Iran’s nuclear program, and presses the rewind button on some of the most urgent proliferation concerns. In exchange, the United States has committed to pause the expansion of its sanctions regime, and in fact rewind it slightly with limited sanctions relief. **Imposing new sanctions now would be just as clear a violation of the Geneva agreement as it would be for Iran to expand its nuclear program.**

That’s why the Obama administration has committed to vetoing any such measures and has warned that torpedoing the talks underway could put our country on a march toward war. A recent, unclassified intelligence assessment concurred with the White House’s caution, asserting that new sanctions “would undermine the prospects for a successful comprehensive nuclear agreement with Iran.”

However, in an open rebuke of the White House, the intelligence community and the 10 Senate committee chairs who cautioned against new sanctions, Sens. Robert Menendez, D-N.J.; Chuck Schumer, D-N.Y., and Mark Kirk, R-Ill., have introduced a bill (S. 1881) to impose new oil and financial sanctions on Iran.

Supporters of this measure stress that new sanctions would take effect only if Iran violates the Geneva agreement or fails to move toward a final deal at the end of the six-month negotiation period. And some dismiss this congressional threat as toothless, given President Obama’s vow to veto any sanctions legislation. But **simply passing these sanctions would dangerously escalate tensions with Iran**. U.S. Rep. Keith Ellison, D-Minn., put it best: “**New sanctions stand to kill any hope for diplomacy.”**

Already, anti-Geneva-deal counterparts in Iran’s parliament have responded with their own provocation, introducing legislation to require Iran to enrich near weapons grade if the United States imposes new sanctions.

Like the Senate sanctions bill, the Iranian parliament’s legislation would have a delayed trigger. Like the Senate bill, the mere introduction of this reckless legislation isn’t a violation of the letter of the Geneva agreement per se. But **both bills risk** restarting the vicious cycle of confrontation **that has defined the U.S.-Iran relationship for decades.**

Without a significant public outcry, **support for this sanctions bill could potentially reach a veto-proof majority** of 67 senators and 290 representatives in the House.

Minnesota could play an important role in this showdown between supporters of using hard-nosed diplomacy to avoid military action and reduce nuclear risk, and those who would upend sensitive negotiations and make war likely. About half of the senators have staked out their positions, but neither Sen. Amy Klobuchar nor Sen. Al Franken have yet taken a public stance.

Minnesota is one of just 10 states where neither senator has taken a public position on whether or not to sign onto **sanctions** that **would sink the deal — and** risk another war in the Middle East.

While some new-sanctions proponents are banking on partisan politics to earn support from Republicans, it would still take seven of the remaining 23 undecided Democrats, along with all Republicans, to reach a veto-proof majority. All eyes will be on those 23 undecided Democrats — including Klobuchar and Franken.

Nuclear war

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.

## 2

The United States Federal Government should create an express cause of action for nominal damages that holds that United States’ targeted killing operations should be subject to judicial ex post review, including redress for family members and allowing a cause of action for damages arising directly out of the constitutional provision allegedly offended, on the basis that special factors do not preclude a right of action.

Bivens solves – affects future policy

Stephen I. Vladeck, professor of law and associate dean for scholarship at American University Washington College of Law, 12 [“Al-Aulaqi and the Futility (and Utility) of Bivens Suits in National Security Cases, July 23, http://www.acslaw.org/acsblog/al-aulaqi-and-the-futility-and-utility-of-bivens-suits-in-national-security-cases]

There’s quite a lot to say about the damages suit filed last week by the American Civil Liberties Union and the Center for Constitutional Rights on behalf of the family of Anwar al-Aulaqi and his 16-year-old son Abdulrahman, both of whom were killed (along with a third U.S. citizen) in a pair of drone strikes in Yemen in the fall 0f 2011. And although the suit raises a host of important and thorny legal questions of first impression, including whether a non-international armed conflict existed in Yemen at the time of the strikes and whether a U.S. citizen can claim a substantive due process right not to be collateral damage in an otherwise lawful military operation, I suspect my Lawfare colleague Ben Wittes is quite correct that this case won’t actually resolve any of them. Instead, as Ben suggests, it seems likely that the federal courts will refuse to recognize a “Bivens” remedy — a cause of action for damages arising directly out of the constitutional provision allegedly offended (e.g., the Fifth Amendment’s Due Process Clause), and that the plaintiffs will therefore be unable to state a valid cause of action.¶ As I explain below, such a result would unfortunately perpetuate a fundamental — and increasingly pervasive — misunderstanding of Bivens. Moreover, even if plaintiffs will ultimately lose suits like Al-Aulaqi because of various defenses — including qualified immunity, the state secrets privilege, and the political question doctrine — getting the Bivens question right still matters. To the extent that the specter of judicial review deters governmental misconduct down the road, Bivens suits can and should have a salutary effect on the conduct of U.S. national security policy — so long as they’re properly understood in the first place.¶ I¶ Although it may come as a surprise to many, there is no federal statute that provides a general cause of action for damages when a federal officer violates an individual’s constitutional rights. [42 U.S.C. § 1983 provides just such a remedy for violations of such rights by state officers.] Partly in response to that shortcoming, Bivens, a 1971 Supreme Court decision, recognized limited circumstances in which, to vindicate a plaintiff’s federal constitutional rights, it would be appropriate for federal courts to fashion a judge-made damages remedy. By then, it was well-established (as it remains today) that courts have such power when it comes to injunctive relief; the additional step Bivens took was extending that authority to monetary remedies for prior governmental misconduct, as well — even when, as in Bivens, the plaintiff could also have pressed his claims under state law.¶ To be sure, the Supreme Court has spent much of the past three decades scaling back the scope of Bivens remedies, usually relying on the existence of federal statutory alternatives or on other “special factors counseling hesitation,” as Justice Brennan suggested in Bivens itself. But despite the Delphic nature of this latter phrase, it is fairly clear in retrospect, as Georgetown law professor Carlos Vásquez and I argue in a forthcoming article, that the Bivens Court was focused on those situations in which it made sense to remit plaintiffs to state, rather than federal, remedies (as, for example, in the Court’s most recent foray into Bivens — its January decision in Minneci v. Pollard). And so, even though the Supreme Court has not identified a viable Bivens claim in over 30 years, it has routinely relied on the existence of alternative remedial mechanisms — whether under federal law, state law, or the internal disciplinary rules of the military — to justify the foreclosure of constitutional damages. Put simply, in a case where the available remedies were literally “Bivens or nothing,” the Supreme Court has never taken the latter route.¶ In recent years, however, lower courts in high-profile national security cases have done exactly that, refusing to recognize Bivens remedies for allegations of egregious governmental misconduct even where the alternative was “nothing.” Such analysis can be found in the Second Circuit’s decision in the Maher Arar case; the Fourth Circuit’s decision in the Jose Padilla case; and the D.C. Circuit’s decisions in Doe v. Rumsfeld and Rasul v. Myers. Although the specific language of each decision varies, they all rest on a bottom line captured succinctly in a footnote in Rasul: the reason for staying the judicial hand is nothing more than “[t]he danger of obstructing U.S. national security policy.”¶ As Professor Vásquez and I explain, this analysis fundamentally misunderstands Bivens, for it fails to appreciate the role state-law remedies were originally intended to play in the relevant calculus. Although there may be some situations where it makes sense to leave plaintiffs to whatever remedies state law has to offer, or to statutory alternatives devised by Congress, in the context of sensitive national security policy, it seems likely that the federal courts are in a far better position to look out for the unique interests of the executive branch than either of the other actors the Bivens Court (and the Constitution) envisioned. But whereas the decisions noted above have used that conclusion to justify a refusal to recognize a Bivens remedy, in fact, such analysis should cut in the opposite direction: if federal law is what should govern these disputes, and if Congress hasn’t clearly spoken to the issue (as, in most of these cases, it hasn’t), then that is an argument for recognition of a Bivens remedy — not against it.¶ II¶ Separate from the doctrinal flaw in these recent cases, there is also the central logical fallacy of their reasoning. For illustration, consider the following passage from Fourth Circuit Judge J. Harvie Wilkinson’s opinion in Jose Padilla’s Bivens suit (as quoted by Ben Wittes in his discussion of Al-Aulaqi), which sought to explain why recognizing a cause of action for Padilla’s allegations would be unwise:¶ It takes little enough imagination to understand that a judicially devised damages action would expose past executive deliberations affecting sensitive matters of national security to the prospect of searching judicial scrutiny. It would affect future discussions as well, shadowed as they might be by the thought that those involved would face prolonged civil litigation and potential personal liability.¶ Perhaps I’m missing something, but isn’t that the point? Qualified immunity will still protect individual officers from liability so long as their conduct is based upon an objectively reasonable understanding of what the law permits; the state secrets privilege will protect government secrets from being inappropriately disclosed in the course of that litigation (and may even bar the litigation from going forward in extreme cases); and the political question doctrine will bar courts from intervening in disputes that the Constitution requires to be left to the political branches. But in a case in which (1) no state secrets are implicated; (2) judicial resolution is appropriate; and (3) the officer did in fact violate clearly established constitutional rights of which he knew or should have known, shouldn’t we want to “expose past executive deliberations affecting sensitive matters of national security”? And shouldn’t we want to “affect future discussions as well, shadowed as they might be by the thought that,” in those circumstances, “those involved would face prolonged civil litigation and potential personal liability”?¶ This is the point that most commentators fail to appreciate about Bivens suits — and that the courts will almost certainly neglect in Al-Aulaqi v. Panetta: in deciding whether to recognize a cause of action under Bivens, courts should focus on two straightforward inquiries: whether it is appropriate to have the matter resolved by federal — rather than state — law; and whether, if the plaintiff’s allegations are true and no defenses foreclose liability, the laws of the United States should provide him with a remedy. Through that (admittedly narrow) lens, I have to think that courts would look far differently at the extrajudicial killings of three U.S. citizens.

CP doesn't link to the net benefit

Stephen I. Vladeck, professor of law and associate dean for scholarship at American University Washington College of Law, 13 [“Why a “Drone Court” Won’t Work–But (Nominal) Damages Might…,” February 10, http://www.lawfareblog.com/2013/02/why-a-drone-court-wont-work/#.UssXuPZQ0kc]

IV. Why Damages Actions Don’t Raise the Same Legal Concerns¶ At first blush, it may seem like many of these issues would be equally salient in the context of after-the-fact damages suits. But as long as such a regime was designed carefully and conscientiously, I actually think virtually all of these concerns could be mitigated.¶ For starters, retrospective review doesn’t raise anywhere near the same concerns with regard to adversity or judicial competence. Re: adversity, presumably those who are targeted in an individual strike could be represented as plaintiffs in a post-hoc proceeding, whether through their next friend or their heirs. And as long as they could state a viable claim for relief (more on that below), it’s hard to see any pure Article III problem with such a suit for retrospective relief.¶ As for competence, judges routinely review whether government officers acted in lawful self-defense under exigent circumstances (this is exactly what Tennessee v. Garner contemplates, after all). And if the Guantánamo litigation of the past five years has shown nothing else, it demonstrates that judges are also more than competent to resolve not just whether individual terrorism suspects are who the government says they are (and thus members of al Qaeda or one of its affiliates), but to do so using highly classified information in a manner that balances–albeit not always ideally–the government’s interest in secrecy with the detainee’s ability to contest the evidence against him. Just as Guantánamo detainees are represented in their habeas proceedings by security-cleared counsel who must comply with court-imposed protective orders and security procedures, so too, the subjects of targeted killing operations could have their estates represented by security-cleared counsel, who would be in a far better position to challenge the government’s evidence and to offer potentially exculpatory evidence / arguments of their own.¶ More to the point, it should also follow that courts would be far more able to review the questions that will necessary be at the core of these cases after the fact. Although the pure membership question can probably be decided in the abstract, it should stand to reason that the imminence and infeasibility-of-capture issues will be much easier to assess in hindsight–removed from the pressures of the moment and with the benefit of the dispassionate distance on which judicial review must rely. To similar effect, whether the government used excessive force in relation to the object of the attack is also something that can only reasonably be assessed post hoc**.**¶ And in addition to the substantive questions, it will also be much easier for courts to review the government’s own procedures after they are employed, especially if the government itself is already conducting after-action reviews that could be made part of the (classified) record in such cases. Indeed, the government’s own analysis could, in many cases, go along way toward proving the lawfulness vel non of an individual strike…¶ To be sure, there are a host of legal doctrines that would get in the way of such suits–foremost among them, the present judicial hostility to causes of action under Bivens; the state secrets privilege; and official immunity doctrine. But I am a firm believer that, except where the President himself is concerned (where there’s a stronger argument that immunity is constitutionally grounded), each of these concerns can be overcome by statute–so long as Congress creates an express cause of action for nominal damages, and so long as the statute both (1) expressly overrides state secrets and official immunity doctrine; and (2) replaces them with carefully considered procedures for balancing the secrecy concerns that would arise in many–if not most–of these cases, these legal issues would be overcome.

V. Why Damages Actions Aren’t Perfect–But Might Be the Least-Worst Alternative¶ Perhaps counterintuitively, I also believe that after-the-fact judicial review wouldn’t raise anywhere near the same prudential concerns as those noted above. Leaving aside how much less pressure judges would be under in such cases, it’s also generally true that damages regimes don’t have nearly the same validating effect on government action that ex ante approval does. Otherwise, one would expect to have seen a dramatic upsurge in lethal actions by law enforcement officers after each judicial decision refusing to impose individual liability arising out of a prior use of deadly force. So far as I know, no such evidence exists.¶ Of course, damages actions aren’t a perfect solution here. It’s obvious, but should be said anyway, that in a case in which the government does act unlawfully, no amount of damages will make the victim (or his heirs) whole. It’s also inevitable that, like much of the Guantánamo litigation, most of these suits would be resolved under extraordinary secrecy, and so there would be far less public accountability for targeted killings than, ideally, we might want. That said, there are two enormous upsides to damages actions that, in my mind, make them worth it–even if they are deeply, fundamentally flawed:¶ First, if nothing else, the specter of damages, even nominal damages, should have a deterrent effect on future government officers, such that, if a targeted killing operation ever was carried out in a way that violated the relevant legal rules, there would be liability–and, as importantly, precedent–such that the next government official in a similar context might think twice, and might make sure that he’s that much more convinced that the individual in question is who the government claims, and that there’s no alternative to the use of lethal force.¶ Second, at least where the targets of such force are U.S. citizens, I believe that there is a non-frivolous argument that the Constitution requires at least some form of judicial process–and, compared to the alternatives, nominal damages actions litigated under carefully circumscribed rules of secrecy may be the only way to get all of the relevant constituencies to the table.¶ That’s a very long way of reiterating what I wrote in my initial response to the DOJ white paper, but I end up in the same place: If folks really want to provide a judicial process to serve as a check on the U.S. government’s conduct of targeted killing operations, this kind of regime, and not an ex ante “drone court,” is where such endeavors should focus.

## 3

Drone court wrecks ops and creates perverse incentives for bad decisions

James Oliphant, deputy editor for National Journal, 13 [“Vetting the Kill List,” April 4, http://www.nationaljournal.com/magazine/vetting-the-kill-list-20130404]

To many following President Obama’s targeted-killing program, the idea of some formal oversight over the use of drones, some legal authority checking the administration’s conduct, seems prudent, even desirable. Americans are fundamentally suspicious people. Power unrestrained makes us edgy. It’s why we vote for divided government and gridlock, even though we like to complain about it. It’s why we don’t let police officers search our homes without a warrant.¶ To that mix, add some old-fashioned hysteria, courtesy of senators such as Rand Paul and Ted Cruz—who, in a matter of days last month, seemed to have convinced half the nation that Skynet was real, that malevolent drones were about to start cutting down U.S. citizens in line at Panera Bread—and it’s easy to see why some sort of outside monitor, a “drone court” if you will, might make sense.¶ The administration has inadvertently helped that argument by its stubborn refusal to reveal even the smallest, most benign details of the counterterrorism program. The stonewalling has fueled speculation that the process by which authorities select and kill targets is suspect, that the whole endeavor has an ad hoc quality about it. And even as administration officials have refuted this suspicion—reporters such as Newsweek’s Daniel Klaidman have pulled back the curtain on careful White House deliberations—a gnawing sense of unease lingers.¶ Civil libertarians and even hawks such as former Rep. Jane Harman of California, who served on the House Intelligence Committee, have suggested creating a court modeled on the one that signs off on federal wiretaps of suspected foreign agents. The Foreign Intelligence Surveillance Court in Washington operates in secret and requires the government to make a case before approving a tap. Harman and other proponents say such a body could review names on the “kill list” and weigh in on whether they merit inclusion based on the White House’s criteria for targeting potential threats. Robert Gates, the former Defense secretary, also favors such an approach.¶ But even among supporters, no consensus exists on what questions a drone court would actually review or even whether its scrutiny would come before or after a strike. The most problematic scenario involves any sort of preoperational clearance. Possible windows for action open and shut in a matter of hours. The kill lists are constantly being revised and updated. Even many of those who argue for some sort of oversight mechanism, such as University of Texas law professor Robert Chesney, don’t believe a judge should be involved when it comes to “pulling the trigger.”¶ Still, Chesney says such a court could still vet the names on the list in advance to ensure the administration is following its own guidelines for a strike: the target is connected to al-Qaida; he poses some threat of “imminent” harm; and the government is operating within its legal authority. “Whether and when to fire is a totally separate question,” Chesney says. (He notes that there’s a range of disagreement over how the administration classifies an “imminent” threat and whether a judge would be qualified to make that determination.)¶ But even that small degree of oversight, warns Gregory McNeal, a counterterrorism expert at Pepperdine University, risks throwing sand in the gears by extending the timeline of an op. And to McNeal, this point leads directly to the larger issue of accountability—or, to use the Washington synonym, blame. Judges, he says, simply aren’t ever going to be equipped to identify and navigate the variables involved in a drone strike.¶ Jeh Johnson, formerly the Obama administration’s top lawyer at the Pentagon, expressed his discomfort with court-based oversight in a speech last month at Fordham University. Questions of feasibility and imminence, he said, “are up-to-the-minute, real-time assessments.” More important, Johnson emphasized, “we want military and national security officials to continually assess and reassess these two questions up until the last minute of the operation.”¶ Given that reality, shifting the responsibility of a sign-off to a set of federal judges, who are unelected and serve for life, would allow the White House to escape the consequences of its actions, or more crucially, perhaps its failure to act if a target slips out of harm’s way and then masterminds an attack. Military decisions are, at heart, political ones, McNeal says, and they are rightly made by the branch of government whose top official, the president, faces voters. (A case in point: Republicans suffered at the ballot box in 2006 and 2008 as a result of the public’s displeasure with the Iraq war.) “If you’re a politician,” McNeal says of a drone court, “this is great. Because you aren’t on the hook for anything.”¶ By and large, federal judges don’t want to be in this position. They worry about damaging the integrity of the bench. Retired Judge James Robertson, who served on the U.S. Appeals Court in Washington, argued in The Washington Post that the Constitution forbids the judiciary from issuing advisory opinions. “Federal courts rule on specific disputes between adversary parties,” he wrote. “They do not make or approve policy; that job is reserved to Congress and the executive.” The FISA court is a different animal, because approving surveillance is related to Fourth Amendment protections on search warrants.¶ Still, Americans don’t have to grant the White House complete latitude to operate its targeted-killing program. Another idea that has marshaled some support is an inspector general empowered to review operations after the fact. If administration officials know that someone else ultimately will be auditing their decisions, Chesney says, that may be enough of a check on their conduct. Or as Ronald Reagan once put it: “Trust, but verify.”

Drones solve terrorism

Johnston 12 (Patrick B. Johnston is an associate political scientist at the RAND Corporation, a nonprofit, nonpartisan research institution. He is the author of "Does Decapitation Work? Assessing the Effectiveness of Leadership Targeting in Counterinsurgency Campaigns," published in International Security (Spring 2012)., 8/22/2012, "Drone Strikes Keep Pressure on al-Qaida", www.rand.org/blog/2012/08/drone-strikes-keep-pressure-on-al-qaida.html)

Should the U.S. continue to strike at al-Qaida's leadership with drone attacks? A recent poll shows that while most Americans approve of drone strikes, in 17 out of 20 countries, more than half of those surveyed disapprove of them.

My study of leadership decapitation in 90 counter-insurgencies since the 1970s shows that when militant leaders are captured or killed militant attacks decrease, terrorist campaigns end sooner, and their outcomes tend to favor the government or third-party country, not the militants.

Those opposed to drone strikes often cite the June 2009 one that targeted Pakistani Taliban leader Baitullah Mehsud at a funeral in the Tribal Areas. That strike reportedly killed 60 civilians attending the funeral, but not Mehsud. He was killed later by another drone strike in August 2009. His successor, Hakimullah Mehsud, developed a relationship with the foiled Times Square bomber Faisal Shahzad, who cited drone strikes as a key motivation for his May 2010 attempted attack.

Compared to manned aircraft, drones have some advantages as counter-insurgency tools, such as lower costs, longer endurance and the lack of a pilot to place in harm's way and risk of capture. These characteristics can enable a more deliberative targeting process that serves to minimize unintentional casualties. But the weapons employed by drones are usually identical to those used via manned aircraft and can still kill civilians—creating enmity that breeds more terrorists.

Yet many insurgents and terrorists have been taken off the battlefield by U.S. drones and special-operations forces. Besides Mehsud, the list includes Anwar al-Awlaki of al-Qaida in the Arabian Peninsula; al-Qaida deputy leader Abu Yahya al-Li-bi; and, of course, al-Qaida leader Osama bin Laden. Given that list, it is possible that the drone program has prevented numerous attacks by their potential followers, like Shazad.

What does the removal of al-Qaida leadership mean for U.S. national security? Though many in al-Qaida's senior leadership cadre remain, the historical record suggests that "decapitation" will likely weaken the organization and could cripple its ability to conduct major attacks on the U.S. homeland.

Killing terrorist leaders is not necessarily a knockout blow, but can make it harder for terrorists to attack the U.S. Members of al-Qaida's central leadership, once safely amassed in northwestern Pakistan while America shifted its focus to Iraq, have been killed, captured, forced underground or scattered to various locations with little ability to communicate or move securely.

Recently declassified correspondence seized in the bin Laden raid shows that the relentless pressure from the drone campaign on al-Qaida in Pakistan led bin Laden to advise al-Qaida operatives to leave Pakistan's Tribal Areas as no longer safe. Bin Laden's letters show that U.S. counterterrorism actions, which had forced him into self-imposed exile, had made running the organization not only more risky, but also more difficult.

As al-Qaida members trickle out of Pakistan and seek sanctuary elsewhere, the U.S. military is ramping up its counterterrorism operations in Somalia and Yemen, while continuing its drone campaign in Pakistan. Despite its controversial nature, the U.S. counter-terrorism strategy has demonstrated a degree of effectiveness.

The Obama administration is committed to reducing the size of the U.S. military's footprint overseas by relying on drones, special operations forces, and other intelligence capabilities. These methods have made it more difficult for al-Qaida remnants to reconstitute a new safe haven, as Osama bin Laden did in Afghanistan in 1996, after his ouster from Sudan.

Extinction

Owen B. Toon 07, chair of the Department of Atmospheric and Oceanic Sciences at CU-Boulder, et al., April 19, 2007, “Atmospheric effects and societal consequences of regional scale nuclear conflicts and acts of individual nuclear terrorism,” online: http://climate.envsci.rutgers.edu/pdf/acp-7-1973-2007.pdf

To an increasing extent, people are congregating in the world’s great urban centers, creating megacities with populations exceeding 10 million individuals. At the same time, advanced technology has designed nuclear explosives of such small size they can be easily transported in a car, small plane or boat to the heart of a city. We demonstrate here that a single detonation in the 15 kiloton range can produce urban fatalities approaching one million in some cases, and casualties exceeding one million. Thousands of small weapons still exist in the arsenals of the U.S. and Russia, and there are at least six other countries with substantial nuclear weapons inventories. In all, thirty-three countries control sufficient amounts of highly enriched uranium or plutonium to assemble nuclear explosives. A conflict between any of these countries involving 50-100 weapons with yields of 15 kt has the potential to create fatalities rivaling those of the Second World War. Moreover, even a single surface nuclear explosion, or an air burst in rainy conditions, in a city center is likely to cause the entire metropolitan area to be abandoned at least for decades owing to infrastructure damage and radioactive contamination. As the aftermath of hurricane Katrina in Louisiana suggests, the economic consequences of even a localized nuclear catastrophe would most likely have severe national and international economic consequences. Striking effects result even from relatively small nuclear attacks because low yield detonations are most effective against city centers where business and social activity as well as population are concentrated. Rogue nations and terrorists would be most likely to strike there. Accordingly, an organized attack on the U.S. by a small nuclear state, or terrorists supported by such a state, could generate casualties comparable to those once predicted for a full-scale nuclear “counterforce” exchange in a superpower conflict. Remarkably, the estimated quantities of smoke generated by attacks totaling about one megaton of nuclear explosives could lead to significant global climate perturbations (Robock et al., 2007). While we did not extend our casualty and damage predictions to include potential medical, social or economic impacts following the initial explosions, such analyses have been performed in the past for large-scale nuclear war scenarios (Harwell and Hutchinson, 1985). Such a study should be carried out as well for the present scenarios and physical outcomes.

## accountability

No drone prolif—capabilities and costs

Zenko, Douglas Dillon fellow in the Center for Preventive Action – CFR, ‘13

(Micah, “U.S. Drone Strike Policies”, Council Special Report No. 65, January)

There are also few examples of armed drone sales by other countries. After the United States, Israel has the most developed and varied drone capabilities; according to the Stockholm International Peace Research Institute (SIPRI), Israel was responsible for 41 percent of drones exported between 2001 and 2011.57 While Israel has used armed drones in the Palestinian territories and is not a member of the MTCR, it has pre- dominantly sold surveillance drones that lack hard points and electrical engineering. Israel reportedly sold the Harop, a short-range attack drone, to France, Germany, Turkey, and India. Furthermore, Israel allows the United States to veto transfers of weapons with U.S.-origin technology to select states, including China.58 Other states invested in developing and selling surveillance drones have reportedly refrained from selling fully armed versions. For example, the UAE spent five years building the armed United-40 drone with an associated Namrod missile, but there have been no reported deliveries.59 A March 2011 analysis by the mar- keting research firm Lucintel projected that a “fully developed [armed drone] product will take another decade.”60

Based on current trends, it is unlikely that most states will have, within ten years, the complete system architecture required to carry out distant drone strikes that would be harmful to U.S. national interests. However, those candidates able to obtain this technology will most likely be states with the financial resources to purchase or the industrial base to manufacture tactical short-range armed drones with limited firepower that lack the precision of U.S. laser-guided munitions; the intelligence collection and military command-and-control capabilities needed to deploy drones via line-of-sight communications; and cross- border adversaries who currently face attacks or the threat of attacks by manned aircraft, such as Israel into Lebanon, Egypt, or Syria; Russia into Georgia or Azerbaijan; Turkey into Iraq; and Saudi Arabia into Yemen. When compared to distant U.S. drone strikes, these contingen- cies do not require system-wide infrastructure and host-state support. Given the costs to conduct manned-aircraft strikes with minimal threat to pilots, it is questionable whether states will undertake the significant investment required for armed drones in the near term.

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.

Specifically, China can’t use drones – tech and intel – also no risk the aff resolves those issues

Joshi and Stein ’13 [Shashank Joshi, Research Fellow at the Royal United Services Institute and a PhD candidate at the Department of Government, Harvard University, & Aaron Stein, Associate Fellow at the Royal United Services Institute, a researcher at the Istanbul-based Centre for Economics and Foreign Policy Studies and a PhD candidate at King’s College London, 2013, Survival: Global Politics and Strategy, Volume 55, Issue 5, “Emerging Drone Nations,” Taylor and Francis, accessed 10/12/13]

Moreover, former Obama administration officials have indicated that intercepted communications and aerial imagery are crucial to targeting.49 The United States also enjoys intimate intelligence-sharing with Britain, itself in possession of very substantial global signals-intelligence capabilities, and other allies.50 Even states as powerful as China do not possess the same combination of broad-based political and intelligence coalitions, technical proficiency and wide intelligence coverage. To be clear, these demands are not created by drones per se, but by a policy which uses drones as the primary instrument in a campaign of targeted killings. Pursuing similar policies with cruise missiles would require much the same apparatus of human and technical intelligence. Indeed, any campaign of precision strikes will require an extensive intelligence infrastructure; drones do not negate this basic principle of warfare. But perception matters, and the perception, which military trends follow in many states, is that drones are uniquely optimised for such policies.

Even if China used drones for its security concerns, there’s 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.

Peace accords being negotiated now over armed forces reductions - that deescalates conflict and proves drones aren’t key

Radio Free Europe 11/22/13 [“Are Armenia, Azerbaijan Closer To Signing Basic Principles Of Karabakh Peace Agreement?” http://www.rferl.org/content/armenia-azerbaijan-karabakh-agreement/25177111.html]

During their two-hour talks in Vienna on November 19, the presidents of Armenia and Azerbaijan reportedly "agreed to advance negotiations on a peaceful settlement of the Nagorno-Karabakh conflict" and to meet again in the next few months. ¶ Armenian President Serzh Sarkisian has described the talks -- the first between himself and Azerbaijani counterpart Ilham Aliyev since January 2012 -- as "positive" and as heralding "in all likelihood, the start of a new phase of negotiations." ¶ There has been no comparable statement from President Aliyev. But just days before the Vienna meeting, Azerbaijan's delegation to the Organization for Security and Cooperation in Europe (OSCE) told a session of that body's Permanent Council that Azerbaijan was ready to endorse the current blueprint for resolving the conflict**.**¶ The peace process has to all intents and purposes been deadlocked since June 2011, when hopes that Aliyev and Sarkisian would sign a formal peace agreement during a summit in Kazan proved misplaced. In an apparent bid to break that deadlock, in October 2012 the co-chairmen of the OSCE's Minsk Group presented to the Armenian and Azerbaijani foreign ministers unspecified "ideas of a working proposal to advance the peace process." ¶ While some observers in Azerbaijan remain skeptical about the prospects for reviving the negotiating process, Armenian political scientists are more upbeat. The U.S. government, the Ukrainian chairman-in-office of the OSCE, and the European Union also hailed the resumption of face-to-face talks between the two presidents.¶ The Minsk Group has sought since 1992 to mediate a political solution to the conflict. In June 2006 it unveiled so-called Basic Principles for doing so, which were revised at the OSCE Ministerial Council in Madrid the following year. A revamped version was incorporated in a statement issued by the French, Russian, and U.S. presidents on the sidelines of the G8 summit in L'Aquila, Italy, in July 2009. ¶ Those most important of those principles are:¶ -- The withdrawal of Armenian troops from Azerbaijani districts bordering on Nagorno-Karabakh that they have occupied since 1992-1993 (this point fails to differentiate between the strategically crucial districts of Lachin and Kelbacar and the other five);¶ -- "interim status" for the unrecognized Nagorno-Karabakh Republic providing guarantees for security and self-governance, pending¶ -- full determination of the region's future status through a "legally binding expression of will" (whether or not this entails a referendum, and if yes, who would be eligible to cast ballots, is not specified);¶ -- a land corridor linking Nagorno-Karabakh with the Republic of Armenia;¶ -- the right of all internally displaced persons and refugees to return to their former places of residence; and¶ -- international security guarantees that would include a peacekeeping operation.¶ According to the L'Aquila statement, "The Basic Principles reflect a reasonable compromise based on the Helsinki Final Act principles of Non-Use of Force, Territorial Integrity, and the Equal Rights and Self-Determination of Peoples.... The endorsement of these Basic Principles by Armenia and Azerbaijan will allow the drafting of a comprehensive settlement to ensure a future of peace, stability, and prosperity for Armenia and Azerbaijan and the broader region."¶ At every subsequent meeting of the G8, the three presidents have reaffirmed their support for the Basic Principles and urged the conflict parties to formally endorse them as the basis for a full-fledged peace agreement. In May 2011, just weeks before the ill-fated Kazan summit, they noted unspecified "significant progress" and urged the two presidents to "finalize the Basic Principles" as "a way for all sides to move beyond the unacceptable status quo."¶ The peace process appears nonetheless to have lost momentum as of 2010. Aliyev and Sarkisian met three times in 2008 and six times in 2009, but only twice in 2010 and twice in 2011. The precise reasons for that trend remain unclear. In their joint statements released at the G20 summit in Los Cabos, Mexico, in 2012 and the G8 summit in Enniskillen, Northern Ireland, in 2013, the presidents of France, Russia, and the United States noted that "rather than trying to find a solution based on mutual interests, the parties have continued to seek one-sided advantage in the negotiation process."¶ Shortly before the Kazan summit, President Aliyev publicly argued that the way to change the "unacceptable status quo" was for Armenia to withdraw its forces from the Azerbaijani territory they occupy.¶ Writing in "The Wall Street Journal" in December 2012, veteran Azerbaijani Foreign Minister Elmar Mammadyarov similarly argued that "the Armenian military withdrawal must be comprehensive, and it needs to take place now." Neither Aliyev nor Mammadyarov explained what the Armenian side would gain in return for surrendering its sole bargaining chip and withdrawing its forces before all the minutiae of a formal peace settlement had been hammered out.¶ Armenia's ambassador to the OSCE, Arman Kirakossian, may have been referring to Baku's insistence on an immediate withdrawal from the occupied districts when he recalled last week that the Enniskillen G8 statement stressed that "these elements [meaning the Basic Principles] should be seen as an integrated whole, as any attempt to select some elements over others would make it impossible to achieve a balanced solution."

## saudi

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.

Can’t solve backlash

Groves, senior research fellow – Institute for International Studies @ Heritage, 1/25/’13

(Steven, “The U.S. Should Ignore U.N. Inquiry Into Drone Strikes,” http://blog.heritage.org/2013/01/25/the-u-s-should-ignore-u-n-inquiry-into-drone-strikes/)

Various international legal academics and human rights activists have regularly made these and other similar allegations ever since the Obama Administration stepped up the drone program in 2009. While drone strikes cannot be viewed alone as an effective counterterrorism strategy, the Administration has repeatedly defended the legality of the program.

Emmerson and his fellow U.N. special rapporteurs Philip Alston and Christof Heyns have repeatedly demanded that the U.S. provide more informationon drone strikes—and the U.S. has repeatedly complied, issuing public statement after public statement defending every aspect of the drone program.

Public statements detailing the legality and propriety of the drone program have been made by top Administration officials, including State Department Legal Adviser Harold Koh, Attorney General Eric Holder, Deputy National Security Advisor John Brennan, General Counsel for the Department of Defense Jeh Johnson, and CIA General Counsel Stephen Preston.

Increased transparency will, of course, be deemed by human rights activists as insufficient where their true goal is to stop the U.S. drone program in its entirety. Unless and until the U.S. can somehow promise that no civilian casualties will result from drone strikes, such strikes will be considered violations of international law.

Ignoring the U.N. probe will not make it go away, but the Obama Administration should not be so naive as to expect that its cooperation will substantively alter the investigation’s findings and conclusions.

No Saudi prolif – decades away from even having the capacity

**Hoodbhoy**, professor of physics at Quaid-i-Azaam University in Islamabad, interviewed by Jess Hill, Australian Broadcasting Corporation, 7/1/**2011**

[lexis]

Pervez Hoodbhoyis a professor of physics at Quaid-i-Azaam University in Islamabad, and a strong advocate of nuclear non-proliferation. He spoke to Jess Hill from Islamabad.

PERVEZ HOODBHOY: **Saudi Arabia doesn't have the technological capacity**, and in particular the highly skilled technicians, engineers and scientists who would be required to start a nuclear program, whether that be nuclear-power generation or making the bomb itself.

So, obviously, they would look for expatriates and they would try to get them from all over the world, they could try and get people from people from ex-Soviet Union countries, you would get Russians, and more than anybody else, they would try to get Pakistanis, because Pakistan has a fair amount of experience in dealing with nuclear issues. It has a nuclear-power program, but it's got even more expertise in terms of the bomb.

JESS HILL: Now there was a report a few years ago, I think in 2003, that Saudi Arabia and Pakistan had entered a kind of pact for cheap oil on Pakistan's side and for nuclear weapons to the Saudis. Is there any evidence to suggest that Saudi Arabia and Pakistan already have an agreement like this?

PERVEZ HOODBHOY: **None at all**. I don't believe that any kind of formal agreement exists. It may well be that there's a wink and a nod here and there, but that's it.

Now when Pakistan tested nuclear weapons in 1998 it was subject to sanctions and the Saudi help, in terms of the oil given to Pakistan, was key in helping Pakistan survive those days. Now Saudi Arabia may have hinted at that time that it too would like nuclear weapons but then, given how closely aligned it is to the United States, I don't think that there was any kind of formal agreement at that time either.

JESS HILL: Now you say that Saudi Arabia may turn to Pakistan for expertise; is there any likelihood that Saudi Arabia could go to Pakistan for a fully finished nuclear weapon?

PERVEZ HOODBHOY: **No**, that **certainly** is **not** the way that they would go about it.

JESS HILL: Now Saudi Arabia's also a signatory to the Non-Proliferation Treaty; what legal and political problems would it face if it went ahead with publicly pursuing a nuclear weapon?

PERVEZ HOODBHOY: I don't think the NPT would be any kind of a barrier in terms of getting nuclear power plants, and once you get nuclear power plants you are well ahead in the quest for the bomb. After all let's remember that Iran, too, is a member of the NPT and yet it does seem to be pursuing enrichment and, well, at some point, it may even want reprocessing.

JESS HILL: What do you think is the likelihood that Saudi Arabia will acquire nuclear weapons?

PERVEZ HOODBHOY: **I don't see there's any immediate possibility of Saudi Arabia acquiring nuclear weapons**. Certainly not going to be able to buy them off the shelf from Pakistan or from any other country, however, what it is seeking to put into motion is a process which at the **end of** a decade, or maybe **two decades**, could result in a capacity to make the bomb.

#### 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).

#### Recent empirics go neg

Barnett, senior managing director of Enterra Solutions LLC, contributing editor/online columnist for Esquire, 8/25/’9

(Thomas P.M, “The New Rules: Security Remains Stable Amid Financial Crisis,” Aprodex, Asset Protection Index, <http://www.aprodex.com/the-new-rules--security-remains-stable-amid-financial-crisis-398-bl.aspx>)

When the global financial crisis struck roughly a year ago, the blogosphere was ablaze with all sorts of scary predictions of, and commentary regarding, ensuing conflict and wars -- a rerun of the Great Depression leading to world war, as it were. Now, as global economic news brightens and recovery -- surprisingly led by China and emerging markets -- is the talk of the day, it's interesting to look back over the past year and realize how globalization's first truly worldwide recession has had virtually no impact whatsoever on the international security landscape.

None of the more than three-dozen ongoing conflicts listed by GlobalSecurity.org can be clearly attributed to the global recession. Indeed, the last new entry (civil conflict between Hamas and Fatah in the Palestine) predates the economic crisis by a year, and three quarters of the chronic struggles began in the last century. Ditto for the 15 low-intensity conflicts listed by Wikipedia (where the latest entry is the Mexican "drug war" begun in 2006). Certainly, the Russia-Georgia conflict last August was specifically timed, but by most accounts the opening ceremony of the Beijing Olympics was the most important external trigger (followed by the U.S. presidential campaign) for that sudden spike in an almost two-decade long struggle between Georgia and its two breakaway regions.

Looking over the various databases, then, we see a most familiar picture: the usual mix of civil conflicts, insurgencies, and liberation-themed terrorist movements. Besides the recent Russia-Georgia dust-up, the only two potential state-on-state wars (North v. South Korea, Israel v. Iran) are both tied to one side acquiring a nuclear weapon capacity -- a process wholly unrelated to global economic trends.

And with the United States effectively tied down by its two ongoing major interventions (Iraq and Afghanistan-bleeding-into-Pakistan), our involvement elsewhere around the planet has been quite modest, both leading up to and following the onset of the economic crisis: e.g., the usual counter-drug efforts in Latin America, the usual military exercises with allies across Asia, mixing it up with pirates off Somalia's coast). Everywhere else we find serious instability we pretty much let it burn, occasionally pressing the Chinese -- unsuccessfully -- to do something. Our new Africa Command, for example, hasn't led us to anything beyond advising and training local forces.

Saudi prolif won't happen and long timeframe

Keck 13

Zachary Keck is Associate Editor of The Diplomat where he authors The Pacific Realist blog, National Interest, November 18, 2013, "Why Pakistan Won't Sell Saudi the Bomb", http://nationalinterest.org/commentary/why-pakistan-wont-sell-saudi-the-bomb-9416

Khilewi’s allegations are notable, however, in demonstrating that he understood how deeply the U.S. fears nuclear weapons spreading, particularly to the Middle East, and his willingness to use this to his advantage. Whatever other differences Khilewi may have with the Saudi family, they share this in common. Indeed, for years now Saudi rulers have repeatedly threatened to go nuclear if the U.S. doesn’t stop Iran from gaining nuclear weapons.

But for their threat to be effective, it has to be credible. And to be credible, Riyadh has to be capable of making good on it. This puts Saudi officials in a difficult bind as it would take decades for them to build a nuclear weapon from scratch, if they were ever able to do so at all. As Jacques Hymans has noted, of the ten states that have begun dedicated nuclear weapons programs since 1970, only three have been successful, with the jury still out on Iran. Of the three success stories, building the bomb took an average of 17 years. Not counting the Shah’s nuclear activities, the Iranian case has stretched 30 years and counting.

Saudi Arabia is far less capable of building a nuclear weapon than Pakistan or Iran. Furthermore, threatening to acquire nuclear bombs twenty five years from now is not likely to cause undue alarm among U.S. officials. Thus, Saudi leaders need a way to make their threats seem more urgent.

US-Saudi relations prevent 5th fleet kickout

HENDERSON, Baker fellow and director of the Gulf and Energy Policy Program at the Washington Institute for Near East Policy, 11-1-13

(Simon, “The U.S.-Saudi Royal Rumble,” http://www.foreignpolicy.com/articles/2013/11/01/the\_us\_saudi\_royal\_rumble?page=full, accessed 11-2-13, CMM)

Assuming that the Saudi-U.S. relationship is really heading off course, what could go wrong this time? Here are seven nightmare scenarios that should keep officials in the State Department and Pentagon up at night.¶ ¶ 1. Saudi Arabia uses the oil weapon. The kingdom could cut back its production, which has been boosted to over 10 million barrels/day at Washington's request, to make up for the fall in Iranian exports caused by sanctions. Riyadh enjoys the revenues generated by higher production, but price hikes caused by tightening supply could more than compensate the kingdom. Meanwhile, a drop in supply will cause the price at the gas pump to spike in the United States -- endangering the economic recovery and having an almost immediate impact on domestic public opinion.¶ ¶ 2. Saudi Arabia reaches out to Pakistan for nuclear-tipped missiles. Riyadh has long had an interest in Islamabad's nuclear program: The kingdom allegedly partially funded Pakistan's pursuit of a nuclear weapon. In 1999, then Saudi Defense Minister Prince Sultan was welcomed by Pakistani Premier Nawaz Sharif to the Kahuta plant, where Pakistan produces highly enriched uranium. After being overthrown by the military later the same year, Sharif is now back again as prime minister -- after spending years in exile in Saudi Arabia.¶ ¶ While Islamabad would not want to get in between Riyadh and Tehran, the arrangement could be financially lucrative. It would also help Pakistan out-flank India: If part of Islamabad's nuclear arsenal was in the kingdom, it would effectively make it immune from Indian attack.¶ ¶ Alternatively, the kingdom could declare the intention of building a uranium enrichment plant to match Iranian nuclear ambitions -- to which, in Riyadh's view, Washington appears to be acquiescing. As King Abdullah told senior U.S. diplomat Dennis Ross in April 2009, "If they get nuclear weapons, we will get nuclear weapons."¶ ¶ 3. Riyadh helps kick the United States out of Bahrain. When Bahrain was rocked by protests in 2011, Saudi Arabia led an intervention by Gulf states to reinforce the royal family's grip on the throne. The Saudis have the leverage, therefore, to encourage Bahrain to force the U.S. Navy Fifth Fleet to leave its headquarters in Manama, from which the United States projects power across the Persian Gulf.¶ ¶ It wouldn't be a hard sell: Hardline Bahraini royals are already fed up with American criticism of their domestic crackdown on Shiites protesting for more rights. But it would be a hard landing for U.S. power projection in the Middle East: The current arrangements for the Fifth Fleet would be hard to reproduce in any other Gulf sheikhdom. And it's not without some precedent. Riyadh forced the United States out of its own Prince Sultan air base 10 years ago.¶ ¶ 4. The kingdom supplies new and dangerous weaponry to the Syrian rebels. The Saudis are already expanding their intervention against President Bashar al-Assad's regime, funneling money and arms to hardline Salafist groups across Syria. But they have so far heeded U.S. warnings not to supply the rebels with certain weapons -- most notably portable surface-to-air missile systems, which could not only bring down Assad's warplanes but also civilian airliners.¶ ¶ Saudi Arabia could potentially end its ban on sending rebel groups these weapons systems -- and obscure the origins of the missiles, to avoid direct blame for any of the havoc they cause.¶ ¶ 5. The Saudis support a new intifada in the Palestinian territories. Riyadh has long been vocal about its frustrations with the lack of progress on an Israeli-Palestinian peace deal. Palestine was the top reason given in the official Saudi statement rejecting the U.N. Security Council seat. The issue is also close to Abdullah's heart -- in 2001, he declined an invitation to Washington due to lack of U.S. pressure on Israel. What's more, Riyadh knows that playing the "Arab" card would be popular at home and across the region.¶ ¶ If Saudi Arabia truly feels that the prospect for a negotiated settlement is irreparably stalled, it could quietly empower violent forces in the West Bank that could launch attacks against Israeli forces and settlers -- fatally wounding the current mediation efforts led by Secretary of State John Kerry.¶ ¶ 6. Riyadh boosts the military-led regime in Egypt. The House of Saud has already turned into one of Egypt's primary patrons, pledging $5 billion in assistance immediately after the military toppled former President Mohamed Morsy. Such support has allowed Egypt's new rulers to ignore Washington's threats that it would cut off aid due to the government's violent crackdown on protesters.¶ ¶ By deepening its support, Saudi Arabia could further undermine Washington's attempt to steer Cairo back toward democratic rule. As Cairo moves toward a referendum over a new constitution, as well as parliamentary and presidential elections, Gulf support could convince the generals to rig the votes against the Muslim Brotherhood, and violently crush any opposition to their rule.¶ ¶ 7. Saudi Arabia presses for an "Islamic seat" on the U.N. Security Council. The kingdom has long voiced its discontent for the way power is doled out in the world's most important security body. The leaders of the Organization of Islamic Cooperation, a bloc of 57 member states designed to represent Muslim issues in global affairs, have called for such an "Islamic seat."¶ ¶ The United States and other veto-wielding countries, of course, can be counted on to oppose any effort that would diminish their power in the Security Council. But even if the Saudi plan fails, the kingdom could depict U.S. opposition as anti-Islamic. Such an effort would wreck America's image in the Middle East, and provide dangerous fodder for Sunni extremists already hostile to the United States.¶ ¶ Washington insiders will no doubt see any of these potential Saudi policies as self-defeating. However, it would be a mistake to ignore Riyadh's frustration: While Washington thinks it can call the Saudis' bluff, top officials in the kingdom also appear to believe that the United States is bluffing about its commitment to a range of decisions antagonistic to Saudi interests. The big difference is that the tension in the relationship is the No. 1 priority in Saudi Arabia -- but is way down near the bottom of the Obama administration's list of concerns.

Iranian anti-access area-denial capabilities neutralize bases in the Persian Gulf – the Navy has no strategy to respond

Wood, 10

David Wood, Chief Military Correspondent, former correspondent for Time, and Pultizer prize finalist for writing on national security, 9-16-2011, “ China, Iran Creating 'No-Go' Zones to Thwart U.S. Military Power,” Politics Daily, http://www.politicsdaily.com/2010/03/01/china-iran-creating-no-go-zones-to-thwart-u-s-military-power/

But now the party's over. The United States, Pentagon strategists say, is quickly losing its ability to barge in without permission. Potential target countries and even some lukewarm allies are figuring out ingenious ways to blunt American power without trying to meet it head-on, using a combination of high-tech and low-tech jujitsu. At the same time, U.S. naval and air forces have been shrinking under the weight of ever more expensive hardware. It's no longer the case that the United States can overwhelm clever defenses with sheer numbers. As Defense Secretary Robert Gates summed up the problem this month, countries in places where the United States has strategic interests -- including the Persian Gulf and the Pacific -- are building "sophisticated, new technologies to deny our forces access to the global commons of sea, air, space and cyberspace.'' Those innocuous words spell trouble. While the U.S. military and strategy community is focused on Afghanistan and the fight in Marja, others – Iran and China, to name two – are chipping away at America's access to the Taiwan Strait, the South China Sea, the Persian Gulf and the increasingly critical extraterrestrial realms. "This era of U.S. military dominance is waning at an increasing and alarming rate,'' Andrew Krepinevich, a West Point-educated officer and former senior Pentagon strategist, writes in a new report. "With the spread of advanced military technologies and their exploitation by other militaries, especially China's People's Liberation Army and to a far lesser extent Iran's military and Islamic Revolutionary Guards Corps, the U.S. military's ability to preserve military access to two key areas of vital interes**t,** the western Pacific and the Persian Gulf, is being increasingly challenged.'' At present, "there is little indication that China or Iran intend to alter their efforts to create 'no-go' zones in the maritime areas off their coasts,'' writes Krepinevich, president of the non-partisan think tank, the Center for Strategic and Budgetary Assessments. What will save America's bacon, Gates and others hope, is something called the Air-Sea Battle Concept. Problem: It has yet to be invented. The most worrisome of the "area denial/anti-access'' strategies being deployed against the United States (and others) is by China, which groups its defenses under the term "shashoujian,'' or "assassin's mace.'' The term refers to an ancient weapon, easily concealed by Chinese warriors and used to cripple a more powerful attacker. In its modern incarnation, Krepinevich explains, shashoujian is a powerful combination of traditional but sophisticated air defenses, ballistic and anti-ship missiles, and similar weapons to put at risk nearby U.S. forces and regional bases, together with anti-satellite and cyberwar weapons to disable U.S. reconnaissance and command-and-control networks. Dennis Blair, the top U.S. intelligence official, described these developments in detail in a report to Congress last month, adding that taken together, they "improve China's ability to execute an anti-access and area-denial strategy in the western Pacific.'' Iran's area-denial arsenal includes coastal and inland missile batteries, ballistic missiles to threaten U.S. bases and Arabian oil facilities, mines and shallow-draft missile boats that can quickly swarm around heavy, slow-moving U.S. warships. Iran's ability to threaten any would-be invaders, or simply to shut off access to the Gulf, would be enhanced if it acquires a nuclear weapons capability, which some analysts believe could happen within President Obama's current term in office. As these new challenges have grown, America's air and naval forces have been quietly shrinking, a function of the staggering increase in complexity and cost of the hardware. Although other factors are at play, the bottom line is that the Pentagon can afford fewer planes and ships because each one costs more and more. As former Lockheed Martin chairman Norm Augustine pointed out in 1983, the cost of a fighter aircraft has quadrupled every 10 years, since the dawn of the age of aviation. The F16 fighter, for instance, originally cost about $35 million each (adjusted for inflation). It is being replaced by the F-35, currently priced at $266 million each. The pattern holds for the F-22, which the Pentagon has bought to replace its F-15s, and the B-1 and B-2 bombers built to replace B-52s and F-111s. Small wonder the Air Force inventory of fighter-attack planes and bombers has sagged 20 percent during the past 15 years from 2,073 to 1,649. The Navy also has fallen victim to the rising-cost, falling-inventory phenomenon. During the Vietnam War it boasted 932 warships. By 1985 the Navy could barely maintain 571 ships (despite the Reagan administration's rallying cry of a "600-ship Navy!''). Today's Navy has dwindled to 283 expensive warships. Robert Work, currently the under secretary of the Navy, pointed out as a private researcher last year that not only is the current naval force inadequate for a bust-in-the-door mission, the Navy's plans for a larger future fleet are still inadequate – and unaffordable to boot. The Navy's planned future fleet of 313 ships, he wrote in a major paper on naval strategy, "lacks the range to face increasingly lethal, land-based maritime reconnaissance/strike complexes (networks), or nuclear armed adversaries.'' And, he said, it ignores the growing challenge of China's shashoujian. Anyway, Work added, "the signs are that the Navy's plans are far too ambitious given likely future resource allocations ... the Navy needs to scale back its current plans; they are simply too ambitious for expected future budgets.'' So what's the plan? The plan is to develop a plan, for now being called the Air-Sea Battle Concept. The idea is based loosely on a strategy the Army came up with during the Cold War when the generals realized they were out-manned and out-gunned by the Red Army. Their solution was AirLand Battle, based mostly on the early work of Army Gen. Donn Starry, who advocated using closely coordinated air and ground combat power to attack deep into the enemy's rear at the outset of the fight, rather than waiting for the enemy to advance up to "the front.'' AirLand Battle became a reality after much headbutting among senior generals not willing to share the glory (or the budget dollars). It arguably helped to deter Soviet aggression in Europe. And it proved highly successful in Desert Storm and in the invasion of Iraq. The hope for Air-Sea Battle is to achieve similar synergy by joining naval and air power with space and cyberspace war-fighting capabilities for "defeating adversaries across the range of military operations, including adversaries equipped with sophisticated anti-access and area denial capabilities,'' according to the Pentagon's most recent strategic plan, the Quadrennial Defense Review, published earlier this month. If that sounds vague, it's because there's not much behind the words. A laconic sentence in the QDR hints that no one has any idea what Air-Sea Battle might mean in practice: "As it matures, the concept will also help guide the development of future capabilities needed for effective power projection operations.''

#### Bahraini base isn’t key to power projection – kick out spurs a strategic shift to a flexible basing strategy

Koplovsky, 6

Michael Koploysvky, Foreign Service Officer, Ph.D. in Strategic Studies from Naval War College, http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA463412&Location=U2&doc=GetTRDoc.pdf)

Despite adamant arguments outlining the essential nature of U.S. forward bases to achieve military goals, the availability of options seems to blunt the claims. Real concerns about risks and costs further undermine the case for the necessity of a Bahrain base. Given its other options (many of which the United States is actively considering or pursuing), it appears that the United States can achieve its national security goals without a permanent base in Bahrain. Bases in other Gulf States, a reliable and credible lift capacity, sea-basing, and “rear-echeloning” collectively promise to compensate adequately in terms of operational factors. While each alternative has its own weaknesses, adopting a balanced combination of these options would enable the United States to deter and/or defend against Iran, reassure and protect Gulf allies and friends, conduct effective campaigns against terrorist groups, ensure free passage of energy exports through the Strait of Hormuz, and continue its reconstruction and stability activities in Iraq without a permanent presence in Bahrain. The very real danger of unintended consequences -- including eroding support for the United States, generating political troubles for regional partners, feeding perceptions of weak U.S. commitment to democracy, and stoking ideological recruitment -- argue against a large permanent presence. Forward deployed U.S. forces’ vulnerability to attack is another important concern. In an era of shrinking budgets and moves toward restructuring, a base in Bahrain **might be a relic of obsolete U.S. force structure and projection**. By kicking the U.S. military out, the Bahrainis could precipitate timely adoption of a new U.S. force posture with reduced overseas footprint, increased flexibility, diminished risk, and faster reaction.

The United States has lived without Bahrain before. In the late 1970s, following the loss of the home-porting agreement, the United States shifted to a “flag afloat” posture, rotating ships through the Persian Gulf without a permanent support base or Fifth Fleet Command ashore at Bahrain. During the Iran-Iraq War in the 1980s, the United States Navy successfully escorted tankers without a permanent naval presence in the Persian Gulf. Without adequate support in theater U.S. capabilities can be stretched to and even beyond their limits. One might argue that the 1980 Iran hostage rescue effort41 might have been more successful if launched and coordinated from a forward operating base in the Persian Gulf. Today, “flag afloat” is an expensive option. The U.S. Navy does not have a ship large or advanced enough to provide adequate communications connections or command and control, or to accommodate a Fifth Fleet staff. One would have to be built or costly adjustments and improvements made to realize a flagship command posture. In operational terms, “U.S. interests require the capacity to move, use, and sustain forces with dispatch and effectiveness.”42 The question is whether a forward base in Bahrain is essential to achieving this capacity in the Persian Gulf. A cursory look at the ample inventory of options, a preference by the current American political leadership for increased flexibility and diversification of risk, and a calculation of the possible costs, both financial and political, leads to a comforting if surprising conclusion: Not only could the U.S. military absorb the loss of basing rights in Bahrain, but it would force earlier adoption of the more flexible and reactive posture envisioned in ongoing military transformation. The debate over basing options is not over, but the sudden loss of a key forward operating base could help focus policymakers and operational strategists by forcing decisions with important ramifications. The loss of access to Bahrain, and a decision to rely on smaller “footprint” alternatives (e.g. intermittent access, sea-basing, or a shipboard “flag afloat” naval command headquarters), could be a blessing in disguise. At a minimum, the United States should plan for and be prepared to execute the mission without bases in Bahrain. By investing in and advancing research and development into sea-basing and enhanced air and sea lift, designing rotational training and exercises, pre-positioning equipment, and redoubling efforts to negotiate various access rights, the United States will have prepared itself for the operational challenges a loss of basing rights might present, perhaps even better preparing itself for future challenges in the region.

Solves their advantage and anti-access weapons

Eisenstadt, 2005

Michael Eisenstadt, senior fellow and director of The Washington Institute's Military and Security Studies Program, 2005, “Deter and Contain: Dealing with a Nuclear Iran,” http://www.npolicy.org/userfiles/file/Getting%20Ready-Deter%20and%20Contain-Dealing%20with%20a%20Nuclear%20Iran.pdf

Some Iranian decisionmakers might believe that “the bomb” might provide them with a free hand to take such steps with relative impunity, by deterring an effective response by its neighbors or the United States. For this reason, it is critical that the United States help its GCC allies obtain the means to counter Iran’s naval mine, special warfare, small boat, submarine, and coastal anti-ship missile forces on their own. Countering these capabilities will also require a significant U.S. military presence in Gulf. As a result, the U.S. Navy will remain susceptible to Iranian attempts to intimidate U.S. allies into denying U.S. forces access and basing. This will remain a potential vulnerability for the foreseeable future. For this reason, the U.S. Navy’s Sea Power 21 “Sea Basing” concept may be particularly useful for contingencies in or near the Gulf. This concept calls for the U.S. Navy to develop an ability to operate independent of shore-based logistical hubs, thereby limiting the impact of enemy anti-access measures and decisions by friendly states to refuse or limit access, basing, and overflight rights during crises or wartime.29

Naval power solves great power wars.

Conway et al, US Marine Corps general, 7

[James, and Gary Roughead, US Navy admiral, Thad Allen, US Coast Guard admiral, “A Cooperative Strategy for 21st Century Seapower” <http://www.navy.mil/maritime/MaritimeStrategy.pdf>, p.10, accessed 11-12-13, TAP]

Deter major power war. No other disruption is as potentially disastrous ¶ to global stability as war among major powers. Maintenance and ¶ extension of this Nation’s comparative seapower advantage is a key ¶ component of deterring major power war. While war with another great ¶ power strikes many as improbable, the near-certainty of its ruinous ¶ effects demands that it be actively deterred using all elements of national ¶ power. The expeditionary character of maritime forces—our lethality, ¶ global reach, speed, endurance, ability to overcome barriers to access, ¶ and operational agility—provide the joint commander with a range ¶ of deterrent options. We will pursue an approach to deterrence that ¶ includes a credible and scalable ability to retaliate against aggressors ¶ conventionally, unconventionally, and with nuclear forces.

Win our Nation’s wars. In times of war, our ability to impose local sea ¶ control, overcome challenges to access, force entry, and project and ¶ sustain power ashore, makes our maritime forces an indispensable ¶ element of the joint or combined force. This expeditionary advantage ¶ must be maintained because it provides joint and combined force ¶ commanders with freedom of maneuver. Reinforced by a robust sealift ¶ capability that can concentrate and sustain forces, sea control and power ¶ projection enable extended campaigns ashore.

# 2nc norms

## 2nc no impact

drone prolif has a stabilizing effect – doesn’t cause war – reducing the risks casualties incentivizes non-lethal force – maximizes conventional war deterrence and effecitveness

Their drones impact is hype – strategic disadvantages for use by terror groups and state on state combat

Michael Lewis, Professor of Law at Ohio Northern University Pettit College of Law, and Emily Crawford, Post-Doctoral Research Fellow, University of Sydney, 5/3/13, DRONES AND DISTINCTION: HOW IHL ENCOURAGED THE RISE OF DRONES, http://www.law.georgetown.edu/academics/law-journals/gjil/recent/upload/zsx00313001127.PDF

Many commentators have bolstered their arguments that the United States’ use of drones is illegal by “cautioning” that the rules for drone use which the United States is establishing could come back to haunt it when drones proliferate.156 After mentioning that over forty states possess drone technology, Philip Alston warns that “the rules being set today are going to govern the conduct of many States tomorrow. I’m particularly concerned that the United States seems oblivious to this fact when it asserts an ever-expanding entitlement for itself to target individuals across the globe.”157 Elsewhere he raises the specter that “[t]here are strong reasons to believe that a permissive policy on drone-fired targeted killings will come back to haunt the United States in a wide range of potential situations in the not too distant future.”158

Before discussing the legal merits of the norms that the United States is shaping through its present conduct of drone warfare, it is first necessary to dispel a pervasive misconception about drones that Alston and many other commentators have promulgated. **That misconception is that the current manner in which the U**nited **S**tates **is using drones broadly justifies any use of drones by other countries** against the United States **and that drones represent a serious threat** to the United States.159 This misconception has spread so easily because the reciprocity theme is intuitively appealing and, to a point, legally correct. It is true that whatever legal basis the United States offers for utilizing drones in Yemen, Pakistan, or Somalia must also be available to any other nation wishing to use drones as well. **However, that does not mean that drones will be appearing over New York City anytime soon**, in large part because drones are very vulnerable to air defense systems and signal interruption and because they are particularly unsuited to use by terror groups.160 Even the most advanced drones that the United States possesses are relatively slow and vulnerable to fighters or surface-to-air missiles, meaning that, as conventional weapons, **drones would have limited utility in a traditional state-on-state armed conflict.**161 Perhaps more importantly, the physical realities associated with using drones makes them of limited usefulness to terrorists. Drones that are capable of carrying any significant payload need hard surfaced runways and significant maintenance support. Any drone returning to such facilities would be closely followed by U.S. forces, meaning that any drone used by terrorists would be a single strike proposition, and quite an expensive one at that. Therefore, from a practical standpoint, car bombs, suicide bombs, and attacks on airliners remain by far the most credible threat to the United States, regardless of how it pursues its drone policy.

New drone states won’t be able to deploy effectively

Blair 13 (Dennis, Admiral, former Director of National Intelligence, Council on Foreign Relations, “U.S. Drone Strike Policies”, January 22, <http://www.cfr.org/counterterrorism/us-drone-strike-policies/p29849>, ZBurdette)

QUESTIONER: Hi. Thank you very much for doing this.

Has anybody, either you or others, given thought to what happens next? I mean, the United States owns the drone wars now, but technology tends to only trump temporarily. What happens down the road five years from now when other countries get drones, other countries have the ability to target American diplomats traveling around in cars in rural Yemen? Are we -- are we -- have we really thought through what kind of a world it's going to be when we have proliferating drone powers?

BLAIR: I think that --

MASTERS: (Micah, you want ?) --

BLAIR: This is Dennis Blair again.

QUESTIONER: Hi, Dennis.

BLAIR: I think we've partly thought that -- thought that through, but this is a -- this is a familiar syndrome in the sort of military technology cycle. When a new weapons program comes in, it's often introduced by the more advanced countries, the high-tech ones, and -- who take full advantage of that while they can and don't worry too much about what happens when others -- when others get it.

When you -- when you think about it, there are a couple of things that make me believe that this -- when drones do proliferate, they will not be as effective weapons against us as we are able to use them against others right now.

One is that they are -- that they are very dependent on a -- on an intelligence system which is incredibly worldwide, complicated and expensive. It uses the entire U.S. global intelligence system. **No other country can afford that.** It's not just the -- it's not just the money; it's the **years of practice** it takes to do that.

The second one is that -- what I do fear the most, though, is that a terrorist -- and let me say I don't fear too much other nation- states that gain this capability. It's very -- you know if another country has it and is using it against you and then you can use the full -- the full array of both defensive systems and of retaliation to keep it from being used against you effectively.

## Asia

Drone prolif is inevitable, but only specific rules spillover. Plan’s mechanism can’t change Chinese behavior

AARON STEIN is an Associate Fellow at the Royal United Services Institute, 12/19/13 [“Drone Decrees,” Foreign Affairs, http://www.foreignaffairs.com/articles/140584/aaron-stein/drone-decrees]

The United States **has never had a monopoly** on drones. It was the Israeli Air Force’s use of drones during its war in Lebanon in the 1980s that first prompted a skeptical U.S. military to support fully the development of remote-controlled systems. The decision to arm them came later, during the hunt for Osama bin Laden after 2001 and the war on terrorism. By now, U.S. drone strikes are a regular occurrence in areas where terrorist organizations have taken root.¶ Drone technology and drone use **have also proliferated in other countries**. And even more are seeking to develop their own systems**. These systems are likely to be more local affairs than those of the United States**. **Most** of the emerging **drone states** -- including China -- **lack the United States’ worldwide network of military bases and satellites, which allow it to operate drones far from its own borders**. And, like the United States, emerging drones states are eager to develop armed drones for counterterrorism operations and surveillance. With more drones in more places come more security and policy challenges for the United States. To deal with them, it will have to come up with a new drone policy.¶ The tensions between China and Japan over the Senkaku (Diaoyu) Islands are a good example of how drones introduce new diplomatic questions. Chinese manned and unmanned surveillance flights routinely violate Japan’s 12-nautical-mile zone around the islands. Japan has dispatched fighter jets to intercept a Chinese manned surveillance plane and is **reported to have even contemplated shooting down Chinese drones**. In response, Wang Hongguang, the former deputy commander of China’s Nanjing Military Region, wrote in early November that **China should attack Japanese manned planes should Japan shoot down Chinese surveillance drones**. Things have become **even tenser** since China declared a so-called Air Defense Identification Zone over part of the East China Sea. Japan’s Nikkei reports that the United States plans to use Global Hawk drones for surveillance in the area in conjunction with increased Japanese manned E-2C Hawkeye early-warning aircraft.¶ Although there has always been a risk of unintended escalation in the East China Sea, the **emergence of unmanned systems adds a new twist**. For example, the 2001 aerial collision near Hainan Island in the South China Sea involved manned aircraft operating in international airspace. The American plane was flying a surveillance mission when two Chinese fighter jets began to tail it. One of the Chinese fighter jets accidently bumped the U.S. plane, prompting an emergency landing at a Chinese military facility on Hainan Island. China then detained the U.S. crew and inspected the plane, despite warnings that the aircraft was U.S. sovereign territory. The incident touched off a diplomatic row between two great world powers and was an early diplomatic test for the recently elected George W. Bush administration.¶ The rules of engagement are relatively clear for the intentional downing of a manned aircraft, **but the potential response to the shooting down of an unmanned system -- as Japan seems ready to do -- is far murkier**. On the one hand, such an act could escalate and lead to a conflict. On the other, since downing a drone would pose no danger to human life, China or Japan could conclude that the provocative use of drones -- or the intentional targeting of U.S. drones -- carries less risk of retaliation and is therefore a low-stakes means of coercion.¶ That idea is not so far off base: In the Persian Gulf, Iran has fired on U.S. drones and was even successful in spoofing the Global Positioning System (GPS) signal of the advanced RQ-170 drone flying over its territory. An Iranian engineer told The Christian Science Monitor, “By putting noise [jamming] on the communications, you force the bird into autopilot. This is where the bird loses its brain.” The U.S. Government Accountability Office has acknowledged the risk of GPS spoofing and recommends the introduction of spoof-resistant navigation systems on drones.¶ In the Gulf, the United States has sporadically opted to escort its surveillance drones with manned fighter jets, which raises the cost of such operations as well as the risk of escalation. **Absent a clear norm on the response to shooting down an unmanned system, incidents involving drones could snowball quickly**. And that is why the United States should develop a clear policy about the targeting **of** drones. It should be designed to prevent unintended escalation by defining the cost of provocatively using or targeting unmanned systems. These rules would need to apply to all parties, including the United States.¶ First, the United States should signal that it would hold the operator responsible for the actions of unmanned systems. Any retaliation need not target the actual operator, given the complexity of locating the pilot, but could include the air base from which the drone was launched. The goal would be to reintroduce the prospect of casualties and escalation into the drone equation by clearly laying out the potential American response if an adversary considers using unmanned systems in a coercive way against the United States or its allies and partners. In short, U.S. policy should be to treat drones like their manned cousins. Similarly, in the cases where a potential adversary targets a U.S. drone, Washington should make clear that it regards such an act as akin to the downing of a manned aircraft. The response, therefore, could include the use of force or strong diplomatic action.¶ In setting out this policy, the United States would tacitly accept that its own drone program could invite retaliation and that bases from which it flies drones could be targeted. Yet in most cases, the United States receives overflight rights for its drone operations, which should thereby protect the United States from potential retaliation from the countries in which it currently uses drones. The policy would, therefore, weigh more heavily on new drone-operating nations while keeping in place many of the United States’ own drone programs.¶ Holding drone bases responsible could help minimize the ways in which emerging drone states use drones coercively against U.S. interests, as well as push them to reach similar overflight arrangements to those that the United States keeps with its partners. The new policy would not address the legality of targeted killings, but such legal questions can be dealt with separately.¶ The United States should begin to prepare for a world in which it no longer has a monopoly on drone technology. Still, it should do so knowing that, for now, it will retain the unique capability to use military force on a global scale. **For the foreseeable future, potential adversaries will mostly use unmanned systems locally and in ways that affect the security of U.S. allies**. As the United States increases its own use of drones, it should be taking steps to map out a strategy to respond to provocations. Doing so would help establish new norms for everyone.

## caucuses

peace accord now – RFE ev

Their Clayton card has nothing to do with norms, only the tech, which the aff can’t solve. Arms race dynamics create inevitable incentives for drones.

No reason the aff’s norms are key – the dispute is over shooting down drones – which Armenia did in 2011 without escalation. There have been fears of miscalculation for 20 years.

ICG makes these escalation predictions yearly. It’s just fear-mongering.

Marina Ananikyan, 9/27/2013. “Who pays ICG for forecasting new war in Karabakh?” PanArmenian, http://www.panarmenian.net/eng/news/170539/Who\_pays\_ICG\_for\_forecasting\_new\_war\_in\_Karabakh.

A well known International Crisis Group issued yet another analysis on the Karabakh conflict. As usual, the pessimistic ICG forecasts resumption of a war, escalation of tensions, however, being untruthful in an attempt to preserve the appearance of objectivity.

In its overview titled Armenia and Azerbaijan: A Season of Risks, the group predicts that “should a full-scale conflict between Armenia and Azerbaijan break out again, some or all of the regional powers – Russia, Turkey and Iran – could be drawn in, directly.”

“Vigorous international engagement is needed to lessen chances of violent escalation during coming weeks and months,” the Group believes, setting hopes on Russia: “Russia, which is highly influential in all aspects of the conflict and would be the most directly affected of the Minsk co-chairs by a new war, should act more decisively to broker an agreement. It could advance this by announcing a suspension of arms supplies to both sides.”

Now, about being untruthful. In its analysis, the Group says. “Peace talks on Nagorno-Karabakh bogged down in 2011, accelerating an arms race and intensifying strident rhetoric. Terms like “Blitzkrieg’’, “pre-emptive strike’’ and ‘‘total war” have gained currency with both sides’ planners.”

The truth is, Armenian side does not engage in military rhetoric, the latter being Azerbaijan’s “privilege,” with the country’s leadership missing no chance to express their aggressive moods. Armenia’s “strident rhetoric” is limited to mere expressions of readiness to resist Azeri attacks.

Same with “accelerating an arms race.” Baku is the one overtly purchasing and manufacturing inordinate amounts of weaponry, in violation of all international quotas to compensate for lack of expertise in its army, which has already been defeated once.

But back to the analysis. “An immediate concern is military miscalculation, with implications that could far exceed those of a localized post-Soviet frozen conflict, as the South Caucasus, a region where big powers meet and compete, is now also a major energy corridor. Clashes increasingly occur along the Azerbaijani-Armenian frontier far from Nagorno Karabakh, the conflict’s original focus,” the analysis says.

Now what the analysis dubs as “clashes” are incessant Azeri-staged provocations, with Baku sinking as low as shelling Armenian villages or preventing a doctor from aiding a person blown up on a mine who later bled to death, as they did only recently.

As the analysis notes, “the possibility of internal political unrest in both countries increases the uncertainty. Unrest at home might tempt leaders to deflect attention by raising military tensions or to embark on risky attempts to capitalize on their adversary’s troubles.”

Last year, Sabine Freizer, Director of the European Programs in the International Crisis Group gave yet another prediction of an oncoming war in Karabakh.

“Armenian -Azerbaijani clashes may grow into a war in the region, where BP Company and its partners invested USD 35 billion in energy projects. Both parties to the conflict maintain weak control of the line of contact. Large-scale hostilities may soon erupt by accident, as a consequence of retaliatory measures taken,” she said.

Probably reluctant to seem Cassandra-like and be slammed by Yerevan or Baku, Sabine Freizer hurried to add, “Neither Azerbaijan, nor Armenia intend to wage large-scale offensive in short terms. In case of renewal of hostilities, the war will by protracted due to militarily parity of the sides. Besides, the security guarantees issued by Russia and Turkey may get them involved,” she said, adding that Russia’s military base in Gyumri may extend Armenia assistance, with both countries being CSTO member-states and Azerbaijan having close ethnic, political and economic ties with Turkey.

Luckily, Freizer’s predictions failed to come true, similarly to previous analysis-based forecasts of the ICG. The question is, who pays the Group to issue somber predictions and escalate the tension over the issue? Because the only thing the ICG managed to achieve throughout the years is become resented - both in Armenia and Azerbaijan.

Always saber-rattling. Never war.

Joshua Kucera, 12/28/2011. Freelance journalist specializing in Central Asia and the Caucasus. “Predicting Conflict in 2012: Karabakh? Tajikistan? Uzbekistan? Iran?” EurasiaNet, http://www.eurasianet.org/node/64765.

In Nagorno Karabakh, Jackson sees a continuation of tension, but no escalation:

Along the Line of Contact in Karabakh, the grim litany of skirmishes and deaths by sniper fire will rumble along. Both Armenia and Azerbaijan are now deploying drones along the LoC, so expect the conflict to gain a new, aerial dimension (we’ve seen the first signs already). Sabre-rattling, military exercises and soaring defence budgets will all continue, **but - as previously –** don’t expect a new shooting war.

\*Alex Jackson is an independent writer focusing on politics, security, economics and energy in the Caspian region and conducting research and analysis for a number of think tanks.

# 2nc saudi

## 2nc drones sustainable

US won’t self destruct – all three branches have repeatedly left US drone legality and necessity unquestioned

Our ‘circumvention’ solvency arguments prove that there’s no mechanism for the drone program to be shut down

Empirics are overwhelming – years have gone in to crafting a survivable policy

Chesney ’12 (Robert Chesney, professor at the University of Texas School of Law, nonresident senior fellow of the Brookings Institution, distinguished scholar at the Robert S. Strauss Center for International Security and Law, and Cofounder of the Lawfare Blog, “Beyond the Battlefield, Beyond Al Qaeda: The Destabilizing Legal Architecture of Counterterrorism,” August 29, 2012, U Texas School of Law, Public Law and Legal Theory Research Paper No. 227)

This multi-year pattern of cross-branch and cross-party consensus gives the impression that the legal architecture of detention has stabilized at last. But the settlement phenomenon is not limited to detention policy. The same thing has happened, albeit to a lesser extent, in other areas. The military commission prosecution system provides a good example. When the Obama administration came into office, it seemed quite possible, indeed likely, that it would shut down the commissions system. Indeed, the new president promptly ordered all commission proceedings suspended pending a policy review.48 In the end, however, the administration worked with the then Democratic-controlled Congress to pursue a **mend-it-don’t-end-it approach** culminating in passage of the Military Commissions Act of 2009, **which addressed a number of key objections** to the statutory framework Congress and the Bush administration had crafted in 2006. In his National Archives address in spring 2009, moreover, President Obama also made clear that he would make use of this system in appropriate cases.49 He has duly done so, notwithstanding his administration’s doomed attempt to prosecute the so-called “9/11 defendants” (especially Khalid Sheikh Mohamed) in civilian courts. Difficult questions continue to surround the commissions system as to particular issues—such as the propriety of charging “material support” offenses for pre-2006 conduct50—but the system as a whole is **far more stable today** than at any point in the past decade.51

There have been strong elements of cross-party continuity between the Bush and Obama administration on an array of other counterterrorism policy questions, including the propriety of using rendition in at least some circumstances and, perhaps most notably, the legality of **using lethal force** not just in contexts of overt combat deployments but also in **areas physically remote from the “hot battlefield.**” Indeed, the Obama administration **quickly outstripped the Bush administration in terms of the quantity and location** of its airstrikes outside of Afghanistan,52 and it also greatly surpassed the Bush administration in its efforts to marshal public defenses of the legality of these actions.53 What’s more, the Obama administration also **succeeded in fending off a lawsuit challenging the legality of the drone strike program** (in the specific context of Anwar al-Awlaki, an American citizen and member of AQAP known to be on a list of approved targets for the use of deadly force in Yemen who was in fact killed in a drone strike some months later).54

The point of all this is not to claim that legal disputes surrounding these counterterrorism policies have effectively ended. Far from it; a steady drumbeat of criticism persists, especially in relation to the use of lethal force via drones. But by the end of the first post-9/11 decade, this criticism no longer seemed likely to spill over **in the form of disruptive judicial rulings, newly restrictive legislation,** or significant spikes in diplomatic or domestic political pressure, as had repeatedly occurred in earlier years. Years of law-conscious policy refinement—and quite possibly some degree of public fatigue or inurement when it comes to legal criticisms—had made possible an extended period of **cross-branch and cross-party consensus**, and this in turn left the impression that the underlying legal architecture had reached a stage of stability that was good enough for the time being.

Most qualified evidence

Masters, deputy editor – CFR, 10/3/’11

(Jonathan, “US acquires targeted killing as an essential tactic,” The Nation)

Since assuming office in 2009, Barack Obama's administration has escalated targeted killings, primarily through an increase in unmanned drone strikes on Al-Qaeda and Taliban leadership, but also through an expansion of US Special Operations kill/capture missions. The successful killing of Osama bin Laden in a US Navy SEAL raid in May 2011 and the drone strike on Al-Qaeda's number two, Atiyah Abd Rahman, in August 2011 are prime examples of this trend. The White House points to these outcomes as victories, but critics continue to condemn the lethal tactic on moral, legal, and political grounds. Despite the opposition, most experts expect the United States to boost targeted killings in the coming years as military technology improves and the public appetite for large-scale, conventional armed intervention erodes.

## —at: domestic backlash

Chesney – public fatigue

The public prefers the squo—regulation increases likelihood of backlash and turns the case

LaFranchi 6/3/13

Howard LaFranchi, Staff writer, CSMonitor, June 3, 2013, "American public has few qualms with drone strikes, poll finds", http://www.csmonitor.com/USA/Military/2013/0603/American-public-has-few-qualms-with-drone-strikes-poll-finds

When a US drone strike last week killed a top Taliban leader in Pakistan, critics of the strikes that have become a staple of President Obama’s counterterrorism policy were quick to condemn it.¶ The killing of Waliur Rehman in the North Waziristan region on May 29 would only make reconciliation talks between the Taliban and the Afghan government – a US priority – more difficult to convene, some critics said. Others said such strikes infuriate local populations and are a recruiting tool for Al Qaeda and other Islamist extremists.¶ But the American public appears to be unmoved by such arguments. A new Monitor/TIPP poll finds that a firm majority of Americans – 57 percent – support the current level of drone strikes targeting “Al Qaeda targets and other terrorists in foreign countries.” Another 23 percent said the use of drones for such purposes should increase. Only 11 percent said the use of drones should decrease.¶ The poll, conducted from May 28-31, followed a major speech in which Mr. Obama suggested the use of drone strikes would decline. In the May 26 address, he also hinted at his own ambivalence about the controversial tactic, weighing the program’s efficacy against the moral questions and long-term impact.¶ Obama acknowledged that the pluses of drone strikes – no need to put boots on the ground and the accuracy and secrecy they offer – can “lead a president and his team to view drone strikes as a cure-all for terrorism.”¶ He balanced that against words of caution: “To say a military tactic is legal, or even effective, is not to say it is wise or moral in every instance.”¶ The drone strikes, which under Obama have mostly been carried out in secrecy by the CIA, are credited with killing as many as 3,000 terrorists and Islamist militants – at least four of whom were American citizens. Obama is planning to shift most drone operations to the military as part of an effort to make the program more transparent.¶ Americans are by and large comfortable with drone strikes being ordered by the president, the CIA, or by the military, according to the Monitor poll. Less popular is the idea of creating a separate “drone court” – a panel that would presumably increase the accountability of the program.¶ Almost two-thirds of Americans (62 percent) say they approve of drone-strike authorization coming from the president, the Pentagon, or the CIA. About a quarter (26 percent) favor setting up a drone court to sign off on strikes.

Domestic support for drones is huge

Dowd 12 (Alan, The American Interest, “The Brewing Backlash against the Drone War”, June 19, 2012, <http://www.the-american-interest.com/article.cfm?piece=1278#sthash.TjFvOrKO.dpuf>, ZBurdette)

For most Americans, the so-called drone war is a no-brainer: maximum lethality delivered at low economic cost, with zero risk to American personnel—all buffered by the virtual-reality nature of a delivery system that keeps the consequences safely out of sight. That explains why a stunning 83 percent of the country supports President Barack Obama’s use of drones to target suspected terrorists. But the rest of the world isn’t as comfortable with this remote-controlled, auto-pilot war. Indeed, international watchdogs have begun to raise concerns.

It’s easy to understand the appeal of drones. First and foremost, drones are the closest thing to risk-free war man has ever invented—at least for those of us on this side of the unmanned combat aerial vehicles (UCAVs) prowling the skies of Pakistan, Afghanistan, Yemen and Somalia. While the political cost is high when a commander-in-chief loses a pilot, it’s negligible when a commander-in-chief loses a pilotless plane. Compare, for example, the ho-hum reaction to the loss of drones in Iran and the Seychelles under Obama with the international crises other presidents faced when U.S. pilots were shot down over enemy territory: President Dwight Eisenhower was publicly humiliated after the Soviets brought down Gary Powers’ U-2. President John Kennedy was pressured to go to war when Rudolf Anderson was shot down during the Cuban Missile Crisis. And President Bill Clinton had to deal with a hostage crisis after Michael Durant’s Blackhawk was shot down in Mogadishu, and later had to launch a massive search-and-rescue operation deep behind enemy lines when Scott O’Grady’s F-16 crashed in Bosnia.

Most UCAV operators, however, are some 7,000 miles away from their targets—and 7,000 miles away from danger. With no risk to U.S. personnel and a high return—the Brookings Institution estimates that as many as 2,209 militants have been killed by drone strikes—Washington has latched on to UCAVs as an important tool in the national-security toolbox and arguably the primary weapon in the post-9/11 campaign against jihadist groups:

Political support for drones is high

Economist 13 (Lexington columnist, “The beginning of the end”, May 23rd 2013, <http://www.economist.com/blogs/lexington/2013/05/war-terror>, ZBurdette)

True, left-wing supporters of the president are upset with his use of armed drones, and hate the idea that American guards and doctors are force-feeding more than 100 detainees on hunger strike in Guantánamo. But most ordinary Americans tell pollsters that they thoroughly approve of killing suspected terrorists with remote strikes in the badlands of Afghanistan, Pakistan or Yemen. The most potent political challenges to the president’s conduct of the war on terror have to date come from the Right.

Republicans delight in portraying Mr Obama and his government as being soft on Islamic extremists, most recently denouncing his attorney-general, Eric Holder, for allowing the surviving Boston bombing suspect to be read his civilian legal rights. In the view of several conservatives in Congress, Dzhokhar Tsarnaev should have been thrown into the legal limbo of Guantánamo and interrogated, without any nonsense about lawyers and a right to remain silent.

## 2nc backlash inevitable

Plan’s fix is insufficient—drone criticism is inevitable. Their ‘drones unsustainable’ cards don’t say that 1AC mechanism is the key to making drones sustainable

The squo is sustainable, but the aff mechanism fails to solve backlash

Groves, senior research fellow – Institute for International Studies @ Heritage, 4/10/’13

(Steven, “Drone Strikes: The Legality of U.S. Targeting Terrorists Abroad,” http://www.heritage.org/research/reports/2013/04/drone-strikes-the-legality-of-us-targeting-terrorists-abroad)

Continue to affirm existing use-of-force authorities. During the past three years, senior officials of the Obama Administration have publicly set out in significant detail U.S. policies and practices regarding drone strikes. The Administration should continue to do so, emphasizing that U.S. policies adhere to widely recognized international law. Critics of the United States will continue to claim that a lack of transparency surrounds U.S. policy and actions. Such critics will likely never be satisfied, not even with full disclosure of the relevant classified legal memoranda, and their criticism will not cease until the United States abandons its practice of targeting terrorist threats in Pakistan, Yemen, and elsewhere. However, consistent repetition of the U.S. legal position on targeted drone strikes may blunt such criticism.

Not derogate from the AUMF. At the 2012 NATO summit in Chicago, NATO agreed that the vast majority of U.S. and other NATO forces would be withdrawn from Afghanistan by the end of 2014, a time frame that President Obama confirmed during this year’s State of the Union address. Some **critics** of U.S. drone policy **will inevitably argue** that due to the drawdown the United States may no longer credibly claim that it remains in a state of armed conflict with the Taliban, al-Qaeda, and its associated forces, whether they are located in Afghanistan, the FATA, or elsewhere. Congress should pass no legislation that could be interpreted as a derogation from the AUMF or an erosion of the inherent right of the United States to defend itself against imminent threats posed by transnational terrorist organizations.

## saudi relations

-alt causes like economic ties and arm sales

drones not key – ct strat is inevitable

## oil shocks

No Impact to Oil Shocks – Market diversification

Blinder, et al, 2009, [Alan S. Blinder](http://www.voxeu.org/index.php?q=node/1140), Gordon S. Rentschler Memorial Professor of Economics and Public Affairs at Princeton University, [Jeremy Rudd](http://www.voxeu.org/index.php?q=node/2776), Senior economist in the Research and Statistics Division of the Federal Reserve Board13 January 2009, (Oil shocks redux, <http://www.voxeu.org/index.php?q=node/2786>)

A comparatively painless oil shock? But that still leaves us with a puzzle. If supply shocks were the key factor behind the poor macroeconomic outcomes of the 1970s and early 1980s, why didn’t the most recent run-up in oil prices have similarly dramatic effects? As has been documented by a number of authors – including Hooker (1996, 2002), [Blanchard](http://voxeu.org/index.php?q=node/63" \t "_blank) and Gali (2007), and Nordhaus (2007) – oil shocks have had smaller macroeconomic effects since the early 1980s. The basic stylised facts seem to be that the positive response of core inflation has diminished sharply over time and the negative responses of output and employment have nearly vanished. Why might that be? One reason is obvious. Thanks largely to an array of market reactions to higher energy prices after OPEC I and II, the US and other industrialised countries are now far less energy-intensive than they were in 1973. In the case of the US, the energy content of GDP (measured as the number of BTUs consumed per dollar of real output) has fallen dramatically since 1973 and is now about half of what it was then. By itself, this halving of the US economy’s energy intensity would also halve the macroeconomic impacts of oil shocks, with the reductions roughly equal for prices and quantities.

## saudi prolif

Saudi prolif “7 nightmare scenarios” are hype

Won't happen and long timeframe

Keck 13

Zachary Keck is Associate Editor of The Diplomat where he authors The Pacific Realist blog, National Interest, November 18, 2013, "Why Pakistan Won't Sell Saudi the Bomb", http://nationalinterest.org/commentary/why-pakistan-wont-sell-saudi-the-bomb-9416

Khilewi’s allegations are notable, however, in demonstrating that he understood how deeply the U.S. fears nuclear weapons spreading, particularly to the Middle East, and his willingness to use this to his advantage. Whatever other differences Khilewi may have with the Saudi family, they share this in common. Indeed, for years now Saudi rulers have repeatedly threatened to go nuclear if the U.S. doesn’t stop Iran from gaining nuclear weapons.

But for their threat to be effective, it has to be credible. And to be credible, Riyadh has to be capable of making good on it. This puts Saudi officials in a difficult bind as it would take decades for them to build a nuclear weapon from scratch, if they were ever able to do so at all. As Jacques Hymans has noted, of the ten states that have begun dedicated nuclear weapons programs since 1970, only three have been successful, with the jury still out on Iran. Of the three success stories, building the bomb took an average of 17 years. Not counting the Shah’s nuclear activities, the Iranian case has stretched 30 years and counting.

Saudi Arabia is far less capable of building a nuclear weapon than Pakistan or Iran. Furthermore, threatening to acquire nuclear bombs twenty five years from now is not likely to cause undue alarm among U.S. officials. Thus, Saudi leaders need a way to make their threats seem more urgent.

Their internal link is hype by the Saudis to influence US policy

Keck 13

Zachary Keck is Associate Editor of The Diplomat where he authors The Pacific Realist blog, National Interest, November 18, 2013, "Why Pakistan Won't Sell Saudi the Bomb", http://nationalinterest.org/commentary/why-pakistan-wont-sell-saudi-the-bomb-9416

The timing of the report is crucial here. Iran’s nuclear program had first been exposed publicly a year earlier. Then, in March 2003, the U.S. invaded Iraq despite Saudi reservations that it would create a vacuum that Iran would fill. The Bush administration is believed to have tried to assuage Saudi concerns by suggesting that Saddam Hussein would only be the first regime it would topple. As The Guardian report discusses in great detail, in the months after the invasion, the Saudis had become increasingly concerned about America’s commitment to them.

In this context, the leak about the strategic review was almost certainly intended to force the U.S. to renew its focus on Iran

and its nuclear program. The timing of the report is also notable because the month after The Guardian article was published, Crown Prince Abdullah bin Abdulaziz led a Saudi delegation on a trip to Pakistan.

Many are the numerous reports since then, including the one last week, have been based on even more shaky grounds. First, they all seem to surface during times when there is heightened concern about Iran’s nuclear program, and/or strains in the U.S.-Saudi relationship. Secondly, almost none add any new kind of evidence, usually just citing a couple unnamed officials. Interestingly, the reports often cite NATO or Western officials who appear to only to be voicing their suspicions about the existence of a pact. The rest of the space is usually filled by reciting the long history of speculation about a secret nuclear pact, conveniently papering over the lack of evidence supporting these fears.

# 2nc cp

## legitimacy

That solves the aff and legal legitmacy

Jameel Jaffer, human rights and civil liberties attorney who is deputy legal director of the American Civil Liberties Union, 13 [“JUDICIAL REVIEW OF TARGETED KILLINGS,” Harvard Law Review, April, 126 Harv. L. Rev. F. 185]

The argument for some form of judicial review is compelling, not least because such review would clarify the scope of the government's authority to use lethal force. The targeted killing program is predicated on sweeping constructions of the 2001 Authorization for Use of Military Force (AUMF) and the President's authority to use military force in national self-defense. The government contends, for example, that the AUMF authorizes it to use lethal force against groups that had nothing to do with the 9/11 attacks and that did not even exist when those attacks were carried out. It contends that the AUMF gives it authority to use lethal force against individuals located far from conventional battlefields. As the Justice Department's recently leaked white paper makes clear, the government also contends that the President has authority to use lethal force against those **deemed to present "continuing" rather than truly imminent threats**. These claims are controversial. They have been rejected or questioned by human rights groups, legal scholars, federal judges, and U.N. special rapporteurs. **Even enthusiasts of the drone program have become anxious about its legal soundness**. ("People in Washington need to wake up and realize the legal foundations are crumbling by the day," Professor Bobby Chesney, a supporter of the program, recently said.) **Judicial review could clarify the limits on the government's legal authority and supply a degree of legitimacy to actions taken within those limits.** [\*186] It could also encourage executive officials to **observe these limits**. Executive officials would be less likely to exceed or abuse their authority if they were required to defend their conduct to federal judges. Even Jeh Johnson, the Defense Department's former general counsel and a vocal defender of the targeted killing program, acknowledged in a recent speech that judicial review could add "rigor" to the executive's decisionmaking process. In explaining the function of the Foreign Intelligence Surveillance Court, which oversees government surveillance in certain national security investigations, executive officials have often said that even the mere prospect of judicial review deters error and abuse.

## at: perm

Qualified immunity means officials can’t lose suits if they are doing their job. Ex ante approval would overwhelm the ex post corrective since any unjust action could be justified using the plans rubber stamping court

Rolfs 2011, Colin, J.D. UCLA Law / Editor UCLA Law Review, “Qualified Immunity After *Pearson v. Callahan*,” 59 UCLA L. Rev. 468, 472-74, 501-02 (2011)

**For most government officials, qualified immunity provides the defense** to a section 1983 or Bivens action.27 In its present form, **qualified immunity protects officials from financial liability for constitutional violations as long as the officials did not violate a clearly established constitutional right** of which a reasonable person would have known.28 Three policy motivations underlie the qualified immunity defense: the questionable fairness of holding officials liable for violations of unclear constitutional rights standards; the possibility that fear of liability could overly constrain government action; and the substantial cost of litigation for government officials even if no violation occurred.29 When the qualified immunity defense is asserted, liability for a constitutional tort depends on two inquiries: (1) whether a right was violated;30 and (2) whether the right was clearly established such that a reasonable person would have known that his actions violated the right.31 These are separate inquiries, and negating either prong precludes liability.32 **A central and contentious question in the development of qualified immunity has been whether courts must determine if a constitutional right was violated after it has already precluded liability by holding** that, even if there were a violation, **the right was not clearly established** at the time.33 Since section 1983 is the primary means of remedying constitutional violations,34 and since qualified immunity is the primary defense to these actions,35 **the answer to this question has a substantial effect on the development of constitutional law**. In 2001, the Supreme Court in Saucier v. Katz36 required that courts approach qualified immunity by first making the constitutional determination— a practice known as “sequencing.”37 Under this approach, a court was required to make a constitutional determination whenever qualified immunity was asserted, but was obligated to determine whether the law was clearly established only if it had found a constitutional violation.38 Mandatory sequencing was heavily criticized,39 and recently, in **Pearson v. Callahan**, the Supreme Court overruled Saucier and abandoned mandatory sequencing.40 Pearson **gives courts the discretion to avoid a constitutional determination if a claim could be dismissed because the right was not clearly established**.41 As a result, the Tramell court could choose to avoid a constitutional analysis, while the Cordova court could still choose to create constitutional precedent. And the Tramell and Cordova decisions are only a small part of the picture. Federal courts have had to make that same choice thousands of times since Pearson was decided.42 To understand the effect of Pearson on qualified immunity determinations and on the development of constitutional law, we need a broader view of how courts are choosing to use their newfound discretion. Through an empirical investigation, this Comment measures how federal courts have responded to Pearson. It begins with a history of qualified immunity in Part I. This Part provides historical context and defines the time periods important for the empirical analysis, which compares qualified immunity determinations after Pearson to those made in earlier periods. Part II reviews the various positions of those involved in the sequencing debate and offers an analysis of the strengths and weaknesses of these positions. It then demonstrates how Pearson balanced the competing interests articulated in the sequencing debate. Part III describes the methodology and findings of an empirical study of the effects of Pearson. I hypothesized that both district and circuit courts would avoid making a constitutional determination when the law was not clearly established more frequently after Pearson than in the period before Pearson but after Saucier. The empirical study yielded unexpected results. **Circuit courts have begun to use the discretion granted by Pearson to avoid constitutional determinations** far more than they did under the Saucier sequencing rule. District courts, on the other hand, are avoiding constitutional determinations at a level similar to the Saucier period. Part IV evaluates the implications of these findings. The response of the district courts is troubling given the problems with mandatory sequencing articulated in Pearson and elsewhere. Why district courts have responded in this way is a difficult question, but their divergence from circuit courts offers a unique opportunity to understand what might motivate a court to avoid a constitutional determination. I argue that institutional differences between circuit and district courts result in different motivations: Circuit courts are more concerned with the precedential value of their decisions, while district courts are more concerned with case management. Building on this explanation, I argue that these differing motivations, which help elucidate the differing reactions to Pearson, indicate that whether courts use their Pearson discretion has less to do with judicial efficiency and more to do with whether a court is interested in producing constitutional law. In other words, courts will likely base the use of their Pearson discretion on their interest in promulgating particular types of precedent. Therefore, by granting courts substantial control over whether precedent concerning constitutional violations is created at all in section 1983 and Bivens actions, Pearson promises to give courts substantially greater control over the articulation of constitutional law, both in the positive ways Pearson intended and in other ways yet unknown. . . . . What will be the result of the greater control courts now exercise over the direction of constitutional law? Further study is required before any definite answer can be given. However, the important implication of the study—**that a court’s willingness to engage in a constitutional analysis depends on its interest in creating precedent**—does allow some predictions to be made. Despite having some foundation, these predictions remain speculative. They should be taken not as established consequences, but as guides for future investigation The first possible consequence is reminiscent of the fears that, without mandatory sequencing, there would be insufficient constitutional articulation.179 **Without sufficient articulation, law can never become clearly established, and officials can repeatedly violate rights and claim qualified immunity**.180 Pearson discretion should avoid this possibility for the most part. If courts are particularly concerned with the value of their precedent, they can consider when repeated abuse is likely and make constitutional rulings in those cases.181 However, **there may be certain sorts of cases in which courts have little interest in establishing precedent**.182 These sorts of cases would become **constitutional blind spots, with little constitutional development and the possibility of repeated abuse**. While large scale constitutional stagnation is unrealistic, stagnation in particular areas could still occur after Pearson

2. Ex ante will overwhelm ex post review-

Stephen I. Vladeck, professor of law and associate dean for scholarship at American University Washington College of Law, 13 [“Why a “Drone Court” Won’t Work–But (Nominal) Damages Might…,” February 10, http://www.lawfareblog.com/2013/02/why-a-drone-court-wont-work/#.UssXuPZQ0kc]

There’s been a fair amount of buzz over the past few days centered around the idea of a statutory “drone court”–a tribunal modeled after the Foreign Intelligence Surveillance Court (FISC) that would (presumably) provide at least some modicum of due process before the government engages in targeted killing operations, but that, like the FISC, would generally operate ex parte and in secret in order to protect the government’s interests, as well. Indeed, as Scott Shane reported in Friday’s New York Times, it appears that there’s already been debate over this very issue within the Obama Administration, and former Defense Secretary Gates appeared to come out in favor of the idea on “State of the Union” on CNN Sunday morning.¶ As I explain (in rather painful length) below the fold, I think there are formidable legal and policy obstacles standing in the way of any such proposal–obstacles **that would largely** (albeit not entirely) **dissipate in the context of after-the-fact damages actions**. Thus, if Congress and/or the Obama Administration is truly serious about creating a meaningful regime of judicial supervision (and I realize that this is a big “if”), **its real focus should be on the codification of a statutory cause** of action for nominal damages ($1) for those unlawfully injured by such operations (or their heirs)–and not on the creation of a new ex ante process (and tribunal) that would raise as many questions as it answers.¶ I. Drone Courts and Article III¶ Although the “drone court” proposals floating around vary to some degree in their (sparse) details, one of the core ideas behind them is that such a body would operate much like the FISC–with the government proceeding ex parte and in camera before the court in order to obtain something tantamount to a warrant prior to engaging in a targeted killing operation. (It would presumably defeat the purpose, after all, if the target of the putative operation had notice and an opportunity to be heard prior to the attack.) **The hardest question is what, exactly, the government would be seeking judicial review of at this stage**… Some possibilities, among others:¶ Whether the target is in fact a belligerent who can be targeted as part of the non-international armed conflict between the United States and al Qaeda and its affiliates;¶ Whether the target does in fact present an imminent threat to the United States and/or U.S. persons overseas (although the definition of “imminent” may depend on the answer to (1)); and¶ Whether it is in fact impossible to incapacitate the target (including by capturing him) in the relevant time frame with any lesser degree of force.¶ Leaving aside (for the moment) the potential separation of powers issues such review would raise, there’s a more basic problem: the possible absence of a meaningful “case or controversy” for Article III purposes.¶ The Supreme Court has long emphasized, as it explained in Flast v. Cohen, that one of the central purposes of Article III’s “case-or-controversy requirement” is to ensure that “the dispute sought to be adjudicated will be presented in an adversary context and in a form historically viewed as capable of judicial resolution.” That is to say, “adversity” is one of the cornerstones of an Article III case or controversy, and it would be noticeably lacking in a drone court set up along the lines noted above.¶ The standard response to this concern is the observation that the same is true of the FISC–that, in most of its cases, the Foreign Intelligence Surveillance Court operates ex parte and in camera, ruling on a government’s warrant application without any adversarial process whatsoever. And time and again, courts have turned away challenges to the FISA process based upon the same argument–that the FISC violates Article III as so constituted (see, e.g., footnote 19 of the FISA Court of Review’s 2002 decision in In re Sealed Case).¶ But insofar as the FISC operates ex parte, courts have consistently upheld its procedures against any Article III challenge by analogy to the power of Article III judges to issue search warrants–a process defended entirely by reference to the Fourth Amendment, which the Supreme Court has interpreted to require a “prior judicial judgment” (in most cases, anyway) that the government has probable cause to justify a search–that is, as a necessary compromise between effective law enforcement and individual rights. As David Barron and Marty Lederman have explained, the basic idea is “that the court is adjudicating a proceeding in which the target of the surveillance is the party adverse to the government, just as Article III courts resolve warrant applications proceedings in the context of conventional criminal prosecutions without occasioning constitutional concerns about the judicial power.” And part of why those constitutional concerns don’t arise in the context of search warrants is because the subject of the warrant will usually have an opportunity to attack the warrant–and, thus, the search–collaterally, whether in a motion to suppress in a criminal prosecution or a civil suit for damages, both of which would be after-the-fact. (FISA, too, creates a cause of action for “aggrieved persons.”)¶ To be sure, it’s already a bit of a stretch to argue that FISA warrants are obtained in contemplation of future criminal (or civil) proceedings (which is part of why Laurence Silberman testified against FISA’s constitutionality in 1978, and why the 1978 OLC opinion on the issue didn’t rest on this understanding in arguing for FISA’s constitutionality), and it’s even more of a stretch to make this argument in the context of the FISA Amendments Act of 2008 (the merits of which have yet to be reached by any court…).¶ But the critical point for now is that this is the fiction on which every court to reach the issue has relied. In contrast, there is no real argument that a “drone warrant” would be in contemplation of future judicial proceedings–indeed, **the entire justification for a “drone court” is to pretermit the need for any subsequent judicial intervention**. In such a context, **any such judicial process would present a serious constitutional question** not raised by FISA, especially the more that the substantive issues under review deviate from questions typically asked by courts at the ancillary search-warrant stage of a criminal investigation (e.g., the second and third questions noted above).

## at: group think

Groupthink is wrong, relies on flawed methodologies, and it can be beneficial

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).

## at: blowback

Only judicial review provides the due process necessary to solve public confidence in targeting—key to viability of the program

Corey, Army Colonel, 12 (Colonel Ian G. Corey, “Citizens in the Crosshairs: Ready, Aim, Hold Your Fire?,” http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA561582)

Alternatively, targeted killing decisions could be subjected to judicial review. 103 Attorney General Holder rejected ex ante judicial review out of hand, citing the Constitution’s allocation of national security operations to the executive branch and the need for timely action.104 Courts are indeed reluctant to stray into the realm of political questions, as evidenced by the district court’s dismissal of the ACLU and CCR lawsuit. On the other hand, a model for a special court that operates in secret already exists: the Foreign Intelligence Surveillance Court (FISC) that oversees requests for surveillance warrants for suspected foreign agents. While ex ante judicial review would provide the most robust form of oversight, ex post review by a court like the FISC would nonetheless serve as a significant check on executive power.105 Regardless of the type of oversight implemented, some form of independent review is necessary to demonstrate accountability and bolster confidence in the targeted killing process. Conclusion The United States has increasingly relied on targeted killing as an important tactic in its war on terror and will continue to do so for the foreseeable future.106 This is entirely reasonable given current budgetary constraints and the appeal of targeted killing, especially UAS strikes, as an alternative to the use of conventional forces. Moreover, the United States will likely again seek to employ the tactic against U.S. citizens assessed to be operational leaders of AQAM. As demonstrated above, one can make a good faith argument that doing so is entirely permissible under both international and domestic law as the Obama Administration claims, the opinions of some prominent legal scholars notwithstanding. The viability of future lethal targeting of U.S. citizens is questionable, however, if the government fails to address legitimate issues of transparency and accountability. While the administration has recently made progress on the transparency front, much more remains to be done, including the release in some form of the legal analysis contained in OLC’s 2010 opinion. Moreover, the administration must be able to articulate to the American people how it selects U.S. citizens for targeted killing and the safeguards in place to mitigate the risk of error and abuse. Finally, these targeting decisions must be subject to some form of independent review that will both satisfy due process and boost public confidence.

## at: chebab

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.

Doesn’t create legal clarity around drones

Goldsmith 13

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But the real “problem” with Katyal’s proposal — beyond its possible overbreadth in subjecting all individualized targeting decisions to the elaborate executive branch process — is that it is hard to see how it is much different from what Klaidman and Becker-Shane describe as the extant and pretty robust executive branch process for high-value target list decisions (and targeting criteria more generally). Katyal’s proposal adds formality to the current process, and would substitute “expert lawyers” for the already-partly-antagonistic interests of lawyers in State, DOJ, DOD, and the Intelligence Community. And he would appear to insist that Congress be more informed about the actual deliberation and decisionmaking process than it currently is. These are important steps, but for those who are already skeptical about the intra-executive branch process, they will be seen as pretty small steps that bring little solace.

## intel turn

The plan gives a perverse incentive to not collect information---the CP corrects that

Taylor 13 (Paul, is a Senior Fellow, Center for Policy & Research. Focus on national security policy, international relations, targeted killings, and drone operations. “Former DOD Lawyer Frowns on Drone Court,” http://centerforpolicyandresearch.com/2013/03/23/former-dod-lawyer-frowns-on-drone-court/)

Lastly, there is the concern of creating perverse incentives: whether a person’s name or identity is known has never been a factor in determining the legality of targeting an otherwise-lawful military target. But by creating a separate legal regime for known targets, we could create a disincentive to collect information about a target. We do not want a military or intelligence agency that keeps itself intentionally uninformed. Nor do we want to halt a military operation in progress simply because one of the targets is recognized late. Conducting the review ex post would not eliminate these issues, but it would substantially mitigate them. The military (or CIA, if it keeps its program), would not fear an interruption of its operations, and could even have an incentive to collect more information in order to later please a court that has plenty of time to look back at the past operations and question whether an individual was in fact targeted.

They gloss over details

Taylor 13 (Paul, is a Senior Fellow, Center for Policy & Research. Focus on national security policy, international relations, targeted killings, and drone operations. “A FISC for Drones?,” http://centerforpolicyandresearch.com/2013/02/09/a-fisc-for-drones/)

I do share Chesney’s suspicion that a tort-based process in which victims seek damages is not the appropriate means of reviewing targeted killing decisions. However, I am certain that regardless of whether an ex ante review is used, some ex post review must be available. There are simply too many variables between the initial nomination and the final execution of the mission that should be subject to some independent review. Indeed, as a veteran, I know the value of lessons learned in after action reviews, but I also know how often these reviews are shortchanged or skipped altogether. An ex post judicial review will ensure that this does not happen here.

**Effective Intel gathering is key to solve nuclear terrorism**

**Yoo, Berkley law professor, 2004**

(John, “War, Responsibility, and the Age of Terrorism”, UC-Berkeley Public Law and Legal Theory Research Paper Series, <http://works.bepress.com/cgi/viewcontent.cgi?article=1015&context=johnyoo>, ldg)

Third, the nature of warfare against such unconventional enemies may well be different from the set-piece battlefield matches between nation-states. Gathering intelligence, from both electronic and human sources, about the future plans of terrorist groups may be the only way to prevent September 11-style attacks from occurring again. Covert action by the Central Intelligence Agency or unconventional measures by special forces may prove to be the most effective tool for acting on that intelligence. Similarly, the least dangerous means for preventing rogue nations from acquiring WMD may depend on secret intelligence gathering and covert action, rather than open military intervention. A public revelation of the means of gathering intelligence, or the discussion of the nature of covert actions taken to forestall the threat by terrorist organizations or rogue nations, could render the use of force ineffectual or sources of information useless. Suppose, for example, that American intelligence agencies detected through intercepted phone calls that a terrorist group had built headquarters and training facilities in Yemen. A public discussion in Congress about a resolution to use force against Yemeni territory and how Yemen was identified could tip-off the group, allowing terrorists to disperse and to prevent further interception of their communications.

## cipa

Benjamin McKelvey serves as Executive Development Editor on the Editorial Board of the Vanderbilt Journal of Transnational Law, 11 [“NOTE: Due Process Rights and the Targeted Killing of Suspected Terrorists: The Unconstitutional Scope of Executive Killing Power,” Vanderbilt Journal of Transnational Law, November, 2011, 44 Vand. J. Transnat'l L. 1353]

The Classified Intelligence Procedures Act (CIPA) provides¶ another blueprint for a possible legislative solution.227 CIPA was¶ passed to protect against the practice of “graymailing,” in which¶ defendants accused of crimes by the government would cause the¶ release of classified information through discovery if prosecuted.228¶ This left the government with a difficult choice: either drop the¶ charges or continue the case and risk the exposure of sensitive¶ information.229 CIPA responded to this problem by providing¶ unclassified substitutes to privileged information that allow the¶ litigation to proceed.230 During discovery, security-cleared defendants¶ and defense counsel are allowed to review classified evidence.231 Also,¶ defendants in possession of classified evidence for use at trial are¶ allowed to utilize this evidence using a similar procedure that¶ protects against public release.232¶ Legislation modeled on CIPA and applied to the context of¶ targeted killing **would allow a case like Aulaqi to proceed in federal¶ court.** Rather than dismiss the entire suit out of deference to the state¶ secrets privilege, a CIPA-style procedure would allow a court and the¶ defendant to review the government charges without endangering¶ sensitive intelligence sources. If the government reveals compelling¶ evidence that confirms the specific and imminent nature of a threat¶ from a suspected terrorist, as it claimed in Aulaqi, then a court can at¶ least review this evidence before granting summary judgment.¶ A legislative solution modeled on CIPA also creates a **less¶ invasive procedure** for the review of privileged information. This has¶ the added advantage of avoiding the delicate balance of constitutional¶ powers that a FISA-style remedy would involve.233 FISA responded to¶ evidence of executive abuse by creating a direct form of judicial¶ supervision.234 Because there is no such charge of misconduct in the¶ case of targeted killing, perhaps **a less intrusive remedy is sufficient**.235 Rather than creating a new judicial institution and¶ altering the Executive’s chain of decision making, **a CIPA-style¶ procedure would allow for litigation** in this extraordinary context¶ **without altering the balance of power between the Executive and the¶ judiciary.** This alternative solution is less complicated to design and¶ easier to implement. Although it would not allow for ex ante review of¶ targeted killing orders, a solution modeled on CIPA might be a more¶ practical and realistic solution given the bureaucratic hurdles of a¶ FISA-style solution.

## human rights cred

US doesn’t care about human rights abuses in countries with strategic interests – kills all legitimacy

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The degree to which the United States Government holds countries in the former Soviet Union publicly accountable for respecting human rights and democracy depends on each country’s relative strategic importance to the United States, **not the human rights conditions in each country.** U.S. officials publicly laud countries such as Kazakhstan and Uzbekistan that are vital to the U.S. mission in Afghanistan or other key interests, while saying as little as possible about these countries’ failings in the areas of human rights and democracy.

In countries that are less important to U.S. interests in the region, such as Belarus and Tajikistan, the United States treats progress in human rights and democracy as a requirement for furthering relations and works to “shine a spotlight” on abuses. In Russia, the United States takes a more multifaceted approach, where it speaks openly about human rights and democracy but separates them from other issues in order to maintain a working relationship.

For the region **to view the United States as a legitimate promoter and protector of human rights, its rhetoric needs to be more consistent**

**and forthright**. The current inconsistent U.S. approach makes publics and elites in the region cynical about the United States, **reducing the United States’ legitimacy when it does decide to speak out.** The current U.S. approach gives allies little incentive to improve their human rights practices while leaving their publics to conclude **they cannot rely upon the United States to champion their interests** in their defense.

How the United States addresses human rights and democracy with other governments, both in private and in public, will vary based on interests and diplomatic calculations. But the United States’ current country-by-country approach in the former Soviet Union is counterproductive.

Instead of continuing to publicly defend human rights and democracy only when it is convenient, the United States should:

The EU already serves as model for human rights promotion

Karen Alter is a law professor at Northwestern University School of Law and Associate Professor of Political Science, 11 (Alter, Karen J. "The Global Spread of European Style International Courts" (2011). Faculty Working Papers. Paper 7 http://scholarlycommons.law.northwestern.edu/facultyworkingpapers/7)

The ECJ-model has clearly diffused around the world. The best explanation for this fact¶ is that regions are drawing lessons from the ECJ’s experience. What, however, are regional¶ systems learning? In the 1960s, many regions copied Europe’s approach to regional integration,¶ without creating supranational courts. Most of these regional economic systems remained¶ lackluster, failing to achieve their primary economic and political objectives (Mattli 1999). Legal¶ observers noticed that the ECJ was helpful in overcoming legal difficulties arising in the process¶ of regional integration, and they frequently proposed creating ECJ style ICs. These proposals¶ languished until member states sought to relaunch regional economic integration endeavors.¶ Adopting provisions to establish a community court became part of a package of reforms aimed¶ at making regional integration systems more robust.¶ Supranational legal architects also learned from the ECJ’s experience. Some regional¶ integration projects wrote safeguards to protect national sovereignty into their Court’s founding¶ charters, such as not requiring national court references or limiting the content of the Court’s¶ reply. But they also explicitly incorporated the ECJ’s revolutionary doctrines of the direct effect¶ and supremacy of community law, and the idea that “community law” is distinct from traditional¶ international law. Judges and lawyers working in regional ICs also learn from ECJ’s¶ jurisprudence, although they use this jurisprudence as a guide rather than as dogma.¶ Many local factors hinder regional ICs from following the ECJ’s trajectory. Most¶ regional ICs remain hampered by a lack secondary legislation that might spur litigants to invoke¶ community law and judges and administrators to work with Community institutions. Also¶ challenging is that ECJ emulators are located in the developing world, where national judges are¶ weak, reluctant and at times corrupt partners. The limited political and judicial support means¶ that ECJ copies resemble more closely in practice the ECJ during the 1950s and 1960s than the¶ ECJ of today.¶ While I have documented the emulation of the ECJ, I argued that one should not focus¶ too much on institutional copying. **Europe has contributed in many** **ways** to the expansion of the¶ global judiciary, **by offering models of human rights, war crimes** and economic courts that others¶ could emulate, and by being a constant force facilitating the creation and development of¶ international legal mechanisms (Alter 2011). The European Union does not need to pressure or¶ coerce others to follow its lead; the ECJ model has its own attractions and adherents. The existence of ECJ copies allows us to hold constant the design of the IC, to explore how ICs build¶ their authority. We can take variation in litigation rates as a sign of varying demand for IC¶ rulings, which itself reflects limited social and political mobilization around community goals.¶ Wade Jacoby argued that institutions diffuse through a combination of external pressures¶ and internal mobilization. A coalitional approach to building domestic institutions based on¶ foreign models, he argues, tends to result in more robust domestic institutions compared to¶ emulations that are imposed or simply put in to substitute for what existed before (Jacoby 2006).¶ I have explored in greater depth European-style ICs where litigation rates are growing. Jacoby’s¶ argument appears to hold. Faithfully copying the ECJ is not as likely to ensure institutional¶ success than is building an international legal system that local actors find useful. Promoting¶ regional free trade is not necessarily locally useful, which may be why regional integration¶ systems lack secondary legislation and remain politically marginal. The OHADA system aims to¶ attract foreign investment, and the ECOWAS system increasingly focuses on promoting good¶ governance practices in the region. Both of these objectives are politically popular. The¶ dependence of international courts on national interlocutors means that ECJ copies may not¶ become lawmaking engines of market liberalization. This does not mean, however, that one¶ should count these ICs out. We may find that they instead become promoters of good¶ governance, and dispute resolution bodies for foreign actors that that see litigation as a useful¶ means to promote their objectives.

# 1nr

## 1nr ov

Terrorism causes extinction - 1 strikes global climate perturbations - toon

Even a small attack collapses the global economy

Belfer Center 7, Washington Post summary of a Belfer Center Report, The Nuclear Threat Initiative and Project on Managing the Atom, “Nuclear Terrorism FAQ”, September 26, http://belfercenter.ksg.harvard.edu/publication/17529/nuclear\_terrorism\_faq.html

What would happen if terrorists set off a nuclear bomb in a major city?

Terrorist use of a nuclear bomb would be an historic catastrophe. If a crude nuclear bomb with an explosive equivalent of 10,000 tons of TNT (10 "kilotons" in the language of nuclear weapons) were set off at Grand Central Station on a typical work-day, some 500,000 people might be killed, and hundreds of thousands more would be injured, burned, and irradiated. The direct economic damage would likely be in the range of $1 trillion, and the reverberating economic effects throughout the United States and the world would come to several times that figure. In 2005, then-UN Secretary General Kofi Annan warned that such an attack "would stagger the world economy and thrust tens of millions of people into dire poverty," causing "a second death toll throughout the developing world." The terrorists would surely claim they had more bombs already hidden in U.S. cities, potentially provoking widespread panic and economic disruption. In short, America and the world would be changed forever.

Causes US-Russia miscalc – extinction

Barrett et al. 13—PhD in Engineering and Public Policy from Carnegie Mellon University, Fellow in the RAND Stanton Nuclear Security Fellows Program, and Director of Research at Global Catastrophic Risk Institute—AND Seth Baum, PhD in Geography from Pennsylvania State University, Research Scientist at the Blue Marble Space Institute of Science, and Executive Director of Global Catastrophic Risk Institute—AND Kelly Hostetler, BS in Political Science from Columbia and Research Assistant at Global Catastrophic Risk Institute (Anthony, 24 June 2013, “Analyzing and Reducing the Risks of Inadvertent Nuclear War Between the United States and Russia,” Science & Global Security: The Technical Basis for Arms Control, Disarmament, and Nonproliferation Initiatives, Volume 21, Issue 2, Taylor & Francis)

War involving significant fractions of the U.S. and Russian nuclear arsenals, which are by far the largest of any nations, could have globally catastrophic effects such as severely reducing food production for years, 1 potentially leading to collapse of modern civilization worldwide, and even the extinction of humanity. 2 Nuclear war between the United States and Russia could occur by various routes, including accidental or unauthorized launch; deliberate first attack by one nation; and inadvertent attack. In an accidental or unauthorized launch or detonation, system safeguards or procedures to maintain control over nuclear weapons fail in such a way that a nuclear weapon or missile launches or explodes without direction from leaders. In a deliberate first attack, the attacking nation decides to attack based on accurate information about the state of affairs. In an inadvertent attack, the attacking nation mistakenly concludes that it is under attack and launches nuclear weapons in what it believes is a counterattack. 3 (Brinkmanship strategies incorporate elements of all of the above, in that they involve intentional manipulation of risks from otherwise accidental or inadvertent launches. 4 ) Over the years, nuclear strategy was aimed primarily at minimizing risks of intentional attack through development of deterrence capabilities, and numerous measures also were taken to reduce probabilities of accidents, unauthorized attack, and inadvertent war. For purposes of deterrence, both U.S. and Soviet/Russian forces have maintained significant capabilities to have some forces survive a first attack by the other side and to launch a subsequent counter-attack. However, concerns about the extreme disruptions that a first attack would cause in the other side's forces and command-and-control capabilities led to both sides’ development of capabilities to detect a first attack and launch a counter-attack before suffering damage from the first attack. 5 Many people believe that with the end of the Cold War and with improved relations between the United States and Russia, the risk of East-West nuclear war was significantly reduced. 6 However, it also has been argued that inadvertent nuclear war between the United States and Russia has continued to present a substantial risk. 7 While the United States and Russia are not actively threatening each other with war, they have remained ready to launch nuclear missiles in response to indications of attack. 8 False indicators of nuclear attack could be caused in several ways. First, a wide range of events have already been mistakenly interpreted as indicators of attack, including weather phenomena, a faulty computer chip, wild animal activity, and control-room training tapes loaded at the wrong time. 9 Second, terrorist groups or other actors might cause attacks on either the United States or Russia that resemble some kind of nuclear attack by the other nation by actions such as exploding a stolen or improvised nuclear bomb, 10 especially if such an event occurs during a crisis between the United States and Russia. 11 A variety of nuclear terrorism scenarios are possible. 12 Al Qaeda has sought to obtain or construct nuclear weapons and to use them against the United States. 13 Other methods could involve attempts to circumvent nuclear weapon launch control safeguards or exploit holes in their security. 14 It has long been argued that the probability of inadvertent nuclear war is significantly higher during U.S.–Russian crisis conditions, 15 with the Cuban Missile Crisis being a prime historical example. It is possible that U.S.–Russian relations will significantly deteriorate in the future, increasing nuclear tensions. There are a variety of ways for a third party to raise tensions between the United States and Russia, making one or both nations more likely to misinterpret events as attacks. 16

## at: aq low

Johnston

Al Qaeda down but not out

AFP 8/8/13

AFP, August 8, 2013, "UN Report: Al Qaeda Down, But Not Out", http://www.huffingtonpost.com/2013/08/07/un-report-al-qaeda\_n\_3722153.html

Osama Bin Laden's successor as the leader of Al-Qaeda has struggled to unite its various factions, a UN report said Wednesday, but the group remains an evolving threat.

The report, delivered to the UN Security Council by a group of experts, said Al-Qaeda's Egyptian leader Ayman Al-Zawahiri had failed to rebuild the group's core leadership in Pakistan.

But it said various groups affiliated with Al-Qaeda are still adapting their tactics and seeking new targets, while retaining the ability to conduct deadly strikes.

And, while the French-led military operation in Mali and an African Union campaign in Somalia have pushed back Al-Qaeda militants, the Syrian civil war has seen hundreds of foreign volunteers join the cause there.

"Al-Qaeda and its affiliates are more diverse and differentiated than before, united only by a loose ideology and a commitment to terrorist violence," the report said.

"A fragmented and weakened Al-Qaeda has not been extinguished," it said, adding: "the reality of Al-Qaeda's diminished capabilities and limited appeal does not mean that the threat of Al-Qaeda attacks has passed.

"Individuals and cells associated with Al-Qaeda and its affiliates continue to innovate with regard to targets, tactics and technology."

The UN report tallies with claims made by US officials, including President Barack Obama, that so-called "core Al-Qaeda" has been weakened since Bin Laden's death in May 2011, while its regional wings continue to fight.

## at: strikes low

Status quo is goldilocks – strikes are decreasing for specific tactical reasons that may not always be true – executive needs the flexibility to ramp them up and take the shots he wants

WT 10-9 – Washington Times, 10/9/13, “Drone strikes plummet as U.S. seeks more human intelligence,” http://www.washingtontimes.com/news/2013/oct/9/drone-strikes-drop-as-us-craves-more-human-intelli/print/

The number of drone strikes approved by the Obama administration on suspected terrorists has fallen dramatically this year, as the war with al Qaeda increasingly shifts to Africa and U.S. intelligence craves more captures and interrogations of high-value targets.

U.S. officials told The Washington Times on Wednesday that the reasons for a shift in tactics are many — including that al Qaeda's senior ranks were thinned out so much in 2011 and 2012 by an intense flurry of drone strikes, and that the terrorist network has adapted to try to evade some of Washington's use of the strikes or to make them less politically palatable.

But the sources acknowledged that a growing desire to close a recent gap in actionable human intelligence on al Qaeda's evolving operations also has renewed the administration's interest in more clandestine commando raids like the one that netted a high-value terrorist suspect in Libya last weekend.

Capturing and interrogating suspects can provide valuable intelligence about a terrorist network that has been morphing from its roots with a central command in Pakistan and Afghanistan (known as intelligence circles as the FATA) to more diverse affiliates spread most notably across North Africa, officials and analysts said.

"Al Qaeda's senior leadership in Pakistan has been steadily degraded. What remains of the group's core is still dangerous but spends much of its time thinking about personal security," one senior counterterrorism official told The Times, speaking on the condition of anonymity because of the secret nature of the drone program. "As the nature of the threat emanating from the FATA changes, it follows that the U.S. government's counterterrorism approach is going to shift accordingly."

The decreased reliance on drones was in full view last weekend when one team of commandos from the Army's Delta Force captured long-sought al Qaeda operative Abu Anas al-Libi in Tripoli and a Navy SEAL team failed to take down an al Qaeda affiliate leader in Somalia.

The U.S. has carried out nearly 400 drone strikes over the past decade in Pakistan, Yemen and Somalia, a tactic that killed numerous senior operatives. But al Qaeda leaders have been increasing their own counterintelligence activities and moving to more populated areas in order to increase the risks of civilian casualties, two developments that have made the strikes less politically palatable and effective, analysts and intelligence sources say.

As a result, the number of drone strikes carried out against al Qaeda suspects in the Middle East and South Asia has dropped by half over the past year. There were 22 drone strikes on targets in Pakistan during the first 10 months of this year, compared with 47 carried out during 2012 and 74 in 2011, according to data compiled by the London-based Bureau of Investigative Journalism, the leading independent body examining the U.S. government's secretive drone program.

But intelligence officials and some national security analysts cautioned against reading too deeply into such data, saying the U.S. remains committed to using drones when it makes sense.

"Given the clandestine nature of the program, it's impossible to assess the reasons why the number of strikes has decreased over time," said Seth Jones, a political scientist who specializes in counterterrorism studies at the Rand Corp., a research institution with headquarters in California.

"We just don't have access to the information," he said.

Thirst for new intelligence

With U.S. counterterrorism officials eager to pin down fresh and actionable intelligence on what several sources described as a gradually metastasizing and complex network of al Qaeda affiliate groups concentrated in North Africa, most analysts say it would make sense for the Obama administration to begin favoring capture-and-interrogate missions.

"Raids allow you to both potentially capture a high-value target and exploit his knowledge through interrogations," said Daniel R. Green, an al Qaeda and Yemen analyst at the Washington Institute for Near East Policy. When U.S. soldiers are on the ground for a raid, Mr. Green said, it means they can "collect additional materials of intelligence value from the dwelling, further assisting in the planning of follow-on operations."

Others said heavy reliance on drones has only added to America's potentially dangerous deficit of human intelligence on al Qaeda. "If you're not capturing guys to get that intel, then, yeah, you're going to be missing a part of the picture — if not a large part of the picture," said Thomas Joscelyn, a senior fellow focusing on al Qaeda and North Africa at the Foundation for Defense of Democracies.

"You can rely extensively on electronic intelligence, but you still need that [human intelligence]to put the full picture together," said Mr. Joscelyn, who added that recent years have fostered a "fetish within some parts of the intelligence community for drone attacks because they've succeeded in taking out some very high-level targets.

"There are other parts of the American military and intelligence community that understand that drones are not going to win this war," he said. "Drones are a necessary tactic, but they are not a strategy."

Last weekend's raids in Libya and Somalia are "evidence that there's more emphasis now on capture than on kill," said Linda Robinson a senior international policy analyst at the Rand Corp.

"It is an indication of the shift that was alluded to by the president in May," said Mrs. Robinson, referring to a speech President Obama gave at the National Defense University in which he stressed that "as a matter of policy, the preference of the United States is to capture terrorist suspects."

Mrs. Robinson said there is "recognition that, frankly, you get something from raids, which you don't get from drones." Raids allow for capturing a suspect and can lead to an "incredible intelligence dump" from that individual, she said.

Drones still on the table

During the May speech on terrorism, Mr. Obama acknowledged the use of drones as a central tactic within his administration's war strategy and suggested it will continue.

At the time, Mr. Obama said it "not possible for America to simply deploy a team of Special Forces to capture every terrorist."

Citing instances in which doing so "would pose profound risks to our troops and local civilians" and where "putting U.S. boots on the ground may trigger a major international crisis," Mr. Obama said the secret May 2011 Navy SEAL operation that resulted in the killing of al Qaeda leader Osama bin Laden "cannot be the norm."

In the shadow of such remarks from the president, some analysts say, such raids likely would pose challenges in Yemen, where the Obama administration has relied heavily on the use of drones.

A raid such as the one that netted al-Libi in Tripoli would be "much more difficult" in Yemen "in part because potential targets are far more inland, thus complicating an attack from the sea," said Mr. Green, at the Washington Institute for Near East Policy.

"Also, the Yemeni government is much more capable and would likely detect such a raid, as compared to Libya's anarchic conditions, and al Qaeda is a much more developed force in Yemen, which will have already adapted to this new tactic by U.S. forces," he said.

Mrs. Robinson said that "with a raid, of course, you incur more risk for those U.S. forces usually, special operations forces that you're putting on the ground."

"I don't think there's a big appetite to go around launching raids unless there is a clear U.S. national security interest to do so," she said. "The political and diplomatic and atmospheric risks or counterproductive effects have to be very much weighed in the equation."

## Link

Plan leads to excessive checks on the executive and makes rapid targeting decisions impossible - that's Vladeck

Too slow to act on sensitive intelligence

Charlie Savage, NYTimes, 3/18/13, Former Pentagon Lawyer Offers Pros and Cons of Drone Court, atwar.blogs.nytimes.com/2013/03/18/former-pentagon-lawyer-offers-pros-and-cons-of-drone-court/

Mr. Johnson also questioned whether it would be appropriate to ask judges to provide “top cover” for “death warrants” based on secret evidence submitted only by the executive branch, especially when **it would be difficult for them to decide whether fast-changing criteria** – like whether a threat is imminent and whether capture instead of killing is feasible have been met.

“These really are up-to-the-minute, real-time assessments,” he said, adding: “Indeed, I have seen feasibility of capture of a particular objective change several times in one night. Judges are accustomed to making legal determinations based on a defined, settled set of facts – a picture that has already been painted, **not a moving target**, which is what we are literally talking about here.”

Fast targeting decisions are key - plan kills that

Groves, senior research fellow – Institute for International Studies @ Heritage, 4/10/’13

(Steven, “Drone Strikes: The Legality of U.S. Targeting Terrorists Abroad,” http://www.heritage.org/research/reports/2013/04/drone-strikes-the-legality-of-us-targeting-terrorists-abroad)

A Drone Court? Certain former Obama Administration officials, the editorial board of The New York Times, and at least one U.S. Senator have called for the establishment of a special oversight panel or court to review the Administration’s targeting determinations, particularly in instances in which a U.S. citizen is targeted.[49] Essentially, such a court would scrutinize the Administration’s targeting decisions, presumably including its decisions to place individuals on the “disposition matrix.” The court would apparently have the authority to overrule and nullify targeting decisions. The creation of such a court is ill advised and of doubtful constitutionality.

The proponents of a drone court apparently do not appreciate the potential unintended consequences of establishing such an authority. The idea is wrongheaded and raises more questions than it answers. For instance, could the drone court decide as a matter of law that a targeted strike is not justified because the United States is not engaged in an armed conflict with al-Qaeda? Could the drone court rule that members of a force associated with al-Qaeda (e.g., AQAP) may not be targeted because AQAP was not directly involved in the September 11 attacks and therefore the strike is not authorized under the AUMF? The proposed drone court cannot avoid these fundamental questions since the justification for the targeted strikes is dependent on the answers to these questions.

Even if the proposed drone court attempts to eschew intervention into foundational questions such as the existence of an armed conflict, it still would not be in a position to rule on the “easy” questions involved in each and every drone strike. Does the target constitute an “imminent threat” to the United States? When civilian casualties may occur as a result of the strike, does the drone court have the authority to overrule the targeting decision as a violation of the principle of proportionality? Is the target an innocent civilian or a civilian “directly participating in hostilities”? Should U.S. forces attempt to capture the target before resorting to a drone strike? Is capture feasible? Any drone court, even if constituted with former military and intelligence officials, is ill suited to weigh all of the competing factors that go into a decision to target an al-Qaeda operative and make a timely decision, particularly when there is often only a short window of time to order a strike.

Regardless, creating a judicial or quasi-judicial review process will not ameliorate, much less resolve, objections to U.S. targeted killing practices. Critics will continue to demand more judicial process, including appeals from the proposed drone court, and additional transparency no matter what kind of forum is established to oversee targeting decisions.

What the U.S. Should Do

The U.S. drone program and its practices regarding targeted strikes against al-Qaeda and its associated forces are lawful. They are lawful because the United States is currently engaged in an armed conflict with those terrorist entities and because the United States has an inherent right to defend itself against imminent threats to its security. Moreover, the available evidence indicates that U.S. military and intelligence forces conduct targeted strikes in a manner consistent with international law. Military and intelligence officials go to great lengths to identify al-Qaeda operatives that pose an imminent threat and continually reassess the level of that threat. Decisions on each potential target are debated among U.S. officials before the target is placed in the “disposition matrix.” In conducting targeted strikes U.S. forces strive to minimize civilian casualties, although such casualties cannot always be prevented.

The United States will continue to face asymmetric threats from non-state actors operating from the territory of nations that are either unwilling or unable to suppress the threats. To confront these threats, the United States must retain its most effective operational capabilities, including targeted strikes by armed drones, even if U.S. forces degrade al-Qaeda and its associated forces to such an extent that the United States no longer considers itself to be in a non-international armed conflict. Moreover, the United States must continue to affirm its inherent right to self-defense to eliminate threats to its national security, regardless of the presence or absence of an armed conflict recognized by international law.

To that end, the United States should:

Continue to affirm existing use-of-force authorities. During the past three years, senior officials of the Obama Administration have publicly set out in significant detail U.S. policies and practices regarding drone strikes. The Administration should continue to do so, emphasizing that U.S. policies adhere to widely recognized international law. Critics of the United States will continue to claim that a lack of transparency surrounds U.S. policy and actions. Such critics will likely never be satisfied, not even with full disclosure of the relevant classified legal memoranda, and their criticism will not cease until the United States abandons its practice of targeting terrorist threats in Pakistan, Yemen, and elsewhere. However, consistent repetition of the U.S. legal position on targeted drone strikes **may blunt such criticism.**

Not derogate from the AUMF. At the 2012 NATO summit in Chicago, NATO agreed that the vast majority of U.S. and other NATO forces would be withdrawn from Afghanistan by the end of 2014, a time frame that President Obama confirmed during this year’s State of the Union address. Some critics of U.S. drone policy will inevitably argue that due to the drawdown the United States may no longer credibly claim that it remains in a state of armed conflict with the Taliban, al-Qaeda, and its associated forces, whether they are located in Afghanistan, the FATA, or elsewhere. Congress should pass no legislation that could be interpreted as a derogation from the AUMF or an erosion of the inherent right of the United States to defend itself against imminent threats posed by transnational terrorist organizations.

Not create a drone court. The concept of a drone court is fraught with danger and may be an unconstitutional interference with the executive branch’s authority to wage war. U.S. armed forces have been lawfully targeting enemy combatants in armed conflicts for more than 200 years without being second-guessed by Congress or a secret “national security court.” Targeting decisions, including those made in connection with drone strikes, are carefully deliberated by military officers and intelligence officials based on facts and evidence gathered from a variety of human, signals, and imagery intelligence sources. During an armed conflict, all al-Qaeda operatives are subject to targeting; therefore, a drone court scrutinizing targeting decisions would serve no legitimate purpose.

Conclusion

## rulings link

Drone court devastates targeted killing – ex ante review makes strikes ineffective and causes broad rulings that eliminate the program

Groves 13 (Steven, Bernard and Barbara Lomas Senior Research Fellow in the Margaret Thatcher Center for Freedom, a division of the Kathryn and Shelby Cullom Davis Institute for International Studies, at The Heritage Foundation.¶ , "Drone Strikes: The Legality of US Targeting Terrorists Abroad," Heritage Foundation, April 10, www.heritage.org/research/reports/2013/04/drone-strikes-the-legality-of-us-targeting-terrorists-abroad)

The proponents of a drone court apparently do not appreciate the potential unintended consequences of establishing such an authority. The idea is wrongheaded and raises more questions than it answers. For instance, could the drone court decide as a matter of law that a targeted strike is not justified because the United States is not engaged in an armed conflict with al-Qaeda? Could the drone court rule that members of a force associated with al-Qaeda (e.g., AQAP) may not be targeted because AQAP was not directly involved in the September 11 attacks and therefore the strike is not authorized under the AUMF? The proposed drone court cannot avoid these fundamental questions since the justification for the targeted strikes is dependent on the answers to these questions.¶ Even if the proposed drone court attempts to eschew intervention into foundational questions such as the existence of an armed conflict, it still would not be in a position to rule on the “easy” questions involved in each and every drone strike. Does the target constitute an “imminent threat” to the United States? When civilian casualties may occur as a result of the strike, does the drone court have the authority to overrule the targeting decision as a violation of the principle of proportionality? Is the target an innocent civilian or a civilian “directly participating in hostilities”? Should U.S. forces attempt to capture the target before resorting to a drone strike? Is capture feasible? Any drone court, even if constituted with former military and intelligence officials, is ill suited to weigh all of the competing factors that go into a decision to target an al-Qaeda operative and make a timely decision, particularly when there is often only a short window of time to order a strike.¶ Regardless, creating a judicial or quasi-judicial review process will not ameliorate, much less resolve, objections to U.S. targeted killing practices. Critics will continue to demand more judicial process, including appeals from the proposed drone court, and additional transparency no matter what kind of forum is established to oversee targeting decisions.

These rulings cause all drones strikes to be declared unjustified

Benjamin McKelvey 11, J.D., Vanderbilt University Law School, November 2011, “NOTE: Due Process Rights and the Targeted Killing of Suspected Terrorists: The Unconstitutional Scope of Executive Killing Power,” Vanderbilt Journal of Transnational Law, 44 Vand. J. Transnat'l L. 1353

Therefore, the President was justified in using lethal force to protect the nation against Aulaqi, or any other American, if that individual presented a concrete threat that satisfied the "imminence" standard. n109 However, the judiciary may, as a matter of law, review the use of military force to ensure that it conforms with the limitations and conditions of statutory and constitional grants of authority. n110 In the context of targeted killing, a federal court could evaluate the targeted killing program to determine whether it satisfies the constitutional standard for the use of defensive force by the Executive Branch. Targeted killing, by its very name, suggests an entirely premeditated and offensive form of military force. n111 Moreover, the overview of the CIA's targeted killing program revealed a rigorous process involving an enormous amount of advance research, planning, and approval. n112 While the President has exclusive authority over determining whether a specific situation or individual presents an imminent threat to the nation, the judiciary has the authority to define "imminence" as a legal standard. n113 These [\*1368] are general concepts of law, not political questions, and they are subject to judicial review. n114

Under judicial review, a court would likely determine that targeted killing does not satisfy the imminence standard for the president's authority to use force in defense of the nation. Targeted killing is a premeditated assassination and the culmination of months of intelligence gathering, planning, and coordination. n115 "Imminence" would have no meaning as a standard if it were stretched to encompass such an elaborate and exhaustive process. n116 Similarly, the concept of "defensive" force is eviscerated and useless if it includes entirely premeditated and offensive forms of military action against a perceived threat. n117 Under judicial review, a court could easily and properly determine that targeted killing does not satisfy the imminence standard for the constitutional use of defensive force. n118

**No logical end to this slippery slope**

**Bloomberg 13** (editorial board, February 18, 2013, http://www.bloomberg.com/news/2013-02-18/why-a-drone-court-won-t-work.html)

As for the balance of powers, that is where we dive into constitutional hot water. Constitutional scholars agree that the president is sworn to use his “defensive power” to protect the U.S. and its citizens from any serious threat, and nothing in the Constitution gives Congress or the judiciary a right to stay his hand. It also presents a slippery slope: **If a judge can call off a drone strike, can he also nix a raid such as the one that killed Osama bin Laden?** If the other branches want to scrutinize the president’s national security decisions in this way, they can only do so retrospectively.

There is also a human problem: Few judges would be eager to find themselves in this role. “That’s not the business of judges,” James Robinson, a former federal appeals judge, told the Washington Post, “to sign a death warrant for somebody who is on foreign soil.” Those who did would face such tremendous pressure to side with the government that the process would probably become a rubber stamp. And why exactly do we think a judge is any better suited to discerning terrorist threats than senior executive branch officials?

## at: gp

## reevaluation link

**They get rid of continual reevaluation – strikes will just be dumber and more prone to mistakes**

Johnson, 13 -- Former Pentagon General Counsel

[Jeh, American civil, criminal trial lawyer, and General Counsel of the Department of Defense from 2009 to 2012 during the first Obama Administration, "A “Drone Court”: Some Pros and Cons," Lawfare, 3-18-13, www.lawfareblog.com/2013/03/jeh-johnson-speech-on-a-drone-court-some-pros-and-cons/, accessed 8-15-13, mss]

Next, if the court’s jurisdiction is limited to U.S. citizens, there is the question of exactly what the court is to decide. If one accepts the criteria for targeting a U.S. citizen set forth in the Attorney General’s speech a year ago, it has several parts: (1) the target is a senior operational leader of al Qaeda or associated forces who is actively engaged in planning to kill Americans, (2) the individual poses an imminent threat to the United States, (3) capture is not feasible; and (4) the operation would be conducted in a manner consistent with applicable law of war principles.[10] Starting with the last of these criteria: this one is implicit in every military operation, This includes consideration of, for example, the type of weapon used, and the elimination or minimization of collateral damage. Often, these matters are, and should be, left to the discretion of the military commander in direct control of the operation, along with the time, place and manner of the operation. Even if the overall approval of the operation comes from the President or Secretary of Defense, this particular aspect of it is not something that we should normally seek to micromanage from Washington; likewise, there is also not much to be gained by having a federal judge try to review these details in advance. Next, there are the questions of feasibility of capture and imminence. These really are up-to-the-minute, real time assessments of the type I believe Judge Bates was referring to when he said that courts are “institutionally ill-equipped ‘to assess the nature of battlefield decisions.’”[11] Indeed, I have seen feasibility of capture of a particular objective change several times in one night. Nor are these questions ones of a legal nature, by the way. Judges are accustomed to making legal determinations based on a defined, settled set of facts – a picture that has already been painted; not a moving target, which is what we are literally talking about here. These are not one-time-only judgments and we want military and national security officials to continually assess and reassess these two questions up until the last minute before an operation. **If these** types of **continual reassessments must be submitted to** a member of **the Article III branch** of government for evaluation, I believe **we compromise our** government’s **ability to conduct** these **operations effectively**. The costs will outweigh the benefits. In that event, I believe **we will** also **discourage** the type of **continual reevaluation** I’m referring to.

**This eliminates the ability to use new information**

Taylor 13 (Paul, Paul is a Senior Fellow at the Center for Policy & Research and an alumnus of Seton Hall Law School and the Whitehead School of Diplomacy and International Relations., "A FISC For Drones?" TransparentPolicy, February 9, transparentpolicy.org/2013/02/a-fisc-for-drones/

I’m not sure that it does. Names may be placed on the list at any time, conceivably as the result of a time sensitive push within the intelligence community. While I am not an expert in the process of targeting decisions, I think that the executive may need to be able to act quickly on new information that indicates that a subject is targetable. Ex ante review would place an additional hurdle between the decisive intelligence and the operation. Chesney seems to realize this by admitting the need for an “exigent circumstances exemption.” But this exception would itself mean defaulting back to an ex post review.

**Judiciary is fundamentally ill-suited to this kind of review, they’ll mess it up**

Stuart Delery, Principal Deputy Assistant Attorney General Civil Division, 12/14/12, DEFENDANTS’ MOTION TO DISMISS, http://www.lawfareblog.com/wp-content/uploads/2012/12/MTD-AAA.pdf

The third and fourth Baker factors also warrant dismissal. The decision to use lethal force involves policy choices—to be taken in light of fast-paced and evolving intelligence available regarding specific threats posed by armed terrorist organizations that operate outside the constraints of the laws of war and hide amongst civilian populations—that are “of a kind clearly for nonjudicial discretion.” Baker, 369 U.S. at 217. It requires balancing the risk of harm to our Nation and the potential consequences of using force. Similarly, whether non-lethal means were “reasonably” available requires “policy choices and value determinations.” Japan Whaling, 478 U.S. at 230. As detailed above, the risks to ground forces that may or may not be tolerable as a possible non-lethal alternative to a purported missile strike clearly involve policy choices, as do the foreign policy implications that making such an operational choice abroad might entail. Any decision on the potential level of harm to innocent bystanders that may be tolerable in the context of alleged missile strikes against enemy targets overseas in an armed conflict undoubtedly raises policy choices for executive, not judicial, determination. As Plaintiffs implicitly acknowledge, Compl. ¶¶ 35, 40, civilian casualties are a regrettable but ever-present reality in armed conflict. The question is not whether such casualties will occur, but rather if they do, what amount of risk of harm to bystanders would be consistent with an appropriate use of force under the circumstances, based on principles that guide the Executive in an armed conflict. Moreover, judicially crafted standards that are specific, particular, and applied to a given set of facts may prevent or control the contours of future operations involving armed force overseas, which could inhibit the Executive’s ability to carry out its national self-defense prerogative. These issues all require “policy choices and value determinations” that are reserved for the Executive. Japan Whaling, 478 U.S. at 230. Deciding these issues in the context of this case would also fail to acknowledge the distinct role and structure of judicial decision-making in relation to the political branches, and would thus show a “lack of the respect due” to those branches, the fourth Baker factor. The Judiciary has “institutional limitations” when it comes to “strategic choices” involving national security and foreign affairs. El-Shifa, 607 F.3d at 843. Unlike the Executive, “the judiciary has no covert agents, no intelligence sources, and no policy advisors.” Schneider, 412 F.3d at 196. Moreover, the “complex subtle, and professional decisions as to the composition, training, equipping, and control of a military force are essentially professional military judgments, subject always to civilian control of the Legislative and Executive Branches.” Gilligan, 413 U.S. at 10. “The ultimate responsibility for these decisions is appropriately vested in branches of the government which are periodically subject to electoral accountability.” Id. Thus, “[i]t is not the role of judges to second-guess, with the benefit of hindsight, another branch’s determination that the interests of the United States call for military action.” El-Shifa, 607 F.3d at 844. The use of RPAs to combat the threat to this Nation’s security emanating from abroad posed by al-Qa’ida and associated forces involves just such a considered policy choice. See Robert Chesney, Text of John Brennan’s Speech on Drone Strikes Today at the Wilson Center (RPA Speech), Lawfare (Apr. 30, 2012, 12:50 pm), http://www.lawfareblog.com/2012/04/ brennanspeech/ (“Targeted strikes are wise.”).11 A finding by a court that another method of counterterrorism was more appropriate under the precise circumstances alleged—and in fact was constitutionally required—would show a “lack of the respect due” to the Executive’s policy choices regarding how to conduct a congressionally authorized armed conflict and its national defense mission. See El-Shifa, 607 F.3d at 844; Ctr. for Nat’l Sec. Studies v. U.S. Dep’t of Justice, 331 F.3d 918, 932 (D.C. Cir. 2003) (“It is not within the role of the courts to second- guess

## at: mueller

Nuke terror likely

Dahl 13 (Fredrik, Reuters, covers mainly nuclear-related issues, including Iran's dispute with the West over its atomic plans. I previously worked in Tehran, Iran, between 2007-2010, and have also been posted to Belgrade, Sarajevo, London, Brussels, Helsinki and Stockholm during two decades with Reuters, 7/1/2013, "Governments warn about nuclear terrorism threat", www.reuters.com/article/2013/07/01/us-nuclear-security-idUSBRE96010E20130701)

More action is needed to prevent militants acquiring plutonium or highly-enriched uranium that could be used in bombs, governments agreed at a meeting on nuclear security in Vienna on Monday, without deciding on any concrete steps.

A declaration adopted by more than 120 states at the meeting said "substantial progress" had been made in recent years to improve nuclear security globally, but it was not enough.

Analysts say radical groups could theoretically build a crude but deadly nuclear bomb if they had the money, technical knowledge and materials needed.

Ministers remained "concerned about the threat of nuclear and radiological terrorism ... More needs to be done to further strengthen nuclear security worldwide", the statement said.

The document "encouraged" states to take various measures such as minimizing the use of highly-enriched uranium, but some diplomats said they would have preferred firmer commitments.

Many countries regard nuclear security as a sensitive political issue that should be handled primarily by national authorities. This was reflected in the statement's language.

Still, Yukiya Amano, director general of the International Atomic Energy Agency (IAEA), which hosted the conference, said the agreement was "very robust" and represented a major step forward.

RADICAL GROUPS' "NUCLEAR AMBITIONS"

Amano earlier warned the IAEA-hosted conference against a "false sense of security" over the danger of nuclear terrorism.

Holding up a small lead container that was used to try to traffic highly enriched uranium in Moldova two years ago, the U.N. nuclear chief said it showed a "worrying level of knowledge on the part of the smugglers".

"This case ended well," he said, referring to the fact that the material was seized and arrests were made. But he added: "We cannot be sure if such cases are just the tip of the iceberg."

Obtaining weapons-grade fissile material - highly enriched uranium or plutonium - poses the biggest challenge for militant groups, so it must be kept secure both at civilian and military facilities, experts say.

An apple-sized amount of plutonium in a nuclear device and detonated in a highly populated area could instantly kill or wound hundreds of thousands of people, according to the Nuclear Security Governance Experts Group (NSGEG) lobby group.

But experts say a so-called "dirty bomb" is a more likely threat than a nuclear bomb. In a dirty bomb, conventional explosives are used to disperse radiation from a radioactive source, which can be found in hospitals or other places that are generally not very well protected.

More than a hundred incidents of thefts and other unauthorized activities involving nuclear and radioactive material are reported to the IAEA every year, Amano said.

"Some material goes missing and is never found," he said.

U.S. Energy Secretary Ernest Moniz said al Qaeda was still likely to be trying to obtain nuclear material for a weapon.

"Despite the strides we have made in dismantling core al Qaeda we should expect its adherents ... to continue trying to achieve their nuclear ambitions," he said.

Most qualified evidence

Us Russia Joint Threat Assessment May 11

http://belfercenter.ksg.harvard.edu/files/Joint-Threat-Assessment%20ENG%2027%20May%202011.pdf

ABOUT THE U.S.-RUSSIA JOINT THREAT ASSESSMENT ON NUCLEAR TERRORISM The U.S.-Russia Joint Threat Assessment on Nuclear Terrorism is a collaborative project of Harvard University’s Belfer Center for Science and International Affairs and the U.S.A. and Canada Studies Institute of the Russian Academy of Sciences led by Rolf Mowatt-Larssen and Pavel Zolotarev. Authors: • Matthew Bunn. Associate Professor of Public Policy at Harvard Kennedy School and Co-Principal Investigator of Project on Managing the Atom at Harvard University’s Belfer Center for Science and International Affairs. • Colonel Yuri Morozov (retired Russian Armed Forces). Professor of the Russian Academy of Military Sciences and senior fellow at the U.S.A and Canada Studies Institute of the Russian Academy of Sciences, chief of department at the General Staff of the Russian Armed Forces, 1995–2000. • Rolf Mowatt-Larssen. Senior fellow at Harvard University’s Belfer Center for Science and International Affairs, director of Intelligence and Counterintelligence at the U.S. Department of Energy, 2005–2008. • Simon Saradzhyan. Fellow at Harvard University’s Belfer Center for Science and International Affairs, Moscow-based defense and security expert and writer, 1993–2008. • William Tobey. Senior fellow at Harvard University’s Belfer Center for Science and International Affairs and director of the U.S.-Russia Initiative to Prevent Nuclear Terrorism, deputy administrator for Defense Nuclear Nonproliferation at the U.S. National Nuclear Security Administration, 2006–2009. • Colonel General Viktor I. Yesin (retired Russian Armed Forces). Senior fellow at the U.S.A and Canada Studies Institute of the Russian Academy of Sciences and advisor to commander of the Strategic Missile Forces of Russia, chief of staff of the Strategic Missile Forces, 1994–1996. • Major General Pavel S. Zolotarev (retired Russian Armed Forces). Deputy director of the U.S.A and Canada Studies Institute of the Russian Academy of Sciences and head of the Information and Analysis Center of the Russian Ministry of Defense, 1993–1997, deputy chief of staff of the Defense Council of Russia, 1997–1998. Contributor: • Vladimir Lukov, director general of autonomous non-profit organization “Counter-Terrorism Center.”

The expert community distinguishes pathways terrorists might take to the bomb (discussed in detail in the next section of the report). One is the use of a nuclear weapon that has been either stolen or bought on the black market. The probability of such a development is very low, given the high levels of physical security (guards, barriers, and the like) and technical security (electronic locks and related measures) of modern nuclear warheads. But we cannot entirely rule out such a scenario, especially if we recall the political instability in Pakistan, where the situation could conceivably develop in a way that would increase the chance that terrorist groups might gain access to a Pakistani nuclear weapon A second pathway is the use of an improvised nuclear device built either by terrorists or by nuclear specialists that the terrorists have secretly recruited, with use of weapons-usable fissile material either stolen or bought on the black market.1 The probability of such an attack is higher than using stolen nuclear warheads, because the acceleration of technological progress and globalization of information space make nuclear weapons technologies more accessible while the existence of the nuclear black market eases access of terrorists to weapons-usable fissile materials. A third pathway is the use of an explosive nuclear device built by terrorists or their accomplices with fissile material that they produced themselves—either highly enriched uranium (HEU) they managed to enrich, or plutonium they managed to produce and reprocess. Al-Qaeda and associated groups appear to have decided that enriching uranium lies well beyond the capabilities that they would realistically be able to develop. A fourth pathway is that terrorists might receive a nuclear bomb or the materials needed to make one from a state. North Korea, for example, has been willing to sell its missile technology to many countries, and transferred its plutonium production reactor technology to Syria, suffering few consequences as a result. Transferring the means to make a nuclear bomb to a terrorist group, however, would be a dramatically different act, for the terrorists might use that capability in a way that could provoke retaliation that would result in the destruction of the regime. A far more worrisome transfer of capability from state to group could occur without the witting cooperation of the regime. A future A.Q. Khan-type rogue nuclear supplier network operating out of North Korea or out of a future nuclear-armed Iran could potentially transfer such a capability to a surrogate group and/or sell it for profit to the highest bidder. Global trends make nuclear terrorism a real threat. Although the international community has recognized the dangers of nuclear terrorism, it has yet to develop a comprehensive strategy to lower the risks of nuclear terrorism. Major barriers include complacency about the threat and the adequacy of existing nuclear security measures; secrecy that makes it difficult for states to share information and to cooperate; political disputes; competing priorities; lack of funds and technical expertise in some countries; bureaucratic obstacles; and the sheer difficulty of preventing a potentially small, hard-to-detect team of terrorists from acquiring a small, hard-to-detect chunk of nuclear material with which to manufacture a crude bomb. These barriers must not be allowed to stand in the way of the panhuman universal priority of preventing this grave threat from materializing. If current approaches toward eliminating the threat are not replaced with a sense of urgency and resolve, the question will become not if, but when, where, and on what scale the first act of nuclear terrorism occurs.

Nukes feasible – HEU is uniquely vulnerable and catastrophic attack

Kuperman ’13 (Alan J. Kuperman, Ph.d., Associate Professor at the LBJ School of Public Affairs @ UT Austin, Coordinator of the Nuclear Proliferation Prevention Project, *Nuclear Terrorism and Global Security*, 2013)

Global commerce in nuclear weapons-usable, highly enriched uranium (HEU) -ostensibly for non-weapons purposes - poses **significant risks of nuclear terrorism and nuclear proliferation**.1 The international community first recognized these dangers in the 1970s and, ever since, has taken progressive action to minimize and secure such trade Much has been accomplished, but much more could be done, given that the vast majority of non-weapons HEU commerce persists. This ongoing usage also hinders adoption and implementation of a major international arms-control agreement - the Fissile Material Cutoff Treaty (FMCT) - intended to cap nuclear-weapons arsenals by prohibiting the production of 1IKU (and plutonium) for weapons. So long as stales may claim to require additional HEU for non-weapons purposes, which could be diverted to weapons, the FMCT has a loophole that undermines its intent and thereby its attractiveness to some potential signatories. For all these reasons, this book explores the prospects and challenges of a total, global phase-out of I1EU commerce.

This introductory chapter starts by reviewing the dangers of HEU commerce and the international steps already taken towards a phase-out. Next, it provides an overview of remaining global, non-weapons HEU use. Following that, it explains the scope, organization, and methodology of the book's studies, and summarizes the findings. The chapter closes with policy recommendations to promote and accelerate a global HEU phase-out

Past Efforts: Commendable But Inadequate

The HEU used in non-weapons applications is often identical to, and in some cases even more **optimized for nuclear weapons**, than that contained in military arsenals. By definition, "HEU" is enriched lo at least 20 percent in the fissile isotope U-235 that sustains a chain reaction. As indicated in Figure 1.1, this distinguishes it from natural uranium, which contains less than one percent U-235, and from the low-enriched uranium (LEU) fuel for nuclear energy plants that typically is enriched to less than 5 percent. (Hnrichment is a process that preferentially selects the fissile isotope U-235 from the rest of the uranium, which is composed mainly of U-238 that hinders a chain reaction.) The Hiroshima atom bomb utilized uranium enriched lo an average of 80 percent.

The HEU in most of today's nuclear weapons has enrichment of 90 to 93 percent. The HEU for non-weapons applications is typically drawn from identical stocks and so has the same weapons-grade enrichment, whether used as fuel for nuclear research reactors, in targets to produce medical isotopes, in critical assemblies to model nuclear reactors, or for other purposes. In at least one application, the fuel for U.S. (and reportedly also UK) naval propulsion reactors, the non-weapons HKU has been enriched to 97 percent, even higher than typical for nuclear weapons. (As the stockpile of such "super-grade" HEU is exhausted, these naval reactors will be converted to fuel of weapons-grade HEU, which ironically is slightly less enriched.)

Compared to the other main fissile material in military arsenals, plutonium. HEU is much easier for terrorists **or states to make into a nuclear weapon**. Its low spontaneous neutron-emission rate permits a gun-type design - much simpler than the implosion design required for plutonium - and its low radiation level represents little danger to those handling it. The resulting threat wras famously summed up by Manhattan Project physicist Luis Alvarez in his memoirs:

With modern weapons-grade uranium ... terrorists, if they had such material, would have a good chance of setting off a high-yield explosion simply by dropping one half of the material onto the other half ... Even a high school student could make a bomb in short order.2

Hundreds of nuclear weapons could be made with the HEU used today for non-weapons purposes. The amount required for one bomb depends on several factors including the enrichment level and weapon design The simplest design, a gun type-weapon, works by slamming two sub-critical masses together to form a super-critical mass. A "reflector" around the outside of the assembly **reduces the critical mass** by reflecting back in neutrons, which otherwise would escape, to help **sustain the chain reaction**.

A 1998 study by Los Alamos National Laboratory' reports the critical mass of various 1-IKU spheres, as summarized in Figure 1.2. // indicates thai the critical mass is less than 20 kg for 9-1%-enriched HEU surrounded by a 4-inch reflector of natural uranium? This critical mass could be reduced by use of a more sophisticated reflector, but up to two critical masses would be required to optimize the yield of a gun-type weapon. Accordingly, 20 kg of HEU may be considered.

## leaders link

They interfere in operations against terrorist leaders

DOJ 13 (Department of Justice, "Lawfullness of a Lethal Operation Directed Against a US Citizen Who Is a SEnior Operational Leader of Al-Qa'ida or an Associated Force," msnbcmedia.msn.com/i/msnbc/sections/news/020413\_DOJ\_White\_Paper.pdf)

Finally, the Department notes that under the circ**umstances described in this pap**r, there exists no appropriate judicial forum to evaluate these constitutional considerations. It is well established that “[m]atters intimately related to foreign policy and national security are rarely proper subjects for judicial intervention,” Haig v. Agee, 453 US 280, 292 (1981), because such matters “frequently turn on standards that defy the judicial application,” or “involve the exercise of a discretion demonstrably committed to the executive or legislature,” Baker v. Carr, 369 US 186, 211 (1962). Were a court to intervene here, it might be required inappropriately to issue an ex ante commend to the President and officials responsible for operations with respect to their specific tactical judgment to mount a potential lethal operation against a senior operational **leader of al-Qa’ida or its associated forces.** And judicial enforcement of such orders would require the Court to supervise inherently predictive judgments by the President and his national security advisors as to when and how to use force against a member of an enemy force against which Congress has authorized the use of force.

These high value targets are the key IL to nuclear terror

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The second major implication addresses the demand side of the threat. Speciﬁcally, a critical component of a broader strategy to prevent a nuclear terrorist attack will involve measures **directed at weakening al Qaeda’s leaders and eliminating** — or at the very least restricting — **their sanctuary in the FATA**. Because obtaining or building a nuclear device and delivering it to a target would be a difﬁcult and expensive operation,89 it is highly likely that any credible plot will originate with al Qaeda’s central leadership, whether its operatives attempt to carry out such an attack on their own or instead ﬁnance, organize, and coordinate the efforts of one or more afﬁliates. By themselves, al Qaeda’s various franchises and especially local extremists would likely ﬁnd an attack of this scale beyond their abilities. In fact, the group’s franchises might not even be tasked to help with such a large and important operation, beyond providing limited logistical support. According to Bruce Hoffman, “high value, ‘spectacular’ attacks are entrusted only to al Qaeda’s professional cadre: the most dedicated, committed, and absolutely reliable elements of the movement.”90 Therefore, **to the extent that its sanctuary in the FATA has allowed al Qaeda’s leadership to regain its strength and plan future operations,** the probability that the group might be able to conduct a catastrophic attack at some point in the future has correspondingly increased.

## at: pakistan handoff

This makes zero sense

Keck 13

Zachary Keck is Associate Editor of The Diplomat where he authors The Pacific Realist blog, National Interest, November 18, 2013, "Why Pakistan Won't Sell Saudi the Bomb", http://nationalinterest.org/commentary/why-pakistan-wont-sell-saudi-the-bomb-9416

Another flaw that almost all the news accounts share is that they analyze the pact solely from the perspective of Saudi Arabia, and ignore Pakistan’s interests almost entirely. They note, for example, that the Kingdom fears a nuclear-armed Iran and point out that Saudi officials have regularly threatened to go nuclear if Iran isn’t prevented from building the bomb. Although one can imagine some reasons the Saudis might not want Pakistani bombs, particularly if they were under the command of Pakistani soldiers, it’s not altogether difficult to believe Riyadh would accept a readymade nuclear deterrent.

But it’s downright preposterous to think that Pakistan would take the unprecedented step of selling Saudi Arabia nuclear weapons, given that it would have nothing to gain and everything to lose by doing so.

To begin with, Pakistani officials are exceptionally paranoid about the size of their nuclear arsenal, and take extraordinary measures to reduce its vulnerability to an Indian or U.S. first strike. Providing the Saudis with their nuclear deterrent would significantly increase Islamabad’s vulnerability to such a first strike. It defies logic to think that Islamabad would accept this risk simply to uphold promises former Pakistani leaders might have made.

It is similarly hard to imagine that past Saudi economic assistance could purchase future nuclear weapons. After all, the U.S. has provided Pakistan with billions of dollars to fight terrorism since 9/11, and it found bin Laden living in an off-campus mansion outside Pakistan’s military academy. The Saudis have similarly struggled to use turn their financial assistance to Pakistan into influence. For example, in the late 1990s and early 2000s, a time when international sanctions left Pakistan highly dependent on Saudi aid, Riyadh unsuccessfully attempted to persuade Pakistan to force the Taliban to hand over bin Laden.

If current aid in the 1990s couldn’t buy Saudi Arabia bin Laden, how can aid from the 1980s be expected to purchase a nuclear arsenal in the future? Unlike with bin Laden, Pakistan has compelling strategic incentives not to sell Saudi Arabia nuclear weapons. Such a move would, of course, result in immediate and severe backlash from the U.S. and the West, who would organize international sanctions against Islamabad. They would also use their influence in the International Monetary Fund to end its aid package to Islamabad, which currently serves as Pakistan’s lifeline. Pakistan’s nuclear sales would also force Washington to end any pretense of neutrality between Pakistan and India, and significantly strengthen ties with the latter.

Pakistan’s all weather friendship with China would also be jeopardized. In fact, it’s quite possible China would be more infuriated than the U.S. because the Kingdom supplies about 20 percent of China’s oil imports, and Beijing’s dependence on Persian Gulf oil is expected to grow in the coming years. By opening Saudi Arabia up to a conventional or nuclear attack, Pakistan would be threatening China’s oil supplies, and through them the stability of the Communist Party. This is a sin Beijing would not soon forgive.

No country would be more enraged by Pakistan’s intransigence than its western neighbor, Iran. It is this fear of alienating Tehran that would be the biggest deterrent to selling Saudi Arabia a nuclear bomb. To begin with, Tehran would immediately halt natural-gas sales to energy-starved Pakistan. More importantly, it would finally embrace India wholeheartedly, including a large Indian presence along its border with Pakistan.

Thus by selling Saudi nuclear weapons, Pakistan would have guaranteed it is surrounded by India on three sides, given that Delhi uses Iran as its main access point to Afghanistan. India’s presence in Iran would also be detrimental to Pakistan, because Iran borders on Pakistan’s already volatile Balochistan province. This would allow India and Iran to aid Baloch separatist movements, conjuring up memories of Bangladesh in the minds of Pakistani leaders. Finally, Iran could give the Indian Navy access to Chabahar port, which Delhi has invested millions in upgrading. Aside from being encircled on land, Pakistan’s navy would now be boxed in by the Indian and Iranian navies.

For a country as obsessed with strategic depth as Pakistan, this situation would be nothing short of a calamity. The notion that Pakistan would resign itself to this fate simply to honor a promise it made to Saudi Arabia is no less farfetched than believing Saddam would arm al-Qaeda with nuclear weapons. That may be why three decades of speculation has turned up no evidence of a Saudi-Pakistani nuclear pact.

This is an empirically denied conspiracy

Keck 13

Zachary Keck is Associate Editor of The Diplomat where he authors The Pacific Realist blog, National Interest, November 18, 2013, "Why Pakistan Won't Sell Saudi the Bomb", http://nationalinterest.org/commentary/why-pakistan-wont-sell-saudi-the-bomb-9416

It is this latter question that also seems most relevant amidst new concerns about a Saudi nuclear weapon. Earlier this month, in the run-up to the Iran-P5+1 talks, the BBC’s Mark Urban wrote a lengthy piece claiming that Pakistan has built nuclear weapons “on behalf of Saudi Arabia [that] are now sitting ready for delivery.”

The article attracted considerable attention and alarm, although it’s not clear why. Concerns about a secret Saudi-Pakistani nuclear pact date back to the 1970s and 1980s, and have become especially prevalent over the past decade.

Nonetheless, despite decades of suspicions, the existence of a Saudi-Pakistan nuclear pact is based almost entirely on speculation. Moreover, like the alleged Saddam-AQ nuclear nexus, the notion that Pakistan would supply Saudi Arabia with nuclear weapons defies common sense.

As noted above, concerns about a Saud-Pakistan nuclear pact emerged in the 1970s and 1980s as Saudi aid to Pakistan increased rapidly. Many in Western foreign-policy circles feared that some of the Kingdom’s aid was being used to fund Pakistan’s nuclear program, with Riyadh expecting some of the final products in return.

However, the increase in Saudi aid during the 1980s was due to other factors, such as Pakistan basing some fifteen thousand troops in the Kingdom, and the Saudi government financing of over half of the Afghan jihad against the Soviet Union. If Saudi money directly funded Pakistan’s nuclear program, it was almost certainly because, as a Saudi advisor once explained, “We gave money and [the Pakistanis] dealt with it as they saw fit.”