## 1nc

## OFF

### T Restrictions

#### A. Restrictions are prohibitions on action --- excludes conditions

Jean Schiedler-Brown 12, Attorney, Jean Schiedler-Brown & Associates, Appellant Brief of Randall Kinchloe v. States Dept of Health, Washington, The Court of Appeals of the State of Washington, Division 1, http://www.courts.wa.gov/content/Briefs/A01/686429%20Appellant%20Randall%20Kincheloe%27s.pdf

3. The ordinary definition of the term "restrictions" also does not include the reporting and monitoring or supervising terms and conditions that are included in the 2001 Stipulation.

Black's Law Dictionary, 'fifth edition,(1979) defines "restriction" as;

A limitation often imposed in a deed or lease respecting the use to which the property may be put. The term "restrict' is also cross referenced with the term "restrain." Restrain is defined as; To limit, confine, abridge, narrow down, restrict, obstruct, impede, hinder, stay, destroy. To prohibit from action; to put compulsion on; to restrict; to hold or press back. To keep in check; to hold back from acting, proceeding, or advancing, either by physical or moral force, or by interposing obstacle, to repress or suppress, to curb.

In contrast, the terms "supervise" and "supervisor" are defined as; To have general oversight over, to superintend or to inspect. See Supervisor. A surveyor or overseer. . . In a broad sense, one having authority over others, to superintend and direct. The term "supervisor" means an individual having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but required the use of independent judgment.

Comparing the above definitions, it is clear that the definition of "restriction" is very different from the definition of "supervision"-very few of the same words are used to explain or define the different terms. In his 2001 stipulation, Mr. Kincheloe essentially agreed to some supervision conditions, but he did not agree to restrict his license.

#### And, after the fact damages doesn’t restrict authority

Vladeck-professor of law, American-2/5/13

What’s Really Wrong With the Targeted Killing White Paper

<http://www.lawfareblog.com/2013/02/whats-really-wrong-with-the-targeted-killing-white-paper/>

First, many of us who argue for at least some judicial review in this context specifically don’t argue for ex ante review for the precise reasons the white paper suggests. Instead, we argue for ex post review–in the form of damages actions after the fact, in which liability would only attach if the government both (1) exceeded its authority; and (2) did so in a way that violated clearly established law. Whatever else might be said about such damages suits, they simply don’t raise the interference concerns articulated in the white paper, and so one would have expected some distinct explanation for why that kind of judicial review shouldn’t be available in this context. All the white paper offers, though, is its more general allusion to the political question doctrine.

#### B. Vote negative, they explode limits and make the topic bidirectional because the plan can tinker with the worst aspect of a topic area and say that makes everything else legitimate

### T Sigs

#### Targeted killings are strikes carried about against pre-meditated, individually designated targets-signature strikes are distinct

**Anderson, Washington law professor, 2011**

(Kenneth, “Distinguishing High Value Targeted Killing and ‘Signature’ Attacks on Taliban Fighters”, 8-29, <http://www.volokh.com/2011/08/29/distinguishing-high-value-targeted-killing-and-signature-attacks-on-taliban-fighters/>)

From the US standpoint, it is partly that it does not depend as much as it did on Pakistan’s intelligence. But it is also partly, as a couple of well-publicized incidents a few months ago made clear, that sharing targeting decisions with Pakistan’s military and ISI runs a very considerable possibility of having the targets tipped off (as even The Onion has observed). The article notes in this regard, the U.S. worries that “if they tell the Pakistanis that a drone strike is coming someone within Pakistani intelligence could tip off the intended target.” However, the Journal’s reporting goes from there to emphasize an aspect of targeted killing and drone warfare that is not sufficiently appreciated in public discussions trying to assess such issues as civilian collateral damage, strategic value and uses, and the uses of drones in counterterrorism and counterinsurgency as distinct activities. The article explains: The CIA carries out two different types of drone strikes in the tribal areas of Pakistan—those against so-called high-value targets, including Mr. Rahman, and “signature” strikes targeting Taliban foot-soldiers who criss-cross the border with Afghanistan to fight U.S. forces there. High-value targets are added to a classified list that the CIA maintains and updates. The agency often doesn’t know the names of the signature targets, but it tracks their movements and activities for hours or days before striking them, U.S. officials say. Another way to put this is that, loosely speaking, the high value targets are part of a counterterrorism campaign – a worldwide one, reaching these days to Yemen and other places. It is targeted killing in its strict sense using drones – aimed at a distinct individual who has been identified by intelligence. The “signature” strikes, by contrast, are not strictly speaking “targeted killing,” because they are aimed at larger numbers of fighters who are targeted on the basis of being combatants, but not on the basis of individuated intelligence. They are fighting formations, being targeted on a mass basis as part of the counterinsurgency campaign in Afghanistan, as part of the basic CI doctrine of closing down cross-border safe havens and border interdiction of fighters. Both of these functions can be, and are, carried out by drones – though each strategic function could be carried out by other means, such as SEAL 6 or CIA human teams, in the case of targeted killing, or manned aircraft in the case of attacks on Taliban formations. The fundamental point is that they serve distinct strategic purposes. Targeted killing is not synonymous with drone warfare, just as counterterrorism is analytically distinct from counterinsurgency. (I discuss this in the opening sections of this draft chapter on SSRN.) This analytic point affects how one sees the levels of drone attacks going up or down over the years. Neither the total numbers of fighters killed nor the total number of drone strikes – going up or down over months – tells the whole story. Total numbers do not distinguish between the high value targets, being targeted as part of the top down dismantling of Al Qaeda as a transnational terrorist organization, on the one hand, and ordinary Taliban being killed in much larger numbers as part of counterinsurgency activities essentially part of the ground war in Afghanistan, on the other. Yet the distinction is crucial insofar as the two activities are, at the level of truly grand strategy, in support of each other – the war in Afghanistan and the global counterterrorism war both in support of the AUMF and US national security broadly – but at the level of ordinary strategic concerns, quite distinct in their requirements and conduct. If targeted killing against AQ leadership goes well in Pakistan, those might diminish at some point in the future; what happens in the war against the Afghan Taliban is distinct and has its own rhythm, and in that effort, drones are simply another form of air weapon, an alternative to manned aircraft in an overt, conventional war. Rising or falling numbers of drone strikes in the aggregate will not tell one very much without knowing what mission is at issue.

#### Vote neg

#### 1.Limits and ground---allows bidirectional affs that reduce sig strikes and make TKs more effective

#### 2. Takes out solvency---they cause a shift to sig strikes.

**Johnson, former Pentagon General Counsel, 2013**

(Jeh, “Keynote address at the Center on National Security at Fordham Law School: A “Drone Court”: Some Pros and Cons”, 3-18, <http://www.lawfareblog.com/2013/03/jeh-johnson-speech-on-a-drone-court-some-pros-and-cons/>, ldg)

Also, beware of creating the wrong set of incentives for those who must conduct these operations. A lawful military objective may include an individual, whether his name or his citizenship are known; it may also include a location (like a terrorist training camp) or an object (like a truck filled with explosives). By creating a separate legal regime with additional requirements for an objective if his name or citizenship becomes known, what disincentives do we create for an operator to know for certain the identity of those likely to be present at a terrorist training camp or behind the wheel of the truck bomb? Or, must the government refrain from an attack on what it knows to be an active and dangerous training camp if an al Qaeda terrorist who might be a U.S. citizen wanders in?

### 1NC

#### Solicitor general appealing to uphold recess appointments now-key to executive nominations, functioning agencies and NLRB

**Richey, Christian Science Monitor, 2013**

(Warren, “Were Obama recess appointments constitutional? Supreme Court takes case”, 6-24, <http://www.csmonitor.com/USA/Justice/2013/0624/Were-Obama-recess-appointments-constitutional-Supreme-Court-takes-case>)

. In his brief urging the high court to take up the case, Noel Canning’s lawyer, Noel Francisco, suggested that in addition to considering the appeals court’s decision concerning intersessional recesses, the court should also examine whether the president’s authority to make recess appointments applies when the Senate is convening every three days in pro forma sessions. In its brief order on Monday, the court agreed to examine that issue as well as the broader question raised in the case. “Until January 4, 2012 – when the President made the appointments at issue – no President had ever attempted to make recess appointments where the Senate was convening in pro forma sessions every three days,” Mr. Francisco wrote in his brief. He said Obama’s actions made him “the first President in history to attempt an intrasession recess appointment while the Senate was convening sessions every three days.” Solicitor General Verrilli also urged the high court to take up the case, but for a different reason. He said the appeals court decision, if allowed to stand, would “dramatically curtail the scope of the President’s authority” to make recess appointments. “Before that decision, Executive practice had long been predicated on the understanding that the Recess Appointments Clause authorizes the President to fill vacancies that exist during a recess of the Senate, regardless of whether the recess occurs between two enumerated sessions of Congress or during a session, and regardless of when the vacancies first arose,” the solicitor general said in his brief. He warned that the appeals court decision, if upheld, would “deem invalid hundreds of recess appointments made by Presidents since early in the nation’s history.” The solicitor general added: “It potentially calls into question every order issued by the National Labor Relations Board since January 4, 2012, and similar reasoning could threaten past and future decisions of other federal agencies.” A friend-of-the-court brief filed on behalf of Senate Republican leader Mitch McConnell and 44 other senators denounced Obama’s use of the recess appointment authority as a “presidential power-grab. “The President usurped two powers that the Constitution confers explicitly, and exclusively, on the Senate,” Washington lawyer Miguel Estrada wrote in the McConnell brief. The two Senate powers are the ability to reject an appointment and the authority of the Senate to write its own rules for when the Senate is in session and when it is in recess. Mr. Estrada said that the president “resorted to recess appointments in January 2012 not because the Senate was unable to give an answer on nominations, but because he did not like the answer he received.”

#### War on terror cases increase perception of SG politicization-uniquely polarized, ideological and empirics prove

**Lewis, American University government instructor, 2009**

(Andrew, “The Role of the Solicitor General in Church-State Cases within the Clinton and Bush Administrations: A Case Study Supporting the Politicization of the Solicitor General”, <http://www.american.edu/spa/publicpurpose/upload/The-Role-of-the-Solicitor-General.pdf>)

While the solicitors general for both administrations were politicized, adhering to the policy agendas of the president, the Office of the Solicitor General under Bush was more polarized than the Clinton administration was. Bush’s solicitors general filed briefs and made arguments in controversial and political cases regarding religious displays and expression, while Clinton’s solicitors general decided to refrain from being involved in similar cases. This is congruent with Bush’s agenda of promoting policies favorable to conservative Christians and supporting government programs such as the faith-based initiatives that expand the relationship between government and religion. The solicitors general under Bush went beyond supporting government laws, as the Clinton solicitors general did, supporting individual rights and the expansion of the government’s relationship with religion. This was a result the Office of the Solicitor General being more ideological on church-state issues under the Bush administration, and is consistent with the growing view that Bush not only significantly politicized the solicitor general’s office into supporting his agenda, but that it used the solicitor general to promote ideologically conservative issues such as church-state policy and the war on terror (Blum 2004). To further support this argument, both Olson and Clement are known for their partisan and ideological activity. Olson was rewarded with the solicitor general position after supporting Bush and Cheney before the Court during the 2000 election, and Clement has gained a reputation in Washington and in legal circles for is partisan actions in defending the Bush Administration’s polices used to fight the War on Terror in multiple court cases. Therefore, while both the Clinton and Bush Administrations politicized the solicitor general to achieve their policy goals, the Bush Administration used the solicitor general in a much more polarizing way in church-state cases. It is likely that this is predominantly due to Bush’s agenda on certain conviction issues such as the role of religion in the public square. Clinton, by contrast, took a moderate approach to church-state policy, not opposing the expansion of religion into public life, but only favoring it when it provided political rewards or coincided with his more important agenda items—education and civil rights.

#### Solicitor General’s finite influence determines outcome – plan drains it and spills over – best studies prove

**Wohlfarth, Maryland politics professor, 2009**

(Patrick, “The Tenth Justice? Consequences of Politicization in the Solicitor General’s Office”, <http://www.gvpt.umd.edu/wohlfarth/Wohlfarth%202009%20JOP.pdf>)

The solicitor general (S.G.), as the executive branch’s chief lawyer on the U.S. Supreme Court, represents perhaps the most important inﬂuence on the Court’s decisions beyond the justices themselves. While ofﬁcially a presidential appointee and member of the Justice Department, scholars widely regard the S.G. as the independent bridge connecting the executive branch to the Court. As a result, Court observers view the S.G. as an informational tool the justices utilize throughout the decision-making process. Perry (1991) claims that the solicitor general, on many cases at the agenda setting stage, functions as a ‘‘surrogate of the Court’’ in signaling the merit for granting certiorari. This unique status affords the S.G. unmatched success when seeking the Court’s support for legal positions (Caldeira and Wright 1988; Caplan 1987; McGuire 1998; O’Connor 1983; Salokar 1992; Scigliano 1971; Segal 1988). In fact, the S.G.’s success on the merits as a litigant and amicus curiae, and the deference commonly received from the Court, is so well established that scholars often refer to the solicitor general as the ‘‘Tenth Justice’’ (Caplan 1987). Judicial scholars offer several explanations for the Court’s disproportionate attention to the ofﬁce’s arguments and commonly view the S.G. as a representative of both executive and judicial interests. Historically, solicitors general have acknowledged and respected the ofﬁce’s reputation for legal integrity and relative independence from partisan inclinations. Yet by many accounts, recent solicitors general have increasingly politicized the ofﬁce by frequently behaving as a direct advocate of the executive’s often narrow legal philosophy (Caplan 1987; Ubertaccio 2005). Solicitors general commonly enter the ofﬁce with a reservoir of decision-making capital. The ofﬁce’s esteemed reputation affords the S.G. a degree of freedom to act as the president’s political advocate. The heightened sense of political behavior within the contemporary ofﬁce suggests that solicitors general are indeed willing to utilize this discretion and expend such resources. However, the S.G. who exhausts that capital and excessively politicizes the ofﬁce might jeopardize both the president’s immediate ability to advance the administration’s policy agenda through the Court as well as the longterm integrity of the S.G.’s ofﬁce as an institution. The recent controversy surrounding the ﬁring of several U.S. attorneys and Attorney General Alberto Gonzales’ eventual resignation further illustrates the consequences that may arise when perceptions of excessive political bias pervade the Justice Department. The S.G., even more so than the attorney general, stands at the intersection of law and politics. This unique position carries an expectation that its ofﬁce holders will maintain an independent balance. Existing empirical accounts of the S.G.’s behavior have not fully explored the degree to which the Court’s perceptions of political bias may jeopardize the ofﬁce’s reputation as an unbiased informational cue. In this article, I examine the extent to which the S.G.’s politicization adversely affects the ofﬁce’s credibility. If the Court perceives that solicitors general repeatedly abuse their discretion by acting as the president’s political advocate, then it should not trust the information provided and, thus, discount the ofﬁce’s arguments. I employ an individual-level analysis of all solicitor general amici between 1961 and 2003. The results reveal that increased politicization diminishes the likelihood that the Court will support the S.G.’s positions on the merits. In addition, I demonstrate that politicization’s negative impact yields a spillover effect by endangering the success of the United States as a litigant beginning with Reagan’s solicitors general.

#### Crushes economy, US leadership, functioning democratic government and judicial appointments

**Millhiser, American Progress senior constitutional policy analyst, 2013**

(Ian, “Everything You Need To Know About The ‘Nuclear Option’ And Harry Reid’s Plan To Fix The Senate”, 7-12, <http://thinkprogress.org/justice/2013/07/12/2291781/everything-you-need-to-know-about-the-nuclear-opinion-and-harry-reids-plan-to-fix-the-senate/>)

They did, but circumstances have changed quite a bit since then. Democrats filibustered nominees like Owen, Pryor and Brown because they viewed them as uniquely offensive nominees justifying the use of unusual tactics. Republicans under Obama, by contrast, say that there are some jobs that they will confirm no one to, no matter who President Obama nominates. Many Democrats who still believe that the filibuster can exist if it is only used, in the words of the Gang of 14 agreement, in “extraordinary circumstances,” now see that filibusters are being used in extraordinarily ordinary circumstances. They believe this is a bridge too far. If Republicans succeed in maintaining the filibuster, moreover, it will cripple much of the government’s ability to function and lead to severe consequences for many American workers and consumers. By refusing to confirm anyone to the National Labor Relations Board, Republicans will likely shut down nearly all of federal labor law. Without the NLRB, there will be no one to enforce workers’ rights to join a union without intimidation from their employer. No one to enforce workers’ rights to join together to oppose abusive work conditions. And no one to make an employer actually bargain with a union. Without an NLRB to enforce the law, it may be possible for an employer to round up all of their pro-union workers, fire them, and then replace them with anti-union scabs who will immediately call a vote to decertify the union. Similarly, a Republican filibuster of Consumer Financial Protection Bureau Director Richard Cordary will likely shut down that agency’s new authority to regulate Wall Street. Anticipated filibusters of three nominees to the United States Court of Appeals for the District of Columbia Circuit will enable Republicans to strike numerous rules promulgated by the Obama Administration to protect workers, consumers and the environment. The filibuster is no longer being used to block unusually offensive nominees, it’s being used to hobble America’s ability to govern itself.

#### Economic stagnation undercuts leadership—it causes nuclear war, proliferation, and the collapse of U.S. foreign policy turning the case

O Hanlon et al. 12 (O’Hanlon 12 Kenneth G. Lieberthal, Director of the John L. Thornton China Center and Senior Fellow in Foreign Policy and Global Economy and Development at the Brookings Institution, former Professor at the University of Michigan [“The Real National Security Threat: America's Debt,” Los Angeles Times, July 10th, <http://www.brookings.edu/research/opinions/2012/07/10-economy-foreign-policy-lieberthal-ohanlon>]

Alas, globalization and automation trends of the last generation have increasingly called the American dream into question for the working classes. Another decade of underinvestment in what is required to remedy this situation will make an isolationist or populist president far more likely because much of the country will question whether an internationalist role makes sense for America — especially if it costs us well over half a trillion dollars in defense spending annually yet seems correlated with more job losses. Lastly, American economic weakness undercuts U.S. leadership abroad. Other countries sense our weakness and wonder about our purport 7ed decline. If this perception becomes more widespread, and the case that we are in decline becomes more persuasive, countries will begin to take actions that reflect their skepticism about America's future. Allies and friends will doubt our commitment and may pursue nuclear weapons for their own security, for example; adversaries will sense opportunity and be less restrainedin throwing around their weight in their own neighborhoods. The crucial Persian Gulf and Western Pacific regions will likely become less stable. Major war will become more likely. When running for president last time, Obama eloquently articulated big foreign policy visions: healing America's breach with the Muslim world, controlling global climate change, dramatically curbing globalpoverty through development aid, **moving toward a world free of** nuclear weapons. These were, and remain, worthy if elusive goals. However, for Obama or his successor, there is now a muchmore urgent big-pictureissue:restoring U.S. economic strength.Nothing else isreallypossibleif thatfundamental prerequisite toeffectiveforeign policyis not reestablished.

### 1NC

#### TPA is top of the agenda and Obama is making a full court press-Now is the make or break time for spending political capital on trade-TPA failure collapses global trade, the economy and US leadership.

McLarty-former chief of staff to Clinton during the NAFTA ratification fight-2/2/14

Huffington Post 2/2/14

http://www.huffingtonpost.com/thomas-f-mclarty/a-critical-test-of-leader\_b\_4705623.html

A Critical Test of Leadership

In his State of the Union address last week, President Obama took a good first step in asking Congress to provide the tools he needs to close two of the most ambitious trade deals in U.S. history. But he faces an immediate challenge from within his party that could imperil negotiations, with huge stakes for the U.S. globally and for our economy at home. At issue is Trade Promotion Authority (TPA), which allows the president to send a trade agreement to Congress for an up-or-down vote, without amendments. Many Republicans reflexively oppose granting any request from the administration. But the biggest opposition is coming from Democrats skeptical of the value of free trade. The day after the president's address, Senate Majority Leader Harry Reid said he opposed "fast track" authority. His remarks revealed the depth of a gulf among Democrats over trade, and sparked new criticism from Republicans as a sign that the president's party couldn't be lined up behind a major administration initiative. For President Obama, this is a critical test of his leadership. Can he muster enough support for his trade agenda within his own party, and then assemble a bipartisan majority in both houses of Congress? Failure would be a great setback for U.S. prestige internationally, and a dismal signal for the president's remaining three years in office. We've seen this movie before -- and it didn't end well. The last Democratic president to seek fast track authority on trade was Bill Clinton in 1997. The effort collapsed when then House Speaker Newt Gingrich was unable to marshal his Republican majority. It was an opportunity lost, ending a period of bipartisan cooperation on trade and stalling momentum created a few years earlier by the North American Free Trade Agreement. Repeating this history would be a mistake, especially as our economy struggles to create good jobs at high wages. But the president faces an uphill battle. Now is the moment for Democrats to pause and take full measure of the stakes involved in opposing fast track. It's time for Republican supporters of trade to rally. And it is essential that the president and his cabinet exert persistent, focused leadership to persuade the skeptics. President Obama deserves much credit for advancing the most far-reaching trade agenda in a generation. The administration is nearing the finish line in negotiations of the Trans Pacific Partnership, an agreement with 11 Pacific Rim nations, including Japan and perhaps South Korea and others. Simultaneous talks are underway between the United States and the European Union over the Transatlantic Trade and Investment Partnership -- creating an economic NATO and the largest liberalized trade zone in the world. Together, the agreements would lower barriers in markets accounting for more than 60 percent of the global economy. Neither negotiation would survive a failure to renew Trade Promotion Authority, which expired in 2007. TPA reassures our negotiating partners that they will not agree to difficult concessions only to see Congress later force unilateral changes. Under TPA, Congress establishes negotiating goals and must be regularly consulted by the president. In exchange, Congress promises an up-or-down vote without amendment. No major trade legislation has passed Congress in decades without it. President Clinton knew that because trade was so hard, its support had to be bipartisan. To push for NAFTA, he assembled a high-profile war room in the White House, led by a prominent Democrat, Bill Daley, and former Republican Congressman Bill Frenzel. The president worked members tirelessly. The bill eventually passed with 102 Democratic and 132 Republican votes, and a similarly bipartisan total in the Senate. By contrast, the 1997 effort to renew fast-track authority lacked that high-profile White House push -- helping seal its doom. Over the last decades, global trade has proven essential to building employment and reducing inequality at home. One of every five jobs in the United States is tied to exports. More significantly for the long run, 95 percent of the world's customers live outside our borders. While many Americans have concerns about free trade, they say the benefits of U.S. involvement in the global economy outweigh the risks (by a 2-1 margin in a poll last month by the Pew Research Center). Even so, last fall 151 House Democrats signed a letter expressing their opposition to granting President Obama Trade Promotion Authority. Almost three dozen House Republicans followed suit. When the bill to renew TPA was introduced earlier this month, a number of Democratic Senators announced their opposition. They have now been joined by Sen. Reid. The warning signs are clear, but so is the path forward. Now is the time for a full-court press from the White House. President Obama should be clear about the imperative of TPA and make the strong case for trade as a catalyst for job growth. Then he must press his cabinet to the task. Ambassador Froman is a skilled negotiator and advocate. His cabinet colleagues include many effective proponents of free trade and international engagement, including Secretary of State John Kerry, Treasury Secretary Jack Lew, and Commerce Secretary Penny Pritzker. Without a concerted effort, TPA may well fail, embarrassing us abroad, casting a shadow on the president's second term and hurting our economy in the long run. Why not instead show America and the world that the president and Congress, including leaders of his own party, can work together?

#### The plan expends capital on a separate war powers issue–it’s immediate and forces a trade-off

O’Neil-prof law Fordham-7 (David – Adjunct Associate Professor of Law, Fordham Law School, “The Political Safeguards of –Executive Privilege”, 2007, 60 Vand. L. Rev. 1079, lexis)

a. Conscious Pursuit of Institutional Prerogatives The first such assumption is belied both by first-hand accounts of information battles and by the conclusions of experts who study them. Participants in such battles report that short-term political calculations consistently trump the constitutional interests at stake. One veteran of the first Bush White House, for example, has explained that rational-choice theory predicts what he in fact experienced: The rewards for a consistent and forceful defense of the legal interests of the office of the presidency would be largely abstract, since they would consist primarily of fidelity to a certain theory of the Constitution... . The costs of pursuing a serious defense of the presidency, however, would tend to be immediate and tangible. These costs would include the expenditure of political capital that might have been used for more pressing purposes, [and] the unpleasantness of increased friction with congressional barons and their allies. n182 Louis Fisher, one of the leading defenders of the political branches' competence and authority to interpret the Constitution independently of the courts, n183 acknowledges that politics and "practical considerations" typically override the legal and constitutional principles implicated in information disputes. n184 In his view, although debate about congressional access and executive privilege "usually proceeds in terms of constitutional doctrine, it is the messy political realities of the moment that usually decide the issue." n185 Indeed, Professor Peter Shane, who has extensively studied such conflicts, concludes that their successful resolution in fact depends upon the parties focusing only on short-term political [\*1123] considerations. n186 When the participants "get institutional," Shane observes, non-judicial resolution "becomes vastly more difficult." n187

#### Free trade prevents multiple scenarios for world war and WMD Terrorism

Panzner-New York Institute of Finance-8

Michael, faculty at the New York Institute of Finance, 25-year veteran of the global stock, bond, and currency markets who has worked in New York and London for HSBC, Soros Funds, ABN Amro, Dresdner Bank, and JPMorgan Chase “Financial Armageddon: Protect Your Future from Economic Collapse,” pg. 136-138

Continuing calls for curbs on the flow of finance and trade will inspire the United States and other nations to spew forth protectionist legislation like the notorious Smoot-Hawley bill. Introduced at the start of the Great Depression, it triggered a series of tit-for-tat economic responses, which many commentators believe helped turn a serious economic downturn into a prolonged and devastating global disaster. But if history is any guide, those lessons will have been long forgotten during the next collapse. Eventually, fed by a mood of desperation and growing public anger, restrictions on trade, finance, investment, and immigration will almost certainly intensify. Authorities and ordinary citizens will likely scrutinize the cross-border movement of Americans and outsiders alike, and lawmakers may even call for a general crackdown on nonessential travel. Meanwhile, many nations will make transporting or sending funds to other countries exceedingly difficult. As desperate officials try to limit the fallout from decades of ill-conceived, corrupt, and reckless policies, they will introduce controls on foreign exchange. Foreign individuals and companies seeking to acquire certain American infrastructure assets, or trying to buy property and other assets on the cheap thanks to a rapidly depreciating dollar, will be stymied by limits on investment by noncitizens. Those efforts will cause spasms to ripple across economies and markets, disrupting global payment, settlement, and clearing mechanisms. All of this will, of course, continue to undermine business confidence and consumer spending. In a world of lockouts and lockdowns, any link that transmits systemic financial pressures across markets through arbitrage or portfolio-based risk management, or that allows diseases to be easily spread from one country to the next by tourists and wildlife, or that otherwise facilitates unwelcome exchanges of any kind will be viewed with suspicion and dealt with accordingly. The rise in isolationism and protectionism will bring about ever more heated arguments and dangerous confrontations over shared sources of oil, gas, and other key commodities as well as factors of production that must, out of necessity, be acquired from less-than-friendly nations. Whether involving raw materials used in strategic industries or basic necessities such as food, water, and energy, efforts to secure adequate supplies will take increasing precedence in a world where demand seems constantly out of kilter with supply. Disputes over the misuse, overuse, and pollution of the environment and natural resources will become more commonplace. Around the world, such tensions will give rise to full-scale military encounters, often with minimal provocation. In some instances, economic conditions will serve as a convenient pretext for conflicts that stem from cultural and religious differences. Alternatively, nations may look to divert attention away from domestic problems by channeling frustration and populist sentiment toward other countries and cultures. Enabled by cheap technology and the waning threat of American retribution, terrorist groups will likely boost the frequency and scale of their horrifying attacks, bringing the threat of random violence to a whole new level. Turbulent conditions will encourage aggressive saber rattling and interdictions by rogue nations running amok. Age-old clashes will also take on a new, more heated sense of urgency. China will likely assume an increasingly belligerent posture toward Taiwan, while Iran may embark on overt colonization of its neighbors in the Mideast. Israel, for its part, may look to draw a dwindling list of allies from around the world into a growing number of conflicts. Some observers, like John Mearsheimer, a political scientist at the University of Chicago, have even speculated that an “intense confrontation” between the United States and China is “inevitable” at some point. More than a few disputes will turn out to be almost wholly ideological. Growing cultural and religious differences will be transformed from wars of words to battles soaked in blood. Long-simmering resentments could also degenerate quickly, spurring the basest of human instincts and triggering genocidal acts. Terrorists employing biological or nuclear weapons will vie with conventional forces using jets, cruise missiles, and bunker-busting bombs to cause widespread destruction. Many will interpret stepped-up conflicts between Muslims and Western societies as the beginnings of a new world war.

### 1NC

#### The Executive branch of the United States should

#### -publish the criteria and the list of individuals targeted for killing to the degree that security reasonably permits, if names cannot be named there should be a requirement that the number of targets be listed, public identification should be required if the national security threat diminishes to an acceptable level

-require targeting selections be reviewed and approved by an administrative judge to assure that it is a legal target.

#### Solves program legitimacy and doesn’t link to warfighting

Murphy and Radsan 13 (Richard W. Murphy Texas Tech University School of Law Afsheen John Radsan William Mitchell College of Law “Notice and an Opportunity to Be Heard Before the President Kills You,” http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2293686)

Publishing the kill list might improve accuracy both by increasing the level of care that the administration uses when selecting targets and by eliciting exculpatory information from those named. The potential improvements depend in large part on how well the current system operates under mostly secret procedures. Given the moral, political, and legal sensitivities implicated by the drone campaign, as well as the high-level White House involvement, we think it highly unlikely that the administration is targeting many members of QTA without reasonable grounds. In other words, we suppose that there are very few “false positives” on the White House-approved kill lists. Separate from our suppositions, though, publishing a list would help bring any errors to light. And, in some calculations, there is no limit to the value of human life. Without our suggested reforms, it is possible than somebody other than al-Awlaki is on the kill list but does not belong there. It is also possible that this person has no idea that a classified interagency-process has designated him to be killed. In addition, publishing the list would enhance the legitimacy of the drone campaign. Many complaints against this campaign are rooted in a reasonable fear that the United States is exercising uncontrolled, unaccountable power to determine whom to kill outside the context of a traditional armed conflict where combatants are well-defined by uniforms or other insignia. In response, the United States can identify persons (the fighters without uniforms) who satisfy its targeting criteria and can explain its selections for the list to the degree that security reasonably permits. These advantages in accuracy and legitimacy must be weighed against risks to security. To repeat a recurring theme of this Article, this weighing is fraught with uncertainty over facts and with discretionary calls over how to evaluate the facts. All the same, we submit that the advantages of publication dominate the disadvantages given that the latter should be slight and controllable. Publishing terrorist lists is not novel for the United States. Pursuant to the 1996 Antiterrorism and Effective Death Penalty Act, the Secretary of State publishes a list of “Foreign Terrorist Organizations,” or “FTOs.”196 It is a crime to provide material support to a designated FTO.197 The State Department also maintains a “Terrorist Exclusion List” with designees subject to exclusion or deportation from the United States.198 Of particular note, the Office of Foreign Assets Control within the Department of Treasury maintains a lengthy list of “specially designated nationals” (“SDNs”), which includes, among other categories, “specially designated global terrorists” (“SDGTs”).199 SDGTs are subject to a variety of financial sanctions, including freezing of assets.200 It should come as little surprise that al Qaeda, its associated groups, and their members appear on one or more of these lists. Designated FTOs include, among others, al Qaeda, al-Shabab, and al Qaeda in the Arabian Peninsula (AQAP).201 The United States has identified many members of these organizations as SGDTs, including al-Awlaki himself.202 In one sense, publishing a kill list would amount to a relatively small change in existing practices. This list would identify the small number of people who satisfy the legal and policy prerequisites that United States officials have identified for targeted killing. It is likely that most of these targets are already on various terrorist lists the United States publishes.

## Norms

### Norms Turn

Restricting drones just makes the impact to prolif worse---the status quo solves better

Herman and Yoo 13 (Mr. Herman, a Pulitzer Prize finalist and former visiting scholar at the American Enterprise Institute, is the author, most recently, of The Cave and the Light: Plato Versus Aristotle, and the Struggle for the Soul of Western Civilization. Mr. Yoo is the Emanuel S. Heller Professor of Law at the University of California at Berkeley and a scholar at the American Enterprise Institute, “The Drone Wars,” National Review https://www.nationalreview.com/nrd/articles/364966/drone-wars/page/0/1)

Efforts to restrain the advance of military technology have sometimes disadvantaged democracies, which tend to observe treaties more faithfully than authoritarian nations do. After World War I, the great powers entered into the Washington Naval Treaty of 1922 to forestall competition in building up naval fleets. The treaty sought to freeze the sizes of the fleets of Great Britain, the United States, France, Germany, and Japan and to prevent the development of larger ships and better armaments. While the democracies obeyed the agreement, Germany and Japan cheated by secretly developing new and larger battleships. The treaty restrictions also encouraged Japan to develop aircraft carriers and naval aviation, which were not covered by the agreement, while Britain and the U.S. slept.

When restraint in arms build-ups has occurred, it has come primarily from deterrence. Chemical weapons were another of World War I’s horrifying innovations. They inflicted a level of suffering and terror that could not be strategically justified. But during the interwar years, the great powers failed to reach any agreement to limit their use in combat—the Chemical Weapons Convention would not come into existence until the 1990s. Nevertheless, the Axis and Allied powers did not resort to chemical weapons in a war of ideologies that caused more death and destruction than had the preceding world war. Why? Historical research has shown that Hitler’s Germany never deployed its chemical-weapons arsenal because it knew that the Allies would respond in kind. The same went for the superpowers’ nuclear arsenals during the Cold War. Treaties did not stop the development of fission and then fusion weapons, strategic bombers, and intercontinental ballistic missiles. only the competition of the U.S. and the USSr to match each other’s stockpiles prevented a nuclear exchange.

While the politicians, lawyers, and bureaucrats debate and dither, the rate of technological advance increases. The record of deterrence and counter-technologies in limiting the destructive potential of new technologies is strong. Rather than try to stop development with parchment barriers that hinder us more than our enemies, we should recognize that UAv technology itself may help us achieve the fundamental goal of the laws of war: to spare civilians and to reduce death and destruction on the battlefield.

#### 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.

### AT: Preventative Conflict

#### Congress can authorize preventive action-Iraq proves-means the plan is insufficient.

#### Social science proves no modeling- US signals are dismissed

**Zenok, CFR fellow, 2013**

(Micah, “The Signal and the Noise”, 2-2, [www.foreignpolicy.com/articles/2013/02/20/the\_signal\_and\_the\_noise](http://www.foreignpolicy.com/articles/2013/02/20/the_signal_and_the_noise), ldg)

Later, Gen. Austin observed of cutting forces from the Middle East: "Once you reduce the presence in the region, you could very well signal the wrong things to our adversaries." Sen. Kelly Ayotte echoed his observation, claiming that President Obama's plan to withdraw 34,000 thousand U.S. troops from Afghanistan within one year "leaves us dangerously low on military personnel...it's going to send a clear signal that America's commitment to Afghanistan is going wobbly." Similarly, during a separate House Armed Services Committee hearing, Deputy Secretary of Defense Ashton Carter ominously warned of the possibility of sequestration: "Perhaps most important, the world is watching. Our friends and allies are watching, potential foes -- all over the world." These routine and unchallenged assertions highlight what is perhaps the most widely agreed-upon conventional wisdom in U.S. foreign and national security policymaking: the inherent power of signaling. This psychological capability rests on two core assumptions: All relevant international audiences can or will accurately interpret the signals conveyed, and upon correctly comprehending this signal, these audiences will act as intended by U.S. policymakers. Many policymakers and pundits fundamentally believe that the Pentagon is an omni-directional radar that uniformly transmits signals via presidential declarations, defense spending levels, visits with defense ministers, or troop deployments to receptive antennas. A bit of digging, however, exposes cracks in the premises underlying signaling theories. There is a half-century of social science research demonstrating the cultural and cognitive biases that make communication difficult between two humans. Why would this be any different between two states, or between a state and non-state actor? Unlike foreign policy signaling in the context of disputes or escalating crises -- of which there is an extensive body of research into types and effectiveness -- policymakers' claims about signaling are merely made in a peacetime vacuum. These signals are never articulated with a precision that could be tested or falsified, and thus policymakers cannot be judged misleading or wrong. Paired with the faith in signaling is the assumption that policymakers can read the minds of potential or actual friends and adversaries. During the cycle of congressional hearings this spring, you can rest assured that elected representatives and expert witnesses will claim to know what the Iranian supreme leader thinks, how "the Taliban" perceives White House pronouncements about Afghanistan, or how allies in East Asia will react to sequestration. This self-assuredness is referred to as the illusion of transparency by psychologists, or how "people overestimate others' ability to know them, and...also overestimate their ability to know others." Policymakers also conceive of signaling as a one-way transmission: something that the United States does and others absorb. You rarely read or hear critical thinking from U.S. policymakers about how to interpret the signals from others states. Moreover, since U.S. officials correctly downplay the attention-seeking actions of adversaries -- such as Iran's near-weekly pronouncement of inventing a new drone or missile -- wouldn't it be safer to assume that the majority of U.S. signals are similarly dismissed? During my encounters with foreign officials, few take U.S. government pronouncements seriously, and instead assume they are made to appease domestic audiences.

### AT: Drone Prolif---1NC

#### The plan only results in long fights and a little money for living relatives---does nothing to shore up credibility/accountability

Epps 13 (Garrett is a former reporter for The Washington Post, is a novelist and legal scholar. He teaches courses in constitutional law and creative writing for law students at the University of Baltimore “Why a Secret Court Won't Solve the Drone-Strike Problem,” http://www.theatlantic.com/politics/archive/2013/02/why-a-secret-court-wont-solve-the-drone-strike-problem/273246/)

Finally, some scholars have suggested that the Congress create a new "cause of action"--a right to sue in an ordinary federal court on a claim that the government improperly unleashed drones on a deceased relative. The survivors of the late Anwar al-Awlaki tried such a suit, and the Obama administration has so far insisted that it concerns "political questions," not fitted for judicial proceedings. Congress could pass a statute specifically granting a right to sue in a federal district court. Without careful design, that would actually not make things any better. The survivors will file their complaint; the administration will claim state secrets and refuse to provide information. A court might reject the secrets claim and order the government to produce discovery. The administration would probably refuse to comply. The court's recourse would be to order judgment for the plaintiffs. The dead person's family would get some money, but we'd be no closer to accountability for the drone-strike decision.

#### Tech isn’t the key---no one has the human capital or intel to conduct wide scale drone operations

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.

#### Drones are only effective at counterterrorism---no threat to great powers

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.

#### Norms fail---if countries really need to use drones they will regardless of US code

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 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.

## OFF

### 1NC

#### The United States Federal Government should

#### -create an investigative commission including congressional committees and inspectors general to conduct an ex post investigation of targeted killing operations to assess unlawful damages that may have occurred as a result of the missions, unlawful meaning striking a non-imminent threat to the United States who is not an associated force of the Taliban or Al-Qaeda.

#### -establish an independent administrative agency that gives standing to non-civil suite damage claims brought against the United States by those unlawfully injured by targeted killing operations, their heirs, or their estates in proceedings governed by S. 417 and H.R. 984

---the counterplan solves the case and avoids the Article III DAs

New York City Bar 8 (“REAFFIRMING THE U.S. COMMITMENT TO COMMON ARTICLE 3 OF THE GENEVA CONVENTIONS: AN EXAMINATION OF THE ADVERSE IMPACT OF THE MILITARY COMMISSIONS ACT AND EXECUTIVE ORDER GOVERNING CIA INTERROGATIONS,” http://www.nycbar.org/pdf/report/GC\_Report0702\_all.pdf)

The question of whether victims of violations of Common Article 3 should be permitted to bring damage actions against responsible U.S. officials seeking monetary compensation is more difficult. There are concerns that the threat of private damage actions against officials authorizing or conducting interrogations might chill legitimate efforts to obtain information needed to protect the nation against terrorism. Courts have consistently rejected such claims, without considering their merits, based on the state secrets privilege, Westfall Act immunity, qualified immunity and other legal grounds.12 This has resulted in the dismissal of suits, such as those brought by Maher Arar and Khaled El Masri, that appear to be well founded. A Canadian government investigation confirmed the accuracy of Mr. Arar’s claims that Canadian and U.S. officials were responsible for his wrongful detention and deportation to, and torture in, Syria.13 Canada subsequently awarded him approximately $9 million in compensation.14 A Council of Europe investigation confirmed as true Mr. El Masri’s claims that the CIA and others conspired to abduct him to Afghanistan, where he was subjected to abusive interrogation and mistreatment.15 A German criminal investigation reached similar conclusions and issued indictments of CIA agents believed to be involved.16 Nevertheless, both Mr. Arar’s and Mr. El Masri’s claims were summarily dismissed by U.S. courts without ever reaching their merits.17 We have concluded that some system of compensation is necessary, both to compensate victims of torture or cruel, inhuman and degrading treatment and to deter violations of Common Article 3. Recognizing that Congress is unlikely to accept private damage actions against individual officials and fears that private damage actions might be subject to misuse, we propose the establishment of an administrative tribunal that has the power to award compensation by the United States to persons who establish that they were victims of violations of Common Article 3. Protection against misuse of this process can be implemented through heightened pleading requirements and penalties for the filing of objectively groundless claims. Problems created by classified evidence and state secrets can be addressed in a manner similar to that proposed in Senate and House bills seeking to regulate the use of the state secrets privilege.18

## Accountability

### TK DA

#### The court would rule that all targeted killings violated imminence requirements---that means they ban targeted killing

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

Therefore, the President was justified in using lethal force to protect the nation against Aulaqi, or any other American, if that individual presented a concrete threat that satisfied the "imminence" standard. n109 However, the judiciary may, as a matter of law, review the use of military force to ensure that it conforms with the limitations and conditions of statutory and constitional grants of authority. n110 In the context of targeted killing, a federal court could evaluate the targeted killing program to determine whether it satisfies the constitutional standard for the use of defensive force by the Executive Branch. Targeted killing, by its very name, suggests an entirely premeditated and offensive form of military force. n111 Moreover, the overview of the CIA's targeted killing program revealed a rigorous process involving an enormous amount of advance research, planning, and approval. n112 While the President has exclusive authority over determining whether a specific situation or individual presents an imminent threat to the nation, the judiciary has the authority to define "imminence" as a legal standard. n113 These [\*1368] are general concepts of law, not political questions, and they are subject to judicial review. n114¶ Under judicial review, a court would likely determine that targeted killing does not satisfy the imminence standard for the president's authority to use force in defense of the nation. Targeted killing is a premeditated assassination and the culmination of months of intelligence gathering, planning, and coordination. n115 "Imminence" would have no meaning as a standard if it were stretched to encompass such an elaborate and exhaustive process. n116 Similarly, the concept of "defensive" force is eviscerated and useless if it includes entirely premeditated and offensive forms of military action against a perceived threat. n117 Under judicial review, a court could easily and properly determine that targeted killing does not satisfy the imminence standard for the constitutional use of defensive force. n118

#### Expansive interpretation of imminence is key to win the entire war on terror---prevents bio and nuclear terrorism

John Yoo 12, Professor of Law, University of California at Berkeley, School of Law; Visiting Scholar, American Enterprise Institute, 2011/12, “Assassination or Targeted Killings After 9/11,” New York Law School Law Review, http://www.nylslawreview.com/wordpress/wp-content/uploads/2011/08/Yoo-56-1.pdf

Imminence is not a purely temporal concept. The concept traces its origins to the 1837 Caroline affair, in which British forces pursued Canadian insurgents into American territory, destroyed a vessel, and killed dozens of U.S. citizens.74 After that incident, the United States and Great Britain agreed in 1841 that a preemptive attack was justified if the “necessity of self-defense [was] instant, overwhelming, leaving no choice of means, and no moment for deliberation.”75 Imminence classically depended on timing. Only when an attack is soon to occur, and thus certain, can a nation use force in preemptive self-defense. What about the magnitude of harm posed by a threatened attack? According to conventional doctrine, a nation must wait until an attack is imminent before using force, whether the attack is launched by a small band of cross-border rebels, as in the Caroline affair, or by a terrorist organization armed with biological or chemical weapons. Terrorist groups today can launch a sudden attack with weapons of devastating magnitude. To save lives, it is now necessary to use force earlier and more selectively.

Imminence as a concept also fails to deal with covert activity. Terrorists deliberately disguise themselves as civilians. Their organizations have no territory or populations to defend, and they attack by surprise. This makes it virtually impossible to use force in self-defense once an attack is “imminent.” There is no target to attack in the form of the army of a nation-state. The best defense will be available only during a small window of opportunity when terrorist leaders become visible to the military or intelligence agencies. This can occur, as in the case of bin Laden, well before a major terrorist attack occurs. Imminence doctrine does not address cases in which an attack is likely to happen, but its timing is unpredictable. Rules of self defense need to adapt to the current terrorist threat.

In addition to imminence, the United States needs to account for the degree of expected harm, a function of the probability of attack times, the estimated casualties, and damage. There is ample justification for factoring this in, just as it ought to be a factor in ordinary acts of self-defense, as when one is attacked with a gun, as opposed to a set of fists. At the time of the Caroline decision in the early nineteenth century, the main weapons of war were single-shot weapons and artillery, cavalry, and infantry. There was an inherent technological limit on the destructiveness of armed conflict.

The speed and severity possible today mean that the right to preempt today should be greater than in the past. Weapons of mass destruction have increased the potential harm caused by a single terrorist attack from hundreds or thousands of innocent lives to hundreds of thousands, or even millions. This is not even counting the profound, long-term destruction of cities or contamination of the environment and the resulting long-term death or disease for large segments of the civilian population. WMDs can today be delivered with ease—a suicide bomber could detonate a “dirty bomb” using a truck or spread a biological agent with a small airplane. These threats are difficult to detect, as no broad mobilization and deployment of regular armed forces will be visible. Probability, magnitude, and timing are relevant factors that must be considered in determining when to use force against the enemy.

### Clog

#### Plan clogs the court

Milanovic, PhD in international law, 10 (Marko, University of Nothingham, faculty of social sciences, his PhD thesis on the extraterritorial application of human rights treaties was awarded the Yorke Prize by the Cambridge Faculty of Law, “Grand Chamber Hearings and Preview of Al-Skeini and Al-Jedda”, http://www.ejiltalk.org/grand-chamber-hearings-and-preview-of-al-skeini-and-al-jedda/)

What in my view explains the result of Al-Skeini are not the intricacies of the concept of jurisdiction in Art. 1 ECHR, real or imagined, but the tensions in the policy considerations underpinning the law. On the one hand, like the European Court in Bankovic, the English courts in Al-Skeini did not want to open the floodgates of litigation by considering every individual against whom force was used as falling under the protection of the Convention. They did not want to micromanage the use of force in the field, especially when some of the killings in question may even have been justified. On the other hand, however, nothing could have justified the mistreatment and killing of a defenseless prisoner. Baha Mousa simply had to be protected – and this is where the prison somehow became analogous to an embassy.

Takes out solvency

Hantler, JD from Wayne State, et al 5 (Steven B., Director of Policy Initiatives for The Marcus Family Office, Assistant General Counsel for Government and Regulation. He directed the Company's Class Action Group, Consumer Litigation Group, litigation communications function, and legal reform activities. Mark A. Behrens, Shook, Hardy & Bacon L.L.P.'s Washington, D.C.-based Public Policy Group, Leah Lorber, “Is the Crisis in the Civil Justice System Real or Imagined?”, http://digitalcommons.lmu.edu/cgi/viewcontent.cgi?article=2469&context=llr)

ATRA has found that when courts are overloaded, the system breaks down. Cases drag out too long, or the pre-trial process is short circuited, such that the case resolution is driven by time factors, not the facts and the law. 2 5 8 With any transfer mechanism, there is an optimal amount of time that it should take to work through the issues and reach a resolution. Depending on the complexity of a particular case, litigation can involve extensive discovery and motions to develop the facts and narrow the legal issues. It is the responsibility of the trial judge or court-appointed magistrate to protect the integrity of this process by balancing the need for thoroughness and the timely resolution of a case to ensure that this process concludes in an appropriate amount of time. Generally, once the pre-trial issues are settled and a trial date is set, attorneys can size up their chances of success and reach settlement. In fact, on average, more than 95% of civil cases settle

### Accountability

#### Plan is not oversight; just codifies the skwo

Goldstein 13 (Samantha, graduate of Harvard Law School, “The Real Meaning of Zivotofsky Samantha Goldstein,” http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2327411)

In conclusion, Zivotofsky is probably not significant in its alleged return to the classical version of the political question doctrine. In particular, the Supreme Court in prior cases had already prefcrcnccd Bakers classical factors over the prudential components of that test, and lower courts still use all six Baker factors in the wake of Zivotofsky. Yet, other parts of the case are more likely to be important. In particular, Zivotofsky was forthrightly pro-justiciability with regards to cases implicating federal statutes, and was arguably meaningful in its refusal to defer to the Executive branch regarding the potential foreign policy costs of judicial review. Taken together, these parts of Zivotofsky signal to Congress that it can encourage judicial review of national security policies - namely, targeted killings - by enacting relevant statutes. If one seeks to hold the Executive accountable for such policies, then one might at first think a broad, pro- justiciability reading of Zivotofsky will lead to rule of law and responsibility-forcing results. And, in general, increased judicial review is likely to do so. But, with respect to targeted killings, this is probably not the most effective route for critics of targeted killings to take. In particular, if Congress enacts a law creating a cause of action for the families of those killed via targeting, then courts may, after using Zivotofsky to find more cases justiciable, ultimately legitimate questionable Executive practices. In so doing, the courts will give Executive policies their imprimatur, yet provide little in the way of real oversight or review. Therefore, if one desires to constrain the Executive in the national security realm, then one should be skeptical of Zivotofsky as a means to pursue such limitation.

#### Popularity solves and reelection empirically denies

Katyal 13 (Neal, Professor of Law, Georgetown University, “Stochastic Constraint,” http://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=2251&context=facpub)

Given these expanded powers, there is a deep risk that Presidents may, in the interim between the exercise of power and the ex post check, work grave harm - to peace, to civil liberties, and to the image of the United States abroad. Goldsmith argues that the existence of ex post checks places all modern Presidents in a "synopticon" that produces a deterrent effect (p. 207). "[O]fficials are much more careful merely by virtue of being watched," Goldsmith notes (p. 207). However, a crucial check on presidential adventurism - reelection - has been nonexistent for second-term Presidents since I 95 I. 38 This structural change may hide the Executive from the synopticon 's watchful eyes, making presidential decisionmaking freer of checks and balances than it otherwise might be in a system that properly relies on Madisonian power sharing. And, as Goldsmith himself acknowledges, presidential popularity can often blunt the power of the synopticon - particularly when national security is pitted against civil liberties (p. 4 7 ). The popular willingness to err on the side of national security, and the consequent weakness of the synopticon, will be at its apex when the issue involves the rights of foreigners - who altogether lack the ability to vote.39 Yet the rights of foreigners are a crucial part of the post 9/11 debate.

#### The plan only results in long fights and a little money for living relatives---does nothing to shore up credibility/accountability

Epps 13 (Garrett is a former reporter for The Washington Post, is a novelist and legal scholar. He teaches courses in constitutional law and creative writing for law students at the University of Baltimore “Why a Secret Court Won't Solve the Drone-Strike Problem,” http://www.theatlantic.com/politics/archive/2013/02/why-a-secret-court-wont-solve-the-drone-strike-problem/273246/)

Finally, some scholars have suggested that the Congress create a new "cause of action"--a right to sue in an ordinary federal court on a claim that the government improperly unleashed drones on a deceased relative. The survivors of the late Anwar al-Awlaki tried such a suit, and the Obama administration has so far insisted that it concerns "political questions," not fitted for judicial proceedings. Congress could pass a statute specifically granting a right to sue in a federal district court. Without careful design, that would actually not make things any better. The survivors will file their complaint; the administration will claim state secrets and refuse to provide information. A court might reject the secrets claim and order the government to produce discovery. The administration would probably refuse to comply. The court's recourse would be to order judgment for the plaintiffs. The dead person's family would get some money, but we'd be no closer to accountability for the drone-strike decision.

#### People have no means to sue; they cant travel across the world

Radsan and Murphy, Ph.Ds in Law 11 (Afsheen J., Professor of Law, William Mitchell College of Law, Richard, AT&T Professor of Law, Texas Tech University School of Law “MEASURE TWICE, SHOOT ONCE: HIGHER CARE FOR CIA TARGETED KILLING” University of Illinois Law Review, Vol. 2011, No. 4, Accessed @ SSRN)

Determining an appropriate scope of review still leaves open who should conduct that review of CIA drone strikes. The Israelis rely on a mix of executive and judicial actors. In the United States, federal judges have great independence because of lifetime tenure and protections of their salaries. They are obvious candidates. But using federal courts to review CIA targeted killing raises a host of problems. Few judges are military and intelligence experts, and the transparency of civilian courts goes against the secrecy necessary for some military and intelligence operations. As a compromise, one might try a national security court to keep intelligence sources and methods from unauthorized disclosure.179 But, putting aside academic debates, Congress does not seem interested in a new court. Another problem with regular courts is the “standing” requirement of a plaintiff who is ready and able to bring suit. The targets of attacks, even if they survive, are unlikely to travel from Afghanistan or Pakistan to file suit, and it is not clear who else could be a proper plaintiff. 180

### AT: Yemen

#### Drones undercut AQAP leadership and Yemen supports the strikes – outweighs 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.

#### Instability won’t spread

**Kucera, Eurasianet contributor, 2013**

(Joshua, “Decoding the Central Asian 'spillover'”, 8-15, <http://www.aljazeera.com/indepth/opinion/2013/08/201381115655712580.html>, ldg)

And yet, the fear of post-2014 "spillover" is based on little evidence. The most prominent terror group in Central Asia, the Islamic Movement of Uzbekistan, is now based in the Pakistan-Afghanistan borderlands and seems to have moved on entirely from its namesake. Scholars who study the group say that while it has kept the name, it now expresses no interest in Central Asia. And even when Central Asian Islamists were at their most active, they never posed a serious threat to the governments of the region. Nearly a century of Soviet-driven modernisation made the vast majority of Central Asians into secular citizens with little taste for Taliban-style conservatism. Additionally, there will likely be little from Afghanistan to spill over: while the details are still being worked out, the US and NATO will still maintain a substantial presence in Afghanistan after 2014, at least enough to keep a lid on any serious instability. And even during their heyday, the Taliban were concentrated in southern Afghanistan and had little to do with their northern neighbours. Yet, the narrative of "spillover" survives because it serves every powerful constituency involved in Central Asia. For Central Asia's dictatorial governments, it both attracts aid from foreign partners and allows them to tar any opposition in their countries, including legitimate political dissent, as dangerous and destabilising. Scholar Sebastien Peyrouse notes how "Central Asian governments... secure outside support by emphasising the risk of terrorism and presenting themselves as victims, weakened by 'spillover' from Afghanistan. This diverts attention from their own responsibility for the drug trade and legitimises the repression of local Islamist movements by fusing notions of political opposition, Islamist extremism, and the drug trade." For the Kremlin, "spillover" provides a justification for re-establishing influence in their former Soviet satellites. And for the US State Department and military officials dealing with Central Asia it provides a pretext for maintaining involvement in the region in the face of US government budget crunch. Most notably, the US has substantially increased military and other security assistance to Kyrgyzstan, Tajikistan and Uzbekistan over the last several years, despite the fact security forces there are corrupt and used more commonly against political opponents than against real threats. And it's used the spillover narrative to justify the aid. In the case of Uzbekistan, for example, cooperation with the US has "raised their profile with international terrorist organisations, who may want to target Uzbekistan in retribution. So, it is very much in our interest to help Uzbekistan defend itself against such attacks," said Robert Blake , the State Department's top diplomat for Central Asia. As it leaves Afghanistan, the US has promised to leave some of its military equipment behind in Central Asia to help these governments protect themselves. And recently, CENTCOM revealed that it is planning to increase intelligence sharing with its partners in its area of responsibility, including in Central Asia. This, despite the fact that as regional military expert Roger McDermott pointed out in a recent piece in Jane's Intelligence Review , Central Asian intelligence services "primarily look after the interests of the ruling regime... spying on the domestic political opposition, or on the activities of groups or individuals promoting human rights". CENTCOM, however, cites spillover as a justification for its military engagement in the region. Lloyd Austin, CENTCOM's new commander, said in his confirmation hearing earlier this year that "there are several violent extremist organizations (VEOs), to include Al Qaeda and other Afghanistan - or Pakistan-based groups such as the Islamic Movement of Uzbekistan that have expressed interest or intent to operate from and within Central Asia." As Moscow doesn't even pretend to have qualms about arming dictatorships, the Kremlin's policy is even more cycnical. Through its new post-Soviet security alliance the Collective Security Treaty Organization (CSTO), Russia has promised more than $1bn in military assistance to Kyrgyzstan and $200m to Tajikistan. The CSTO also has taken on missions in Central Asia like monitoring the Internet and preventing anti-government demonstrations. And it's justified its moves by invoking the specter of spillover. "The forthcoming withdrawal of the International Security Assistance Force will only make the situation worse: radical regional and nationalists will intensify their activities in [CSTO] member states," said Nikolai Bordyuzha , the CSTO's secretary-general and formerly a top KGB official in Russia. "The Afghan factor is still responsible for a wide range of [security] threats in the Eurasian region. This country is where drug trafficking routes originate, from its territory armed groups and illegal migrants cross into neighbouring states and fundamentalist ideology is being exported." The United States rarely talks about its military ties to Central Asia, preferring instead to promote its "New Silk Road Initiative" as its overarching strategy for Central Asia post-2014. And the talking points for that programme try a little rhetorical jiu-jitsu, emphasising "positive spillover" from regional trade. But whatever the merits of the strategy (and there aren't many ), it's clear the officials who tout it aren't actually dedicated to the idea: US officials emphasise that they don't intend to fund the initiative, just provide coordination. (Though, as the example of the bridge shows, lack of funding may be a virtue.) Meanwhile, security assistance has steadily grown , both in real terms and as a proportion of total US aid to Central Asia: from around 5 percent throughout the 1990s to more than 30 percent every year since 2007. The true motivation behind this funding is at least as much a desire to buy access for transit routes as it is a genuine response to the "spillover" threat. But the latter provides public cover for a policy that would otherwise be hard to sell.

## 2nc

## T

### Interp

#### 2. The producers are completely different-this distinction matters

**Anderson, Washington College of law professor, 2013**

(Kenneth, “The Case for Drones”, 5-24, http://dyn.realclearpolitics.com/printpage/?url=http://www.realclearpolitics.com/articles/2013/05/24/the\_case\_for\_drones\_118548-full.html accessed 9-13-13, CMM)

Are drone technology and targeted killing really so strategically valuable? The answer depends in great part not on drone technology, but on the quality of the intelligence that leads to a particular target in the first place. The drone strike is the final kinetic act in a process of intelligence-gathering and analysis. The success—and it is remarkable success—of the CIA in disrupting al-Qaeda in Pakistan has come about not because of drones alone, but because the CIA managed to establish, over years of effort, its own ground-level, human-intelligence networks that have allowed it to identify targets independent of information fed to it by Pakistan’s intelligence services. The quality of drone-targeted killing depends fundamentally on that intelligence, for a drone is not much use unless pointed toward surveillance of a particular village, area, or person. It can be used for a different kind of targeting altogether: against groups of fighters with their weapons on trucks headed toward the Afghan border. But these so-called signature strikes are not, as sometimes represented, a relaxed form of targeted killing in which groups are crudely blown up because nothing is known about individual members. Intelligence assessments are made, including behavioral signatures such as organized groups of men carrying weapons, suggesting strongly that they are “hostile forces” (in the legal meaning of that term in the U.S. military’s Standing Rules of Engagement). That is the norm in conventional war. Targeted killing of high-value terrorist targets, by contrast, is the end result of a long, independent intelligence process. What the drone adds to that intelligence might be considerable, through its surveillance capabilities—but much of the drone’s contribution will be tactical, providing intelligence that assists in the planning and execution of the strike itself, in order to pick the moment when there might be the fewest civilian casualties.

#### 3. The government also draws a distinction between the two

**Zenko, CFR Douglas Dillon Fellow, 2012**

(Micah, “Targeted Killings and Signature Strikes”, 7-16, <http://blogs.cfr.org/zenko/2012/07/16/targeted-killings-and-signature-strikes/>, ldg)

Although signature strikes have been known as a U.S. counterterrorism tactic for over four years, no administration official has acknowledged or defended them on-the-record. Instead, officials emphasize that targeted killings with drones (the official term is “targeted strikes”) are only carried out against specific individuals, which are usually lumped with terms like “senior” and “al-Qaeda.” Harold Koh: “The United States has the authority under international law, and the responsibility to its citizens, to use force, including lethal force, to defend itself, including by targeting persons such as high-level al-Qaeda leaders who are planning attacks.” John Brennan: “This Administration’s counterterrorism efforts outside of Afghanistan and Iraq are focused on those individuals who are a threat to the United States.” Jeh Johnson: “In an armed conflict, lethal force against known, individual members of the enemy is a long-standing and long-legal practice.” Eric Holder: “Target specific senior operational leaders of al Qaeda and associated forces.” In April, Brennan was asked, “If you could address the issue of signature strikes, which I guess aren’t necessarily targeted against specific individuals?” He replied: “You make reference to signature strikes that are frequently reported in the press. I was speaking here specifically about targeted strikes against individuals who are involved.” Shortly thereafter, when the White House spokesperson was asked about drone strikes, he simply stated: “I am not going to get into the specifics of the process by which these decisions are made.”

#### 4. Historical analysis proves

**Radsan, William Mitchell College of law professor, 2012**

(Afsheen, “The Evolution of Law and Policy for CIA Targeted Killing”, Journal of National Security Law & Policy, Vol. 5, SSRN)

Some of the concerns about a CIA drone campaign relate to the personalized nature of targeted killing. All attacks in an armed conflict must, as a matter of basic law and common sense, be targeted. To attack something, whether by shooting a gun at a person or dropping a bomb on a building, is to target it. “Targeted killing,” however, refers to a premeditated attack on a specific person. President Franklin D. Roosevelt, for instance, ordered Admiral Yamamoto killed not because he was any Japanese sailor, but because he was the author of “tora, tora, tora” on Pearl Harbor. President Obama, more recently, ordered Osama bin Laden killed not because the Saudi was any member of al Qaeda, but because he was the author of 9/11 who continued to command the terrorist organization. Targeted killing is psychologically disturbing because it is individualized. It is easier for a U.S. operator to kill a faceless soldier in a uniform than someone whom the operator has been tracking with photographs, videos, voice samples, and biographical information in an intelligence file.

### No S

#### Signature strikes are far worse for all of their impacts---this turns the case on a grand scale

**Dunn et al., Birmingham International politics reader, 2013**

(David, “Drone Use in Counter-Insurgency and Counter-Terrorism: Policy or Policy Component?”, March, <http://www.rusi.org/downloads/assets/Hitting_the_Target.pdf>, ldg)

Yet an important distinction needs to be drawn here between acting on operational intelligence that corroborates existing intelligence and confirms the presence of a specific pre-determined target and its elimination – so-called ‘targeted strikes’ (or less euphemistically, ‘targeted killings’) – and acting on an algorithmic analysis of operational intelligence alone, determining on the spot whether a development on the ground suggests terrorist activity or association and thus fulfils certain (albeit, to date, publicly not disclosed) criteria for triggering an armed response by the remote pilot of a drone – so-called ‘signature strikes’.6 Targeted strikes rely on corroborating pre-existing intelligence: they serve the particular purpose of eliminating specific individuals that are deemed crucial to enemy capabilities and are meant to diminish opponents’ operational, tactical and strategic capabilities, primarily by killing mid- and top-level leadership cadres. To the extent that evidence is available, it suggests that targeted strikes are highly effective in achieving these objectives, while simultaneously generating relatively little blowback, precisely because they target individual (terrorist) leaders and cause few, if any, civilian casualties. This explains, to a significant degree, why the blowback effect in Yemen – where the overwhelming majority of drone strikes have been targeted strikes – has been less pronounced than in Pakistan and Afghanistan.7 Signature strikes, in contrast, can still be effective in diminishing operational, tactical and strategic enemy capabilities, but they do so to a certain degree by chance and also have a much higher probability of causing civilian casualties. Using drones for signature strikes decreases the dependence on pre-existing intelligence about particular leaders and their movements and more fully utilises their potential to carry out effective surveillance and respond to the conclusions drawn from it immediately. Signature strikes have been the predominant approach to drone usage in Pakistan and Afghanistan.8 Such strikes have had the effect of decimating the rank and file of the Taliban and their associates – but they have also caused large numbers of civilian casualties and, at a minimum, weakened the respective host governments’ legitimacy and forced them to condemn publicly, and in no uncertain terms, the infringement of their states’ sovereignty by the US. In turn, this has strained already difficult relations between countries which have more common than divergent interests when it comes to regional stability and the fight against international terrorist networks. That signature strikes have a high probability of going wrong and that such failures prove extremely counterproductive is also illustrated by a widely reported case from Yemen, in which twelve civilians were killed in the proximity of a car identified as belonging to an Al-Qa’ida member.9 The kind of persistent and intimidating presence of a drone policy geared towards signature strikes, and the obvious risks and consequences involved in repeatedly making wrong decisions, are both counterproductive in themselves and corrosive of efforts that seek to undercut the local support enjoyed by insurgent and terrorist networks, as well as the mutual assistance that they can offer each other. Put differently, signature strikes, in contrast to targeted killings, do anything but help to disentangle the links between insurgents and terrorists. Counter-insurgency as a strategy works best by providing security on the ground (deploying soldiers amongst the community that they are intended to protect) and establishing and sustaining a sufficiently effective local footprint of the state and its institutions providing public goods and services beyond just security (water, food, sanitation, healthcare, education and so forth). This strategy is often encapsulated in the formula ‘clear, hold, build’,10 and it needs to go hand-in-hand with pursuing a viable political settlement that addresses what are the, in many cases, legitimate concerns of those fighting, and supporting, an insurgency. By living among the communities they seek to secure, soldiers can win their trust, stem support for the insurgents, and understand who their enemies are, what their demands and objectives are, and how best to single out those who represent an irreconcilable threat to the community. In other words, in a context in which the objective is to protect innocent civilians, win over reconcilable insurgents and their supporters, and eliminate those who are irreconcilable, drones can deliver specific contributions to an overall counter-insurgency policy. Yet this can only happen if drones target individuals for a reason, rather than being used, and perceived, as a blanket approach against an entire community.

### VI

#### 1. Limits-the AFF doesn’t get to mess with anything a drone can do. Targeted killing is the specific instance of an individuated attack order based off corroborated intelligence. Signature strikes by drones is a conventional operation. They justify restricting any instance of the government killing someone regardless of the circumstances.

#### They can ban peacetime assassinations, certain enemy combatants and random criminals

**Silva, University of Montreal Master’s candidate, 2003**

(Sébastian Jose, “Death for life : a study of targeted killing by States in international law,” https://papyrus.bib.umontreal.ca/xmlui/bitstream/handle/1866/2372/11474222.PDF;jsessionid=4D1530E8E8F2DEE3B4C68BA4B7997F3B?sequence=1)

As defined by Steven R. David, targeted killing is the "intentional slaying of a specific individual or group of individuals undertaken with explicit governmental approval.,,25 Though concise, the problem with this definition is that it fails to specify the intended targets and ignores the context in which they are carried out. By failing to define targeted killings as measures of counter-terrorism, killings of all types may indiscriminately fall under its mantle with devastating consequences. As such, the killing of political leaders in peacetime, which amounts to assassination, can fall within its scope. The same can be said about the killing of specific enemy combatants in armed conflict, which amounts to targeted military strikes, and the intentional slaying of common criminals, dissidents, or opposition leaders. Actions carried-out by governments within their jurisdictions can also be interpreted as targeted killings. Although the killing of terrorists abroad may constitute lawful and proportionate self-defense in response to armed attacks, the use of such measures by states for an unspecified number of reasons renders shady their very suggestion. David's definition is essentially correct but over-inclusive.

#### Limits DA proves they are not reasonably

#### CI is better, race to the top to find the best definition, reasonability is subjective

## TK DA

### link

#### Chilling---Plan leads to broad ex-post legal assault on US officials—destroys intelligence and counterterrorism

**Stimson, National Review, 2011**

(Charles, “the Padilla Decision”, 2-17, [www.nationalreview.com/node/260004/print](http://www.nationalreview.com/node/260004/print), ldg)

Judge Richard Gergel, an Obama appointee, rejected Padilla’s invitation to place national-security officials in legal peril whenever they act against individuals who are threatening Americans. The decision to designate Padilla as an enemy combatant, the judge explained, “was made in light of the most profound and sensitive issues of national security, foreign affairs and military affairs.” Therefore, “it is not for this Court, sitting comfortably in a federal courthouse nearly nine years after these events, to assess whether the policy was wise or the intelligence was accurate.” To do so “by necessity entangles the Court in issues reserved for the Executive Branch.” The Court then considered the practical effects of Padilla’s case. Allowed to proceed, it would lead to “a massive discovery assault on the intelligence agencies of the United States Government, to include dozens of subpoenas, numerous requests to produce, 30(b)(6) depositions of document custodians at various intelligence and defense agencies, and lengthy and probing depositions of high ranking government officials with national security clearances and personal knowledge of some of the Nation’s most sensitive information.” Then there would be the “spectacle of high ranking officials being summoned to court to answer the claims of our enemies.”In light of these considerations, the Court declined to intrude on the prerogatives of Congress and the executive branch in prosecuting the War on Terror. Padilla, it held, had simply failed to state a claim that could be recognized under law.

### Broad Key---2nc

#### And, Nuclear terrorism attacks escalate and cause extinction.

**Morgan, Hankuk University of Foreign Studies, 2009**

(Dennis, World on fire: two scenarios of the destruction of human civilization and possible extinction of the human race Futures, Volume 41, Issue 10, December, ldg)

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

#### Bioweapons cause extinction and outweigh nuclear war.

Steinbruner, Senior Fellow & Chair of International Security at the Brookings Institution, 1997 (John, “Biological weapons: a plague upon all houses,” Foreign Policy, December 22)

Nuclear and chemical weapons do not reproduce themselves and do not independently engage in adaptive behavior; pathogens do both of these things. That deceptively simple observation has immense implications. The use of a manufactured weapon is a singular event. Most of the damage occurs immediately. The aftereffects, whatever they may be, decay rapidly over time and distance in a reasonably predictable manner. Even before a nuclear warhead is detonated, for instance, it is possible to estimate the extent of the subsequent damage and the likely level of radioactive fallout. Such predictability is an essential component for tactical military planning. The use of a pathogen, by contrast, is an extended process whose scope and timing cannot be precisely controlled. For most potential biological agents, the predominant drawback is that they would not act swiftly or decisively enough to be an effective weapon. But for a few pathogens - ones most likely to have a decisive effect and therefore the ones most likely to be contemplated for deliberately hostile use - the risk runs in the other direction. A lethal pathogen that could efficiently spread from one victim to another would be capable of initiating an intensifying cascade of disease that might ultimately threaten the entire world population

## Blowback

### Indo/Pak

#### THis is dumb---india won’t auto attack Pakistan---deterrence checks war from happening---both are hesitant because they know there is a risk of nuke war---OR ---mistrust is high enough in the squo to cause the impact---the US needs to focus on Kashmir to solve but they aren’t-takes out the impact-their ev

Juan C Zarate 11, senior adviser at the Center for Strategic and International Studies, visiting lecturer at Harvard University, Feb 20 2011, “An alarming South Asia powder keg,” http://www.washingtonpost.com/wp-dyn/content/article/2011/02/18/AR2011021805662.html

Significant terrorist attacks in India, against Parliament in 2001 and in Mumbai in 2008, brought India and Pakistan to the brink of war. The countries remain deeply distrustful of each other. Another major strike against Indian targets in today's tinderbox environment could lead to a broader, more devastating conflict.¶ The United States should be directing political and diplomatic capital to prevent such a conflagration. The meeting between Indian and Pakistani officials in Bhutan this month - their first high-level sit-down since last summer - set the stage for restarting serious talks on the thorny issue of Kashmir.¶ Washington has only so much time. Indian officials are increasingly dissatisfied with Pakistan's attempts to constrain Lashkar-i-Taiba and remain convinced that Pakistani intelligence supports the group. An Indian intelligence report concluded last year that Pakistan's Inter-Services Intelligence Directorate was involved in the 2008 Mumbai attacks, and late last year the Indian government raised security levels in anticipation of strikes. India is unlikely to show restraint in the event of another attack.¶ Lashkar-i-Taiba may also feel emboldened since the assassination in early January of a moderate Punjabi governor muted Pakistani moderates and underscored the weakness of the government in Islamabad. The group does not want peace talks to resume, so it might act to derail progress. Elements of the group may see conflict with India as in their interest, especially after months of unrest in Kashmir. And the Pakistani government may not be able to control the monster it created.¶ A war in South Asia would be disastrous not just for the United States. In addition to the human devastation, it would destroy efforts to bring stability to the region and to disrupt terrorist havens in western Pakistan. Many of the 140,000 Pakistani troops fighting militants in the west would be redeployed east to battle Indian ground forces. This would effectively convert tribal areas bordering Afghanistan into a playing field for militants. Worse, the Pakistani government might be induced to make common cause with Lashkar-i-Taiba, launching a proxy fight against India. Such a war would also fuel even more destructive violent extremism within Pakistan.¶ In the worst-case scenario, an attack could lead to a nuclear war between India and Pakistan. India's superior conventional forces threaten Pakistan, and Islamabad could resort to nuclear weapons were a serious conflict to erupt. Indeed, The Post reported that Pakistan's nuclear weapons and capabilities are set to surpass those of India.

### Treaty

#### Middle east prolif is stable---lack of Israle first strike on Iran proves settlements can overcome the fear of new arsenals---that’s Kahl

#### Plan doesn’t solve the treaty---Yemes gov has fighter jets

Lars Berger 12, Associate Professor in International Security at the University of Leeds and PhD in Poli Sci from the Friedrich-Schiller University of Jena in Germany, Dr Ahmed Saif, Executive Director of the Sheba Centre for Strategic Studies and Associate Professor of Politics at Sana’a University, Sven-Eric Fikenscher, Research Fellow, International Security Program/Project on Managing the Atom, May 2012, “Yemen and the Middle East Conference,” http://library.fes.de/pdf-files/iez/09607.pdf

Yemen’s ongoing domestic crisis has profound regional and global implica-tions. This is due to the country’s unique combination of a geostrategically sensitive location, the stubborn weakness of state institutions, linkages with transnational terrorism, a prominent role in the regional weapons market, and, crucially, the suspected existence and use of nerve gas. These inter-related challenges might constitute a serious impediment to the short-term success and long-term sustainability of the Middle East Conference (MEC). This gathering on the establishment of a regional zone free of weapons of mass destruction (WMD) and their delivery vehicles (DVs) was mandated by the 2010 Review Conference of the Nuclear Non-Proliferation Treaty (NPT).In this context, Yemen’s ongoing domestic crisis thus requires urgent attention by policy-makers in the region and beyond.¶ The Importance of Yemen in the Context of the Middle East Conference ¶ While in a geographical and political sense Yemen is far from being a central actor in the envisioned MEC, its political future could easily shape the gathering on several levels. First, the Middle East Conference aims at establishing a WMD/DVs Free Zone. On the one hand, Yemen is a party to all three legal documents banning weapons of mass destruction: the Nuclear Non-Proliferation Treaty, the Biological and Toxin Weapons Convention (BTWC), and the Chemical Weapons Convention (CWC).In addition, Sana’a has embraced the Gulf Cooperation Council’s (GCC) call for a Gulf WMD Free Zone, independent of Israeli nuclear policy. On the other hand, when it comes to the problématique of WMD and proliferation, Yemen might store chemical weapons, depending on whether rumors about the use of nerve gas against anti-government protesters in early 2011 turnout to be true. In addition, Yemen imported various WMD-capable aircraft and missiles and probably still operates most of them (see Table No. 1). In the aircraft realm, Yemeni decision-makers from the North, the South, and the unified country alike have mostly received Soviet/Russian fighter jets andbombers.1¶ The current level of instability and the threat of further deterioration could thus spoil any serious arms control effort in Yemen. This is particularly troublesome since the country, given its history and affiliation with the Arab League, will have to be part of far-reaching regional disarmament initiatives. The prospect of an Arab state with an uncon-trolled chemical arsenal is likely to affect Israeli and Iranian calculations with regard to the MEC. Both states are suspicious of the Arab League and tensions between Iran and Saudi Arabia, which is particularly influ-ential in Yemen, have recently worsened. ¶ Second, with a long history as one of the region’s eminent weapons markets, Yemen has the potential to serve as a major gateway for illicit weapons, both conventional and unconventional, entering the Arab peninsula and other parts of the Arab East. If the situation escalates, states with an interest in such technology might, for instance, try to obtain missiles and their spare parts or attempt to gain access to sensitive material from the country’s suspected chemical warheads. This could contribute to the prolif-eration of delivery systems as well as WMD thereby undermining the MEC. In 2011, protesters seized an army base in Sana’a, while Al-Qaeda in the Arab Peninsula (AQAP) has, on a frequent basis, been able to temporarily control several cities and launch deadly assaults on military bases in the southern province of Abyan. Such developments could offer AQAP the chance to use existing dual-use laboratories or even to build their own facilities capable of producing biological and chemical material in remote areas under their control.

#### Middle eastern public feels aliented

Nilsu Goren 13, Turkish PhD candidate at the University of Maryland’s School of Public Policy and graduate fellow at Center for International and Security Studies at Maryland, Aviv Melamud, research associate at the Peace Research Institute Frankfurt, Ibrahim Said, Egyptian Fellow of the United Nations Program on Disarmament, and Ariane Tabatabai, Stanton Nuclear Security Fellow at the Belfer Center and a researcher at the James Martin Center for Nonproliferation Studies, 8 Aug 13, “Anger Management in the Middle East,” http://guests.armscontrolwonk.com/archive/3932/anger-management-in-the-middle-east

The Middle East has provided an arena for different weapons of mass destruction (WMD) programs. Such weapons – nuclear, chemical, biological – are either being developed, acquired, stored, or contemplated throughout this highly-volatile and conflict-prone region. Most notably, there is the nuclear issue (Israel’s opaque nuclear posture and the controversial Iranian nuclear program), but the abundance of chemical and biological weapon programs throughout is arguably just as –according to some, more – dangerous and flammable.¶ This danger is, of course, even more disconcerting considering that the Middle East has provided the stage for several instances of actual use of WMD in the past decades. Chemical weapons have been allegedly employed in the region by Egypt in North Yemen in the 1960s, Saddam Hussein during and after the Iran-Iraq war against Iranian and Kurdish civilians, and allegedly most recently by the Assad Regime in the ongoing civilian conflict in Syria.¶ On top of that, a number of terrorist organizations and fragile states coexist in the region, which makes the presence of WMD particularly worrisome. Preventing the next WMD disaster in the Middle East is obviously an urgent and crucial endeavor. The establishment of a WMD Free Zone in the region would be most fitting to handle the danger, but the initiative has run into difficulties.¶ Despite these challenges, the creation of such a Free Zone in the Middle East is indeed pressing and of vital consequence for the entire region. Yet the majority of Middle Eastern populations are alienated from the debate. Transparency and a public discourse around the topic, as well as a greater understanding of issues of arms control, nonproliferation, and disarmament can therefore play a key role in preventing the next WMD disaster in a region that is already facing multiple security challenges.

### Accountability

#### Suits are groundless, the court will never give damages out

Kent 13 (Andrew Kent teaches at Fordham Law School and is a faculty adviser to Fordham’s Center on National Security, “Just Don’t Ask for Money,” D.A. 11/2/13. http://www.slate.com/articles/news\_and\_politics/jurisprudence/2012/07/anwar\_al\_awlaki\_suit\_courts\_should\_award\_damages\_in\_national\_security\_cases\_.html)

On the merits, this suit is groundless. Its filing mostly reflects how groups like the ACLU, which has vigorously opposed many aspects of the war on terror pursued by Bush and Obama, use the courts to generate publicity and extract information. The problem is that the courts will most likely toss the lawsuit before they even get to the constitutional claims, simply because the suit seeks money damages from federal officials involved in national security. Victims who seek compensation in cases involving national security almost never get it—for reasons that don’t make much sense. First, here’s why there’s no winning constitutional claim: Our founding document does not prevent the U.S. government from killing U.S. citizens when they have joined the enemy in an armed conflict, as Anwar al-Awlaki and Khan did, or when they are located in the same place as enemy fighters and killed as collateral damage, as was Abdulrahman al-Awlaki. If the Constitution meant what the ACLU and CCR say it does, President Lincoln and the Union could never have won the Civil War. Early on, many war critics asserted that because Confederates were U.S. citizens, the U.S. government could not use military force against them—could not treat them as foreign military enemies—but instead had to give them constitutional due process, like the police making an arrest. Luckily for the Union, President Lincoln, supported by allies in Congress and later by the Supreme Court, decided that U.S. citizens engaged in large-scale armed rebellion were not protected by the Constitution. This has been our legal understanding ever since. There were U.S. citizens in the ranks of enemy armies during both World War I and World War II, and no one thought that the U.S. Constitution protected them from being killed. The al-Awlakis and Khan are like them, even though they’re not officially serving in a nation’s army, because hostilities with terrorist groups can rise to the level of war, and the United States considers itself to be in just such an armed conflict with al-Qaida and its affiliates. But none of that’s likely to come into play in court, because the demand for money damages on its own will get the case thrown out. And this is the part we should worry about. Over the last several decades, the Supreme Court has made it harder and harder for people who say they’ve been harmed by the federal government to sue the responsible officials for money. The court has said that damages suits are highly “disfavored” because they deter officials from vigorously performing their duties and pull the courts into the realm of policy-making that the Constitution reserves to Congress and the president. As a result, since 9/11, the lower courts have refused to allow money damages suits for all kinds of excesses, including torture, rendition, extended military detentions, and even the illegal outing of Valerie Plame as a CIA operative. This is all especially odd because even as courts toss suits for requesting compensation, they have allowed other cases to go forward when they seek intrusive court orders directing how the government should carry out national security policy. For example, Guantanamo detainees can seek orders requiring the government to release them. In other cases, advocacy groups, writers, and activists have successfully asked the courts to bar the government from carrying out entire programs, including the FBI’s effort to gather telecommunications subscriber information and the law governing the detention of enemy combatants passed last year. In effect, the federal courts are saying to people who believe they are harmed by government action: If you ask us to bring government operations to a halt, sure, no problem. But if you ask for money to compensate for harms you suffered, no, that is way too intrusive. This is precisely backward. It should be easier to get to court to seek compensation for a wrong at the hands of government officials, and it should be harder to get to court if you’re trying to direct how the government carries out national security policy. For the first century or so of American history, that was how things worked. People wronged by federal officials had a pretty good chance of winning damages, while people who asked the courts to step in and tell the president and Congress what to do were generally rebuffed. That made sense. Now, by contrast, the courts are getting it backward, as the al-Awlaki suit will surely show.

#### Obama will circumvent the plan – the past 5 years prove.

Cohen 12 (Michael, Fellow at the Century Foundation, 3-28-12, “Power Grab,” http://www.foreignpolicy.com/articles/2012/03/28/power\_grab?page=full)

This month marks the one-year anniversary of the onset of U.S. military engagement in the Libyan civil war. While the verdict is still out on the long-term effects of the conflict for U.S. interests in the region, it's closer to home where one can point to the war's greater lasting impact -- namely in further increasing the power of the executive branch to wage war without congressional authorization. But don't expect to hear much about that issue on the campaign trail this election year. Rather the erosion of congressional oversight of the executive branch's war-making responsibilities has been something of a bipartisan endeavor -- and one that is unlikely to end any time soon.¶ It might seem like a bit of ancient history now, but one of the more creative arguments to come out of the U.S. military intervention in Libya was the Obama administration's assertion that the war did not actually represent "hostilities." Indeed, according to the president's argument to Congress, U.S. operations in Libya "do not involve sustained fighting or active exchanges of fire with hostile forces, nor do they involve U.S. ground troops" -- thus making them something less than war. On the surface this appears patently absurd. The United States was flying planes over Libyan air space and dropping bombs. Missiles were being fired from off-shore. An American military officer (Adm. James Stavridis) commanded the NATO effort. There were reports of forward air controllers on the ground spotting targets for U.S. bombers. In all, NATO planes flew more than 26,000 sorties in Libya, nearly 10,000 of which were strike missions. By what possible definition is this not considered "hostilities"?¶ As it turns out the ambiguity over whether the war represented "hostilities" is one codified in U.S. law -- namely the War Powers Resolution (WPR). Under the provisions of the WPR the President was required to notify Congress within 48 hours of the beginning of U.S. military involvement. He then had 60 days to receive authorization from Congress and if he failed to do he would have 30 days to end the fighting. (Of course, if U.S. military actions do not rise to the level of "hostilities," then the president does not have to go through this rigmarole and receive congressional approval.)¶ Now on the surface, such an elastic view of what the word hostilities means is hardly unusual. Indeed, it is rather par for the course in discussions of the War Powers Resolution. In 1975, the Ford administration claimed that "hostilities" only refers to a scenario in which U.S. forces are "actively engaged in exchanges of fire with opposing units." Similar efforts at defining down hostilities were attempted by the Carter, Reagan, and Clinton administrations when they sought to use military force. Still, these generally were in reference to peacekeeping missions like in Lebanon and Bosnia -- not offensive operations like those waged in Libya.¶ In a political vacuum, Obama's stance on "hostilities" in Libya might represent the traditional push and pull of executive-legislative branch disagreements about presidential war-fighting prerogatives.¶ But of course, on this issue we are far from being in a political vacuum. Obama's broadening of executive power comes with the backdrop of the George W. Bush administration's efforts to expand the president's ability to wage war. Indeed, the position taken by the Obama administration bears uncomfortable similarities to the one taken by John Yoo when he served at the Justice Department and argued -- in the wake of 9/11 -- that the Constitution granted the president practically unquestioned executive power to wage war. Yet, even Bush sought congressional approval for military actions in Afghanistan and Iraq; Obama didn't bother to do the same for Libya. In addition, Obama also overruled the opinion of his own Office of Legal Counsel (OLC) on the question of whether the president must abide by the War Powers Resolution in regard to the Libyan intervention. The OLC said he did; the White House assembled legal opinions that said he didn't -- and the latter view won out. As Bruce Ackerman, a law professor at Yale University, noted at the time, "Mr. Obama's decision to disregard that office's opinion [the OLC] and embrace the White House counsel's view is undermining a key legal check on arbitrary presidential power."¶ So at a time when the door has been opened rather wide on unaccountable war-waging by the executive branch -- with minimal legislative checks and balances -- the Obama administration has opened it even further. What is perhaps most surprising is that it is being promulgated by a president who pledged as a candidate to put an end to such practices.¶ As Ackerman said to me, Obama came into office with a golden opportunity to reestablish some modicum of restraint over the actions of the executive branch in the pursuit of national security. Ironically, in a Boston Globe questionnaire in December 2007, Obama specifically rejected the argument that he used, in part, to justify going around Congress on Libya. "The President," wrote candidate Obama, "does not have power under the Constitution to unilaterally authorize a military attack in a situation that does not involve stopping an actual or imminent threat to the nation ... History has shown us time and again, however, that military action is most successful when it is authorized and supported by the Legislative branch."¶ While Obama has hardly gone as far down the road on expanding executive power as Bush did, it is also true that he "consolidated many of the principles of executive power that were first described in the Bush administration," says Ackerman. In effect, "Obama has done nothing to stop the return of another John Yoo." Indeed, with his actions on Libya, Obama has done more than consolidate Bush administration positions -- he has expanded them.¶ These are negative developments, but it gets worse. In the president's initial letter to Congress, the airstrikes in Libya, "will be limited in their nature, duration, and scope. Their purpose is to support an international coalition as it takes all necessary measures to enforce the terms of U.N. Security Council Resolution 1973." The U.N. resolution specifically did not call for regime change and yet in July 2011, Secretary of Defense Leon Panetta made clear that the U.S. "objective" in Libya "is to do what we can to bring down the regime of Qaddafi." Moreover, as Micah Zenko, a fellow at the Council on Foreign Relations, said to me, NATO forces looked the other way at flights by the French government, among others, that re-supplied the Libyan rebels (in violation of the arms embargo mandated under Section 9 of Resolution 1970); sought to kill Qaddafi via airstrikes (eventually indirectly succeeding); helped to plan the operations that allowed the insurgents to capture Tripoli, and provided sensitive and secret satellite imagery to the rebels. In short, the United States went far beyond the mandate established by the Security Council and in effect lied when claiming that the operations in Libya were simply about protecting civilians. Putting aside the international law implications, the administration adopted a position of regime change of a foreign leader without any approval from Congress.¶ What is most surprising about the Obama administration's position is that it likely would not have been a heavy lift to get congressional backing for the operations in Libya in the early stages of the air campaign. But by disregarding Congress's role on Libya -- and shifting the intent of the U.S. mission without any congressional input into the decision -- the president has set a new and potentially troubling precedent. In contrast, by seeking congressional authorization Obama would have, ironically, restored some of the balance between the legislative and executive branch on issues of use of American military force.¶ Running roughshod over Congress has becoming something of a norm within the Obama administration. As one foreign-policy analyst close to the White House said to me "they generally don't do a good job of keeping people in the Hill in the loop on what they are doing. They see congressional oversight as a nuisance -- even within their own party." Another analyst I spoke to had a one-word response to the question of the administration's attitude toward Congress's role in foreign policy: "Dismissive." Whether the lack of proper consultation over the closing of the detainee facility at Guantanamo Bay, the refusal to share with intelligence committees the rationale for targeted killings, or even brief Hill staffers on changes in missile defense deployment, this sort of ignoring of congressional prerogatives has often been the rule, not the exception.¶

#### Nothing works-bureaucracy is too strong

Glennon 14 (Michael, is a Professor of International Law, Fletcher School of Law and Diplomacy, Tufts University. “National Security and Double Government,” http://harvardnsj.org/wp-content/uploads/2014/01/Glennon-Final.pdf)

U.S. national security policy has scarcely changed from the Bush to the Obama Administration. The theory of Walter Bagehot explains why. Bagehot described the emergence in 19th-century Britain of a “disguised republic” consisting of officials who actually exercised governmental power but remained unnoticed by the public, which continued to believe that visible, formal institutions exercised legal authority.601 Dual institutions of governance, one public and the other concealed, were referred to by Bagehot as “double government.”602 A similar process of bifurcated institutional evolution has occurred in the United States, but in reverse: a network has emerged within the federal government that exercises predominant power with respect to national security matters. It has evolved in response to structural incentives rather than invidious intent, and it consists of the several hundred executive officials who manage the military, intelligence, diplomatic, and law enforcement agencies responsible for protecting the nation’s security. These officials are as little disposed to stake out new policies as they are to abandon old ones. They define security more in military and intelligence terms rather than in political or diplomatic ones.

Enough examples exist to persuade the public that the network is subject to judicial, legislative, and executive constraints. This appearance is important to its operation, for the network derives legitimacy from the ostensible authority of the public, constitutional branches of the government. The appearance of accountability is, however, largely an illusion fostered by those institutions’ pedigree, ritual, intelligibility, mystery, and superficial harmony with the network’s ambitions. The courts, Congress, and even the presidency in reality impose little constraint. Judicial review is negligible; congressional oversight dysfunctional; and presidential control nominal. Past efforts to revive these institutions have thus fallen flat. Future reform efforts are no more likely to succeed, relying as they must upon those same institutions to restore power to themselves by exercising the very power that they lack. External constraints—public opinion and the press—are insufficient to check it. Both are manipulable, and their vitality depends heavily upon the vigor of constitutionally established institutions, which would not have withered had those external constraints had real force. Nor is it likely that any such constraints can be restored through governmental efforts to inculcate greater civic virtue, which would ultimately concentrate power even further. Institutional restoration can come only from an energized body politic. The prevailing incentive structure, however, encourages the public to become less, not more, informed and engaged.

Err neg---court has tons of mechanisms to constrain the executive without causing a legal crisis they are exercising now; the plan either makes the executive give the court the finger or scares the court off of exercising them; either one would take out the case

Kent 10/14/13 (Andrew, is a Professor, Fordham Law School; Faculty Advisor, Center on National Security at Fordham Law School, “ARE DAMAGES DIFFERENT?: BIVENS AND NATIONAL SECURITY,” http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2330476)

And finally, the courts seem likely to be aware that, especially in the national security area, there have developed in the last decade an extraordinary range of mechanisms for maintaining the rule of law within the executive branch— everything from independent inspectors general within executive agencies to an aggressive investigative press receiving an ever-growing number of leaks from current and former officials, to the FOIA litigation and public shaming of lawbreaking officials that nonprofit organizations have become adept at. With all of these other accountability mechanisms working more vigorously than ever before, and more vigorously in this area than in many other areas of government operations, a Bivens damages remedy might seem to the courts to be unnecessary and undesirable, especially given the costs of such lawsuits.

#### Courts fail---the appointment process stacks the deck and they have zero enforcement power

Glennon 14 (Michael, is a Professor of International Law, Fletcher School of Law and Diplomacy, Tufts University. “National Security and Double Government,” http://harvardnsj.org/wp-content/uploads/2014/01/Glennon-Final.pdf)

The courts, which Hamilton called the “least dangerous” branch,243 pose the least danger to the silent transfer of power from the nation’s Madisonian institutions to the Trumanite network. Federal judicial appointees are selected, and vetted along the way, by those whose cases they will later hear: the Trumanites and their associates in the White House and Justice Department. Before an individual is named to the federal bench, a careful investigation takes place to ensure that that individual is dependable. What this means, in practice, is that appointees end up as trusted friends of the Trumanites in matters touching upon national security. Presidents do not appoint individuals who are hostile to the Trumanites, nor does the Senate confirm them. The deck is stacked from the start against challenges to Trumanite policies. Judicial nominees often come from the ranks of prosecutors, law enforcement, and national security officials, and they have often participated in the same sorts of activities the lawfulness of which they will later be asked to adjudicate.244 A prominent example was former Chief Justice William Rehnquist.245 Before his 1971 appointment to the Supreme Court by President Richard Nixon, Justice Rehnquist served as Assistant Attorney General for the Office of Legal Counsel (“OLC”) under Attorney General John Mitchell.246 In that capacity, Rehnquist participated directly in military surveillance of domestic political groups, including the preparation of a memorandum for Mitchell in 1969 dealing with the Army’s role in the collection of intelligence on civilians in the United States.247 He also “played a critical role in drafting the 1969 presidential order that established the division of responsibility between the military and the Justice Department for gathering of intelligence concerning during civil disturbances.”248 He testified before the Senate Judiciary Committee’s Subcommittee on Constitutional Rights in March 1971 that there were no serious constitutional problems with respect to collecting data or keeping under surveillance persons who are merely exercising their right of a peaceful assembly or petition to redress a grievance.249 After his confirmation hearings to become Chief Justice, however, he wrote in August 1986 in response to written questions from Senator Mathias that he could not recall participating in the formulation of policy concerning the military surveillance of civilian activities.250 The Senate confirmed his appointment by a vote of sixty-eight to twenty-six on December 10, 1971.251 Shortly thereafter, the Court began considering Laird v. Tatum, 252 a case involving the lawfulness of Army surveillance of civilians who were engaged in political activities critical of the government.253 Justice Rehnquist declined to recuse himself, and the case was decided five to four.254 The result was that the case was not sent back to the trial court to determine, as the Court of Appeals had ordered, the nature and extent of military surveillance of civilian groups.255 Instead, Justice Rehnquist’s vote most likely prevented the discovery of his own prior role and that of his Justice Department colleagues in developing the Nixon Administration’s military surveillance policy.256

### Decap S

#### Aggressive TK policy’s key to stability in Yemen

**Dowd, World Politics Review contributor, 2013**

(Alan, “Drone Wars: Risks and Warnings”, Parameters, 42.4/43.1, ebsco)

At the beginning of President Hadi’s May offensive he, therefore, had a fractured army and a dysfunctional air force. Army leaders from competing factions were often disinclined to support one another in any way including facilitating the movement of needed supplies. Conversely, the air force labor strike had been a major setback to the efficiency of the organization, which was only beginning to operate as normal in May 2012. Even before the mutiny, the Yemen Air Force had only limited capabilities to conduct ongoing combat operations, and it did not have much experience providing close air support to advancing troops. Hadi attempted to make up for the deficiencies of his attacking force by obtaining aid from Saudi Arabia to hire a number of tribal militia fighters to support the regular military. These types of fighters have been effective in previous examples of Yemeni combat, but they could also melt away in the face of military setbacks. Adding to his problems, President Hadi had only recently taken office after a long and painful set of international and domestic negotiations to end the 33-year rule of President Saleh. If the Yemeni military was allowed to be defeated in the confrontation with AQAP, that outcome could have led to the collapse of the Yemeni reform government and the emergence of anarchy throughout the country. Under these circumstances, Hadi needed every military edge that he could obtain, and drones would have been a valuable asset to aid his forces as they moved into combat. As planning for the campaign moved forward, it was clear that AQAP was not going to be driven from its southern strongholds easily. The fighting against AQAP forces was expected to be intense, and Yemeni officers indicated that they respected the fighting ability of their enemies.16 Shortly before the ground offensive, drones were widely reported in the US and international media as helping to enable the Yemeni government victory which eventually resulted from this campaign.17 Such support would have included providing intelligence to combatant forces and eliminating key leaders and groups of individuals prior to and then during the battles for southern towns and cities. In one particularly important incident, Fahd al Qusa, who may have been functioning as an AQAP field commander, was killed by a missile when he stepped out of his vehicle to consult with another AQAP leader in southern Shabwa province.18 It is also likely that drones were used against AQAP fighters preparing to ambush or attack government forces in the offensive.19 Consequently, drone warfare appears to have played a significant role in winning the campaign, which ended when the last AQAP-controlled towns were recaptured in June, revealing a shocking story of the abuse of the population while it was under occupation.20 Later, on October 11, 2012, US Secretary of Defense Leon Panetta noted that drones played a “vital role” in government victories over AQAP in Yemen, although he did not offer specifics.21 AQAP, for its part, remained a serious threat and conducted a number of deadly actions against the government, although it no longer ruled any urban centers in the south.

### SQ S

#### Won’t spillover---domino theory wrong, their narrative is just used to justify military presence—that’s Korea

#### Makes stability impossible

Kuwait News Agency 2-4 (No stability in Yemen if half population continues to starve - UN Official, 2014, http://www.kuna.net.kw/ArticleDetails.aspx?id=2359415&language=en)

The UN cautioned Tuesday that "no stability" can be achieved in Yemen if half of its people wake up hungry every morning and are living below the poverty line. At the daily press briefing, UN Spokesman Martin Nesirky quoted Ismail Ould Cheikh Ahmed, the UN Humanitarian Coordinator for Yemen, as saying that more than half of the people of Yemen need "some kind of humanitarian assistance,". He stated that some 13 million Yemenis out of approximately 25 million do not have access to safe drinking water. He noted that Yemen has the second-highest rate of chronic malnutrition in the world after Afghanistan, adding that the USD 592 million humanitarian appeal for 2014 is under-funded, and funds from donors are urgently needed.

## Norms

### Norms Turn---Impact Calc---2nc

#### Rouge states multiply and cause extinction---nuclear and economic deterrence prevent great power wars from escalating---nuclear use only escalates with authoritiarian states that don’t institutional checks on first use---that’s Johnson.

#### Only drone wars that escalate are with inhumane robots---those only develop if we lag behind in drone power

Herman and Yoo 13 (Mr. Herman, a Pulitzer Prize finalist and former visiting scholar at the American Enterprise Institute, is the author, most recently, of The Cave and the Light: Plato Versus Aristotle, and the Struggle for the Soul of Western Civilization. Mr. Yoo is the Emanuel S. Heller Professor of Law at the University of California at Berkeley and a scholar at the American Enterprise Institute, “The Drone Wars,” National Review https://www.nationalreview.com/nrd/articles/364966/drone-wars/page/0/1)

On the other hand, a truly inhumane robot weapon—one designed to cause the most collateral damage and whose devastating psychological impact on a civilian population is enhanced by remote automatic detonation—is precisely what our military is least likely to create but a rogue nation or terrorist group is most likely to want and develop. Protection from that kind of attack can come only through a superior knowledge of drone technologies—from knowing how to detect and shoot them down to having the ability to hack and electronically jam them. It wasn’t treaties or agreements that protected Britain from Hitler’s luftwaffe in 1940, it was the Spitfire fighter—and something similar will be true in the brave new world of UAvs.

### Norms Turn---link---2nc

Herman and Yoo 13 (Mr. Herman, a Pulitzer Prize finalist and former visiting scholar at the American Enterprise Institute, is the author, most recently, of The Cave and the Light: Plato Versus Aristotle, and the Struggle for the Soul of Western Civilization. Mr. Yoo is the Emanuel S. Heller Professor of Law at the University of California at Berkeley and a scholar at the American Enterprise Institute, “The Drone Wars,” National Review https://www.nationalreview.com/nrd/articles/364966/drone-wars/page/0/1)

National leaders and international lawyers have often responded to innovations in the field of arms with efforts at regulation. Most of these efforts have simply failed. Take, for example, the emergence of air power. After the Wright brothers launched the first airplane at Kitty Hawk, nations began to develop rudimentary military aircraft. The Wright brothers themselves established what eventually became known as the Curtiss-Wright Company, which produced the World War II P-40 fighter, among other aircraft. Air power’s first real test came in the Great War, when Allied and German planes not only undertook reconnaissance missions but dropped the first aerial bombs and fought one another in the skies. Some international lawyers argued at the time that air strikes against ground targets were illegal because the pilots fought at a distance without putting themselves at personal risk (an early version of one of the current arguments against drones). But the nations at war kept pressing for the development of weapons in the air, and restraints on the destructiveness of aircraft came from new antiaircraft weapons and fighter planes.

International lawyers next argued that air attacks must not target population centers, but the Spanish Civil War and then the German, British, and American bombing runs on European and Japanese cities displayed the futility of attempting to outlaw such strikes. Inter - national treaties on the laws of war today prohibit directly targeting civilians, but the United States and its allies will continue to launch attacks on military targets that cause civilian collateral damage and even hit non-military targets (such as office buildings and electrical plants) that support a regime.

A similar story played out with submarines. In World War I, submarines gave the German Empire a new weapon with which to combat the Allied blockade and to enforce a blockade of its own. The Allies sought to neutralize this innovation by claiming that international law required submarines to surface and provide civilians a chance to escape before sinking their vessels. Submarines, however, were not defeated by international law, but by the convoy strategy and new methods for detecting and attacking undersea craft. And once the Allies had developed their own submarines, they showed no commitment to their claims about international law. When World War II came, the United States Navy used submarines to great effect, virtually wiping out Japan’s merchant marine and handicapping its navy. Advances in technology, rather than treaties, have limited the scope of submarine warfare.

### AT: ASD Bad

Ariel Colonomos 13, Director of Research at the French National Centre for Scientific Research, Ph.D. in political science from the Institut d'Etudes Politiques de Paris, “The Gamble of War: Is it Possible to Justify Preventive War?” p 72-75, google books

John Yoo holds that the American interventions in Afghanistan or Iraq fulfilled the criteria of necessity and proportionality. To support this argument (which was contested on the invasion of Iraq), he contends that technological change has a direct impact on the calculation of proportionality and the definition of what constitutes an emergency. The proliferation of WMDs, the networking potential of the United States’ enemies, involving also transnational movements, required the adoption of an anticipatory mode of use of force. This is a disturbing line of reasoning. On the one hand—and this is the case with many of the propositions advanced by these intellectuals—it sweeps away the contemporary model of international law, which is based on a cautious (though, it should also be said, ambiguous and hence fragile) interpretation of self-defense. On the other hand, the transition from the empirical to the normative is very abrupt here, with the argument that law depends on the “reality” specific to a particular moment of history. Insofar as WMDs are actually within the reach of a large number of the United States’ enemies today (the USSR and China are no longer the only threats), the world would, in this view, be constantly on tenterhooks at the possibility of a series of preventive wars. These would be triggered by provocations or hasty, contradictory declarations on the part of movements whose strategy is, at times, to draw Westerners—and particularly the American global policeman—into endless wars. This greatly increases instability. During the Cold War, the triggering of a nuclear clash depended on interactions between a limited number of states. Today, nuclear weapons—previously regarded by some as a factor of stability, particularly because of the supposed rationality of those who possessed them—have become grounds for war. More generally there is the whole question of WMDs. The players involved are more numerous, and there is great distrust, both on account of the lack of rationality attributed by the United States to its new enemies and of their greater number and dispersal.

#### Preventive norms are locked in and the AFF doesn’t change it

**Fisk et al., Claremont political science PhD, 2013**

(Kerstin, “Actions Speak Louder Than Words: Preventive Self-Defense as a Cascading Norm”, 4-15, International Studies Perspectives, Wiley, ldg)

Preventive self-defense entails waging a war or an attack by choice, in order to prevent a suspected enemy from changing the status quo in an unfavorable direction. Prevention is acting in anticipation of a suspected latent threat that might fully emerge someday. One might rightfully point out that preventive strikes are nothing new—the Iraq War is simply a more recent example in a long history of the preventive use of force. The strategic theorist Colin Gray (2007:27), for example, argues that “far from being a rare and awful crime against an historical norm, preventive war is, and has always been, so common, that its occurrence seems remarkable only to those who do not know their history.” Prevention may be common throughout history, but this does not change the fact that it became increasingly difficult to justify after World War II, as the international community developed a core set of normative principles to guide state behavior, including war as a last resort. The threshold for war was set high, imposing a stringent standard for states acting in self-defense. Gray concedes that there has been a “slow and erratic, but nevertheless genuine, growth of a global norm that regards the resort to war as an extraordinary and even desperate measure” and that the Iraq war set a “dangerous precedent” (44). Although our cases do not provide a definitive answer for whether a preventive self-defense norm is diffusing, they do provide some initial evidence that states are re-orienting their military and strategic doctrines toward offense. In addition, these states have all either acquired or developed unmanned aerial vehicles for the purposes of reconnaissance, surveillance, and/or precision targeting. Thus, the results of our plausibility probe provide some evidence that the global norm regarding the use of force as a last resort is waning, and that a preventive self-defense norm is emerging and cascading following the example set by the United States. At the same time, there is variation among our cases in the extent to which they apply the strategy of self-defense. China, for example, has limited their adaption of this strategy to targeted killings, while Russia has declared their strategy to include the possibility of a preventive nuclear war. Yet, the preventive self-defense strategy is not just for powerful actors. Lesser powers may choose to adopt it as well, though perhaps only implementing the strategy against actors with equal or lesser power. Research in this vein would compliment our analyses herein. With the proliferation of technology in a globalized world, it seems only a matter of time before countries that do not have drone technology are in the minority. While preventive self-defense strategies and drones are not inherently linked, current rhetoric and practice do tie them together. Though it is likely far into the future, it is all the more important to consider the final stage of norm evolution—internalization—for this particular norm. While scholars tend to think of norms as “good,” this one is not so clear-cut. If the preventive self-defense norm is taken for granted, integrated into practice without further consideration, it inherently changes the functioning of international relations. And unmanned aerial vehicles, by reducing the costs of war, make claims of preventive self-defense more palatable to the public. Yet a global norm of preventive self-defense is likely to be destabilizing, leading to more war in the international system, not less. It clearly violates notions of just war principles—jus ad bellum. The United States has set a dangerous precedent, and by continuing its preventive strike policy it continues to provide other states with the justification to do the same.

#### No one follows norms for norms sake-question of domestic salience which the plan doesn’t effect

**Walter et al., London School of Economics and Political Science, 2011**

(Andrew, “Global norms and major state behaviour: The cases of China and the United States”, European Journal of International Relations, 19.2, SAGE, ldg)

However, as we have shown, global norms are not sufficient causes of behavioural outcomes for major countries — rather, in matters of high domestic social and political salience, it is the degree of fit between such norms and dominant domestic norms that is crucial. Although global norms are thus often not fully constraining for major states, they nevertheless often try to justify their behaviour — not least to domestic audiences — by appealing to global norms. When they diverge from these norms, they often cast doubt on the legitimacy of global normative frameworks. Global norms thus remain an inescapable and important part of the decision-making environment of governments. This is partly because domestic salience is always a matter of degree rather than a simple binary condition, and because salience can be increased by political action and sometimes by events outside the control of actors. Even for powerful states such as China and the United States, norms often serve as benchmarks or as framing devices around which domestic and international debate, interactions and negotiations revolve. States can and do use norms strategically and for purposes for which they were not directly designed — for example, to enhance social status and international image or to rebuke the behaviour of others and to cast doubt on the legitimacy of their words or deeds. But they are much more than tactically useful weapons for political elites. The fact that states see value in using norms for ostensibly unintended purposes suggests that they have vital social significance in the global system and in domestic politics. Nor are attempts to justify departures from or reinterpretations of global norms necessarily successful, even for the most powerful states. For example, US attempts to reinterpret norms in areas like climate change and the use of force during the George W. Bush administration failed because other actors — both international and domestic — defended prevailing interpretations. Even after the Bush administration took the United States out of the Kyoto process it felt compelled to create in its stead the Major Economies Forum. In China’s case, norms have been important signalling tools as it has tried to give content to its desire to be seen as a responsible great power engaged in a peaceful rise and vital domestic reform. This has sometimes persuaded Beijing to accept a greater degree of behavioural consistency than dictated by strategic arguments alone. Thus, the Non-Aligned Movement, in stressing its support for activities that diminished the significance of nuclear weapons in state strategies, helped persuade the Chinese government to sign the CTBT even at some perceived strategic cost to itself (Johnston, 2008: 99–117). Our argument also demonstrates that the enforcement mechanisms attached to most global normative frameworks are not the key to understanding the sources of behaviour that produce global order. Indeed, attempts at enhancing enforcement can sometimes exacerbate concerns about the procedural illegitimacy of global frameworks, discouraging behavioural consistency, as China’s position in the debate over the 2007 Decision on Bilateral Surveillance within the IMF shows. Equally, the question of which among major powers is a norm-maker and which a norm-taker is less important than might be assumed. For China, the question of resonance with domestic norms and priorities has been much more important in determining its willingness to abide by global norms. China’s tolerance of norms, rules and standards produced by global economic institutions in which its influence has been negligible has in fact been remarkable. As for the United States, though often a norm-maker, it has not been willing consistently to abide by rules that it played a central role in establishing, Article 2 (4) of the UN Charter and the NPT regime being two examples. Although it is beyond the scope of this article to develop in depth the implications of our argument for the future of global order, it is clear that both the United States and China create particular challenges for the maintenance and enhancement of global order. Many still look to the United States for leadership despite the travails of recent years, but its preponderance and deep confidence in its own domestic values (albeit somewhat diminished since 2008) have often made it inattentive to the sources of global legitimacy. Many global institutions and outcomes are still associated by others with American dominance, and US reluctance to recognize the validity of competing values has limited the global legitimacy of US initiatives even when these took a strongly solidarist form. The Obama administration has seemed to understand this problem, but domestic society and politics still place substantial limits on its ability to address it. China’s generally rising levels of behavioural consistency within the contemporary global order have been driven by a reasonably strong association between domestic values and global norms. Reformers in the Chinese leadership have found ways of aligning and promoting their objectives via existing global order norms, with some important exceptions such as civil and political rights, and democratic forms of domestic governance. This strategy has been extraordinarily successful, but its effects on global order are ambiguous and sometimes damaging. The multiple imbalances in China’s growth model are recognized by the Beijing leadership, but its political stability concerns hamper the promotion of effective solutions to them. Moreover, Beijing has often defined its contributions to global order in relatively parochial ways and has shown a preference for conservative incrementalism in order to test out the implications of normative creation and evolution for its own domestically rooted concerns. It has not yet readily embraced a leadership role in relation to global order problems out of fear that others would demand too much. Finally, our argument also implies that the nature of contemporary globalization is not necessarily positive for the maintenance, let alone the further deepening, of global order frameworks along the lines of Ikenberry’s (2009) ‘Liberal internationalism 3.0’. First, globalization has often increased the domestic social and political salience of global order frameworks but, contrary to the hopes of optimists, it has not ensured good fit between dominant domestic and global norms. Second, globalization has also confronted established norms, rules and institutions with demands from a variety of new actors and has sometimes sharpened their perception of pervasive procedural and distributive illegitimacy in global governance. Related to this, globalization has also gradually reshaped the global power hierarchy and has greatly raised the importance of the bilateral China–US relationship. Both countries have increasingly assessed the merits of behavioural convergence with a range of global norms in relation to the potential impact this has on their own relative standing as well as on the overall hierarchy of global power. This development, in combination with the prominent focus given in these two states to the domestic consequences of global order frameworks, foreshadows a further erosion of solidarism in favour of behavioural forms that privilege the specific and diffuse instrumental benefits of ad hoc cooperation. If so, this could impoverish and endanger global society and seriously constrain resolution of the collective challenges that confront us all.

### No model

#### Norms fail---if countries really need to use drones they will regardless of US code

Lerner 13

#### Authoritarian states don’t follow norms — their “US justifies others” arg is naive

John O. McGinnis 7, Professor of Law, Northwestern University School of Law. \*\* Ilya Somin \*\* Assistant Professor of Law, George Mason University School of Law. GLOBAL CONSTITUTIONALISM: GLOBAL INFLUENCE ON U.S. JURISPRUDENCE: Should International Law Be Part of Our Law? 59 Stan. L. Rev. 1175

The second benefit to foreigners of distinctive U.S. legal norms is information. The costs and benefits of our norms will be visible for all to see. n268 Particularly in an era of increased empirical social science testing, over time we will be able to analyze and identify the effects of differences in norms between the United States and other nations. n269 Such diversity benefits foreigners as foreign nations can decide to adopt our good norms and avoid our bad ones.

The only noteworthy counterargument is the claim that U.S. norms will have more harmful effects than those of raw international law, yet other nations will still copy them. But both parts of this proposition seem doubtful. First, U.S. law emerges from a democratic process that creates a likelihood that it will cause less harm than rules that emerge from the nondemocratic processes [\*1235] that create international law. Second, other democratic nations can use their own political processes to screen out American norms that might cause harm if copied.

Of course, many nations remain authoritarian. n270 But our norms are not likely to have much influence on their choice of norms. Authoritarian states are likely to select norms that serve the interests of those in power, regardless of the norms we adopt. It is true that sometimes they might cite our norms as cover for their decisions. But the crucial word here is "cover." They would have adopted the same rules, anyway. The cover may bamboozle some and thus be counted a cost. But this would seem marginal compared to the harm of allowing raw international law to trump domestic law.

## 1nr

# 1NR

## \*\*\*Politics DA

### 1NR Overview

#### Trade expansion makes nuclear war, conventional conflict and escalation less likely---defer negative because the DA structurally controls the case impacts

Hillebrand**,** Kentucky diplomacy professor,2010

(Evan, “Deglobalization Scenarios: Who Wins? Who Loses?”, Global Economy Journal, Volume 10, Issue 2, ebsco, ldg)

A long line of writers from Cruce (1623) to Kant (1797) to Angell (1907) to Gartzke (2003) have theorized that economic interdependence can lower the likelihood of war. Cruce thought that free trade enriched a society in general and so made people more peaceable; Kant thought that trade shifted political power away from the more warlike aristocracy, and Angell thought that economic interdependence shifted cost/benefit calculations in a peace-promoting direction. Gartzke contends that trade relations enhance transparency among nations and thus help avoid bargaining miscalculations. There has also been a tremendous amount of empirical research that mostly supports the idea of an inverse relationship between trade and war. Jack Levy said that, “While there are extensive debates over the proper research designs for investigating this question, and while some empirical studies find that trade is associated with international conflict, most studies conclude that trade is associated with peace, both at the dyadic and systemic levels” (Levy, 2003, p. 127). There is another important line of theoretical and empirical work called Power Transition Theory that focuses on the relative power of states and warns that when rising powers approach the power level of their regional or global leader the chances of war increase (Tammen, Lemke, et al, 2000). Jacek Kugler (2006) warns that the rising power of China relative to the United States greatly increases the chances of great power war some time in the next few decades. The IFs model combines the theoretical and empirical work of the peac ethrough trade tradition with the work of the power transition scholars in an attempt to forecast the probability of interstate war. Hughes (2004) explains how he, after consulting with scholars in both camps, particularly Edward Mansfield and Douglas Lemke, estimated the starting probabilities for each dyad based on the historical record, and then forecast future probabilities for dyadic militarized interstate disputes (MIDs) and wars based on the calibrated relationships he derived from the empirical literature. The probability of a MID, much less a war, between any random dyad in any given year is very low, if not zero. Paraguay and Tanzania, for example, have never fought and are very unlikely to do so. But there have been thousands of MIDs in the past and hundreds of wars and many of the 16,653 dyads have nonzero probabilities. In 2005 the mean probability of a country being involved in at least one war was estimated to be 0.8%, with 104 countries having a probability of at least 1 war approaching zero. A dozen countries12, however, have initial probabilities over 3%. The globalization scenario projects that the probability for war will gradually decrease through 2035 for every country—but not every dyad--that had a significant (greater than 0.5% chance of war) in 2005 (Table 6). The decline in prospects for war stems from the scenario’s projections of rising levels of democracy, rising incomes, and rising trade interdependence—all of these factors figure in the algorithm that calculates the probabilities. Not all dyadic war probabilities decrease, however, because of the power transition mechanism that is also included in the IFs model. The probability for war between China and the US, for example rises as China’s power13 rises gradually toward the US level but in these calculations the probability of a China/US war never gets very high.14 Deglobalization raises the risks of war substantially. In a world with much lower average incomes, less democracy, and less trade interdependence, the average probability of a country having at least one war in 2035 rises from 0.6% in the globalization scenario to 3.7% in the deglobalization scenario. Among the top-20 war-prone countries, the average probability rises from 3.9% in the globalization scenario to 7.1% in the deglobalization scenario. The model estimates that in the deglobalization scenario there will be about 10 wars in 2035, vs. only 2 in the globalization scenario15. Over the whole period, 2005-2035, the model predicts four great power wars in the deglobalization scenario vs. 2 in the globalization scenario.16 Deglobalization in the form of reduced trade interdependence, reduced capital flows, and reduced migration has few positive effects, based on this analysis with the International Futures Model. Economic growth is cut in all but a handful of countries, and is cut more in the non-OECD countries than in the OECD countries. Deglobalization has a mixed impact on equality. In many non-OECD countries, the cut in imports from the rest of the world increases the share of manufacturing and in 61 countries raises the share of income going to the poor. But since average productivity goes down in almost all countries, this gain in equality comes at the expense of reduced incomes and increased poverty in almost all countries. The only winners are a small number of countries that were small and poor and not well integrated in the global economy to begin with—and the gains from deglobalization even for them are very small. Politically, deglobalization makes for less stable domestic politics and a greater likelihood of war. The likelihood of state failure through internal war, projected to diminish through 2035 with increasing globalization, rises in the deglobalization scenario particularly among the non-OECD democracies. Similarly, deglobalization makes for more fractious relations among states and the probability for interstate war rises.

#### No vote on TPA crushes US credibility and norm solvency

Kennedy-leads GW Graduate School of Political Management-2/5/14

Opposition to 'fast track' - small thinking with big downside

http://thehill.com/blogs/congress-blog/foreign-policy/197454-opposition-to-fast-track-small-thinking-with-big-downside

Drives a wedge between America and our most important allies. If trade agreements represent a welcoming gesture to new suppliers and consumers, derailing the negotiations over a procedural matter such as fast track is tantamount to slamming the door in a guest’s face. As Europe continues to struggle to lift itself up off the mat, it is placing great hope in the Transatlantic Trade and Investment Partnership to spark economic vitality on both sides of the Atlantic. It took great courage for Japan to agree to open up its economy and join with the United States and ten other Pacific Rim nations to pursue closer trade relationships. Having taken this bold step forward, Japan and others worry that America is turning inward and leaving them behind. To abort these trade discussions would signal an isolationist turn by America.

#### Turns China

Kahler, 11 – UC San Diego pacific international relations professor

[Miles, University of California, San Diego Rohr Professor of Pacific International Relations and distinguished Professor of Political science, served as interim director and Founding director of the Institute for International, Comparative, and Area Studies at UCSD, former fellow at the Center for Advanced Study in the behavioral sciences at Stanford University and a senior Fellow at the Council on Foreign Relations, "Weak Ties Don’t Bind: Asia Needs Stronger Structures to Build Lasting Peace," Summer 2011, Global Asia Vol 6, No 2, irps.ucsd.edu/assets/001/502399.pdf, accessed 1-27-13]

Organizations designed to increase regional economic integration can enhance regional security and **reduce** the **risk of military conflict** in two ways. If regional economic organizations increase regional economic exchange, they should contribute to peace. Although the effects of economic interdependence on military conflict between states remains controversial, most scholars agree that cross-border trade and investment have the same positive effect in reducing military conflict — even conflict short of war — as democracy. A second direct effect of international organizations on conflict has inspired less consensus among researchers: membership in intergovernmental organizations has been shown to have positive, negative and no overall effect on violent disputes and war among their members. But specific characteristics do seem to have conflict-reducing benefits. Preferential trade agreements, since they stimulate greater economic ties among members than non-members, appear to enhance the effects of economic interdependence in reducing conflict. International organizations that incorporate forums or negotiations for intensive information exchange are more likely to reduce conflict risk by lowering the possibilities for misreading an opponent’s resolve or capabilities. Some may also provide an arena for negotiation and dispute resolution. Finally, international organizations may socialize their members into habits of co-operation and new norms of behavior. Even institutions with an economic purpose may have such spillover effects into the domain of security. But evaluating these effects is tricky. Governments may join regional organizations when they already intend to liberalize their economies or reorient their foreign policies. Whether Asia’s new regional economic institutions will lessen the likelihood of military conflict requires answering two difficult questions: how much do peace-inducing levels of economic exchange depend on these organizations? how likely would military conflict be if Asian governments did not belong to them? WEAK INSTITUTIONAL ENFORCEMENT Economic interdependence in Asia has grown by most measures to levels that rival those in europe and north America. At the same time, foreign direct investment and cross-border production networks have driven trade integration in key sectors (such as electronics and automobiles). China is central to these networks; its trade with Asia now represents half the trade within the region. whatever the consequences of this burgeoning economic exchange for regional security, regional institutions can claim little credit. until 2000, APeC and the ASeAn Free Trade Area (AFTA) were the sole regional economic organizations with trade and investment liberalization agendas. Both were peripheral to the market-driven and China-centered pattern of economic interdependence that took off in the 1990s. The universe of new preferential trade agreements (PTAs) that populate the region may be more likely to contribute to deeper economic integration and positive security effects. Any interdependence effects will be shared outside the region, however: most of the PTAs concluded, under negotiation, or proposed by Asian governments involve non-Asian partners. existing agreements are heavily biased toward ASeAn rather than northeast Asia, where the risks of international conflict are higher. Finally, many of these agreements are relatively “light” in their provisions: they do not aim, at least initially, at deeper integration through the elimination of politically sensitive “behind-the-border” barriers to trade and investment. Although PTAs have been shown to reduce the use of military force between members, the new Asian PTAs are too recent and too restricted in geographical scope and policy coverage to claim a role in deepening regional economic interdependence. The new regionalism could have direct effects on conflict through the increasingly abundant organizations that span the region from the Tumen river to the Mekong. direct effects on regional security, however, are limited by institutional design. A common format, inspired by ASeAn, characterizes most Asian regional institutions. governments have been reluctant to delegate much authority to the permanent staff of these organizations — when a permanent staff even exists. Individuals and corporations play no direct role in these organizations. There are no regional courts, for example, in which individuals can pe tition against violations of regional agreements. decision-making is consensual. Membership is not used to enforce policy changes on governments that want to join the club, in sharp contrast to the european union model. ASeAn itself has begun to move away from the model that it inspired, building — at least on paper — more formal and binding structures. The ASeAn + 3 Chiang Mai Initiative, which grew out of the Asian financial crisis, has also taken the first steps toward multilateralization of its network of bilateral swap agreements, laying the foundation for more robust financial co-operation. The other key regional economic and security institutions — ASEAN + 3, the East Asia Summit and the ASEAN regional Forum — have not introduced significant changes in the dominant template for regional organizations. Regional economic organizations of this design are likely to have, at best, weak effects on military conflict. Although regional summits provide a venue for occasionally engaging other governments, thin institutional cores do not promote continuous information exchange. Diverse memberships produce organizations that lack cohesion; membership rules are not based on common cooperative ends but rather geographical proximity. Finally, Asian regional economic organizations rarely link economic agendas or negotiations with political or security issues. The “Asian way” of regional institutions is not unique: countries in other developing regions have the same suspicion of intrusion from regional overseers and work to protect their sovereignty. nevertheless, the absence of links between economics and security is distinctive. In europe, economic and security issues are integrated across a network of regional organizations, with the european union and the north Atlantic Treaty organization (nATo) at the center. In the Americas, peace-building and economic integration have reinforced one another. In Asia, economics and security run on distinct and separate tracks, neither disrupting nor reinforcing one another. This two-track approach prevents political conflict from interfering with the ex pansion of trade and investment. That benefit is more than outweighed, however, by a failure to encourage political reconciliation or military confidence building as a precursor to regional economic initiatives. given their institutional design, Asian regional institutions contribute little to the deepening of economic integration (with its positive effects on regional security) and are poorly equipped to dampen military conflicts. They may provide diplomatic forums that supply credible information to potential adversaries, but their slender institutional structures and the line typically drawn between economic and security issues weigh against a central role in reducing conflict among their members. The global economic crisis that began in 2008 has done little to jolt the region out of its institutional rut. The largest emerging economies in the region weathered the crisis well; their attention has been focused on expanding their influence within global governance. non-traditional security issues — such as terrorism, infectious diseases, natural disaster response and cross-border criminal networks — show greater signs of co-operation from regional economic institutions, but for regional economic organizations to foster peace in Asia **a new institutional model is required**. That institutional model need not resemble the highly elaborate european design. Its sources are more likely to lie in the requirements of future economic integration rather than any promised gains for the current, relatively benign, security environment. Two types of **institutional innovations are within reach**. First, governments that agree on an agenda of deeper economic integration — tackling behind-the-border barriers to trade and investment — could break with the existing institutional mold in favor of more binding agreements and organizations with more authority to monitor their members and to enforce those agreements. ASeAn + 3 and **the** Trans-Pacific Partnership (**TPP) are likely sites for such a move**. At the same time, a region-wide organization that bridges economic and security agendas could permit programs of political reconciliation and possible military confidence building that have furthered economic co-operation in other regions. The east Asian Summit incorporates all of the major powers required for such an institution, although its current shapeless agenda and informal organization would need to change. will another, larger economic shock be required to move the institutional agenda forward? Politicians, long suspicious of strong regional authority, will need to recognize a link between economic prosperity, their success and a new agenda of deeper regional economic integration. If new institutional structures are undertaken to seal those regional commitments, economics and security in Asia may reinforce one another, lowering political and military risks to the region’s intricate web of economic relations.

#### Turns Yemen

Griswold 2004

Daniel, associate director of the Cato Institute’s Center for Trade Policy Studies, Trading Tyranny for Freedom How Open Markets Till the Soil for Democracy, January 6th 2004, http://www.cato.org/pubs/tpa/tpa-026.pdf

Along with enhancing competition in our economy at home and opening markets for U.S. exporters abroad, free trade can buttress U.S. foreign policy by tilling foreign soil for the spread of democracy and human rights. To the degree that democracies are less likely to wage wars of aggression, free trade can promote a more peaceful world. Nowhere is the connection between trade and democracy more important than in the Middle East and the broader Muslim world. Democracy, full respect for human rights, and open markets are all relatively rare in that part of the world. According to Freedom House, the Middle East and Muslim-majority countries in general suffer "a democracy gap": Although three-quarters of non-Muslim countries around the world are democracies, only one-quarter of Muslim countries freely elect their leaders.21 Among countries with Muslim majorities, only two—Mali and Senegal—are classified by Freedom House as "Free," respecting the full civil and political liberties of their citizens. More than half of the countries in the world rated as "Not Free" in 2002 were majority Muslim.71 At the same time, the Middle East is one of the most economically closed and least integrated regions of the world. Average tariff barriers in the Arab Middle East are among the highest in the world, and as a consequence the region suffers from chronically declining shares of global trade and investment The resulting political and economic stagnation, in turn, breeds frustration and hopelessness that can make young people especially vulnerable to recruitment by terrorists and religious extremists. As an auxiliary to the war on terrorism. Congress and the administration should open the U.S. market to farm and manufactured products from qualified Middle Eastern and other Muslim countries. Meanwhile, the administration should negotiate, and Congress should approve, comprehensive free trade agreements with willing Middle Eastern and other Muslim countries, such as the existing agreement with Jordan and those already in the pipeline with Morocco and Bahrain. An economically open and dynamic Middle East would create opportunity for young people entering the workforce and expand the economically independent middle class, thus encouraging democracy and discouraging terrorism. As Brink Lindsey of the Cato Institute concluded in a recent study, "Promoting economic and political reform throughout the Muslim wrorld has become an urgent priority for U.S. foreign policy—and trade liberalization, while no panacea, is an important part of the equation.

### 1NR A2: Democrats

**No democratic defections -**

Recent moves by Obama shoring up Dem support (NSA)

Politico.com 2/2/14

HEADLINE: Senate Dems break from Obama

BYLINE: Burgess Everett

The White House has been successful in quelling some of the party's internal noise, getting lawmakers on the same page as the president either because of policy shifts from the White House or successful outreach. Sen. Richard Blumenthal (D-Conn.) was one of the loudest voices calling for stronger Iran sanctions and sweeping changes to the NSA's data-mining programs. Now he's more likely to praise the administration's proposed NSA changes and diplomatic progress with Iran -- and strongly disputes the suggestion that things were ever contentious on either issue. "I believe in a peaceful solution in stopping a nuclear-armed Iran. We share that goal, and I'm hopeful that the negotiations will succeed. As long as there is meaningful and visible progress there may be no need for a vote," he said. On the subject of the NSA, he added: "The term squeaky wheel implies contentiousness or conflict. But it's been much more collaborative."

Obama maintaining dem support for the agenda

Wall Street Journal 2/3/14

Fractures Emerge Between Obama, Congressional Democrats

Coming Midterms Complicate White House's Agenda on Trade, Energy, Health Care

http://online.wsj.com/news/articles/SB10001424052702304851104579361340885310508?mg=reno64-wsj&url=http%3A%2F%2Fonline.wsj.com%2Farticle%2FSB10001424052702304851104579361340885310508.html

Despite those tensions, Democrats and White House officials say they remain united on major elements of the legislative and political agenda, such as the extension of unemployment benefits that lapsed late last year. "There is far more that Democrats in Congress and the president agree on than there are areas where there might be differences," said Obama pollster Joel Benenson.

#### Obama still has enough juice left for TPA-subsumes their arguments

Hadar, 1-7 – Business Times Singapore Washington correspondent

[Leon, "After a horrible 2013, what's next?; Tea Partiers' stance on economy, other issues makes it difficult for GOP to exploit President Obama's setbacks," The Business Times Singapore, 1-7-13, l/n, accessed 1-7-14]

Again, it's possible that the game of expectations could play in favour of Mr Obama. A modest fixing of Obamacare and the perception that more people are enrolling in it could prove to be enough to convince Americans to take a second look at the president's healthcare programme. The recent budget deal approved by the Democrats and the Republicans points out to the option that could be available for the White House this year. Instead of trying to win support from Congress for ambitious plans on immigration, education and the environment, Mr Obama could prove to be more successful in advancing mini ad hoc agreements on these and other issues. Immigration reform could be one policy area where Republicans who are worried about their electoral standing among Hispanic and Asian immigrants would be willing to cut deals with the White House. Global trade policy could also be another issue over which Republicans would be willing to work with Mr Obama and provide him with enough votes to win the approval of his Trade Promotion Authority, allowing him to move forward in advancing new historic free trade agreements with the Pacific Rim economies and with the European Union. And then there is the economy. With the unemployment rate standing now at 7 per cent, down three percentage points from January 2009, and with economists projecting a decline in the jobless rate to 6 per cent to 6.2 per cent by mid-2014, along with GDP growth up to 3 per cent, the American people could be in a better mood this year and be willing to assign higher grades to Mr Obama's performance. In any case, continuing to play into Mr Obama's hand will be members of the Tea Party contingency of the GOP, who continue to exert influence on the Republican leadership on Capitol Hill. Their positions on the economy, including opposition to increasing the minimum wage, and on social-cultural issues such as abortion and gays rights, and their anti-immigration approach, have antagonised large segments of the electorate, making it difficult for the Republicans to exploit Mr Obama's setbacks.

### 1NR A2: Push

#### No link uniqueness arguments – Obama pushing TPA first

Carney-White House Press Secretary-2/5/14

CQ Transcriptions

QUESTION: OK. And on the issue of trade, you eloquently spoke about the need for the Trade Promotion Authority and this agreement with Asia. How important is it for the White House for this to happen soon? Can you afford to wait until after the midterm elections, as are some suggesting on that. CARNEY: Well look, I don't have the privilege of scheduling votes. All I know is that the president has... QUESTION: These elections are months and months and months away. I'm just asking your schedule. I'm saying, how important is it for this to get done in, you know, in -- in a short time frame? Are you willing to wait until the end of the year? CARNEY: Again, I -- I don't think I get to decide or that the White House gets to decide. I think that what the president is committed to is making the case about why these trade agreements are good for the economy, good for American workers. Why these trade agreements will protect American workers and the environment. Why, especially when it comes to the TPP in Asia, this is about, you know, this has implications for our economic competitiveness in the 21st century, and you know, we're going to steadily make that case. I can't predict the legislative calendar. What I can say with great clarity is what the president's position is. Understanding that there are -- is a diversity of opinion on this matter in both parties, and that's why it's important to, you know, focus on the facts, look specifically at the agreements, talk to members about, you know, the -- the upside of moving forward, and -- and -- and then continuing that effort. QUESTION: But is the president making the case that this needs to be done soon, or is he saying "Hey, whenever you get around to it. If it's the end of the year, that's fine." I mean, what -- is he making the case that this is an urgent priority, something that needs to be done on a quick timeline, or the timeline doesn't matter? CARNEY: Well, I'd say two things. I've never known Congress to act quickly on almost anything, A. B, so I would hesitate to suggest that we could get Congress to act urgently on almost anything. We have an urgent need for unemployment insurance to be extended. We have an emergency need for -- you know, more than a million families out there. And that has yet to happen. What I can tell you is that what the president can control is the foundation of the arguments for what, you know, he believes is the right thing to do here and he's going to continue to make that case. QUESTION: But it sounds to me like you're saying the White House has no objection for this waiting until after the elections. CARNEY: You can try to put as many words into my mouth as you like. That's not what I'm saying. I'm saying that we're going to work with Congress to make the case, and obviously, the legislative calendar is set by Congress. We're going to press for what we believe is the right priority.

#### Obama is reaching out on Fast Track

The Washington Post 2/6/14

HEADLINE: Obama reaches out to party lawmakers

During the House session, Reps. Marcy Kaptur (D-Ohio) and Alan Grayson (D-Fla.) pressed the president for details of ongoing trade negotiations. Kaptur requested that members be allowed to see final proposed language for the Trans-Pacific Partnership before lawmakers are asked to approve new fast-track trade authority. Obama was polite, Kaptur said, but "he did not say yes." Despite the concerns, several Democrats said they have noticed an improved effort by the White House to keep them informed. "They have been redoubling their efforts to reach out," said Rep. Chris Van Hollen (Md.), a key White House ally on budget issues. "On the issues I work on with the White House, I've always been able to get the person I need right away," he added.

### 1NR Uniqueness Wall

#### Framing Issue-Their uniqueness arguments just prove the importance of political capital on this issue-History proves this is true in the trade context and now is the make or break time for a TPA push

Wall Street Journal 2/4/14–

William Galston: Obama's Moment of Truth on Trade

Bill Clinton bucked his own party to get Nafta. Will this president do the same to get agreements with Europe and Asia?

http://online.wsj.com/news/articles/SB10001424052702303942404579361110464290196?mg=reno64-wsj&url=http%3A%2F%2Fonline.wsj.com%2Farticle%2FSB10001424052702303942404579361110464290196.html–

That ended the debate—for a while. It started up again not long after he entered the Oval Office, among congressional Democrats and within the White House. In August 1993, President Clinton ended the internal debate by delivering a ringing defense of Nafta and appointing William Daley to spearhead the drive for its ratification. Although House Speaker Tom Foley supported the treaty, he said that in view of divisions within his caucus, the Democratic leadership would take no position. Within two weeks, House Democratic Whip David Bonior had become the floor leader of the Nafta opposition. A few weeks later, House Majority Leader Richard Gephardt announced that he too was opposed, a decision widely regarded as the death knell for the treaty. That was Mr. Clinton's moment of truth, and he did not flinch. After an all-out White House push in which the president participated extensively, the House approved Nafta, voting 234-200. Democrats were deeply divided: While 102 voted in favor, 156 opposed the treaty. With the support of a bare majority of Democrats, Nafta passed easily in the Senate. With Harry Reid's blunt rebuke last week, Barack Obama's moment of truth has arrived. His administration is now negotiating two major regional trade deals—the Trans-Pacific Partnership among 12 Asian nations that account for about 40% of global trade, and the Transatlantic Trade and Investment Partnership with the European Union. Without trade-promotion authority, often called fast-track, granted by Congress to the administration, concluding and ratifying these deals becomes much more difficult. Our negotiating partners will be much less willing to reach agreements without the assurance that the texts of these agreements are final and not subject to change. If the authority is not granted, Congress will be free to amend the draft agreements, upsetting the delicate balance among their provisions and scuttling ratification by other governments. In an interview with the Financial Times after Mr. Reid's announcement, U.S. Trade Representative Michael Froman argued that once the administration reaches deals of "high standards, ambition, and comprehensiveness," it can persuade Congress that the proposed agreements will promote growth, job creation and the well-being of the middle class, and congressional support will increase. It is hard to find anyone outside the administration who gives this strategy much chance of succeeding in the absence of trade-promotion authority. Many observers believe that without fast-track, progress toward the nearly completed Asian trade deal may stall short of the finish line, and the December 2014 target for completing the deal with the EU will be unattainable. According to Mr. Froman, "The president . . . is fully committed to a robust trade agenda and doing what's necessary to execute on that." In the coming months, we'll find out whether he is right. During Mr. Obama's first presidential campaign in 2008, he was hardly a full-throated free trader. He told the Texas Fair Trade Coalition that he "never supported Nafta." He told the Iowa Fair Trade Coalition that he wanted to reopen negotiations on the agreement, so alarming our neighbor to the north that Austan Goolsbee, his senior economic adviser, thought it necessary to offer Canadian diplomats back-channel reassurances. And Mr. Obama told the Wisconsin Fair Trade coalition that he would "replace fast-track with a process that includes criteria determining appropriate negotiating partners that includes an analysis of labor and environmental standards as well as the state of civil society in those countries." If Mr. Obama is serious about his trade agenda, he will—at a minimum—address the nation on the advantages of ratifying new regional trade agreements, make it clear that he intends to fight for trade-promotion authority, appoint a high-profile point-person to lead that fight in Congress, and personally lobby wavering lawmakers. In all probability, he will not be able to rally the support of a majority of Democrats in either the House or the Senate, which means that to get trade-promotion authority, he must be willing to accept truly bipartisan majorities tilted toward Republicans in both chambers.

TPA will pass-State of the Union reset Bipartisanship—old issues won’t derail agenda

The Economist 2/1/14

HEADLINE: Deal or no deal?;

Barack Obama's state-of-the-union speech

American politics may be becoming a bit less dysfunctional IN HIS big annual speech to Congress, Barack Obama made several promises. He pledged to raise the minimum wage for those contracted to the federal government, to create a new tax-free savings bond to encourage Americans to save, to work for the closure of the Guantánamo Bay prison, to push immigration reforms and to veto any sanctions that Congress might pass designed to derail his deal with Iran over its nuclear programme. But for anybody listening from abroad, his most startling promise to America's legislature was to bypass it. "Wherever and whenever I can take steps without legislation to expand opportunity for more American families, that's what I'm going to do," he vowed. This year, he said, will be "a year of action". That in America this pledge was not regarded as the most remarkable element of the speech shows how inured the country has become to dysfunctional government. After years of gridlock, Americans have got used to the idea that the gerrymandering of the electoral system and the polarisation of their two political parties have set the branches of government against each other, and that the checks and balances originally intended to keep the country's polity healthy have condemned it to sclerosis. Government shutdowns, fiscal cliffs and presidents who promise to do their best to ignore the legislature are no longer much of a surprise. Yet Americans may have become too gloomy: Mr Obama's speech could be the latest in a series of small signs that things are getting better. Last year's shutdown was such a public-relations disaster for politicians in general and the Republicans in particular that it is unlikely to happen again. The Tea Party's kamikaze tactics have been discredited; that is why, without much fuss, Congress recently managed to pass a budget. Mr Obama knows that he can do nothing of interest without co-operation: when parsed, the promises of unilateral action in his speech amounted to not much more than a few low-level government workers getting paid a sliver more. No one expects 2014 to be a year of bipartisan chumminess, but several deals are possible. Take inequality, Mr Obama's new theme. Higher minimum wages are a less effective way to help poorer Americans than expanding the earned income tax credit (a negative income tax for workers on low pay). Several Republicans are open to this idea. Senator Marco Rubio, a rising star, recently said so; a fact Mr Obama alluded to in a speech that was uncharacteristically—and encouragingly—short of partisan sniping. On immigration, too, a deal is doable. House Republicans are about to release a list of principles for reforming a system everyone agrees is broken. Mr Obama said he wants to sign a bill this year; if he handles Congress delicately, he may get his wish. The same goes for his request for lawmakers to give him "fast track" authority to negotiate trade deals. This is an essential tool for promoting free trade: if Asians and Europeans think Congress will rewrite trade pacts after the haggling is over, they will not take Mr Obama seriously as a dealmaker. It is still sad that this is the best that can be said of the world's most powerful democracy. It is hard to imagine the citizens of emerging economies looking at these compromises and finding them inspiring. But they are a start—and the political winds may be changing. If Mr Obama is to be remembered for anything at home but the botched roll-out of his health reform, he needs to get some measures through Congress. The Republicans need to be seen as something other than obstructionist if they want to win the White House. For once, they both have something in common: they need government to work.

TPA will pass-Compromise will turn Reid

Economist 2/8/14

When Harry mugged Barry

http://www.economist.com/news/united-states/21595958-harry-reid-threatens-impoverish-world-least-600-billion-year-when-harry

Harry Reid threatens to impoverish the world by at least $600 billion a year

Barely had he left the podium when Mr Reid mugged him. Answering questions from reporters, he reiterated his opposition to fast-track and advised its backers “not [to] push this right now”. Insiders doubt that Mr Reid would kill the bill outright. Haggling in the Senate may yield a new version with enough about labour standards and the environment to satisfy the protectionists. If so, Mr Reid will probably allow a vote, and the bill should pass. The White House remains publicly optimistic.

#### Reid will bring it up for a vote before the midterms and it’ll pass

Inside U.S. Trade 1/17/14

HEADLINE: Reid Says No Commitment To TPA Floor Time, Citing Controversy Among Dems

But National Foreign Trade Council President Bill Reinsch on Jan. 8 downplayed the notion that Reid may hold off on TPA because he is worried it could hurt Democrats in the polls. Senators are unlikely to ask Reid to "save them" from a TPA vote so they can perform better in the midterms since very few of the major races are in states where trade is a campaign issue, he told reporters at a press briefing on this year's trade agenda. Reinsch said that he was not persuaded that TPA was a decisive issue among the broader electorate. "TPA is inside baseball. It's how the Congress organizes itself to deal with trade policy," he said. He added that he believes Congress will pass a TPA bill but that he is worried it could end up being a partisan fight within Congress. He argued that it would be much better to get a "critical mass" of support from both parties.

### 1NR A2: Impact Defense

#### Empirics prove – trade solves war and nuclear war

Weede 2010

Erich, Professor of Sociology University of Bonn, The Capitalist Peace and the Rise of China: Establishing Global Harmony by Economic Interdependence International Interactions. Apr-Jun2010, Vol. 36 Issue 2, p206-213

Historically, the rise and fall of great powers has been related to great wars. Both world wars of the twentieth century would not have been possible without the previous industrialization and rise of Germany. World War II, which in Asia was a war between the Japanese on the one hand and the Western powers and China on the other hand, would not have been conceivable without the previous rise of Japan. The early phase of the Vietnam War has to be understood against the background of a declining France. If the rise and fall of great powers indicate great dangers, then one should question whether the world can peacefully accommodate a rising China. Here it is argued that the capitalist peace offers the best way to manage the coming power transition between China and the West. 1 China is rising. In the thirty years after Deng Xiaoping began economic reforms the Chinese economy grew nearly by a factor of ten. Recently, the West suffered from negative growth rates whereas China grows by about 8 percent a year. The difference in growth rates between China and the West has been about 10 percent. A power transition of such speed is without historical precedent. Given its size China is a “natural” great power— unlike Britain, France, or Germany. Even the combined population of the United States and the European Union does not approach the population size of China. If China outgrows poverty, then it must become a world power. Although war in the nuclear age threatens to be much worse than any previous world war, fear of nuclear war itself might exert some pacifying impact. Such fear, however, need not be our only protection against future wars. Economic interdependence itself makes war less likely. One finding of quantitative research is that military conflict becomes less likely if a pair of nations—say China and the United States, or China and India, or China and Japan—trade a lot with each other (Hegre 2009; Oneal and Russett 2005; Russett and Oneal 2001). Fortunately, all of them do. One may label this effect “peace by free trade”. Foreign investment has some beneficial impact, too (Souva and Prins 2006). Moreover, economic freedom reduces nvolvement in military conflict, and financial market openness reduces the risk of war, too (Gartzke 2005, 2007, 2009). Quantitative research has demonstrated that there is something like a capitalist peace. Until a few years ago it looked as if the democratic peace were solid and robust whereas the capitalist peace between free traders was less so. Now, however, the democratic peace looks more conditional: It is not only restricted to relations between democracies, but might also be restricted to developed or market democracies (Mousseau 2005, 2009). It has been doubted whether it applies to the poorest democracies. Moreover, the less mature or perfect the democracies are, the weaker the democratic peace is. By contrast, peace by free trade or economic freedom looks more robust. Pacifying effects are not restricted to relationships between free traders on both sides of a dispute (Russett 2009:19). Moreover, the trade to GDP ratio is no longer the only or even the best way to document the pacifying effects of economic freedom or the invisible hand. By applying innovative measures of free markets, such as avoidance of too much public property ownership and protectionism, one may argue in favor of much more robustly pacifying effects of economic freedom than of political freedom (McDonald 2009). The occurrence of World War I is the standard argument against peace by trade or economic interdependence because there was substantial economic interdependence between the Western powers and the Central European powers. Certainly, World War I serves as a useful reminder that commerce makes war less likely without making it impossible. But World War I is not as much of a problem for capitalist peace theory as frequently assumed. Moreover, there was no democratic contribution to pacification because the Central European powers were, at best, imperfect democracies. By contemporary standards, even the democratic character of the United Kingdom was not beyond suspicion because of franchise limitations. As far as trade linkages were concerned they were strongest where least needed— between Britain and France, between Britain and the United States, between Germany and Austria-Hungary. These pairs ended up on the same side in the war. Whereas strong trade links between Germany on the one hand and Britain or Russia on the other hand did not prevent them from fighting each other, Germany and France exemplify weak trade ties where strong ties were needed most in order to avoid hostilities (Russett and Oneal 2001:175). Skeptics rightly observe that increasing trade did not prevent World War I, but they overlook that trade volumes rose not because of free trade policies, but in spite of mounting protectionism. Trade increased because of falling transportation costs, but in spite of protectionist policies. Finally, capitalist or commercial peace theory is an admittedly incomplete theory. It says only how risks of war may be reduced but it says nothing about what generates them in the first place. But commercial peace theory is certainly compatible with World War II, which was even bloodier than the previous world war as well as with the later reconciliation between the former Axis powers and the West. There was little trade between the Western powers and the Axis powers. Since the Axis powers were not democracies, the democratic peace could also not apply between the Axis and the West. The different long-term effects of the settlements of both world wars may be explained by differences in application of a capitalist peace strategy toward the losers of the wars. After World War I France influenced the settlement more than anyone else. It did not even think of a commercial peace strategy. Misery and desperation within Germany contributed to Hitler’s empowerment and indirectly to World War II. After World War II, the United States, however, pursued a capitalist peace strategy toward the vanquished. It promoted global free trade and subsidized even the recovery of the losers of the war. Germany and Japan became prosperous and allies of the United States.

## \*\*\*SG DA

### 1NR A2: Long Timeframe

#### And no long timeframe – there is a test case pending right now

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)

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.

### 1NR A2: Observer Effect

#### Clog link---the plan floods the courts; assures a ruling that will spur larger IBC

Kent 10/14/13 (Andrew, is a Professor, Fordham Law School; Faculty Advisor, Center on National Security at Fordham Law School, “ARE DAMAGES DIFFERENT?: BIVENS AND NATIONAL SECURITY,” http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2330476)

Viewing law declaration as a system-wide injunctive-type remedy shows how money damages suits can also be vehicles for courts to control government functioning prospectively and system-wide, and so the distinction between injunctions and damages is not as great as might first appear. But still, the Supreme Court is particularly loath to allow a damages remedy against federal officials in national security and foreign relations cases, and courts of appeals have followed its lead. One reason for the Court’s views of damages remedies is clear—it has repeatedly stated in many contexts that it believes that damages liability for officials causes “over-deterrence”— the failure of officials to vigorously and efficiently perform socially-beneficial functions because of the fear of personal damages liability. The Court has also expressed concerned about the unique burdens of discovery, especially on senior policymakers, imposed by Bivens suits as opposed to other types of litigation against the government. These concerns seem likely to be particularly pronounced in the national security and foreign affairs areas. Other reasons the courts might disfavor damages can be discerned, but they are not explicitly stated by the judiciary. A much greater pool of potential plaintiffs can bring a suit seeking money damages compared to an injunction or habeas, particularly in the national security and foreign relations areas. So allowing Bivens suits will vastly increase the potential for constitutional litigation against the government, raising docket concerns as well as increasing the potential for inter-branch conflict and judicial involvement in sensitive areas often thought to be the domain of the President and Congress.

They unleash a volume of cases; dramatically increases the frequency of massive constitutional battles over authority

Kent 10/14/13 (Andrew, is a Professor, Fordham Law School; Faculty Advisor, Center on National Security at Fordham Law School, “ARE DAMAGES DIFFERENT?: BIVENS AND NATIONAL SECURITY,” http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2330476)

Damages suits pose unique risks of inter-branch conflict for another reason: Bivens litigation is outside the control of the executive branch. When only defensive suits or claims seeking injunctions, habeas corpus or exclusionary rule remedies are allowed, the government can control whether these claims proceed by deciding whether to initiate or discontinue the legal proceedings or government action that gave rise to the suits or claims.31 Bivens suits cannot be headed off in this manner, because people can sue for tort damages whether or not they are still detained or still subject to other government coercion, such as a criminal prosecution. This expanded volume of litigation, outside the control of the executive, that allowing Bivens in national security and foreign relations contexts would unleash would require the courts to frequently make difficult judgments about how and whether to transplant detailed and generally quite rights-protective norms of constitutional law developed in domestic, peacetime contexts into the much different world of extraterritorial national security and foreign relations activities. The Supreme Court and courts of appeals seem cautious in the face of this prospect.

#### The observer effect doesn’t guarantee full compliance – only enough to justify court deference

Deeks, Associate Professor of Law, University of Virginia Law School, 13

(Ashley, October, “The Observer Effect: National Security Litigation, Executive Policy Changes, and Judicial Deference,” University of Virginia School of Law Public Law and Legal Theory Research Paper Series 2013-41, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2338667, accessed 10-18-13, CMM)

When these three elements are present, the observer effect is likely to¶ come into play. How does the executive react? This Article assumes that¶ the executive branch is, collectively, a rational actor that attempts to¶ maximize the total value of two elements: a sufficiently security-focused¶ policy and unilateral control over national security policymaking. To¶ achieve this goal, the executive often is willing to cede some ground on the¶ first element to retain the second element.

The executive branch therefore often responds to the presence of these¶ three elements by shifting its policy to a position that gives it greater¶ confidence that the courts would uphold it if presented with a challenge to¶ that policy.50 This does not mean, however, that it will establish or revise¶ its policy to a point at which it has full confidence that a court will deem the¶ policy acceptable. Instead, the executive has strong incentives to take a¶ gamble: all the executive needs to do is establish a policy that is close¶ enough to what a court would find acceptable that it alters the court’s¶ calculation about whether to engage on the merits.51 The executive thus¶ will shift from a policy that would prompt nondeference to a policy that¶ allows the court credibly to defer. On occasion, the executive may adopt¶ policies that are more rights protective than what a court eventually¶ requires. In at least one recent case, the executive adopted policies that¶ proved more protective of detainee equities than the court of appeals¶ ultimately demanded.52 With these shifts in policy, the executive narrows¶ the “degree” of deference required to uphold the policy in question because¶ the assertion of executive authority is more modest. The next section¶ provides several real world examples of such policy shifts.

#### The Department of Justice would challenge the legislation in court and fiat means they would lose-Our link is immediate

McKelvey-JD Candidate Vandy-11 44 Vand. J. Transnat'l L. 1353

NOTE: Due Process Rights and the Targeted Killing of Suspected Terrorists: The Unconstitutional Scope of Executive Killing Power

Alternatively, Congress could pass legislation that explicitly prohibits the targeted killing of Americans unless the circumstances present a concrete threat of imminent danger.236 As the analysis in Part II.A indicates, targeted killing is a premeditated offensive military strategy, not a defensive practice.237 Congress could exercise its own constitutional powers as the war-making body of government to ensure that no American may be targeted for extrajudicial lethal force by the Executive Branch.238 Similarly, Congress could amend the AUMF to include a prohibition of the targeted killing of Americans.239 Although this has the potential to limit the military in counterterrorism measures in circumstances such as the Aulaqi case, it would emphasize congressional commitment to fundamental constitutional rights even in the face of terrorist threats.240 The irony of the Aulaqi case is that based on the publicly available evidence, there is good reason to believe the DOJ’s assertion that Anwar al-Aulaqi presented significant danger to the country.241 But allowing the president to target Aulaqi for extrajudicial killing presents its own danger, as it establishes a broad and unreviewable killing power with potential for error and abuse.242 Americans must have more reassurance that the powers of the Executive Branch are limited and reasonable. Although a legislative solution is appealing given the success of the analogous FISA court, a statutory ban on the targeted killings of Americans is certainly the preferable option. When a government unilaterally assassinates one of its own citizens in circumvention of civil liberties, this raises profound questions about the legitimacy of that government, especially in a representative democracy. It also stands in contradiction to the American constitutional legacy, in which separate but coequal branches of government were created primarily to limit the possibility of tyranny and other government abuses of power. A congressional ban on the targeted killing of Americans would represent a legislative rebuke of executive excesses in protection of fundamental civil liberties. Congressional action of any kind, however, faces a very serious hurdle: as the DOJ made clear in the Aulaqi case, the executive branch position is that any infringement on the President's targeted killing authority is simply unconstitutional. Yet if congress were to prohibit targeted killing and a court found that such a law is an unconstitutional infringement on executive authority, there is still another and perhaps final option. In the event that a federal court interprets the constitution to actually permit the targeted killing of Americans by the Executive Branch, then it would be necessary to fix this constitutional flaw. A constitutional amendment prohibiting the practice of targeted killing would thus permanently extinguish the concerns over targeted killing. 243

### 1NR A2: Link Not Predictive

#### Our link is predictive and the SG will be involved with all aspects of the plan

**Owens, MSU political science professor, 2010**

(Ryan, “Solicitor General In uence and the United States Supreme Court”, http://www.vanderbilt.edu/csdi/archived/working%20papers/Ryan%20Owens.pdf)

The Solicitor General supervises and conducts government litigation in the United States Supreme Court and is intricately involved in every stage of the United States's ap- pellate litigation (Pacelle 2003). Lawyers in the SG's office "do the bulk of the legal work in Supreme Court cases in which the federal government participates, including petitions for hearing, the writing of briefs, and oral argument" (Baum 2007, 88). According to Perry (1991), the Solicitor General serves at least three functions. First, he represents the interests of the United States before the Supreme Court. Second, he decides which cases the U.S. will appeal when it loses its cases in the lower federal courts. And, third, he decides whether the United States will file an amicus curiae brief or seek rehearing in any case involving the United States. The Solicitor General also synthesizes the government's sometimes varying legal positions. When federal agencies take competing positions on legal issues, the SG decides which side may appeal to the Supreme Court and what legal arguments the U.S. will pursue. The SG. then, coordinates the United States' long-term legal strategy in the judiciary and has tentacles spreading throughout the federal court system (Pacelle 2003; Zorn 2002).

### 1NR A2: Econ Power Not Key

#### More evidence – economic growth is key to hegemony

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.

## 2nr

## Obama DA

### Reid

Reid’s opposition to Fast Track is our internal link-Political capital is key to pressuring a vote

Chicago Tribune 2/1/14

HEADLINE: Majority Leader 'No';

Harry Reid resists Obama's bid to expand trade

Reid doesn't have to like free trade. He can bluster against it all he wants. But by virtue of his power as majority leader, nothing comes for a vote in the Senate unless he allows it. So it falls on the White House and other Democratic leaders to pressure him to allow a vote. Free-trade agreements eliminate tariffs, red tape and other barriers to doing business across borders. They make the common marketplace bigger and more efficient, which means more moneymaking opportunities. Over time, sales go up, prices go down and the pace of economic activity increases. Free trade is particularly good for Illinois, home to an international headquarters city -- Chicago -- and farmers who grow products for export. The Pacific Rim and EU trade agreements would make a huge positive impact. The White House has said it hopes to finish talks within a few months on the proposed Trans-Pacific Partnership with Japan and 10 other Asia-Pacific nations. Talks with Europe on the planned Transatlantic Trade and Investment Partnership could wrap up as soon as early 2015. But none of that will happen unless the president makes it happen.

White House pressure will unblock the vote

Roll Call 2/3/14

<http://blogs.rollcall.com/wgdb/reid-on-obama-we-are-on-the-same-page-on-everything/>

Administration officials, including Secretary of State John Kerry, a former Democratic senator, have recently sought to downplay Reid’s opposition. “Well, I don’t — look, I respect Harry Reid. I’ve worked with him for a long time, obviously,” Kerry said at the Munich Security Conference on Saturday when asked about the matter. “And I think all of us have learned to interpret a comment on one day in the United States Senate as not necessarily what might be the situation in a matter of months or in some period of time.” White House Spokesman Jay Carney said Monday that Obama would continue to advocate for the measure. “The president believes we need to move forward on trade agreements that expand exports, that create jobs here for Americans that pay better than other jobs,” Carney said before the meeting with Reid. “Trade promotion authority is a means to getting those trade agreements done. And therefore, he believes it’s important to pursue it in order to get the best possible deal and to play the leadership role that should be playing around the world.” “Now, he’s going to work with members of Congress of both parties, members of the Senate of both parties in pressing for his view that we need to move forward on these trade agreements and expanding trade for the American economy and American workers,” Carney said. Sen. Rob Portman, R-Ohio, who supports trade promotion said he too believes the measure will get a vote on the Senate floor despite Reid’s opposition, given the White House’s backing. “Oh yeah, the president wants one,” Portman said of a vote. CIR