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#### Advantage 1 is due process!!!!!

#### Faith in executive restraint kills due process – oversight creates assurance in the system

McKelvey 11 (Benjamin, JD Candidate, Senior Editorial Board – Vanderbilt Journal of Transnational Law, “Due Process Rights and the Targeted Killing of Suspected Terrorists: The Unconstitutional Scope of Executive Killing Power,” Vanderbilt Journal of Transnational Law, November, 44 VAND. J. TRANSNAT'L L. 1353, <http://www.vanderbilt.edu/jotl/2012/06/due-process-rights-and-the-targeted-killing-of-suspected-terrorists-the-unconstitutional-scope-of-executive-killing-power/>)

The Obama Administration has addressed the controversy over targeted killing in an effort to assuage concerns over the program’s constitutionality, including concerns over due process protections.162 However, the Administration’s explanations do little but reiterate the gaping hole in guaranteed due process protections if Americans are targeted with lethal force.163 In fact, the Administration’s attempts to justify the current response emphasize the desperate need for a clear articulation of the law and a mechanism for constitutional safeguards.164 Harold Koh, the Legal Adviser to the Department of State, addressed the criticisms of targeted killing in a speech at the Annual Meeting of the American Society of International Law in March 2010.165 Koh addressed the concern that “the use of lethal force against specific individuals fails to provide adequate process and thus constitutes unlawful extrajudicial killing.”166 First, he asserted that a state engaged in armed conflict is not required to provide legal process to military targets.167 Koh then attempted to reassure the critics of targeted killing that the program was conducted responsibly and with precision.168 He said that the procedures for identifying targets for the use of lethal force are “extremely robust,” without providing any explanation or details to substantiate this claim.169 He then argued that “[i]n my experience, the principles of proportionality and distinction . . . are implemented rigorously throughout the planning and execution of lethal operations to ensure that such operations are conducted in accordance with international law.”170 Koh dismissed constitutional claims over targeted killing by simply suggesting that the program is legal and responsible.171 But this response only begs the question over targeted killing: what mechanisms are in place to prevent the unsafe and irresponsible use of this extraordinary power? Asserting that the program is legal and responsible without substantiating this assertion rests on notions of blind faith in executive prudence and responsibility, and provides no grounds for reassurance.172 The Obama Administration’s assurances regarding the targeted killing program are unsatisfactory because they fail to address the primary concern at issue: the possibility that an unchecked targeted killing power **within the Executive** Branch is an invitation for abuse.173 Without some form of independent oversight, there is no mechanism for ensuring the accurate and legitimate use of targeted killings in narrowly tailored circumstances.174

#### Exclusive authority over drones by the executive guarantees a high error rate and use of state secrets – that wrecks due process – independent oversight is key

McKelvey 11 (Benjamin, JD Candidate, Senior Editorial Board – Vanderbilt Journal of Transnational Law, “Due Process Rights and the Targeted Killing of Suspected Terrorists: The Unconstitutional Scope of Executive Killing Power,” Vanderbilt Journal of Transnational Law, November, 44 VAND. J. TRANSNAT'L L. 1353, <http://www.vanderbilt.edu/jotl/2012/06/due-process-rights-and-the-targeted-killing-of-suspected-terrorists-the-unconstitutional-scope-of-executive-killing-power/>)

Currently, there is no specific evidence that the targeted killing program has been used for illegitimate purposes other than national defense and security. However, the Executive’s exercise of authority in identifying and pursuing threats of terror has produced a worrisome error rate.175 According to an analysis of Predator drone strikes in Pakistan conducted by the New America Foundation, since 2004, the non-militant fatality rate has been roughly 20 percent.176 In other words, about one-fifth of those killed by Predator drone strikes have been non-military targets, including innocent civilians.177 In June of 2010, it was reported that the government lost nearly 75 percent of the cases involving habeas petitions filed by detainees at Guantanamo Bay.178 This suggests that for the majority of detained enemy combatants, the government has had insufficient evidence for the assertion that the detained individuals were involved in hostilities against the United States.179 The rate of error in these instances only adds to the concern over the procedural guarantees of the targeted killing process and the need for a more standardized process with a robust system of screening and oversight. There is also historical precedent for cautiously evaluating the legitimacy and constitutionality of unreviewable executive authority in matters of espionage and national security. In 1976, President Ford issued an executive order outlawing political assassination.180 The order was a response to revelations after the Watergate scandal that the CIA had attempted to assassinate Cuban President Fidel Castro multiple times.181 Every U.S. president since Ford has upheld the ban on political assassinations in subsequent executive orders.182 This is an example of classified CIA activity that, once publicly known, was deemed unacceptable as a matter of law and policy.183 The current targeted killing program conducted in executive secrecy raises concerns similar to those of political assassination. The state secrets privilege is another form of unreviewable executive power that ought to be met with skepticism. In Aulaqi, the DOJ raised the state secrets privilege as alternative grounds for summary judgment, claiming that litigating the issues before the court would require the disclosure of sensitive classified intelligence and would endanger national security.184 Originally, the state secrets privilege was a rarely-used but formidable evidentiary objection.185 Since the terrorist attacks of September 11, however, it has been used much more frequently and as grounds for the dismissal of entire cases.186 Not only is the expanded use of the state secrets privilege problematic, so too is the privilege itself.187 The Supreme Court formally recognized the privilege in United States v. Reynolds. 188 However, the validity of even this first use of the privilege has been called into question, raising concerns over the potential for government abuse.189 In Reynolds, the government argued that certain accident reports containing state secrets should be kept out of trial.190 Although the Court agreed, the merits of this decision have since been cast in doubt.191 When the accident reports in Reynolds later became public, they were shown to contain no sensitive state secrets.192 Instead, the reports contained potentially embarrassing evidence of negligent government conduct.193 As long as targeted killing is conducted under the cloak of the state secrets privilege, there is no guarantee that the program will be free of government misconduct. C. The Need for a Resolution Concerns over targeted killing error rates and historical abuses of executive power cast extraordinary doubt over the adequacy of the Obama Administration’s legal justification of targeted killing, as articulated by the Department of State.194 The government’s argument is that it should be taken at its word when it assures the public that the process for identifying and targeting suspected terrorists with lethal force is careful, rigorous, and legal.195 This is not an adequate explanation of targeted killing law for two reasons. First, this explanation leaves unanswered the question of how the targeted killing program is careful, rigorous, and legal.196 Second, there is ample historical evidence that suggests that executive guarantees of authority and privilege ought to be met with skepticism.197 Without some form of independent oversight or review, taking the Executive Branch at its word is not an adequate form of due process and provides no minimum constitutional guarantee.198

#### Prior, judicial oversight ensures informed and impartial decision-making – vital to due process

Adelsberg 12 (Samuel, J.D. – Yale Law School, “Bouncing the Executive's Blank Check: Judicial Review and the Targeting of Citizens,” Harvard Law & Policy Review, Summer, 6 Harv. L. & Pol'y Rev. 437, Lexis)

The relevance of these precedents to the targeting of citizens is clear: the constitutional right to due process is alive and well--regardless of geographic location. We now turn to what type of process is due.

III. BRING IN THE COURTS: BRINGING JUDICIAL LEGITIMACY TO TARGETED KILLINGS

The function of this Article is not to argue that targeted killing should be removed from the toolbox of American military options. Targeted killing as a military tactic is here to stay. n34 Targeting strikes have robust bipartisan political support and have become an increasingly relied upon weapon as the United States decreases its presence in Iraq and Afghanistan. n35 The argument being asserted here, therefore, is that in light of the protections the Constitution affords U.S. citizens, there must be a degree of inter-branch process when the government targets such individuals.

The current intra-executive process afforded to U.S. citizens is not only unlawful, but also dangerous. n36 Justice O'Connor acknowledged the danger inherent in exclusively intra-branch process in Hamdi when she asserted that an interrogator is not a neutral decision-maker as the "even purportedly fair adjudicators are disqualified by their interest in the controversy." n37 In rejecting the government's argument that a "separation of powers" analysis mandates a heavily circumscribed role for the courts in these circumstances, Justice O'Connor contended that, in times of conflict, the Constitution "most assuredly envisions a role for all three branches when individual liberties are at stake." n38 Similarly, Justice Kennedy was unequivocal in Boumediene about the right of courts to enforce the Constitution even in times of war. Quoting Chief Justice Marshall in Marbury v. Madison, n39 Kennedy argued that holding "that the political branches may switch the constitution on or off at will would lead to a regime in which they, not this Court, say 'what the law is.'" n40 This sentiment is very relevant to our targeted killing analysis: in the realm of targeted killing, where the deprivation is of one's life, the absence of any "neutral decision-maker" outside the executive branch is a clear violation of due process guaranteed by the Constitution.

Justices O'Connor and Kennedy are pointing to a dangerous institutional tension inherent in any intra-executive process regime. Targeting decisions are no different; indeed, the goal of those charged with targeting citizens like al-Awlaki is not to strike a delicate balance between security [\*444] and liberty but rather, quite single-mindedly, to prevent attacks on the United States. n41 In describing the precarious nature of covert actions, James Baker, a distinguished military judge, noted, "the twin necessities of secrecy and speed may pull as they do against the competing interests of deliberate review, dissent, and informed accountable decision-making." n42 While Judge Baker concluded that these risks "magnify the importance of a meaningful process of ongoing executive appraisal," he overlooked the institutional tension, seized upon by Justices O'Connor and Kennedy, which would preclude the type of process that he was advocating. n43

Although there may be a role for Congress in such instances, a legislative warrant for specific cases would likely be cumbersome, carry significant security risks, and may violate the spirit of the Bill of Attainder Clause, which prohibits the legislature from performing judicial or executive functions. The current inter-branch process for covert actions, in which the President must make a finding and notify the leaders of Congress and the intelligence committees, is entirely ex post and also has not been proven to provide a meaningful check on executive power. n44 Moreover, most politicians are unqualified to make the necessary legal judgments that these situations require.

Solutions calling for the expatriation of citizens deemed to be terrorists are fraught with judicial complications and set very dangerous precedents for citizenship revocation. n45 Any post-deprivation process, such as a Bivens-style action, for a targeted attack would also be problematic. n46 Government officials charged with carrying out these attacks might be hesitant to do so if there were a threat of prosecution. Moreover, post-deprivation process for a target would be effectively meaningless in the wake of a successful attack.

[\*445] Rather, as recognized by the Founders in the Fourth Amendment, balancing the needs of security against the imperatives of liberty is a traditional role for judges to play. Two scholars of national security law recently highlighted the value of judicial inclusion in targeting decisions: "Judicial control of targeted killing could increase the accuracy of target selection, reducing the danger of mistaken or illegal destruction of lives, limbs, and property. Independent judges who double-check targeting decisions could catch errors and cause executive officials to avoid making them in the first place." n47 Judges are both knowledgeable in the law and accustomed to dealing with sensitive security considerations. These qualifications make them ideal candidates to ensure that the executive exercises constitutional restraint when targeting citizens.

Reforming the decision-making process for executing American citizens to allow for judicial oversight would restore the separation of powers framework envisioned by the Founders and increase democratic legitimacy by placing these determinations on steadier constitutional ground. For those fearful of judicial encroachment on executive war-making powers, there is a strong argument that this will actually strengthen the President and empower him to take decisive action without worrying about the judicial consequences. As Justice Kennedy put it, "the exercise of [executive] powers is vindicated, not eroded, when confirmed by the Judicial Branch." n48 Now, we will turn to what this judicial involvement would look like.

#### SCENARIO 1 IS HUMAN RIGHTS LEADERSHIP!

#### Lack of due process on drones spills over – it’s the knockout blow for rights guarantees

Blum and Heymann 10 (Gabriella, Assistant Professor of Law – Harvard Law School, and Philip, Professor of Law – Harvard Law School, “Law and Policy of Targeted Killing,” Harvard National Security Journal, 1 Harv. Nat'l Sec. J. 145, Lexis)

As we have shown, targeted killings may be justified even without declaring an all-out "war" on terrorism. A war paradigm is overbroad in the sense that it allows the targeting of any member of a terrorist organization. For the United States, it has had no geographical limits. When any suspected member of a hostile terrorist organization--regardless of function, role, or degree of contribution to the terrorist effort--might be targeted anywhere around the world without any due process guarantees or monitoring procedures, targeted killings run grave risks of doing both short-term and lasting harm. In contrast, a peacetime paradigm that enumerates specific exceptions for the use of force in self-defense is more legitimate, more narrowly tailored to the situation, offers potentially greater guarantees for the rule of law. It is, however, harder to justify targeted killing operations under a law enforcement paradigm when the tactic is used as a continuous and systematic practice rather than as an exceptional measure. Justifying targeted killings under a law enforcement paradigm also threatens to erode the international rules that govern peacetime international relations as well as the human rights guarantees that governments owe their own citizens.

#### New legal framework key to effective norms – clear, national standards bridge the gap

Mutua 7 (Makau, SUNY Distinguished Professor, Professor of Law, Floyd H. & Hilda L. Hurst Faculty Scholar, and Director of the Human Rights Center – Buffalo Law School, “Standard Setting in Human Rights: Critique and Prognosis,” Human Rights Quarterly, Vol. 29, http://www.law.buffalo.edu/content/dam/law/restricted-assets/pdf/faculty/mutuaM/journals/hrq2907.pdf)

Even with historic conceptual and institutional breakthroughs, a lot remains to be done to secure human dignity. Although human rights standards have been set in virtually all areas that touch on human dignity, normative gaps and weaknesses still exist in many areas. New normative frameworks are needed in some areas, while in others they must be elaborated and strengthened. Standard setting is a dynamic process that must respond to a rapidly changing globe and challenges that come with the emergence of new problems and conditions. The argument that the era of standard setting is over is not only mistaken, but dangerous.

The setting of human rights standards is not a static process. The conditions of humanity that human rights standards seek to safeguard and promote are evolving concepts. New conditions of oppression and powerlessness are forever being discovered, and new challenges are constantly emerging. For example, the gay rights movement and the campaign for the rights of people with disabilities were unthinkable just a few decades ago. The current US war on terror has similarly thrown up new obstacles to established norms. There is no doubt that these and many other issues require a normative response. The struggle for and definition of human freedom and development is a continuous and evolutionary process. These issues require unceasing vigilance, revision, re-evaluation, deepening, and re-definition. Broad norms and standards must be unpacked, broken down, elucidated, revised, and may even need to be rejected and replaced by new and different standards. The scope, reach, and content of norms must be comprehensible to their beneficiaries, as well as to those who bear the responsibility for their implementation. Vacuous, rhetorical, and vague standards accomplish little.

To be effective, standards must have a clear path for their implementation and enforcement. This is an area of weakness. Institutions that are responsible for the promotion and protection of human rights standards—states and IGOs—are largely perceived by NGOs as reluctant, unwilling, unable, or ineffectual actors. They are seen as interested mostly in blunting the bite of human rights to safeguard state sovereignty. The effect of human rights must be translated at the national level, so municipal institutions that safeguard basic rights are critical to enforcement. Judiciaries, national human rights institutions, bar associations, NGOs, police and security apparatuses, and legislatures must be in the frontline to entrench, deepen, promote, and protect human rights. However, only human rights NGOs among these institutions can usually be relied on to advance the human rights agenda with vigor, honesty, and a healthy disinterest. Human rights norms must be internalized by states in their legal and political orders to be effective.

#### The impact is global war

William W. Burke-White 4, Lecturer in Public and International Affairs and Senior Special Assistant to the Dean, Woodrow Wilson School of Public and International Affairs, Princeton University, Spring 2004, Harvard Human Rights Journal, 17 Harv. Hum. Rts. J. 249, p. 279-280

This Article presents a strategic--as opposed to ideological or normative--argument that the promotion of human rights should be given a more prominent place in U.S. foreign policy. It does so by suggesting a correlation between the domestic human rights practices of states and their propensity to engage in aggressive international conduct. Among the chief threats to U.S. national security are acts of aggression by other states. Aggressive acts of war may directly endanger the United States, as did the Japanese bombing of Pearl Harbor in 1941, or they may require U.S. military action overseas, as in Kuwait fifty years later. Evidence from the post-Cold War period [\*250] indicates that states that systematically abuse their own citizens' human rights are also those most likely to engage in aggression. To the degree that improvements in various states' human rights records decrease the likelihood of aggressive war, a foreign policy informed by human rights can significantly enhance U.S. and global security.¶ Since 1990, a state's domestic human rights policy appears to be a telling indicator of that state's propensity to engage in international aggression. A central element of U.S. foreign policy has long been the preservation of peace and the prevention of such acts of aggression. n2 If the correlation discussed herein is accurate, it provides U.S. policymakers with a powerful new tool to enhance national security through the promotion of human rights. A strategic linkage between national security and human rights would result in a number of important policy modifications. First, it changes the prioritization of those countries U.S. policymakers have identified as presenting the greatest concern. Second, it alters some of the policy prescriptions for such states. Third, it offers states a means of signaling benign international intent through the improvement of their domestic human rights records. Fourth, it provides a way for a current government to prevent future governments from aggressive international behavior through the institutionalization of human rights protections. Fifth, it addresses the particular threat of human rights abusing states obtaining weapons of mass destruction (WMD). Finally, it offers a mechanism for U.S.-U.N. cooperation on human rights issues.

#### And, human rights cred is key to limit Russian autocracy

Mendelson 9 (Sarah, Senior Fellow in the Russia and Eurasia Program – Center for Strategic and International Studies, “U.S.-Russia Relations and the Democracy and Rule of Law Deficit”, 6-19, http://www.tcf.org/publicat ions/internationalaffairs/US-RussianRelationsandtheDemocracyandRuleofLawDeficit.pdf)

In fact, coping with authoritarian trends in Russia (and elsewhere) will involve **changes in U.S. policies that have, on the surface, nothing to do with Russia**. Bush administration counterterrorism policies that authorized torture, indefinite detention of terrorist suspects, and the rendering of detainees to secret prisons and Guantánamo have had numerous negative unintended con­sequences for U.S. national security, including serving as a recruitment tool for al Qaeda and insurgents in Iraq.4 Less often recognized, these policies also have undercut whatever leverage the United States had, as well as limited the effectiveness of American decision-makers, to push back on authoritarian poli­cies adopted by, among others, the Putin administration. At its worst, American departures from the rule of law may have enabled abuse inside Russia. These departures certainly left human rights defenders isolated.5 Repairing the dam­age to U.S. soft power and reversing the departure from human rights norms that characterized the Bush administration’s counterterrorism policies will provide the Obama administration strategic and moral authority and improve the ability of the United States to work with allies. It also can have positive consequences for Obama’s Russia policy. The changes that need to be made in U.S. counterterrorism policies, how­ever politically sensitive, are somewhat more straightforward than the adjust­ments that must be made to respond to the complex issues concerning Russia. The Obama administration must determine how best to engage Russian lead­ers and the population on issues of importance to the United States, given Russia’s poor governance structures, the stark drop in oil prices, Russia’s continued aspirations for great power status, and the rather serious resentment by Russians concerning American dominance and prior policies. The policy puzzle, therefore, is how to do all this without, at the same time, sacrificing our values and undercutting (yet again) U.S. soft power. This report assesses the political dynamics that have shaped Russia’s authoritarian drift, briefly addresses a few of the ways in which they mat­ter for U.S. policy, and suggests several organizing principles to help the Obama administration manage this critical relationship. Possible approaches include working closely with Europe on a joint approach to Russia, accurately anticipating the unintended consequences of U.S. policy in one realm (such as Kosovo) for Russia policy, and embracing the rights of states to choose their Sarah E. Mendelson 5 own security alliances. A final important principle relates to U.S. engagement with Russians beyond the Kremlin. President Obama should speak directly to the Russian people, engaging in a manner that respects their interests and desires, but also reflects the core values of the Obama administration; that is, “reject[s] as false the choice between our safety and our ideals.”6 The Obama administration also should endorse a platform and a process for a renewed dialogue between U.S. and Russian civil society. The View from the Kremlin Two interactive dynamics over the past several years have shaped the dominant approach by the Russian government to the outside world: the United States declined as a world power, and at the same time, the Russian state accumulated massive wealth from high gas and oil prices. Following what many in the Russian elite view as the “humiliation” of the 1990s, by 2008, Russia was no longer a status quo power. Instead, revisionist in nature, Russian authorities focused on the restoration of great power status.7 Fueled by petrodollars, the government tackled this project in numerous ways, including military exer­cises around the globe, soft power projects such as a twenty-four-hour-a-day English language cable news station, “think tanks” in New York and Paris, and perhaps most important, gas and oil distribution systems meant to make Russia a central player in energy security for decades to come.8 This restora­tion project undoubtedly will be slowed by the current financial crisis and drop in oil revenues, but the building blocks remain in place. As the restoration project evolved, the Putin administration increasingly challenged aspects of the post–World War II and post–cold war legal, secu­rity, and economic architecture, and suggested the need for new arrangements. Many in the Russian elite seemed to view the changes that have occurred in Europe over the past twenty years, such as the enlargement of the North 6 U.S.-Russian Relations and the Democracy and Rule of Law Deficit Atlantic Treaty Organization (NATO) and the European Union (EU), as ille­gitimate, driven not by the choices of local governments or populations, but by the will of Washington. Nostalgia for the Soviet era, a related sentiment, is widely shared, and is an important source of former president and now Prime Minister Vladimir Putin’s popularity.9 Some experts even suggest that many in Russia’s governing structures believe that Europe whole and free—that is, post–cold war Europe—is not in the security interest of Russia. The Carnegie Moscow Center’s Lilya Shevtsova has labeled this view “great power nation­alism” and observes that the “Putin-Medvedev-Lavrov doctrine” derives from the premise that Russia seeks to contain the West—while the West is busy trying not to offend Russia.10 Some other studies suggest that Russian policy­makers have attempted, in fact, to divide the United States from Europe, and generally have preferred bilateral to multilateral engagement.11 At the United Nations, Russia, together with China, repeatedly has challenged international responses to gross human rights violations in Burma, Darfur, and Zimbabwe, and it has engaged in systematic efforts to undermine the Organization for Security and Co-operation in Europe’s (OSCE) election monitoring efforts and the Council of Europe’s human rights monitoring.12 Meanwhile, Russian lead­ers seem to believe the current European security arrangements are soft com­mitments, ripe for renegotiation and restructuring. President Dmitri Medvedev has, in fact, called for a new “collective security arrangement,” at the same time reintroducing the concept of spheres of influence.13 All of these actions taken together, along with the decline in U.S. soft power, have looked at times as if some in the Russian government were trying to reset the table on human rights and international law, exporting its democracy and rule of law deficit abroad. How best can the United States, together with Europe, respond to this situation? Two additional dynamics are relevant: Russian internal weaknesses, both political and economic, but also the degree to which the Russian authori­ties’ assessment of the condition of the international system is correct. For Sarah E. Mendelson 7 example, in August 2008, Russian government officials fecklessly deployed human rights and international law rhetoric to justify the Russian use of force in South Ossetia—was that just a murky reflection of the current deeply incon­sistent international order?14 Will that calculation be challenged by the Obama administration? How can it do so effectively? Will we see a new era of more robust international organizations, underpinned by respect for human rights and international law? If not, will we be in for a period of serious instability in Europe, along Russia’s borders? Russia’s Democracy and Rule of Law Deficit What makes these questions so pressing is the reality that American and European political strategy dating back to the early 1990s of integrating Russia into the Euro-Atlantic community and thus encouraging democratic develop­ment has largely failed. By 2009, Vladimir Putin’s policies have systemati­cally closed off nearly all legitimate structures for voicing opposition. Many nongovernmental organizations are under daily pressure from the authorities.15 The parliament is dominated by a government-run party, United Russia, and outcomes of local and national elections are controlled by the authorities. The government controls national television. The few critically minded journalists that exist routinely are threatened or are under constant surveillance by the authorities, and twenty murders of journalists since 2000 have gone unsolved.16 One small newspaper known for its criticism of Kremlin policies has seen four of its journalists killed in recent years. At a minimum, the authorities have pre­sided over an era of impunity, and at worst, some fear government authorities may have been directly involved in these deaths.17 Meanwhile, the democratic political opposition is extremely marginal and dysfunctional—irrespective of whatever government pressures are brought to bear on it. Russia has no leading liberal figures that might emerge as national leaders at present. In years past, the fighting among liberal parties was legend­ary, and led to multiple fratricidal losses in single-mandate districts, as liberal parties ran against one another—back when there were competitive elections for parliamentary seats.18 Today, it is unclear when or how the democratic opposition will repair itself. Yet, as political space has shrunk steadily in the past ten years, the major­ity of Russians do not appear to mind. In terms of the younger generation, the conventional wisdom that wealth would lead to a demand for democracy has not been borne out; only about 10 percent of survey respondents could be considered strongly supportive of democracy, while most are ambivalent. In the early 1990s, many in the West assumed that the older Soviet generation would be replaced eventually by a younger, pro-Western, pro-democratic gen­eration. Experts and policymakers alike assumed this succession would be a natural course of events, like gravity. A similar conventional wisdom about the younger generation in Russia continues. It holds that iPods, lattes, skateboards, and other artifacts of Western consumer culture will translate into a desire for independent media, justice, and human rights. In 2005 and 2007, in an environment of steadily shrinking political space, a study based at the Center for Strategic and International Studies (CSIS) explored how young Russians viewed Soviet history and Stalin. Our nationally representative surveys of 16-to-29-year-old Russians suggested that, despite economic prosperity, most young people gravitated enthusiastically to Vladimir Putin’s ideological platform of revisionist history and nostalgia. The narrative advanced by the government concerning recent history quite simply resonated with this younger generation. In both surveys, a majority believed that Stalin did more good than bad and that the collapse of the Soviet Union was the greatest geopolitical catastrophe of the twentieth century. These findings undoubtedly reflected coordinated strategic communications efforts by government authorities, including sup­port of a teacher’s guide rewriting Soviet history, downplaying the deaths of millions of citizens, and effacing historical memory. These actions facilitated Russia’s authoritarian trend.19 In sum, the Russian middle class and support for authoritarian governance coexist. The tacit bargain of the past decade, however, in which dissenters were punished but Russians’ pocketbooks grew, may now be threatened by the inter­national economic crisis. Oil prices plunged from a high of $147 a barrel in July 2008 to about $40 a barrel in December 2008. If the price of oil stays low, the lubricating effect of oil and gas revenues may well dry up, laying bare Russia’s dysfunctional state institutions and challenging the authorities’ ability to govern. Economic hardship and poor governance seem, at least anecdotally, to correlate with an increase in public protest and nervousness on the part of the ruling authorities.20 Perhaps, in the long run, the mix of economic hard times and poor governance will stimulate a greater demand for democracy and the rule of law in Russia, as citizens grow unhappy with state institutions that do not function and link that dysfunction to poor governance. In the near term, we can expect growth in nationalism and xenophobia. 21 To be sure, the democracy and rule of law deficit and the growth in nationalism pose problems primarily for Russians. In the twenty-first cen­tury, independent investigative journalism and the legitimate use of courts for prosecution are necessary to fight corruption. Today, Russia is plagued by corruption, and the Russian authorities dominate both television and court decisions.22 Independent newspapers and Internet sites exist, but journal­ists who have engaged in investigative journalism have been killed or live under threat.23 In a state where the rule of man predominates, the population experiences the police as predatory rather than protective. Torture in police stations is said to be common and police officers who have been rotated through Chechnya are said to be especially abusive.24 In a 2004 CSIS survey of 2,400 Russians ages 16 to 65, 41 percent of respondents feared arbitrary arrest by the police.25 In a 2007 CSIS survey of 2,000 Russians ages 16 to 29, 62 percent of respondents fully or partially distrusted the police.26 While one cannot make direct comparisons for methodological reasons, it is worth bearing in mind a recent study of attitudes toward police in China, where only 25 percent reported distrust.27 Undoubtedly, the democracy and rule of law deficit varies regionally, but it is particularly worrisome in the southern regions of Russia. The govern­ment’s approach to what it perceives as widespread radical Islamic sentiment in the North Caucasus has increased violence rather than contained it. Between May 1 and August 31, 2008, there were at least 282 incidents, and between September 1 and December 31, 2008 there were at least 333.28 When the situ­ation is at its most dire, the Russian government appears not to control this part of its territory. Many experts worry that there will be war in the North Caucasus in 2009, or possibly that, south of the border, a Russian-Georgia war will break out again.29 That prognosis may be overly gloomy, but violence is clearly on the rise and the socioeconomic conditions in the region are dire. Why It Matters What does any of this have to do with the Obama administration? The democ­racy and rule of law deficit in Russia has a range of security and human rights implications for the United States and our allies in Europe. For example, the Obama administration comes to office with a number of arms control goals. These plans may be complicated by the absence of Russian military reform that, in turn, correlates with abuse inside the army. (They are also complicated by continued government reliance on nonconventional forces: in September 2008, President Medvedev committed to modernizing the nuclear arsenal.30) Serious, joint counterterrorism efforts with the United States, Europe, and Russia are likely to remain illusive as long as the police and security ser­vices are corrupt and abusive, and the media, a potential source to expose that corruption, is largely controlled by the government. Even at the nongov­ernmental, track-two level, it is now difficult to have the sort of transatlantic Sarah E. Mendelson 11 policy dialogue on terrorism that has been common among other nations and societies since 2001.31 The most dire evidence suggests that security service personnel or contractors have been deployed abroad, in European cities, to eliminate Kremlin enemies. In the most famous example, British authorities have sought the extradition from Moscow of former KGB bodyguard and cur­rent Duma member Andrew Lugovoi for the murder by Polonium poisoning of Alexander Litvinenko in London in November 2006.32 Kremlin proxies, such as Chechnya’s Ramzan Kadyrov, may have agents doing the same on his behalf on the streets of Austria, also with apparent impunity.33 At a minimum, the Russian authorities seem to have drawn a red line at additional enlargement of Euro-Atlantic organizations. Instead of allowing states and societies to decide for themselves what alliances and security or economic arrangements they want, Russian officials speak of “zones of inter­est” and “neutral” spaces—presumably such as Ukraine. In the worst case scenario, the Kremlin might decide to probe the resolve of existing NATO and EU security commitments. Presumably, this realization led General James Craddock to request that NATO begin defense planning for the Baltic states.34 Some believe, although the evidence is not clear, that the May 2007 cyber attack on Estonian government agencies, banks, newspapers, and other organi­zations was a first probe by the Russian government.35 In the August 2008 war in Georgia, for which all sides deserve some blame, experts saw evidence of additional Russian government cyber attacks and a prime example of blatant disregard for international law as the Russian government sought to change an internationally recognized border by force.36 Meanwhile, existing Euro-Atlantic organizations are negatively and directly affected by Russia’s democracy and rule of law deficit. In recent years, the European Court of Human Rights has heard far more cases from Russia than any other country, effectively substituting for Russia’s domestic judiciary. Some European human rights lawyers argue that this situation is severely undermining the court’s efficacy and ability to handle cases from a broad range of countries. Moreover, the Russian government increasingly has failed to compensate victims or their families, apparently now risking its expul­sion from the Council of Europe.37 According to numerous OSCE officials, the Kremlin has waged a systematic campaign to undercut the organization’s vari­ous monitoring efforts.38 The emergent norm of international election observa­tion has been undermined by the Kremlin’s attempts to legitimize fraudulent elections at home and in neighboring states, supporting a wave of authoritarian governments in this region.39

#### Global war

Goodby 2 (James E., Former Fellow – US Institute of Peace, and Piet Buwalda and Dmitriĭ Trenin, A Strategy for Stable Peace: Toward a Euroatlantic Security Community, p. 27-29)

A decade after the Cold War was solemnly buried, there is still no stable peace between Russia and the Western countries. Moreover, from the late 1990s the dynamic of the relationship has taken a negative direc­tion. NATO's expansion to the east, the Kosovo crisis, and the second Chechen war stand out as milestones of the gradual slide toward something alternately described as a "cold peace" and a "new cold war." Frustration is steadily building on both sides. Mutual expecta­tions have been drastically lowered. In the Western world, and in North America in particular, public expectations for Russia and its affairs have plummeted. "Russia fatigue" is widespread in Europe as well. In Russia itself, Western, especially U.S., policies are often described as being aimed at keeping Russia weak and fragmented, with a purpose of subjugating it. It would appear, then, that today is anything but a pro­pitious starting point for an effort to chart the road toward a security community centered on Europe that would include Russia. But such an effort is necessary and should not be delayed. At worst, a Russia that is not properly anchored in a common institu­tional framework with the West can turn into a loose nuclear cannon. If conflicts arise between Russia and its smaller neighbors, the West will not be able to sit them out. And a progressive alienation between Russia and the Western world would have a very negative impact on domestic developments in Russia. Now that the German problem has been solved, the Russian problem looms as potentially Europe's largest. The United States will not be able to ignore Russia's strategic nuclear arsenal, and the European Union can hardly envisage a modi­cum of stability along its eastern periphery unless it finds a formula to co-opt Russia as Europe's reliable associate. RUSSIAN DEMOCRATIZATION In the decade since the demise of the Soviet Union and the commu­nist system, Russia has evolved into a genuinely pluralist society, al­though it is still a very incomplete democracy. To its credit, Russia has a constitution that proclaims separation of powers; it has a work­ing parliament, an executive president, and a nominally independent judiciary. Between 1993 and 2000, three parliamentary and two presi­dential elections were held; for the first time in Russia's long history, transfer of power at the very top occurred peacefully and in accor­dance with a democratic constitution. This is already becoming a pat­tern. Power has been decentralized vertically as well as horizontally. Power monopoly is a thing of the past. Russia's regions have started to form distinct identities. The regional governors, or presidents of re­publics, within Russia are popularly elected, as are city mayors and regional legislatures. The national economy has been largely priva­tized. The media, though not genuinely independent either of the au­thorities or of the various vested interests, are free in principle. There is a large degree of religious freedom, and ideological oppression is nonexistent. Finally, Russians are free to travel abroad. These achievements are significant, and most of them are irre­versible. Yet, Russia's development is handicapped by major hurdles to speedier societal transformation, as is occurring in Poland or Es­tonia. One hurdle is poor governance, stemming from the irresponsi­bility of the elites as much as from sheer incompetence. Toward the end of the Yeltsin era, the state itself appeared privatized, with parts of it serving the interests of various groups or strongmen. Corruption and crime are pervasive. Accustomed to living in an authoritarian state, many Russians began to associate democracy with chaos and thug­gery. Another major problem is widespread poverty and the collapse of the social infrastructure, including health care. Too many Russians believe they have gained little or nothing from the economic and social changes of the past decade. Taken together, these factors work toward the restoration of some form of authoritarian and paternalistic rule.

#### It’s reverse casual – aligning the war on terror with due process builds support for US leadership on human rights – the impact is warming and legitimacy

Schulz 8 (William F., Senior Fellow – Center for American Progress, Adjunct Professor of International Relations – The New School, Former Executive Direction – Amnesty International, “Introduction,” *The Future of Human Rights: U.S. Policy for a New Era*, p. 11-14)

Which leads to the second general principle the United States must reaffirm: a commitment to global cooperation and respect for international protocols and institutions, imperfect as they are. Of Francis Fukuyama's four bedrock characteristics of neoconservatism, it is the final one" skepticism about the legitimacy and effectiveness of international law and institutions to achieve either security or justice"38-that most dramatically divides normative human rights practice from neoconservative.

Sophisticated advocates of human rights are not naive about the failures of the United Nations, the shortcomings of the UN Human Rights Council, the unproven value of the International Criminal Court, or the weakness of unenforceable international law. But to ignore international regimens, much less undermine them, is to sacrifice the best resource the United States has available for convincing the world that we do not suffer from solipsism, immune to the needs and opinions of others; that our intent is benign; and that the most powerful nation on earth is prepared to use its power fairly and wisely. Mighty as we are, we do not live in a cocoon; we cannot solve our problems by ourselves, be they Iraq or terrorism or global warming.

Respect for human rights and the processes by which they are fashioned is one of the best ways to win global friends and influence the passions of people. And whether we think the source of human rights is God, natural law, or consensualism, an international imprimatur lends legitimacy to our pursuit of them. As a study by the Princeton Project on National Security noted recently, "Liberty under law within nations is inextricably linked with a stable system of liberty under law among them. " 40 Surely even Condoleezza Rice who, during the 2000 presidential campaign, wrote that "foreign policy in a Republican administration ... will proceed from the firm ground of the national interest, not the interests of an illusory international community [emphasis added] " 41 has come to rue the day she thought the world community no more than a chimera.

Repairing the Damage

The damaging effect of neoconservative policies on human rights goes well beyond reinforcement of the suspicion that American advocacy of human rights is a mere cover for an imperialist agenda. Those policies have undermined the notion that spreading human rights and democracy around the globe are viable goals of U.S. foreign policy. They have weakened international institutions upon which human rights depend. And they have increased a certain natural reticence on the part of the American people to commit U.S. troops to humanitarian and peace keeping missions, even when they are justified, as they are, for example, in Darfur. Coupled with America's human rights practices as part of its prosecution of the war on terror-secret incommunicado detentions, denial of habeas corpus, winking acceptance of torture-the nation's ability to hold others to account for their own abuses has been severely weakened.

A new administration will certainly have its hands full repairing this damage. It will need to find a variety of ways to signal renewed US. support for the international system. RatifYing one or more international human rights treaties would help do that. Perhaps the Convention on the Rights of the Child, which all countries except the United States and Somalia have ratified, would be a place to start now that the U.S. Supreme Court has removed one of the major objections to the treaty by declaring the execution of juveniles unconstitutional. Or closing Guantanamo Bay. Or removing the reservations to various human rights treaties that declare them nonenforceable in domestic law. Or standing for election to the UN Human Rights Council, flawed though it is, and using that forum to articulate a renewed commitment to a comprehensive human rights agenda. Or revisiting U.S. concerns about the International Criminal Court with an eye toward eventually ratifYing the Rome statutes establishing the court, or at least suspending the penalties we have leveraged against those countries that have refused to immunize Americans from prosecution by the court. If Iraq has taught us anything, it ought to have demonstrated that finding ways to deal with tyrants short of military force is to the advantage of all parties.

It will need to adopt a more sophisticated, less ham-handed approach to the promotion of democracy around the globe. It ought to go without saying that human rights are served by an increase in the number of stable democracies in the world. But the key word is "stable," since we know that newly formed, unstable democratic states lacking robust civil societies and strong democratic institutions are especially prone to be breeding grounds for all sorts of mischief, not least the production of terrorists. The tragedy of the Iraq War will only be compounded if the lesson drawn from it is that, because force- . feeding democracy proved so destructive, the only alternative is quiescence. While democracy is no magic bullet, tyranny guarantees bullets aplenty. Not every nation is ready to leap into full-blown democracy on a moment's notice. But if, indeed, as worldwide surveys have found, more than 90 percent of Muslims endorse democ- Introduction 13 racy as the best form of government, what is required of us is neither perfectionism nor passivity.42 What is required of us is patience.

It will need to codify the positive obligations of the United States under the

newly minted doctrine of the "responsibility to protect. "Just as the Iraq War ought not sour us on promoting democracy, so we must not allow it to impose an unfitting shyness upon us about using military power for humanitarian ends. In 2005 the UN General Assembly endorsed the worldwide responsibility to protect civilian populations at risk from mass atrocities.43 That does not imply that the United States will have to be the proverbial "world's policeman," committing its troops willy-nilly to the far corners of the globe. But it does mean that the United States will need to take mass atrocities seriously, adopting an early warning system for populations in danger, shoring up weak and failing states, and providing leadership and support for intervention when necessary, even when it itself stays far away from battle. The American people can distinguish between unwise military posturing and morally justified humanitarian interventions. In January 2007, after more than three years and 3,000 U.S. deaths in Iraq, 63 percent of Americans, quite understandably, said that the world has grown more afraid of U.S. military force and that such fear undermines U.S. security by prompting other nations to seek means to protect themselves.44 Yet, even so, in a poll taken six months later, a plurality of Americans favored deploying U.S. troops as part of a multinational force in Darfur.45 If the American people can tell the difference between legitimate and illegitimate use of force, the American government ought to be able to also.

It will need to conform US. practices to international standards on fundamental human rights issues. The United States will never reclaim its reputation for human rights leadership as long as its own policies on such issues as **due process** for prisoners taken into custody in the course of the war on terror remain at such radical odds with international law and practice. There is considerable room for debate as to how cases of terror suspects should be adjudicated, especially when highly classified intelligence is involved-whether, for example, the United States should establish special national security courts or integrate such defendants into the regular criminal justice system46- but what is beyond doubt is that the current system in which suspects are cast into legal netherworlds of secret detentions and coercive interrogations cannot continue. And in a broader sense, the United States would do well in the eyes of the world to be less defensive about its own domestic practices that may fall short of international standards. Our credibility in criticizing others waxes and wanes in direct proportion to our willingness to acknowledge our own shortcomings. We should, for example, welcome to this country any UN special rapporteur who seeks an invitation to investigate; we should encourage the solicitor general of the United States to draw upon international law to buttress the government's arguments before the Supreme Court, thereby lending encouragement to those members of the court who are beginning to look to such law to inform their opinions;47 and we should issue an annual report on U.S. human rights practices to complement the State Department's reports on other countries. Mter all, since the Chinese publish such a report on us each year, it could not hurt to publish a more accurate version of our own.

#### Warming causes extinction

Don Flournoy 12, Citing Feng Hsu, PhD NASA Scientist @ the Goddard Space Flight Center and Don is a PhD and MA from UT, former Dean of the University College @ Ohio University, former Associate Dean at SUNY and Case Institute of Technology, Former Manager for University/Industry Experiments for the NASA ACTS Satellite, currently Professor of Telecommunications @ Scripps College of Communications, Ohio University, “Solar Power Satellites,” January 2012, Springer Briefs in Space Development, p. 10-11

In the Online Journal of Space Communication , Dr. Feng Hsu, a  NASA scientist at Goddard Space Flight Center, a research center in the forefront of science of space and Earth, writes, “The evidence of global warming is alarming,” noting the potential for a catastrophic planetary climate change is real and troubling (Hsu 2010 ) . Hsu and his NASA colleagues were engaged in monitoring and analyzing climate changes on a global scale, through which they received first-hand scientific information and data relating to global warming issues, including the dynamics of polar ice cap melting. After discussing this research with colleagues who were world experts on the subject, he wrote: I now have no doubt global temperatures are rising, and that global warming is a serious problem confronting all of humanity. No matter whether these trends are due to human interference or to the cosmic cycling of our solar system, there are two basic facts that are crystal clear: (a) there is overwhelming scientific evidence showing positive correlations between the level of CO2 concentrations in Earth’s atmosphere with respect to the historical fluctuations of global temperature changes; and (b) the overwhelming majority of the world’s scientific community is in agreement about the risks of a potential catastrophic global climate change. That is, if we humans continue to ignore this problem and do nothing, if we continue dumping huge quantities of greenhouse gases into Earth’s biosphere, humanity will be at dire risk (Hsu 2010 ) . As a technology risk assessment expert, Hsu says he can show with some confidence that the planet will face more risk doing nothing to curb its fossil-based energy addictions than it will in making a fundamental shift in its energy supply. “This,” he writes, “is because the risks of a catastrophic anthropogenic climate change can be potentially the extinction of human species, a risk that is simply too high for us to take any chances” (Hsu 2010 ).

#### Lack of legitimacy makes US leadership ineffective, regardless of material power

Barak Mendelsohn 10, assistant professor of political science at Haverford College and a senior fellow of FPRI. Author of Combating Jihadism: American Hegemony and Interstate Cooperation in the War on Terrorism, June 2010, “The Question of International Cooperation in the War on Terrorism”, <http://www.fpri.org/enotes/201006.mendelsohn.cooperationwarterror.html>

Going against common conceptions, I argue that the United States sought to advance more than what it viewed as simply its own interest. The United States stands behind multiple collaborative enterprises and should be credited for that. Nevertheless, sometimes it has overreached, sought to gain special rights other states do not have, or presented strategies that were not compatible with the general design of the war on terrorism, to which most states subscribed. When it went too far, the United States found that, while secondary powers could not stop it from taking action, they could deny it legitimacy and make the achievement of its objectives unattainable. Thus, despite the common narrative, U.S. power was successfully checked, and the United States found the limitations of its power, even under the Bush administration. Defining Hegemony Let me begin with my conception of hegemony. While the definition of hegemony is based on its material aspects—the preponderance of power—hegemony should be understood as a part of a social web comprised of states. A hegemon relates to the other states in the system not merely through the prism of power balances, but through shared norms and a system of rules providing an umbrella for interstate relations. Although interstate conflict is ubiquitous in international society and the pursuit of particularistic interests is common, the international society provides a normative framework that restricts and moderates the hegemon's actions. This normative framework accounts for the hegemon's inclination toward orderly and peaceful interstate relations and minimizes its reliance on power. A hegemon’s role in the international community relies on legitimacy. Legitimacy is associated with external recognition of the hegemon’s right of primacy, not just the fact of this primacy. States recognize the hegemon’s power, but they develop expectations that go beyond the idea that the hegemon will act as it wishes because it has the capabilities to do so. Instead, the primacy of the hegemon is manifested in the belief that, while it has special rights that other members of the international society lack, it also has a set of duties to the members of the international society. As long as the hegemon realizes its commitment to the collective, its position will be deemed legitimate. International cooperation is hard to achieve. And, in general, international relations is not a story of harmony. A state’s first inclination is to think about its own interests, and states always prefer doing less over doing more. The inclination to pass the buck or to free ride on the efforts of others is always in the background. If a hegemon is willing to lead in pursuit of collective interests and to shoulder most of the burden, it can improve the prospects of international cooperation. However, even when there is a hegemon willing to lead a collective action and when states accept that action is needed, obstacles may still arise. These difficulties can be attributed to various factors, but especially prominent is the disagreement over the particular strategy that the hegemon promotes in pursuing the general interest. When states think that the strategy and policies offered by the hegemon are not compatible with the accepted rules of “rightful conduct” and break established norms, many will disapprove and resist. Indeed, while acceptance of a hegemon’s leadership in international society may result in broad willingness to cooperate with the hegemon in pursuit of shared interests it does not guarantee immediate and unconditional compliance with all the policies the hegemon articulates. While its legitimacy does transfer to its actions and grants some leeway, that legitimacy does not justify every policy the hegemon pursues—particularly those policies that are not seen as naturally deriving from the existing order. As a result, specific policies must be legitimated before cooperation takes place. This process constrains the hegemon’s actions and prevents the uninhibited exercise of power.

#### Extinction

Zhang and Shi 11 Yuhan Zhang is a researcher at the Carnegie Endowment for International Peace, Washington, D.C.; Lin Shi is from Columbia University. She also serves as an independent consultant for the Eurasia Group and a consultant for the World Bank in Washington, D.C., 1/22, “America’s decline: A harbinger of conflict and rivalry”, http://www.eastasiaforum.org/2011/01/22/americas-decline-a-harbinger-of-conflict-and-rivalry/

This does not necessarily mean that the US is in systemic decline, but it encompasses a trend that appears to be negative and perhaps alarming. Although the US still possesses incomparable military prowess and its economy remains the world’s largest, the once seemingly indomitable chasm that separated America from anyone else is narrowing. Thus, the global distribution of power is shifting, and the inevitable result will be a world that is less peaceful, liberal and prosperous, burdened by a dearth of effective conflict regulation. Over the past two decades, no other state has had the ability to seriously challenge the US military. Under these circumstances, motivated by both opportunity and fear, many actors have bandwagoned with US hegemony and accepted a subordinate role. Canada, most of Western Europe, India, Japan, South Korea, Australia, Singapore and the Philippines have all joined the US, creating a status quo that has tended to mute great power conflicts. However, as the hegemony that drew these powers together withers, so will the pulling power behind the US alliance. The result will be an international order where power is more diffuse, American interests and influence can be more readily challenged, and conflicts or wars may be harder to avoid. As history attests, power decline and redistribution result in military confrontation. For example, in the late 19th century America’s emergence as a regional power saw it launch its first overseas war of conquest towards Spain. By the turn of the 20th century, accompanying the increase in US power and waning of British power, the American Navy had begun to challenge the notion that Britain ‘rules the waves.’ Such a notion would eventually see the US attain the status of sole guardians of the Western Hemisphere’s security to become the order-creating Leviathan shaping the international system with democracy and rule of law. Defining this US-centred system are three key characteristics: enforcement of property rights, constraints on the actions of powerful individuals and groups and some degree of equal opportunities for broad segments of society. As a result of such political stability, free markets, liberal trade and flexible financial mechanisms have appeared. And, with this, many countries have sought opportunities to enter this system, proliferating stable and cooperative relations. However, what will happen to these advances as America’s influence declines? Given that America’s authority, although sullied at times, has benefited people across much of Latin America, Central and Eastern Europe, the Balkans, as well as parts of Africa and, quite extensively, Asia, the answer to this question could affect global society in a profoundly detrimental way. Public imagination and academia have anticipated that a post-hegemonic world would return to the problems of the 1930s: regional blocs, trade conflicts and strategic rivalry. Furthermore, multilateral institutions such as the IMF, the World Bank or the WTO might give way to regional organisations. For example, Europe and East Asia would each step forward to fill the vacuum left by Washington’s withering leadership to pursue their own visions of regional political and economic orders. Free markets would become more politicised — and, well, less free — and major powers would compete for supremacy. Additionally, such power plays have historically possessed a zero-sum element. In the late 1960s and 1970s, US economic power declined relative to the rise of the Japanese and Western European economies, with the US dollar also becoming less attractive. And, as American power eroded, so did international regimes (such as the Bretton Woods System in 1973). A world without American hegemony is one where great power wars re-emerge, the liberal international system is supplanted by an authoritarian one, and trade protectionism devolves into restrictive, anti-globalisation barriers. This, at least, is one possibility we can forecast in a future that will inevitably be devoid of unrivalled US primacy.

#### SCENARIO TWO IS LEGAL CRISES!

#### Obama’s white paper claimed due process for citizens, but executive implementation creates a legal disaster that wrecks due process – providing notice and opportunity is key

Feldman 13 (Noah, Professor of Constitutional and International Law – Harvard University, “Obama’s Drone Attack on Your Due Process,” Bloomberg, 2-8, <http://www.bloomberg.com/news/2013-02-08/obama-s-drone-attack-on-your-due-process.html>)

\*gender modified

The biggest problem with the recently disclosed Obama administration white paper defending the drone killing of radical clerk Anwar al-Awlaki isn’t its secrecy or its creative redefinition of the words “imminent threat.” It is the revolutionary and shocking transformation of the meaning of due process.

Fortunately, as seen during John Brennan’s confirmation hearing for Central Intelligence Agency director, Congress is starting to notice.

Due process is the oldest and most essential component of the rule of law. It goes back to the Magna Carta, when the barons insisted that King John agree not to kill anyone or take property without following legal procedures.

What they meant -- and what has been considered the essence of due process since -- is that the accused must be notified of the charges against him and have the opportunity to have his[\*/her\*] case heard by an impartial decision maker. If you get due process, you can’t complain about the punishment that follows. If you don’t get that opportunity, you’ve been the victim of arbitrary power.

Are U.S. enemies entitled to due process? Well, no -- not if they are arrayed against the country on the battlefield. In war, you don’t try the enemy. You kill him, preferably before he kills you. And if some of the Japanese troops at Guadalcanal had held U.S. citizenship, it wouldn’t have suddenly given them due process rights. If Awlaki was an enemy fighting on the battlefield, he wouldn’t have deserved due process while the fight was on. Off it, he should legally be like any other U.S. citizen, innocent until proven guilty.

Generous Idea

Yet, despite claiming that the Awlaki killing was justified because he was an operational leader of al-Qaeda, and thus in some sense an enemy on the battlefield, the white paper still assumes that due process applies to U.S. citizens abroad who adhere to the enemy. On the surface, this sounds plausible and even generous: Why not consider the possibility that a U.S. citizen abroad has some rights against being killed out of the blue?

In fact, though, applying due process analysis to Awlaki produces a legal disaster. The problem is, once you consider due process, you have to give it some meaning -- and the meaning you choose will cast a long shadow over what the term means everywhere else.

The white paper uses two Supreme Court cases to assess what process is due to an American about to be killed by a drone. The first, Mathews v. Eldridge, is a 1976 case in which the court held that the elaborate administrative processes necessary after a person lost his Social Security disability benefits were constitutionally acceptable even though there was no evidentiary hearing before the benefits were terminated. In that case, the court said that the process due could be determined by balancing the individual’s interest against the government’s.

The other case was 2004’s Hamdi v. Rumsfeld, where the court held that a detained enemy combatant -- in custody, not on the battlefield -- must receive “notice of the factual basis for his classification, and a fair opportunity to rebut the Government’s factual assertions before a neutral decision- maker.”

Astonishingly, the white paper follows its summary of these decisions with the bald assertion that a citizen outside U.S. territory can be killed if a high-level official determines that he poses an imminent threat, it would be unfeasible to capture him and the laws of war would otherwise permit the killing.

Never Explained

The non sequitur is breathtaking. Awlaki wouldn’t receive notice, the opportunity to be heard or a hearing before a decision maker. In other words, he would receive none of the components of traditional due process -- not even one. How the absence of due process could be magically transformed into its satisfaction is never stated or explained. All we get is the assertion that a target’s interest in life must be “balanced against” the government’s interest in protecting other Americans. On this theory, no due process would be due to those accused of murder, because their lives would have to be balanced against the government’s interest in protecting their potential victims.

#### Obama relies on internal review to legally say targeted killing meets due process – external review prevents manipulation of the law that weakens it in other areas

Powell 13 (Jeff, Professor of Law – Duke University School of Law, Former Member – Justice Department’s Office of Legal Counsel, Former Deputy Assistant Attorney, “Jeff Powell on Targeted Killing and Due Process,” Lawfare Blog, 6-21, <http://www.lawfareblog.com/2013/06/jeff-powell-on-targeted-killing-and-due-process/>)

There is much to admire in the speech President Barack Obama gave on May 23rd in which he gave us his views on “lethal, targeted action” against high ranking members of al-Qaeda and its allies, above all his acknowledgment that the “laws constrain the power of the President, even during wartime.” For all his speech’s virtues, however, Mr. Obama’s comments about one legal issue, due process, should disturb us deeply. In discussing his insistence “on strong oversight of all lethal action,” the President stated, “for the record,” that he “do[es] not believe it would be constitutional for the government to target and kill any U.S. citizen – with a drone, or a shotgun – without due process.” Mr. Obama had just referred to the killing of Anwar Awlaki, whose death was “the one instance when we targeted an American citizen,” and he plainly was not confessing constitutional error. There is no serious doubt, then, that the President thinks that the US government deprived Mr. Awlaki of his life with due process. Unfortunately, Mr. Obama’s discussion of that issue is fundamentally flawed in two ways: first, in his assumption that due process applies at all, and second, in his belief that the administration’s procedures satisfy due process.

The President’s blanket assertion that our government must always provide due process before killing a citizen may seem self-evident – after all, the Fifth Amendment demands that no person (not citizen!) shall be deprived of life, liberty or property without due process of law — but Mr. Obama was wrong nonetheless. Due process requires fairness in government’s dealings with those it governs; it simply does not apply to military decisions, in hostilities that Congress has authorized, about attacking members of enemy forces who are not under American control. Mr. Obama was not justifying the killing of Mr. Awlaki as an extrajudicial execution but as the elimination of a particular enemy officer in the field as an act of war. The Constitution imposes other constraints on presidential action in a time of war, but due process has no role in what the Supreme Court’s 2004 decision in Hamdi v. Rumsfeld termed “the Executive in its exchanges …with enemy organizations in times of conflict.”

If there is no constitutional due process requirement at all, why does it matter that Mr. Obama assumes that there is? Is there any real harm in putting forth a standard for meeting a burden that doesn’t exist? There is, because the President’s reasoning may undercut the meaning of due process in other circumstances where the constitutional requirement does apply.

From comments he and other officials have made, and from the Justice Department “White Paper” that was leaked earlier this year, what he had in mind seems clear: it is the “strong oversight” over targeting decisions that the President himself has mandated that he and his advisors believe satisfies the Constitution. The White Paper lays out the argument: the executive branch itself has provided a targeted US citizen due process because only high-level members of al-Qaeda and its allies are targeted, the decision to use lethal force is made by an “informed, high-level official of the U.S. government,” that official must determine that the potential target poses an “imminent threat of violent attack,” and it must not be feasible to capture the individual without excessive risk to the lives of American personnel or vital American interests. As the President put it, Mr. Awlaki “was continuously trying to kill people” as part of his role in al-Qaeda, and although Mr. Obama “would have detained and prosecuted Awlaki if we captured him before he carried out a plot … we couldn’t.”

I have no objection to the procedures that the White Paper outlines: indeed they are roughly the sort of careful decisionmaking that I would hope my government would employ in such a grave matter. (Whether our current practices of targeted killing are a wise or even moral policy overall is another question.) Nor am I criticizing the determination that Mr. Awlaki met the White Paper’s targeting criteria: I have no reason or inclination to doubt the President’s view of the facts. But the White Paper’s claim that these laudable procedures amount to due process is quite indefensible.

The White Paper (correctly) invoked the Hamdi v. Rumsfeld decision for the due process analysis that applies in the war against al-Qaeda, but its understanding of the Constitution’s requirements could hardly be more at odds with the discussion of “the central meaning of procedural due process” in Justice Sandra Day O’Connor’s lead opinion: “Parties whose rights are to be affected are entitled to be heard; and in order that they may enjoy that right they must first be notified. It is equally fundamental that the right to notice and an opportunity to be heard must be granted at a meaningful time and in a meaningful manner,” and they must be heard by a “neutral and detached judge.” “These essential constitutional promises may not be eroded,” Justice O’Connor concluded, but the White Paper – and I think we can assume the President as well – apparently find these promises inapplicable in the context of targeted killings.

It takes only a moment’s reflection to see that the President’s laudable procedures for imposing “strong oversight” over targeting decisions are worlds apart from Hamdi’s “essential constitutional promises” – indeed, it is hard to imagine how a military decision about attacking an enemy combatant could be otherwise. Of course the White Paper does not propose that potential targets be given notice of the government’s possible interest in killing them. Of course it does not contemplate, much less require, that a targeted individual be heard at any time or in any manner as to why the government is mistaken about his identity or activities. Of course it does not provide for a neutral and detached decisionmaker to resolve any factual uncertainty: the ultimate decisionmaker here is the President in his capacity as commander in chief, who (we should hope) is not in the least neutral or detached in carrying out his responsibility for national security. Calling the executive’s own procedures the due process that is meant to check arbitrary executive decisions isn’t merely an erosion of the “essential constitutional promises” but their wholesale repudiation. If Mr. Awlaki was entitled to due process, then his killing violated the Constitution.

Since due process doesn’t apply to a US military decision, in a situation of actual and authorized hostilities, to attack a member of the enemy’s forces who is a legitimate target under the law of war, the Constitution was not in fact violated. But my concern here is to identify the patent error in the White Paper’s and the President’s thinking about due process, because that error is likely to confuse our thinking about the wisdom and morality of targeted killing. The decision to kill a known, identified human being is a brutal one, the action of doing so is ugly to think about, even apart from the fact that sometimes other people die (as Mr. Obama acknowledged with sorrow). This brutality and ugliness are part of the grim reality of war. When we pretend to ourselves that our procedures for making such decisions satisfies the constitutional requirements of due process, we cast a veil of civility and even humanity over something that is inherently violent and dehumanizing.

I am not a pacifist, and I accept that the brutality of war is sometimes unavoidable. But the law’s antiseptic language about the weighing and balancing of interests according to “the traditional due process analysis” that supplies the legal “framework for assessing the process due a U.S. citizen” (I quote from the White Paper) masks, in a deeply misleading fashion, the brutality, the terror and the violence of war – even if we are right to conclude that we should take lethal action against our enemies. It serves no good purpose for the President and his advisors, or for any of us as citizens, to pretend that targeted killing is or can be anything other than the brutality it is.

The problem with the President’s constitutional error is not limited to its power to confuse our thinking about the reality of targeted killing. Once a legal argument gains legitimacy in the courts, or among executive officials, or in public discussion, it tends to expand beyond its original boundaries – the intellectual habits of lawyers and the traditional legalism of American public debate make this almost inevitable. By dint of repetition if nothing else, the claim that the executive’s own internal cogitations can amount to constitutional due process threatens to acquire the sort of legitimacy that will tempt future lawyers, and future Presidents, to apply it in other contexts. During World War Two, Justice Robert Jackson rejected the government’s argument that it was constitutional to intern US citizens purely on the basis of their Japanese ancestry because the decision rested on the executive’s claim of military necessity. Jackson didn’t propose that the courts interfere with the military’s actions, but he vigorously objected to anyone rationalizing the decision as constitutional. Accept that conclusion, Jackson wrote, and “[t]he principle then lies about like a loaded weapon ready for the hand of any authority that can bring forward a plausible claim of an urgent need.” The same worry applies to the President’s rewriting of what due process requires. Neither Mr. Obama nor anyone else can foresee or prevent future claims that we must turn the idea of due process on its head because of some perceived need to do so. The President and his advisors should rethink the White Paper’s faulty reasoning, and we should all keep in view the difference between “the essential constitutional promises” due process embodies, and the modes of military decision that our government employs in waging war.

#### That's especially true for drug-trafficking

Mataconis 13 (Doug, Private Practice Attorney, “President Obama’s Troubling Justification For Targeted Killings,” Outside the Beltway, 2-5, <http://www.outsidethebeltway.com/136544/>)

Obviously, the biggest concern here is the fact that the memo presents a fairly broadly open-ended definition of what an “imminent” attack actually is. It certainly doesn’t have the same meaning that it does in general conversation. This seems especially true given the fact that the al-Awlaki killing occurred nearly two years after the terrorist attack he was accused of masterminding, the 2009 “Underwear Bomber” attack. If we’re talking about the plot to apparently send bombs disguised as toner cartridges into the United States from Yemen, the killing took place a years after the alleged threat. Since we have never been privy to any of the evidence that the Administration supposedly had against him, it’s hard to see how he was the kind of “imminent” threat that ordinary use of the word would suggest or why it wouldn’t have been just as acceptable to capture him and bring him back to the United States for trial.

Ron Fournier points out many of the questions that arise from these memo:

1. Where does this slippery slope end? If killing Americans with no due process is OK when their alleged crime is consorting with al-Qaida, it’s not a huge intellectual leap to give government officials the same judge-and-jury authority over other heinous acts such as mass murder, drug-trafficking and pornography.

2. Shouldn’t there be a higher standard? In the torture debate, many Americans seemed to buy the concept that extreme measures might be necessary to prevent an imminent attack against the U.S. Should the standard be higher for torture than murder?

3. What makes a targeting killing lawful? Holder told the public months ago that killing Americans can be justified if “capture is not feasible.” But the memo gives more leeway to government officials, condoning the killing of an American if U.S. troops would be put at risk in an attempted capture, for example. Why the double-speak?

4. Why the secrecy? Obama promised to run the most transparent administration of modern times, and in many ways he’s kept the pledge. But not on this life-and-death issue. A group of 11 senators, led by Democrat Ron Wyden of Oregon, have urged Obama to release all Justice Department memos on targeting killings. There are many more, and more important, documents than the Isikoff memo that need exposure. The public deserves to know why its president, without due process or visibility, is issuing death sentences to alleged terrorists, some of them Americans. They learned today that the public statements of administration officials on this matter can’t be trusted.

Based on an initial reading of the memo (which is available as a PDF file), it seems pretty clear that the Administration is attempting to make it appear that their policy limits the President’s authority when, in reality, it greatly expanding it. By defining “imminence” so loosely, as well as the other qualifications that are put on the decision of whether or not to target someone for killing, they have managed to vastly expand the powers of the Presidency just as President George W. Bush did during his time in office. This is of concern for two reasons.

First, as I’ve said in other posts regarding this matter, the idea that the President can decide on his own when an American citizen can be targeted for assassination by means of a secret process which American courts cannot review is a profoundly disturbing one. Who’s to say that this some rule can’t be used to target someone in the United States, or in a foreign country that, if requested, would be more than likely to assist us in arrest of such a suspect? Once you concede the idea that a President has the right to order the death of an American citizen without trial or any other form of due process, you’ve opened the floodgates to all kinds of potential problems.

#### Broadly applying due process for trafficking is key to global support that solves organized crime

Lichter 9 (Brian A., J.D. – Northwestern School of Law, “THE OFFENCES CLAUSE, DUE PROCESS, AND THE EXTRATERRITORIAL REACH OF FEDERAL CRIMINAL LAW IN NARCO-TERRORISM PROSECUTIONS,” Northwestern University Law Review, 103(4), http://www.law.northwestern.edu/lawreview/v103/n4/1929/lr103n4lichter.pdf)

The new narco-terrorism statute raises important constitutional issues that warrant further scholarly exploration. In a world of increasingly globalized crime, the constitutional rights of foreign nationals, the extraterritorial jurisdiction of federal courts, and Congress‘s power to legislate extraterritorially will become central questions within our constitutional framework. These issues, taken together, raise the broader question of the proper balance between individual liberties and national security interests in a post-9/11 world. This Comment argues that the government‘s power to proscribe narcoterrorism is broad. But while the Constitution should act as a shield for national interests rather than a sword in extraterritorial prosecutions, 207 the government‘s power is not—and cannot be—exercised without constraint. Although Congress‘s Offences Clause power is broad, it is not limitless. To check this broad power, the Executive is under no obligation to initiate § 960a prosecutions, particularly if a prosecution would pose thorny political and diplomatic questions. The Fifth Amendment‘s Due Process Clause also limits the extraterritorial reach of federal law. Although this Comment argues that due process does not require a territorial nexus, measuring due process pursuant to internationally accepted bases of jurisdiction in extraterritorial prosecutions is advantageous for policy reasons. Exercising jurisdiction in accordance with international law is politically beneficial because it demonstrates the United States‘ compliance with accepted norms and puts other countries on notice as to when the United States will likely assert jurisdiction. Moreover, international law, through protective jurisdiction, provides a tool by which federal courts can exercise jurisdiction over extraterritorial violations of nonperemptory norms. As this Comment suggests, this jurisdiction is a safety net that permits the U.S. government to protect its own security interests, along with those of allied governments, through the criminal law. In this way, § 960a can become a powerful prosecutorial tool in the fightagainst international crime.

#### Nuclear war

**Dobriansky, 1 -** Under Secretary for Global Affairs at the State Department (Paula, “The Explosive Growth of Globalized Crime,”http://www.iwar.org.uk/ecoespionage/resources/transnational-crime/gj01.htm

Certain types of international crime -- terrorism, human trafficking, drug trafficking, and contraband smuggling -- involve serious violence and physical harm. Other forms -- fraud, extortion, money laundering, bribery, economic espionage, intellectual property theft, and counterfeiting -- don't require guns to cause major damage. Moreover, the spread of information technology has created new categories of cybercrime.

For the United States, international crime poses threats on three broad, interrelated fronts. First, the impact is felt directly on the streets of American communities. Hundreds of thousands of individuals enter the U.S. illegally each year, and smuggling of drugs, firearms, stolen cars, child pornography, and other contraband occurs on a wide scale across our borders.

Second, the expansion of American business worldwide has opened new opportunities for foreign-based criminals. When an American enterprise abroad is victimized, the consequences may include the loss of profits, productivity, and jobs for Americans at home.

Third, international criminals engage in a variety of activities that pose a grave threat to the national security of the United States and the stability and values of the entire world community. Examples include the acquisition of weapons of mass destruction, trade in banned or dangerous substances, and trafficking in women and children. Corruption and the enormous flow of unregulated, crime-generated profits are serious threats to the stability of democratic institutions and free market economies around the world.

#### Independently – culminates in misuse of surveillance drones in Syria and Mexico

Sager and Schneider 13 (Josh and Dan, Writers – The Boston Occupier, “America’s Dangerous Drone Precedent: A Secret and Unaccountable Program of Targeted Killings,” Progressive Cynic, 1-29, <http://theprogressivecynic.com/2013/01/29/americas-dangerous-drone-precedent-a-secret-and-unaccountable-program-of-targeted-killings/>)

In addition to their use as a tool in extrajudicial assassination, drones are quickly becoming a hot-ticket item for government agencies that want to conduct surveillance. U.S. Customs and Border Protection currently operates nine drones, using them for border and drug trafficking surveillance; Homeland Security has used them to support FEMA during disaster relief operations; and the Seattle Police Department recently caused a stir when the Mayor and City Council found out that they were operating a pair of surveillance drones.

Support for laissez-faire regulation of this new industry is likely to find a home in the new Congress. Changes between the 112th and 113th sessions haven’t done much to alter the makeup of the House Unmanned Systems Caucus, a bipartisan group of Representatives that collectively received over $8 million in campaign donations from drone manufacturers during the 2012 elections. In early 2012, the “drone caucus” was instrumental in shaping the Federal Aviation Administration Authorization Act (FAAAA), a law passed annually to approve funding for the FAA. This year’s FAAAA contained a special section addressing unmanned aerial vehicles, and specifically requests that both representatives of the aviation and drone industries have a say in crafting how drones are deployed within the country.

This kind of private-public partnership strengthens as the use of drones for surveillance and war around the world increases, and will surely have a strong influence over which countries will have access to this technology, and will set the terms for how it is used. A September study released by NYU and Stanford pointed out the dangers in allowing drone use to spread without a legal framework for their sale and use.

When it comes to them being as a tool of war, researchers ominously noted that:

“US practices may also facilitate recourse to lethal force around the globe by establishing dangerous precedents for other governments. As drone manufacturers and officials successfully reduce export control barriers, and as more countries develop lethal drone technologies, these risks increase.”

Three months into the Afghanistan War, Ali Qaed Sinan al-Harithi and five others (including a U.S. citizen) became the first six fatalities of the U.S. drone program. Not in Afghanistan, however, but in Yemen. In 2001, the U.S. justified the strikes similarly to how Israel, during the First Intifada, justified its own “targeted killing” program. The U.S. said that because Harithi could not possibly be arrested, and was alleged to be a member of al-Qaeda, it was legal to kill him because the U.S. was “at war” with terrorism and this conflict justified ignoring the sovereignty of another state.

Without the constraint of an enforceable international law, there may be too few barriers in place to stop other nations from exploiting the same loopholes that the U.S. has to kill members of groups they deem ‘terrorists’—say, Mexican drug cartels or the Free Syrian Army—but their own citizens, as well. Seen in this light, the assassinations of Harithi, Awlaki, and thousands of others are not mere casualties of short-term war; they are the first dead in new breed of globalized warfare, bound only by feasibility and the size of one’s defense budget.

#### That causes global escalation of Syria

Rozoff 13 (Rick, investigative journalist, “U.S. Drone Strikes In Syria: Dangerous Escalation,” Global Research, 3-18, <http://www.globalresearch.ca/u-s-drone-strikes-in-syria-dangerous-escalation/5327190>)

The introduction of drone strikes by the United States inside Syria would mark a dangerous escalation in the Syrian unrest, says Rick Rozoff, manager of the Stop NATO organization.Rozoff told the U.S. Desk that if deadly U.S drone strikes are expanded to Syria, it would be “the most disturbing manifestation of the international drone warfare policy.”

Drone attacks inside Syria would be “an act of utter provocation,” he said.

“If the U.S. directly engage in military strikes, which is what drone attacks are, means that the U.S. has openly intervened and become belligerent in the war on Syria and it could lead to an escalation of tensions not only in the region but globally.”

#### Nuclear war

**Russell 9** (James, Senior Lecturer in the Department of National Security Affairs – Naval Postgraduate School, “Strategic Stability Reconsidered: Prosepects for Nuclear War and Escalation in the Middle East,” Online)

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

#### Independently causes Russia nuclear war

PressTV 8-8-13 (“Israel can spark US-Russia thermonuclear war: LaRouche,” <http://www.presstv.com/detail/2013/08/08/317842/israel-can-spark-usrussia-nuclear-war/>)

American political activist Lyndon LaRouche has warned that the continuation of Israeli behavior towards Syria, including the recent air strikes against the Arab country, could end in a US-Russia thermonuclear war.

His comments appeared in an article by Jeffrey Steinberg, which has been published in the latest issue of Executive Intelligence Review, a weekly news magazine founded by LaRouche himself.

“Lyndon LaRouche warned on Aug. 3 that ongoing Israeli actions, including the July 5 Israeli Air Force (IAF) bombing of a depot near Latakia, Syria which held Russian-made anti-ship cruise missiles, could trigger a wider war, drawing the United States into thermonuclear conflict with Russia,” the article starts.

Following the attack, American officials said the air strike had failed to destroy all the missiles. Steinberg said the leak proved that the US wanted to distance itself from any military measure against Russian targets in Syria to avoid further escalation of any future conflict with Moscow.

“According to U.S. intelligence sources contacted by EIR, the leaks are intended to make clear that the United States is not supporting the Israeli strikes against Russian targets against Syria. Such strikes could lead to an escalation that directly draws the United States into a head-on confrontation with Russia,” the piece read.

#### And, US-Mexico surveillance drones destroy relations

News 7-24 (Mexico’s News Service, “US, Mexico talk bilateral security,” 7-24, <http://www.thenews.com.mx/index.php?option=com_content&view=article&id=12173&Itemid=276>)

Delegates from Mexico and the U.S. met near the countries’ border on Tuesday to discuss security and immigration issues. Mexican Interior Secretary Miguel Ángel Osorio Chong held talks with counterpart Janet Napolitano at the U.S.-Mexico Binational Meeting in Tamaulipas.

The meeting took place behind closed doors, and delegates did not share details on any outcomes. Osorio Chong said in his twitter account prior to the meeting that the Mexico and the U.S. “share a vision of a dynamic and secure border, implicating a shared responsibility.” Border security has been hotly discussed in both countries since the U.S. Senate passed an immigration reform bill that would see border security tightened and the estimated 11 million undocumented immigrants living in the U.S. given a path to citizenship.

Mexico’s relationship with the U.S. has been under the spotlight after former President Felipe Calderón was accused of allowing U.S. agencies conduct surveillance operations in Mexico, causing uproar among the Mexican public. President Enrique Peña Nieto said that if found to be true, the operations would have been “totally unacceptable.” The U.S. is also known to have flown surveillance drones over Mexico in the fight against organized crime.

#### That determines overall Latin American relations

Pamela K. Starr 9, adjunct fellow specializing in Mexico at the Pacific Council on International Policy, “Mexico and the United States: A Window of Opportunity?”, Pacific Council on International Policy, April 2009, <http://www.pacificcouncil.org/pdfs/Mexico_and_the_United_States.pdf>

Mexican sentiment toward the United States matters. If Mexicans mistrust the United States, question what our country stands for, and feel treated like a second-class ally, it will be difficult for Washington to foster a cooperative relationship that extends beyond drugs and trade. Further, without a cooperative relationship with its nearest Latin American neighbor it will be difficult for the United States to improve relations with the rest of the region. And as demonstrated by the expansion of Chinese investment, Russian military sales and naval maneuvers, Iranian diplomatic visits, and Hugo Chávez’ s regional sway, U.S. influence in the Latin American region can no longer be taken for granted. The election of a new U.S. president dedicated to increased reliance on multilateralism, support for human rights and democracy, and listening to the concerns of our allies, and devoted to increasing the role of diplomacy in American foreign policy is a key component of the previously noted window of opportunity for U.S.-Mexico relations. These promised features of an Obama foreign policy have created a well of enthusiasm and hope in Mexico for the future of Mexico’s relations with the United States. In this context, small symbolic acts can have an outsized positive impact on the bilateral relationship. These could include the following: • Follow through on the Obama administration’s early promises of partnership and “co- responsibility” for shared policy challenges. Mexico is accustomed to hearing new administrations in Washington point to a natural partnership with Mexico and call for renewed attention to bilateral concerns only to redirect their attention when seemingly more pressing international concerns arise. While the Mexican reaction to Secretary Clinton’s trip was strikingly positive, it was tempered by a “wait-and-see” attitude informed by a long history of unfulfilled promises emanating from the north. Giving the pressing nature of many of our bilateral challenges, the United States cannot afford to turn away from Mexico once again. • Actively work to redefine Mexico – in the minds of policy makers and of U.S. citizens – as an opportunity rather than a problem. As long as Americans think of Mexico as mostly a source of problems for the United States, mustering congressional support for policies that advance U.S. national interests by “helping Mexico” will remain a hard sell. This redefinition should include an expansion of cultural and educational exchanges between the two countries, enlisting celebrities as informal diplomats, and promoting contact and communication among non-governmental actors on both sides of the border. Potentially most important, Washington must carefully guard its rhetoric about Mexico to avoid disparaging statements that ultimately do harm to U.S. national interests. • Sustain the initial flurry of meetings among high-level government officials. Follow up meetings motivated by the security situation in Mexico with regular consultations between U.S. administration officials and their Mexican counterparts on the full spectrum of bilateral issues in which conversation reflects an attitude of partnership, bilateral cooperation, the genuine exchange of ideas and concerns, and the desire to find shared solutions to common problems. As useful as North American trilateral meetings are, U.S. officials should not rely on them as a substitute for direct exchanges with leaders in Mexico City.

#### That’s necessary for a successful Energy and Climate Partnership of the Americas

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With the challenges of climate change, clean energy, resource scarcity and green growth [are] set to dominate U.S.-Latin American relations, Valenzuela’s successor should have experience in these areas. ¶ These issues are a [priority](http://www.state.gov/p/wha/rls/rm/2011/154105.htm) for the Obama administration and present lucrative opportunities for the U.S. to improve trade and commercial relations with Latin America at a time when the region is a magnet for investment in clean energy.¶ In Chile, President Barack Obama spoke of the [urgency](http://www.whitehouse.gov/the-press-office/2011/03/21/remarks-president-obama-latin-america-santiago-chile) of tackling climate change and embracing a more secure and sustainable energy future in the Americas. The Energy and Climate Partnership of the Americas (ECPA), which aims to accelerate the deployment of clean energy and advance energy security, is an essential component of hemispheric relations.¶ Multiple U.S. agencies and departments are carrying out extensive work on climate change. The U.S. Agency for International Development (USAID), which runs the Global Climate Change Initiative, [argues](http://www.usaid.gov/our_work/environment/climate/) that climate change is one of the century’s greatest challenges and will be a diplomatic and development priority.¶ The U.S. Special Envoy for Climate Change, Todd [Stern](http://www.ecpamericas.org/files/events/Todd_Stern_20100416_eng.pdf), says that Latin America is a significant focus of funding with over $60 million spent in 2009-10 on climate-related bilateral assistance in the region. The U.S. military Southern Command [co-hosted](http://www.intercambioclimatico.com/en/2011/07/14/wp-content/uploads/Civil-Military-Collaboration-to-Address-Adaptation-to-Climate-Change-in-South-America.pdf) two events in Colombia and Peru focused on climate change concluding that the issue is a major security concern and as a result could be a powerful vehicle for U.S. military engagement in the region.¶ This year the Union of South American Nations’ (UNASUR) Defense Council (CDS) [inaugurated](http://en.mercopress.com/2011/05/23/unasur-defence-strategic-studies-centre-opens-this-week-in-buenos-aires) the new Defense Strategic Studies Center (CEED), which will look at various challenges including the protection of strategic [energy](http://www.rpp.com.pe/2011-05-27-ministros-de-defensa-de-unasur-piden-proteger-recursos-estrategicos-noticia_369675.html) and food resources and adapting to [climate change](http://www.google.com/hostednews/epa/article/ALeqM5jwR9CJoQuzRwgF3cGM48NV0LuyOA?docId=1538629).¶ THE REGION’S RESOURCES¶ Latin America and the Caribbean boast incredible and highly coveted natural resources including 25 percent of the planet’s arable land, 22 percent of its forest area, [and] 31 percent of its freshwater, 10 percent of its oil, 4.6 percent of its natural gas, 2 percent of coal reserves and 40 percent of its copper and silver reserves.¶ The International Energy Agency [forecasts](http://www.nytimes.com/2011/06/16/business/energy-environment/16oil.html?_r=2) that in the future world consumers are going to become more dependent on the Americas to satisfy their demand for oil with Brazil, Colombia, the U.S. and Canada set to meet the demand.¶ Brazil will host the U.N. [Conference on Sustainable Development](http://www.uncsd2012.org/rio20/) in 2012 with the green economy theme topping the agenda. Peter [Hakim](http://www.thedialogue.org/page.cfm?pageID=32&pubID=2679), president emeritus of Inter-American Dialogue, argues that while U.S.-Brazilian relations are fraught, both countries need to work harder to improve cooperation.¶ Climate change, clean energy, resource scarcity and green growth are key potential areas for U.S.-Brazilian relations. The launch of a [U.S](http://www.whitehouse.gov/the-press-office/2011/03/19/united-states-and-brazil-fact-sheets).[-Brazilian Strategic Energy Dialogue](http://www.whitehouse.gov/the-press-office/2011/03/19/united-states-and-brazil-fact-sheets), focusing on cooperation on biofuels and renewable energy, among other areas, is a productive start.¶ Although Latin America and the Caribbean continue to be the largest U.S. export market, the U.S.’s share of the region’s imports and exports has [dropped](http://www.eclac.org/publicaciones/xml/4/42854/2011_195_Highlights_of_economics_and_trade_WEB.pdf) over the last few years. China is now the top destination for the [exports](http://www.eclac.cl/comercio/publicaciones/xml/4/43664/People_Republic_of_China_and_Latina_America_and_the_Caribbean_trade.pdf) of Argentina, Venezuela, Brazil, Chile, Costa Rica, Peru and Uruguay. Latin American exports to China are concentrated in raw materials, which account for nearly [60 percent](http://www.eclac.cl/comercio/publicaciones/xml/4/43664/People_Republic_of_China_and_Latina_America_and_the_Caribbean_trade.pdf), while exports to the U.S. are more diversified.¶ THE RISE OF CHINA¶ Arturo Valenzuela [says](http://www.miamiherald.com/2011/05/25/2236198/washington-says-its-not-scared.html) this makes Latin Americans better off trading with the U.S. because they can take advantage of greater technology in the value chain. However, crude oil remained the top [export](http://www.eclac.org/cgi-bin/getProd.asp?xml=/publicaciones/xml/4/42854/P42854.xml&xsl=/comercio/tpl/p9f.xsl&base=/tpl/top-bottom.xsl) to the U.S. for Argentina, Brazil, Colombia, Ecuador, Mexico and Venezuela in the 2007-2009 time period.¶ The U.S. may assert it has a superior trade model to China, but the U.N.’s economic commission for the region [argues](http://www.eclac.org/publicaciones/xml/4/42854/2011_195_Highlights_of_economics_and_trade_WEB.pdf) there is a perceived lack of strategic vision by the U.S. in Latin America. Although the Energy and Climate Partnership of the Americas (ECPA) is the flagship U.S. initiative in the region and will be a key focus for President Obama at the 2012 Summit of the Americas, it is not yet comparable to past initiatives such as the 1960s-era [Alliance for Progress](http://en.wikipedia.org/wiki/Alliance_for_Progress).

#### ECPA key to sustainable development

Daniel M. Kammen 12, Professor of Energy at UC Berkeley and Diego Ponce de Leon Barido, Doctoral student in the Energy and Resources Group at UC Berkeley who has done research on Latin American water management and ecosystem services, “[Building Bridges to a Sustainable Energy Future](http://www.greatenergychallengeblog.com/2012/12/05/building-bridges-to-a-sustainable-energy-future/),” National Geographic, December 5, <http://www.greatenergychallengeblog.com/2012/12/05/building-bridges-to-a-sustainable-energy-future/>

The Americas are undergoing a transition in the energy sector that will have global geopolitical ramifications. At the same time as the United States is touted to become the world’s largest oil producer by 2020, and a net exporter by 2030, Brazil, Nicaragua, and Panama show the most promise in becoming regional hubs not only for clean energy investment, but for sustained low-carbon economic growth (see related story: “[U.S. to Overtake Saudi Arabia, Russia as World’s Top Energy Producer](http://news.nationalgeographic.com/news/energy/2012/11/121112-iea-us-saudi-oil/)“).¶ Although Latin America and the Caribbean lag behind the United States and Canada in terms of implemented clean energy policy and project funding, 7 percent of the region’s total installed capacity today is renewables, and it is expected to grow faster in years to come. (See related interactive map: [“The Global Electricity Mix](http://environment.nationalgeographic.com/environment/energy/great-energy-challenge/world-electricity-mix/)“) Faced with ever-changing economic and political realities, regional collaborations for knowledge-creation and -sharing are crucial for fostering lasting partnerships that can make ‘sustainability science’, well, sustainable.¶ International partnerships that lead to concrete action are often the clearest signs of innovation. At the state to state level, the [Energy and Climate Partnership for the Americas](http://www.ecpamericas.org) (ECPA) and at the person-to-person level, the Fulbright [NEXUS](http://www.cies.org/nexus/) program provide clear evidence regional collaborations that are clearly changing the modes of engagement within the hemisphere. One of us just returned from a partnership-building ECPA sponsored trip to Nicaragua, facilitated by both the U. S. Embassy team and a local NGO, [blueEnergy](http://www.blueenergygroup.org/?lang=en), which is discussed below and [here](http://www.partnersoftheamericas.net/2012/08/senior-ecpa-fellow-returns-from.html), focused on community energy.¶ Just two years after its launch by President Obama in 2009, ECPA has moved beyond its initial focus on knowledge sharing around cleaner and more efficient energy, and now also supports sustainable forest and land use initiatives as well as climate change adaptation strategies. Governments and institutions such as the Organization of American States (OAS), the World Bank, and the Inter-American Development Bank (IDB), have all worked together to support regional technical workshops, business strategies, and other initiatives for new and cleaner ways to provide energy. ECPA has also become a vehicle for leaders in sustainability research and practice to work at the institutional level to link industry, university, and civil-society groups in the New World.

#### Prevents extinction

Dr. Glen Barry 13, Political ecologist with expert proficiencies in old forest protection, climate change, and environmental sustainability policy, Ph.D. in "Land Resources" and Masters of Science in "Conservation Biology and Sustainable Development” from the University of Wisconsin-Madison, “ECOLOGY SCIENCE: Terrestrial Ecosystem Loss and Biosphere Collapse,” Forests.org, February 4, 2013, pg. <http://forests.org/blog/2013/02/ecology-science-terrestrial-ec.asp>

Blunt, Biocentric Discussion on Avoiding Global Ecosystem Collapse and Achieving Global Ecological Sustainability  
Science needs to do a better job of considering worst-case scenarios regarding continental- and global-scale ecological collapse. The loss of biodiversity, ecosystems, and landscape connectivity reviewed here shows clearly that ecological collapse is occurring at spatially extensive scales. The collapse of the biosphere and complex life, or eventually even all life, is a possibility that needs to be better understood and mitigated against. A tentative case has been presented here that terrestrial ecosystem loss is at or near a planetary boundary. It is suggested that a 66% of Earth's land mass must be maintained in terrestrial ecosystems, to maintain critical connectivity necessary for ecosystem services across scales to continue, including the biosphere. Yet various indicators show that around 50% of Earth's terrestrial ecosystems have been lost and their services usurped by humans. Humanity may have already destroyed more terrestrial ecosystems than the biosphere can bear. There exists a major need for further research into how much land must be maintained in a natural and agroecological state to meet landscape and bioregional sustainable development goals while maintaining an operable biosphere.   
It is proposed that a critical element in determining the threshold where terrestrial ecosystem loss becomes problematic is where landscape connectivity of intact terrestrial ecosystems erodes to the point where habitat patches exist only in a human context. Based upon an understanding of how landscapes percolate across scale, it is recommended that 66% of Earth's surface be maintained as ecosystems; 44% as natural intact ecosystems (2/3 of 2/3) and 22% as agroecological buffer zones. Thus nearly half of Earth must remain as large, connected, intact, and naturally evolving ecosystems, including old-growth forests, to provide the context and top-down ecological regulation of both human agroecological, and reduced impact and appropriately scaled industrial activities.  
Given the stakes, it is proper for political ecologists and other Earth scientists to willingly speak bluntly if we are to have any chance of averting global ecosystem collapse. A case has been presented that Earth is already well beyond carrying capacity in terms of amount of natural ecosystem habitat that can be lost before the continued existence of healthy regional ecosystems and the global biosphere itself may not be possible. Cautious and justifiably conservative science must still be able to rise to the occasion of global ecological emergencies that may threaten our very survival as a species and planet.   
Those knowledgeable about planetary boundaries – and abrupt climate change and terrestrial ecosystem loss in particular – must be more bold and insistent in conveying the range and possible severity of threats of global ecosystem collapse, while proposing sufficient solutions. It is not possible to do controlled experiments on the Earth system; all we have is observation based upon science and trained intuition to diagnose the state of Earth's biosphere and suggest sufficient ecological science–based remedies.  
If Gaia is alive, she can die. Given the strength of life-reducing trends across biological systems and scales, there is a need for a rigorous research agenda to understand at what point the biosphere may perish and Earth die, and to learn what configuration of ecosystems and other boundary conditions may prevent her from doing so. We see death of cells, organisms, plant communities, wildlife populations, and whole ecosystems all the time in nature – extreme cases being desertification and ocean dead zones. There is no reason to dismiss out of hand that the Earth System could die if critical thresholds are crossed. We need as Earth scientists to better understand how this may occur and bring knowledge to bear to avoid global ecosystem and biosphere collapse or more extreme outcomes such as biological homogenization and the loss of most or even all life. To what extent can a homogenized Earth of dandelions, rats, and extremophiles be said to be alive, can it ever recover, and how long can it last?  
The risks of global ecosystem collapse and the need for strong response to achieve global ecological sustainability have been understated for decades. If indeed there is some possibility that our shared biosphere could be collapsing, there needs to be further investigation of what sorts of sociopolitical responses are valid in such a situation. Dry, unemotional scientific inquiry into such matters is necessary – yet more proactive and evocative political ecological language may be justified as well. We must remember we are speaking of the potential for a period of great dying in species, ecosystems, humans, and perhaps all being. It is not clear whether this global ecological emergency is avoidable or recoverable. It may not be. But we must follow and seek truth wherever it leads us.  
Planetary boundaries have been quite anthropocentric, focusing upon human safety and giving relatively little attention to other species and the biosphere's needs other than serving humans. Planetary boundaries need to be set that, while including human needs, go beyond them to meet the needs of ecosystems and all their constituent species and their aggregation into a living biosphere. Planetary boundary thinking needs to be more biocentric.  
I concur with Williams (2000) that what is needed is an Earth System–based conservation ethic – based upon an "Earth narrative" of natural and human history – which seeks as its objective the "complete preservation of the Earth's biotic inheritance." Humans are in no position to be indicating which species and ecosystems can be lost without harm to their own intrinsic right to exist, as well as the needs of the biosphere. For us to survive as a species, logic and reason must prevail (Williams 2000).   
Those who deny limits to growth are unaware of biological realities (Vitousek 1986). There are strong indications humanity may undergo societal collapse and pull down the biosphere with it. The longer dramatic reductions in fossil fuel emissions and a halt to old-growth logging are put off, the worse the risk of abrupt and irreversible climate change becomes, and the less likely we are to survive and thrive as a species. Human survival – entirely dependent upon the natural world – depends critically upon both keeping carbon emissions below 350 ppm and maintaining at least 66% of the landscape as natural ecological core areas and agroecological transitions and buffers. Much of the world has already fallen below this proportion, and in sum the biosphere's terrestrial ecosystem loss almost certainly has been surpassed, yet it must be the goal for habitat transition in remaining relatively wild lands undergoing development such as the Amazon, and for habitat restoration and protection in severely fragmented natural habitat areas such as the Western Ghats.   
The human family faces an unprecedented global ecological emergency as reckless growth destroys the ecosystems and the biosphere on which all life depends. Where is the sense of urgency, and what are proper scientific responses if in fact Earth is dying? Not speaking of worst-case scenarios – the collapse of the biosphere and loss of a living Earth, and mass ecosystem collapse and death in places like Kerala – is intellectually dishonest. We must consider the real possibility that we are pulling the biosphere down with us, setting back or eliminating complex life.  
The 66% / 44% / 22% threshold of terrestrial ecosystems in total, natural core areas, and agroecological buffers gets at the critical need to maintain large and expansive ecosystems across at least 50% of the land so as to keep nature connected and fully functional. We need an approach to planetary boundaries that is more sensitive to deep ecology to ensure that habitable conditions for all life and natural evolutionary change continue. A terrestrial ecosystem boundary which protects primary forests and seeks to recover old-growth forests elsewhere is critical in this regard. In old forests and all their life lie both the history of Earth's life, and the hope for its future. The end of their industrial destruction is a global ecological imperative.   
Much-needed dialogue is beginning to focus on how humanity may face systematic social and ecological collapse and what sort of community resilience is possible. There have been ecologically mediated periods of societal collapse from human damage to ecosystems in the past (Kuecker and Hall 2011). What makes it different this time is that the human species may have the scale and prowess to pull down the biosphere with them. It is fitting at this juncture for political ecologists to concern themselves with both legal regulatory measures, as well as revolutionary processes of social change, which may bring about the social norms necessary to maintain the biosphere. Rockström and colleagues (2009b) refer to the need for "novel and adaptive governance" without using the word revolution. Scientists need to take greater latitude in proposing solutions that lie outside the current political paradigms and sovereign powers.  
Even the Blue Planet Laureates' remarkable analysis (Brundtland et al. 2012), which notes the potential for climate change, ecosystem loss, and inequitable development patterns neither directly states nor investigates in depth the potential for global ecosystem collapse, or discusses revolutionary responses. UNEP (2012) notes abrupt and irreversible ecological change, which they say may impact life-support systems, but are not more explicit regarding the profound human and ecological implications of biosphere collapse, or the full range of sociopolitical responses to such predictions. More scientific investigations are needed regarding alternative governing structures optimal for pursuit and achievement of bioregional, continental, and global sustainability if we are maintain a fully operable biosphere forever. An economic system based upon endless growth that views ecosystems necessary for planetary habitability primarily as resources to be consumed cannot exist for long.   
Planetary boundaries offer a profoundly difficult challenge for global governance, particularly as increased scientific salience does not appear to be sufficient to trigger international action to sustain ecosystems (Galaz et al. 2012). If indeed the safe operating space for humanity is closing, or the biosphere even collapsing and dying, might not discussion of revolutionary social change be acceptable? Particularly, if there is a lack of consensus by atomized actors, who are unable to legislate the required social change within the current socioeconomic system. By not even speaking of revolutionary action, we dismiss any means outside the dominant growth-based oligarchies.   
In the author's opinion, it is shockingly irresponsible for Earth System scientists to speak of geoengineering a climate without being willing to academically investigate revolutionary social and economic change as well. It is desirable that the current political and economic systems should reform themselves to be ecologically sustainable, establishing laws and institutions for doing so. Yet there is nothing sacrosanct about current political economy arrangements, particularly if they are collapsing the biosphere. Earth requires all enlightened and knowledgeable voices to consider the full range of possible responses now more than ever.   
One possible solution to the critical issues of terrestrial ecosystem loss and abrupt climate change is a massive and global, natural ecosystem protection and restoration program – funded by a carbon tax – to further establish protected large and connected core ecological sustainability areas, buffers, and agro-ecological transition zones throughout all of Earth's bioregions. Fossil fuel emission reductions must also be a priority. It is critical that humanity both stop burning fossil fuels and destroying natural ecosystems, as fast as possible, to avoid surpassing nearly all the planetary boundaries.   
In summation, we are witnessing the collective dismantling of the biosphere and its constituent ecosystems which can be described as ecocidal. The loss of a species is tragic, of an ecosystem widely impactful, yet with the loss of the biosphere all life may be gone. Global ecosystems when connected for life's material flows provide the all-encompassing context within which life is possible. The miracle of life is that life begets life, and the tragedy is that across scales when enough life is lost beyond thresholds, living systems die.

### Plan

#### The United States Federal Government should grant limited jurisdiction to a federal court that prohibits uninhabited aerial vehicle targeted killings of individual United States citizens when, after being afforded notice and opportunity as well as defense from an independent public advocate, it is proven that the target is not a senior member of Al Qaeda or associated force.

### Solvency

#### SOLVENCY!

#### A special court that determines the eligibility of US is key to effectively check presidential backsliding – due process will collapse absent the plan

Weinberger 13 (Dr. Seth, Associate Professor in the Department of Politics & Government – University of Puget Sound, “Enemies Among Us: The Targeted Killing of American Members of al Qaeda and the Need for Congressional Leadership,” Global Security Studies Review, 5-7, <https://blogs.commons.georgetown.edu/globalsecuritystudiesreview/2013/05/07/enemies-among-us-the-targeted-killing-of-american-members-of-al-qaeda-and-the-need-for-congressional-leadership/>)

On September 30, 2011, an American drone fired on and destroyed a convoy of members of al Qaeda in the Arabian Peninsula (AQAP). The target of the strike was Anwar al-Awlaki, a U.S. citizen born in New Mexico in 1971, accused of being a propagandist and operational leader for AQAP. The targeted killing of an American citizen raises a simple yet extremely discomfiting problem: Should the President of the United States be able to order an American citizen to be killed without trial, without any external review process, and without appeal?

In June 2010, John Brennan, then Deputy National Security Adviser for Homeland Security and Counterterrorism and current CIA director, stated that “there are dozens of U.S. persons [who have joined international terrorist organizations] who are in different parts of the world and they are very concerning to us.”[1] The issue was made even more salient on February 4, 2013, when an unclassified U.S. Justice Department (DOJ) white paper was released which laid out the legal justification for the targeted killing of “a U.S. citizen who is a senior operational leader of al Qaeda or an associated force.”[2]

The release of the targeted killing white paper unleashed a barrage of criticism of the policy. One author called the brief “a disaster” and asserted that “the Obama administration…wants to justify…assassinating citizens without specific and credible evidence of imminent violence.”[3] Another warned that “what’s so terrifying about this white paper is that it’s unconstitutional, not in the sense that it violates any particular tenet of the American Constitution, but in that it doesn’t respect the premise of there being a Constitution in the first place.”[4] Yet another claims that “[the white paper] is every bit as chilling as the Bush Office of Legal Counsel (OLC) torture memos in how its clinical, legalistic tone completely sanitizes the radical and dangerous power it purports to authorize.”[5] A few voices defended the policy, arguing, for example, that “once you take up arms against the United States, you become an enemy combatant, thereby forfeiting the privileges of citizens and the protections of the Constitution,”[6] and that “American presidents…have lawfully deployed military force against citizens in insurrection, rebellion, or war against the United States from the beginning of the nation.”[7]

However, focusing on the question of whether and when the president can order the targeted killing of an American citizen who has joined al Qaeda – as did almost all of the analyses of the DOJ white paper – not only misses the more important question involved but also obscures the best avenue to a potential solution. Instead of asking whether the president ought to be able to order the killing of American members of al Qaeda, we should instead be asking whether the president should be allowed to determine when an American citizen can be considered to be a senior operational member of al Qaeda, and if so, by what process?

Why is the question of determining who is a member of al Qaeda more important than the question of whether the president can kill American senior operational members of al Qaeda? As made clear by the World War II-era case Ex Parte Quirin, American citizens who join the armed forces of an enemy of the United States during wartime forfeit many of their basic constitutional protections and can be, as was the American citizen involved in the case, tried by military tribunal and executed under the laws of war.[8] The 2004 case of Hamdi v. Rumsfeld built on the Quirin case, finding that not only were at least some of the president’s war powers activated by congressional passage of the Authorization for the Use of Military Force (AUMF) in 2001, but that, as is normal under the laws of war, American citizens seized on the battlefield can be detained until the end of the conflict.[9]

However, the Hamdi decision also illustrates why the question of who is and is not a member of al Qaeda is the more critical question. The U.S. Supreme Court’s decision in Hamdi contained language vital for understanding the issue. The Court acknowledged that while enemy soldiers seized on the battlefield during a “normal” war do not receive an opportunity to challenge their detention, the exigencies of the war in Afghanistan against the Taliban dictate that “the circumstances surrounding Hamdi’s seizure cannot in any way be characterized as ‘undisputed’.”[10] Furthermore, because “‘the risk of erroneous deprivation’ of [Hamdi’s] liberty is unacceptably high” and as the case dealt with “the most elemental of liberty interests – the interest in being free from physical detention by one’s own government,” the Court decided that the traditional rules of war needed adjusting for the armed conflict against the Taliban.[11] Thus, the Court ruled that “a citizen-detainee seeking to challenge his classification as an enemy combatant must receive notice of the factual basis for his classification and a fair opportunity to rebut the Government’s factual assertions before a neutral decision maker.”[12] In essence, the Court ruled that the armed conflict with the Taliban sufficiently resembled traditional conflict as to allow for the indefinite military detention of enemy combatants, but that the difficulties involved in determining who is and is not an enemy combatant (for example, fighters in the Taliban neither wore uniforms nor carried identification) warranted an alteration in the normal application of the president’s war powers where American citizens are concerned.

The laws of war were designed to govern ‘traditional’ wars, in which the armies of states met on the battlefield and in which soldiers wore uniforms clearly identifying themselves as combatants. The lack of clarity that prompted the ruling in Hamdi comes from the inherent ambiguities in a low-intensity war against a non-state actor that is not limited to a specific battlefield. These ambiguities are magnified in the conflict against al Qaeda. Not only do al Qaeda’s members not wear uniforms or carry identification cards, but, given the decentralized nature of the organization, it is not even clear what exactly constitutes membership. It might be possible that one can become a “member” of al Qaeda simply by declaring or even believing oneself to be a member. In short, we should be much less confident in our judgments about who is and who is not a member of al Qaeda.

Several examples illustrate the problems caused by this ambiguity over membership in al Qaeda. First, consider Major Nidal Hassan, who stands accused of 13 counts of murder and 32 counts of attempted murder in the shootings at Ft. Hood, Texas. While Hasan had been in communication with Anwar al-Awlaki, he was ultimately court martialed rather than tried as a terrorist. This decision troubled terrorism scholar Bruce Hoffman, who argued that while he “used to argue it was only terrorism if it were part of some identifiable, organized conspiracy… this new strategy of al-Qaeda is to empower and motivate individuals to commit acts of violence completely outside any terrorist chain of command.”[13]

Next is the case of al Shabaab, an Islamist insurgent movement dedicated to bringing Sharia to Somalia. In February 2012, leaders of al Shabaab officially pledged allegiance to al Qaeda, a pledge that was enthusiastically accepted by Ayman al-Zawahiri, who succeeded Osama bin Laden as the formal head of al Qaeda.[14] Since the 2012 National Defense Authorization Act (NDAA) expanded the scope of the 2001 AUMF to include “associated groups,” al Shabaab is now a legitimate target for American forces. This poses several problems. First, a number of Somali-American citizens have joined al Shabaab, mostly for religious and nationalistic reasons related to the domestic political situation in Somalia.[15] Second, al Shabaab has largely confined its activities to inside Somalia, with the exceptions of a bombing in Uganda and a grenade attack in Kenya, attacks almost certainly intended to convince Uganda and Kenya to withdraw their respective troops from Somalia.[16] Third, many members have splintered-off from the main body of al Shabaab in the wake of the union with al Qaeda, apparently to keep their struggle focused on Somalia rather than the global jihad.[17] There seems to be little evidence, other than the formal affiliation, that al Shabaab has taken any actions against American citizens or interests or that al Shabaab is in any way other than name a part of the global terrorist movement.

And yet, under the 2012 NDAA, a Somali-American who becomes a senior operational leader of al Shabaab in order to liberate and Islamize Somalia is the legal equivalent of Anwar al-Awlaki and is therefore eligible for being targeted for death. Is this the enemy as envisioned by Congress and defined in the 2001 AUMF?

These examples call attention to several vital questions surrounding the Obama Administration’s use of targeted killing against American citizens. Is every group that is somehow connected to al Qaeda the “enemy” in this conflict, regardless of the threat it poses to American national interests or its involvement in global jihad? What kind of connection – formal, operational, or ideological – is sufficient justification for including an affiliated group under the scope of the 2001 AUMF and 2012 NDAA? Exactly what actions make an individual a member of al Qaeda? Given these serious questions about what constitutes involvement with al Qaeda, it is dangerous for decisions about the eligibility of American citizens for targeted killing to be made without legislative definition or judicial process or review.

The Obama Administration would likely claim that such decisions are a fundamental incident of war and therefore part of the president’s war powers that were activated by the 2001 AUMF. And under the current legal regime, the President’s use of drones to eliminate American senior operational members of al Qaeda is indeed legal.

But legal is not the same thing as prudent. Simply because a course of action is permitted does not mean it should be taken. For a number of reasons, perhaps most importantly because it is increasingly unclear what constitutes being a senior operational member of al Qaeda, we should be skeptical of allowing the Executive Branch to judge these decisions on its own. Without effective checks or definition, there can be little doubt that the bar for defining membership in al Qaeda and eligibility for targeting will move downwards, allowing more Americans to be targeted without due process. And in the absence of additional congressional actions to limit the president’s ability to make such determinations, that is exactly the situation that exists.

But how could such checks or definitions be imposed? The President’s likely defense – that under the 2001 AUMF, only the Executive Branch can determine questions of al Qaeda membership – is a strong one. Here we must return to the Hamdi decision. By focusing attention and criticism on the power to target American members of al Qaeda rather than on the power to determine eligibility for being targeted, most analysts and pundits have missed the importance of the Hamdi decision for suggesting a solution to the problem of targeted killings.

By giving Yasir Hamdi a status hearing to determine his eligibility for indefinite military detention without trial, the Supreme Court interfered with the traditional war powers of the president and altered the standard applications of the rules of war. The Court argued, as mentioned earlier, that as the prospect of indefinite detention involves the “most elemental of liberty interests,” “striking the proper constitutional balance…is of great importance to the Nation during this period of ongoing combat.”[18] What is true for an American citizen detained on the battlefield and assigned for indefinite detention is undoubtedly true for an American citizen who has been targeted for death by a U.S. drone strike. Surely, the right not to be killed by a Hellfire missile ordered by one’s own government without due process must be as elemental of a liberty interest, if not more so, as “the interest in being free from physical detention.”[19]

Furthermore, while the Court did add a hearing into the process for military detention, it still permitted the U.S. government to assign an American citizen to indefinite detention. It did so even while acknowledging that, given the undefined nature of the conflict against the Taliban, which the U.S. government might not consider won for two generations or more, “Hamdi’s detention could last for the rest of his life.”[20] The justification given for leaving the basic structure of military detention in place was the determination that conflict between the U.S. and the Taliban resembles the traditional conflicts for which the laws of war were created. However, the Court warned that “if the practical circumstances of a given conflict are entirely unlike those of the conflicts that informed the development of the law of war, [the long-standing law of war principles] unravel.”[21] It seems reasonable that a conflict like the one with al Qaeda –in which drones are used to target American citizens who have been identified as senior operational leaders of decentralized affiliates of an already decentralized non-state terrorist organization – presents circumstances unlike traditional wars in which enemies were readily identifiable by their uniforms, identification cards, and adherence to a clearly visible military and political chain of command.

From the logic of the Hamdi decision, it follows that adjustments or adaptations to the traditional war powers of the president to target American citizens believed to be members of the armed forces of the enemy might be both justifiable and allowable. What options or procedures could be put into place? Two options stand out. First, Congress could attempt to identify the positive criteria for membership in al Qaeda, the nature of the relationships between al Qaeda and its various affiliates, and, more specifically, the definition of a senior operational leader. While this would undoubtedly be a difficult task, there is precedent for such efforts by the Legislative Branch. The laws surrounding conspiracy must define at what point constitutionally-protected free speech switches to the illegal preparation for criminal activity.

But once again, what is possible is not always the best course of action. Given the diffuse nature of global terrorist networks and the flexible nature of the battlefield, trusting an a priori assessment to accurately account for all possibilities and to do so in a timely manner is likely a bad idea. A better option would be the creation of a special national security court, along the lines of the courts that hear federal requests for warrantless wiretapping in accordance with the Foreign Intelligence Surveillance Act (FISA). Such a court could be created and empowered by Congress to hear presidential requests to designate an American citizen as a senior operational leader of either al Qaeda or of an affiliated group as defined under the 2001 AUMF and the 2012 NDAA.

#### None of their solvency args apply – the plan is a drone court limited to eligibility

Weinberger 13 (Dr. Seth, Associate Professor in the Department of Politics & Government – University of Puget Sound, “Enemies Among Us: The Targeted Killing of American Members of al Qaeda and the Need for Congressional Leadership,” Global Security Studies Review, 5-7, <https://blogs.commons.georgetown.edu/globalsecuritystudiesreview/2013/05/07/enemies-among-us-the-targeted-killing-of-american-members-of-al-qaeda-and-the-need-for-congressional-leadership/>)

Several people have voiced objections to the creation of a FISA-style “drone court.” One worries that a court of “generalist federal judges” will lack “national security expertise,” “are not accustomed to ruling on lightning-fast timetables,” and should not be able to involve themselves in “questions about whether to target an individual for assassination by a drone strike.” [22] Another writes that, “the determination of whether a person is a combatant to judicial review would seem to rather clearly violate the separation of powers requirements in the Constitution,” as in Ex Parte Milligan, the Supreme Court ruled that the congressional war power “extends to all legislation essential to the prosecution of the war…except such as interferes with the command of the forces and the conduct of campaigns,” which includes, the author argues, the “sole authority to determine who the specific combatants are when conducting a campaign.”[23] While in a traditional war such objections are almost certainly correct, in the context of the Hamdi decision and with the unconventional nature of the armed conflict against al Qaeda, they become less compelling.

First, if properly defined, the new court could be limited solely to questions of eligibility, not the decision of whether and when to conduct a drone strike. The court would carry out a function quite similar to the FISA courts, judging whether the Executive Branch has sufficient evidence to support its claim that a citizen has become a senior operational member of a group covered under the AUMF and 2012 NDAA. This would differ little from the FISA courts’ assessments of Executive Branch requests to wiretap individuals believed to be agents of a foreign power without a warrant.

Second, given the definition of imminent threat in the Department of Justice’s white paper – a definition that incorporates “considerations of the relevant window of opportunity, the possibility of reducing collateral damage to civilians, and the likelihood of heading off future disastrous attacks on Americans”[24] – such eligibility decisions are not likely to be made in the moments immediately prior to a drone strike. Rather, eligibility decisions are likely made in the process of long investigations and in light of much intelligence.

Finally, while Anthony Arend is almost certainly correct that in nearly every other incidence of armed conflict, Congress would not be permitted to involve itself in determinations of who is and who is not an eligible target for the American military, as Hamdi makes clear, the armed conflict against al Qaeda is not like every other armed conflict. The Supreme Court has already inserted a judicial proceeding into the determination of whether an American citizen seized on the battlefield is actually an enemy combatant and therefore eligible for indefinite detention, a determination that traditionally has been solely within the purview of executive power. It would be counterintuitive – to say the least – if an American citizen could be killed, but not detained, without judicial involvement.

#### Limited and external review is key – allows for extensive processes that can’t be overridden by the president

Somin 13 (Ilya, Professor of Law – George Mason University School of Law, Hearing on “Drone Wars: The Constitutional and Counterterrorism Implications of Targeted Killing,” United States Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights, 4-23, <http://www.judiciary.senate.gov/pdf/04-23-13SominTestimony.pdf>)

One partial solution to the problem of target selection would be to require officials to get advance authorization for targeting a United States citizen from a specialized court, similar to the FISA Court, which authorizes intelligence surveillance warrants for spying on suspected foreign agents in the United States. The specialized court could act faster than ordinary courts do and without warning the potential target, yet still serve as a check on unilateral executive power. In the present conflict, there are relatively few terrorist leaders who are American citizens. Given that reality, we might even be able to have more extensive judicial process than exists under FISA.

Professor Amos Guiora of the University of Utah, a leading expert on legal regulation of counterterrorism operations with extensive experience in the Israeli military, has developed a proposal for a FISA-like oversight court that deserves serious consideration by this subcommittee, and Congress more generally.22 The idea of a drone strike oversight court has also been endorsed by former Secretary of Defense Robert Gates, who served in that position in both the Obama and George W. Bush administrations. Gates emphasizes that “some check on the president’s ability to do this has merit as we look to the long-term future,” so that the president would not have the unilateral power of “being able to execute” an American citizen.23

We might even consider developing a system of judicial approval for targeted strikes aimed at non-citizens. The latter process might have to be more streamlined than that for citizens, given the larger number of targets it would have to consider. But it is possible that it could act quickly enough to avoid compromising operations, while simultaneously acting as a check on abusive or reckless targeting. However, the issue of judicial review for strikes against non-citizens is necessarily more difficult than a court that only covers relatively rare cases directed at Americans.

Alternatively, one can envision some kind of more extensive due process within the executive branch itself, as advocated by Neal Katyal of the Georgetown University Law Center.24 But any internal executive process has the flaw that it could always be overriden by the president, and possibly other high-ranking executive branch officials. Moreover, lower level executive officials might be reluctant to veto drone strikes supported by their superiors, either out of careerist concerns, or because administration officials are naturally likely to share the ideological and policy priorities of the president. An external check on targeting reduces such risks. External review might also enhance the credibility of the target-selection process with informed opinion both in the United States and abroad.

### appended at the bottom

#### US policy outweighs

Mutua 7 (Makau, SUNY Distinguished Professor, Professor of Law, Floyd H. & Hilda L. Hurst Faculty Scholar, and Director of the Human Rights Center – Buffalo Law School, “Standard Setting in Human Rights: Critique and Prognosis,” Human Rights Quarterly, Vol. 29, <http://www.law.buffalo.edu/content/dam/law/restricted-assets/pdf/faculty/mutuaM/journals/hrq2907.pdf>)

The relationship between universal norms and IGOs, on the one hand, and national norms and institutions of enforcement, on the other, must be streamlined and harmonized to enhance their inter-penetration. This vertical relationship between international and national processes is critical for the domestic internalization of human rights norms. Without this relationship, states cannot cultivate a human rights culture to police themselves. It is through the experience gained in enforcement by national institutions that NGOs, IGOs, and states can identify normative gaps that need to be addressed and institutional weaknesses that must be corrected. In other words, the national space is the anvil on which human rights norms are unpacked and forged. It is the crucible in which human rights must be grown. The lessons gained from this interpenetration must inform the future of standard setting and the work of rectifying institutionalweaknesses in implementation**.**

# 2ac

### AT: T Subsets

#### C/I – Substantial means a large amount

**Dictionary.com 12**

sub·stan·tial   [suhb-stan-shuhl] Show IPA adjective 1. of ample or considerable amount, quantity, size, etc.: a substantial sum of money.

#### Reasonability is uniquely applicable to determining whether an aff is substantial

Linda **Stadler 93** “NOTE: Corrosion Proof Fittings v. EPA: Asbestos in the Fifth Circuit--A Battle of Unreasonableness ” Tulane Environmental Law Journal Summer, 1993 6 Tul. Envtl. L.J. 423

n3 Matthew J. McGrath, Note, Convergence of the Substantial Evidence and Arbitrary and Capricious Standards of Review During Informal Rulemaking, 54 GEO. WASH. L. REV. 541, 546 n.30 (1986), (quoting H.R. REP. NO. 1980, 79th Cong., 2d Sess. 45 (1945)), reprinted in ADMINISTRATIVE PROCEDURE ACT LEGISLATIVE HISTORY, S. DOC. NO. 248, 79th Cong., 2d Sess. 11, 233, 279 (1945). The substantial evidence standard does however possess some ambiguity as to the definition of "substantial." See, e.g., Chemical Mfrs. Ass'n v. EPA, 899 F.2d 344, 359 (5th Cir. 1990) (stating that "'substantial' is an **inherently imprecise** word"). However, 'substantial' is generally **held to a reasonableness** standard, i.e., would a **reasonable mind** accept it as adequate to support a conclusion. E.g., Consolidated Edison Co. v. NLRB, 305 U.S. 197, 229 (1938).

### AT: Debt Ceiling (Kentucky)

#### Obama solves the impact—

#### Emergency powers

Liptak 10/3—American journalist, lawyer and instructor in law and journalism (Adam, 10/3/13, “Experts See Potential Ways Out for Obama in Debt Ceiling Maze,” <http://www.nytimes.com/2013/10/04/us/politics/experts-see-potential-ways-out-for-obama-in-debt-ceiling-maze.html?_r=0>)

The view that Mr. Obama could continue borrowing without Congressional authorization is based on three arguments.¶ One is grounded in an aggressive understanding of presidential power, the second in an interpretation of an obscure provision of the 14th Amendment and the third on a choice among three irreconcilable constitutional obligations.¶ A senior administration official was dismissive of all three options, calling them “unicorn theories,” reflecting the White House’s position that only Congress can solve a problem of its own creation.¶ “The Constitution gives Congress — not the president — the authority to borrow money, and only Congress can increase the debt ceiling,” Jay Carney, the White House press secretary, said on Thursday, adding that Congress must “authorize the Treasury to pay the bills that Congress racked up.”¶ But Eric Posner, a law professor at the University of Chicago, said that the meaning if not the words of the Constitution left Mr. Obama with **room to act**.¶ “The president has **inherent emergency powers**,” he said. “It has long been understood that the president should act to protect the country.”¶

#### He can issue more debt

Liptak 10/3—American journalist, lawyer and instructor in law and journalism (Adam, 10/3/13, “Experts See Potential Ways Out for Obama in Debt Ceiling Maze,” <http://www.nytimes.com/2013/10/04/us/politics/experts-see-potential-ways-out-for-obama-in-debt-ceiling-maze.html?_r=0>)

The third alternative, the subject of a 2012 article in The Columbia Law Review, focuses on what the article’s authors call the irreconcilable instructions Congress will have provided to Mr. Obama if it fails to act. Having been told to spend, but not to raise taxes or issue debt, “the president has to decide which of Congress’s orders to follow,” said Neil H. Buchanan, a law professor at George Washington University, who wrote the article with Michael C. Dorf, a law professor at Cornell. The president must, in the article’s words, “choose the least unconstitutional option.”

That option, the authors concluded, is issuing more debt**.**

#### The debt ceiling won’t cause a crisis—it will just force a balanced budget

Dorfman 10/3—professor of economics at The University of Georgia and consultant on economic issues to a variety of corporations and local governments (Jeffrey, 10/3/13, “Don't Believe The Debt Ceiling Hype: The Federal Government Can Survive Without An Increase,” <http://www.forbes.com/sites/jeffreydorfman/2013/10/03/dont-believe-the-debt-ceiling-hype-the-federal-government-can-survive-without-an-increase/>)

Ignore what you hear and read in the news. **The federal government actually reached the legal debt ceiling about four months ago**. Since then, the government has been financing its monthly budget deficit by stealing/borrowing money from other government funds, like the federal government employees’ pension fund. In about two weeks, the government will run out of tricks to keep operating as if nothing has happened. If the debt ceiling is not raised by then, the government has to balance its budget.¶ That’s right. As much as the politicians and news media have tried to convince you that the world will end without a debt ceiling increase, it is simply not true. The federal debt ceiling sets a legal limit for how much money the federal government can borrow. In other words, it places an upper limit on the national debt. It is like the credit limit on the government’s gold card.¶ Reaching the debt ceiling does not mean that the government will default on the outstanding government debt. In fact, the U.S. Constitution forbids defaulting on the debt (14th Amendment, Section 4), so the government is not allowed to default even if it wanted to.¶ In reality, if the debt ceiling is not raised in the next two weeks, the government will actually have to prioritize its expenses and keep its monthly, weekly, and daily spending under the revenue the government collects. In simple terms, the government would have to spend an amount less than or equal to what it earns. Just like ordinary Americans have to do in their everyday lives.¶ Once the reality of what hitting the debt ceiling means is understood, the important question is: can the government actually live with a balanced budget? How much money could it spend? Could enough spending be cut to live within a balanced budget? The answer is **yes**, the federal government could live with a balanced budget. Below I will show you precisely how.¶

#### No econ decline war---best and most recent data

Daniel W. Drezner 12, Professor, The Fletcher School of Law and Diplomacy, Tufts University, October 2012, “The Irony of Global Economic Governance: The System Worked,” <http://www.globaleconomicgovernance.org/wp-content/uploads/IR-Colloquium-MT12-Week-5_The-Irony-of-Global-Economic-Governance.pdf>

The final outcome addresses a dog that hasn’t barked: the effect of the Great Recession on cross-border conflict and violence. During the initial stages of the crisis, multiple analysts asserted that the financial crisis would lead states to increase their use of force as a tool for staying in power.37 Whether through greater internal repression, diversionary wars, arms races, or a ratcheting up of great power conflict, there were genuine concerns that the global economic downturn would lead to an increase in conflict. Violence in the Middle East, border disputes in the South China Sea, and even the disruptions of the Occupy movement fuel impressions of surge in global public disorder. ¶ The aggregate data suggests otherwise, however. The Institute for Economics and Peace has constructed a “Global Peace Index” annually since 2007. A key conclusion they draw from the 2012 report is that “The average level of peacefulness in 2012 is approximately the same as it was in 2007.”38 Interstate violence in particular has declined since the start of the financial crisis – as have military expenditures in most sampled countries. Other studies confirm that the Great Recession has not triggered any increase in violent conflict;

the secular decline in violence that started with the end of the Cold War has not been reversed.39 Rogers Brubaker concludes, “the crisis has not to date generated the surge in protectionist nationalism or ethnic exclusion that might have been expected.”40¶ None of these data suggest that the global economy is operating swimmingly. Growth remains unbalanced and fragile, and has clearly slowed in 2012. Transnational capital flows remain depressed compared to pre-crisis levels, primarily due to a drying up of cross-border interbank lending in Europe. Currency volatility remains an ongoing concern. Compared to the aftermath of other postwar recessions, growth in output, investment, and employment in the developed world have all lagged behind. But the Great Recession is not like other postwar recessions in either scope or kind; expecting a standard “V”-shaped recovery was unreasonable. One financial analyst characterized the post-2008 global economy as in a state of “contained depression.”41 The key word is “contained,” however. Given the severity, reach and depth of the 2008 financial crisis, the proper comparison is with Great Depression. And by that standard, the outcome variables look impressive. As Carmen Reinhart and Kenneth Rogoff concluded in This Time is Different: “that its macroeconomic outcome has been only the most severe global recession since World War II – and not even worse – must be regarded as fortunate.”42

#### No GOP cave – redistricting and primary challenger fears

**Isenstadt, 10/3/13** (Alex, Politico, “Government shutdown: Why many Republicans have no reason to deal” <http://www.politico.com/story/2013/10/government-shutdown-republicans-deal-97768.html?hp=l23>

The prevailing wisdom ahead of the government shutdown was that tea party lawmakers who agitated for it would fold within a few days, once they got an earful from angry constituents and felt the sting of bad headlines. House GOP leaders called it a “touch the stove” moment for the band of Republican rebels, when ideology would finally meet reality.

But there’s another reality that explains why that thinking may well be wrong, and the country could be in for a protracted standoff: Most of the Republicans digging in have no reason to fear voters will ever punish them for it.

The vast majority of GOP lawmakers are safely ensconced in districts that, based on the voter rolls, would never think of electing a Democrat. Their bigger worry is that someone even more conservative than they are — bankrolled by a cadre of uncompromising conservative groups — might challenge them in a primary.

So from the standpoint of pure political survival, there’s every incentive to keep the government closed in what looks like a futile protest over Obamacare. The latest theory gaining currency in Congress is that it will take a potential default on the nation’s debt in a few weeks to bring the crisis to a head.

#### Obama likes the plan – he won’t fight it

Rosen 13 (Jeffrey, Legal Affairs Editor – New Republic, “A New Idea to Limit Drone Strikes Could Actually Legitimize Them,” New Republic, 2-11, <http://www.newrepublic.com/article/112392/drone-courts-congress-should-exercise-oversight-instead>)

On Sunday, Robert Gates, the former Pentagon chief for Presidents Obama and Bush, endorsed an idea that has been floated by Democratic lawmakers in the wake of John O. Brennan's confirmation hearings to be CIA Director: a drone court that would review the White House’s targeted killings of American citizens linked to al Qaida. The administration has signaled its openness to the idea of a congressionally created drone court, which would be modeled on the secret Foreign Intelligence Surveillance Court that reviews requests for warrants authorizing the surveillance of suspected spies or terrorists. But although senators at the Brennan hearings were rightly concerned about targeted killings operating without any judicial or congressional oversight, the proposed drone court would raise as many constitutional and legal questions as it resolved. And it would give a congressional and judicial stamp of approval to a program whose effectiveness, morality, and constitutionality are open to serious questions. Rather than rushing to create a drone court, Congress would do better to hold hearings about whether targeted drone killings are, in fact, morally, constitutionally, and pragmatically defensible in the first place.

From the administration’s perspective, the appeal of a drone court is obvious: Despite the suggestion in the recently released Department of Justice White Paper white paper that the president’s unilateral decisions about targeted killings can’t be reviewed by judges, the administration cites Supreme Court cases that suggest the opposite: namely, that the president’s decision to designate Americans as enemy combatants can only be justified when authorized by Congress, with the possibility of independent judicial review.

#### Obama’s PC is low and decreasing

**Steinhauser, 9/26/13 –** CNN Political Editor (Paul, “Obama's support slips; controversies, sluggish economy cited” <http://www.cnn.com/2013/09/26/politics/cnn-poll-of-polls-obama/?hpt=po_c2>)

As he battles with congressional Republicans over the budget and the debt ceiling, and as a key component of his health care law kicks in, new polling suggests that President Barack Obama's standing among Americans continues to deteriorate.

The president's approval rating stands at 45%, according to a CNN average of four national polls conducted over the past week and a half. And a CNN Poll of Polls compiled and released Thursday also indicates that Obama's disapproval rating at 49%.

In the afterglow of his re-election and second inauguration, the percentage of those approving of Obama's job performance hovered in the low 50s as the year began, according to CNN Poll of Poll averages.

But his numbers slipped to the upper 40s by spring and now have edged down to the mid 40s. At the same time, his disapproval numbers have edged up from the low 40s to right around the 50% mark.

Anxiety and skepticism over the Affordable Care Act, better known as Obamacare, continuing concerns over the sluggish economy, and a drop in the president's approval on foreign policy -- once his ace in the hole -- all appear to be contributing to the slide of Obama's general approval rating.

"Not a precipitous drop, but more like a continued erosion in the president's numbers," says CNN Chief Political Correspondent Candy Crowley. "The Boston Marathon bombings, Edward Snowden's 'big brother' revelations, the 'non-coup' in Egypt, the 'now we bomb, now we don't' policy in Syria, an economic recovery that remains disappointing, the uncertainty of how/what will change under the new health care system, shall I go on?"

"It all adds up to an awful lot of uncertainty and unfairly or not, uncertainty tends to breed lower poll numbers for the guy in charge," added Crowley, anchor of CNN's "State of the Union."

Besides being the main indicator of a president's standing with the public, a presidential approval rating is a good gauge of his clout in dealing with Congress.

The drop in his numbers comes as the president pushes back against attempts by congressional Republicans to use deadlines to keep the federal government funded and to extend the nation's debt ceiling to try and defund the health care law.

A slew of national polls conducted this month indicate that a majority doesn't support shutting down the government in order to defund Obamacare.

But if the fight shifts to the debt ceiling, public opinion appears to turn against the president, who reiterated on Thursday that he will not negotiate with the GOP in Congress over extending the debt ceiling.

### AT: CP

#### Doesn’t enshrine an external check or stop the president’s global authority – key to due process

Sohn, 13 [Written By: Michelle Sohn Edited By: Laura Fishwick & Gillian Kassner Editorial Policy ,http://jolt.law.harvard.edu/digest/digest-note/drone-strikes-and-due-process]

At the end of the Civil War, Lambdin P. Milligan, a United States citizen, was arrested in his Indiana home, tried before a military commission, and sentenced to death on a number of charges including “[a]ffording aid and comfort to rebels against the authority of the United States”. Ex parte Milligan, 71 U.S. 2, 6 (1866). Milligan petitioned for a writ of habeas corpus and the case went all the way to the Supreme Court. The Supreme Court held that the military commission had no jurisdiction to try or sentence Milligan. Even in a time of war, Milligan was entitled to his due process rights under the Fifth Amendment of the U.S. Constitution. Nearly 150 years later, the U.S. finds itself embroiled in another time of war. Advances in military technology such as drones have greatly enhanced the government’s ability to conduct lethal operations anywhere in the world without ever having to put a single American soldier on the ground. Paradoxically, it is exactly these new advances in military technology that have dredged up a longstanding, yet important conflict between balancing national security with constitutional protections of due process. The conflict between national security and due process recently regained national attention with the leaking of a Department of Justice White Paper. The White Paper detailed the legal framework under which the government can lawfully order lethal operations against a United States citizen who is outside a recognized battlefield and believed to be a “senior operational leader” or an “associated force” of al-Qa’ida. It concluded that when an informed high-level U.S. official determines that (1) a U.S. citizen poses an “imminent threat” of violent attack, (2) capture of the citizen is infeasible, and (3) the operation can be conducted consistently with law of war principles, lethal force does not violate international or domestic law. The White Paper expressed the latest of a long series of arguments put forth by the Obama Administration justifying its practice of requiring minimal due process procedures before taking lethal action against U.S. citizens far from the combat zone. In fact, as early as 2010, Harold Koh, Legal Advisor to the U.S. State Department, stated that a nation “engaged in an armed conflict or legitimate self-defense is not required to provide targets with legal process before the state may use lethal force…” In 2012, Attorney General Eric Holder in his address at Northwestern University declared that the President is not required to go through a federal court in order to take action, “The Constitution guarantees due process, not judicial process.” What is most striking about the Obama Administration’s collective arguments is the wide discretion afforded to the Executive Branch and the inchoate analysis of the constitutional expectations due process requires from each branch of government. There are two components of due process: fair notice and the opportunity to be heard. The fundamental rationale behind due process is to check against arbitrary government action. At its core, due process is an amalgamation of what makes the separation of powers a powerful American ideal. The Legislative branch writes the laws—including the ones that dictate charges available against U.S. citizens—that the Executive branch enforces by bringing citizens in violation of the law to be tried before an impartial Judicial branch that the Constitution itself or the Legislative branch has established. Times of national crisis will necessarily render some procedures of due process more elastic than times of peace. Indeed, the Supreme Court has recognized that in certain cases the procedures for due process must be narrowed in times of national crisis. For example, in Ex Parte Quirin, during World War II, the Court upheld the constitutionality of trying a U.S. citizen for offenses against the laws of war in front of a military commission rather than a jury. See Ex parte Quirin, 317 U.S. 1 modified sub nom. U.S. ex rel. Quirin v. Cox, 63 S. Ct. 22 (U.S. 1942). At the same time, the Court has also recognized that “[w]hatever power the United States Constitution envisions for the Executive in its exchanges with other nations or with enemy organizations in times of conflict, it most assuredly envisions a role for all three branches when individual liberties are at stake.” Hamdi v. Rumsfeld, 542 U.S. 507, 536 (2004). The Hamdi opinion, which the DOJ White Paper cited, also recognized the need to balance the constitutional guarantee of due process with the Executive branch’s responsibility to keep the nation secure. Thus, in evaluating the constitutional protections afforded a U.S. citizen captured and deemed an “enemy combatant” by the U.S. military, the Hamdi Court used a balancing test that it had employed 28 years prior in Mathews v. Eldridge. The Mathews Court stated that the proper test for evaluating how much due process is required is the consideration of three factors: “First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government’s interest…”.Mathews v. Eldridge, 424 U.S. 319 (1976). The DOJ White Paper conceded that “no private interest is more substantial” than the interest in avoiding erroneous deprivation of life. White Paper at 6. However, the DOJ reasoned that the government interest in ensuring national security by using force on those that pose an “imminent threat of violent attack” is compelling. As such, the DOJ concluded that the “realities of combat” justified the force rendered necessary to meet those realities. In fact, the DOJ White Paper quoted the Hamdi decision, “due process analysis need not blink at those realities.” Hamdi, 542 U.S at 531. However, this use of Hamdi is disingenuous. The “realities” the Court referred to were the necessities of detaining enemy combatants rather than the use of force.[1] The DOJ White Paper’s use of Hamdi to justify drone strikes outside recognized combat zones is increasingly suspect due to the fact that Hamdi emphasized that petitioner Hamdi was captured in a foreign combat zone. In doing so, Hamdi refered to Ex Parte Milligan, the aforementioned Supreme Court case regarding the constitutionality of military commissions during the Civil War. The Milligan Court held that despite being in a time of declared war, the military commission had no jurisdiction to try and sentence Milligan. The Hamdi Court reasoned “[h]ad Milligan been captured while he was assisting Confederate soldiers by carrying a rifle against Union troops on a Confederate battlefield, the holding of the Court might well have been different”. Hamdi, 542 U.S. at 522. Indeed, the Milligan Court pointed to the fact that in Indiana “…there was no hostile foot…[and] so in the case of a foreign invasion, martial rule may become a necessity in one state, when in another, it would be “mere lawless violence.” Milligan, 71 U.S. 2 at 126-27. The Court in both Hamdi and Milligan implicitly acknowledged the importance of recognized combat zones as a potential check on the Executive branch’s expansive war powers. Perhaps part of the reason the Hamdi Court emphasized the fact that Hamdi was captured in Afghanistan involves the due process requirement of fair notice. After all, to be in an internationally recognized battle zone such as Afghanistan can constitute sufficient notice as to the hazards and “realities of combat”. As Professor Noah Feldman wrote in his blog post, Obama’s Drone Attack on Your Due Process, “The White Paper should have said that due process doesn’t apply on the battlefield.” However, the DOJ White Paper’s analysis is not focused on the legality of drone strikes on the battlefield. It justifies drone strikes outside an area of active hostilities. White Paper at 1. Under the DOJ’s analysis, U.S. citizens in countries that the President, Congress, or even the United Nations Security Council has not officially authorized military engagements with are open to drone strikes. Of course, one could argue that Congress authorized the use of force against terrorists and thus, being a terrorist against the U.S. is notice enough. However, this is a rather tautological argument. After all, how does the government determine a U.S. citizen is a terrorist without providing the citizen a meaningful opportunity to be heard before issuing a drone strike? The Obama Administration has consistently justified its broad exercise of military powers by pointing out that it is executing what Congress has authorized it to do. Congress’ 2001 Authorization of Military Force “authorized to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001.” Authorization for Use of Military Force, Pub. L. No. 107-40 (2001). The DOJ White Paper notes that Congress did not put geographical limits on this authorization. Further, the DOJ White Paper stipulated that once a U.S. citizen is deemed an “imminent threat,” the use of lethal force becomes a legitimate act of self-defense. However, the DOJ White Paper’s definition of “imminent threat” is alarmingly broad. According to the White Paper, imminent threat does not require “clear evidence that a specific attack on U.S. persons…will take place in the immediate future”. White Paper at 7. The DOJ concluded that if the targeted individual is continually involved with planned attacks and there is no evidence suggesting “that he has renounced or abandoned such activities”, the U.S. official could make a determination of “imminent threat.” White Paper at 8. The White Paper leaves unresolved the criteria or timeline as to how and when those assessments are made. It is also unclear which officers of the U.S. military are “informed” and “high-level” enough to make such an assessment. “[W]ithout doubt, our Constitution recognizes that core strategic matters of war belong in the hands of those who are best positioned and most politically accountable for making them.” Hamdi v. Rumsfeld, 542 U.S. 507, 531 (2004). However, just how far up or down the chain of command can the assessment of “imminent threat” be made? If the principle behind due process is government accountability, how accountable can we hold those in charge of making the assessment? Are the current Obama Administration practices the ones that properly minimize erroneous risk of deprivation of life? Certainly, terrorism is a global threat not limited to traditional geographic notions of the battlefield. The DOJ White Paper is a reflection of these modern conditions of warfare. Indeed, the forefathers of the Constitution and the Milligan Court could not have foreseen or fathomed the amorphous, global nature of today’s threats posed to the United States of America. However, as the Hamdi Court plurality wrote, “We have long since made clear that a state of war is not a blank check for the President when it comes to the rights of the Nation’s citizens…” The Constitution demands that more than one branch of government balances the scales of due process in its hands. The core of due process requires that our branches of government hold each other accountable precisely to decrease the risk of erroneous deprivation of a U.S. citizen’s life. After all, while Article II of the Constitution names the President “commander in chief”, Article I grants Congress the authority to “declare war…and make rules concerning captures on land and water…” and Article III puts acts of treason within the jurisdiction of the judiciary. Thus, there is still a role for both the courts and Congress to play in the realm of military technology and constitutional guarantees. Congress should seek to more concretely define the concept of “imminent threat”. It should also seek to clarify the protocol on using force against U.S. citizens outside the combat zone. This is not to say that Congress should necessarily limit the Executive’s power to use force outside Afghanistan. However, it should seek to more clearly define the policy concerns for U.S. citizens outside traditional battlefields. For example, if a U.S. citizen is outside Afghanistan, should more efforts be made to capture? The Executive Branch can then execute the law with a more definite strategy that has Congress’ blessing. As for the judiciary, while the courts should not undertake to form military policy, when called upon the courts should evaluate the criteria used through the lens of the Mathews balancing test as well as the measure of Congress’ authorization of power to the Executive. As more and more information regarding drone use is provided to Congress and the public, all citizens should keep in mind that the entire world is not a combat zone and U.S. military practices toward its citizens should not imply this scenario. On the other hand, the Executive should be enabled to use advances in military technology to secure the nation against the global nature of terrorism. However, due process does require that no one branch maintain unilateral authority over a U.S. citizen’s life, liberty, or property. Due process can and does require the Executive, Congress, and the courts to work in concert toward accountability and the pursuit of a more perfect union.

This power is unprecedented

Tremblay, 13 [Rodrigue Tremblay is professor emeritus of economics at the University of Montreal and author of the book The New American Empire. He can be reached at: rodrigue.tremblay@yahoo.com. Read other articles by Rodrigue, or visit Rodrigue's website, <http://dissidentvoice.org/2013/06/the-real-obamas-bent-on-killing-innocent-people-with-remote-controlled-drones/>]

Obama has even usurped the unilateral power of killing American citizens with drones without due process. No other American president has ever claimed to have such a power outside of the U.S. Constitution. All this has made observers reassess Obama’s character and agenda. Just as George W. Bush was less than candid in making public the moral and legal justifications for introducing torture in the U.S. military culture, a huge step backward, Barack Obama has been opaque on the moral, legal and constitutional basis for his killing program abroad. In Bush’s case, the shaky legal advice to “justify” torture came from an unknown lawyer of Korean origin, John Yoo whose torture memos were made public for evaluation. In Obama’s case, to routinely engage in targeting suspected nameless militants for assassination in foreign countries with which the U.S. is not at war, his administration has argued that the legal advice offered to the president is confidential and secret. This is not a trivial matter. So far, it has been estimated that the United States has killed 4,700 people abroad with drone strikes, outside of declared war zones. The Obama administration has dramatically expanded the use of killing drones abroad. For example, the Obama administration has increased by 600 percent the drone strikes that the Bush-Cheney administration had initiated, and this for strikes in Pakistan alone. At least with Bush II, people knew who gave the advice and the nature of such advice. With Obama, everybody is in the dark, including even members of Congressional intelligence committees, let alone Joe public. The irony comes from the fact that candidate Barack Obama, in 2008, was a fierce critic of George W. Bush’s national security policies, notably regarding his approval of interrogation practices widely seen as torture. Now, all that has emerged to justify targeted assassinations is an anonymous 16-page document flatly stating that the President has such an authority. If this is not the sign of an imperial presidency, what is? That is why some have begun referring to Obama as Dictator Obama. The European Parliament has recently issued a statement questioning the Obama administration’s refusal to divulge the legal and moral basis for its targeted killing program abroad: We are deeply concerned about the legal basis, as well as the moral, ethical and human rights implications of the United States’ targeted killing programme that authorises the CIA and the military to hunt and kill individuals who have suspected links to terrorism anywhere in the world. In conclusion, let us say that the Obama administration should be leading international efforts to outlaw the widespread use of weaponized unmanned drones, just as gas warfare and nuclear warfare have been outlawed. Sadly, President Barack Obama is rather promoting their use, making the world an even more dangerous place. Such weapons, like nuclear bombs, are bound to spread and what’s good for the goose may also be good for the gander. These weapons could come to haunt the U.S. itself in the future. They don’t increase U.S. security in the long run. They rather reduce it. Nobody should have the right to kill just anybody, anywhere in the world. This is the stuff of tyranny.

#### CP isn’t sufficient – the cp is just lip service

Buttar 13 (Shahid, “Killing Us Softly: Why the Administration's Response to Criticism on Drones Carries Little Water,” 3-17, <http://truth-out.org/opinion/item/15156-killing-us-softly-why-the-administrations-response-to-criticism-on-drones-carries-little-water>)

Much of the controversy surrounding Brennan’s nomination concerned mere disclosure: whether the executive branch would let Congress read the administration’s legal analysis governing the targeted assassination program. President Obama apparently heard the message, admitting in his State of the Union address that more transparency is required. The result proved underwhelming. One congressional committee received a single legal memo among several, which did not even purport to delineate the boundaries of the assassination program, but rather explored the use of deadly authority against a single target among several hundred who have been killed, including at least four US citizens. Mere disclosure of some OLC memos to some Senators is insufficient. Meaningful congressional oversight requires full access to all the legal memos, as well as active investigation of the underlying facts. It is not enough to simply read executive legal analyses paying lip service to constitutional values routinely violated on the ground. The congressional intelligence committees, after all, were founded after robust investigations revealed widespread abuses by intelligence agencies, including the CIA, spanning decades and the terms of several presidents. Factual investigation has revealed more recent abuses, as well. Last year, the Senate Intelligence Committee concluded a thorough investigation of torture, which produced a report recognizing torture as an international human rights abuse that ultimately undermined US national security by producing false intelligence, eroding pro American sentiment abroad, and helping our enemies recruit foot soldiers. Yet, reflecting its pattern of embracing secrecy while claiming transparency, the Obama administration has refused to declassify the report. It is only because neither the press nor the public know the facts that irresponsible Hollywood fiction proved so problematic and controversial. Forgotten in commentary on Brennan’s confirmation were some troubling details suggesting that, on both torture and drone strikes, transparency remains inadequate. First, Senators had to fight tooth & nail to secure even the most minimal disclosure from the White House. Second, other congressional committees also sought access to the OLC assassination memos, but were denied. Finally, beyond disclosure of the OLC’s legal memos are important questions about how the standards in them are applied to real facts. The Obama administration and CIA still refuse to answer congressional questions beyond the memos—such as, “How much evidence does the President need to determine that a particular American can be lawfully killed?” These questions are crucial, but Brennan’s confirmation could ensure that Congress receives few answers.

#### Media spin trumps solvency – executive can’t respond to follow-up questions – crushes legitimacy

Goldsmith 13 (Jack, Henry L. Shattuck Professor – Harvard Law School, “The Intersection of Vague Disclosure and Reduced Drone Strikes,” Lawfare, 5-27, <http://www.lawfareblog.com/2013/05/the-intersection-of-vague-disclosure-and-reduced-drone-strikes/>)

The major challenge to legitimating the shadow war against terrorists is that the Executive branch is hand-tied by its own secrecy rules, and cannot disclose what it is doing to permit Congress and the American people to judge whether it approves. Even Executive branch officials who want to be open about what is going on (as I believe the President and many of his national security officials want to be) are prevented by secrecy rules from being entirely candid. Officials convey information in what I recently described as “limited, abstract, and often awkward terms” that “usually raise more questions than they answer,” a problem exacerbated by the fact that “secrecy rules often preclude the administration from responding to follow-up questions, criticisms, and charges.” Disclosures designed to enhance trust can end (up) deepening mistrust, especially when journalists start reporting on events that don’t fit the administration’s narrative, and the administration cannot (perhaps because of secrecy rules, perhaps because the truth is uncomfortable) respond fully. This dynamic is made worse by the fact that partial disclosures are greeted for demands for more disclosures that the government simply cannot abide.

This is starting to happen with the abstractions that the President used to describe his ostensible curtailment of the war. Ryan Goodman and Sarah Knuckey have a careful analysis of the speech that note its ambiguities and uncertainties on the geographical scope of the war, the continued use of signature strikes, the meaning of non-feasible captures as prerequisite for strikes, whether Americans “not specifically targeted” (in the President’s words) were targeted as part of a signature strike or some other reason that prevented the president from describing their deaths as accidental, whether any member of a terrorist organization or only its leaders are targetable, and the crucial meaning of phrases like “near certainly,” “imminence,” and “associated forces.” Goodman and Knuckey conclude that these ambiguities and uncertainties make it “impossible for the public to, in the President’s words: “make informed decisions and hold the Executive Branch accountable,” and note that “until the White House releases the legal memos that explain its understanding of such terms and its legal justification for the drone program more broadly[,] there is reason to remain deeply skeptical.” Along similar lines, Lesley Clark and Jonathan S. Landay at McClatchy compare the President’s speech with past administration speeches and conclude that the speech might imply an expansion of drone killings.

Pushing in the other direction, however, is the reality that drone strikes (and their consequences) are in some senses verifiable, and the rate of strikes in both Pakistan and Yemen have dropped this year (and having been dropping for a few years in Pakistan). In the end, the credibility of the government’s new standards might turn less on the President’s words, which by themselves cannot establish credibility, but rather on how he is perceived to use drones (and other forms of fire) in fact. It does not follow, of course, that reduced drone strikes mean that the new standards have bite, or are constraining. As David Cole notes in a good if perhaps-too-hopeful NYRB essay:

[The reduction in drone strikes] may reflect a diminishing number of appropriate targets. It may suggest that the administration has for some time been employing more restrictive standards. Or it may reflect increasing acceptance of the view that drone strikes have become counterproductive—a point made publically by former counterterrorism intelligence chief Dennis Blair and retired General Stanley McChrystal, who headed the US forces in Afghanistan.

### AT: Schmitt (2ac) – (1)

Liberalism good --- decreases violence and key to value

Besen, 08 [[Wayne Besen](http://www.huffingtonpost.com/wayne-besen) Wayne Besen is the founder of Truth Wins Out, a non-profit organization that debunks anti-gay lies and myths Posted: August 6, 2008 12:52 PM [In Defense of Liberalism](http://www.huffingtonpost.com/wayne-besen/in-defense-of-liberalism_b_116941.html), http://www.huffingtonpost.com/wayne-besen/in-defense-of-liberalism\_b\_116941.html]

One of **the great fallacies** in modern lore is that liberalism stands for nothing and liberals have no core beliefs. The right wing, from the Pope to the President, has impugned the left by unfairly portraying it as a valueless movement mired in moral relativism. This could not be further from the truth. Indeed, the left is the backbone of freedom, the defender of personal liberty, the guarantor of free speech and religious worship and the nurturer of democratic movements across the globe. Far from believing in nothing, wherever liberal democratic values prevail, civilizations flourish and free people thrive. The cornerstone of liberalism is the idea that each person is endowed with the precious gift of liberty and can freely choose his or her own path - for better or worse. We believe this is crucial to greater enlightenment, personal growth and ultimate fulfillment. It also offers the best opportunity for people to realize their dreams and achieve their spiritual promise. Liberalism encourages exploration and education. It reveres science and celebrates the inquisitive mind. Indeed, liberal values are often superior to those held on the right, because they are tenaciously subjected to rigorous examination. Beliefs that are questioned and still prevail are the ones that stand the test of time. Like conservatism, liberalism has very strong core principles. But unlike conservatism, liberalism is not afraid to question "the way it is." The fulcrum of this philosophy is that all ideas will be constantly examined, scrutinized, studied and debated. If new information emerges to counter the culture's prevailing values or understanding, it will be rightfully taken into account. Far from moral relativism, liberalism searches for the ultimate value in which to build a moral foundation: Truth. Right wing movements across the globe often seem uninterested in truth if it contradicts their obdurate belief systems. Reality averse, they are woefully unable to adjust to new understandings, burgeoning ideas and cultural awakenings. For example, despite overwhelming evidence that women are the equals of men, they still can't drive or vote in some Muslim countries. In America, gay people are still treated as second-class citizens, even though mountains of science and empirical evidence suggest that homosexuality is as biologically ingrained as eye color or handedness. Liberals believe in the power of "reason," while conservatives are often just plain reactionary. This is why the GOP is the party of the "southern strategy" and anti-gay subterfuge. Republican power is directly related to fertilizing fear and fomenting fanaticism. Indeed, the great appeal of modern conservatism, or other forms of authoritarianism, is that people **don't have to think for themselves**. They can mentally "check out" of this world and place their worries in the hands of a commanding politician or a higher deity. Modern conservatives are often discomfited by the complexities of life and demand answers to the world's many unanswerable questions. They arrogantly and disingenuously claim to have absolute truth, while liberalism boldly proclaims that it does not have such ubiquitous powers of understanding. Liberalism is for those who are unafraid to fully embrace the magnificent journey of life and tackle the great mysteries of our time. If one looks at modern conservatism in the United States, it is easy to see that it is a movement of intellectual and spiritual atrophy. In the political realm, conservatives essentially call for judges who are "strict constructionists," which is shorthand for saying "the Constitution is a dead document." What a monumentally ridiculous notion to put forth, that American jurisprudence has not evolved in more than two centuries! Do strict constructionists believe that women and African Americans should have their rights restricted because the nation's founders treated women as second-class citizens and owned slaves? Likewise, modern conservatives have also rendered the Bible (or Koran) "dead documents." In conservative houses of worship, traditionalists put forth the untenable belief that holy books are literal. They call these books "God's Plan," as if the Creator hasn't had a new thought in a couple of thousand years. Modern conservatives will claim that liberals are sacrilegious for holding such beliefs. To the contrary, liberals are often extraordinarily religious or spiritual people. However, they diverge with conservatives in that they believe the strongest faith is one that is subject to healthy skepticism and painstaking examination. In encouraging people to explore all faiths -- free of guilt, shame, coercion or fear -- liberalism also offers people the greatest number spiritual options. Many of my columns deal with gay themes because equality for gay men and women is the civil rights issue of the new Millennium. However, gay rights mean nearly as much to heterosexuals as they do for homosexuals. The very peace and prosperity of nations can be easily predicted by looking at how they relate to their gay citizens. If a country treats gay people with dignity and respect and offers them equality, it signals that the country bases its decisions on sound education, rationalism and science. This inevitably leads towards success in all spheres of life. Countries that ostracize and penalize homosexuals tend to be superstitious, authoritarian and anti-intellectual. This almost uniformly leads to poverty, war, oppression and ultimately tyranny. A cynic might argue that the United States is not as gay friendly as other countries, yet, it is the richest country in the world. True, but nearly all of America's cities and states that are centers of profit and creativity offer acceptance for homosexuals. States most hostile to gay people are relatively backwards, with lower levels of education and income. Places that offer acceptance signal that they are open-minded and looking towards the future. Locales that reject homosexuals indicate that they are stuck in the past -- at their own peril. In essence, gay rights are the canary in the coal mine for freedom and prosperity. Unfortunately, the bird is hacking, signaling a period of increased oppression and a dangerous erosion of freedom. It is up to us to rescue this nation from the perilous path it is now on. It is time we proudly stand up for what we believe in. If we don't defend our values, our opponents will define them. Progressive does not mean passive. Our compassion does not mean that we lack passion. Our respect for other beliefs does not signify that we don't hold strong beliefs of our own that we are willing to fight for. Indeed, our power comes from out ability to adjust to reality. We are secure in our values, yet humble enough to adapt if our viewpoints are proven obsolete. Wherever liberal democracy takes root, a strong and proud record of economic, moral, social and political achievement follows.

#### Limiting sovereign power is possible and effective --- their impact is outdated

Scheuerman, 06 [William E. Survey Article: Emergency Powers and the Rule of Law After 9/11\* Political Science, Indiana University, Bloomington, The Journal of Political Philosophy: Volume 14, Number 1, 2006, pp. 61–84]

A. As Schmitt prophesied, crisis management constitutes a paramount activity for contemporary government, as it struggles to tackle a host of oftentimes unprecedented political, military and economic challenges, at least some of which pose major threats to the existing political and legal order. The necessity for emergency action, in short, appears more widespread than classical liberalism conceded.9 Though by no means sharing his normative preferences, much recent scholarship also shares Schmitt’s suspicion that the apparent unavoidability as well as ubiquity of emergency executive authority potentially undermines the rule of law. It was a group of liberal U.S. senators, for example, who anxiously noted in 1974 that U.S. law included “at least 470 significant emergency statutes without time limits delegating to the Executive extensive discretionary powers . . . . This vast range of powers, taken together, confer enough authority to rule this country without reference to normal constitutional processes.”10 Schmitt’s thesis that emergencies are both irrepressible and ubiquitous is now at least implicitly endorsed by a large number of participants in the post-9/11 debate, many of whom claim that it is long overdue for liberal democrats to acknowledge the inevitability of numerous future emergencies.11 There is more than a mere hint to this argument as well that it represents an advance vis-à-vis the purportedly naïve tendency in at least some strands of classical liberalism— the lack of emergency clauses in the U. S. Constitution is often mentioned as evidence—to imply that the normal operations of ordinary lawmaking suffice if we are to deal effectively with life-or-death crises. Yet the contemporary debate also occasionally reproduces a weakness plaguing Schmitt’s original version of the argument. His analysis of emergency government sometimes neglects its complex political and economic origins, tending to attribute its growth to the intrinsic failings of liberal jurisprudence. For Schmitt, it is fundamentally the liberal rule of law that represents the source of proliferating emergency authority.12 In an analogous vein, many contemporary commentators narrowly focus on the purported limitations of liberal jurisprudence and traditional models of the rule of law.13 But if the general expansion of emergency power is motored significantly by imperial ambition, militarism, globalization, the “risk society,” terrorism, or other malleable recent social trends rather than historical givens, it becomes possible to imagine limiting emergency government without abandoning traditional liberal models of emergency government. If the main reason, for example, for redesigning U.S. institutions is to ward off future terrorist attacks, is not the most immediate task at hand not reforming our political and social order, or at least altering U.S. foreign policy so as to minimize the likelihood of terrorist attacks in the first place?14 B. Schmitt fuses this plausible empirical claim with the more controversial point that no legal norm can fully contain or constrain emergencies. A crucial thesis of Political Theology is that no statutory or constitutional norm can hope to predict and thus spell out ahead of time what actions might be required in order successfully to tackle the crisis at hand. First, any emergency may represent a novel scenario which existing law fails to anticipate and, second, the necessity of potentially absolute power means that the scope and specific character of appropriate emergency action can never be prospectively delimited. Schmitt doubts that the traditional rule of law preference for clear prospective law can obtain during a dire crisis. The most the law can do prospectively is announce who is to exercise emergency power.15 This second argument is a mixed bag as well. It focuses on valuable but limited facets of the rule of law—the aspirations for clarity and prospectiveness—to pursue the extreme conclusion that law never constrains emergency power. Schmitt is probably beating a straw man, however. In fact, no legal norm can ever fully capture all future cases which potentially fall under it. Is there any reason to assume that this familiar legal dilemma is necessarily more pronounced in the sphere of emergency law? Despite the fact that no legislator obviously possesses a perfect crystal ball completely able to foresee the scope of future emergencies, there are at least some grounds for hoping that they might do a decent job of **crafting norms able to cover most cases** **quite well**. Law always contains a “penumbral” sphere in which decision making will be relatively indeterminate. But this familiar fact hardly justifies tossing the aspiration to regulate emergency power by legal devices out the window altogether. Schmitt starts with an excessively formalistic interpretation of the law, and then describes the weaknesses of that model in order to discount basic liberal legal aspirations altogether.16 Moreover, the rule of law rests on much more than a commitment to the legal virtues of clarity and prospectiveness; even minimalist definitions of the rule of law typically include additional attributes (e.g., generality, publicity, stability and an independent judiciary). Might it not be possible to maintain other core elements of the rule of law in emergency legal regulation even if we were to concede that no lawmaker can ever clearly anticipate the exact contours of future emergencies? As Lon Fuller noted over forty years ago, a legal system can legitimately compromise some basic legal virtues while maintaining its identity as a normatively defensible model of legality. Schmitt may have been right to predict that the task of prospectively codifying a substantive definition of what specifically constitutes an emergency always SURVEY ARTICLE: EMERGENCY POWERS AFTER 9/11 65 15Ferejohn and Pasquino 2004, p. 226. 16This view hardly requires subscription to a naïve brand of legal formalism. But it certainly is inconsistent with extreme notions of legal indeterminacy. 17Fuller 1964. proves difficult.18 Yet it remains unclear that this means that we must discard the possibility of legal constraints on the exercise of emergency power. Following a recent suggestion by Andrew Arato, we can respond to Schmitt’s skepticism by arguing that it nonetheless remains possible to develop a set of constitutional procedures—along the lines of the constitutionally based formal emergency mechanisms now found in constitutions around the globe19—in order to allow for the effective but simultaneously legally constrained employment of emergency power.20 This defense of procedural or decisional rules arguably meshes with Schmitt’s basic intuition that law can at most name those decision makers best suited to the exercise of emergency power. In fact, many presentday constitutional emergency clauses arguably deemphasize the importance of some legally pre-given substantive definition of what specific events or occurrences deserve to be described as emergencies in favor of underlining the importance of a legally regulated process of political and institutional give-andtake in which special powers are delegated to some actors (typically, the executive) while being made accountable to others (judges and legislators). This approach relies less on trying to define prospectively the particular contours of all conceivable emergencies. Instead, it establishes procedural mechanisms whereby political actors themselves can determine whether or not a particular development at hand constitutes an emergency. One might counter that any attempt to separate the substantive definition of the emergency from the procedural rules determining the exercise of emergency powers is counterintuitive at best and theoretically incoherent at worst.21 Yet recall that in any existing liberal democracy, a rich diversity of competing and even antagonistic substantive views can be found, for example, concerning the proper scope and substance of ordinary legislative power: we continue to disagree about its appropriate extent (in debates about privacy and economic regulation, for example) as well as its purposes and ends. This disagreement need not undermine the effective exercise of legitimate legislative power, however. We accept or at least accede to various constitutionally based procedural devices (e.g., voting procedures, various institutional rules) which produce more-or-less successful exercises of legislative power, even if we disagree substantially about its proper character or scope.22 C. For Schmitt, legal restraints on emergency power are not only misconceived because they fail to anticipate novel crises; they are also inappropriate because the emergency situation may necessitate absolute state power, and hence the surrender of rudimentary legal restraints on its exercise. Basic threats to the survival of the polity legitimize extreme and even violent measures. In Schmitt’s theory, this view depends on a dreary portrayal of the political universe as consisting of a series of ruthlessly competitive collectivities, each of which faces off against existentially defined “others” who pose an imminent life-or-death threat.23 The international system pits such entities against one another in a brutal fight for survival. International political life still contains starkly violent elements akin to those underscored by Schmitt. Yet it also institutionalizes competing elements which function to correct his bleak picture. Even great powers like the United State are increasingly subject to those mechanisms: “the United States, like it or not, is being brought into the ambit of international norms.”24 When we conceive of the international arena as at least partially rule-guided and legally organized, Schmitt’s postulate that the competitive struggle for survival requires potentially unbounded expressions of state power becomes less self-evident as well. Since the international system now contains a number of limited yet meaningful legal mechanisms for conflict resolution, it is by no means as self-evident as Schmitt asserts that dire crises may require dictatorial power. Because existing international legal institutions already provide some legal devices for combating terrorism, for example, liberal democracies may not be forced to pursue authoritarian or violent measures in order to do so. None of the participants in the post-9/11 debate embrace Schmitt’s existentialism. Yet many still accept Schmitt’s key conclusion: authoritarian and even inhumane measures may be indispensable if we are to ward off disaster. But the argument is typically made by conjuring up the specter of terrorists in crowded subways carrying radioactive briefcases or horribly destructive “ticking bombs.”25 Might not even torture be appropriate if it alone could provide information useful for warding off mass murder?26 Proposals along these lines have understandably garnered a number of critical responses, most of which refurbish the humanitarian view that torture neither produces useful information nor minimizes political violence.27 Revealingly, those who argue for loosening existing prohibitions on torture also tend to discount the potential utility of the terrifying survivalist scenarios they seem to delight in describing.28

#### Unrestrained sovereign bad – endless violence – limitations key

Barder, 11 [Agonal sovereignty: Rethinking war and politics with Schmitt, Arendt and Foucault, June, Philosophy and Social Criticism37(7) 775–793, Department of Political Science, Johns Hopkins]

Arendt, action, agony A rather conventional reading of Schmitt asserts that the sovereign’s power of decision is about choices regarding enmity. This claim further implies that it is about choices regarding when, where and how to go to war. Paul Hirst writes that, according to Schmitt, ‘it is political struggle which gives rise to political order’.21 But what Schmitt and theorists who rely upon sovereign exceptionalism eventually cannot account for are public actions performed by war-makers, warriors, or other agents of conflict, combat and confrontation after the decision to turn to such a war machine has been made. In Barder and Debrix 781 Downloaded from psc.sagepub.com at UNIV OF MICHIGAN on August 30, 2013 other words, they do not have a rationale for the kind of necropolitical logic (as Mbembe puts it) warriors follow, perhaps because such actions are allowed to roam freely in a post-decisionistic domain where certain agents are neither lawful nor unlawful, neither in command nor under control, neither inside nor outside (of politics, of state borders), and, ultimately, neither sovereign (they did not initiate the decision to go to war) nor subordinate (they remain in charge of determining what tactics will be utilized to destroy the enemy). Proponents of biopolitical sovereignty cannot think past the moment when the decision to launch the warriors on their destructive paths has been made (other than to proclaim, as Agamben and others do, that through war the state of exception becomes a permanent condition). Critical political and international relations theories that have turned towards biopolitics of late do not seem to possess the conceptual vocabulary that could problematize and make intelligible the relations of force, power and terror that develop once war-makers take over the conduct of the political. Put differently, critical analysis is still not equipped with a perspective that could make sense of the sovereign exception as what Slavoj Zizek has called ‘an abyssal act of violence’,22 that is to say, as a free decision that turns the political into a space of terror and horror inside which warriors insert themselves, map out plans of attack, make decisions through combat tactics or battle maneuvers, and in this fashion take command of political life.23 Hannah Arendt is one theorist who has recognized the risk of such an abyssal violence contained in sovereign decisionism. The danger, as Arendt saw it, stemmed from the fact that the sovereign operated in an indeterminate space that could be expanded ad infinitum and perhaps beyond the sovereign’s own reach. As Andreas Kalyvas argues, Arendt understood that Schmittian ‘decisionistic politics was trapped in its own deceptive omnipotence’.24 Kalyvas further claims that ‘[u]nregulated and faced with no limitation, unshaped and boundless, the sovereign decision became vulnerable to its own transient and fluid dispositions to plunge finally into terror’.25 Beyond this pertinent warning, Arendt’s reflections on the nature of political decision are also useful because they offer suggestions on how a language of war or warrior performance – and a perspective on political relations dramatically reconfigured through the destructive deeds of warring agents – can unfold. As Kalyvas intimates, Arendt’s political theoretical vocabulary, if not the full substance of her analysis, allows us to peek into the domain of the war machine and its agonal sovereignty. Many have shown that Arendt’s modality of political action can be situated in the context of the idea of a public sphere that needs to remain plural, free and, more importantly, totally contingent. As Lisa Disch notes, Arendt’s politics is agonistic because its nature (taking us back to Greek tragedy) is to be aesthetically or performatively competitive and combative within such a setting.26 The term ‘agony’, it is worth noting, is derived from the Greek word agon that designates a public contest between certain actors (agonists) towards the achievement of a prize. Agony (agonia) signifies contest or competition, although Webster’s Dictionary also refers to this contest as violent.27 In a Judeo-Christian context, agony (eventually conceptualized as an inner battle, struggle, or suffering prior to death) is also that which can open onto a revelation.28 Politics for Arendt is a creative engagement on the part of agents who, both in competing among themselves to realize a remarkable performance in a public context (in the political arena) and in fending off previous structures of power, demonstrate their 782 Philosophy and Social Criticism 37(7) Downloaded from psc.sagepub.com at UNIV OF MICHIGAN on August 30, 2013 ‘greatness’. Indeed, Disch intimates, the idea of greatness is crucial to Arendt’s understanding of the term ‘agony’, particularly when the term is rendered (by Arendt) synonymous with acting or performing. Arendt declares that ‘action can be judged only by the criterion of greatness’.29 Yet, while greatness is crucial to Arendt’s agony, greatness itself is not sufficient to understand what agonal action implies. Rather, it is greatness coupled with competition or combat, that is to say, greatness valued as a daring, creative and perhaps impulsive engagement in a public setting, that appears to matter. The qualifying characteristics of being combative, competitive, creative, or daring attached to greatness are not meant to imply that the glory or brilliance contained in Arendt’s agony is one that automatically will lead to violence or conflict (although such qualifiers do not exclude violence or conflict either). Rather, they are to be understood as tragic, aesthetic and artistic performative dimensions of what it means to be agonistic or agonal,30 that is to say, to act with valor or extraordinary prowess in a public domain. Arendt’s language of agony brought her close to the realization that the great act of the public agent – taking place in a space allegedly freed from sovereign decisionism and uniquely valued for its performative manifestation – may not be able to offer any promise that it will not end up turning into an ‘abyssal act of violence’, one that would be deployed for the sake of an endless violent heroism or to perform a violent action just because it can be done, for example. But Arendt refused to entertain the thought that her agonistic politics could fall prey to the whims of agonal warriors, to Achillean heroes ‘gone bad’ or for whom vigor, brilliance and extraordinary spirit in battle could become the only measures of public action. Arendt could not accept, for example, the possibility that Carl von Clausewitz’s famous adage about the relationship between war and politics be reversed (a move that, as we shall see below, Foucault suggests was already part and parcel of modern western societies from the 16th and 17th centuries onwards). Incidentally, it is worth mentioning that Schmitt could not accept such a reversal either, but because for him it would have implied that the sovereign’s decision had lost control of the friend-versus-enemy distinction. Arendt could not conceive of this possible reversal because, in her view, it would have signified that any creative, contingent, revolutionary, or competitive new beginning for the political domain always would have had to be subjected to critical doubt or suspicion. In a rather ironic twist, however, Arendt’s language of agony reveals how tenuous the boundaries are between maintaining or, in fact, inventing a sovereign state (or polis, or demos) and destroying it (and others or enemies) by having recourse to the performative acts of some heroic actors who are left in charge, without any limitation or safeguard, of realizing new political possibilities. As military strategy theorist Alain Joxe has suggested, what one ought to question today is the status of political goals, and of the performance of such goals, when ‘there is no global political power [any more], only a global military power (the American army) and [perhaps] a global economic power (corporations, the market)’.31 If this is our contemporary ‘political’ situation, Arendt’s language of agony/agonal engagement – her emphasis on the heroics of select combative or competitive figures – may give rise to another way of envisioning politics and sovereign performance. This sort of sovereign performance (that of an Achilles-turned-war machine perhaps) is what we call ‘agonal sovereignty’.

#### Liberalism mitigates enmity – the alt rests on a faulty premise

Dyrberg, 09 [The leftist fascination with Schmitt and the esoteric quality of `the political, Torben Bech Dyrberg, Roskilde University, PHILOSOPHY & SOCIAL CRITICISM • vol 35 no 6 • pp. 649–669, p. sage]

However, what she presents as the limitation of Schmitt’s concept looks constitutive to me: the friend/enemy relation is designed to combat pluralism by internal depoliticization and external politicization, which goes hand in hand with monopolizing political action in the hands of the political establishment. To maintain strict and hierarchical in/out and up/down relations, these relations have to be fuelled by strong poles of identification granting the political the status as a medium expressing cultural unity defined by political rulers. If ‘the main limitation of Schmitt’s friend-enemy distinction’ is removed, his concept of the political is dismantled, as it is not possible to have it both ways. Because external politicization relies on internal depoliticization, politicizing the domestic terrain would undermine the function of Schmitt’s friend/enemy antagonism of framing a given political order.46 For Mouffe, pluralism requires reformulating the friend/enemy relation by, on the one hand, displacing enmity from the political order so as not to destabilize it and, on the other, making room for differentiating among friends by turning them into adversaries bound by right/left orientation. **Democratic conflicts** should not **then** be seen in friend/enemy termsand she praises liberal democratic institutions for being able to mitigate enmity.47 With the figure of the adversary, she softens the friend/enemy distinction to anchor an agonistic pluralism whose focus on political identification and power struggles differ from pluralist interest group politics. The question is whether it is possible to maintain the formula of political enmity when that which fuelled it is removed. And what happens with social homogeneity when it is exposed to pluralism? The introduction of the adversary would be revolting for Schmitt, because it smuggles pluralism in by the back door thereby diluting enmity thus draining the intensity of the political. This would erode the political unity of nation-people-state and hence his democratic axiom of substantial equality, which is the political countermove not only to an individualistic and universalistic liberalism, but also to one that is articulated with modern democracy.48 Schmitt’s challenge: a misconceived dilemma for the left The political loses its framing function if it cannot mirror and perform the oneness of the people, which is defined in terms of cultural homogeneity and substantial equality. Defining equality as sameness (in/out), freedom as submission (up/down) and progress as destiny (front/back) is the antithesis to modern democracy, which ‘does not require homogeneity but a belief in equality. And equality is not sameness, it is always equality among those who are different.’49 It is a paradox that Schmitt is brought in to strengthen what he resented most of all: the right/left orientation of pluralism and partisan politics. It is also a paradox that claims to rejuvenate the left end up replacing it with political discourses structured in terms of in/out, up/down and front/back. The Schmittian set-up provides a short cut to the intensity triggered by naming enemies and it operates contrary to right/left orientation. So, the plea for difference ends up in sameness; the aim to reinvigorate right/left ends up by strengthening the other orientations; and the focus on the political ends up confirming culture. Since in/out, up/down and front/back are structured as either/or and positive/negative, they can more easily than right/left become sites for passions, which means that they operate in existential and naturalized categories which are not negotiable. This makes them likely to function as collective imaginaries, which are well suited for identity politics in contrast to right/left orientation, which is a matter of balancing opposites and accepting others as equals. As in/out, up/down and front/back are not organized around the modern democratic axiom of equal opposites, they are not bound by public political reasoning. This cannot avoid blurring the difference between enmity and opposition, which has a stifling effect on democracy and eventually destroys it. Is it possible to buy the friend/enemy criterion of the political while getting rid of substantial equality? I do not think so as friend/enemy antagonisms are triggered by existential forms of orientation, which are highly symbolically and emotionally charged. If they go, that is, if they lose intensity, the political goes too. As opposed to the other orientations, right/left does not have the same potentials for channelling this type of uncompromising collective will formation, which indicates that in/out, up/down and front/back cannot simply be replaced by other forms of orientation as this would be to underrate the political force of these orientations and their ability to produce unitary effects. To cleanse friend/ enemy for its cultural form and content and to base it on right/left orientation would be unrealistic because the either/or and positive/negative structuring of friend/enemy does not fit democratic orientation and justification, that is, right/left and public reason.50 Right/left and friend/enemy cannot go together for Schmitt because the former cannot fuel the latter. In/out, up/down and front/back orientations are always present in political discourses. The question is whether they should be bent to a right/left perspective. The political is not just a reservoir of intensity, which can be drawn on by right/left as well as other types of orientation. It is not designed to right/left but to annihilate it and replace it with other orientations which are much better to channel political intensity. This makes them sites of radicalism, which are antagonistically related to the institutional logic of right/left, which is expressed in pluralism and parliamentarism. This is an example of how close Schmitt’s political choices are to his intellectual work. Right/left is not conducive for dictatorship, whereas the other orientations might serve that purpose more easily. That is why the concept of the political is expressed in this way. Right/left is excluded because it separates the political from its cultural root – a separation that is essential for modern democracy. In contrast, the other orientations tie the political more closely to a cultural set-up so as not to question social hierarchies or expose them to political decision-making. Radical conservatives like Schmitt would refuse to see the political as a free-standing symbolic order vis-à-vis the cultural symbolic order and they would thus refuse that democratic public reason should have priority over ‘comprehensive doctrines’ in matters of common concerns. The latter cannot make sense for conservatives, because the political is the unity of these doctrines and identities making up traditions and hence a ‘we’. The critique is directed against a modern democratic set-up of political representation organized around the right/left axis. Political order is instead understood as an existential community with a destiny, which is structured by articulations among the three other pairs of orientational metaphors. In/out orientation: the criteria for where or how to draw the line between acceptance/non-acceptance, inclusion/exclusion and central/ peripheral are charged by pre-political sentiments often relating to ethnicity, religion and nationality. If they are made the criteria for membership of a political community, the latter can enjoy no autonomy vis-à-vis culture, as it would be a medium expressing a given culture. This would undermine modern democracy because right/left is not geared to govern non-negotiable either/or existential criteria, which are polarized along a positive/negative dichotomy. Up/down orientation: the relationship between political leadership and people has to be marked by social homogeneity to unify high and low. This type of equality is subsumed under the radical conservative cultural framing of politics, which aims to prevent up/down orientations from becoming sites of political struggles. Hence the importance Schmitt attaches to a people’s identification with its ruler. Hierarchy and domination form part of the natural order of things, which is antithetic to the left’s critique of inequality, privileges, abuse of power, etc. Front/back orientation: this orientation concerns time and direction as in modern/traditional, progress/reaction, as well as open-minded/ closed, transparent/obscure and light/dark. Writing in the tradition of counter-revolution, Schmitt’s attack on modern democracy seeks recourse to the obscure and dark forces of existence (authenticity) and he calls upon destiny to insert ‘us’ in a lineage, which is an imperative as opposed to negotiable. This is the consequence of articulating front/back with in/out and up/down as opposed to right/left where progress would be linked to emancipation. The radical conservative criticism of modern democracy links up with another aspect of conservatism, the criticizing of political ideology. By this conservatives refer to a political order founded on ideas – on what is artificial and abstract such as political equality in the modern democratic sense and individual rights – as opposed to a collective identity ingrained in the historical context that appears natural. There can be no room for democratic willpower exceeding what is mandated by the political as the medium through which culture manifests itself (destiny) or questioning decisionism as the prerogative of ruling elites. The radical conservative move of disarticulating in/out, up/down and 665 Dyrberg: The leftist fascination with Schmitt Downloaded from front/back from right/left implies eliminating the latter and turning the former into a bulwark for an authoritarian order, which is fundamentally opposed to modern democracy in general and to a leftist perspective in particular. For a willed community is what modern democracy is about and the political values sustaining it must have priority compared to other values when it comes to governing common concerns. This priority is institutionalized by the right/left orientational matrix in the democratic structuring of the political order, which means that issues of common concerns can be decided democratically as opposed to being judged according to pre-political standards. Radical conservatives cannot accept these features of modern democracy, but hold that the political order should rely on, express and defend the oneness of the people. In contrast to the kind of unity made possible through right/left orientation – where the criteria governing in/out are political – radical conservatives indulge in an existential type of unity, which is conducive for its identity politics and which links individual, family and state in an organic national/popular set-up. The reason for being critical of Schmitt is that the political vis-à-vis the friend/enemy constellation **pushes democracy on a self-destructive** course: one that is collectivist on nationalist, racist and religious lines as well as statist (in/out); another which revolves around ‘substantial equality’, which is elitist and hierarchical (up/down); yet another that is reluctantly modern and channels reactionary identity politics (front/ back); and finally one that is against the political and institutional setup of modern democracy (rejection of right/left). To define democracy on those lines is to deprive it of all the qualities usually praised by the left, **notably the quest for liberty, equality, justice, progress, dissent and individuality.** This does not mean that friend/enemy groupings cannot be articulated with right/left, just that the function of this type of orientation does not make it a strong candidate for this job. Nor does it mean that friend/enemy antagonisms are politically irrelevant. But it is one thing to hold that such antagonisms can be vital aspects of political articulations and identity formation; **quite another to assert that they define what the political is all about.** The latter would be similar to claiming that marital quarrels, instead of being seen as a more or less unavoidable aspect of partnership, are turned into its very foundation.5

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**ODFW, no date** (http://www.dfw.state.or.us/wolves/imnaha\_wolf\_pack.asp)

Adding the term “in the area” to i and ii clarifies that the rules are to be used for a situation in a particular area, not throughout the state. Replacing “up to three” with “an” does not change the intent of the rule but accounts for situations where there are more than three attempted depredations.

### modeling

#### Credible external oversight is key---leads to international modeling and allows the US to effectively crack down on rogue drone programs

Omar S. Bashir 12, is a Ph.D. candidate in the Department of Politics at Princeton University and a graduate of the Department of Aeronautics and Astronautics at MIT, September 24th, 2012, "Who Watches the Drones?" Foreign Affairs,www.foreignaffairs.com/articles/138141/omar-s-bashir/who-watches-the-drones

Further, the U.S. counterterrorism chief John Brennan has noted that the administration is "establishing precedents that other nations may follow." But, for now, other countries have no reason to believe that the United States carries out its own targeted killing operations responsibly. Without a credible oversight program, those negative perceptions of U.S. behavior will fill the vacuum, and an anything-goes standard might be the result. U.S. denunciations of other countries' programs could come to ring hollow. ¶ If the United States did adopt an oversight system, those denunciations would carry more weight. So, too, would U.S. pressure on other states to adopt similar systems: just as suspicions grow when countries refuse nuclear inspection, foreign governments that turned down invitations to apply a proven system of oversight to their own drone campaigns would reveal their disregard for humanitarian concerns.

### AT: Rubber Stamp (2ac)

#### Not a rubber stamp

Daskal, 13 [The Geography of the Battlefield: A Framework for Detention and Targeting Outside the 'Hot' Conflict Zone Jennifer Daskal American University Washington College of Law, April]

That said, there is a reasonable fear that any such court or review board will simply defer. In this vein, FISC’s high approval rate is cited as evidence that reviewing courts or review boards will do little more than rubber-stamp the Executive’s targeting decisions.180 But the high approval rates only tell part of the story. In many cases, the mere requirement of justifying an application before a court or other independent review board can serve as an internal check, creating endogenous incentives to comply with the statutory requirements and limit the breadth of executive action.181 Even if this system does little more than increase the attention paid to the stated requirements and expand the circle of persons reviewing the factual basis for the application, those features in and of themselves can lead to increased reflection and restraint.

### AT: Circumvention

#### President believes he is constrained by statute

Saikrishna Prakash 12**,** professor of law at the University of Virginia and Michael Ramsey, professor of law at San Diego, “The Goldilocks Executive” Feb, SSRN

We accept that the President’s lawyers search for legal arguments to justify presidential action, that they find the President’s policy preferences legal more often than they do not, and that the President sometimes disregards their conclusions. But the close attention the Executive pays to legal constraints suggests that the President (who, after all, is in a good position to know) believes himself constrained by law. Perhaps Posner and Vermeule believe that the President is mistaken. But we think, to the contrary, it represents the President’s recognition of the various constraints we have listed, and his appreciation that attempting to operate outside the bounds of law would trigger censure from Congress, courts, and the public.

### AT: Enmity Solves War

#### Enmity doesn’t solve conflict – no clear divisions makes stable divisions impossible

Scheuerman, 06 [William E., Professor of Political Science – Indiana University, Constellations, 13(1), p. 111-112]

First, their Marxist orientation exists in deep tension with any serious political or theoretical emphasis on the significance of concrete space or territory. Like its liberal Enlightenment cousin, Marxism ultimately leaves no room for this approach. Lenin is thus a more authentic Marxist than Mao, Schmitt suggests, but his inconsistencies as a Marxist simultaneously made Mao better able to appreciate the political and military opportunities of partisan warfare (40–41). Second, modern technology works to counteract an authentically telluric brand of partisan warfare. Mobility in contemporary military affairs rests on advanced technology which clashes badly with the deeply rooted localism of the classical partisan fighter, the original backwoods Spanish guerrillero: even the autochthonous partisan of agrarian origin is drawn into the force-field of irresistible technical-industrial progress. His mobility is so enhanced by motorization that he runs the risk of complete dislocation. (14) When successful guerrilla warfare relies on forms of technology which dramatically compress space and time, his intimate relationship to a concrete locality is lost (48–50). He no longer fights with the farmer’s pitch fork and butcher’s knife; now he needs machine guns and advanced explosives. Dependent on complex technology, and tied to global movements having their own universalistic aspirations (e.g., world revolution), the modern-day partisan fighter losses his telluric character and becomes “a transportable, replaceable cog in the wheel of a powerful world-political machine” (14). Why is this trend so threatening to the identity of the partisan? It renders him indistinguishable from his foes, whose universalistic aspirations he increasingly mirrors: both American liberals and their revolutionary guerrilla opponents claim to speak in the name of a (mythical) unified humanity. In this way, partisans abandon the special **connection to concrete territoriality** which Schmitt considers essential to their political intensity, jettisoning their healthy political instincts for the fictional normative or moral ideal of the “community of humankind.” Unlike the anti-Napoleonic freedom fighters of Spain or Tyrol, they now disingenuously and self-righteously wage wars “in the name of humanity,” and thus are likely to reproduce the terrible ills of Enlightenment-based political worldviews which, in Schmitt’s account, engender the horrors of modern total war.9 For this reason, The Partisan, no less than Schmitt’s other works after 1945, ultimately remains a deeply nostalgic book. Even though postwar guerrilla movements initially provide some reason to hope that an authentic mode of politics is alive and well, his study ends on a cautious note, strongly suggesting that the most sophisticated mode of guerrilla warfare in modern times was found among the telluric peasants of early nineteenth century counterrevolutionary Spain, but hardly among the revolutionary movements of 1960s Southeast Asia or Latin and South America.

### AT: F/E Dichotomy Good

#### Schmittian conception of the political causes unregulated decision making – the impact is violence

Norris, 98 [Andrew, Assistant Professor of Philosophy at Duquesne University, received his Ph.D. from the University of California at Berkeley] “Carl Schmitt on friends, enemies and the political.” Telos; Summer98 Issue 112, <http://www.amerika.org/globalism/carl-schmitt-on-friends-enemies-and-the-political-andrew-norris/>]

If the work that Carl Schmitt produced during the Weimar Republic is of interest today, it is in large part because of his insistence on the conceptual autonomy of the political. Like Hannah Arendt, Schmitt categorically distinguishes the political from the economic, the technological, and the legal; and, like her, he also criticizes liberalism for muddying and obscuring these distinctions.(n1) As one might expect from an eminent jurist, he places particular emphasis on the last — the distinction between the legal and the political. The main lines of his argument are clear enough: the concept of law is **defined by** the criteria of what is and is not in accord with legal roles and norms; the concept of the political, by **the criteria of friend and enemy.** The identification of friend and enemy is an existential decision which cannot be anticipated by law. Moreover, the political is not simply distinct from the legal but prior to it in that no system of norms can be developed or applied without a moment of decision that exceeds the regulation of those norms. Thus the state as the political actor cannot be reduced to a legal system, nor can what legitimacy it has be derived from law. Particularly in an emergency or state of exception, a sovereign “either/or” decision must be made, and this decision cannot be derived or inferred from the norms that obtain in the normal situation. Because of the inherent limitations of laws, rules, and norms, the political decision that identifies friend and enemy must be made independently. The main complaint: against this formulation is familiar enough: Schmitt allegedly emphasizes the limitations of law only to glorify the decision that exceeds the regulation of any law. Insofar as rights are defined and guaranteed by law, **Schmitt’s** existential **concept of the political** makes these rights **vulnerable to unregulated** political **decision**. This is found to be all the more distressing, since Schmitt stresses the decision’s role in the most extreme case, i.e., war, in the political identification of the existential enemy. As he puts it: “Only the actual participants can correctly recognize, understand, and judge the concrete situation and settle the extreme case of conflict. Each participant is in a position to judge whether the adversary intends to negate his opponent’s way of life and therefore must be repulsed or fought in order to preserve one’s own form of existence.”(n2) The bellicose nihilism this suggests is often seen as a causal factor in Schmitt’s own active participation in the Nazi movement in the 1930s. His political theory, it is alleged, is opportunistic, with only one consistent commitment –to the irrational. Thus Richard Wolin claims that the central roles played in Schmitt’s political theory by the political decision and the threat of war are both motivated by a “vitalism” and a “politics of authenticity,” with the aim of overturning the vapid bourgeois order.(n3) The result is a glorification of violence.(n4) In the end, politics for Schmitt is a matter of conflict and war, and the true criterion of the political is the enemy. Who one’s political “friends” are is determined only in the encounter with the enemy, and they are valued only insofar as they allow for success in the resulting war. As Martin Jay puts it, “the hated other [is] needed to create the solidarity of the homogeneous self.”(n5)