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#### A. Interpretation-Restrictions must limit the scope of war power authority

Supreme Court of Delaware 83 (THE MAYOR AND COUNCIL OF NEW CASTLE, a municipal corporation of the State of Delaware, Plaintiff Below, Appellant, v. ROLLINS OUTDOOR ADVERTISING, INC., Defendant Below, Appellee, No. 155, 1983, 475 A.2d 355; 1984 Del. LEXIS 324, November 21, 1983, Submitted, April 2, 1984, Decided)

The term "restrict" is defined as: To restrain within bounds; to limit; [\*\*9] to confine. Id. at 1182. The Supreme Court of the United States has recognized that HN5the term "regulate" necessarily entails a possible prohibition of some kind. That Court has stated: "It is an oft-repeated truism that every regulation necessarily speaks as a prohibition." Goldblatt v. Hempstead, 369 U.S. 590, 592, 8 L. Ed. 2d 130, 82 S. Ct. 987 (1962). The Supreme Court of Massachusetts in reviewing a statute containing language similar to that found in 22 Del.C. § 301 (which empowered municipalities to "regulate and restrict" outdoor advertising on public ways, in public places, and on private property within public view) held that the statute in question authorized a town to provide, through amortization, for the elimination of nonconforming off-site signs five years from the time the ordinance was enacted. The court held that the Massachusetts enabling act: Conferred on the Legislature plenary power to regulate and restrict outdoor advertising . . . . Although the word "prohibit" was omitted from [the enabling act], it was recognized that the unlimited and unqualified power to regulate and restrict can be, for practical purposes, the power to prohibit [\*\*10] "because under such power the thing may be so far restricted that there is nothing left of of it." (Citations omitted.) The court continued its discussions of the two terms by stating: The distinction between regulation and outright prohibition is often considered to be a narrow one: "that regulation may take the character of prohibition, in proper cases, is well established by the decisions of this court" . . . quoting from United States v. Hill, 248 U.S. 420, 425, 63 L. Ed. 337, 39 S. Ct. 143 (1919). John Donnelly and Sons, Inc. v. Outdoor Advertising Board, Mass. Supr., 369 Mass. 206, 339 N.E.2d 709 (1975). We hold that, through Article II, Section 25 of the Delaware Constitution and 22 Del.C. § 301, the General Assembly has authorized New Castle to terminate nonconforming off-site signs upon reasonable notice, that is, by what has come to be known as amortization. We hold that the power to "regulate and restrict" as such term applies to zoning matters includes the power, upon reasonable notice, to prohibit some of those uses already in existence.

#### B. Voting Issue---Precision—restrictions must be a distinct term for debate to occur

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Variety of ‘restrictions’

The term ‘restriction’, defined so broadly, embraces any number of familiar concepts: ‘deprivation’, ‘denial’, ‘encroachment’, ‘incursion’, ‘infringement’, ‘interference’, ‘limitation’, ‘regulation’. Those terms commonly comport differences in meaning or nuance, and are not all interchangeable in standard legal usage. For example, a ‘deprivation’ may be distinguished from a ‘limitation’ or ‘regulation’ in order to denote a full denial of a right (e.g. where private property is wholly appropriated by the state 16 Agents without compensation) as opposed to a partial constraint (e.g. where discrete restrictions are imposed on the use of property which nonetheless remains profitably usable). Similarly, distinctions between acts and omissions can leave the blanket term ‘restriction’ sounding inapposite when applied to an omission: if a state is accused of not doing enough to give effect to a right, we would not colloquially refer to such inaction as a ‘restriction’. Moreover, in a case of extreme abuse, such as extrajudicial killing or torture, it might sound banal to speak merely of a ‘restriction’ on the corresponding right. However, the term ‘restriction’ will be used to include all of those circumstances, in so far as they all comport a purpose or effect of extinguishing or diminishing the right-seeker’s enjoyment of an asserted right. (The only significant distinction which will be drawn will be between that concept of ‘restriction’ and the concept of ‘breach’ or ‘violation’. The terms ‘breach’ or ‘violation’ will be used to denote a judicial determination about the legality of the restriction.6) Such an axiom may seem unwelcome, in so far as it obliterates subtleties which one would have thought to be useful in law. It must be stressed that we are seeking to eliminate that variety of terms not for all purposes, but only for the very narrow purposes of a formal model, for which any distinctions among them are irrelevant.

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Nonviolence

#### Insisting on law to constrain executive violence ignores the role it plays in constructing exceptionalism; this depolitisization of war powers can only be resisted by rejecting the politics of security

Neocleous 8 (Mark Professor of the Critique of Political Economy at Brunel University (“Critique of Security”, McGill-Queen’s University, pp. 72-75, Published 2008))

But there is a wider argument to be made, one with political implications. The idea that the permanent emergency involves a suspension of the law encourages the idea that resistance must involve a 'return to legality', a return to the 'normal' mode of governing through the rule of law. This involves a serious misjudgement in which it is simply assumed that legal procedures - both international and domestic are designed to protect human rights from state violence. 'Law' are comes to appear largely unproblematic and the rule of law 'an unqualified human good'." What this amounts to is what I have elsewhere called a form of legal fetishism, in which Law becomes a mystical answer to the problems posed by power. In the process, the problems inherent in Law are ignored. Law is treated as an 'indepen- dent' or 'autonomous' reality, explained according to its own dynamics, a Subject in itself whose very existence requires that individuals and institutions 'objectify' themselves before it. This produces the illusion that Law has a life of its own, abstracting the rule of law from its origins in class domination, ignoring the ways in which the rule of law is deployed as a political strategy, and obscuring the ideological mystification of these processes in the liberal trumpeting of the rule of law. To demand the return to the 'rule of law' is to seriously misread the history of the relation between the rule of law and emergency powers and, consequently, to get sucked into a less-than-radical politics in dealing with state violence. Part of what I am suggesting is that emergency measures are part of the everyday exercise of powers, working alongside rather than against the rule of law as part of a unified political strategy in the fabrication of social order. The question to ask, then, is less 'how can we bring law to bear on violence?' and much more 'what is it that the law permits emergency measures to accomplish?"' This question - the question that Schmitt, with his fetish for the decision cannot understand/'° which is also why contemporary Left Schmittianism is such a dead loss - disposes of any supposed juxtaposition between legality and emergency and allows us to recognise instead the extent to which the concept of emergency is deeply inscribed within the law and the legal condition of the modem state, and a central part of liberalism's authoritarian moment: the iron fist in the velvet glove of liberal constitutionalism. Far from suspending law or bracketing off the juridical, emergency powers lie firmly within the legal domain. How could they not, since they are so obviously central to state power and the political technology of government - part of the deployment of law, rather than its abandonment? Once this is recognised, the supposed problematic of violence disappears completely, for it can then be seen that emergency powers are deployed for the exercise of a violence necessary for the permanent refashioning of order - the violence of law, not violence contra law. Liberalism struggles with this, and thus presents it as an exceptional moment; fascism recognises it for what it is, and aestheticises the moment. As David Dyzenhaus points out, while the stripping of liberties in the name of emergency the denial of rights on the grounds of necessity and the suspension of freedoms through the exercise of prerogative might appear quite minor compared to what happens in fascist regimes, the fact that the stripping, denial and suspension does happen under the guise of emergency and in full view of the courts brings the legal order of liberal democracies far closer to the legal order of fascism than liberals would care to admit. But in a wonderful ideological loop, the rule of law is also its own ideological obfuscation of that fact The political implications of this are enormous. For if emergency powers are part and parcel of the exercise of law and violence (that is, law as violence), and if historically they have been aimed at the oppressed - in advanced capitalist states against the proletariat and its various struggles, in reactionary regimes against genuine politicisation of the people, in colonial systems against popular mobilisation - then they need to be fought not by demanding a return to the 'normal' rule of law, but in what Benjamin calls a real state of emergency, on the grounds that only this will improve our position in the struggle against the fascism of our time. And this is a task which requires violence, not the rule of law. As Benjamin saw, the law's claim to a monopoly of violence is explained not by the intention of preserving some mythical 'legal end' such as security or normality but, rather, for 'the intention of preserving the law itself'. But violence not in the hands of the law threatens it by its mere existence outside the law. A violence exercised not by the state, but used for very different political ends. For 'if the existence of violence outside the law, as pure immediate violence, is assured, [then] this furnishes proof that revolutionary violence ... is possible'."' That this possibility of and necessity for revolutionary violence is so often omitted when emergency powers are discussed is indicative of the extent to which much of the Left has given up any talk of political violence for the far more comfortable world of the rule of law, regardless of how little the latter has achieved in just the last few years. But if the history of emergency powers tells us anything it is that the least effective response to state violence is to simply insist on the rule of law. Rather than aiming to counter state violence with a demand for legality, then, what is needed is a counter-politics: against the permanent emergency by all means, but also against the 'normality' of everyday class power and the bourgeois world of the rule of law. And since the logic of emergency is so deeply embedded in the rhetorical structure of liberalism's concept of security this means being against the politics of security. For the very posing of political questions through the trope of emergency is always already on the side of security. To grasp why, we need to now refocus our attention more specifically on security as a political technology.

#### The 1AC’s securitization and obsession with American military dominance create a form of social relations that make extinction inevitable. Their knowledge production has been bankrupted by this system; and their epistemological underpinnings should be evaluated prior to the advantages.

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Industrial civilization is on a collision course with life itself. Facilitating its collapse is a deserved and welcomed correction, long overdue. Collapse is inevitable whether we seek to facilitate it or not. Nonetheless, whatever we do, industrial civilization, based as it is on mining and burning finite and polluting fossil fuels, cannot last because it is destroying the ecosystem and the basis of local, cooperative life itself. It knows no limits in a physically finite world and thus is unsustainable. And the numbers of our human species on earth, which have proliferated from 1.6 billion in 1900 to 7 billion today, is the consequence of mindlessly eating oil – tractors, fertilizers, pesticides, herbicides – while destroying human culture in the process. Our food system itself is not sustainable. Dramatic die-off is part of the inevitable correction in the very near future, whether we like it or not. Human and political culture has become totally subservient to a near religion of economics and market forces. Technologies are never neutral, with some being seriously detrimental. Technologies come with an intrinsic character representing the purposes and values of the prevailing political economy that births it. The Industrialism process itself is traumatic. It is likely that only when we experience an apprenticeship in nature can we be trusted with machines, especially when they capital intensive & complicated. The nation-state, intertwined more than ever with corporate industrialism, will always come to its aid and rescue. Withdrawal of popular support enables new imagination and energy for re-creating local human food sufficient communities conforming with bioregional limits. II. The United States of America is irredeemable and unreformable, a Pretend Society. The USA as a nation state, as a recent culture, is irredeemable, unreformable, an anti-democratic, vertical, over-sized imperial unmanageable monster, sustained by the obedience and cooperation, even if reluctant, of the vast majority of its non-autonomous population. Virtually all of us are complicit in this imperial plunder even as many of us are increasingly repulsed by it and speak out against it. Lofty rhetoric has conditioned us to believe in our national exceptionalism, despite it being dramatically at odds with the empirically revealed pattern of our plundering cultural behavior totally dependent upon outsourcing the pain and suffering elsewhere. We cling to living a life based on the social myth of US America being committed to justice for all, even as we increasingly know this has always served as a cover for the social secret that the US is committed to prosperity for a minority thru expansion at ANY cost. Our Eurocentric origins have been built on an extraordinary and forceful but rationalized dispossession of hundreds of Indigenous nations (a genocide) assuring acquisition of free land, murdering millions with total impunity. This still unaddressed crime against humanity assured that our eyes themselves are the wool. Our addiction to the comfort and convenience brought to us by centuries of forceful theft of land, labor, and resources is very difficult to break, as with any addiction. However, our survival, and healing, requires a commitment to recovery of our humanity, ceasing our obedience to the national state. This is the (r)evolution begging us. Original wool is in our eyes: Eurocentric values were established with the invasion by Columbus: Cruelty never before seen, nor heard of, nor read of – Bartolome de las Casas describing the behavior of the Spaniards inflicted on the Indigenous of the West Indies in the 1500s. In fact the Indigenous had no vocabulary words to describe the behavior inflicted on them (A Short Account of the Destruction of the Indies, 1552). Eurocentric racism (hatred driven by fear) and arrogant religious ethnocentrism (self-righteous superiority) have never been honestly addressed or overcome. Thus, our foundational values and behaviors, if not radically transformed from arrogance to caring, will prove fatal to our modern species. Wool has remained uncleansed from our eyes: I personally discovered the continued vigorous U.S. application of the “Columbus Enterprise” in Viet Nam, discovering that Viet Nam was no aberration after learning of more than 500 previous US military interventions beginning in the late 1790s. Our business is killing, and business is good was a slogan painted on the front of a 9th Infantry Division helicopter in Viet Nam’s Mekong Delta in 1969. We, not the Indigenous, were and remain the savages. The US has been built on three genocides: violent and arrogant dispossession of hundreds of Indigenous nations in North America (Genocide #1), and in Africa (Genocide #2), stealing land and labor, respectively, with total impunity, murdering and maiming millions, amounting to genocide. It is morally unsustainable, now ecologically, politically, economically, and socially unsustainable as well. Further, in the 20th Century, the Republic of the US intervened several hundred times in well over a hundred nations stealing resources and labor, while imposing US-friendly markets, killing millions, impoverishing perhaps billions (Genocide #3). Since 1798, the US military forces have militarily intervened over 560 times in dozens of nations, nearly 400 of which have occurred since World War II. And since WWII, the US has bombed 28 countries, while covertly intervening thousands of times in the majority of nations on the earth. It is not helpful to continue believing in the social myth that the USA is a society committed to justice for all , in fact a convenient mask (since our origins) of our social secret being a society committed to prosperity for a few through expansion at ANY cost. (See William Appleman Williams). Always possessing oligarchic tendencies, it is now an outright corrupt corporatocracy owned lock stock and barrel by big money made obscenely rich from war making with our consent, even if reluctant. The Cold War and its nuclear and conventional arms race with the exaggerated “red menace”, was an insidious cover for a war preserving the Haves from the Have-Nots, in effect, ironically preserving a western, consumptive way of life that itself is killing us. Pretty amazing! Our way of life has produced so much carbon in the water, soil, and atmosphere, that it may in the end be equivalent to having caused nuclear winter. The war OF wholesale terror on retail terror has replaced the “red menace” as the rhetorical justification for the continued imperial plunder of the earth and the riches it brings to the military-industrial-intelligence-congressional-executive-information complex. Our cooperation with and addiction to the American Way Of Life provides the political energy that guarantees continuation of U.S. polices of imperial plunder. III. The American Way Of Life (AWOL), and the Western Way of Life in general, is the most dangerous force that exists on the earth. Our insatiable consumption patterns on a finite earth, enabled by but a one-century blip in burning energy efficient liquid fossil fuels, have made virtually all of us addicted to our way of life as we have been conditioned to be in denial about the egregious consequences outsourced outside our view or feeling fields. Of course, this trend began 2 centuries earlier with the advent of the industrial revolution. With 4.6% of the world’s population, we consume anywhere from 25% to nearly half the world’s resources. This kind of theft can only occur by force or its threat, justifying it with noble sounding rhetoric, over and over and over. Our insatiable individual and collective human demands for energy inputs originating from outside our bioregions, furnish the political-economic profit motives for the energy extractors, which in turn own the political process obsessed with preserving “national (in)security”, e.g., maintaining a very class-based life of affluence and comfort for a minority of the world’s people. This, in turn, requires a huge military to assure control of resources for our use, protecting corporate plunder, and to eliminate perceived threats from competing political agendas. The U.S. War department’s policy of “full spectrum dominance” is intended to control the world’s seas, airspaces, land bases, outer spaces, our “inner” mental spaces, and cyberspaces. Resources everywhere are constantly needed to supply our delusional modern life demands on a finite planet as the system seeks to dumb us down ever more. Thus, we are terribly complicit in the current severe dilemmas coming to a head due to (1) climate instability largely caused by mindless human activities; (2) from our dependence upon national currencies; and (3) dependence upon rapidly depleting finite resources. We have become addicts in a classical sense. Recovery requires a deep psychological, spiritual, and physical commitment to break our addiction to materialism, as we embark on a radical healing journey, individually and collectively, where less and local becomes a mantra, as does sharing and caring, I call it the Neolithic or Indigenous model. Sharing and caring replace individualism and competition. Therefore, A Radical Prescription Understanding these facts requires a radical paradigmatic shift in our thinking and behavior, equivalent to an evolutionary shift in our epistemology where our knowledge/thinking framework shifts: arrogant separateness from and domination over nature (ending a post-Ice Age 10,000 year cycle of thought structure among moderns) morphs to integration with nature, i.e., an eco-consciousness felt deeply in the viscera, more powerful than a cognitive idea. Thus, we re-discover ancient, archetypal Indigenous thought patterns. It requires creative disobedience to and strategic noncooperation with the prevailing political economy, while re-constructing locally reliant communities patterned on instructive models of historic Indigenous and Neolithic villages.

#### Nonviolence is the only political act—the aff is worse than the conservative status quo they critique because they actively empower it—try or die for an ethics of equality

May 7 (Todd May is Professor of Philosophy at Clemson University. He is the author of seven books of philosophy, most recently Gilles Deleuze: An Introduction (Cambridge, 2005) and The Philosophy of Foucault (Acumen, 2006), “Jacques Rancière and the Ethics of Equality,” Project Muse)

In political action, the tapestry of this weaving together of cognitive and affective elements around the presupposition of equality has a name, although that name is rarely reflected upon. It is solidarity. Political solidarity is nothing other than the operation of the presupposition of equality internal to the collective subject of political action. It arises in the ethical character of that collective subject, a subject that itself arises only on the basis of its action. When one joins a picket line, or speaks publicly about the oppression of the Palestinians or the Tibetans or the Chechnyans, or attends a meeting whose goal is to organize around issues of fair housing, or brings one's bicycle to a ride with Critical Mass, one is not—if one is engaged in what Rancière calls politics—doing so from a position above or outside those alongside whom one struggles. Rather, one joins the creation of a political subject (which does not mean sacrificing one's own being to it). One acts, in concert with others, on the presupposition of the equality of any and every speaking being. And here is where the justificatory character of the ethics of political action lies. It cannot lie, as we have seen, in an ethical framework that possesses an ultimate foundation. It lies instead in a principle—the presupposition of equality—that can ground and justify political action only to the extent to which it is accepted by those alongside whom and [End Page 33] against whom one struggles. It is, in that sense, an optional ethical principle. But, as we have also seen, this does not mean that it is an arbitrary one. In our world, the presupposition of equality is embedded deep within the ethical framework of most societies. Even when it is honored in the breach, it remains honored. Political action consists in narrowing the breach. There remain two questions to ask about this ethics. The first one is interpretive and can be answered quickly: What is the relationship of this ethics to a vision of contemporary anarchism? The second is normative, and can only be responded to, at least at this moment, with a theoretical gesture: What, if any, implications for the specifics of political action does this ethical framework have? The interpretive question concerns the relation of the ethics of Rancière's politics to anarchism. I hope that the bond between the two will be obvious to those who have either studied or acted within the framework of anarchism. Anarchism's rejection of an avant-garde politics, its concern with the process of political action, its sensitivity to various forms of domination both in society at large and in political communities themselves, and its orientation toward radical equality, are all accounted for in the ethics and politics of the presupposition of equality. What Rancière's work does politically and implies ethically is of a piece with the deepest concerns of much of contemporary anarchism. Moreover, he offers a coherent way to frame those concerns and to bring them forward theoretically. Unlike traditional Marxism, anarchism, in its concern for equality, has often been reluctant to engage in theoretical reflection. If what has been said here is correct, that reluctance is unwarranted. There is much to be understood in politics, and many who can contribute to that understanding. Among what is to be understood is the second question alluded to above: what, if anything, do the ethics of political action imply for the character of political action itself? I would suggest that the pre-supposition of equality among those who act cannot remain limited to those alongside whom one acts. It must also apply to one's adversaries. If those who have no part are to see themselves as equal to those who have a part, then they must also see those who have a part as equal to them. This has implications for political action. I would suggest that such a presupposition of equality among all parties must orient political action toward non-violent means. One must, insofar as possible, refrain from treating those against whom one struggles as beneath consideration, as open game, or as what Kant would call solely a means to one's own ends. This requires political action to be more than just a struggle for [End Page 34] suppression of the adversary, even where the adversary engages in cynical domination. It must be creative in its expression of the presupposition of equality. Nonviolence in politics is often confused with passivity. This is not the place to explain the nature and possibilities of nonviolent action,7 however it must be understood that nonviolence often lies at the opposite pole from political passivity, further away from it than violent resistance. Violent resistance remains in many cases the norm. One is dominated, so one dominates; one is oppressed, so one oppresses. In that sense, violence is always the easy political option. It reverses the power in a relationship. What nonviolence can achieve is something else: not a reversal of power, but an effacing of the terms in which a context of power has been conceived. In the framework of a political orientation whose task is to declassify, nonviolent action carries with it more radical possibilities for declassification than the simple inversion that is the standard consequence of violent resistance. If this line of thinking is right, or even if it is wrong in a fruitful way, then the perspective that Rancière has opened for us is not so much a framework within which we can fit our political thinking as it is a door through which we must walk in order better to reflect upon that thinking. The presupposition of equality opens political thought to new vistas—vistas that, given the history of the last century, should appear more attractive to us now than they might once have done. In this sense, anarchism lies before us rather than behind us, as a political task to be thought and engaged rather than as a historical footnote to be buried alongside other challenges to the pervasive and multifarious dominations of our world.

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Warfighting DA

#### Restricting war powers risks terrorist attacks, WMD proliferation and Rouge State aggression

Yoo 12 (John, professor of law at the University of California, Berkeley, “War Powers Belong to the President,” http://www.abajournal.com/magazine/article/war\_powers\_belong\_to\_the\_president)

This time, President Obama has the Constitution about right. His exercise of war powers rests firmly in the tradition of American foreign policy. Throughout our history, neither presidents nor Congresses have acted under the belief that the Constitution requires a declaration of war before the U.S. can conduct military hostilities abroad. We have used force abroad more than 100 times but declared war in only five cases: the War of 1812, the Mexican-American and Spanish-American wars, and World War I and II. Without any congressional approval, presidents have sent forces to battle Indians, Barbary pirates and Russian revolutionaries; to fight North Korean and Chinese communists in Korea; to engineer regime changes in South and Central America; and to prevent human rights disasters in the Balkans. Other conflicts, such as the 1991 Persian Gulf war, the 2001 invasion of Afghanistan and the 2003 Iraq war, received legislative “authorization” but not declarations of war. The practice of presidential initiative, followed by congressional acquiescence, has spanned both Democratic and Republican administrations and reaches back from President Obama to Presidents Abraham Lincoln, Thomas Jefferson and George Washington. Common sense does not support replacing the way our Constitution has worked in wartime with a radically different system that mimics the peacetime balance of powers between president and Congress. If the issue were the environment or Social Security, Congress would enact policy first and the president would faithfully implement it second. But the Constitution does not duplicate this system in war. Instead, our framers decided that the president would play the leading role in matters of national security. Those in the pro-Congress camp call upon the anti-monarchical origins of the American Revolution for support. If the framers rebelled against King George III’s dictatorial powers, surely they would not give the president much authority. It is true that the revolutionaries rejected the royal prerogative, and they created weak executives at the state level. Americans have long turned a skeptical eye toward the growth of federal powers. But this may mislead some to resist the fundamental difference in the Constitution’s treatment of domestic and foreign affairs. For when the framers wrote the Constitution in 1787 they rejected these failed experiments and restored an independent, unified chief executive with its own powers in national security and foreign affairs. The most important of the president’s powers are commander in chief and chief executive. As Alexander Hamilton wrote in Federalist 74, “The direction of war implies the direction of the common strength, and the power of directing and employing the common strength forms a usual and essential part in the definition of the executive authority.” Presidents should conduct war, he wrote, because they could act with “decision, activity, secrecy and dispatch.” In perhaps his most famous words, Hamilton wrote: “Energy in the executive is a leading character in the definition of good government. ... It is essential to the protection of the community against foreign attacks.” The framers realized the obvious. Foreign affairs are unpredictable and involve the highest of stakes, making them unsuitable to regulation by pre-existing legislation. Instead, they can demand swift, decisive action—sometimes under pressured or even emergency circumstances—that is best carried out by a branch of government that does not suffer from multiple vetoes or is delayed by disagreements. Congress is too large and unwieldy to take the swift and decisive action required in wartime. Our framers replaced the Articles of Confederation, which had failed in the management of foreign relations because they had no single executive, with the Constitution’s single president for precisely this reason. Even when it has access to the same intelligence as the executive branch, Congress’ loose, decentralized structure would paralyze American policy while foreign threats grow. Congress has no political incentive to mount and see through its own wartime policy. Members of Congress, who are interested in keeping their seats at the next election, do not want to take stands on controversial issues where the future is uncertain. They will avoid like the plague any vote that will anger large segments of the electorate. They prefer that the president take the political risks and be held accountable for failure. Congress’ track record when it has opposed presidential leadership has not been a happy one. Perhaps the most telling example was the Senate’s rejection of the Treaty of Versailles at the end of World War I. Congress’ isolationist urge kept the United States out of Europe at a time when democracies fell and fascism grew in their place. Even as Europe and Asia plunged into war, Congress passed the Neutrality Acts designed to keep the United States out of the conflict. President Franklin Roosevelt violated those laws to help the Allies and draw the nation into war against the Axis. While pro-Congress critics worry about a president’s foreign adventurism, the real threat to our national security may come from inaction and isolationism. Many point to the Vietnam War as an example of the faults of the “imperial presidency.” Vietnam, however, could not have continued without the consistent support of Congress in raising a large military and paying for hostilities. And Vietnam ushered in a period of congressional dominance that witnessed American setbacks in the Cold War and the passage of the ineffectual War Powers Resolution. Congress passed the resolution in 1973 over President Richard Nixon’s veto, and no president, Republican or Democrat, George W. Bush or Obama, has ever accepted the constitutionality of its 60-day limit on the use of troops abroad. No federal court has ever upheld the resolution. Even Congress has never enforced it. Despite the record of practice and the Constitution’s institutional design, critics nevertheless argue for a radical remaking of the American way of war. They typically base their claim on Article I, Section 8, of the Constitution, which gives Congress the power to “declare war.” But these observers read the 18th century constitutional text through a modern lens by interpreting “declare war” to mean “start war.” When the Constitution was written, however, a declaration of war served diplomatic notice about a change in legal relations between nations. It had little to do with launching hostilities. In the century before the Constitution, for example, Great Britain—where the framers got the idea of the declare-war power—fought numerous major conflicts but declared war only once beforehand. Our Constitution sets out specific procedures for passing laws, appointing officers and making treaties. There are none for waging war because the framers expected the president and Congress to struggle over war through the national political process. In fact, other parts of the Constitution, properly read, support this reading. Article I, Section 10, for example, declares that the states shall not “engage” in war “without the consent of Congress” unless “actually invaded, or in such imminent danger as will not admit of delay.” This provision creates exactly the limits desired by anti-war critics, complete with an exception for self-defense. If the framers had wanted to require congressional permission before the president could wage war, they simply could have repeated this provision and applied it to the executive. Presidents, of course, do not have complete freedom to take the nation to war. Congress has ample powers to control presidential policy, if it wants to. Only Congress can raise the military, which gives it the power to block, delay or modify war plans. Before 1945, for example, the United States had such a small peacetime military that presidents who started a war would have to go hat in hand to Congress to build an army to fight it. Since World War II, it has been Congress that has authorized and funded our large standing military, one primarily designed to conduct offensive, not defensive, operations (as we learned all too tragically on 9/11) and to swiftly project power worldwide. If Congress wanted to discourage presidential initiative in war, it could build a smaller, less offensive-minded military. Congress’ check on the presidency lies not just in the long-term raising of the military. It can also block any immediate armed conflict through the power of the purse. If Congress feels it has been misled in authorizing war, or it disagrees with the president’s decisions, all it need do is cut off funds, either all at once or gradually. It can reduce the size of the military, shrink or eliminate units, or freeze supplies. Using the power of the purse does not even require affirmative congressional action. Congress can just sit on its hands and refuse to pass a law funding the latest presidential adventure, and the war will end quickly. Even the Kosovo war, which lasted little more than two months and involved no ground troops, required special funding legislation. The framers expected Congress’ power of the purse to serve as the primary check on presidential war. During the 1788 Virginia ratifying convention, Patrick Henry attacked the Constitution for failing to limit executive militarism. James Madison responded: “The sword is in the hands of the British king; the purse is in the hands of the Parliament. It is so in America, as far as any analogy can exist.” Congress ended America’s involvement in Vietnam by cutting off all funds for the war. Our Constitution has succeeded because it favors swift presidential action in war, later checked by Congress’ funding power. If a president continues to wage war without congressional authorization, as in Libya, Kosovo or Korea, it is only because Congress has chosen not to exercise its easy check. We should not confuse a desire to escape political responsibility for a defect in the Constitution. A radical change in the system for making war might appease critics of presidential power. But it could also seriously threaten American national security. In order to forestall another 9/11 attack, or to take advantage of a window of opportunity to strike terrorists or rogue nations, the executive branch needs flexibility. It is not hard to think of situations where congressional consent cannot be obtained in time to act. Time for congressional deliberation, which leads only to passivity and isolation and not smarter decisions, will come at the price of speed and secrecy. The Constitution creates a presidency that can respond forcefully to prevent serious threats to our national security. Presidents can take the initiative and Congress can use its funding power to check them. Instead of demanding a legalistic process to begin war, the framers left war to politics. As we confront the new challenges of terrorism, rogue nations and WMD proliferation, now is not the time to introduce sweeping, untested changes in the way we make war.

#### Rogue states multiply and cause extinction

**Johnson, Forbes contributor and Presidential Medal of Freedom winner, 2013**

(Paul, “A Lesson For Rogue States”, 5-8, <http://www.forbes.com/sites/currentevents/2013/05/08/a-lesson-for-rogue-states/>, ldg)

Although we live in a violent world, where an internal conflict such as the Syrian civil war can cost 70,000 lives over a two-year period, there hasn’t been a major war between the great powers in 68 years. Today’s three superpowers–the U.S., Russia and China–have no conflicts of interest that can’t be resolved through compromise. All have hair-trigger nuclear alert systems, but the sheer scale of their armories has forced them to take nuclear conflict seriously. Thus, in a real sense, nuclear weapons have succeeded in abolishing the concept of a winnable war. The same cannot be said, however, for certain paranoid rogue states, namely North Korea and Iran. If these two nations appear to be prospering–that is, if their nuclear threats are winning them attention and respect, financial bribes in the form of aid and all the other goodies by which petty dictators count success–other prospective rogues will join them. One such state is Venezuela. Currently its oil wealth is largely wasted, but it is great enough to buy entree to a junior nuclear club. Another possibility is Pakistan, which already has a small nuclear capability and is teetering on the brink of chaos. Other potential rogues are one or two of the components that made up the former Soviet Union. All the more reason to ensure that North Korea and Iran are dramatically punished for traveling the nuclear path. But how? It’s of little use imposing further sanctions, as they chiefly fall on the long-suffering populations. Recent disclosures about life in North Korea reveal how effectively the ruling elite is protected from the physical consequences of its nuclear quest, enjoying high standards of living while the masses starve. Things aren’t much better in Iran. Both regimes are beyond the reach of civilized reasoning, one locked into a totalitarian vise of such comprehensiveness as to rule out revolt, the other victim of a religious despotism from which there currently seems no escape. Either country might take a fatal step of its own volition. Were North Korea to attack the South, it would draw down a retribution in conventional firepower from the heavily armed South and a possible nuclear response from the U.S., which would effectively terminate the regime. Iran has frequently threatened to destroy Israel and exterminate its people. Were it to attempt to carry out such a plan, the Israeli response would be so devastating that it would put an end to the theocracy forthwith. The balance of probabilities is that neither nation will embark on a deliberate war but instead will carry on blustering. This, however, doesn’t rule out war by accident–a small-scale nuclear conflict precipitated by the blunders of a totalitarian elite. Preventing Disaster The most effective, yet cold-blooded, way to teach these states the consequences of continuing their nuclear efforts would be to make an example of one by destroying its ruling class. The obvious candidate would be North Korea. Were we able to contrive circumstances in which this occurred, it’s probable that Iran, as well as any other prospective rogues, would abandon its nuclear aims. But how to do this? At the least there would need to be general agreement on such a course among Russia, China and the U.S. But China would view the replacement of its communist ally with a neutral, unified Korea as a serious loss. Compensation would be required. Still, it’s worth exploring. What we must avoid is a jittery world in which proliferating rogue states perpetually seek to become nuclear ones. The risk of an accidental conflict breaking out that would then drag in the major powers is too great. This is precisely how the 1914 Sarajevo assassination broadened into World War I. It is fortunate the major powers appear to have understood the dangers of nuclear conflict without having had to experience them. Now they must turn their minds, responsibly, to solving the menace of rogue states. At present all we have are the bellicose bellowing of the rogues and the well-meaning drift of the Great Powers–a formula for an eventual and monumental disaster that could be the end of us all.

### 1NC

Debt ceiling DA

#### Obama strategically avoided defeat on Syria and Summers-the plan signals weakness the GOP will exploit on debt ceiling

**Garrett, National Journal, 9-17-13**

(Major, “A September to Surrender: Syria and Summers Spell Second-Term Slump”, <http://www.nationaljournal.com/all-powers/a-september-to-surrender-syria-and-summers-spell-second-term-slump-20130917>, ldg)

And Senate Democrats were Obama’s undoing in both cases. Among the reasons Obama sought an eleventh-hour deal with Russia over Syria’s chemical weapons was the certainty he would lose a vote in the Democratically controlled Senate to authorize military force. Majority Leader Harry Reid was a distant and uncertain trumpet. Sen. Chuck Schumer, D-N.Y., gave wide and therefore dismissive berth to Obama. Senate Majority Whip Dick Durbin of Illinois, who has lost clout by degrees to Schumer in the past two years, was deeply reluctant but came around. Meanwhile, rank-and-file Democrats were either silent on, or sprinting away from, Syria. The weekend before Obama’s address to the nation, at least 16 Senate Democrats were solidly in the “no” or “lean no” column. Some whip counts had the number in the low 20s. Even after Obama pleaded with publicly undecided Democrats to remain silent, Sen. Tammy Baldwin of Wisconsin announced her opposition. The White House was not close in the Senate. Suddenly, all the brave West Wing puffery about winning in the Senate and not waiting for action in the House (the 1999 “Kosovo precedent” became the policy shop’s retro “Blurred Lines” smash hit of the late summer) began to wilt. By the time Senate Minority Leader Mitch McConnell announced his opposition on Syria, it was as anticlimactic as the new Crossfire. Senate Democrats would not follow Obama into battle—no matter how much Syria wasn’t Afghanistan, Iraq, or Libya. (Hell, it wasn’t even Grenada.) Democrats would not follow Obama to uphold human rights, advance nonproliferation, or avenge a sarin massacre hauntingly reminiscent of World War I. And they would not follow Obama on naming Lawrence Summers the next Federal Reserve chairman. Senate Democrats, led by Sherrod Brown of Ohio, had for months organized against Summers. Brown’s office collected upward of 20 Democratic signatures urging Obama to appoint Summers’s top rival, Federal Reserve Vice Chair Janet Yellen. The letter and incessant yammering from Senate Democrats infuriated Obama and transformed his preference for Summers from a notion to an imperative. White House aides had been told (and Reid said so publicly) that if Obama nominated Summers, even pro-Yellen Democrats would vote to confirm. But that was on confirmation, not committee consideration. Senate Banking Committee Democrats refused to give up their prerogatives, and when Sen. Jon Tester, D-Mont., announced Friday that he would become the fourth committee Democrats to oppose Summers, the die was cast. There are no “obstructionist” Republican fingerprints on the conspicuous and power-depleting defeats for Obama. He never sought a vote on Syria and therefore was not humiliated. The same is true for Summers. But Obama lost ground on both fronts and ultimately surrendered to political realities that, for the first time in his presidency, were determined by his own obdurate party. This does not mean Obama will lose coming fights over the sequester, shutdown, or debt ceiling. But he is visibly weaker, and even his sense of victory in Syria is so unidimensional, it has no lasting sway in either Democratic cloakroom. More important, Democrats are no longer afraid to defy him or to disregard the will of their constituents—broadly defined in the case of Syria; activist and money-driving in the case of Summers. This, of course, indirectly announces the beginning of the 2016 presidential campaign and an intra-party struggle over the post-Obama Democratic matrix. This shift—a tectonic one—will give Republicans new opportunities on the fiscal issues and in coming debates over immigration and implementation of Obamacare. Republicans have never known a world where Democratic defections were so unyielding and damaging.

#### Drone court drains capital-requires congress

The Huffington Post 6/4/13

HEADLINE: Act Two of US Drone Policy Reform

Jun 04, 2013 (The Huffington Post:http://www.huffingtonpost.com/ Delivered by Newstex)¶ The Obama administration recently lifted its veil of secrecy about its drone usage by providing a substantial amount of information for the first time to a public audience about the program. In a major national security speech on May 23, President Obama outlined new counterterrorism policies with the hope of "redefining[1] what has been a global war into a more targeted assault on terrorist groups threatening the United States." Obama presented a number of steps that his administration has already taken to realize this vision, including setting up guidelines for drone strike usage, briefing appropriate Congressional committees about every drone strike, lifting the moratorium on the transfer of Guantanamo detainees to Yemen, and appointing a new envoy to help facilitate the transfer of detainees to third countries. ¶ While Obama was able to take those actions using his executive powers, the reality is that he needs Congressional support in order to achieve his broader national security goals. Many of the more substantial initiatives that Obama presented in his speech, including additional funding for embassy security and international development, a repeal of the Authorization for Use of Military Force and the "establishment[2] of a special court to evaluate and authorize lethal action," require Congressional legislation to be implemented. Congressional support for Obama's new national security policies will be difficult to achieve given the current dysfunctional partisanship in Washington. Many Republicans with hawkish national security beliefs expressed their discontent with Obama's desire to scale back the war on terror. Senator Saxby Chambliss, the senior Republican on the Senate Intelligence Committee, claimed that Obama's speech will be "viewed by terrorists as a victory[3]." In a similar light, Senator John McCain noted that "To somehow argue that al Qaeda[4] is quote 'on the run,' comes from a degree of unreality that to me is really incredible. Al Qaeda is expanding all over the Middle East from Mali to Yemen and all the places in between." The Obama administration recognizes that its current counterterrorism policies, particularly regarding drone strikes, are not sustainable in the long run. Extensive use of drone strikes, which have already killed between 3,000 and 4,000 people[5] according to NGO reporting, have damaged[6] U.S. relations with other countries and caused growing domestic concern about human rights violations and abuse of presidential war power. For the administration to realize its goal of making U.S. drone usage more effective and sustainable, it needs to garner Republican support for reforms to national security policies. Potential Republican support could come from Tea Party activists who seek to limit Presidential power. Only a couple of weeks ago, Tea Party favorite Senator Rand Paul[7] launched a 13-hour filibuster denouncing the administration's drone usage and promoting restrictions on presidential war power. In an Alice in Wonderland-like situation, a human rights-Tea Party coalition could emerge to support Obama's push for reforms to U.S. counterterrorism policies. Now that would be fun to watch.

#### Failure to raise the debt ceiling ensures collapse of the global economy, U.S. economic leadership, and free trade

**Davidson, NPR’s Planet Money co-founder, 9-10-13**

(Adam, “Our Debt to Society”, http://www.nytimes.com/2013/09/15/magazine/our-debt-to-society.html?pagewanted=all&\_r=0, ldg)

If the debt ceiling isn’t lifted again this fall, some serious financial decisions will have to be made. Perhaps the government can skimp on its foreign aid or furlough all of NASA, but eventually the big-ticket items, like Social Security and Medicare, will have to be cut. At some point, the government won’t be able to pay interest on its bonds and will enter what’s known as sovereign default, the ultimate national financial disaster achieved by countries like Zimbabwe, Ecuador and Argentina (and now Greece). In the case of the United States, though, it won’t be an isolated national crisis. If the American government can’t stand behind the dollar, the world’s benchmark currency, then the global financial system will very likely enter a new era in which there is much less trade and much less economic growth. It would be, by most accounts, the largest self-imposed financial disaster in history. Nearly everyone involved predicts that someone will blink before this disaster occurs. Yet a small number of House Republicans (one political analyst told me it’s no more than 20) appear willing to see what happens if the debt ceiling isn’t raised — at least for a bit. This could be used as leverage to force Democrats to drastically cut government spending and eliminate President Obama’s signature health-care-reform plan. In fact, Representative Tom Price, a Georgia Republican, told me that the whole problem could be avoided if the president agreed to drastically cut spending and lower taxes. Still, it is hard to put this act of game theory into historic context. Plenty of countries — and some cities, like Detroit — have defaulted on their financial obligations, but only because their governments ran out of money to pay their bills. No wealthy country has ever voluntarily decided — in the middle of an economic recovery, no less — to default. And there’s certainly no record of that happening to the country that controls the global reserve currency. Like many, I assumed a self-imposed U.S. debt crisis might unfold like most involuntary ones. If the debt ceiling isn’t raised by X-Day, I figured, the world’s investors would begin to see America as an unstable investment and rush to sell their Treasury bonds. The U.S. government, desperate to hold on to investment, would then raise interest rates far higher, hurtling up rates on credit cards, student loans, mortgages and corporate borrowing — which would effectively put a clamp on all trade and spending. The U.S. economy would collapse far worse than anything we’ve seen in the past several years. Instead, Robert Auwaerter, head of bond investing for Vanguard, the world’s largest mutual-fund company, told me that the collapse might be more insidious. “You know what happens when the market gets upset?” he said. “There’s a flight to quality. Investors buy Treasury bonds. It’s a bit perverse.” In other words, if the U.S. comes within shouting distance of a default (which Auwaerter is confident won’t happen), the world’s investors — absent a safer alternative, given the recent fates of the euro and the yen — might actually buy even more Treasury bonds. Indeed, interest rates would fall and the bond markets would soar. While this possibility might not sound so bad, it’s really far more damaging than the apocalyptic one I imagined. Rather than resulting in a sudden crisis, failure to raise the debt ceiling would lead to a slow bleed. Scott Mather, head of the global portfolio at Pimco, the world’s largest private bond fund, explained that while governments and institutions might go on a U.S.-bond buying frenzy in the wake of a debt-ceiling panic, they would eventually recognize that the U.S. government was not going through an odd, temporary bit of insanity. They would eventually conclude that it had become permanently less reliable. Mather imagines institutional investors and governments turning to a basket of currencies, putting their savings in a mix of U.S., European, Canadian, Australian and Japanese bonds. Over the course of decades, the U.S. would lose its unique role in the global economy. The U.S. benefits enormously from its status as global reserve currency and safe haven. Our interest and mortgage rates are lower; companies are able to borrow money to finance their new products more cheaply. As a result, there is much more economic activity and more wealth in America than there would be otherwise. If that status erodes, the U.S. economy’s peaks will be lower and recessions deeper; future generations will have fewer job opportunities and suffer more when the economy falters. And, Mather points out, no other country would benefit from America’s diminished status. When you make the base risk-free asset more risky, the entire global economy becomes riskier and costlier.

#### Nuclear war

Kemp 2010

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

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

### 1NC

Ex Post Counterplan

#### The United States Federal Judiciary should hold that United States’ targeted killing operations should be subject to judicial ex post review.

#### CP solves provides better judicial review

Jaffer, Director-ACLU Center for Democracy, 13 (Jameel Jaffer, Director of the ACLU's Center for Democracy, “Judicial Review of Targeted Killings,” 126 Harv. L. Rev. F. 185 (2013), http://www.harvardlawreview.org/issues/126/april13/forum\_1002.php)

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. 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. But to recognize that judicial review is indispensible in this context is not to say that Congress should establish a specialized court, still less that it should establish such a court to review contemplated killings before they are carried out. First, the establishment of such a court would almost certainly entrench the notion that the government has authority, even far away from conflict zones, to use lethal force against individuals who do not present imminent threats. When a threat is truly imminent, after all, the government will not have time to apply to a court for permission to carry out a strike. Exigency will make prior judicial review infeasible. To propose that a court should review contemplated strikes before they are carried out is to accept that the government should be contemplating strikes against people who do not present imminent threats. This is why the establishment of a specialized court would more likely institutionalize the existing program, with its elision of the imminence requirement, than narrow it. Second, judicial engagement with the targeted killing program does not actually require the establishment of a new court. In a case pending before Judge Rosemary Collyer of the District Court for the District of Columbia, the ACLU and the Center for Constitutional Rights represent the estates of the three U.S. citizens whom the CIA and JSOC killed in Yemen in 2011. The complaint, brought under Bivens v. Six Unknown Named Agents, seeks to hold senior executive officials liable for conduct that allegedly violated the Fourth and Fifth Amendments. It asks the court to articulate the limits of the government’s legal authority and to assess whether those limits were honored. In other words, the complaint asks the court to conduct the kind of review that many now seem to agree that courts should conduct. This kind of review—ex post review in the context of a Bivens action—could clarify the relevant legal framework in the same way that review by a specialized court could. But it also has many advantages over the kind of review that would likely take place in a specialized court. In a Bivens action, the proceedings are adversarial rather than ex parte, increasing their procedural legitimacy and improving their substantive accuracy. Hearings are open to the public, at least presumptively. The court can focus on events that have already transpired rather than events that might or might not transpire in the future. And a Bivens action can also provide a kind of accountability that could not be supplied by a specialized court reviewing contemplated strikes ex ante: redress for family members of people killed unlawfully, and civil liability for officials whose conduct in approving or carrying out the strike violated the Constitution. (Of course, in one profound sense a Bivens action will always come too late, because the strike alleged to be unlawful will already have been carried out. Again, though, if “imminence” is a requirement, ex ante judicial review is infeasible by definition.) Another advantage of the Bivens model is that the courts are already familiar with it. The courts quite commonly adjudicate wrongful death claims and “survival” claims brought by family members of individuals killed by law enforcement agents. In the national security context, federal courts are now accustomed to considering habeas petitions filed by individuals detained at Guantánamo. They opine on the scope of the government’s legal authority and they assess the sufficiency of the government’s evidence — the same tasks they would perform in the context of suits challenging the lawfulness of targeted killings. While Congress could of course affirm or strengthen the courts’ authority to review the lawfulness of targeted killings if it chose to do so, or legislatively narrow some of the judicially created doctrines that have precluded courts from reaching the merits in some Bivens suits, more than 40 years of Supreme Court precedent since Bivens makes clear that federal courts have not only the authority to hear after-the-fact claims brought by individuals whose constitutional rights have been infringed but also the obligation to do so.

### 1NC AT: Drone Wars

#### Deterrence checks – diplomatic costs

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

Bold predictions of a coming drones arms race are all the rage since the uptake in their deployment under the Obama Administration. Noel Sharkey, for example, argues in an August 3 op-ed for the Guardian that rapidly developing drone technology — coupled with minimal military risk — portends an era in which states will become increasingly aggressive in their use of drones. As drones develop the ability to fly completely autonomously, Sharkey predicts a proliferation of their use that will set dangerous precedents, seemingly inviting hostile nations to use drones against one another. Yet, the narrow applications of current drone technology coupled with what we know about state behavior in the international system lend no credence to these ominous warnings. Indeed, critics seem overly-focused on the domestic implications of drone use. In a June piece for the Financial Times, Michael Ignatieff writes that “virtual technologies make it easier for democracies to wage war because they eliminate the risk of blood sacrifice that once forced democratic peoples to be prudent.” Significant public support for the Obama Administration’s increasing deployment of drones would also seem to legitimate this claim. Yet, there remain equally serious diplomatic and political costs that emanate from beyond a fickle electorate, which will prevent the likes of the increased drone aggression predicted by both Ignatieff and Sharkey. Most recently, the serious diplomatic scuffle instigated by Syria’s downing a Turkish reconnaissance plane in June illustrated the very serious risks of operating any aircraft in foreign territory. States launching drones must still weigh the diplomatic and political costs of their actions, which make the calculation surrounding their use no fundamentally different to any other aerial engagement. This recent bout also illustrated a salient point regarding drone technology: most states maintain at least minimal air defenses that can quickly detect and take down drones, as the U.S. discovered when it employed drones at the onset of the Iraq invasion, while Saddam Hussein’s surface-to-air missiles were still active. What the U.S. also learned, however, was that drones constitute an effective military tool in an extremely narrow strategic context. They are well-suited either in direct support of a broader military campaign, or to conduct targeted killing operations against a technologically unsophisticated enemy. In a nutshell, then, the very contexts in which we have seen drones deployed. Northern Pakistan, along with a few other regions in the world, remain conducive to drone usage given a lack of air defenses, poor media coverage, and difficulties in accessing the region. Non-state actors, on the other hand, have even more reasons to steer clear of drones: – First, they are wildly expensive. At $15 million, the average weaponized drone is less costly than an F-16 fighter jet, yet much pricier than the significantly cheaper, yet equally damaging options terrorist groups could pursue. – Those alternatives would also be relatively more difficult to trace back to an organization than an unmanned aerial vehicle, with all the technical and logistical planning its operation would pose. – Weaponized drones are not easily deployable. Most require runways in order to be launched, which means that any non-state actor would likely require state sponsorship to operate a drone. Such sponsorship is unlikely given the political and diplomatic consequences the sponsoring state would certainly face. – Finally, drones require an extensive team of on-the-ground experts to ensure their successful operation. According to the U.S. Air Force, 168 individuals are needed to operate a Predator drone, including a pilot, maintenance personnel and surveillance analysts. In short, the doomsday drone scenario Ignatieff and Sharkey predict results from an excessive focus on rapidly-evolving military technology. Instead, we must return to what we know about state behavior in an anarchistic international order. Nations will confront the same principles of deterrence, for example, when deciding to launch a targeted killing operation regardless of whether they conduct it through a drone or a covert amphibious assault team. Drones may make waging war more domestically palatable, but they don’t change the very serious risks of retaliation for an attacking state. Any state otherwise deterred from using force abroad will not significantly increase its power projection on account of acquiring drones. What’s more, the very states whose use of drones could threaten U.S. security – countries like China – are not democratic, which means that the possible political ramifications of the low risk of casualties resulting from drone use are irrelevant. For all their military benefits, putting drones into play requires an ability to meet the political and security risks associated with their use. Despite these realities, there remain a host of defensible arguments one could employ to discredit the Obama drone strategy. The legal justification for targeted killings in areas not internationally recognized as war zones is uncertain at best. Further, the short-term gains yielded by targeted killing operations in Pakistan, Somalia and Yemen, while debilitating to Al Qaeda leadership in the short-term, may serve to destroy already tenacious bilateral relations in the region and radicalize local populations. Yet, the past decade’s experience with drones bears no evidence of impending instability in the global strategic landscape. Conflict may not be any less likely in the era of drones, but the nature of 21st Century warfare remains fundamentally unaltered despite their arrival in large numbers.

#### No great power war – tech failure

Lewis 11 (Michael W. Lewis teaches international law and the law of war at Ohio Northern University School of Law. He is a former Navy fighter pilot and is the coauthor of "The War on Terror and the Laws of War: A Military Perspective." “Unfounded drone fears,” http://articles.latimes.com/2011/oct/17/opinion/la-oe--lewis-drones-20111017)

Almost since the United States began using the unmanned aerial vehicles known as drones, their use has drawn criticism. The latest criticism, which has received considerable attention in the wake of the drone strike on Anwar Awlaki, is that America's use of drones has sparked a new international arms race. While it is true that some other nations have begun developing their own unmanned aerial vehicles, the extent of the alarm is unjustified. Much of it rests on myths that are easily dispelled. Myth 1: Drones will be a threat to the United States in the hands of other nations. Drones are surveillance and counter-terrorism tools; they are not effective weapons of conventional warfare. The unmanned aerial vehicles are slow and extremely vulnerable to even basic air defense systems, illustrated by the fact that a U.S. surveillance drone was shot down by a 1970s-era MIG-25 Soviet fighter over Iraq in 2002. Moreover, drones are dependent on constant telemetry signals from their ground controllers to remain in flight. Such signals can be easily jammed or disrupted, causing the drone to fall from the sky. It's even possible that a party sending stronger signals could take control of the drone. The drones, therefore, have limited usefulness. And certainly any drone flying over the U.S. while being controlled by a foreign nation could be easily detected and either destroyed or captured.

#### The plan results in worse alternatives and blowback

Byman 13 (Daniel, Professor in the Security Studies Program at the Edmund A. Walsh School of Foreign Service at Georgetown University and a Senior Fellow at the Saban Center for Middle East Policy at the Brookings Institution, “Why Drones Work: The case for washington’s weapon of choice,” 92 Foreign Aff. 32 (2013), Accessed at Hein Online)

Despite the obvious benefits of using drones and the problems associated with the alternatives, numerous critics argue that drones still have too many disadvantages. First among them is an unacceptably high level of civilian casualties. Admittedly, drones have killed innocents. But the real debate is over how many and whether alternative approaches are any better. The Bureau of Investigative Journalism reports that in 2011 alone, nearly 900 noncombatants, including almost 200 children, were killed by U.S. drone strikes. Columbia Law School's Human Rights Clinic also cites high numbers of civilian deaths, as does the Pakistani organization Pakistan Body Count. Peter Bergen of the New America Foundation oversees a database of drone casualties culled from U.S. sources and international media reports. He estimates that between 150 and 500 civilians have been killed by drones during Obama's administration. U.S. officials, meanwhile, maintain that drone strikes have killed almost no civilians. In June 2011, John Brennan, then Obama's.top counterterrorism adviser, even contended that U.S. drone strikes had killed no civilians in the previous year. But these claims are based on the fact that the U.S. government assumes that all military-age males in the blast area of a drone strike are combatants- unless it can determine after the fact that they were innocent (and such intelligence gathering is not a priority). The United States has recently taken to launching "signature strikes," which target not specific individuals but instead groups engaged in suspicious activities. This approach makes it even more difficult to distinguish between combatants and civilians and verify body counts of each. Still, as one U.S. official told The New York Times last year, "Al Qaeda is an in- sular, paranoid organization-innocent neighbors don't hitchhike rides in the back-of trucks headed for the border with guns and bombs." Of course, not everyone accepts this reasoning. Zeeshan-ul-hassan Usmani, who runs Pakistan Body Count, says that "neither [the United States] nor Pakistan releases any detailed information about the victims ... so [although the United States] likes to call everybody Taliban, I call everybody civilians. The truth is that all the public numbers are unreliable. Who con- stitutes a civilian is often unclear; when trying to kill the Pakistani Taliban leader Baitullah Mehsud, for example, the United States also killed his doctor. The doctor was not targeting U.S. or allied forces, but he was aiding a known terrorist leader. In addition, most strikes are carried out in such remote locations that it is nearly impossible for independent sources to verify who was killed. In Pakistan, for example, the overwhelming majority of drone killings occur in tribal areas that lie outside the government's control and are prohibitively dangerous for Westerners and independent local journalists to enter. Thus, although the New America Foundation has come under fire for relying heavily on unverifiable information provided by anonymous U.S. officials, reports from local Pakistani organizations, and the Western organizations that rely on them, are no better: their numbers are frequently doctored by the Pakistani government or by militant groups. After a strike in Pakistan, militants often cordon off the area, remove their dead, and admit only local reporters sympathetic to their cause or decide on a body count themselves. The U.S. media often then draw on such faulty reporting to give the illusion of having used multiple sources. As a result, statistics on civilians killed by drones are often inflated. One of the few truly independent on-the-ground reporting efforts, conducted by the Associated Press last year, concluded that the strikes "are killing far fewer civilians than many in [Pakistan] are led to believe." But even the most unfavorable estimates of drone casualties reveal that the ratio of civilian to militant deaths-about one to three, according to the Bureau of Investigative Journalism-is lower than it would be for other forms of strikes. Bombings by F-16s or Tomahawk cruise missile salvos, for example, pack a much more deadly payload. In December 2009, the United States fired Tomahawks at a suspected terrorist training camp in Yemen, and over 30 people were killed in the blast, most of them women and children. At the time, the Yemeni regime refused to allow the use of drones, but had this not been the case, a drone's real-time surveillance would probably have spotted the large number of women and children, and the attack would have been aborted. Even if the strike had gone forward for some reason, the drone's far smaller warhead would have killed fewer innocents. Civilian deaths are tragic and pose political problems. But the data show that drones are more discriminate than other types of force.

#### Lack of technology means no drone war

Boyle 12 (Ashley, is an Adjunct Junior Fellow at the American Security Project, “The US and its UAVs: Addressing Legality and Overblown Scenarios,” http://americansecurityproject.org/blog/2012/the-us-and-its-uavs-addressing-legality-and-overblown-scenarios/)

While there is no question that the US has used drones, it is hardly alone in wielding the technology. Approximately fifty nations possess and use drones. However, Wikipedia informs us that of these nations, only twelve have lethal drones of which only three nations – China, Iran, and Russia – may be of concern. Possessing the technology is only one part of the picture. Nations must also have the capabilities to maintain and operate these aircraft, as well as an intelligence network that informs their surveillance or strike activities. The supporting systems required to operate drones is greatly underestimated, and it is difficult to see China, Iran, or Russia having the resources or desire to launch expansive drone programs in the short- to mid-term. While the long-term picture always requires discussion, alarmist messages about impending drone wars are just that: alarming and unfounded.

#### Norms fail – international manipulation

Lerner 13 (Ben, is Vice President for Government Relations at the Center for Security Policy in Washington, D.C. “Judging ‘Drones’ From Afar,” http://spectator.org/archives/2013/03/25/judging-drones-from-afar/1

Whatever the potential motivations for trying to codify international rules for using UAVs, such a move would be ill advised. While in theory, every nation that signs onto a treaty governing UAVs will be bound by its requirements, it is unlikely to play out this way in practice. It strains credulity to assume that China, Russia, Iran, and other non-democratic actors will not selectively apply (at best) such rules to themselves while using them as a cudgel with which to bash their rivals and score political points. The United States and its democratic allies, meanwhile, are more likely to adhere to the commitments for which they signed up. The net result: we are boxed in as far as our own self-defense, while other nations with less regard for the rule of law go use their UAVs to take out whomever, whenever, contorting said “rules” as they see fit. One need only look at China’s manipulation of <<LOST>>the Law of the Sea Treaty to justify its vast territorial claims at the expense of its neighbors to see how this often plays out. And who would enforce the treaty’s rules — a third party tribunal? Would it be an apparatus of the United Nations, the same U.N. that assures us that it is not coming after the United States or its allies specifically, even as its investigation takes on as its “immediate focus” UAV operations recently conducted by those countries? The United States already conducts warfare under the norms of centuries of practice of customary international law in areas such as military necessity and proportionality, as well as the norms to which we committed ourselves when we became party to the 1949 Geneva Conventions and the United Nations Charter. These same rules can adequately cover the use of UAVs in the international context. But if the United States were to create or agree to a separate international regime for UAVs, we would subject ourselves to new, politicized “rules” that would needlessly hold back countries that already use UAVs responsibly, while empowering those that do not.

#### Indo-Pak War won’t go nuclear

**Enders ’02** “Experts say nuclear war still unlikely,”, David Enders, Daily News Editor, January 30th 2002, DA: 7/26/10, http://www.michigandaily.com/content/experts-say-nuclear-war-still-unlikely?page=0,0

University political science Prof. Ashutosh Varshney becomes animated when asked about the likelihood of nuclear war between India and Pakistan. "Odds are close to zero," Varshney said forcefully, standing up to pace a little bit in his office. "The assumption that India and Pakistan cannot manage their nuclear arsenals as well as the U.S.S.R. and U.S. or Russia and China concedes less to the intellect of leaders in both India and Pakistan than would be warranted.” The world"s two youngest nuclear powers first tested weapons in 1998, sparking fear of subcontinental nuclear war a fear Varshney finds ridiculous. "The decision makers are aware of what nuclear weapons are, even if the masses are not," he said. "Watching the evening news, CNN, I think they have vastly overstated the threat of nuclear war," political science Prof. Paul Huth said. Varshney added that there are numerous factors working against the possibility of nuclear war. "India is committed to a no-first-strike policy," Varshney said. "It is virtually impossible for Pakistan to go for a first strike, because the retaliation would be gravely dangerous." Political science Prof. Kenneth Lieberthal, a former special assistant to President Clinton at the National Security Council, agreed. "Usually a country that is in the position that Pakistan is in would not shift to a level that would ensure their total destruction," Lieberthal said, making note of India"s considerably larger nuclear arsenal. "American intervention is another reason not to expect nuclear war," Varshney said. "If anything has happened since September 11, it is that the command control system has strengthened. The trigger is in very safe hands."

### 1NC AT: Legitimacy ADV

#### Court doesn’t shore up cred

Johnson 13 (Jeh, Former Pentagon General Counsel Keynote address at the Center on National Security at Fordham Law School: A “Drone Court”: Some Pros and Cons <http://www.lawfareblog.com/2013/03/jeh-johnson-speech-on-a-drone-court-some-pros-and-cons/>)

In the eyes of the American public, judges are for the most part respected for their independence. In the eyes of the international community, a practice that is becoming increasingly controversial would be placed on a more credible footing. A national security court would also help answer the question many are asking: what do we say to other nations who acquire this capability? A group of judges to approve targeted lethal force would set a standard and an example. Further, as so-called “targeted killings” become more controversial with time, I believe there are some decision-makers within the Executive Branch who actually wouldn’t mind the added comfort of judicial imprimatur on their decisions. But, we must be realistic about the degree of added credibility such a court can provide. Its proceedings would necessarily be ex parte and in secret, and, like a FISA court, I suspect almost all of the government’s applications would be granted, because, like a FISA application, the government would be sure to present a compelling case. So, at the same time the New York Times editorial page promotes a FISA-like court for targeted lethal force, it derides the FISA court as a “rubber stamp” because it almost never rejects an application.[8] How long before a “drone court” operating in secret is criticized in the same way? Meanwhile, what about the views of the judiciary itself? I know a number of federal judges who would accept this unpleasant job if asked out of a sense of duty. But many, I suspect, want the judiciary to have nothing to do with this. Former Judges Mukasey and Robertson have publicly articulated this view in emphatic terms.[9] I can hear many in the judicial branch saying that courts exist to resolve cases and controversies between parties, not to issue death warrants based on classified, ex parte submissions. Judges don’t like arms-length ex parte submissions, because they know they are not getting two sides of the story. I’m sure they would like them even less if the decision they must make is final and irreversible. Put in a more cynical way, I can imagine many federal judges thinking “we don’t exist to provide top cover to the Executive branch for difficult decisions; foist this responsibility on us and you diminish both our branches of government.”

#### The court turns into a rubber stamp

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

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 ex ante. 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 in advance. At its core, that’s 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 legitimacy to operations the legality of which might have otherwise been questioned ex post. Put another way, ex ante revew 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.

#### Drone court is rolled back—this card assumes fiat and multiple agents acting, evidence supersedes durability

Arend 13 (Anthony Clark Arend is Professor of Government and Foreign Service at Georgetown University and the Director of the Master of Science in Foreign Service in the Walsh School of Foreign Service. “Judicial Oversight of Drones?” http://anthonyclarkarend.com/humanrights/judicial-oversight-of-drones/)

So, if the Constitution delegates the war powers to Congress and the President. And if it would seem that the President has the sole authority to determine who a combatant is, how could there be a legitimate role for the the Judiciary? In fact, courts have traditionally kept out of disputes between Congress and the President about the extent of the war powers. In case after case, courts have typically ruled that such cases are nonjusticiable– using either the political question doctrine or some other justiciabilty doctrine. But what if there were a legislative act– approved by the President– establishing a specific arrangement for judicial review? I am still inclined to think that if such act were subject to judicial testing it would be found unconstitutional because it would be involving the courts in something that is inherently within the realm of the political branches– who is a combatant in an armed conflict. Of course- this is not to say that I favor the current use of drones as a matter of policy, nor that I don’t worry about whether the drones are being used in a manner that complies with the laws of war. But those are concerns are different from the question of whether judicial review of drone use is constitutional.

#### No spillover — lack of credibility in one commitment doesn’t affect others at all

Paul K. MacDonald 11, Assistant Professor of Political Science at Williams College, and Joseph M. Parent, Assistant Professor of Political Science at the University of Miami, Spring 2011, “Graceful Decline?: The Surprising Success of Great Power Retrenchment,” International Security, Vol. 35, No. 4, p. 7-44

Second, pessimists overstate the extent to which a policy of retrenchment can damage a great power's capabilities or prestige. Gilpin, in particular, assumes that a great power's commitments are on equal footing and interdependent. In practice, however, great powers make commitments of varying degrees that are functionally independent of one another. Concession in one area need not be seen as influencing a commitment in another area.25 Far from being perceived as interdependent, great power commitments are often seen as being rivalrous, so that abandoning commitments in one area may actually bolster the strength of a commitment in another area. During the Korean War, for instance, President Harry Truman's administration explicitly backed away from total victory on the peninsula to strengthen deterrence in Europe.26 Retreat in an area of lesser importance freed up resources and signaled a strong commitment to an area of greater significance.

#### No loss of legitimacy or allied backlash---they want drones too, status quo grey areas are sufficient

Anderson 11 (Kenneth Anderson is a professor of international law at Washington College of Law, American University, Washington, DC, and a visiting fellow at the Hoover Institution. “Public Legitimacy for Targeted Killing Using Drones,” http://www.volokh.com/2011/10/03/public-legitimacy-for-targeted-killing-using-drones/comment-page-1/)

The problem of international legitimacy is always tricky, as Bellinger knows better than anyone. I look at it this way. Tell the international community that we care about legitimacy – which is to say, that we care about their opinion in relation to our practices – and all of sudden we have handed other folks a rhetorical hold-up, to a greater or lesser degree. Unsurprisingly, the price of their good opinion and their desire to exercise control over our actions goes up. This is nothing special to this; it’s just standard bargaining theory. On the other hand, ignore them altogether, and they – particularly, note, our allies, those who say that they are acting roughly within our shared sphere of values discourse, not the Chinese or the Russians – develop a set of norms that they then apply in such a way as to mark us as the outlier and the deviant. Again, this is just drawn from any standard account of norm-negotiation; it’s not a statement of nefarious intent; it’s an acknowledgment that both we and our allies are invested in norms, and that we are not merely societies of narrow interests. At its worst, developing a quite separate norm regime and then characterizing us as genuinely deviant from it might lead to arrest warrants issued for current or former US officials, and much distrust between sides. It might also lead to places where even our allies might not want to go – putting themselves outside of the US security umbrella in particular matters that turn out to concern them a lot, such has having access to drones in Libya. If the norm envelope is pushed hard enough, however, then our allies wind up depriving themselves of access to the weapon, which clearly they don’t want to do. So they have reasons not to push too hard – both for fear of us simply ignoring them altogether (in effect withdrawing the acceptance that their opinion matters to the legitimacy of the activity) and because they want at least “parts” of it. The best place to be, then, for both sides, is roughly in the middle that Bellinger stakes out. (Note that nothing I’ve said here should be attributed to him; these are my views on the negotiation stakes.) Meaning that we have reasons to talk with our allies at length and in detail, in private and public, to try and persuade them to our views, and to persuade them that genuflecting to their advocacy and NGO groups will be worse for them than accepting our space to act, insofar as we can give a plausible interpretation of law. Plausibility is the central touchstone for international law in relations among states, finally; we and they don’t have to agree, only to agree that our several interpretations are within the ballpark of acceptability. It might involve alterations of our practice; it might not. This will never satisfy the non-governmental advocates or the academics, of course. They have no skin in the game and hence can always hold out for the most extreme position with only an indirect cost in credibility. In the case of drones, in which even some of the advocates are belatedly realizing that the weapon is indeed more precise and sparing of civilians, ignoring the NGO advocates as profoundly mistaken has spared a human tragedy in collateral damage over the long run. But the striking thing about the interstate negotiations among allies is that they don’t have to reach a conclusion – an agreement – and probably won’t. An acceptance of the plausibility of each side’s position and an agreement to continue discussion around alternatives that are considered plausible is sufficient.

#### Liberal internationalism fails to solve conflict

**Ratner, Berkeley political science PhD, 2013**

(Ely, “The Mythical Liberal Order”, 3-1, <http://www.cnas.org/node/10121>, ldg)

Ask yourself this: Have developing countries felt and manifested over time the increasing magnetic pull of the liberal world order? A number of vulnerable developing and post-Communist transitional countries adopted a “Washington Consensus” package of liberal economic policies—freer trade, marketization and privatization of state assets—in the 1980s and 1990s. But these adjustments mostly arrived under the shadow of coercive power. They generally placed the burden of adjustment disproportionately on the most disempowered members of society. And, with few exceptions, they left developing countries more, not less, vulnerable to global economic volatility. The structural-adjustment policies imposed in the midst of the Latin American debt crisis and the region’s subsequent “lost decade” of the 1980s bear witness to each of these shortcomings, as do the failed voucher-privatization program and consequent asset stripping and oligarchic wealth concentration experienced by Russians in the 1990s. If these were the gains that were supposed to emerge from a liberal world order, it’s no surprise that liberalism came to have a tarnished brand in much of the developing world. The perception that economic neoliberalism fails to deliver on its trickle-down growth pledge is strong and deep. In contrast, state capitalism and resource nationalism—vulnerable to a different set of contradictions, of course—have for the moment delivered tangible gains for many emerging powers and look like promising alternative development paths. Episodic signs of pushback against some of the excesses of that model, such as anti-Chinese protests in Angola or Zambia, should not be confused with a yearning for a return to liberal prescriptions. And comparative economic performance in the wake of the global financial crisis has done nothing to burnish liberalism’s economic image, certainly not in the minds of those who saw the U.S. investment banking–led model of capital allocation as attractive, and not in the minds of those who held a vision of EU-style, social-welfare capitalism as the next evolutionary stage of liberalism. There’s just as little evidence of sustained liberal magnetism operating in the politics of the developing world, where entrenched autocrats guarding their legitimacy frequently caricature democracy promotion as a not-very-surreptitious strategy to replace existing regimes with either self-serving instability or more servile allies of the West. In practice, the liberal order’s formula for democratic freedom has been mostly diluted down to observing electoral procedures. The results have been almost uniformly disappointing, as the legacy of post–Cold War international interventions from Cambodia to Iraq attests. Even the more organic “color revolutions” of Eastern Europe and Central Asia at the beginning of the twenty-first century have stalled into equilibria Freedom House identifies as only “partly free”—in reality affording average citizens little access to political or economic opportunities. Only two years past the initial euphoria of the Arab Spring a similar disillusionment has set in across the Middle East, where evidence for the magnetic pull of a liberal world order is extremely hard to find. Contemporary developments in Southeast Asia illustrate where the most important magnetic forces of change actually come from. The Association of Southeast Asian Nations (ASEAN) has successfully coordinated moves toward trade liberalization in the region, but this has not been underpinned by a set of liberal principles or collective norms. Instead, the goals have been instrumental—to protect the region from international economic volatility and to cement together some counterweight to the Chinese economy. And ASEAN is explicitly not a force for individual political and economic freedom. Indeed, it acts more like a bulwark against “interference” in internal affairs. The aspirations one occasionally hears for the organization to implement collective-governance measures come from Western observers much more frequently than from the people and states that comprise the group itself. Global governistas will protest that the response to the global financial crisis proves that international economic cooperation is more robust than we acknowledge. In this view, multilateral financial institutions passed the stress test and prevented the world from descending into the economic chaos of beggar-thy-neighbor trade policies and retaliatory currency arbitrage and capital controls. The swift recovery of global trade and capital flows is often cited as proof of the relative success of economic cooperation. The problem with this thesis is that very real fears about how the system could collapse, including the worry that states would retreat behind a mercantilist shell, are no different from what they were a hundred years ago. It’s not especially indicative of liberal progress to be having the same conversation about global economic governance that the world was having at the end of the gold-standard era and the onset of the Great Depression. Global economic governance may have helped to prevent a repeat downward spiral into self-defeating behaviors, but surely in a world order focused on liberal progress the objectives of global economic governance should have moved on by now. And the final chapter here has yet to be written. From the perspective of many outside the United States, the Federal Reserve’s unprecedented “quantitative easing” policies are not far off from monetary warfare on the exchange and inflation rates of others. Astute analysts have observed that as banks have operated more nationalistically and cautiously, the free flow of capital across borders has declined. A global climate that is at serious risk of breeding currency and trade wars is hardly conducive to the health and expansion of any liberal world order. On matters of war and peace, the international community is fighting similar battles and for the most part experiencing similar failures to provide a system of collective security. In Africa’s Great Lakes region, more than five million people have died directly and indirectly from fifteen years of civil war and conflict. Just to the north, the international community stood by and watched a genocide in Sudan. In places more strategically important to leading nations, the outcome—as showcased in Syria—is geopolitical gridlock. The last time the Security Council managed to agree on what seemed like serious collective action was over Libya, but both China and Russia now believe they were intentionally misled and that what was sold as a limited humanitarian mission was really a regime-change operation illegitimately authorized by the UN. This burst of multilateralism has actually made global-security governance down the road less likely. Meanwhile, international cooperation on security matters has been relegated to things like second-tier peacekeeping operations and efforts to ward off pirates equipped with machine guns and speedboats. These are worthy causes but will not move the needle on the issues that dominate the international-security agenda. And on the emerging issues most in need of forward-looking global governance—cybersecurity and unmanned aerial vehicles, for example—there are no rules and institutions in place at all, nor legitimate and credible mechanisms to devise them. Assessed against its ability to solve global problems, the current system is falling progressively further behind on the most important challenges, including financial stability, the “responsibility to protect,” and coordinated action on climate change, nuclear proliferation, cyberwarfare and maritime security. The authority, legitimacy and capacity of multilateral institutions dissolve when the going gets tough—when member countries have meaningfully different interests (as in currency manipulations), when the distribution of costs is large enough to matter (as in humanitarian crises in sub-Saharan Africa) or when the shadow of future uncertainties looms large (as in carbon reduction). Like a sports team that perfects exquisite plays during practice but fails to execute against an actual opponent, global-governance institutions have sputtered precisely when their supposed skills and multilateral capital are needed most. WHY HAS this happened? The hopeful liberal notion that these failures of global governance are merely reflections of organizational dysfunction that can be fixed by reforming or “reengineering” the institutions themselves, as if this were a job for management consultants fiddling with organization charts, is a costly distraction from the real challenge. A decade-long effort to revive the dead-on-arrival Doha Development Round in international trade is the sharpest example of the cost of such a tinkering-around-the-edges approach and its ultimate futility. Equally distracting and wrong is the notion held by neoconservatives and others that global governance is inherently a bad idea and that its institutions are ineffective and undesirable simply by virtue of being supranational. The root cause of stalled global governance is simpler and more straightforward. “Multipolarization” has come faster and more forcefully than expected. Relatively authoritarian and postcolonial emerging powers have become leading voices that undermine anything approaching international consensus and, with that, multilateral institutions. It’s not just the reasonable demand for more seats at the table. That might have caused something of a decline in effectiveness but also an increase in legitimacy that on balance could have rendered it a net positive. Instead, global governance has gotten the worst of both worlds: a decline in both effectiveness and legitimacy. The problem is not one of a few rogue states acting badly in an otherwise coherent system. There has been no real breakdown per se. There just wasn’t all that much liberal world order to break down in the first place. The new voices are more than just numerous and powerful. They are truly distinct from the voices of an old era, and they approach the global system in a meaningfully different way. Six years ago in this magazine we wrote about the development of a new configuration in international politics that we called a “World Without the West.” We argued that an important group of emerging states was neither assimilating into the Western order (as optimists hoped) nor attacking it (as pessimists feared). Instead, they were finding ways to bypass it and “route around” it by enhancing their own interconnectivity at a rate faster than global interconnectivity as a whole was increasing. This in turn made the Western order progressively less relevant. Though this was a controversial idea when first proposed, it has now become mainstream to note its foundational claim: that deepening interconnectivity in the non-Western world is outstripping both global and North-South integration. But many who have come to accept this basic notion still discount its significance. They fall into the mind-set traps that we anticipated: either doubting the sustainability and resilience of these emerging linkages or ignoring their increasingly profound impact on the way international politics works. To be clear: “Routing around” is not a high-concept description of an alternative world-order system. And, like “balancing,” “bandwagoning” and similar concepts that analysts use to categorize state behaviors, routing around doesn’t necessarily imply some deep intentionality or master plan for international politics. Rather, the phrase simply describes a set of strategic choices that share driving forces and results. The drivers come from the specific histories, economies and interests of today’s emerging powers. Postcolonial legacies combine with weak and unstable polities to oppose international intervention in domestic affairs. State-fueled manufacturing and large agrarian populations repress support for open and free trade. And the intense need for energy and other resources shapes external priorities throughout the world. Strategic behavior emerges from these self-interested priorities and objectives as well as the mind-sets they engender. THE EASE with which emerging powers route around liberal rules and institutions is perhaps the most conclusive evidence that the liberal order is a myth. Their greatest opportunities to act strategically arise because the actual liberal world order, weak and patchy as it is, bears little resemblance to the beliefs and aspirations of its defenders and promoters, who want badly to believe it is much stronger and more vibrant than in reality. Arbitraging against these wishful thoughts has become the best way to diminish further the influence of the liberal world order. Consider regulatory arbitrage in the financial sector as a vivid example of routing around the weak structures of liberal interdependence. Recently, a number of China’s biggest state-owned banks began moving sizable pieces of their European portfolios to Luxembourg in a clear bid to bypass London’s tougher regulations. Several Russian banks—including the large parastatal Gazprombank—serve openly as conduits for Syrian oil sales and other financial transactions, collecting enormous fees made possible by the deviant economics of sanctions. Since these banks don’t operate in London or New York, they are impervious to Western sanctions and can instead arbitrage against banks that play by the rules of the liberal world order. The expanding heft of state-driven capitalist practices is another example. Sovereign wealth funds and other vehicles for state-directed finance are not new, but the volume of money sloshing around the emerging economies is unprecedented. And this government-directed finance is largely unregulated. The export-financing volume of the Export-Import Bank of China is estimated at more than that of the G-7 combined. While the Export-Import Bank of the United States is governed by the Organisation for Economic Co-operation and Development’s strict competitiveness and transparency rules and a tightly circumscribed congressional mandate, state financing elsewhere in the world need not play by the same rules. Why should it, when genuine integration into a liberal world order is so restrictive and costly, and when free riding on it is so beneficial? Trade is typically thought to be the one international issue on which all agree in principle on the universal gains from liberal interdependence. But even here a number of emerging powers have routed around the existing system and charted their own course. We have demonstrated, using a gravity model of trade, that key emerging economies are preferentially trading more and more with each other, and shifting the globe’s economic center of gravity. When the BRICS—Brazil, Russia, India, China and South Africa—held their fourth annual summit in New Delhi in March 2012, they agreed on new measures to further deepen trade ties within the bloc. They also agreed on a deal to bypass the dollar—the linchpin of the liberal economic system—by extending credit facilities to each other in BRICS currencies. This follows on the heels of a growing network of bilateral currency swaps and agreements to settle trade accounts in nondollar currencies and commodities—between China and Russia; India and Iran; and China and Brazil, among others. On aggregate, the size of these currency-swap systems makes them harder to dismiss as a vanity play. These countries have yet to agree on how to set up a BRICS development bank to bypass the Bretton Woods institutions, but they have opened up talks on the matter. It has now been more than a decade since China joined the World Trade Organization—more than enough time for liberal magnetism to have had a significant effect. Instead, China has used dispute-resolution procedures against others much more aggressively than it has liberalized its own practices. The rare-earths and alternative-energy sectors illustrate how China manages to advance its own strategic interests while pushing against the rules to see just how much give there is—playing to the letter of the law rather than to its spirit. This runs directly counter to the hopes of liberal internationalists that China would play a leadership role in breaking the decade-plus Doha deadlock. Consider, too, efforts to strengthen the role of rules and institutions in the South China Sea, where the likelihood of near-term military conflict in East Asia is arguably the greatest. Based on a narrow reading of the challenge, the liberal solution is to pressure and prod China and other regional states to advance their claims in accordance with international maritime law. This strategy hinges on the application of the UN Convention on the Law of the Sea, which outgoing secretary of defense Leon Panetta has described as “the bedrock legal instrument underpinning public order across the maritime domain.” But the United States is not party to the convention. Even if it were, the agreement is silent on land-based sovereignty disputes, has no binding enforcement procedures and provides members with ample ways to opt out of participation in dispute-resolution mechanisms. The code of conduct being discussed between ASEAN and China would be no stronger in terms of providing hard rules and enforcement processes with teeth. The fundamental problem in the South China Sea is not China seeking to overturn some existing order or that China is refusing to integrate. It is that the prevailing order is so thin and weak as to be meaningless. Routing around or arbitraging against the idea of the liberal world order has been an effective strategy for emerging powers seeking various objectives. Sometimes they simply want different outcomes from global governance. Brazil, China, India and South Africa brokered the deal they wanted with the United States at the Copenhagen climate summit in 2009, successfully avoiding commitments to emissions caps. Sometimes key states are seeking simply to oppose Western freedom of action. (Russia has made an art of this.) And other times, they desire to break global-governance institutions so that they can ultimately reconfigure them in their own interests. In some cases, rather than arguing about their rules versus old rules, emerging powers prefer no rules at all. Routing around can be a combination, in mixed proportions, of all of these objectives—as illustrated by China and Russia vetoing multilateral action on Syria at the UN Security Council in July 2012. What does this look like from a systemic perspective? Not what many Western analysts are looking for—that is, a cogent, coherent and comprehensive alternative order that does everything the liberal world order was supposed to do and one day snaps into place as a replacement package. We’ve never expected that, because in our view the nature of contemporary global competition is not about one order fighting to replace another, like the two mobile operating systems—Android and iOS—fighting it out for market dominance. A better understanding is to view the World Without the West’s strategies and choices as little bits of software code, partially completed beta-style apps, that countries mix and match, use and discard, upgrade and replace. Competition is not head-on, but indirect and oblique, and innovation is disruptive, not linear. Although the ordering principles of international politics in the developing world may not compute with the sophisticated “consumers” that espouse a liberal world order, they do appeal to, and provide tangible benefits for, a different and less developed constituency.

#### Legitimacy doesn’t solve global problems-can’t focus on institutions

**Ratner, Berkeley political science PhD, 2013**

(Ely, “The Mythical Liberal Order”, 3-1, <http://www.cnas.org/node/10121>, ldg)

Liberal internationalists like to say that “global problems require global solutions,” but that’s just not true. On most of the issues that matter, a solution worthy of the effort is possible through the cooperation of only a few countries, generally fewer than ten. The world doesn’t need big institutions to support that kind of bargaining. And foreign-policy makers don’t need concepts like a “concert of democracies” that constrain the bargaining game on the basis of regime type, or anything else. Solving global challenges requires a hardheaded assessment of which players really matter in getting to an acceptable answer and a process of bargaining to get them aligned. And, on different issues, different countries will matter more than others. In some and perhaps many instances, this “coalition of the relevant” will need to find ways of legitimating the bargaining outcome to others. This can be tricky, but one thing is for sure—today’s big, multilateral global-governance institutions are not the right place to try to do that, since they are just not good at it anymore (if they ever were). It may be that performance and effective problem solving themselves serve as sufficient legitimation for a younger generation, outside the United States in particular, that is all too ready to jettison the irrelevant baggage of the postwar international system as it used to be and as only aging Americans and Europeans could be nostalgic about. The core policy challenge within this new approach will probably be less about legitimation and more about how to minimize the losses, costs and damage done by countries that cheat and free ride, because some certainly will. Part of the answer is that the process of bargaining will factor this into the equation, so that any gains worthy of a consensus will have to outweigh the costs of free riding. We simply must let go of the dysfunctional assumption that mostly everyone has to be on board to make a solution work and stick. That mind-set gives spoilers more leverage than they deserve. Instead, we should build the coalitions that demonstrate results and effectiveness, entice the reluctant to sign up for selective benefits and let them go if they won’t. The Trans-Pacific Partnership (TPP) trade agreement is a reasonable example of what bargaining toward liberalism looks like in practice. The pact, albeit a work in progress, has brought together nearly a dozen countries to devise a “gold standard” trade agreement for the twenty-first century. It is open to all who are willing to commit to a series of liberal economic and trade principles, and it holds the best promise for advancing a liberal trade agenda. The TPP should stand not just as a model for future trade agreements but more broadly as a model for partial global governance. The relevant question for U.S. foreign-policy makers now is: Where can similar coalitions be constructed across the full spectrum of foreign-policy challenges, whether they are designed to address human rights, maritime safety, development or nonproliferation? Piecing together issue-by-issue solutions from the bottom up is a practical means by which committed partners can make visible progress on global challenges. Short-term but palpable results are needed now and in some instances can be leveraged to tackle more difficult issues and possibly build broader coalitions. For example, nontraditional security threats such as natural disasters, trafficking in persons, counternarcotics and illegal fishing are ripe for delivering tangible benefits to participants and practicing the habits of collective action. This, we believe, is the most effective way to advance liberal objectives and values at present. Can it work with America’s domestic politics? We think so, because an ad hoc, problem-solving approach to global governance does not have to be postideological. Instead, it aims to deliver upon the goals that liberalism seeks to realize and to meet its aspirations through the pursuit of tangible results, not the pursuit of institutions or world-order solutions. In this alternative framework, getting to a solution drives the form of collaboration rather than the other way around. We are advocating the pursuit of a multigenerational liberal project that can and should be advanced without the anxiety of trying to lock in interim gains through global institutions. Let’s focus instead on laying the material foundations for a future liberal order—let the ideology follow, and the institutions after that.

#### No transition wars

**Carpenter, Cato Institute senior fellow, 2013**

(Ted Galen, “Delusions of Indispensability”, 3-1, <http://nationalinterest.org/article/delusions-indispensability-8145?page=4>, ldg)

Proponents of an expansive U.S. posture repeatedly assert that a peaceful international system, which is the also the foundation of global prosperity, requires a hegemon. They most frequently cite Britain in the nineteenth century and the United States from the end of World War II to the present, although some even point to the Roman Empire as evidence for their thesis. In his book The Case for Goliath, Johns Hopkins University’s Michael Mandelbaum even asserts that the United States performs many of the benevolent stabilizing functions that a world government would perform. That, in his view, has been enormously beneficial both for the United States and for the world. Leaving aside the ultimate fate of the Roman Empire, or even the milder but still painful decline of Britain—which were in part consequences of the economic and security burdens those powers bore—the hegemonic model is hardly the only possible framework for a relatively stable and peaceful international system. There are constructive alternatives to the stifling orthodoxy of the United States as the indispensable nation. That is especially true in the twenty-first century. Not only are there multiple major powers, but a majority of those powers share the democratic-capitalist values of the United States and are capable of defending and promoting those values. Moreover, even those great powers that represent a more authoritarian capitalist model, such as Russia and China, benefit heavily from the current system characterized by open trade and an absence of armed conflict among major powers. They are not likely to become aggressively revisionist states seeking to overturn the international order, nor are they likely to stand by idly while lesser powers in their respective regions create dangerous disruptions.

#### Drones decapitate key leadership responsible for AQAP’s soft power strat. Yemen supports the strikes and they outweigh blowback.

**Emker, Whitehead School of Diplomacy and International Relations, 2013**

(Stacey, “Analyzing the US Counterterrorism Strategy in Yemen”, 1-14, <http://blogs.shu.edu/diplomacy/2013/01/analyzing-the-us-counterterrorism-strategy-in-yemen/>, ldg)

Three distinct forms of blowback are heavily cited as the cost of U.S. drones strikes in Yemen. Foremost, it has been asserted that U.S. drones cause purposeful retaliation by AQAP against the government of Yemen. Purposeful retaliation is most often demonstrated through public statements made by AQAP after an attack. Hours after a U.S. drone strike killed five suspected Al-Qaeda militants in southern Yemen in March 2012, militants blew up a liquid-natural gas pipeline in Shabwah which transports gas to a facility whose leading stakeholder is the French oil company, Total. The second form of blowback centers on collateral damage, the unintended death or injury of Yemen civilians, unrelated to AQAP targets. Al-Qaeda exploits U.S. errors in drone strikes, giving it ample material for propaganda. In effect, AQAP has a higher likelihood of recruiting new members and can increase sympathy for Al-Qaeda linked militants. Anger over collateral damage in this type of scenario has been demonstrated quite a few times since the U.S. began its drone campaign against AQAP. In 2010, AQAP’s sharpest gains domestically began with the botched Yemeni counterterrorism raid on ‘A’yd al-Shabwani and a U.S. drone strike that killed Marib’s deputy governor, Jabir al-Shabwani who was also known as a prominent sheik. Since al-Shabwani was a pro-government leader and had been asked to negotiate with tribes purportedly hiding Al-Qaeda militants on behalf of Sana’a, the news of the drone strike sparked outrage throughout Marib and resulted in a series of retaliatory attacks against military bases, oil pipelines, and electrical grids by Al Shabwan tribesmen. The collateral damage involved with this strike was a gift to the Al-Qaeda narrative, which cited the casualties as evidence of the incompetency of President Saleh and U.S. callousness. The third form of blowback typically identified asserts that drones strikes help to further destabilize Yemen instead of providing more security. When state power is essentially exercised from above through both strikes and surveillance, it undermines the weak central government and leaves a security vacuum to be filled on the ground. Given the central government’s limited state capacity, the ground is more easily controlled by insurgent groups. From this standpoint, drone strikes in Yemen indirectly caused the Ansar-Al Sharia movement to take control of the Southern Provinces. Partially due to the Arab Spring, the central government under President Saleh was unable to deliver any form of governance, law enforcement, or social services in the Shabwah and Abyan provinces throughout 2011. Conversely, the Southern provinces experienced a sharp increase in the number of U.S. drone strikes. Although the purpose was to provide security, the strikes intensified anti-regime sentiment and helped create a movement focused on the near enemy, the Saleh regime. Ansar al-Sharia represented itself as the means for expressing grievances with the government, and by providing rule of law and social services as a functioning state apparatus. As a result, Ansar al-Sharia was able to fill the void and win supporters within society while providing AQAP a safe-haven. On the other hand, drone strikes in Yemen have been beneficial in the fight against AQAP. As previously stated, AQAP is plotting terrorist attacks against U.S. targets and maintains the capability to attack within U.S. borders. Compared to other military objectives in the “war on terror,” there are no troops on the ground in Yemen, reducing the cost of military intervention and anti-American resentment through occupation. In addition, military pressure on AQAP through occupation would likely inflict far more civilian casualties on the Yemeni population than collateral damage from drone strikes. From this standpoint, drones are seen as an efficient tool to gather intelligence and target AQAP members. When direct action is taken, drone strikes are conducted in concert with the Yemeni government to avoid civilian casualty. President Hadi publicly endorsed U.S. drone strikes in September 2012, making Yemen a reliable counterterrorism partner. This factor is crucial when assessing the effectiveness of drones in Yemen under former President Saleh compared to President Hadi. While former President Saleh pledged Yemen’s support to the U.S. in the “war on terror,” U.S. officials and Yemeni experts questioned Saleh’s commitment and saw him as an unreliable partner and source of intelligence. John Brennan, President Obama’s chief counterterrorism advisor, has made frequent public visits to Yemen over the past year. When speaking of President Hadi’s counterterrorism efforts, Brennan has stated that “the cooperation has been more consistent, more reliable and with a more committed and determined focus.” With this, the information provided by the Yemeni government under President Hadi has greatly improved the efficacy of the drone campaign, and helped in avoiding catastrophic mistakes. The conventional understanding of drones and collateral damage is not a sufficient or systematic explanation of recruitment within the domestic context of Yemen. Christopher Swifts’ interviews with tribal leaders, Islamic Politicians, Salafist clerics, and other sources all revealed that AQAP recruitment is not motivated solely by U.S. drone strikes, but driven by economic desperation. AQAP insurgents lure young Yemeni men with the promise of a rifle, a car, and a salary of four-hundred dollars a month, which is a fortune when half the population is living on less than two dollars a day. AQAP has employed a soft power approach by fulfilling social needs in order to build networks of mutual dependency. Despite the general antipathy for drone strikes, a majority of the Yemeni’s interviewed expressed that AQAP posed a serious threat to their country and had a pragmatic view of the U.S. drone campaign. As long as drones target legitimate terrorists, Yemenis grudgingly acknowledge their utility. With this, it is important to note Yemen’s religious majority and nationalism. The population of Yemen is almost entirely Muslim, made up of Zaydis and Shaf’is. Zaydis are found mostly in North and Northwest Yemen and belong to a branch of Shi’a Islam. Zaydis form the the Huthi insurgent movement, and AQAP statements in Inspire have connected the movement to threats posed by Shi’a in eastern Saudi Arabia, Iran and Iraq. Since AQAP has attacked two Huthi processions in 2010 and threatened supporters, Zaydi Yemenis do not represent practical recruitment options for AQAP. On the hand, the majority of Yemenis are Shafi’is making up the South and East. The Shafi’is school follows one of the four Sunni schools of Islamic jurisprudence and is considered a relatively moderate form of Islam. While Islamic radicalism is prevalent within the country, Shafi’is is culturally very different and is not exactly fertile breeding grounds for extremist ideology. As a result, the Al-Qaeda ideology does not go hand-in-hand with the majority of the Yemeni people. Analysis of AQAP’s history suggests that the group’s resiliency within Yemen is due to a group of local Yemeni leaders who understand the local language, tribal customs, and developed relationships with prominent sheiks. Unlike predecessor jihadist groups in Yemen, AQAP has exercised strategic discipline in creating coherent, but nuanced propaganda. The group assimilates broadly popular grievances into a single narrative proposing international jihad as the only solution. The group exploits common malcontent with the Yemeni government over injustices including corruption, the absence of public services and political reform, and unequal distribution of profits from oil. In addition, AQAP has not explicitly called for the outright dissolution of tribal identity like AQAM in Afghanistan Somalia, Iraq, and Pakistan. Within Yemen, AQAP targets Western interests, Yemeni security officials, and economic sectors such as oil and tourism. The group has specifically avoided Yemeni civilian casualties in bombings and suicide attacks. Also, AQAP has avoided potentially divisive American and European targets, such as the many Western-language students, foreign aid, and medical workers who remained in Yemen until 2010. With this, AQAP leaders recognized the importance of managing perceptions in order to sustain legitimacy and have even denied responsibility for terrorist attacks that did not fit with its narrative. The most direct way to reduce AQAP’s viability in Yemen, while simultaneously limiting its capacity to attack the US, requires the removal of its local leadership through drone strikes who are responsible for the group’s strategic guidance. With this, it important to note that drone strikes represent only one tool in the U.S.’s comprehensive policy towards Yemen. The costs of U.S. drone strikes correspond with three distinct forms of blowback that have helped to strengthen AQAP’s narrative and increased recruitment and sympathy for Al-Qaeda linked militants. However, the costs do not outweigh the utility of drone strikes against AQAP within the domestic context. While the U.S. acted more unilaterally in Yemen under President Saleh, the Obama Administration is now working in concert with the transitional government of President Hadi. With this, the relationship between the U.S. and Yemen has transformed into a working partnership in the fight against AQAP. As a partnership, this counterterrorism policy is beneficial for both Yemeni and international support.

#### No great power war or escalation

BRZEZINSKI 2013

ZBIGNIEW was national security adviser to President Jimmy Carter, Giants, but Not Hegemons, 2-13-12, http://www.nytimes.com/2013/02/14/opinion/giants-but-not-hegemons.html?\_r=0&pagewanted=all

WASHINGTON — Today, many fear that the emerging American-Chinese duopoly must inevitably lead to conflict. But I do not believe that wars for global domination are a serious prospect in what is now the Post-Hegemonic Age. Admittedly, the historical record is dismal. Since the onset of global politics 200 years ago, four long wars (including the Cold War) were fought over the domination of Europe, each of which could have resulted in global hegemony by a sole superpower. Yet several developments over recent years have changed the equation. Nuclear weapons make hegemonic wars too destructive, and thus victory meaningless. One-sided national economic triumphs cannot be achieved in the increasingly interwoven global economy without precipitating calamitous consequences for everyone. Further, the populations of the world have awakened politically and are not so easily subdued, even by the most powerful. Last but not least, neither the United States nor China is driven by hostile ideologies. Moreover, despite our very different political systems, both our societies are, in different ways, open. That, too, offsets pressure from within each respective society toward animus and hostility. More than 100,000 Chinese are students at American universities, and thousands of young Americans study and work in China or participate in special study or travel programs. Unlike in the former Soviet Union, millions of Chinese regularly travel abroad. And millions of young Chinese are in daily touch with the world through the Internet. All this contrasts greatly with the societal self-isolation of the 19th- and 20th-century contestants for global power, which intensified grievances, escalated hostility and made it easier to demonize the one another. Nonetheless, we cannot entirely ignore the fact that the hopeful expectation in recent years of an amicable American-Chinese relationship has lately been tested by ever more antagonistic polemics, especially in the mass media of both sides. This has been fueled in part by speculation about America’s allegedly inevitable decline and about China’s relentless, rapid rise. Pessimism about America’ future tends to underestimate its capacity for self-renewal. Exuberant optimists about China’s inevitable pre-eminence underestimate the gap that still separates China from America — whether in G.D.P. per capita terms or in respective technological capabilities.

#### War doesn’t solve

Mearsheimer 2011 (John J., R. Wendell Harrison Distinguished Service Professor of Political Science at the University of Chicago, The National Interest, Imperial by Design, lexis)

One year later, Charles Krauthammer emphasized in "The Unipolar Moment" that the United States had emerged from the Cold War as by far the most powerful country on the planet.2 He urged American leaders not to be reticent about using that power "to lead a unipolar world, unashamedly laying down the rules of world order and being prepared to enforce them." Krauthammer's advice fit neatly with Fukuyama's vision of the future: the United States should take the lead in bringing democracy to less developed countries the world over. After all, that shouldn't be an especially difficult task given that America had awesome power and the cunning of history on its side. U.S. grand strategy has followed this basic prescription for the past twenty years, mainly because most policy makers inside the Beltway have agreed with the thrust of Fukuyama's and Krauthammer's early analyses. The results, however, have been disastrous. The United States has been at war for a startling two out of every three years since 1989, and there is no end in sight. As anyone with a rudimentary knowledge of world events knows, countries that continuously fight wars invariably build powerful national-security bureaucracies that undermine civil liberties and make it difficult to hold leaders accountable for their behavior; and they invariably end up adopting ruthless policies normally associated with brutal dictators. The Founding Fathers understood this problem, as is clear from James Madison's observation that "no nation can preserve its freedom in the midst of continual warfare." Washington's pursuit of policies like assassination, rendition and torture over the past decade, not to mention the weakening of the rule of law at home, shows that their fears were justified. To make matters worse, the United States is now engaged in protracted wars in Afghanistan and Iraq that have so far cost well over a trillion dollars and resulted in around forty-seven thousand American casualties. The pain and suffering inflicted on Iraq has been enormous. Since the war began in March 2003, more than one hundred thousand Iraqi civilians have been killed, roughly 2 million Iraqis have left the country and 1.7 million more have been internally displaced. Moreover, the American military is not going to win either one of these conflicts, despite all the phony talk about how the "surge" has worked in Iraq and how a similar strategy can produce another miracle in Afghanistan. We may well be stuck in both quagmires for years to come, in fruitless pursuit of victory. The United States has also been unable to solve three other major foreign-policy problems. Washington has worked overtime-with no success-to shut down Iran's uranium-enrichment capability for fear that it might lead to Tehran acquiring nuclear weapons. And the United States, unable to prevent North Korea from acquiring nuclear weapons in the first place, now seems incapable of compelling Pyongyang to give them up. Finally, every post-Cold War administration has tried and failed to settle the Israeli-Palestinian conflict; all indicators are that this problem will deteriorate further as the West Bank and Gaza are incorporated into a Greater Israel. The unpleasant truth is that the United States is in a world of trouble today on the foreign-policy front, and this state of affairs is only likely to get worse in the next few years, as Afghanistan and Iraq unravel and the blame game escalates to poisonous levels. Thus, it is hardly surprising that a recent Chicago Council on Global Affairs survey found that "looking forward 50 years, only 33 percent of Americans think the United States will continue to be the world's leading power." Clearly, the heady days of the early 1990s have given way to a pronounced pessimism.

#### Can’t leverage hegemony

**Maher, Brown political science professor, 2011**

(Richard, “The Paradox of American Unipolarity: Why the United States May Be Better Off in a Post-Unipolar World”, Orbis, 55.1, Science Direct, ldg)

At the same time, preeminence creates burdens and facilitates imprudent behavior. Indeed, because of America’s unique political ideology, which sees its own domestic values and ideals as universal, and the relative openness of the foreign policymaking process, the United States is particularly susceptible to both the temptations and burdens of preponderance. For decades, perhaps since its very founding, the United States has viewed what is good for itself as good for the world. During its period of preeminence, the United States has both tried to maintain its position at the top and to transform world politics in fundamental ways, combining elements of realpolitik and liberal universalism (democratic government, free trade, basic human rights). At times, these desires have conflicted with each other but they also capture the enduring tensions of America’s role in the world. The absence of constraints and America’s overestimation of its own ability to shape outcomes has served to weaken its overall position. And because foreign policy is not the reserved and exclusive domain of the president---who presumably calculates strategy according to the pursuit of the state’s enduring national interests---the policymaking process is open to special interests and outside influences and, thus, susceptible to the cultivation of misperceptions, miscalculations, and misunderstandings. Five features in particular, each a consequence of how America has used its power in the unipolar era, have worked to diminish America’s long-term material and strategic position. Overextension. During its period of preeminence, the United States has found it difficult to stand aloof from threats (real or imagined) to its security, interests, and values. Most states are concerned with what happens in their immediate neighborhoods. The United States has interests that span virtually the entire globe, from its own Western Hemisphere, to Europe, the Middle East, Persian Gulf, South Asia, and East Asia. As its preeminence enters its third decade, the United States continues to define its interests in increasingly expansive terms. This has been facilitated by the massive forward presence of the American military, even when excluding the tens of thousands of troops stationed in Iraq and Afghanistan. The U.S. military has permanent bases in over 30 countries and maintains a troop presence in dozens more.13 There are two logics that lead a preeminent state to overextend, and these logics of overextension lead to goals and policies that exceed even the considerable capabilities of a superpower. First, by definition, preeminent states face few external constraints. Unlike in bipolar or multipolar systems, there are no other states that can serve to reliably check or counterbalance the power and influence of a single hegemon. This gives preeminent states a staggering freedom of action and provides a tempting opportunity to shape world politics in fundamental ways. Rather than pursuing its own narrow interests, preeminence provides an opportunity to mix ideology, values, and normative beliefs with foreign policy. The United States has been susceptible to this temptation, going to great lengths to slay dragons abroad, and even to remake whole societies in its own (liberal democratic) image.14 The costs and risks of taking such bold action or pursuing transformative foreign policies often seem manageable or even remote. We know from both theory and history that external powers can impose important checks on calculated risk-taking and serve as a moderating influence. The bipolar system of the Cold War forced policymakers in both the United States and the Soviet Union to exercise extreme caution and prudence. One wrong move could have led to a crisis that quickly spiraled out of policymakers’ control. Second, preeminent states have a strong incentive to seek to maintain their preeminence in the international system. Being number one has clear strategic, political, and psychological benefits. Preeminent states may, therefore, overestimate the intensity and immediacy of threats, or to fundamentally redefine what constitutes an acceptable level of threat to live with. To protect itself from emerging or even future threats, preeminent states may be more likely to take unilateral action, particularly compared to when power is distributed more evenly in the international system. Preeminence has not only made it possible for the United States to overestimate its power, but also to overestimate the degree to which other states and societies see American power as legitimate and even as worthy of emulation. There is almost a belief in historical determinism, or the feeling that one was destined to stand atop world politics as a colossus, and this preeminence gives one a special prerogative for one’s role and purpose in world politics. The security doctrine that the George W. Bush administration adopted took an aggressive approach to maintaining American preeminence and eliminating threats to American security, including waging preventive war. The invasion of Iraq, based on claims that Saddam Hussein possessed weapons of mass destruction (WMD) and had ties to al Qaeda, both of which turned out to be false, produced huge costs for the United States---in political, material, and human terms. After seven years of war, tens of thousands of American military personnel remain in Iraq. Estimates of its long-term cost are in the trillions of dollars.15 At the same time, the United States has fought a parallel conflict in Afghanistan. While the Obama administration looks to dramatically reduce the American military presence in Iraq, President Obama has committed tens of thousands of additional U.S. troops to Afghanistan. Distraction. Preeminent states have a tendency to seek to shape world politics in fundamental ways, which can lead to conflicting priorities and unnecessary diversions. As resources, attention, and prestige are devoted to one issue or set of issues, others are necessarily disregarded or given reduced importance. There are always trade-offs and opportunity costs in international politics, even for a state as powerful as the United States. Most states are required to define their priorities in highly specific terms. Because the preeminent state has such a large stake in world politics, it feels the need to be vigilant against any changes that could impact its short-, medium-, or longterm interests. The result is taking on commitments on an expansive number of issues all over the globe. The United States has been very active in its ambition to shape the postCold War world. It has expanded NATO to Russia’s doorstep; waged war in Bosnia, Kosovo, Iraq, and Afghanistan; sought to export its own democratic principles and institutions around the world; assembled an international coalition against transnational terrorism; imposed sanctions on North Korea and Iran for their nuclear programs; undertaken ‘‘nation building’’ in Iraq and Afghanistan; announced plans for a missile defense system to be stationed in Poland and the Czech Republic; and, with the United Kingdom, led the response to the recent global financial and economic crisis. By being so involved in so many parts of the world, there often emerges ambiguity over priorities. The United States defines its interests and obligations in global terms, and defending all of them simultaneously is beyond the pale even for a superpower like the United States. Issues that may have received benign neglect during the Cold War, for example, when U.S. attention and resources were almost exclusively devoted to its strategic competition with the Soviet Union, are now viewed as central to U.S. interests. Bearing Disproportionate Costs of Maintaining the Status Quo. As the preeminent power, the United States has the largest stake in maintaining the status quo. The world the United States took the lead in creating---one based on open markets and free trade, democratic norms and institutions, private property rights and the rule of law---has created enormous benefits for the United States. This is true both in terms of reaching unprecedented levels of domestic prosperity and in institutionalizing U.S. preferences, norms, and values globally. But at the same time, this system has proven costly to maintain. Smaller, less powerful states have a strong incentive to free ride, meaning that preeminent states bear a disproportionate share of the costs of maintaining the basic rules and institutions that give world politics order, stability, and predictability. While this might be frustrating to U.S. policymakers, it is perfectly understandable. Other countries know that the United States will continue to provide these goods out of its own self-interest, so there is little incentive for these other states to contribute significant resources to help maintain these public goods.16 The U.S. Navy patrols the oceans keeping vital sea lanes open. During financial crises around the globe---such as in Asia in 1997-1998, Mexico in 1994, or the global financial and economic crisis that began in October 2008--- the U.S. Treasury rather than the IMF takes the lead in setting out and implementing a plan to stabilize global financial markets. The United States has spent massive amounts on defense in part to prevent great power war. The United States, therefore, provides an indisputable collective good---a world, particularly compared to past eras, that is marked by order, stability, and predictability. A number of countries---in Europe, the Middle East, and East Asia---continue to rely on the American security guarantee for their own security. Rather than devoting more resources to defense, they are able to finance generous social welfare programs. To maintain these commitments, the United States has accumulated staggering budget deficits and national debt. As the sole superpower, the United States bears an additional though different kind of weight. From the Israeli-Palestinian dispute to the India Pakistan rivalry over Kashmir, the United States is expected to assert leadership to bring these disagreements to a peaceful resolution. The United States puts its reputation on the line, and as years and decades pass without lasting settlements, U.S. prestige and influence is further eroded. The only way to get other states to contribute more to the provision of public goods is if the United States dramatically decreases its share. At the same time, the United States would have to give other states an expanded role and greater responsibility given the proportionate increase in paying for public goods. This is a political decision for the United States---maintain predominant control over the provision of collective goods or reduce its burden but lose influence in how these public goods are used. Creation of Feelings of Enmity and Anti-Americanism. It is not necessary that everyone admire the United States or accept its ideals, values, and goals. Indeed, such dramatic imbalances of power that characterize world politics today almost always produce in others feelings of mistrust, resentment, and outright hostility. At the same time, it is easier for the United States to realize its own goals and values when these are shared by others, and are viewed as legitimate and in the common interest. As a result of both its vast power but also some of the decisions it has made, particularly over the past eight years, feelings of resentment and hostility toward the United States have grown, and perceptions of the legitimacy of its role and place in the world have correspondingly declined. Multiple factors give rise toanti-American sentiment, and anti-Americanism takes different shapes and forms.17 It emerges partly as a response to the vast disparity in power the United States enjoys over other states. Taking satisfaction in themissteps and indiscretions of the imposing Gulliver is a natural reaction. In societies that globalization (which in many parts of the world is interpreted as equivalent to Americanization) has largely passed over, resentment and alienation are felt when comparing one’s own impoverished, ill-governed, unstable society with the wealth, stability, and influence enjoyed by the United States.18 Anti-Americanism also emerges as a consequence of specific American actions and certain values and principles to which the United States ascribes. Opinion polls showed that a dramatic rise in anti-American sentiment followed the perceived unilateral decision to invade Iraq (under pretences that failed to convince much of the rest of the world) and to depose Saddam Hussein and his government and replace itwith a governmentmuchmore friendly to the United States. To many, this appeared as an arrogant and completely unilateral decision by a single state to decide for itselfwhen---and under what conditions---military force could be used. A number of other policy decisions by not just the George W. Bush but also the Clinton and Obama administrations have provoked feelings of anti-American sentiment. However, it seemed that a large portion of theworld had a particular animus for GeorgeW. Bush and a number of policy decisions of his administration, from voiding the U.S. signature on the International Criminal Court (ICC), resisting a global climate change treaty, detainee abuse at Abu Ghraib in Iraq and at Guantanamo Bay in Cuba, and what many viewed as a simplistic worldview that declared a ‘‘war’’ on terrorism and the division of theworld between goodand evil.Withpopulations around theworld mobilized and politicized to a degree never before seen---let alone barely contemplated---such feelings of anti-American sentiment makes it more difficult for the United States to convince other governments that the U.S.’ own preferences and priorities are legitimate and worthy of emulation. Decreased Allied Dependence. It is counterintuitive to think that America’s unprecedented power decreases its allies’ dependence on it. During the Cold War, for example, America’s allies were highly dependent on the United States for their own security. The security relationship that the United States had with Western Europe and Japan allowed these societies to rebuild and reach a stunning level of economic prosperity in the decades following World War II. Now that the United States is the sole superpower and the threat posed by the Soviet Union no longer exists, these countries have charted more autonomous courses in foreign and security policy. A reversion to a bipolar or multipolar system could change that, making these allies more dependent on the United States for their security. Russia’s reemergence could unnerve America’s European allies, just as China’s continued ascent could provoke unease in Japan. Either possibility would disrupt the equilibrium in Europe and East Asia that the United States has cultivated over the past several decades. New geopolitical rivalries could serve to create incentives for America’s allies to reduce the disagreements they have with Washington and to reinforce their security relationships with the United States.

## 2NC

### AT: Perm Both

#### Ex ante will overwhelm ex post review

Vladeck 13 (Stephen I. Vladeck Professor of Law and Associate Dean for Scholarship, American University Washington College of Law, “DRONES AND THE WAR ON TERROR: WHEN CAN THE U.S.TARGET ALLEGED AMERICAN TERRORISTS OVERSEAS?,” http://judiciary.house.gov/hearings/113th/02272013\_2/Vladeck%2002272013.pdf)

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.

### AT: Perm CP

#### The plan creates a new court that reviews before the targeted killing---the cp uses existing courts to hear damages claims after the fact---

Jaffer, Director-ACLU Center for Democracy, 13 (Jameel Jaffer, Director of the ACLU's Center for Democracy, “Judicial Review of Targeted Killings,” 126 Harv. L. Rev. F. 185 (2013), http://www.harvardlawreview.org/issues/126/april13/forum\_1002.php)

But to recognize that judicial review is indispensible in this context is not to say that Congress should establish a specialized court, still less that it should establish such a court to review contemplated killings before they are carried out. First, the establishment of such a court would almost certainly entrench the notion that the government has authority, even far away from conflict zones, to use lethal force against individuals who do not present imminent threats. When a threat is truly imminent, after all, the government will not have time to apply to a court for permission to carry out a strike. Exigency will make prior judicial review infeasible. To propose that a court should review contemplated strikes before they are carried out is to accept that the government should be contemplating strikes against people who do not present imminent threats. This is why the establishment of a specialized court would more likely institutionalize the existing program, with its elision of the imminence requirement, than narrow it. Second, judicial engagement with the targeted killing program does not actually require the establishment of a new court. In a case pending before Judge Rosemary Collyer of the District Court for the District of Columbia, the ACLU and the Center for Constitutional Rights represent the estates of the three U.S. citizens whom the CIA and JSOC killed in Yemen in 2011. The complaint, brought under Bivens v. Six Unknown Named Agents, seeks to hold senior executive officials liable for conduct that allegedly violated the Fourth and Fifth Amendments. It asks the court to articulate the limits of the government’s legal authority and to assess whether those limits were honored. In other words, the complaint asks the court to conduct the kind of review that many now seem to agree that courts should conduct. This kind of review—ex post review in the context of a Bivens action—could clarify the relevant legal framework in the same way that review by a specialized court could. But it also has many advantages over the kind of review that would likely take place in a specialized court. In a Bivens action, the proceedings are adversarial rather than ex parte, increasing their procedural legitimacy and improving their substantive accuracy. Hearings are open to the public, at least presumptively. The court can focus on events that have already transpired rather than events that might or might not transpire in the future. And a Bivens action can also provide a kind of accountability that could not be supplied by a specialized court reviewing contemplated strikes ex ante: redress for family members of people killed unlawfully, and civil liability for officials whose conduct in approving or carrying out the strike violated the Constitution. (Of course, in one profound sense a Bivens action will always come too late, because the strike alleged to be unlawful will already have been carried out. Again, though, if “imminence” is a requirement, ex ante judicial review is infeasible by definition.)

### Solves—Overreliance

Stops the executive—they won’t cross the line when they know they have to defend it in court

Jaffer 13 (Jameel Jaffer, Director of the ACLU's Center for Democracy, presents his reaction to the recent calls to establish a "drone court" to provide ex ante review of targeted killings.

“Judicial Review of Targeted Killings,” http://www.harvardlawreview.org/issues/126/april13/forum\_1002.php)

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.

#### CP makes officials think twice before they targeted kill because they know they will be liable, creates a responsible use precedent

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

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.

### Solves—model

#### Solves modeling---the cp sets a precedent for judicial review and restricts killings that violate the laws of war---that’s Jaffer

#### Creates a better model, you can’t determine compliance unless you review after the fact

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/)

Johnson also notes that even the determination of the facts is fraught with problems. The first three of Holder’s criteria for the legality of a targeted killing operation, feasibility of capture, imminence of threat, and senior leadership in an enemy organization, are time-sensitive determinations. Feasibility, Johnson notes from personal experience, can change several times in one night. That imminence may change over time is obvious to anyone with a dictionary. And while a target’s position as a senior leader in al-Qaeda is unlikely to change very often, it does on occasion (take the case of Mokhtar Belmokhtar). Requiring a court to determine these facts in advance would also require that the executive would have to notify the court when any change has occurred that might effect that determination. Meanwhile, use of ex post review would allow the court to look at a single point in time, when the executive “pulled the trigger” on the operation, thus crystallizing the facts and obviating this problem. The last of the Holder criteria, too, causes problems. This criterion requires that the operation be executed in compliance with the law of war. Of course, this is capable of determination only after the fact. Thus, no ex ante review will be able to determine if this requirement is satisfied. An ex post review, however, could.

### Solves---Blow Back

#### Solves blowback better---intelligence leads to reassessment

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/)

Chesney also noted that executive officials involved in the nomination process would prefer an ex ante review to shield them from unexpected civil liability by the victims or their families. I’m sure that it is true that administration officials would like to have “certainty ex ante that they would not face a lawsuit.” However, this is not a guarantee that the courts can provide to the executive. As noted above, as with search and seizure warrants, there are issues to consider after the approval of the executive action. Ex ante review does not allow for inquiry into important ancillary issues, such as the balancing of risk to civilian bystanders. Also, it provides no assurances that new, exculpatory intelligence forces a reassessment of the targeting decision. Only ex post review would achieve this.

### Solves—intelligence 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.

### Legitimacy DA NB

The plan forces the court to issue death warrants—cracks their legitimacy, the CP is less precedent shift which preserves it

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/)

First, Johnson notes, as others have, that judges would be loath to issue the equivalent of death warrants, first of all on purely moral grounds, but also on more political grounds. Courts enjoy the highest approval ratings of the three branches of government, yet accepting the responsibility to determine which individuals may live or die, without that individual having an opportunity to appear before the court would simply shift some of the public opprobrium from the Executive to the Judiciary. However, if the court exercised ex post review, it instead would be in its ordinary position of approving or disapproving the Executive’s decisions, not making its decisions for it. Another concern raised by Johnson is that the judges would be highly uncomfortable making such decisions because they would be necessarily involve a secret, purely ex parte process. While courts do this on a daily basis, as when they issue search or arrest warrants, the targeted killing context stands apart in that the judge’s decision would be effectively irreversible. Here again, the use of ex post process would free the courts from this problem, and place it in the executive (which includes the military, incidentally, an organization which deals with this issue as a matter of course).

#### The plan politicizes the court—shatters legitimacy and the basis for rule of law

McCormack 13 (Wayne McCormack is the E.W. Thode Professor of Law at the University of Utah SJ Quinney College of Law. He previously clerked for the Hon. Walter Ely of the US Court of Appeals for the Ninth Circuit and taught at the University of Georgia School of Law. Professor McCormack teaches constitutional law, counter-terrorism and the international law of crimes and civil procedure. “Judicial Review of Targeted Killing: A Bad Idea by a Good Person,” http://jurist.org/forum/2013/03/wayne-mccormack-targeted-killing.php)

The problems with declaring an "armed conflict against al-Qaida" are several. Certainly, an insurgent group fighting for control of an occupied territory — such as the US faced in Iraq for several years and now faces in Afghanistan — qualifies as a party to an "armed conflict." But a loosely aligned number of groups, perhaps communicating across the internet and perhaps sharing money and weapons provided by rogue regimes or criminal activities, hardly qualify as identifiable entities fighting for political objectives. This notion of "armed conflict" could now draw the judiciary into a posture utterly incompatible with its role as the independent arbiter of the law. The function of a court is to decide disputes on the basis of principle, not preference. If the courts were to become enmeshed in deciding who is to be preferred over whom, they would lose the critical function of credibility upon which the rule of law depends.

As the "least dangerous branch," the judiciary has no power over either purse or sword but is absolutely essential to preserving the rights of the minority from the potential tyranny of the majority. Guiora proposes that a court hear the "intelligence" — not "evidence" — against a person in secret before deciding whether that person is to die. This contravenes not just all of our constitutional safeguards of due process and confrontation of witnesses, but it enlists the judiciary into the service of the executive. If there are to be executions of persons who cannot be captured, which I am willing to admit may be justifiable in extreme cases of imminent threat, please do not damage the impartiality and credibility of the judiciary in the process. It is a fragile enough institution as it is. The state must have a monopoly over the legitimate use of force. For force to be exercised legitimately it must comply with the rule of law, and the essence of the rule of law is visibility and uniformity in application of rules. It took me a while to figure out why the statue of Lady Justice is presented blindfolded — who wants a decision maker who doesn't know what's going on around her? But I finally realized that the blindfold is so that she doesn't know who the parties are. She applies the law according to the book in her hand, not according to the persons before her or even her own preferences. For all these reasons, clandestine executions are necessarily extralegal necessary perhaps but not legitimate. Despite the rule of law, we have recognized since the dawn of the republic, indeed since the dawn of civilization, that some executive action must be taken clandestinely for the safety of the nation. In my view, it is better that such action be left in the shadows rather than given a patina of legitimacy by judicial authority. The concept of a "license to kill" cannot be entirely fictitious for the simple reason that some threats are not capable of being met by the rule of law. Threats that could justify clandestine executions, however, must be rare. I would certainly demand a much higher degree of "imminent threat" than the DOJ white paper envisions. And, like the Israeli High Court of Justice, I would insist on some reasonably independent after-action review to be sure that such extraordinary power is being used advisedly. I would much prefer to see a sharply curtailed number of instances than what we have seen lately, if for no other reason than that such indiscriminate use of violence fuels the jihadist fervor against us. Although it is a good idea that there be a relatively independent review board over clandestine executions, the judiciary is not the place to put such an obligation. Let us preserve the judiciary for the function it does well, the evaluation of arguments on the basis of principle rather than guesswork over secret intelligence.

Absent rule of law nuclear war is inevitable---try or die neg

Rhyne, 1958 (Charles S., Former President of the American Bar Association, “Law Day Speech for Voice of America”, May 1, http://www.abanet.org/publiced/lawday/rhyne58.html)

In these days of soul-searching and re-evaluation and inventorying of basic concepts and principles brought on by the expansion of man’s vision to the new frontiers and horizons of outer space, we want the people of the world to know that we in America have an unshakable belief in the most essential ingredient of our way of life—the rule of law. The law we honor is the basis and foundation of our nation’s freedom and the freedom for the individual which exists here. And to Americans our freedom is more important than our very lives. The rule of law has been the bulwark of our democracy. It has afforded protection to the weak, the oppressed, the minorities, the unpopular; it has made it possible to achieve responsiveness of the government to the will of people. It stands as the very antithesis of Communism and dictatorship. When we talk about “justice” under our rule of law, the absence of such justice behind the Iron Curtain is apparent to all. When we talk about “freedom” for the individual, Hungary is recalled to the minds of all men. And when we talk about peace under law—peace without the bloodbath of war—we are appealing to the foremost desire of all peoples everywhere. The tremendous yearning of all peoples for peace can only be answered by the use of law to replace weapons in resolving international disputes. We in our country sincerely believe that mankind’s best hope for preventing the tragic consequences of nuclear-satellite-missile warfare is to persuade the nations of the entire world to submit all disputes to tribunals of justice for all adjudication under the rule of law. We lawyers of America would like to join lawyers from every nation in the world in fashioning an international code of law so appealing that sentiment will compel its general acceptance. Man’s relation to man is the most neglected field of study, exploration and development in the world community. It is also the most critical. The most important basic fact of our generation is that the rapid advance of knowledge in science and technology has forced increased international relationships in a shrunken and indivisible world. Men must either live together in peace or in modern war we will surely die together. History teachers that the rule of law has enabled mankind to live together peacefully within nations and it is clear that this same rule of law offers our best hope as a mechanism to achieve and maintain peace between nations. The lawyer is the technician in man’s relationship to man. There exists a worldwide challenge to our profession to develop law to replace weapons before the dreadful holocaust of nuclear war overtake our people.

#### Ex post review would give Due Process rights to targeted killing victims. Bivens-style action would serve as a meaningful restriction on executive action while not hampering national security.

Murphy and Radsan 09 (Richard and Afsheen John, Richard Murphy is the AT&T Professor of Law, Texas Tech University School of Law. Afsheen John Radsan is a Professor, William Mitchell College of Law. He was assistant general counsel at the Central Intelligence Agency from 2002-2004, “DUE PROCESS AND TARGETED KILLING OF TERRORISTS,” 32 Cardozo L. Rev. 405, 2009, lexis)

V. Due Process and Targeted Killing In this Part, we make two basic claims on how the due process model of Hamdi/Boumediene might extend to targeted killing. The first relates to judicial control. Recall that in his Hamdi dissent, Justice Thomas said the absurdity of applying due process principles to a Predator strike demonstrated the absurdity of courts using these principles to second-guess executive detentions of enemy combatants. 187 We claim that to the contrary, Hamdi/Boumediene suggests a sound model for judicial control of targeted killings under which courts, applying duly deferential standards, might - on rare occasions - determine the legality of attacks after they occur. Due process requires at least this minimal level of judicial control. The second claim relates to executive self-control. Given the limited role of courts in national security, it is imperative for the executive to develop internal procedures to ensure accuracy of targeted killings and accountability for the officials who order them. Both the Supreme Court of Israel and the European Court of Human Rights have ruled that targeted killings conducted in counter-terrorism operations must receive close, independent review within the executive branch. 188 We explain why due process demands the same of American authorities. If the CIA has not already done so, it should put these procedures in place to help bring Predator strikes within the rule of law. A. Identifying One Very Limited Role for the Courts Where the paradigm of war applies, the executive dominates in deciding who lives or dies. Justice O'Connor nonetheless claimed in [\*438] Hamdi that the war on terror does not give the executive a "blank check" to do as it pleases in the name of security. 189 If one accepts this premise, then the question becomes how to control the executive's war power without unduly hampering it. Under a Mathews-style approach, to determine whether due process demands a particular procedural control over targeted killing, one should: (a) identify the range of legitimate interests that the procedure might protect; (b) assess the degree to which adoption of the procedure actually would protect these interests; and (c) weigh these marginal benefits against the damage the procedure may cause other legitimate interests. 190 Judicial control of targeted killing could increase the accuracy of target selection, reducing the danger of mistaken or illegal destruction of lives, limbs, and property. Independent judges who double-check targeting decisions could catch errors and cause executive officials to avoid making them in the first place

.More broadly, judicial control of targeted killing could serve the interests of all people - targets and non-targets - in blocking the executive from exercising an unaccountable, secret power to kill. 191 If possible, we should avoid a world in which the CIA or other executive officials have unreviewable power to decide who gets to live and who dies in the name of a shadow war that might never end. Everyone has a cognizable interest in stopping a slide into tyranny. Yet - in favor of executive autonomy - we live in an imperfect world where judicial obstacles to killing could hinder national security. It would be silly, for instance, to require the military to use the full procedures of the law enforcement model to decide what to bomb in the midst of a war. Likewise, given the conflict with al Qaeda, it may be silly to judicialize the process for killing its committed members. Moreover, not only does judicialization threaten national security, it might not deliver countervailing benefits because courts lack the competence to improve military and national security decisions. 192 Reasonable minds can and do differ on how to balance such concerns. That said, one possible balance is to reject virtually all judicial control of targeted killing, a position that comports with Justice Thomas's treatment of executive detentions in his Hamdi dissent. 193 A [\*439] hands-off approach, however, is impossible to square with the historical fact that courts can and do judge whether military actions constitute war crimes. Indeed, the Geneva Conventions require states to prosecute or extradite persons who have committed "grave breaches," a category that includes, among other crimes, willful, wanton, unjustified killing or infliction of great suffering. 194 The United States has codified this requirement in the War Crimes Act. 195 Besides legal barriers, there are many practical barriers to prosecutions under the laws of war. Primary among them, a prosecuting authority must see enough evidence to conclude that a war crime occurred. Such information will often be buried under the rubble of war or surrounded in secrecy. Also, the prosecuting authority must have the political will to bring an action. As a general rule, no government wishes to prosecute one of its own officials for war crimes. Still, a war criminal from one country - especially a weak or defeated one - just might find himself facing prosecution in the courts of another country or an international authority. For these and related reasons, it is beyond doubt that many more war crimes occur than are prosecuted. Nonetheless, even if a CIA official who authorizes a Predator strike faces little threat of criminal liability, the potential for criminal prosecution proves our point: It is common - indeed, obvious - that courts do have a role to play in identifying the limits of acceptable warfare. But might due process require courts to play a more expansive role in controlling targeted killing than adjudicating a war crime prosecution that may never come? Justice Thomas mocked this possibility in Hamdi as leading to the conclusion that executive officials must give notice and an opportunity to be heard to a person before killing him with a missile. 196 This reductio ad absurdum does not stand up to scrutiny, however, for the simple reason that due process does not always demand notice and an opportunity to be heard before a deprivation occurs. Where such pre-deprivation procedures would be impracticable, due process may take the form of post-deprivation procedures. North American Cold Storage Co. v. City of Chicago provides a canonical example. 197 In this case, local authorities seized and destroyed meat [\*440] they had determined was putrid and unfit for sale. 198 The Court held that, because of health concerns, immediate destruction was acceptable to prevent the meat from being sold on the sly during the pendency of any hearings. 199 The owners of the meat were not left without a remedy, though; they were free to sue the local officials in tort for the value of their destroyed meat. 200 In application, Hamdi and Boumediene fit rather neatly into this paradigm of requiring post-deprivation review when pre-deprivation process is impracticable. Enemy forces in the conflicts after 9/11 were not neatly arrayed in uniforms and units that made for easy identification. As a result, American forces found themselves in custody of thousands of persons whose status was unclear. By definition, every one of these detainees was deprived of their liberty immediately upon detention. Obviously, the military cannot provide notice and an opportunity to be heard before detaining these suspects, and any process that occurs immediately after capture will be constrained by the conditions of war. 201 As Hamdi and Boumediene make plain, however, due process may nonetheless demand that a detainee receive meaningful notice and an opportunity to be heard at a later time. 202 The Hamdi/Boumediene model of judicial control therefore does not suggest the odd prospect of holding hearings where a terrorist gets to argue that he ought not be killed by a Predator strike. Rather, a more direct analogy suggests that targeted killings should be subject to some form of judicial review in civil proceedings initiated by private parties. The vehicle for this review cannot be habeas, the thousand-year-old vehicle for testing the legality of detentions. But the vehicle might take the form of a Bivens-style action in which the plaintiff - who might be a survivor of an attempted targeted killing or an appropriate next friend - claims that the attack was unconstitutional either because it violated the Fifth Amendment on a "shock the conscience" theory or because it constituted excessive force under the Fourth Amendment. 203

### Plan ☹ Legit

#### Court doesn’t shore up cred

Johnson 13 (Jeh, Former Pentagon General Counsel Keynote address at the Center on National Security at Fordham Law School: A “Drone Court”: Some Pros and Cons <http://www.lawfareblog.com/2013/03/jeh-johnson-speech-on-a-drone-court-some-pros-and-cons/>)

In the eyes of the American public, judges are for the most part respected for their independence. In the eyes of the international community, a practice that is becoming increasingly controversial would be placed on a more credible footing. A national security court would also help answer the question many are asking: what do we say to other nations who acquire this capability? A group of judges to approve targeted lethal force would set a standard and an example. Further, as so-called “targeted killings” become more controversial with time, I believe there are some decision-makers within the Executive Branch who actually wouldn’t mind the added comfort of judicial imprimatur on their decisions. But, we must be realistic about the degree of added credibility such a court can provide. Its proceedings would necessarily be ex parte and in secret, and, like a FISA court, I suspect almost all of the government’s applications would be granted, because, like a FISA application, the government would be sure to present a compelling case. So, at the same time the New York Times editorial page promotes a FISA-like court for targeted lethal force, it derides the FISA court as a “rubber stamp” because it almost never rejects an application.[8] How long before a “drone court” operating in secret is criticized in the same way? Meanwhile, what about the views of the judiciary itself? I know a number of federal judges who would accept this unpleasant job if asked out of a sense of duty. But many, I suspect, want the judiciary to have nothing to do with this. Former Judges Mukasey and Robertson have publicly articulated this view in emphatic terms.[9] I can hear many in the judicial branch saying that courts exist to resolve cases and controversies between parties, not to issue death warrants based on classified, ex parte submissions. Judges don’t like arms-length ex parte submissions, because they know they are not getting two sides of the story. I’m sure they would like them even less if the decision they must make is final and irreversible. Put in a more cynical way, I can imagine many federal judges thinking “we don’t exist to provide top cover to the Executive branch for difficult decisions; foist this responsibility on us and you diminish both our branches of government.”

#### The court turns into a rubber stamp

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

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 ex ante. 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 in advance. At its core, that’s 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 legitimacy to operations the legality of which might have otherwise been questioned ex post. Put another way, ex ante revew 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.

#### Appointees are all conservative; can’t solve the signal for legitimacy

Wheeler 13 (Marcy, PhD, blogger “Why Would Jeh Johnson Suggest the Drone and/or Targeted Killing Court Would Be Bipartisan?,” http://www.emptywheel.net/2013/03/18/why-would-jeh-johnson-suggest-the-drone-andor-targeted-killing-court-would-be-bipartisan/)

As I understand it, the model under discussion is simply to give the existing FISA Court the additional task of reviewing kill decisions, not creating a new court.Yet the FISA Court — whose judges are appointed by the Chief Justice of the Supreme Court (and therefore, for the entire life of the FISA Court, by a Republican appointee) — is in no way bipartisan. Indeed, according to Secrecy News’ Steven Aftergood, there is not only no mandate that FISC be peopled by judges appointed by Presidents of both parties, but it is not bipartisan in fact. No, there is no such mandate in FISA law or policy. (And I couldn’t immediately identify any current FISC court members who were appointed to the bench by Dems.) In fact, in my layman’s opinion, the notion of partisan or bipartisan judges is incoherent. Judges are not supposed to be partisan operatives, though they may have identifiably liberal or conservative tendencies. Moreover, I’m not even sure why Johnson would suggest the Obama Administration would want a drone and/or targeted killing court to be bipartisan. It has done far, far better arguing its expansive understanding of the war on terror in front of mostly GOP nominees on the DC Circuit. The judges who have endorsed the Obama Administration view of its own power include quite a few — like Janice Rogers Brown or Laurence Silberman — who are not exactly “respected for their independence.” I mean, it might be nice to have people like Katherine Forrest or Susan Illston reviewing both targeted killing and wiretapping decisions. But that’s not going to happen anytime soon.

#### The plan destroys legitimacy

Jaffer 13 (Jameel Jaffer, Director of the ACLU's Center for Democracy, presents his reaction to the recent calls to establish a "drone court" to provide ex ante review of targeted killings.

“Judicial Review of Targeted Killings,” http://www.harvardlawreview.org/issues/126/april13/forum\_1002.php)

But to recognize that judicial review is indispensible in this context is not to say that Congress should establish a specialized court, still less that it should establish such a court to review contemplated killings before they are carried out. First, the establishment of such a court would almost certainly entrench the notion that the government has authority, even far away from conflict zones, to use lethal force against individuals who do not present imminent threats. When a threat is truly imminent, after all, the government will not have time to apply to a court for permission to carry out a strike. Exigency will make prior judicial review infeasible. To propose that a court should review contemplated strikes before they are carried out is to accept that the government should be contemplating strikes against people who do not present imminent threats. This is why the establishment of a specialized court would more likely institutionalize the existing program, with its elision of the imminence requirement, than narrow it.

#### It is only a rubber stamp – kills legitimacy

Jensen 13 (Kevin Jensen is a senior English major and Business Administration minor “Secret drone courts will destroy due process,” http://www.collegian.com/2013/03/05/secret-drone-courts-will-destroy-due-process/)

With the discovery of the drone memo, increasingly members of congress are becoming uncomfortable with the idea of our president acting as judge, jury and executioner, demanding more information about the program and calling for some sort of oversight. But the frontrunning idea for ways to make Obama’s power grab more constitutionally solvent couldn’t be more horrifying, as representatives are discussing creating yet another secret court of unnamed federal judges like the FISA court in order to try to provide some sort of semblance of checks and balances on executive power. The notion that a secret FISA-like drone court would provide any meaningful oversight or protect your constitutional rights, though, is laughable. For an example of how a secret drone court would operate, you need look no further than the FISA court; of the 38,093 requests made to the FISA court to snoop through Americans’ private communications from 1979 to 2011, the FISA court only denied 11 requests. That’s not oversight, it’s a rubber stamp. What the implementation of secret drone courts will leave us with could only be considered due process under a very loose interpretation of the term. Luckily for Obama — and unluckily for us — loose definitions appear to be his administration’s specialty.

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Wheeler 13 (Marcy, PhD, blogger “Why Would Jeh Johnson Suggest the Drone and/or Targeted Killing Court Would Be Bipartisan?,” http://www.emptywheel.net/2013/03/18/why-would-jeh-johnson-suggest-the-drone-andor-targeted-killing-court-would-be-bipartisan/)

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### 1NR Impact

#### Decline causes retrenchment and undermines liberalism

Khalilzad 2011

Zalmay Khalilzad was the United States ambassador to Afghanistan, Iraq, and the United Nations during the presidency of George W. Bush and the director of policy planning at the Defense Department from 1990 to 1992. The Economy and National Security. The National Review February 8th 2011 http://www.nationalreview.com/blogs/print/259024

Today, economic and fiscal trends pose the most severe long-term threat to the United States’ position as global leader. While the United States suffers from fiscal imbalances and low economic growth, the economies of rival powers are developing rapidly. The continuation of these two trends could lead to a shift from American primacy toward a multi-polar global system, leading in turn to increased geopolitical rivalry and even war among the great powers. The current recession is the result of a deep financial crisis, not a mere fluctuation in the business cycle. Recovery is likely to be protracted. The crisis was preceded by the buildup over two decades of enormous amounts of debt throughout the U.S. economy — ultimately totaling almost 350 percent of GDP — and the development of credit-fueled asset bubbles, particularly in the housing sector. When the bubbles burst, huge amounts of wealth were destroyed, and unemployment rose to over 10 percent. The decline of tax revenues and massive countercyclical spending put the U.S. government on an unsustainable fiscal path. Publicly held national debt rose from 38 to over 60 percent of GDP in three years. Without faster economic growth and actions to reduce deficits, publicly held national debt is projected to reach dangerous proportions. If interest rates were to rise significantly, annual interest payments — which already are larger than the defense budget — would crowd out other spending or require substantial tax increases that would undercut economic growth. Even worse, if unanticipated events trigger what economists call a “sudden stop” in credit markets for U.S. debt, the United States would be unable to roll over its outstanding obligations, precipitating a sovereign-debt crisis that would almost certainly compel a radical retrenchment of the United States internationally. Such scenarios would reshape the international order. It was the economic devastation of Britain and France during World War II, as well as the rise of other powers, that led both countries to relinquish their empires. In the late 1960s, British leaders concluded that they lacked the economic capacity to maintain a presence “east of Suez.” Soviet economic weakness, which crystallized under Gorbachev, contributed to their decisions to withdraw from Afghanistan, abandon Communist regimes in Eastern Europe, and allow the Soviet Union to fragment. If the U.S. debt problem goes critical, the United States would be compelled to retrench, reducing its military spending and shedding international commitments. We face this domestic challenge while other major powers are experiencing rapid economic growth. Even though countries such as China, India, and Brazil have profound political, social, demographic, and economic problems, their economies are growing faster than ours, and this could alter the global distribution of power. These trends could in the long term produce a multi-polar world. If U.S. policymakers fail to act and other powers continue to grow, it is not a question of whether but when a new international order will emerge. The closing of the gap between the United States and its rivals could intensify geopolitical competition among major powers, increase incentives for local powers to play major powers against one another, and undercut our will to preclude or respond to international crises because of the higher risk of escalation. The stakes are high. In modern history, the longest period of peace among the great powers has been the era of U.S. leadership. By contrast, multi-polar systems have been unstable, with their competitive dynamics resulting in frequent crises and major wars among the great powers. Failures of multi-polar international systems produced both world wars. American retrenchment could have devastating consequences. Without an American security blanket, regional powers could rearm in an attempt to balance against emerging threats. Under this scenario, there would be a heightened possibility of arms races, miscalculation, or other crises spiraling into all-out conflict. Alternatively, in seeking to accommodate the stronger powers, weaker powers may shift their geopolitical posture away from the United States. Either way, hostile states would be emboldened to make aggressive moves in their regions. As rival powers rise, Asia in particular is likely to emerge as a zone of great-power competition. Beijing’s economic rise has enabled a dramatic military buildup focused on acquisitions of naval, cruise, and ballistic missiles, long-range stealth aircraft, and anti-satellite capabilities. China’s strategic modernization is aimed, ultimately, at denying the United States access to the seas around China. Even as cooperative economic ties in the region have grown, China’s expansive territorial claims — and provocative statements and actions following crises in Korea and incidents at sea — have roiled its relations with South Korea, Japan, India, and Southeast Asian states. Still, the United States is the most significant barrier facing Chinese hegemony and aggression.

#### Decline means everyone proliferates and has a race to the bottom of military capabilities – turns modeling

Royal 2010

Jedediah, Director of Cooperative Threat Reduction at the U.S. Department of Defense, “Economic Integration, Economic Signaling and the Problem of Economic Crises,” in Economics of War and Peace: Economic, Legal and Political Perspectives, ed. Goldsmith and Brauer, pg. 213-215

Less intuitive is how periods of economic decline may increase the likelihood of extern conflict. Political science literature has contributed a moderate degree of attention to the impact of economic decline and the security and defense behavior of interdependent states. Research in this vein has been considered at systemic, dyadic and national levels. Several notable contributions follow. First, on the systemic level, Pollins (2008) advances Modelski and Thompson’s (1996) work on leadership cycle theory, finding that rhythms in the global economy are associated with the rise and fall of a pre-eminent power and the often bloody transition from one pre-eminent leader to the next. As such, exogenous shocks such as economic crisis could usher in a redistribution of relative power (see also Gilpin, 1981) that leads to uncertainty about power balances, increasing the risk of miscalculation (Fearon, 1995). Alternatively, even a relatively certain redistribution of power could lead to a permissive environment for conflict as a rising power may seek to challenge a declining power (Werner, 1999). Seperately, Pollins (1996) also shows that global economic cycles combined with parallel leadership cycles impact the likelihood of conflict among major, medium and small powers, although he suggests that the causes and connections between global economic conditions and security conditions remain unknown. Second, on a dyadic level, Copeland’s (1996, 2000) theory of trade expectations suggests that ‘future expectation of trade’ is a significant variable in understanding economic conditions and security behavious of states. He argues that interdependent states are likely to gain pacific benefits from trade so long as they have an optimistic view of future trade relations, However, if the expectations of future trade decline, particularly for difficult to replace items such as energy resources, the likelihood for conflict increases, as states will be inclined to use force to gain access to those resources. Crisis could potentially be the trigger for decreased trade expectations either on its own or because it triggers protectionist moves by interdependent states. Third, others have considered the link between economic decline and external armed conflict at a national level. Blomberg and Hess (2002) find a strong correlation between internal conflict and external conflict, particularly during periods of economic downturn. They write, The linkages between internal and external conflict and prosperity are strong and mutually reinforcing. Economic conflict tends to spawn internal conflict, which in turn returns the favor. Moreover, the presence of a recession tends to amplify the extent to which international and external conflict self-reinforce each other. (Blomberg & Hess, 2002. P. 89) Economic decline has been linked with an increase in the likelihood of terrorism (Blomberg, Hess, & Weerapana, 2004), which has the capacity to spill across borders and lead to external tensions. Furthermore, crises generally reduce the popularity of a sitting government. ‘Diversionary theory’ suggests that, when facing unpopularity arising from economic decline, sitting governments have increase incentives to fabricate external military conflicts to create a ‘rally around the flag’ effect. Wang (1996), DeRouen (1995), and Blomberg, Hess, and Thacker (2006) find supporting evidence showing that economic decline and use of force are at least indirectly correlated. Gelpi (1997), Miller (1999), and Kisangani and Pickering (2009) suggest that the tendency towards diversionary tactics are greater for democratic states than autocratic states, due to the fact that democratic leaders are generally more susceptible to being removed from office due to lack of domestic support. DeRouen (2000) has provided evidence showing that periods of weak economic performance in the United States, and thus weak Presidential popularity, are statistically linked to an increase in the use of force. In summary, recent economic scholarship positively correlated economic integration with an increase in the frequency of economic crises, whereas political science scholarship links economic decline with external conflict at systemic, dyadic and national levels. This implied connection between integration, crisis and armed conflict has not featured prominently in the economic-security debate and deserves more attention.

### 1NR A2: Plan Bipartisan

#### Restrictions on drone strikes drain capital-spills over to domestic agenda

Friedman-CATO Institute-13

Cato Journal Winter 2013

SECTION: BOOK REVIEWS; Pg. 171 Vol. 33 No. 1 ISSN: 0273-3072

HEADLINE: Kill or Capture: The War on Terror and the Soul of the , Obama Presidency

Obama's jilted dovish supporters may take some comfort from Kill or Capture. It suggests that this record results from the president sacrificing his true desires for political expedience and that a second term might improve matters. Klaidman calls the president a "civil libertarian by instinct" and claims that his opposition to Bush's fearmongering was heartfelt. , Obama is said to worry about how a Republican president will use the war powers he established. He apparently gave in on Gitmo largely at behest of his political aides, especially former White House chief of staff Rahm Emanuel, who believed that civilian trials for terrorism suspects were an electoral loser and a drain of political capital needed especially for health care reform. The president's enthusiasm for drone strikes appears more genuine, but there too electoral politics-the opportunity to look tough-pushed him in a hawkish direction.¶ Kill or Capture is clear and readable but suffers flaws typical of journalistic histories. For one, it seems somewhat skewed by its sources. We hear a lot about what Justice Department lawyers and White House political operatives thought but little about machinations in Congress, the National Security staff, and the Office of the Secretary of Defense. It seems that Klaidman focuses the narrative where his access was best.¶ Klaidman's best sources appear eager to show that White House politicos got the president to give up his civil libertarian convictions too easily. Klaidman, who does not include footnotes, says that he interviewed more than 200 people for the book. But the two that seem most valuable-former White House counsel Greg Craig and Holder-repeatedly took the civil liberties side in fights with White House staff, especially Emmanuel. They led the increasingly quixotic effort to close Gitmo and end the military tribunals for suspected terrorists. Craig, by Klaidman's account, was essentially fired, and Holder seems likely to leave office, one way or another, in the next year. Klaidman reports that both Craig and Holder believe that Emmanuel, by "playing footsie" with South Carolina Senator Lindsey Graham in the hopes of cutting a grand bargain of detainee matters, had "subcontracted" a key national security policy to a political opponent who could not even deliver Republican votes. Holder is also said to suspect that Emmanuel worked with Republicans against the administration's attempts to try Muhammed in Manhattan. Klaidman, perhaps channeling these sources, argues that the president's eagerness to compromise with Republicans only encouraged them to attack him more.¶ That last point is about all the evaluation Klaidman provides. Otherwise he relays the White House's political judgments without interrogation. That is an understandable journalistic practice but still intellectually unsatisfying. Klaidman might at least have asked whether the tradeoffs between political gain and principle were really so sharp. A vast political science literature tells us that most of the time, the public barely knows or cares what happens with these issues and that partisan battle cries tend to excite mostly alreadycommitted partisans. The president may have more discretion here than it seems.¶ There is a larger problem with Kill or Capture's story of betrayal, one that, to be fair, is hardly unique to this book. That is the futility of the search for true beliefs beneath elected leaders' political shrouds. Because political leadership, especially of a large democracy, is an enterprise uniquely dominated by the imperative to gather support, other experiences tell us little about how leaders will navigate their values once in office. When it comes to their presidential behavior, what , Barack Obama or Mitt Romney believes independent of their electoral ambitions is an interesting but mostly academic question. Far more important are their priorities-what they are willing to sacrifice for their preferences. That is revealed by their behavior as elected leaders and candidates.¶ So whether or not , Obama is a civil libertarian by instinct-I'd say he is a politician by instinct-is basically irrelevant. Whatever his instincts, his record shows that he is not willing to risk much of anything for civil liberties and, on national security issues, goes where the prevailing political winds blow. That is why this administration's security policies resemble Bush's, which is the general pattern in our country. A second term might give , Obama more freedom to defy political wisdom, but it seems unlikely to matter much. Richard Neustadt's argument that presidential popularity translates into presidential power suggests that even second-term presidents will avoid unpopular moves to horde political capital for their top priorities. And , Obama's do not seem to lie in the civil liberties arena.

#### Statutory restrictions will ignite a firestorm in Congress

The New York Times 5/24/13 Peter Baker

HEADLINE: Reviving Debate On Nation's Security, Obama Seeks To Narrow Terror Fight

WASHINGTON -- Nearly a dozen years after the hijackings that transformed America, President Obama said Thursday that it was time to narrow the scope of the grinding battle against terrorists and begin the transition to a day when the country will no longer be on a war footing.¶ Declaring that ''America is at a crossroads,'' the president called for redefining what has been a global war into a more targeted assault on terrorist groups threatening the United States. As part of a realignment of counterterrorism policy, he said he would curtail the use of drones, recommit to closing the prison at Guantánamo Bay, Cuba, and seek new limits on his own war power.¶ In a much-anticipated speech at the National Defense University, Mr. Obama sought to turn the page on the era that began on Sept. 11, 2001, when the imperative of preventing terrorist attacks became both the priority and the preoccupation. Instead, the president suggested that the United States had returned to the state of affairs that existed before Al Qaeda toppled the World Trade Center, when terrorism was a persistent but not existential danger. With Al Qaeda's core now ''on the path to defeat,'' he argued, the nation must adapt. ¶ ''Our systematic effort to dismantle terrorist organizations must continue,'' Mr. Obama said. ''But this war, like all wars, must end. That's what history advises. It's what our democracy demands.''¶ The president's speech reignited a debate over how to respond to the threat of terrorism that has polarized the capital for years. Republicans contended that Mr. Obama was declaring victory prematurely and underestimating an enduring danger, while liberals complained that he had not gone far enough in ending what they see as the excesses of the Bush era.¶ The precise ramifications of his shift were less clear than the lines of argument, however, because the new policy guidance he signed remains classified, and other changes he embraced require Congressional approval. Mr. Obama, for instance, did not directly mention in his speech that his new order would shift responsibility for drones more toward the military and away from the Central Intelligence Agency.¶ But the combination of his words and deeds foreshadowed the course he hopes to take in the remaining three and a half years of his presidency so that he leaves his successor a profoundly different national security landscape than the one he inherited in 2009. While President George W. Bush saw the fight against terrorism as the defining mission of his presidency, Mr. Obama has always viewed it as one priority among many at a time of wrenching economic and domestic challenges.¶ ''Beyond Afghanistan, we must define our effort not as a boundless 'global war on terror,' '' he said, using Mr. Bush's term, ''but rather as a series of persistent, targeted efforts to dismantle specific networks of violent extremists that threaten America.''¶ ''Neither I, nor any president, can promise the total defeat of terror,'' he added. ''We will never erase the evil that lies in the hearts of some human beings, nor stamp out every danger to our open society. But what we can do -- what we must do -- is dismantle networks that pose a direct danger to us, and make it less likely for new groups to gain a foothold, all the while maintaining the freedoms and ideals that we defend.''¶ Some Republicans expressed alarm about Mr. Obama's shift, saying it was a mistake to go back to the days when terrorism was seen as a manageable law enforcement problem rather than a dire threat.¶ ''The president's speech today will be viewed by terrorists as a victory,'' said Senator Saxby Chambliss of Georgia, the top Republican on the Senate Intelligence Committee. ''Rather than continuing successful counterterrorism activities, we are changing course with no clear operational benefit.''¶ Senator John McCain, Republican of Arizona, said he still agreed with Mr. Obama about closing the Guantánamo prison, but he called the president's assertion that Al Qaeda was on the run ''a degree of unreality that to me is really incredible.'' Mr. McCain said the president had been too passive in the Arab world, particularly in Syria's civil war. ''American leadership is absent in the Middle East,'' he said.¶ The liberal discontent with Mr. Obama was on display even before his speech ended. Medea Benjamin, a co-founder of the antiwar group Code Pink, who was in the audience, shouted at the president to release prisoners from Guantánamo, halt C.I.A. drone strikes and apologize to Muslims for killing so many of them.¶ ''Abide by the rule of law!'' she yelled as security personnel removed her from the auditorium. ''You're a constitutional lawyer!''¶ Col. Morris D. Davis, a former chief prosecutor at Guantánamo who has become a leading critic of the prison, waited until after the speech to express disappointment that Mr. Obama was not more proactive. ''It's great rhetoric,'' he said. ''But now is the reality going to live up to the rhetoric?''¶ Still, some counterterrorism experts saw it as the natural evolution of the conflict after more than a decade. ''This is both a promise to an end to the war on terror, while being a further declaration of war, constrained and proportional in its scope,'' said Juan Carlos Zarate, a counterterrorism adviser to Mr. Bush.¶ The new classified policy guidance imposes tougher standards for when drone strikes can be authorized, limiting them to targets who pose ''a continuing, imminent threat to Americans'' and cannot feasibly be captured, according to government officials. The guidance also begins a process of phasing the C.I.A. out of the drone war and shifting operations to the Pentagon.¶ The guidance expresses the principle that the military should be in the lead and responsible for taking direct action even outside traditional war zones like Afghanistan, officials said. But Pakistan, where the C.I.A. has waged a robust campaign of air assaults on terrorism suspects in the tribal areas, will be grandfathered in for a transition period and remain under C.I.A. control.¶ That exception will be reviewed every six months as the government decides whether Al Qaeda has been neutralized enough in Pakistan and whether troops in Afghanistan can be protected. Officials said they anticipated that the eventual transfer of the C.I.A. drone program in Pakistan to the military would probably coincide with the withdrawal of combat units from Afghanistan at the end of 2014.¶ Even as he envisions scaling back the targeted killing, Mr. Obama embraced ideas to limit his own authority. He expressed openness to the idea of a secret court to oversee drone strikes, much like the intelligence court that authorizes secret wiretaps, or instead perhaps some sort of independent body within the executive branch. He did not outline a specific proposal, leaving it to Congress to consider something along those lines.¶ He also called on Congress to ''refine and ultimately repeal'' the authorization of force it passed in the aftermath of Sept. 11. Aides said he wanted it limited more clearly to combating Al Qaeda and affiliated groups so it could not be used to justify action against other terrorist or extremist organizations.¶ In renewing his vow to close the Guantánamo prison, Mr. Obama highlighted one of his most prominent unkept promises from the 2008 presidential campaign. He came into office vowing to shutter the prison, which has become a symbol around the world of American excesses, within a year, but Congress moved to block him, and then he largely dropped the effort.¶ With 166 detainees still at the prison, Mr. Obama said he would reduce the population even without action by Congress. About half of the detainees have been cleared for return to their home countries, mostly Yemen. Mr. Obama said he was lifting a moratorium he imposed on sending detainees to Yemen, where a new president has inspired more faith in the White House that he would not allow recidivism.¶ The policy changes have been in the works for months as Mr. Obama has sought to reorient his national security strategy. The speech was his most comprehensive public discussion of counterterrorism since he took office, and at times he was almost ruminative, articulating both sides of the argument and weighing trade-offs out loud in a way presidents rarely do.¶ He said that the United States remained in danger from terrorists, as the attacks in Boston and Benghazi, Libya, have demonstrated, but that the nature of the threat ''has shifted and evolved.'' He noted that terrorists, including some radicalized at home, had carried out attacks, but less ambitious than the ones on Sept. 11.¶ ''We have to take these threats seriously and do all that we can to confront them,'' he said. ''But as we shape our response, we have to recognize that the scale of this threat closely resembles the types of attacks we faced before 9/11.''

#### Drones debate triggers partisan fights

Sink-The Hill-5/23/13

Obama defends drone strikes

By Justin Sink - 05/23/13 02:08 PM ET

http://thehill.com/blogs/defcon-hill/army/301625-obama-moves-to-limit-use-of-drone-strikes

Breaking down Obama's speech¶ Obama delivered the address after months of bipartisan criticism of the drone program. Lawmakers on both sides of the aisle have raised questions about the legal basis for the program, as well as the use of drones to kill American citizens.¶ A day before his speech, the administration acknowledged that four U.S. citizens have been killed in drone strikes.¶ The president also outlined new actions designed to hasten the closure of the Guantanamo Bay prison, argued that the amorphous “war on terror” should be redefined as a focused effort against a specific terror network and addressed outrage over government targeting in leak probes.¶ "We must define our effort not as a boundless ‘global war on terror’ – but rather as a series of persistent, targeted efforts to dismantle specific networks of violent extremists that threaten America," Obama said.¶ Obama’s speech is likely to rekindle fights over the war on terrorism, with some questioning whether the decision on drones will weaken the country’s fight against terrorism.

### 1NR A2: Uniqueness

#### Obama has maximized his capital to resolve the debt limit

**Bohan, Reuters correspondent, 9-11-13**

(Caren, “Delay in Syria vote frees Obama to shift to hefty domestic agenda”, <http://carnegieeurope.eu/strategiceurope/?fa=52932>, ldg)

(Reuters) - Putting off a decision on military strikes on Syria allows President Barack Obama to shift his attention back to a weighty domestic agenda for the fall that includes budget fights, immigration and selecting a new chairman of the Federal Reserve. Obama and his aides have immersed themselves for a week and a half in an intensive effort to win support in Congress for U.S. military action in Syria after a suspected chemical weapons attack last month killed more than 1,400 people. But the effort, which included meetings by Obama on Capitol Hill on Tuesday followed by his televised speech to Americans, seemed headed for an embarrassing defeat, with large numbers of both Democrats and Republicans expressing opposition. The push for a vote on Syria - which has now been delayed - had threatened to crowd out the busy legislative agenda for the final three months of 2013 and drain Obama's political clout, making it harder for him to press his priorities. But analysts said a proposal floated by Russia, which the Obama administration is now exploring, to place Syria's weapons under international control may allow Obama to emerge from a difficult dilemma with minimal political damage. "He dodges a tough political situation this way," said John Pitney, professor of politics at Claremont McKenna College in California. Pitney said the delay in the Syria vote removes a big burden for Obama, given that Americans, who overwhelmingly opposed military intervention in Syria, will now be able to shift their attention to other matters. He said Obama could suffer some weakening of his leverage with Congress. The administration's "full court press" to try to persuade lawmakers to approve military force on Syria was heavily criticized and did not yield much success. "He probably has suffered some damage in Congress because there are probably many people on (Capitol Hill) who have increasing doubts about the basic competence of the administration and that's a disadvantage in any kind of negotiation," Pitney said. BUDGET BATTLES Among Obama's most immediate challenges are two looming budget fights. By September 30, Congress and the president must agree on legislation to keep federal agencies funded or face a government shutdown. Two weeks later, Congress must raise the limit on the country's ability to borrow or risk a possible debt default that could cause chaos in financial markets. On the first budget showdown, Obama may be at a strategic advantage because of divisions among opposition Republicans about whether to use the spending bill to provoke a fight over Obama's signature health care law, known as Obamacare. House Republican leaders are trying to rally the party around a temporary spending measure that would keep the government funded until December 15 but are facing resistance within their own caucus from some conservatives who want to cut off funding for Obamacare, even if it means a government shutdown. The debt limit fight could end up going down to the wire and unnerving financial markets. Republicans want to use that standoff to extract concessions from the Democratic president, such as spending cuts and a delay in the health law. But Obama has said he has no intention of negotiating over the borrowing limit.

#### Conserving capital now-not pushing anything else

**Neff, the Hill, 9-20-13**

(Blake, “Senate support unravels for Obama's energy nominee”, <http://thehill.com/blogs/e2-wire/e2-wire/323559-senate-support-unravels-for-ferc-nominee>, ldg)

Cole also said the Obama administration would not be willing to push hard for Binz when it had other priorities to focus on. “How much political capital does the White House want to spend on Harry Reid’s nominee?” Cole asked rhetorically. Obama, he said, needed to conserve his efforts for more important battles, such as the ongoing debt ceiling battle. Without Senate support or strong White House backing, “the [only] question at this point is how long Binz wants to drag out this process,” Cole said.

### 1NR A2: Winners Win

#### Winners win begs the question of the link – if the plan isn’t popular then Obama can construe it as a win in the face of the GOP to force his bully pulpit

#### Winners win illogical – if this was true, every president would’ve been able to get every single agenda item passed – immigration reform and cap and trade disprove this

Political capital finite

Schultz 1/22/13 (David Schultz is a professor at Hamline University School of Business, where he teaches classes on privatization and public, private and nonprofit partnerships. He is the editor of the Journal of Public Affairs Education (JPAE) “Obama's dwindling prospects in a second term” http://www.minnpost.com/community-voices/2013/01/obamas-dwindling-prospects-second-term)

Presidential power also is a finite and generally decreasing product. The first hundred days in office – so marked forever by FDR’s first 100 in 1933 – are usually a honeymoon period, during which presidents often get what they want. FDR gets the first New Deal, Ronald Reagan gets Kemp-Roth, George Bush in 2001 gets his tax cuts. Presidents lose political capital, support But, over time, presidents lose political capital. Presidents get distracted by world and domestic events, they lose support in Congress or among the American public, or they turn into lame ducks. This is the problem Obama now faces. Obama had a lot of political capital when sworn in as president in 2009. He won a decisive victory for change with strong approval ratings and had majorities in Congress — with eventually a filibuster margin in the Senate, when Al Franken finally took office in July. Obama used his political capital to secure a stimulus bill and then pass the Affordable Care Act. He eventually got rid of Don’t Ask, Don’t Tell and secured many other victories. But Obama was a lousy salesman, and he lost what little control of Congress that he had in the 2010 elections. Since then, Obama has be stymied in securing his agenda. Moreover, it is really unclear what his agenda for a second term is. Mitt Romney was essentially right on when arguing that Obama had not offered a plan for four more years beyond what we saw in the first term. A replay wouldn't work Whatever successes Obama had in the first term, simply doing a replay in the next four years will not work. First, Obama faces roughly the same hostile Congress going forward that he did for the last two years. Do not expect to see the Republicans making it easy for him. Second, the president’s party generally does badly in the sixth year of his term. This too will be the case in 2014, especially when Democrats have more seats to defend in the Senate than the GOP does. Third, the president faces a crowded and difficult agenda. All the many fiscal cliffs and demands to cut the budget will preoccupy his time and resources, depleting money he would like to spend on new programs. Obama has already signed on to an austerity budget for his next four years – big and bold is not there. Fourth, the Newtown massacre and Obama’s call for gun reform places him in conflict with the NRA. This is a major battle competing with the budget, immigration, Iran and anything else the president will want to do. Finally, the president is already a lame duck and will become more so as his second term progress. Presidential influence is waning One could go on, but the point should be clear: Obama has diminishing time, resources, support and opportunity to accomplish anything. His political capital and presidential influence is waning, challenging him to adopt a minimalist agenda for the future. What should Obama do? Among the weaknesses of his first term were inattention to filling federal judicial vacancies. Judges will survive beyond him and this should be a priority for a second term, as well as preparing for Supreme Court vacancies. He needs also to think about broader structural reform issues that will outlive his presidency, those especially that he can do with an executive order. Overall, Obama has some small opportunities to do things in the next four years – but the window is small and will rapidly close.

#### Winners win is empirically denied

Jackie Calmes, NYTimes, 11/12/12, In Debt Talks, Obama Is Ready to Go Beyond Beltway, mobile.nytimes.com/2012/11/12/us/politics/legacy-at-stake-obama-plans-broader-push-for-budget-deal.xml

That story line, stoked by Republicans but shared by some Democrats, holds that Mr. Obama is too passive and deferential to Congress, a legislative naïf who does little to nurture personal relationships with potential allies - in short, not a particularly strong leader. Even as voters re-elected Mr. Obama, those who said in surveys afterward that strong leadership was the most important quality for a president overwhelmingly chose Mr. Romney. George C. Edwards III, a leading scholar of the presidency at Texas A & M University who is currently teaching at Oxford University, dismissed such criticisms as shallow and generally wrong. Yet Mr. Edwards, whose book on Mr. Obama's presidency is titled "Overreach," said, "He didn't understand the limits of what he could do." "They thought they could continuously create opportunities and they would succeed, and then there would be more success and more success, and we'd build this advancing-tide theory of legislation," Mr. Edwards said. "And that was very naïve, very silly. Well, they've learned a lot, I think." "Effective leaders," he added, "exploit opportunities rather than create them." The budget showdown is an opportunity. But like many, it holds risks as well as potential rewards. "This election is the second chance to be what he promised in 2008, and that is to break the gridlock in Washington," said Kenneth M. Duberstein, a Reagan White House chief of staff, who voted for Mr. Obama in 2008 and later expressed disappointment. "But it seems like this is a replay of 2009 and 2010, when he had huge majorities in the House and Senate, rather than recognizing that 'we've got to figure out ways to work together and it's not just what I want.' " For now, at least, Republican lawmakers say they may be open to raising the tax bill for some earners. "We can increase revenue without increasing the tax rates on anybody in this country," said Representative Tom Price, Republican of Georgia and a leader of House conservatives, on "Fox News Sunday." "We can lower the rates, broaden the base, close the loopholes." The challenge for Mr. Obama is to use his postelection leverage to persuade Republicans - or to help Speaker John A. Boehner persuade Republicans - that a tax compromise is in their party's political interest since most Americans favor compromise and higher taxes on the wealthy to reduce annual deficits. Some of the business leaders the president will meet with on Wednesday are members of the new Fix the Debt coalition, which has raised about $40 million to urge lawmakers and their constituents to support a plan that combines spending cuts with new revenue. That session will follow Mr. Obama's meeting with labor leaders on Tuesday. His first trip outside Washington to engage the public will come after Thanksgiving, since Mr. Obama is scheduled to leave next weekend on a diplomatic trip to Asia. Travel plans are still sketchy, partly because his December calendar is full of the traditional holiday parties. Democrats said the White House's strategy of focusing both inside and outside of Washington was smart. "You want to avoid getting sucked into the Beltway inside-baseball games," said Joel Johnson, a former adviser in the Clinton White House and the Senate. "You can still work toward solutions, but make sure you get out of Washington while you are doing that." The president must use his leverage soon, some Democrats added, because it could quickly wane as Republicans look to the 2014 midterm elections, when the opposition typically takes seats from the president's party in Congress.