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#### Restriction on authority must limit presidential discretion

**Lobel, 8** - Professor of Law, University of Pittsburgh Law School (Jules, “Conflicts Between the Commander in Chief and Congress: Concurrent Power over the Conduct of War” 392 OHIO STATE LAW JOURNAL [Vol. 69:391, <http://moritzlaw.osu.edu/students/groups/oslj/files/2012/04/69.3.lobel_.pdf>)

So  too, the congressional power to declare or authorize war has been long held to permit Congress to authorize and wage a limited war—“limited in place, in objects, and in time.” 63 When Congress places such restrictions on the President’s authority to wage war, it limits the President’s discretion to conduct battlefield operations. For example, Congress authorized President George H. W. Bush to attack Iraq in response to Iraq’s 1990 invasion of Kuwait, but it confined the President’s authority to the use of U.S. armed forces pursuant to U.N. Security Council resolutions directed to force Iraqi troops to leave Kuwait. That restriction would not have permitted the President to march into Baghdad after the Iraqi army had been decisively ejected from Kuwait, a limitation recognized by President Bush himself.64

### 1nc debt ceiling da

#### Obama’s pressuring the GOP with a strong display of Presidential strength and staying on message – the GOP will blink

**Dovere, 10/1/13** (Edward, Politico, “Government shutdown: President Obama holds the line”

<http://www.politico.com/story/2013/10/government-shutdown-president-obama-holds-the-line-97646.html?hp=f3>)

President Barack Obama started September in an agonizing, extended display of how little sway he had in Congress. He ended the month with a display of resolve and strength that could redefine his presidency. All it took was a government shutdown. This was less a White House strategy than simply staying in the corner the House GOP had painted them into — to the White House’s surprise, Obama was forced to do what he so rarely has as president: he said no, and he didn’t stop saying no. For two weeks ahead of Monday night’s deadline, Obama and aides rebuffed the efforts to kill Obamacare with the kind of firm, narrow sales pitch they struggled with in three years of trying to convince people the law should exist in the first place. There was no litany of doomsday scenarios that didn’t quite come true, like in the run-up to the fiscal cliff and the sequester. No leaked plans or musings in front of the cameras about Democratic priorities he might sacrifice to score a deal. After five years of what’s often seen as Obama’s desperation to negotiate — to the fury of his liberal base and the frustration of party leaders who argue that he negotiates against himself. Even his signature health care law came with significant compromises in Congress. Instead, over and over and over again, Obama delivered the simple line: Republicans want to repeal a law that was passed and upheld by the Supreme Court — to give people health insurance — or they’ll do something that everyone outside the GOP caucus meetings, including Wall Street bankers, seems to agree would be a ridiculous risk. “If we lock these Americans out of affordable health care for one more year,” Obama said Monday afternoon as he listed examples of people who would enjoy better treatment under Obamacare, “if we sacrifice the health care of millions of Americans — then they’ll fund the government for a couple more months. Does anybody truly believe that we won’t have this fight again in a couple more months? Even at Christmas?” The president and his advisers weren’t expecting this level of Republican melee, a White House official said. Only during Sen. Ted Cruz’s (R-Texas) 21-hour floor speech last week did the realization roll through the West Wing that they wouldn’t be negotiating because they couldn’t figure out anymore whom to negotiate with. And even then, they didn’t believe the shutdown was really going to happen until Saturday night, when the House voted again to strip Obamacare funding. This wasn’t a credible position, Obama said again Monday afternoon, but rather, bowing to “extraneous and controversial demands” which are “all to save face after making some impossible promises to the extreme right wing of their political party.” Obama and aides have said repeatedly that they’re not thinking about the shutdown in terms of political gain, but the situation’s is taking shape for them. Congress’s approval on dealing with the shutdown was at 10 percent even before the shutters started coming down on Monday according to a new CNN/ORC poll, with 69 percent of people saying the House Republicans are acting like “spoiled children.” “The Republicans are making themselves so radioactive that the president and Democrats can win this debate in the court of public opinion” by waiting them out, said Jim Manley, a Democratic strategist and former aide to Senate Majority Leader Harry Reid who has previously been critical of Obama’s tactics. Democratic pollster Stan Greenberg said the Obama White House learned from the 2011 debt ceiling standoff, when it demoralized fellow Democrats, deflated Obama’s approval ratings and got nothing substantive from the negotiations. “They didn’t gain anything from that approach,” Greenberg said. “I think that there’s a lot they learned from what happened the last time they ran up against the debt ceiling.” While the Republicans have been at war with each other, the White House has proceeded calmly — a breakthrough phone call with Iranian President Hassan Rouhani Friday that showed him getting things done (with the conveniently implied juxtaposition that Tehran is easier to negotiate with than the GOP conference), his regular golf game Saturday and a cordial meeting Monday with his old sparring partner Israeli Prime Minister Benjamin Netanyahu. White House press secretary Jay Carney said Monday that the shutdown wasn’t really affecting much of anything. “It’s busy, but it’s always busy here,” Carney said. “It’s busy for most of you covering this White House, any White House. We’re very much focused on making sure that the implementation of the Affordable Care Act continues.” Obama called all four congressional leaders Monday evening — including Boehner, whose staff spent Friday needling reporters to point out that the president hadn’t called for a week. According to both the White House and Boehner’s office, the call was an exchange of well-worn talking points, and changed nothing. Manley advised Obama to make sure people continue to see Boehner and the House Republicans as the problem and not rush into any more negotiations until public outrage forces them to bend. “He may want to do a little outreach, but not until the House drives the country over the cliff,” Manley said Monday, before the shutdown. “Once the House has driven the country over the cliff and failed to fund the government, then it might be time to make a move.” The White House believes Obama will take less than half the blame for a shutdown – with the rest heaped on congressional Republicans. The divide is clear in a Gallup poll also out Monday: over 70 percent of self-identifying Republicans and Democrats each say their guys are the ones acting responsibly, while just 9 percent for both say the other side is. If Obama is able to turn public opinion against Republicans, the GOP won’t be able to turn the blame back on Obama, Greenberg said. “Things only get worse once things begin to move in a particular direction,” he said. “They don’t suddenly start going the other way as people rethink this.”

#### Obama would backlash to the plan REGARDLESS of who enacts it – that turns case

Epps 13 (Feb 16, “Why a Secret Court Won't Solve the Drone-Strike Problem,” The Atlantic, Garrett, <http://www.theatlantic.com/politics/archive/2013/02/why-a-secret-court-wont-solve-the-drone-strike-problem/273246/>)

Professor Stephen I. Vladeck of American University has offered a remedy to this problem. He proposes a statute in which Congress assigns jurisdiction to a specific judicial district, probably the District Court for the District of Columbia. Congress in the statute would strip the executive of such defenses as "state secrets" and "political question." Survivors of someone killed in a drone attack could bring a wrongful-death suit. The secret evidence would be reviewed by the judge, government lawyers, and the lawyers for the plaintiff. Those lawyers would have to have security clearance; the evidence would not be shown to the plaintiffs themselves, or to the public. After review of the evidence, the court would rule. If the plaintiffs won, they would receive only symbolic damages--but they'd also get a judgment that the dead person had been killed illegally.

It's an elegant plan, and the only one I've seen that would permit us to involve the Article III courts in adjudicating drone attacks. Executive-power hawks would object that courts have no business looking into the president's use of the war power. But Vladeck points out that such after-the-fact review has taken place since at least the Adams administration. "I don't think there's any case that says that how the president uses military force--especially against a U.S. citizen--is not subject to judicial review," he said in an interview. "He may be entitled to some deference and discretion, but not complete immunity."

**The real problem with Vladeck's court might be political**. I expect that any president would resist such a statute as a dilution of his commander in chief power, and enactment seems unlikely. Without such a statute, then, systematic review of secret drone killings must come inside the executive branch.

#### That costs political capital and trades off with domestic priorities

O’Neil 7 (David, Adjunct Associate Professor of Law – Fordham Law School, “The Political Safeguards of Executive Privilege”, Vanderbilt Law Review, 60 Vand. L. Rev. 1079, Lexis)

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

#### That takes Obama off-message – it undermines his constant pressure on the GOP

**Milbank, 9/27/13** – Washington Post Opinion Writer (Dana, “Obama should pivot to Dubya’s playbook” Washington Post, <http://www.washingtonpost.com/opinions/dana-milbank-obama-should-try-pivoting-to-george-bushs-playbook/2013/09/27/c72469f0-278a-11e3-ad0d-b7c8d2a594b9_story.html>)

If President Obama can stick to his guns, he will win his October standoff with Republicans. That’s an awfully big “if.” This president has been consistently inconsistent, predictably unpredictable and reliably erratic. Consider the events of Thursday morning: Obama gave a rousing speech in suburban Washington, in defense of Obamacare, on the eve of its implementation. “We’re now only five days away from finishing the job,” he told the crowd. But before he had even left the room, his administration let slip that it was delaying by a month the sign-up for the health-care exchanges for small businesses. It wasn’t a huge deal, but it was enough to trample on the message the president had just delivered. Throughout his presidency, Obama has had great difficulty delivering a consistent message. Supporters plead for him to take a position — any position — and stick with it. His shifting policy on confronting Syria was the most prominent of his vacillations, but his allies have seen a similar approach to the Guantanamo Bay prison, counterterrorism and climate change. Even on issues such as gun control and immigration where his views have been consistent, Obama has been inconsistent in promoting his message. Allies are reluctant to take risky stands, because they fear that Obama will change his mind and leave them standing alone. Now come the budget showdowns, which could define the rest of his presidency. Republican leaders are trying to shift the party’s emphasis from the fight over a government shutdown to the fight over the debt-limit increase, where they have more support. A new Bloomberg poll found that Americans, by a 2-to-1 margin, disagree with Obama’s view that Congress should raise the debt limit without any conditions. But Obama has a path to victory. That poll also found that Americans think lawmakers should stop trying to repeal Obamacare. And that was before House Republicans dramatically overplayed their hand by suggesting that they’ll allow the nation to default if Obama doesn’t agree to their laundry list of demands, including suspending Obamacare, repealing banking reforms, building a new oil pipeline, easing environmental regulations, limiting malpractice lawsuits and restricting access to Medicare. To beat the Republicans, Obama might follow the example of a Republican, George W. Bush. Whatever you think of what he did, he knew how to get it done: by simplifying his message and repeating it, ad nauseam, until he got the result he was after. Obama instead tends to give a speech and move along to the next topic. This is why he is forever making “pivots” back to the economy, or to health care. But the way to pressure Congress is to be President One Note. In the debt-limit fight, Obama already has his note: He will not negotiate over the full faith and credit of the United States. That’s as good a theme as any; it matters less what the message is than that he delivers it consistently. The idea, White House officials explained to me, is to avoid getting into a back-and-forth over taxes, spending and entitlement programs. “We’re right on the merits, but I don’t think we want to argue on the merits,” one said. “Our argument is not that our argument is better than theirs; it’s that theirs is stupid.” This is a clean message: Republicans are threatening to tank the economy — through a shutdown or, more likely, through a default on the debt — and Obama isn’t going to negotiate with these hostage-takers. Happily for Obama, Republicans are helping him to make the case by being publicly belligerent. After this week’s 21-hour speech on the Senate floor by Sen. Ted Cruz (R-Tex.), the publicity-seeking Texan and Sen. Mike Lee (R-Utah) objected to a bipartisan request to move a vote from Friday to Thursday to give House Republicans more time to craft legislation avoiding a shutdown. On the Senate floor, Sen. Bob Corker (R-Tenn.) accused them of objecting because they had sent out e-mails encouraging their supporters to tune in to the vote on Friday. The Post’s Ed O’Keefe caught Cruz “appearing to snicker” as his colleague spoke — more smug teenager than legislator. Even if his opponents are making things easier for him, Obama still needs to stick to his message. As in Syria, the president has drawn a “red line” by saying he won’t negotiate with those who would put the United States into default. If he retreats, he will embolden his opponents and demoralize his supporters.

#### It consumes his capital and breaches debt ceiling

**Lillis, 9/7/13** (Mike, The Hill, “Fears of wounding Obama weigh heavily on Democrats ahead of vote”

Read more: http://thehill.com/homenews/house/320829-fears-of-wounding-obama-weigh-heavily-on-democrats#ixzz2gWiT9H8u

The prospect of wounding President Obama is weighing heavily on Democratic lawmakers as they decide their votes on Syria. Obama needs all the political capital he can muster heading into bruising battles with the GOP over fiscal spending and the debt ceiling. Democrats want Obama to use his popularity to reverse automatic spending cuts already in effect and pay for new economic stimulus measures through higher taxes on the wealthy and on multinational companies. But if the request for authorization for Syria military strikes is rebuffed, some fear it could limit Obama's power in those high-stakes fights. That has left Democrats with an agonizing decision: vote "no" on Syria and possibly encourage more chemical attacks while weakening their president, or vote "yes" and risk another war in the Middle East. “I’m sure a lot of people are focused on the political ramifications,” a House Democratic aide said. Rep. Jim Moran (D-Va.), a veteran appropriator, said the failure of the Syria resolution would diminish Obama's leverage in the fiscal battles. "It doesn't help him," Moran said Friday by phone. "We need a maximally strong president to get us through this fiscal thicket. These are going to be very difficult votes."

#### Economic collapse

**Davidson, 9/10/13** – co-founder of NPR’s Planet Money (Adam, “Our Debt to Society” New York Times, <http://www.nytimes.com/2013/09/15/magazine/our-debt-to-society.html?pagewanted=all>)

If the debt ceiling isn’t lifted again this fall, some serious financial decisions will have to be made. Perhaps the government can skimp on its foreign aid or furlough all of NASA, but eventually the big-ticket items, like Social Security and Medicare, will have to be cut. At some point, the government won’t be able to pay interest on its bonds and will enter what’s known as sovereign default, the ultimate national financial disaster achieved by countries like Zimbabwe, Ecuador and Argentina (and now Greece). In the case of the United States, though, it won’t be an isolated national crisis. If the American government can’t stand behind the dollar, the world’s benchmark currency, then the global financial system will very likely enter a new era in which there is much less trade and much less economic growth. It would be, by most accounts, the largest self-imposed financial disaster in history. Nearly everyone involved predicts that someone will blink before this disaster occurs. Yet a small number of House Republicans (one political analyst told me it’s no more than 20) appear willing to see what happens if the debt ceiling isn’t raised — at least for a bit. This could be used as leverage to force Democrats to drastically cut government spending and eliminate President Obama’s signature health-care-reform plan. In fact, Representative Tom Price, a Georgia Republican, told me that the whole problem could be avoided if the president agreed to drastically cut spending and lower taxes. Still, it is hard to put this act of game theory into historic context. Plenty of countries — and some cities, like Detroit — have defaulted on their financial obligations, but only because their governments ran out of money to pay their bills. No wealthy country has ever voluntarily decided — in the middle of an economic recovery, no less — to default. And there’s certainly no record of that happening to the country that controls the global reserve currency. Like many, I assumed a self-imposed U.S. debt crisis might unfold like most involuntary ones. If the debt ceiling isn’t raised by X-Day, I figured, the world’s investors would begin to see America as an unstable investment and rush to sell their Treasury bonds. The U.S. government, desperate to hold on to investment, would then raise interest rates far higher, hurtling up rates on credit cards, student loans, mortgages and corporate borrowing — which would effectively put a clamp on all trade and spending. The U.S. economy would collapse far worse than anything we’ve seen in the past several years.

#### Nuclear war

**Friedberg and Schoenfeld 8**

[Aaron, Prof. Politics. And IR @ Princeton’s Woodrow Wilson School and Visiting Scholar @ Witherspoon Institute, and Gabriel, Senior Editor of Commentary and Wall Street Journal, “The Dangers of a Diminished America”, 10-28, <http://online.wsj.com/article/SB122455074012352571.html>]

Then there are the dolorous consequences of a potential collapse of the world's financial architecture. For decades now, Americans have enjoyed the advantages of being at the center of that system. The worldwide use of the dollar, and the stability of our economy, among other things, made it easier for us to run huge budget deficits, as we counted on foreigners to pick up the tab by buying dollar-denominated assets as a safe haven. Will this be possible in the future? Meanwhile, traditional foreign-policy challenges are multiplying. The threat from al Qaeda and Islamic terrorist affiliates has not been extinguished. Iran and North Korea are continuing on their bellicose paths, while Pakistan and Afghanistan are progressing smartly down the road to chaos. Russia's new militancy and China's seemingly relentless rise also give cause for concern. If America now tries to pull back from the world stage, it will leave a dangerous power vacuum. The stabilizing effects of our presence in Asia, our continuing commitment to Europe, and our position as defender of last resort for Middle East energy sources and supply lines could all be placed at risk. In such a scenario there are shades of the 1930s, when global trade and finance ground nearly to a halt, the peaceful democracies failed to cooperate, and aggressive powers led by the remorseless fanatics who rose up on the crest of economic disaster exploited their divisions. Today we run the risk that rogue states may choose to become ever more reckless with their nuclear toys, just at our moment of maximum vulnerability. The aftershocks of the financial crisis will almost certainly rock our principal strategic competitors even harder than they will rock us. The dramatic free fall of the Russian stock market has demonstrated the fragility of a state whose economic performance hinges on high oil prices, now driven down by the global slowdown. China is perhaps even more fragile, its economic growth depending heavily on foreign investment and access to foreign markets. Both will now be constricted, inflicting economic pain and perhaps even sparking unrest in a country where political legitimacy rests on progress in the long march to prosperity. None of this is good news if the authoritarian leaders of these countries seek to divert attention from internal travails with external adventures.

### 1nc cp

#### The Executive branch should publicly articulate its legal rationale for its targeted killing policy, including the process and safeguards in place for target selection. The United States Congress should enact a resolution and issue a white paper stating that, in the conduct of its oversight it has reviewed ongoing targeted killing operations and determined that the United States government is conducting such operations in full compliance with relevant laws, including but not limited to the Authorization to Use Military Force of 2001, covert action findings, and the President’s inherent powers under the Constitution.

#### The CP’s the best middle ground---preserves the vital counter-terror role of targeted killings while resolving all their downsides

Daniel Byman 13, Professor in the Security Studies Program at the Edmund A. Walsh School of Foreign Service at Georgetown University and a Senior Fellow at the Saban Center for Middle East Policy at the Brookings Institution, July/August 2013, “Why Drones Work,” Foreign Affairs, Vol. 92, No. 4

Despite President Barack Obama's recent call to reduce the United States' reliance on drones, they will likely remain his administration's weapon of choice. Whereas President George W. Bush oversaw fewer than 50 drone strikes during his tenure, Obama has signed off on over 400 of them in the last four years, making the program the centerpiece of U.S. counterterrorism strategy. The drones have done their job remarkably well: by killing key leaders and denying terrorists sanctuaries in Pakistan, Yemen, and, to a lesser degree, Somalia, drones have devastated al Qaeda and associated anti-American militant groups. And they have done so at little financial cost, at no risk to U.S. forces, and with fewer civilian casualties than many alternative methods would have caused.

Critics, however, remain skeptical. They claim that drones kill thousands of innocent civilians, alienate allied governments, anger foreign publics, illegally target Americans, and set a dangerous precedent that irresponsible governments will abuse. Some of these criticisms are valid; others, less so. In the end, drone strikes remain a necessary instrument of counterterrorism. The United States simply cannot tolerate terrorist safe havens in remote parts of Pakistan and elsewhere, and drones offer a comparatively low-risk way of targeting these areas while minimizing collateral damage.

So drone warfare is here to stay, and it is likely to expand in the years to come as other countries' capabilities catch up with those of the United States. But Washington must continue to improve its drone policy, spelling out clearer rules for extrajudicial and extraterritorial killings so that tyrannical regimes will have a harder time pointing to the U.S. drone program to justify attacks against political opponents. At the same time, even as it solidifies the drone program, Washington must remain mindful of the built-in limits of low-cost, unmanned interventions, since the very convenience of drone warfare risks dragging the United States into conflicts it could otherwise avoid.

### 1nc court cp

#### The United States Federal Judiciary should:

#### --apply judicial review to Congressional and Executive regulations concerning sexual assault in the United States Armed Forces by allowing a cause of action for damages arising directly out of the constitutional provision allegedly offended

#### --apply judicial review to Congressional and Executive regulations concerning the US compliance with obligations under the Convention Against Torture

#### --rule that judicial ex post review of United States targeted killing operations is precluded by standards of justiciability, including special factors counseling hesitation arising from such review necessitating judicial evaluation of the execution of Constitutional responsibilities textually committed to the Executive branch in the conduct of war.

#### Their 1AC ev says it solves sexual assault and the entire CMR advantage

Burke 12 (Susan, civil discrimination lawyer known for cases in which she has represented plaintiffs suing the American military, she has represented former detainees of Abu Ghraib and military translators, On Appeal from the United States District Court: APPELLANTS’ OPENING BRIEF, KORI CIOCA et al. Plaintiffs-Appellants, v. DONALD RUMSFELD et al., april 23, <http://protectourdefenders.com/images/Burke_Cicoa_Appeal_Brief.pdf>)

The District Court erred by adopting a per se rule and concluding without any fact finding that permitting the rape survivors to bring Bivens claims would impair military discipline or impede a military mission. Such a per se rule contradicts, not adheres to, the Supreme Court’s Chappell decision. **Permitting the rape survivors to seek Bivens damages** from the former military leaders who viewed themselves as beyond the reach of Congressional rules and regulations will send a clear message of accountability and civilian control over the military.

### 1nc ct adv

#### Allied terror coop is high now, despite frictions

Kristin Archick, European affairs specialist @ CRS, 9-4-2013, “U.S.-EU Cooperation Against Terrorism,” Congressional Research Service, <http://www.fas.org/sgp/crs/row/RS22030.pdf>

As part of the EU’s efforts to combat terrorism since September 11, 2001, the EU made improving law enforcement and intelligence cooperation with the United States a top priority. The previous George W. Bush Administration and many Members of Congress largely welcomed this EU initiative in the hopes that it would help root out terrorist cells in Europe and beyond that could be planning other attacks against the United States or its interests. Such growing U.S.-EU cooperation was in line with the 9/11 Commission’s recommendations that the United States should develop a “comprehensive coalition strategy” against Islamist terrorism, “exchange terrorist information with trusted allies,” and improve border security through better international cooperation. Some measures in the resulting Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108-458) and in the Implementing Recommendations of the 9/11 Commission Act of 2007 (P.L. 110-53) mirrored these sentiments and were consistent with U.S.-EU counterterrorism efforts, especially those aimed at improving border controls and transport security. U.S.-EU cooperation against terrorism has led to a new dynamic in U.S.-EU relations by fostering dialogue on law enforcement and homeland security issues previously reserved for bilateral discussions. Despite some frictions, most U.S. policymakers and analysts view the developing partnership in these areas as positive. Like its predecessor, the Obama Administration has supported U.S. cooperation with the EU in the areas of counterterrorism, border controls, and transport security. At the November 2009 U.S.-EU Summit in Washington, DC, the two sides reaffirmed their commitment to work together to combat terrorism and enhance cooperation in the broader JHA field. In June 2010, the United States and the EU adopted a new “Declaration on Counterterrorism” aimed at deepening the already close U.S.-EU counterterrorism relationship and highlighting the commitment of both sides to combat terrorism within the rule of law. In June 2011, President Obama’s National Strategy for Counterterrorism asserted that in addition to working with European allies bilaterally, “the United States will continue to partner with the European Parliament and European Union to maintain and advance CT efforts that provide mutual security and protection to citizens of all nations while also upholding individual rights.”

#### There’s no impact to anti-drones backlash

Stephen Holmes 13, the Walter E. Meyer Professor of Law, New York University School of Law, July 2013, “What’s in it for Obama?,” The London Review of Books, <http://www.lrb.co.uk/v35/n14/stephen-holmes/whats-in-it-for-obama>

This is the crux of the problem. We stand at the beginning of the Drone Age and the genie is not going to climb back into the bottle. The chances that this way of war will, over time, reduce the amount of random violence in the world are essentially nil. Obama’s drone policy has set an ominous precedent, and not only for future residents of the White House. It promises, over the long term, to engender more violence than it prevents because it excites no public backlash. That, for the permanent national security apparatus that has deftly moulded the worldview of a novice president, is its irresistible allure. It doesn’t provoke significant protest even on the part of people who condemn hit-jobs done with sticky bombs, radioactive isotopes or a bullet between the eyes – in the style of Mossad or Putin’s FSB. That America appears to be laidback about drones has made it possible for the CIA to resume the assassination programme it was compelled to shut down in the 1970s without, this time, awakening any politically significant outrage. It has also allowed the Pentagon to wage a war against which antiwar forces are apparently unable to rally even modest public support.

#### Judicial review would result in all targeted killings being ruled unconstitutional---courts would conclude they don’t satisfy the requirement of imminence for use of force in self-defense

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

In the alternative, and far more broadly, the DOJ argued that executive authority to conduct targeted killings is constitutionally committed power. n101 Under this interpretation, the President has the authority to defend the nation against imminent threats of attack. n102 This argument is not limited by statutory parameters or congressional authorization, such as that under the AUMF. n103 Rather, the duty to defend the nation is inherent in the President's constitutional powers and is not subject to judicial interference or review. n104

The DOJ is correct in arguing that the President is constitutionally empowered to use military force to protect the nation from imminent attack. n105 As the DOJ noted in its brief in response, the Supreme Court has held that the president has the authority to protect the nation from "imminent attack" and to decide the level of necessary force. n106 The same is true in the international context. Even though Yemen is not a warzone and al-Qaeda is not a state actor, international law accepts the position that countries may respond to specific, imminent threats of harm with lethal force. n107 [\*1367] Under these doctrines of domestic and international law, the use of lethal force against Aulaqi was valid if he presented a concrete, specific, and imminent threat of harm to the United States. n108

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

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

#### Plan would collapse military effectiveness and command structure---causes second-guessing of every battlefield decision

Stuart F. Delery 12, Principal Deputy Assistant Attorney General, Civil Division, 12/14/12, Defendants’ Motion to Dismiss, NASSER AL-AULAQI, as personal representative of the estate of ANWAR AL-AULAQI, et al., Plaintiffs, v. LEON E. PANETTA, et al., in their individual capacities, Defendants, No. 1:12-cv-01192 (RMC), <http://www.lawfareblog.com/wp-content/uploads/2012/12/MTD-AAA.pdf>

First, the D.C. Circuit has repeatedly held that where claims directly implicate matters involving national security and particularly war powers, special factors counsel hesitation. See Doe, 683 F.3d at 394-95 (discussing the “strength of the special factors of military and national security” in refusing to infer remedy for citizen detained by military in Iraq); Ali, 649 F.3d at 773 (explaining that “the danger of obstructing U.S. national security policy” is a special factor in refusing to infer remedy for aliens detained in Iraq and Afghanistan (internal quotation and citation omitted)); Rasul v. Myers, 563 F.3d 527, 532 n.5 (D.C. Cir. 2009) (same for aliens detained at Guantánamo Bay). These cases alone should control Plaintiffs’ claims here. Plaintiffs challenge the alleged targeting of and missile strikes against members of AQAP in Yemen. Few cases more clearly present “the danger of obstructing U.S. national security policy” than this one. Ali, 649 F.3d at 773. Accordingly, national security considerations bar inferring a remedy for Plaintiffs’ claims.19

Second, Plaintiffs’ claims implicate the effectiveness of the military. As with national security, the D.C. Circuit has consistently held that claims threatening to undermine the military’s command structure and effectiveness present special factors. See Doe, 683 F.3d at 396; Ali, 649 F.3d at 773. Allowing a damages suit brought by the estate of a leader of AQAP against officials who allegedly targeted and directed the strike against him would fly in the face of explicit circuit precedent. As the court in Ali explained: “It would be difficult to devise more effective fettering of a field commander than to allow the very enemies he is ordered to reduce to submission to call him to account in his own civil courts and divert his efforts and attention from the military offensive abroad to the legal defensive at home.” 649 F.3d at 773 (quoting Eisentrager, 339 U.S. at 779). Moreover, allowing such suits to proceed “would diminish the prestige of our commanders, not only with enemies but with wavering neutrals.” Id.; see also Vance, 2012 WL5416500 at \*5 (“The Supreme Court’s principal point was that civilian courts should not interfere with the military chain of command . . . .”); Lebron, 670 F.3d at 553 (barring on special factors grounds Bivens claims by detained terrorist because suit would “require members of the Armed Services and their civilian superiors to testify in court as to each other’s decisions and actions” (citation and internal quotation omitted)).

Creating a new damages remedy in the context of alleged missile strikes against enemy forces in Yemen would have the same, if not greater, negative outcome on the military as in the military detention context that is now well-trodden territory in this and other circuits. These suits “would disrupt and hinder the ability of our armed forces to act decisively and without hesitation in defense of our liberty and national interests.” Ali, 649 F.3d at 773 (citation and internal quotation omitted). To infuse such hesitation into the real-time, active-war decision-making of military officers absent authorization to do so from Congress would have profound implications on military effectiveness. This too warrants barring this new species of litigation.

#### Targeted killing’s vital to counterterrorism---disrupts leadership and makes carrying out attacks impossible

Kenneth Anderson 13, Professor of International Law at American University, June 2013, “The Case for Drones,” Commentary, Vol. 135, No. 6

Targeted killing of high-value terrorist targets, by contrast, is the end result of a long, independent intelligence process. What the drone adds to that intelligence might be considerable, through its surveillance capabilities -- but much of the drone's contribution will be tactical, providing intelligence that assists in the planning and execution of the strike itself, in order to pick the moment when there might be the fewest civilian casualties.

Nonetheless, in conjunction with high-quality intelligence, drone warfare offers an unparalleled means to strike directly at terrorist organizations without needing a conventional or counterinsurgency approach to reach terrorist groups in their safe havens. It offers an offensive capability, rather than simply defensive measures, such as homeland security alone. Drone warfare offers a raiding strategy directly against the terrorists and their leadership.

If one believes, as many of the critics of drone warfare do, that the proper strategies of counterterrorism are essentially defensive -- including those that eschew the paradigm of armed conflict in favor of law enforcement and criminal law -- then the strategic virtue of an offensive capability against the terrorists themselves will seem small. But that has not been American policy since 9/11, not under the Bush administration, not under the Obama administration -- and not by the Congress of the United States, which has authorized hundreds of billions of dollars to fight the war on terror aggressively. The United States has used many offensive methods in the past dozen years: Regime change of states offering safe havens, counter-insurgency war, special operations, military and intelligence assistance to regimes battling our common enemies are examples of the methods that are just of military nature.

Drone warfare today is integrated with a much larger strategic counterterrorism target -- one in which, as in Afghanistan in the late 1990s, radical Islamist groups seize governance of whole populations and territories and provide not only safe haven, but also an honored central role to transnational terrorist groups. This is what current conflicts in Yemen and Mali threaten, in counterterrorism terms, and why the United States, along with France and even the UN, has moved to intervene militarily. Drone warfare is just one element of overall strategy, but it has a clear utility in disrupting terrorist leadership. It makes the planning and execution of complex plots difficult if only because it is hard to plan for years down the road if you have some reason to think you will be struck down by a drone but have no idea when. The unpredictability and terrifying anticipation of sudden attack, which terrorists have acknowledged in communications, have a significant impact on planning and organizational effectiveness.

### 1nc cmr adv

#### McCormack is neg evidence

McCormack 13 (Wayne McCormack is the E. W. Thode Professor of Law at the University of Utah S.J. Quinney College of Law, U.S. Judicial Independence: Victim in the “War on Terror”, Aug 20, <https://today.law.utah.edu/projects/u-s-judicial-independence-victim-in-the-war-on-terror/>)

One of the principal victims in the U.S. so-called “war on terror” has been the independence of the U.S. Judiciary. Time and again, challenges to assertedly illegal conduct on the part of government officials have been turned aside, either because of overt deference to the Government or because of special doctrines such as **state secrets and standing requirements**. The judiciary has virtually relinquished its valuable role in the U.S. system of judicial review. In the face of governmental claims of crisis and national security needs, the courts have refused to examine, or have examined with undue deference, the actions of government officials.

The U.S. Government has taken the position that inquiry by the judiciary into a variety of actions would threaten the safety of the nation. This is pressure that amounts to intimidation. When this level of pressure is mounted to create exceptions to established rules of law, it undermines due process of law. Perhaps one or two examples of Government warnings about the consequences of a judicial decision would be within the domain of legal argument. But a long pattern of threats and intimidation to depart from established law undermines judicial independence. That has been the course of the U.S. “war on terror” for over a decade now.

Here are some of the governmental actions that have been challenged and a brief statement of how the Courts responded to Government demands for deference.

**====KENTUCKY’S UNDERLINING STOPS====**

1. Guantanamo.

In Boumediene v. Bush,1 the Supreme Court allowed the U.S. to detain alleged “terrorists” under unstated standards to be developed by the lower courts **with “deference” to Executive determinations**. The intimidation exerted on the Court was reflected in Justice Scalia’s injudicious comment that the Court’s decision would “surely cause more Americans to be killed.”

2. Detention and Torture

Khalid El-Masri2 claimed that he was detained in CIA “black sites” and tortured – case dismissed under the doctrine of “state secrets privilege.” (SSP)

Maher Arar3 is a Canadian citizen who was detained at Kennedy Airport by U.S. authorities, shipped off to Syria for imprisonment and mistreatment, and finally released to Canadian authorities – case dismissed under “special factors” exception to tort actions for violations of law by federal officials – awarded $1 million by Canadian authorities.

Jose Padilla4 was arrested deplaning at O’Hare Airport, imprisoned in the U.S. for four years without a hearing and allegedly mistreated in prison – case dismissed on grounds of “good faith” immunity.

Binyam Mohamed5 was subjected to “enhanced interrogation techniques” at several CIA “black sites” before being repatriated to England, which awarded him £1 million in damages – U.S. suit dismissed under SSP.

1 553 U.S. 723 (2008).

2 El-Masri v. United States, 479 F.3d 296 (4th Cir. 2007).

3 Arar v. Ashcroft, 414 F. Supp. 2d 250 (E.D.N.Y. 2005), aff’d by 585 F.3d 559 (2009).

4 Padilla v. Yoo, 678 F.3d 748 (9th Cir. 2012).

5 Mohamed v. Jeppesen Dataplan, 614 F.3d 1070 (9th Cir. en banc 2010) damages – U.S. suit dismissed under SSP.

3. Unlawful Detentions

Abdullah Al-Kidd6 arrested as a material witness, held in various jails for two weeks, and then confined to house arrest for 15 months – suit dismissed on grounds of “qualified immunity” and apparent validity of material witness warrant.

Ali Al-Marri was originally charged with perjury, then detained as an enemy combatant, for a total detention of four years before the Fourth Circuit finally held that he must be released or tried.7

Javad Iqbal8 was detained on visa violations in New York following 9/11 and claimed he was subjected to mistreatment on the basis of ethnic profiling – suit dismissed on grounds that he could not prove Attorney General authorization of illegal practices and court’s unwillingness to divert attention of officials away from national security.

Osama Awadallah9 was taken into custody in Los Angeles after his name and phone number were found on a gum wrapper in the car of one of the 9/11 hijackers – charged with perjury before grand jury and held as material witness – Second Circuit reversed district court ruling on abuse of the material witness statute

4. Unlawful Surveillance

Amnesty International10 is one of numerous organizations that brought suit believing that its communications, especially with foreign clients or correspondents had been monitored by the National Security Agency – suit dismissed because the secrecy of the NSA spying program made it impossible to prove that any particular person or group had been monitored. The validity of the entire Foreign Surveillance Act (FISA) rests on the “special needs” exception to the Fourth Amendment, a conclusion that was rejected by one district court although accepted by others.

5. Targeted Killing

Anwar Al-Awlaki (or Aulaqi)11 was reported by press accounts as having been placed on a “kill list” by President Obama – suit by his father dismissed on grounds that Anwar himself could come forward and seek access to U.S. courts – not only Anwar but his son were then killed in separate drone strikes.

6. Asset Forfeiture

6 Al-Kidd v. Ashcroft, 580 F.3d 949, 951-52 (9th Cir. 2009).

7Al-Marri v. Wright, 487 F.3d 160 (4th Cir. 2007).

8 Ashcroft v. Iqbal, 129 S. Ct. 1937 (2009)

9 United States v. Awadallah, 349 F.3d 42 (2d Cir. 2003); see also In re Grand Jury Material Witness Detention, 271 F. Supp. 2d 1266 (D. Or. 2003); In re Application of U.S. for a Material Witness Warrant, 213 F. Supp. 2d 287 (S.D. N.Y. 2002).

10 Clapper v. Amnesty Int'l USA, 133 S. Ct. 1138 (2013).

**====KENTUCKY’S UNDERLINING BEGINS AGAIN====**

11 Al-Aulaqi v. Obama, 727 F. Supp. 2d 1 (D.D.C. 2010)

Both Al Haramain Islamic Foundation12 and KindHearts for Charitable Humanitarian Development13 have been found by the Department of Treasury to be fronts for raising money for Hamas, and their assets have been blocked – despite findings of due process violations by the lower courts, the blocking of assets has been upheld on the basis that their support for terrorist activities is public knowledge.

#### CMR is secure

**Shanker, 9/13/13** (Thom, New York Times, “Pentagon in Back Seat as Kerry Leads Charge”

<http://www.nytimes.com/2013/09/14/us/politics/syria-crisis-underlines-pentagons-move-to-the-back-seat.html?pagewanted=all&_r=2&>

WASHINGTON — In the weeks of sometimes bewildering debate in Washington about what to do in Syria, one truth has emerged: President Obama has transformed his relationship with the Pentagon and the military.

The civilian policy makers and generals who led Mr. Obama toward a troop escalation in Afghanistan during his first year in office, a decision that left him deeply distrustful of senior military leaders, have been replaced by a handpicked leadership that includes Defense Secretary Chuck Hagel and Gen. Martin E. Dempsey, the chairman of the Joint Chiefs of Staff.

Through battlefield experience — Mr. Hagel as an infantryman in 1967 and 1968 in Vietnam, and General Dempsey as a commander during some of the most violent years in Iraq — both men share Mr. Obama’s reluctance to use American military might overseas. A dozen years after the Pentagon under Donald H. Rumsfeld began aggressively driving national security policy, the two have wholeheartedly endorsed a more restricted Pentagon role.

“Hagel was not hired to be a ‘secretary of war,’ ” said one senior Defense Department official. “That is not a mantle the president wants him to wear.”

The crisis in Syria is the most recent and most powerful example of how Mr. Obama, elected twice on a promise to disengage the United States from overseas conflicts, has moved the Pentagon to a back seat. In this case, it is Secretary of State John Kerry who is leading the charge, not the far less vocal Mr. Hagel and General Dempsey.

“Whether you call it a reset of the Pentagon or a reflection of what our overall policy is,” the Pentagon official said, “the military instrument is not going to be the dominant instrument of our policy, particularly in an instance like Syria, where we are not looking at military force to solve the underlying civil war.”

#### No solvency—circumvention

Epps 13 (Feb 16, “Why a Secret Court Won't Solve the Drone-Strike Problem,” The Atlantic, Garrett, <http://www.theatlantic.com/politics/archive/2013/02/why-a-secret-court-wont-solve-the-drone-strike-problem/273246/>)

Finally, in time of war, there will be occasions when a target emerges and decisions must be made too quickly for even a secret court proceeding. And thus the "drone court" would not be able to rule on some cases; an ambitious president could find many exceptions.

In addition, an ambitious executive might also use the secret court as a means to extend the drone-strike authority beyond actions in time of authorized military action. With such a review mechanism in place, the argument might go, there's no danger in ceding the president's authority to use drones against enemies not so designated by Congress.

**What about after the fact, then?** Could there be a secret court that would hear the administration's case for a drone strike and then decide whether that strike had been justified?

Not hardly, I think.

A court that meets in secret, hears only one side of a dispute, and issues a final judgment without notifying other parties is not any kind of Article III court I recognize. It is not deciding cases; it is granting absolution.

Finally, some scholars have suggested that the Congress create a new "cause of action"--a right to sue in an ordinary federal court on a claim that the government improperly unleashed drones on a deceased relative. The survivors of the late Anwar al-Awlaki tried such a suit, and the **Obama administration has so far insisted that it concerns "political questions," not fitted for judicial proceedings**. Congress could pass a statute specifically granting a right to sue in a federal district court.

Without careful design, that would actually not make things any better. The survivors will file their complaint; the administration will claim state secrets and refuse to provide information. A court might reject the secrets claim and order the government to produce discovery. The administration would probably refuse to comply. The court's recourse would be to order judgment for the plaintiffs. The dead person's family would get some money, but we'd be no closer to accountability for the drone-strike decision.

#### Ex post doesn’t add legitimacy – damage’s already been done

Crandall 12 (Carla, Law Clerk – Supreme Court of Missouri, “Ready…Fire…Aim! A Case for Applying American Due Process Principles Before Engaging in Drone Strikes,” Florida Journal of International Law, April, 24 Fla. J. Int'l L. 55, Lexis)

Despite the expanded use of drones, however, the legitimacy of these attacks remains unclear. Most commentators who have addressed the legitimacy of more general targeted killings have examined the issue within the framework of either international humanitarian law (IHL) or international human rights law (IHRL). n6 Those limited few who have [\*57] analyzed the subject through the lens of American due process have limited their scrutiny to the absence of post-deprivation rights. n7 They suggest, for instance, that the United States should implement some sort of Bivens-type action as a remedy for the survivors of erroneous drone strikes. n8

As this Article explains, however, none of these approaches yield wholly satisfactory answers as to which framework should govern the use of drones within the context of the war on terror. And though the idea that American due process principles ought to be applied **ex post** represents a significant contribution to the debate, it too ultimately falls flat. Indeed, such an approach unduly narrows the obligation of U.S. officials to the standard of readying, firing, and then aiming- requiring them to perform a detailed review of the strikes only after the fact. Instead, this Article argues that the United States ought to be held to a higher, ex ante standard-that of "aiming" before firing-and posits that such a standard is practically attainable.

In doing so, the Article proceeds as follows. Part II describes the capabilities and current employment of drones and explains why **resolving the legitimacy of their use is so critical**. Specifically, it highlights that, despite the unsettled nature of the law in this area, targeted killings by drone strikes have increased exponentially in recent years-in some instances against arguably questionable targets. Part III examines current attempts to address the legitimacy of drone assaults and explains why they fail to adequately govern the use of these weapons. While this Part explores the applicability of IHRL and IHL, it does not undertake to resolve the debate as to which regime does or ought to apply to these operations. To the contrary, it argues that limitations within each framework have prevented consensus from forming around the applicability of either. Accordingly, U.S. officials [\*58] must arguably look to other sources to find guiding principles to legitimize targeted killings via drones. Though it is admittedly not entirely clear whether constitutional guarantees apply in the foreign locales where these strikes occur-or to the foreign nationals who are often their target-this Part proposes that American due process principles nevertheless ought to be invoked before such strikes occur, because failing to do so allows the executive to act with impunity in a legal void. Part IV argues that, in Hamdi v. Rumsfeld n9 and Boumediene v. Bush, n10 the Supreme Court signaled the process that may be due before drones are used to eliminate known terrorist targets. In extending the Hamdi and Boumediene analysis to targeted killings by drones, this Part also begins the inquiry into the procedural protections that due process may demand before U.S. officials engage in such actions. Part V concludes.

#### US legal modeling fails- can’t shape norms

**Law and Versteeg ’12** [David S. Law, Professor of Law and Professor of Political Science, Washington University in St. Louis. B.A., M.A., Ph.D., Stanford University; J.D., Harvard Law School; B.C.L. in European and Comparative Law, University of Oxford, Mila Versteeg, Associate Professor, University of Virginia School of Law. B.A., LL.M., Tilburg University; LL.M., Harvard Law School; D.Phil., University of Oxford, “The Declining Influence of the United States Constitution,” New York University Law Review, Vol. 87, No. 3, pp. 762-858, June 2012, online]

The appeal of American constitutionalism as a model for other countries appears to be waning in more ways than one. Scholarly¶ attention has thus far focused on global judicial practice: There is a¶ growing sense, backed by more than purely anecdotal observation,¶ that foreign courts cite the constitutional jurisprudence of the U.S.¶ Supreme Court less frequently than before.247 But the behavior of¶ those who draft and revise actual constitutions exhibits a similar pattern.¶ Our empirical analysis shows that the content of the U.S.¶ Constitution is becoming increasingly atypical by global standards.¶ Over the last three decades, other countries have become less likely to¶ model the rights-related provisions of their own constitutions upon¶ those found in the U.S. Constitution. Meanwhile, global adoption of key structural features of the Constitution, such as federalism, presidentialism, and a decentralized model of judicial review, is at best¶ stable and at worst declining. In sum, rather than leading the way for¶ global constitutionalism, the U.S. Constitution appears instead to be losing its appeal as a model for constitutional drafters elsewhere. The¶ idea of adopting a constitution may still trace its inspiration to the¶ United States, but the manner in which constitutions are written¶ increasingly does not.¶ If the U.S. Constitution is indeed losing popularity as a model for¶ other countries, what—or who—is to blame? At this point, one can¶ only speculate as to the actual causes of this decline, but five possible hypotheses suggest themselves: (1) the advent of a superior or more¶ attractive competitor; (2) a general decline in American hegemony;¶ (3) judicial parochialism; (4) constitutional obsolescence; and (5) a creed of American exceptionalism.¶ With respect to the first hypothesis, there is little indication that¶ the U.S. Constitution has been displaced by any specific competitor.¶ Instead, the notion that a particular constitution can serve as a dominant¶ model for other countries may itself be obsolete. There is an¶ increasingly clear and broad consensus on the types of rights that a¶ constitution should include, to the point that one can articulate the¶ content of a generic bill of rights with considerable precision.248 Yet it is difficult to pinpoint a specific constitution—or regional or international¶ human rights instrument—that is clearly the driving force¶ behind this emerging paradigm. We find only limited evidence that global constitutionalism is following the lead of either newer national¶ constitutions that are often cited as influential, such as those of¶ Canada and South Africa, or leading international and regional¶ human rights instruments such as the Universal Declaration of¶ Human Rights and the European Convention on Human Rights.¶ Although Canada in particular does appear to exercise a quantifiable¶ degree of constitutional influence or leadership, that influence is not¶ uniform and global, but more likely reflects the emergence and evolution¶ of a shared practice of constitutionalism among common law¶ countries.249 Our findings suggest, instead, that the development of¶ global constitutionalism is a polycentric and multipolar process that is¶ not dominated by any particular country.250 The result might be likened¶ to a global language of constitutional rights, but one that has¶ been collectively forged rather than modeled upon a specific¶ constitution.¶ Another possibility is that America’s capacity for constitutional¶ leadership is at least partly a function of American “soft power” more¶ generally.251 It is reasonable to suspect that the overall influence and appeal of the United States and its institutions have a powerful spillover¶ effect into the constitutional arena. The popularity of American¶ culture, the prestige of American universities, and the efficacy of¶ American diplomacy can all be expected to affect the appeal of¶ American constitutionalism, and vice versa. All are elements of an¶ overall American brand, and the strength of that brand helps to determine¶ the strength of each of its elements. Thus, any erosion of the¶ American brand may also diminish the appeal of the Constitution for¶ reasons that have little or nothing to do with the Constitution itself.¶ Likewise, a decline in American constitutional influence of the type¶ documented in this Article is potentially indicative of a broader decline in American soft power.¶ There are also factors specific to American constitutionalism that¶ may be reducing its appeal to foreign audiences. Critics suggest that¶ the Supreme Court has undermined the global appeal of its own jurisprudence¶ by failing to acknowledge the relevant intellectual contributions of foreign courts on questions of common concern252 and by¶ pursuing interpretive approaches that lack acceptance elsewhere.253¶ On this view, the Court may bear some responsibility for the declining¶ influence of not only its own jurisprudence, but also the actual U.S.¶ Constitution: One might argue that the Court’s approach to constitutional¶ issues has undermined the appeal of American constitutionalism¶ more generally, to the point that other countries have become¶ unwilling to look either to American constitutional jurisprudence or¶ to the U.S. Constitution itself for inspiration.254¶ It is equally plausible, however, that responsibility for the¶ declining appeal of American constitutionalism lies with the idiosyncrasies¶ of the Constitution itself rather than the proclivities of the¶ Supreme Court. As the oldest formal constitution still in force and one of the most rarely amended constitutions in the world,255 the U.S.¶ Constitution contains relatively few of the rights that have become¶ popular in recent decades.256 At the same time, some of the provisions¶ that it does contain may appear increasingly problematic, unnecessary,¶ or even undesirable with the benefit of two hundred years of¶ hindsight.257 It should therefore come as little surprise if the U.S.¶ Constitution strikes those in other countries—or, indeed, members of¶ the U.S. Supreme Court258—as out of date and out of line with global¶ practice.259 Moreover, even if the Court were committed to interpreting¶ the Constitution in tune with global approaches, it would still¶ lack the power to update the actual text of the document. Indeed,¶ efforts by the Court to update the Constitution via interpretation may¶ actually reduce the likelihood of formal amendment by rendering such¶ amendment unnecessary as a practical matter.260 As a result, there is¶ only so much that the U.S. Supreme Court can do to make the U.S.¶ Constitution an attractive formal template for other countries. The¶ obsolescence of the Constitution, in turn, may undermine the appeal¶ of American constitutional jurisprudence. Foreign courts have little¶ reason to follow the Supreme Court’s lead on constitutional issues if¶ the Supreme Court is saddled with the interpretation of an unusual¶ and obsolete constitution.261 No amount of ingenuity or solicitude for¶ foreign law on the part of the Court can entirely divert attention from¶ the fact that the Constitution itself is an increasingly atypical¶ document. One way to put a more positive spin on the U.S. Constitution’s¶ status as a global outlier is to emphasize its role in articulating and¶ defining what is unique about American national identity. Many¶ scholars have opined that formal constitutions serve an expressive¶ function as statements of national identity.262 This view finds little¶ support in our own empirical findings, which suggest instead that constitutions¶ tend to contain relatively standardized packages of rights.263¶ Nevertheless, to the extent that constitutions do serve such a function,¶ the distinctiveness of the U.S. Constitution may reflect the uniqueness¶ of America’s national identity. In this vein, various scholars have¶ argued that the U.S. Constitution lies at the very heart of an¶ “American creed of exceptionalism,” which combines a belief that the¶ United States occupies a unique position in the world with a commitment¶ to the qualities that set the United States apart from other countries.¶ 264 From this perspective, the Supreme Court’s reluctance to¶ make use of foreign and international law in constitutional cases¶ amounts not to parochialism, but rather to respect for the exceptional¶ character of the nation and its constitution.265¶ Unfortunately, it is clear that the reasons for the declining influence¶ of American constitutionalism cannot be reduced to anything as¶ simple or attractive as a longstanding American creed of exceptionalism.¶ Historically, American exceptionalism has not prevented other¶ countries from following the example set by American constitutionalism.¶ The global turn away from the American model is a relatively recent development that postdates the Cold War. If the U.S.¶ Constitution does in fact capture something profoundly unique about¶ the United States, it has surely been doing so for longer than the last¶ thirty years.¶ A complete explanation of the declining influence of American¶ constitutionalism in other countries must instead be sought in more¶ recent history, such as the wave of constitution making that followed¶ the end of the Cold War.266 During this period, America’s newfound¶ position as lone superpower might have been expected to create¶ opportunities for the spread of American constitutionalism. But this¶ did not come to pass.¶ Once global constitutionalism is understood as the product of a¶ polycentric evolutionary process, it is not difficult to see why the U.S.¶ Constitution is playing an increasingly peripheral role in that process.¶ No evolutionary process favors a species that is frozen in time. At¶ least some of the responsibility for the declining global appeal of¶ American constitutionalism lies not with the Supreme Court, or with a¶ broader penchant for exceptionalism, but rather with the static character¶ of the Constitution itself. If the United States were to revise the¶ Bill of Rights today—with the benefit of over two centuries of experience,¶ and in a manner that addresses contemporary challenges while¶ remaining faithful to the nation’s best traditions—there is no guarantee¶ that other countries would follow its lead. But the world would¶ surely pay close attention.

#### SCOTUS Not Modeled

Moravcsik 5 (Andrew, "Dream on America", 1-31-5, Newsweek International)

Tellingly, the anti-Bushism of the president's first term is giving way to a more general anti-Americanism. A plurality of voters (the average is 70 percent) in each of the 21 countries surveyed by the BBC oppose sending any troops to Iraq, including those in most of the countries that have done so. Only one third, disproportionately in the poorest and most dictatorial countries, would like to see American values spread in their country. Says Doug Miller of GlobeScan, which conducted the BBC report: "President Bush has further isolated America from the world. Unless the administration changes its approach, it will continue to erode America's good name, and hence its ability to effectively influence world affairs." Former Brazilian president Jose Sarney expressed the sentiments of the 78 percent of his countrymen who see America as a threat: "Now that Bush has been re-elected, all I can say is, God bless the rest of the world." The truth is that Americans are living in a dream world. Not only do others not share America's self-regard, they no longer aspire to emulate the country's social and economic achievements. The loss of faith in the American Dream goes beyond this swaggering administration and its war in Iraq. A President Kerry would have had to confront a similar disaffection, for it grows from the success of something America holds dear: the spread of democracy, free markets and international institutions—globalization, in a word. Countries today have dozens of political, economic and social models to choose from. Anti-Americanism is especially virulent in Europe and Latin America, where countries have established their own distinctive ways—none made in America. Futurologist Jeremy Rifkin, in his recent book "The European Dream," hails an emerging European Union based on generous social welfare, cultural diversity and respect for international law—a model that's caught on quickly across the former nations of Eastern Europe and the Baltics. In Asia, the rise of autocratic capitalism in China or Singapore is as much a "model" for development as America's scandal-ridden corporate culture. "First we emulate," one Chinese businessman recently told the board of one U.S. multinational, "then we overtake." Many are tempted to write off the new anti-Americanism as a temporary perturbation, or mere resentment. Blinded by its own myth, America has grown incapable of recognizing its flaws. For there is much about the American Dream to fault. If the rest of the world has lost faith in the American model—political, economic, diplomatic—it's partly for the very good reason that it doesn't work as well anymore. AMERICAN DEMOCRACY: Once upon a time, the U.S. Constitution was a revolutionary document, full of epochal innovations—free elections, judicial review, checks and balances, federalism and, perhaps most important, a Bill of Rights. In the 19th and 20th centuries, countries around the world copied the document, not least in Latin America. So did Germany and Japan after World War II. Today? When nations write a new constitution, as dozens have in the past two decades, they seldom look to the American model. When the soviets withdrew from Central Europe, U.S. constitutional experts rushed in. They got a polite hearing, and were sent home. Jiri Pehe, adviser to former president Vaclav Havel, recalls the Czechs' firm decision to adopt a European-style parliamentary system with strict limits on campaigning. "For Europeans, money talks too much in American democracy. It's very prone to certain kinds of corruption, or at least influence from powerful lobbies," he says. "Europeans would not want to follow that route." They also sought to limit the dominance of television, unlike in American campaigns where, Pehe says, "TV debates and photogenic looks govern election victories." So it is elsewhere. After American planes and bombs freed the country, Kosovo opted for a European constitution. Drafting a post-apartheid constitution, South Africa rejected American-style federalism in favor of a German model, which leaders deemed appropriate for the social-welfare state they hoped to construct. Now fledgling African democracies look to South Africa as their inspiration, says John Stremlau, a former U.S. State Department official who currently heads the international relations department at the University of Witwatersrand in Johannesburg: "We can't rely on the Americans." The new democracies are looking for a constitution written in modern times and reflecting their progressive concerns about racial and social equality, he explains. "To borrow Lincoln's phrase, South Africa is now Africa's 'last great hope'."

#### No prolif, no spillover, no impact

Kahl et. al 13 (Colin H., Senior Fellow at the Center for a New American Security and an associate professor in the Security Studies Program at Georgetown University’s Edmund A. Walsh School of Foreign Service, Melissa G. Dalton, Visiting Fellow at the Center for a New American Security, Matthew Irvine, Research Associate at the Center for a New American Security, February, “If Iran Builds the Bomb, Will Saudi Arabia Be Next?” <http://www.cnas.org/files/documents/publications/CNAS_AtomicKingdom_Kahl.pdf>, 2013)

\*\*\*cites Jacques Hymans, USC Associate Professor of IR\*\*\*

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LESSONS FRO M HISTOR Y Concerns over “regional proliferation chains,” “falling nuclear dominos” and “nuclear tipping points” are nothing new; indeed, reactive proliferation fears date back to the dawn of the nuclear age.14 Warnings of an inevitable deluge of proliferation were commonplace from the 1950s to the 1970s, resurfaced during the discussion of “rogue states” in the 1990s and became even more ominous after 9/11.15 In 2004, for example, Mitchell Reiss warned that “in ways both fast and slow, we may very soon be approaching a nuclear ‘tipping point,’ where many countries may decide to acquire nuclear arsenals on short notice, thereby triggering a proliferation epidemic.” Given the presumed fragility of the nuclear nonproliferation regime and the ready supply of nuclear expertise, technology and material, Reiss argued, “a single new entrant into the nuclear club could catalyze similar responses by others in the region, with the Middle East and Northeast Asia the most likely candidates.”16 Nevertheless, predictions of inevitable proliferation cascades have historically proven false (see The Proliferation Cascade Myth text box). In the six decades since atomic weapons were first developed, nuclear restraint has proven far more common than nuclear proliferation, and cases of reactive proliferation have been exceedingly rare. Moreover, most countries that have started down the nuclear path have found the road more difficult than imagined, both technologically and bureaucratically, leading the majority of nuclear-weapons aspirants to reverse course. Thus, despite frequent warnings of an unstoppable “nuclear express,”17 William Potter and Gaukhar Mukhatzhanova astutely note that the “train to date has been slow to pick up steam, has made fewer stops than anticipated, and usually has arrived much later than expected.”18 None of this means that additional proliferation in response to Iran’s nuclear ambitions is inconceivable, but the empirical record does suggest that regional chain reactions are not inevitable. Instead, only certain countries are candidates for reactive proliferation. Determining the risk that any given country in the Middle East will proliferate in response to Iranian nuclearization requires an assessment of the incentives and disincentives for acquiring a nuclear deterrent, the technical and bureaucratic constraints and the available strategic alternatives. Incentives and Disincentives to Proliferate Security considerations, status and reputational concerns and the prospect of sanctions combine to shape the incentives and disincentives for states to pursue nuclear weapons. Analysts predicting proliferation cascades tend to emphasize the incentives for reactive proliferation while ignoring or downplaying the disincentives. Yet, as it turns out, instances of nuclear proliferation (including reactive proliferation) have been so rare because going down this road often risks insecurity, reputational damage and economic costs that outweigh the potential benefits.19 Security and regime survival are especially important motivations driving state decisions to proliferate. All else being equal, if a state’s leadership believes that a nuclear deterrent is required to address an acute security challenge, proliferation is more likely.20 Countries in conflict-prone neighborhoods facing an “enduring rival”– especially countries with inferior conventional military capabilities vis-à-vis their opponents or those that face an adversary that possesses or is seeking nuclear weapons – may be particularly prone to seeking a nuclear deterrent to avert aggression.21 A recent quantitative study by Philipp Bleek, for example, found that security threats, as measured by the frequency and intensity of conventional militarized disputes, were highly correlated with decisions to launch nuclear weapons programs and eventually acquire the bomb.22 The Proliferation Cascade Myth Despite repeated warnings since the dawn of the nuclear age of an inevitable deluge of nuclear proliferation, such fears have thus far proven largely unfounded. Historically, nuclear restraint is the rule, not the exception – and the degree of restraint has actually increased over time. In the first two decades of the nuclear age, five nuclear-weapons states emerged: the United States (1945), the Soviet Union (1949), the United Kingdom (1952), France (1960) and China (1964). However, in the nearly 50 years since China developed nuclear weapons, only four additional countries have entered (and remained in) the nuclear club: Israel (allegedly in 1967), India (“peaceful” nuclear test in 1974, acquisition in late-1980s, test in 1998), Pakistan (acquisition in late-1980s, test in 1998) and North Korea (test in 2006).23 This significant slowdown in the pace of proliferation occurred despite the widespread dissemination of nuclear know-how and the fact that the number of states with the technical and industrial capability to pursue nuclear weapons programs has significantly increased over time.24 Moreover, in the past 20 years, several states have either given up their nuclear weapons (South Africa and the Soviet successor states Belarus, Kazakhstan and Ukraine) or ended their highly developed nuclear weapons programs (e.g., Argentina, Brazil and Libya).25 Indeed, by one estimate, 37 countries have pursued nuclear programs with possible weaponsrelated dimensions since 1945, yet the overwhelming number chose to abandon these activities before they produced a bomb. Over time, the number of nuclear reversals has grown while the number of states initiating programs with possible military dimensions has markedly declined.26 Furthermore – especially since the Nuclear Non-Proliferation Treaty (NPT) went into force in 1970 – reactive proliferation has been exceedingly rare. The NPT has near-universal membership among the community of nations; only India, Israel, Pakistan and North Korea currently stand outside the treaty. Yet the actual and suspected acquisition of nuclear weapons by these outliers has not triggered widespread reactive proliferation in their respective neighborhoods. Pakistan followed India into the nuclear club, and the two have engaged in a vigorous arms race, but Pakistani nuclearization did not spark additional South Asian states to acquire nuclear weapons. Similarly, the North Korean bomb did not lead South Korea, Japan or other regional states to follow suit.27 In the Middle East, no country has successfully built a nuclear weapon in the four decades since Israel allegedly built its first nuclear weapons. Egypt took initial steps toward nuclearization in the 1950s and then expanded these efforts in the late 1960s and 1970s in response to Israel’s presumed capabilities. However, Cairo then ratified the NPT in 1981 and abandoned its program.28 Libya, Iraq and Iran all pursued nuclear weapons capabilities, but only Iran’s program persists and none of these states initiated their efforts primarily as a defensive response to Israel’s presumed arsenal.29 Sometime in the 2000s, Syria also appears to have initiated nuclear activities with possible military dimensions, including construction of a covert nuclear reactor near al-Kibar, likely enabled by North Korean assistance.30 (An Israeli airstrike destroyed the facility in 2007.31) The motivations for Syria’s activities remain murky, but the nearly 40-year lag between Israel’s alleged development of the bomb and Syria’s actions suggests that reactive proliferation was not the most likely cause. Finally, even countries that start on the nuclear path have found it very difficult, and exceedingly time consuming, to reach the end. Of the 10 countries that launched nuclear weapons projects after 1970, only three (Pakistan, North Korea and South Africa) succeeded; one (Iran) remains in progress, and the rest failed or were reversed.32 The successful projects have also generally needed much more time than expected to finish. According to Jacques Hymans, the average time required to complete a nuclear weapons program has increased from seven years prior to 1970 to about 17 years after 1970, even as the hardware, knowledge and industrial base required for proliferation has expanded to more and more countries.33 Yet throughout the nuclear age, many states with potential security incentives to develop nuclear weapons have nevertheless abstained from doing so.34 Moreover, contrary to common expectations, recent statistical research shows that states with an enduring rival that possesses or is pursuing nuclear weapons are not more likely than other states to launch nuclear weapons programs or go all the way to acquiring the bomb, although they do seem more likely to explore nuclear weapons options.35 This suggests that a rival’s acquisition of nuclear weapons does not inevitably drive proliferation decisions. One reason that reactive proliferation is not an automatic response to a rival’s acquisition of nuclear arms is the fact that security calculations can cut in both directions. Nuclear weapons might deter outside threats, but leaders have to weigh these potential gains against the possibility that seeking nuclear weapons would make the country or regime less secure by triggering a regional arms race or a preventive attack by outside powers. Countries also have to consider the possibility that pursuing nuclear weapons will produce strains in strategic relationships with key allies and security patrons. If a state’s leaders conclude that their overall security would decrease by building a bomb, they are not likely to do so.36 Moreover, although security considerations are often central, they are rarely sufficient to motivate states to develop nuclear weapons. Scholars have noted the importance of other factors, most notably the perceived effects of nuclear weapons on a country’s relative status and influence.37 Empirically, the most highly motivated states seem to be those with leaders that simultaneously believe a nuclear deterrent is essential to counter an existential threat and view nuclear weapons as crucial for maintaining or enhancing their international status and influence. Leaders that see their country as naturally at odds with, and naturally equal or superior to, a threatening external foe appear to be especially prone to pursuing nuclear weapons.38 Thus, as Jacques Hymans argues, extreme levels of fear and pride often “combine to produce a very strong tendency to reach for the bomb.”39 Yet here too, leaders contemplating acquiring nuclear weapons have to balance the possible increase to their prestige and influence against the normative and reputational costs associated with violating the Nuclear Non-Proliferation Treaty (NPT). If a country’s leaders fully embrace the principles and norms embodied in the NPT, highly value positive diplomatic relations with Western countries and see membership in the “community of nations” as central to their national interests and identity, they are likely to worry that developing nuclear weapons would damage (rather than bolster) their reputation and influence, and thus they will be less likely to go for the bomb.40 In contrast, countries with regimes or ruling coalitions that embrace an ideology that rejects the Western dominated international order and prioritizes national self-reliance and autonomy from outside interference seem more inclined toward proliferation regardless of whether they are signatories to the NPT.41 Most countries appear to fall in the former category, whereas only a small number of “rogue” states fit the latter. According to one count, before the NPT went into effect, more than 40 percent of states with the economic resources to pursue nuclear programs with potential military applications did so, and very few renounced those programs. Since the inception of the nonproliferation norm in 1970, however, only 15 percent of economically capable states have started such programs, and nearly 70 percent of all states that had engaged in such activities gave them up.42 The prospect of being targeted with economic sanctions by powerful states is also likely to factor into the decisions of would-be proliferators. Although sanctions alone proved insufficient to dissuade Iraq, North Korea and (thus far) Iran from violating their nonproliferation obligations under the NPT, this does not necessarily indicate that sanctions are irrelevant. A potential proliferator’s vulnerability to sanctions must be considered. All else being equal, the more vulnerable a state’s economy is to external pressure, the less likely it is to pursue nuclear weapons. A comparison of states in East Asia and the Middle East that have pursued nuclear weapons with those that have not done so suggests that countries with economies that are highly integrated into the international economic system – especially those dominated by ruling coalitions that seek further integration – have historically been less inclined to pursue nuclear weapons than those with inward-oriented economies and ruling coalitions.43 A state’s vulnerability to sanctions matters, but so too does the leadership’s assessment regarding the probability that outside powers would actually be willing to impose sanctions. Some would-be proliferators can be easily sanctioned because their exclusion from international economic transactions creates few downsides for sanctioning states. In other instances, however, a state may be so vital to outside powers – economically or geopolitically – that it is unlikely to be sanctioned regardless of NPT violations. Technical and Bureaucratic Constraints In addition to motivation to pursue the bomb, a state must have the technical and bureaucratic wherewithal to do so. This capability is partly a function of wealth. Richer and more industrialized states can develop nuclear weapons more easily than poorer and less industrial ones can; although as Pakistan and North Korea demonstrate, cash-strapped states can sometimes succeed in developing nuclear weapons if they are willing to make enormous sacrifices.44 A country’s technical know-how and the sophistication of its civilian nuclear program also help determine the ease and speed with which it can potentially pursue the bomb. The existence of uranium deposits and related mining activity, civilian nuclear power plants, nuclear research reactors and laboratories and a large cadre of scientists and engineers trained in relevant areas of chemistry and nuclear physics may give a country some “latent” capability to eventually produce nuclear weapons. Mastery of the fuel-cycle – the ability to enrich uranium or produce, separate and reprocess plutonium – is particularly important because this is the essential pathway whereby states can indigenously produce the fissile material required to make a nuclear explosive device.45 States must also possess the bureaucratic capacity and managerial culture to successfully complete a nuclear weapons program. Hymans convincingly argues that many recent would-be proliferators have weak state institutions that permit, or even encourage, rulers to take a coercive, authoritarian management approach to their nuclear programs. This approach, in turn, politicizes and ultimately undermines nuclear projects by gutting the autonomy and professionalism of the very scientists, experts and organizations needed to successfully build the bomb.46 Alternative Sources of Nuclear Deterrence Historically, the availability of credible security guarantees by outside nuclear powers has provided a potential alternative means for acquiring a nuclear deterrent without many of the risks and costs associated with developing an indigenous nuclear weapons capability. As Bruno Tertrais argues, nearly all the states that developed nuclear weapons since 1949 either lacked a strong guarantee from a superpower (India, Pakistan and South Africa) or did not consider the superpower’s protection to be credible (China, France, Israel and North Korea). Many other countries known to have pursued nuclear weapons programs also lacked security guarantees (e.g., Argentina, Brazil, Egypt, Indonesia, Iraq, Libya, Switzerland and Yugoslavia) or thought they were unreliable at the time they embarked on their programs (e.g., Taiwan). In contrast, several potential proliferation candidates appear to have abstained from developing the bomb at least partly because of formal or informal extended deterrence guarantees from the United States (e.g., Australia, Germany, Japan, Norway, South Korea and Sweden).47 All told, a recent quantitative assessment by Bleek finds that security assurances have empirically significantly reduced proliferation proclivity among recipient countries.48 Therefore, if a country perceives that a security guarantee by the United States or another nuclear power is both available and credible, it is less likely to pursue nuclear weapons in reaction to a rival developing them. This option is likely to be particularly attractive to states that lack the indigenous capability to develop nuclear weapons, as well as states that are primarily motivated to acquire a nuclear deterrent by security factors (as opposed to status-related motivations) but are wary of the negative consequences of proliferation.

#### No Latin America impact—their author

**Sanchez 11** (Alex, Research Fellow – Council on Hemispheric Affairs, “The Unlikely Success: Latin America and Nuclear Weapons,” 11-15, http://wasanchez.blogspot.com/2011/11/unlikely-success-latin-america-and.html)

When analyzing the historical tensions between India and Pakistan, Rauf explains that “given the entrenched differences between [them] over Jammu and Kashmir, and a history of three conventional wars and continuing hostilities in the Indian-administered part of Kashmir, the development of nuclear weapons as well as ballistic missiles by the two countries has heightened international concerns about peace and stability in that region.” (14) Regarding Latin America, the region has undergone an arms race in recent years, (15) but **even that**, combined with inter-state tensions and occasional incidents are **still not enough** to make regional states desire nuclear weapons as a means of self-defense. Pakistan and India should learn from Latin America about (nuclear) arm races, inter-state tensions and effective confidence building. What can the World Learn from the Latinos? There is no such thing as a one-size-fits-all model for improving interstate relations and achieving non-proliferation; this is particularly relevant for nuclear security relations between global powers like the US and Russia, which operate on a level of their own due to the amount of WMDs they possess. However, lessons can be learned by moderate nuclear powers like the UK, France, Israel, Pakistan and India, as well as countries that may have or seem to be working towards acquiring such weapons, like Iran. The cases of Argentina and Brazil regarding nuclear cooperation shows that it is possible for states to allow their nuclear energy programs to be supervised by some type of supranational organism (in this case the ABACC is a bi-national one, not an international agency like the IAEA). If we analyze the situation in Latin America vis-à-vis Europe, while it’s true that Argentina and Brazil do not possess nuclear weapons, unlike the British and French, if some kind of bi-national nuclear energy command can be achieved in South America, then it could occur between these two European powers. This would set a huge precedent towards nuclear confidence around the globe. A nuclear military relationship between Paris and London presents the most promising possibility at promoting nuclear cooperation and integration. There have been already some promising initial steps that this could happen as in March 2010, Paris offered to forces with London’s nuclear submarine fleet. (16) In addition, the lack of nuclear weapons programs in Latin America, in spite of ongoing tensions is an important case study. For example, regarding India and Pakistan, their violent history over the past decades, including state-sponsored terrorism in each other’s country, has created a culture of mistrust and a continuous quest for more devastating weaponry so each military can feel they have a successful nuclear deterrent. In Latin America, the 1960’s to 1980’s saw a number of military governments come to power, and distrust was a key factor that brought about the nuclear weapons programs in Brazil and Argentina. Today, despite tensions and occasional incidents, the situation in the region is one of **generally acceptable inter-state trust**. Another example of this regional inter-state confidence is the planned nuclear-powered submarine that Brazil is currently constructing with French aid. (17) When it becomes operational, the submarine will arguably be the most advanced and deadly naval weapon in any Latin America naval arsenal. Nevertheless, regional states have not displayed concerns about this new development. This is not simply because the Brazilian government has stated that it wants the submarine for naval protection (as it recently discovered underwater oil reserves in its sea). There are several confidence building mechanisms at play here, like the creation of UNASUR (Union de Naciones Sudamericanas – South American Nations Union), a South American political bloc, regular multi-national military exercises, as well as initiatives like economic integration and good diplomatic relations; all of these factors help make the Brazilian submarine not a concern for regional militaries. In talks with this essay’s author, military officials explained that the positive relations between the Brazilian government and the governments and militaries of other states are currently excellent, (18) which acts as a great confidence booster and decreases suspicions, that could include Brasilia using a nuclear-powered submarine against a militarily-weak neighbor like Uruguay.

**Conclusions**

Nuclear proliferation is a worldwide security problem, but these nuclear weapons are localized, thankfully, in less than a handful of states and there are a several NWFZs, including Latin America and the Caribbean. This positive development has not occurred just due to the signing of the Treaty of Tlatelolco, but because of the decision by the signatories to adhere to it for decades. In spite of tensions, like ongoing inter-state border disputes and occasional incidents, which include short-lived wars and an ongoing arms race, regional governments do not feel the desire to pursue an active nuclear weapons program to achieve nuclear deterrence. Furthermore, Brazil, a regional military power, is building a nuclear-powered submarine which, if it’s ever commissioned, will be the most powerful submarine in the Western Hemisphere that does not belong to the U.S. or, arguably, Canada, however this is not a major source of concern. From Latin America’s success, nuclear states can learn that **confidence building mechanisms** and a **sense of trust** are critical for non-proliferation to succeed, as are the cases of Brazil and Argentina in the 1970’s to 1990’s.These tactics are currently working to prevent inter-state wars in Latin America, but it takes time to successfully implement them. The Pakistan-India situation, as well as Israel’s security issues, are two areas that can profit from learning about Latin America’s nuclear success, as they too are volatile hotspots. In addition, nuclear cooperation can unite countries, like Brazil and Argentina; this could be a lesson for France and the United Kingdom that no longer seeing each other as a security threat and can decide to further decrease their weapons of mass destruction by creating a bi-national nuclear command. While far from being a peaceful area, as demonstrated by ongoing asymmetric violence and occasional inter-state flare ups, Latin America is one of the lesser well-known, but more important, success stories of nuclear non-proliferation.

### 1nc bivens adv

#### No spillover -- court categorically rejects the use of Bivens remedies in military case – especially true for sexual assault

CELENTINO 13 (Joseph, Court Rejects Suit From Military Rape Victims, COurthose News Service, 7-25, <http://www.courthousenews.com/2013/07/25/59694.htm>)

Survivors of rape in the military cannot sue the former Defense Department secretaries for contributing to "a military culture of tolerance for the sexual crimes," the 4th Circuit ruled. Kori Cioca had led 27 other service members, both men and women, in a complaint against Donald Rumsfeld and Robert Gates that detailed their sexual assaults at the hands of other military personnel and their "often unsuccessful attempts to prosecute those responsible," according to the ruling. The plaintiffs alleged violations of due process, equal protection and free speech. They sought money damages pursuant to the Supreme Court's 1971 decision in Bivens v. Six Unknown Agents of Federal Bureau of Narcotics. Their complaint, which was brought by 17 veterans in 2011, accused the former Defense secretaries of having failed "to (1) investigate rapes and sexual assaults, (2) prosecute perpetrators, (3) provide an adequate judicial system as required by the Uniform Military Justice Act, and (4) abide by Congressional deadlines to implement Congressionally-ordered institutional reforms to stop rapes and other sexual assaults." U.S. District Judge Liam O'Grady dismissed the case, however, noting that "this is precisely the forum in which the Supreme Court has counseled against the exercise of judicial authority." A three-judge panel of the 4th Circuit affirmed Tuesday. "The Supreme Court has only twice, in the more than forty years since deciding Bivens, recognized a new implied monetary remedy against federal officials, and it has never done so in the military context," Judge Steven Agee wrote for the Richmond, Va.-based panel. Bivens remedies have been made available only for violations of the Fourth Amendment by law-enforcement officers, a congressman's due-process violations, and the Eighth Amendment violations of prison officials. The Supreme Court has explicitly declined to extend Bivens to military cases, the appellate panel noted. In Chappell v. Wallace, the Supreme Court "determined that 'the unique disciplinary structure of the Military Establishment and Congress' activity in the field constitute 'special factors' which dictate that it would be inappropriate to provide enlisted military personnel a Bivens-type remedy against their superior officers,'" Appel wrote.

#### Squo solves sexual assault

McVeigh 13 (Karen, “Hagel announces new measures to try to stamp out sex assaults in the military,” Guardian, 8-15, <http://www.theguardian.com/world/2013/aug/15/chuck-hagel-memo-sexual-assault-military>)

The Pentagon has unveiled a range of initiatives to curb sexual assault in the ranks and tackle what military leaders have described as a "crisis" of confidence which prevents victims coming forward.

The new initiatives, to be implemented immediately, include greater protections of victims, including the expansion of an air force initiative to provide victims with a legal advocacy programme. Other changes include ensuring that pretrial investigations are conducted by judge advocate generals and improved tracking and follow-up of sexual assault cases.

In a memo to staff, Chuck Hagel, the defence secretary, described sexual assault as "a stain on the honor of our men and women who honorably serve our country, as well as a threat to the discipline and the cohesion of our force."

He said the measures would "improve victim support, strengthen pretrial investigations, enhance oversight, and make prevention and response efforts more consistent across the military services".

But the moves fell short of the overhaul in the system victims advocates and some lawmakers say is needed. Military critics say that to address the breakdown of trust in its handling of such cases, the responsibility for prosecuting sexual assault has to be removed from the chain of command.

Such dramatic changes to the chain of command are vehemently opposed by military leaders, who say removing investigations from commanders would adversely affect good order and discipline in the forces.

Hagel's announcement follows fierce debate among lawmakers and the military around the growing problem. The number of military personnel reporting unwanted sexual contact has grown from 19,000 cases in 2010 to 26,000 in 2012, according to a Pentagon survey.

The measures announced by the Pentagon on Thursday include provisions to allow commanders to reassign or transfer victims of sexual assault to another unit, in order to eliminate further contact. Currently, victims can request a transfer, but victims groups say they are not always successful in getting one. They also require follow-ups of investigations by "flag officers" or first general within the chain of command and requires new, standardised rules prohibiting inappropriate behaviour between recruiters and recruits.

The initiatives were given a lukewarm reception by lawmakers and victims' groups.

Senator Kirsten Gillibrand, a member of the Senate armed services committee, who has been gathering support for her bill to remove sexual assault cases from the chain of command and give them to an independent body, said Hagel's measures were a "good thing" but that they were "not the leap forward required to solve the problem."

Gillibrand said: "As we have heard over and over again from the victims, and the top military leadership themselves, there is a lack of trust in the system that has a chilling effect on reporting. Three hundred and two prosecutions out of an estimated 26,000 cases just isn't good enough under any metric.

"It is time for Congress to seize the opportunity, listen to the victims and create an independent, objective and non-biased military justice system worthy of our brave men and women's service."

Democratic congresswoman Jackie Speier said the military have missed the opportunity to make the sweeping changes needed and said she was "underwhelmed by the military baby steps on this issue".

However, senator Claire McCaskill, a former senior prosecutor on the armed services committee, whose approach to the issue opposes that of Gillibrand and victims groups, welcomed the measures.

McCaskill said: "I think it's wise for our military leaders to get on this train rather than get run over by it. The Pentagon can and should be a partner in preventing these terrible crimes, protecting and empowering survivors, and locking up perpetrators. And I welcome any steps they take with those goals in mind."

At a Pentagon press conference, where he was asked about Gillibrand's comments, army lieutenant general Curtis Scaparrotti, director of the joint staff that oversees the services, said they were also looking at legislative initiatives.

Scaparrotti said: "We're looking at every possible idea practice that's out there that might help us."

"If we believe that we can make a difference," the Pentagon will "look strongly" at other initiatives "that perhaps aren't in this group here today," he said.

Protect Our Defenders, an advocacy group for victims, welcomed the measures to roll out the air force's initiative of giving legal representation to victims throughout the legal process, but described the package of measures as "mostly small tweaks to a broken system."

Taryn Meeks, a former navy officer and the head of POD, said the Pentagon order "falls short of reform that would protect victims from the outset – by keeping the decision to prosecute within the chain of command."

"Prosecutors – and not commanders – must be given the authority to decide whether to proceed to trial," Meeks said. "**This change would constitute a fundamental and necessary step toward creating an independent and impartial military justice system**" and would offer a starting point "to end this national disgrace."

#### Norms on torture fail –

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

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

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

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

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

#### 2) This is especially true for torture – statistics prove

Gilligan and Nesbitt 7 (Michael J., and Nathaniel, Department of Politics New York University, “Do Norms Reduce Torture?,” <http://as.nyu.edu/docs/IO/2601/NormsvsTorture.pdf>)

One of the most important developments in international political and legal theory over the last fifteen years has been the assertion that norms affect state behavior. Scholars have claimed that states are constrained by norms of appropriate behavior and furthermore that norms actually change (“reconstitute”) states’ understandings of their interests thereby leading states to adapt their behavior in accordance with these new understandings. We test the proposition that norms alter state behavior with respect to the expanding international norm against torture from 1985 through 2003. Unfortunately we find no evidence that the spreading of the international norm against torture, measured by the percentage of countries in the world that have acceded to the UN Convention Against Torture, has lead to any reduction in torture according to a variety of measures.

## 2nc

### 2nc cp/aff solvency

#### Their own evidence supports this distinction

Loevy 13 (ARTHUR LOEVY, partner Loevy & Loevy, a firm specializing in constitutional and civil rights, with MICHAEL KANOVITZ, Counsel of Record, et al, PETITION FOR A WRIT OF CERTIORARI, DONALD VANCE AND NATHAN ERTEL v.DONALD RUMSFELD, http://cryptome.org/2013/03/vance-ertel-v-rumsfeld.pdf)

This Court’s special-factors precedents dictate judicial restraint where Congress has not spoken on remedies but has indicated that a judicial remedy is inappropriate. At the same time, those precedents encourage the opposite course------ supplying a remedy------where congressional action suggests that a remedy should be available. When the political branches supply partial immunity to protect officials exercising government authority, this Court has weighed that grant of immunity in the special-factors analysis. And it has directed that it is inappropriate to displace Congress’s immunity choice by withholding the Bivens remedy entirely. Davis thus considered whether separation-of-powers concerns foreclosed a Bivens suit against a congressman, and concluded that a remedy was appropriate because the political branches had weighed those special factors already 34 in the Speech and Debate Clause and had established the appropriate level of immunity. 442 U.S. at 235 n.11, 246. The Stanley Court explained that where the political branches have ‘‘addressed the special concerns in [a] field through an immunity provision,’’ it would ‘‘distort[] their plan to achieve the same effect as more expansive immunity by the device of denying a cause of action[.]’’ 483 U.S. at 685.

#### The only broad signal the Court has ever sent is against the use of a Bivens remedy

Banta 8 (Natalie, Lawyer – Covington and Burling LLP, “Death by a Thousand Cuts or Hard Bargaining?: How the Court's Indecision in Wilkie v. Robbins Improperly Eviscerates the Bivens Action,” Washington and Lee Law Journal, 23 (1), p.119, <http://www.law2.byu.edu/jpl/papers/v23n1_Natalie_Banta.pdf>)

This note begins with a brief discussion of the principal issues discussed in Bivens and then traces the development of the two exceptions to the Bivens action that have swallowed the rule. Part III discusses the facts, holding, and dissent of Wilkie v. Robbins. Part IV argues that the Wilkie decision broadly denies the enforcement of a constitutional right and improperly eviscerates the Bivens remedy in four ways. First, the Court departs from the most important consideration in determining whether a Bivens remedy applies, which is deciding whether an alternative remedy exists. Second, the Court adopts an unnecessarily broad interpretation of special factors counseling hesitation to include concern over opening the floodgates to litigation and the difficulty of deciding whether a right was violated that precludes a Bivens remedy. Third, the Court improperly declines to decide whether a constitutional right was in fact violated before deciding how the severity of the violation of the right affects the plaintiff‘s receipt of damages. Fourth, the Court improperly bases its denial of the Bivens remedy on concerns about legislating, but in doing so, reveals the legislative nature of the Bivens remedy itself as being a matter of federal common law. This note concludes by discussing the future of the availability of the Bivens remedy.

#### Lower courts aren’t split – they reject Bivens remedies in a stronger way than the Supreme Court

Vladeck 10 (Stephen I., Professor of Law, American University Washington College of Law, NATIONAL SECURITY AND BIVENS AFTER IQBAL, Lewis and Clark Law Review, 14 (1), <http://prawfsblawg.blogs.com/files/lclr-ii----bivens-after-iqbal.pdf>)

Moreover, it makes good sense as a matter of policy to create a regime in which the appropriate legal mechanism for national security abuses is retrospective relief; responsible conduct in the heat of the moment will go unpunished, and precedents will be set suggesting that some lines cannot be crossed even in the worst of times—at least not without legal consequences. Either way, the reviewing court will have the benefit of hindsight, better enabling it “calmly to poise the scales of justice, unmoved by the arm of power, undisturbed by the clamor of the multitude.”16 In short, to whatever extent Bivens has at its core principles reflected the need to foster deterrence and the avoidance of governmental impunity, those principles resonate only that much more forcefully during—and especially after—national security crises. And while some may respond to this argument by suggesting that it should be left to Congress to provide appropriate remedies,17 the bottom line is that Congress will have even less incentive to provide for the victims of wrongful governmental conduct in the context of national security investigations than in the context of everyday law enforcement. Thus, so long as Bivens remains on the books, it seems uniquely suited to provide a remedy in those cases in which no other legal or political remedy is feasible.

Viewed in light of this articulation, Iqbal emerges as one of a series of judicial decisions arising out of the government’s conduct after September 11th that goes in the other direction, where courts have further narrowed the scope of the Bivens remedy in cases implicating undifferentiated national security considerations, concluding that such concerns are a “special factor counseling hesitation” in inferring a Bivens remedy.18 To be fair, the Iqbal Court’s cursory rejection of “supervisory liability” as a viable basis for a Bivens claim was not cast in national security terms,19 and there is no reason to think the Court would not have reached the same conclusion in a case arising out of less sensational facts. But Iqbal provides an important opportunity to reflect on less prominent lower court decisions that have made this connection even more explicitly, for Iqbal demonstrates both why such a formulation is inconsistent with the animating principles behind Bivens, and how the Court completely missed the opportunity to clarify why national security concerns might actually counsel in favor of liability, rather than against it.

### A2: Pfander and Baltmanis 9

#### Second – it concludes the Court will always maintain case-by-case decisions – there’s no chance one single case could fix it because the plan itself IS consistent with case-by-case rulings – the precedent has already been set

Pfander and Baltmanis 09 (James E. Pfander, the Owen L. Coon Professor of Law at Northwestern; and David Baltmanis, Law Clerk to the Honorable Paul V. Niemeyer, United States Court of Appeals for the Fourth Circuit; “Rethinking Bivens: Legitimacy and Constitutional Adjudication,” <http://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1181&context=facultyworkingpapers>)

V. Conclusion

Although the statutory schemes differ for state and federal official action, the Court has in many cases self-consciously attempted to develop rules for section 1983 claims that parallel those applicable to Bivens litigation. In keeping with this practice of conscious parallelism, the Court has made clear that its rulings on such matters as the allocation of the burdens of pleading and proof,150 the definition of the elements of a claim of constitutional violation, 151 and the refinement of the law of qualified immunity apply with equal force in both settings.152 No one doubts, for example, that the Court’s qualified immunity decision in Pearson v. Callahan will govern the analysis of claims brought against both state and federal officials.153

In a departure from this practice of parallel development, the Court takes a narrow view of the availability of the Bivens right of action. In suits against state actors, the Court views section 1983 as providing an express right of action for constitutional tort claims. As a consequence, the Court presumes the availability of such actions as it fills out remedial details. But in the Bivens context, as we have seen, the Court views itself as devising a right to sue on a case-by-case basis. In its most recent effort in this vein, the Court conducted an evaluation, likely mistaken, of the availability of state common law remedies and reached a judgment, certainly contestable, about the wisdom of opening the door to a new category of constitutional tort litigation. Such judicial selectivity invites criticism from those who view the task of recognizing rights to sue as inherently legislative. Judicial selectivity also suggests that the individual citizen’s constitutional rights may differ, as a practical matter, depending on whether the violation occurs at the hands of a state or federal officer.

### 2nc impact/turns case

#### The impact is global conflict and instability

**Tilford 2008** – PhD in history from George Washington University, served for 32 years as a military officer and analyst with the Air Force and Army (Earl, “Critical mass: economic leadership or dictatorship”, Cedartown Standard, lexis)

Could it happen again? Bourgeois democracy requires a vibrant capitalist system. Without it, the role of the individual shrinks as government expands. At the very least, the dimensions of the U.S. government economic intervention will foster a growth in bureaucracy to administer the multi-faceted programs necessary for implementation. Bureaucracies, once established, inevitably become self-serving and self-perpetuating. Will this lead to “socialism” as some conservative economic prognosticators suggest? Perhaps. But so is the possibility of dictatorship. If the American economy collapses, especially in wartime, there remains that possibility. And if that happens the American democratic era may be over. If the world economies collapse, totalitarianism will almost certainly return to Russia, which already is well along that path in any event. Fragile democracies in South America and Eastern Europe could crumble. A global economic collapse will also increase the chance of global conflict. As economic systems shut down, so will the distribution systems for resources like petroleum and food. It is certainly within the realm of possibility that nations perceiving themselves in peril will, if they have the military capability, use force, just as Japan and Nazi Germany did in the mid-to-late 1930s. Every nation in the world needs access to food and water. Industrial nations—the world powers of North America, Europe, and Asia—need access to energy. When the world economy runs smoothly, reciprocal trade meets these needs. If the world economy collapses, the use of military force becomes a more likely alternative. And given the increasingly rapid rate at which world affairs move; the world could devolve to that point very quickly.

#### Destroys any and all military effectiveness

Norm Ornstein, resident scholar at the American Enterprise Institute, 9/1/13, Showdowns and Shutdowns, www.foreignpolicy.com/articles/2013/09/01/showdowns\_and\_shutdowns\_syria\_congress\_obama

Then there is the overload of business on the congressional agenda when the two houses return on Sept. 9 -with only nine legislative days scheduled for action in the month. We have serious confrontations ahead on spending bills and the debt limit, as the new fiscal year begins on Oct. 1 and the debt ceiling approaches just a week or two thereafter. Before the news that we would drop everything for an intense debate on whether to strike militarily in Syria, Congress-watchers were wondering how we could possibly deal with the intense bargaining required to avoid one or more government shutdowns and/or a real breach of the debt ceiling, **with** devastating consequences for American credibility **and the** international economy. Beyond the deep policy and political divisions, Republican congressional leaders will likely use both a shutdown and the debt ceiling as hostages to force the president to cave on their demands for deeper spending cuts. **Avoiding this end-game bargaining will require** the unwavering attention of the same top leaders in the executive and legislative branches who will be deeply enmeshed in the Syria debate. The possibility -even probability -of disruptions caused by partial shutdowns could complicate any military actions. The possibility is also great that the rancor that will accompany the showdowns over fiscal policy will bleed over into the debate about America and Syria.

#### Turns any constitutional signal

**Krugman, 9/29/13** – Nobel Prize winning economist (Paul, “Rebels Without a Clue” New York Times,

<http://www.nytimes.com/2013/09/30/opinion/krugman-rebels-without-a-clue.html>

Meanwhile, on the politics, reasonable people know that Mr. Obama can’t and won’t let himself be blackmailed in this way, and not just because health reform is his key policy legacy. After all, once he starts making concessions to people who threaten to blow up the world economy unless they get what they want, he might as well tear up the Constitution. But Republican radicals — and even some leaders — still insist that Mr. Obama will cave in to their demands.

### 2nc uniqueness wall

#### Obama’s in a standoff with the GOP where consistent demonstrations of political strength matter – this is a messaging war to capture public opinion and turn the country against the GOP. Obama is winning – he’s projecting authority from a position of strength and the GOP will blink first – that’s Dovere

#### Consistent messaging is key – he needs to be President One-Note – he’s staying on message, avoiding distractions and focusing 100% on attacking the GOP – Milbank says this will work as long as he maintains it, and Lillis says he needs maximal presidential authority.

#### Syria problems are a distant memory - strength in the current fight gives him a major political edge

**O’Brien, 10/1/13 –** Political Reporter for NBC News (Michael, “Winners and losers of the government shutdown” <http://nbcpolitics.nbcnews.com/_news/2013/10/01/20763839-winners-and-losers-of-the-government-shutdown?lite>)

Nonetheless, after two-and-a-half years of standoffs and gridlock, the fact that a shutdown has finally come to pass — 17 days before Congress must also raise the debt ceiling, no less — could upend politics with unforeseen consequences for many of this fight's key players. Here is a look at some of the shutdown's winners and losers. Winners: President Barack Obama At the end of the day, Obama's signature domestic achievement — the Affordable Care Act — survived this fight intact. What's more, the president didn't have to offer any concessions in exchange for leaving his namesake "Obamacare" law alone. Unlike the 2011 debt-ceiling fight, when the administration agreed to the automatic spending cuts that would eventually form the basis of the sequester, this time the administration held the line and didn't yield much ground to Republicans. The developments mark a somewhat stunning turnaround for Obama's political fortunes over the last month. Just a few week's ago, the administration was struggling badly to win congressional approval for intervention in Syria — an initiative which had no less than Obama's second-term relevance riding on it. Now, Obama has dispensed with the Syria issue (for now) through diplomacy, and scored a major win over Republicans -- a rare victory, given the waning prospects for immigration reform or major gun control legislation during his presidency.

### at: tanner

#### Tanner assumes delay link, not actual default

#### 1nc Davidson says deal failure ushers in a new financial era—describes it as the largest finance disaster in history—causes a bond dump and massive uncertainty.

**It would be legitimate default—substitute measures wouldn’t reassure markets**

**Milstead 9-12** [David, Writer for the Globe and Mail, “The under-the-radar threat to U.S. stocks” Factiva]

Conventional wisdom holds that the chief risk to the high-flying U.S. stock market is “tapering,” the potential cutback of the Federal Reserve's bond-buying program. It's an understandable view, given how the Fed's monetary policy has propped up the country's economy for years by helping to keep long-term interest rates at ultra-low levels. But it's also wrong. The greatest immediate hazard to stocks isn't the direction the six governors of the Federal Reserve will take. It's what the 535 members of Congress will do in the coming weeks when faced with two budgetary issues that ought to be routine – but will likely be anything but. The first issue is approving a federal budget for the fiscal year that begins Oct. 1, or at least a resolution that will keep the government open in its absence. The second is authorizing a new, higher number for the U.S. government's borrowing before Washington hits its debt ceiling, once again, possibly by mid-October. In the absence of such a vote, the U.S. must simply stop spending – and, in essence, default on its debt. If this sounds familiar, it's because we went through a similar showdown two years ago, in the summer of 2011. Yet it's easy to forget now how that fiscal gridlock roiled the markets. In the first day of trading after Standard & Poor's downgraded U.S. debt in early August, the S&P 500 fell nearly 7 per cent. The day after, the index was nearly 19 per cent below the level of early July. The rhetoric suggests this fiscal showdown could inflict similar damage. Eighty House Republicans recently signed a letter urging their leadership to use any new government-funding bill to cut all necessary money for President Barack Obama's signature accomplishment, the Affordable Care Act, more popularly known as Obamacare. The Republican House leadership, it is said, does not support such a move. That's apparently because they prefer to make it part of the showdown over the debt ceiling. (The National Review, one of the U.S.'s leading conservative publications, reported Tuesday that Eric Cantor, the House Majority Leader, told Republicans they will be demanding a one-year delay of Obamacare in exchange for an increase in the debt ceiling.) Failing to raise the debt ceiling doesn't mean default, its opponents argue. The Treasury can just do a better job of “prioritizing,” paying the creditors while axing other expenses. In the absence of a higher debt ceiling, the U.S. could pay the interest on Treasury securities, and keep on footing the tab for Medicare and Medicaid, Social Security, national defence and a handful of aid programs, according to the Bipartisan Policy Centre. But, starting Oct. 15, it won't be able to afford the salaries of other federal workers, or perform functions like road construction and air traffic control, or run the federal court system. Ted Yoho, the improbably named Republican representative from Florida, said this about a failure to raise the debt ceiling, according to a recording of one of his summertime town hall meetings leaked to the Huffington Post: “So they say that would rock the market, capital would leave, the stock market would crash … I think our credit rating would do better.” Better, I think, to take the U.S. Treasury's position that the markets will view the U.S. picking and choosing which bills to pay as an admission it simply can't pay them all. Deputy secretary Neil Wolin said during the last debt-ceiling showdown, in 2011, that **it “would merely be default by another name**.” That, however, is the view from the reality-based community, rather than the deeply irrational, anti-intellectual element that has hijacked the Republican Party and turned ordinary budgetary procedure into a partisan brawl. The liberal economic writer Jonathan Chait recently wrote “the chaos and dysfunction have set in so deeply that Washington now lurches from crisis to crisis, and once-dull, keep-the-lights-on rituals of government procedure are transformed into white-knuckle dramas that threaten national or even global catastrophe.” And yet stocks seem to be priced as if Democrats, Republicans and President Obama will come together to work something out. There is great faith that the United States will overcome its challenges and take the right path in the end. Investors could suffer double-digit losses in the coming weeks if that faith is misplaced.

#### It would wreck all forms of business confidence

**Davis, 9/23/13** (Susan, USA Today, “Clock ticking on shutdown, with 'Obamacare' center stage;

GOP ties health care law to two budget deadlines” lexis)

However the stopgap spending bill is resolved, soon after it lurks a fiscal fight that holds greater consequences to the U.S. and global economies. "Shutting down the government is one bad thing, but you shut it down, you open it up again," said Minority Leader Nancy Pelosi, D-Calif., "Not lifting the debt limit is unleashing a torrent, a river of no return. It is beyond cataclysmic." The nation has never defaulted. Though the exact impacts are unclear, there is broad consensus among economists, financial markets and most lawmakers that it would upend the markets. "If you don't raise the debt limit in time, you will be opening an economic Pandora's Box. It will be devastating to the economy," Moody's economist Mark Zandi testified before a congressional panel last week. He explained the consequences: "Consumer confidence will sharply decline, investor confidence, business confidence. Businesses will stop hiring, consumers will stop spending, the stock market will fall significantly in value, borrowing costs for businesses and households will rise."

#### Confidence is the key internal link to the economy

**Goldmark, 9/22/13** – Former budget director of New York State and publisher of the International Herald Tribune, Goldmark headed the climate program at the Environmental Defense Fund (Peter, Newsday (New York), lexis)

Apparently our closest ally couldn't quite figure out what they wanted to do either, and voted against supporting the president in his proposed military strike on Syria. The lifetime of the proposal for a military strike was briefer than expected - though long enough both to ask Congress to approve it and to allow the Syrians to move their chemical weapons. But before Congress could get around to debating the question, the Russians came up with a plan under which the Syrians would hand over their chemical weapons to an international force supervised, in part, by the Russians. After having said that you can't trust the Russians on Syria, the U.S. government leaped into their arms - even though their plan was dependent for both approval and enforcement on a UN Security Council where both Russia and China have a veto. And in the middle of all this, a group of influential senators from the president's own party attacked Obama's putative nominee to head the Federal Reserve before the choice was even announced. Yes, indeed, many of the weaknesses of the Obama administration have been on display over the past few months. They include not thinking clearly through the consequences of decisions and not communicating with the American people or world leaders in terms compelling and coherent enough to command support. And this is the government we are counting on to lead us through a difficult confrontation over approving a spending plan and raising the debt ceiling next month - a crisis with enormous potential to disrupt the economy and harm American families. What's at stake here? The financial system depends on confidence - confidence that debts will be paid, that governments will support their currencies, that large financial institutions will not fail, and that all the millions of retail financial payments and transactions on which families and businesses depend will continue. A failure or even a significant delay in agreeing on a financing and spending plan for the U.S. government could cause that web of trust and transactions to unravel in several places. And the very prospect of damage to that web could itself trigger a cascade of breaks in the system. The financial markets are skittish cats, as we have had painful reason to be reminded over the past several years. Consider, for example, the consequences of the inability of the U.S. government to assure an orderly market in the face of low or no demand for U.S. Treasury notes. Consider the impact on the U.S. economy and global confidence if the government were unable to fully meet its obligations under Social Security or Medicare and Medicaid in October or November, or had to stretch out payments to its contractors and vendors. What have the Republicans in the House said about this prospect? At least some have said they don't care. And this summer has taught us that under great pressure and against tough deadlines, this administration is not at its best. It would be a cruel outcome for Americans struggling to find work and make ends meet in a fragile recovery if a divided and incompetent government threw us back into a deeper recession. Fasten your seat belts, please. We are about to experience some turbulence.

#### Every key sector will implode

**McAuliff, 9/18/13** (Michael, “Debt Limit Showdown Could Be Catastrophic For Economy: Analysts” Huffington Post, <http://www.huffingtonpost.com/2013/09/18/debt-limit-showdown_n_3950890.html>)

"You can only put the gun to your head so many times before someone's going to make a mistake and pull the trigger, and it's to everyone's detriment," Zandi told Duffy.

He gave a crushing summary of the potential impacts of a default.

"If you don't raise the debt limit in time, you will be opening an economic Pandora's box. It will be devastating to the economy," he predicted. "If you don't do it in time, confidence will evaporate, consumer confidence will sharply decline, [as well as] investor confidence, business confidence. Businesses will stop hiring, consumers will stop spending, the stock market will fall significantly in value, borrowing costs for businesses and households will rise."

### 2nc link debate

#### This isn't a conventional polcap DA—the 1nc read four link arguments that establish a unique window for the debt ceiling—

#### First—Obama has to be President One Note to bludgeon the GOP into submission, that's Milbank—his take no prisoners strategy is working, but introducing new policy fights would derail his focus. Epps and Oneil prove that ex post judicial remedies on battlefield targeting would incite backlash and become a political football.

#### Second—challenging authority on these issues weakens his position independent of polcap—that's Lillis. It’s a losers lose argument unique to his position on a core counter-terror mission.

#### It’s the authority that matters—Obama believes he needs discretion for how he uses drones

Radsan and Murphy 12 (Afsheen John – Professor, William Mitchell College of Law; Assistant General Counsel at the Central Intelligence Agency from 2002 to 2004, and Richard – AT&T Professor of Law, Texas Tech University School of Law, “The Evolution of Law and Policy for CIA Targeted Killing”, 2012, 5 J. Nat'l Security L. & Pol'y 439, lexis)

This scenario emphasizes a simple point: President Obama, a Harvard Law School graduate, a former teacher of constitutional law at the University of Chicago and a Nobel Peace Laureate, must believe that he has the authority to order the CIA to fire missiles from drones to kill suspected terrorists. Not everyone agrees with him, though. For almost a decade now, the United States has been firing missiles from unmanned drones to kill people identified as leaders of al Qaeda and the Taliban. This "targeted killing" has engendered controversy in policymaking and legal circles, spilling into law review articles, op-ed pieces, congressional hearings, and television programs. n2 On one level, this [\*441] controversy is curious. A state has considerable authority in war to kill enemy combatants - whether by gun, bomb, or cruise missile - so long as those attacks obey basic, often vague, rules (e.g., avoidance of "disproportionate" collateral damage). So what is so different about targeted killing by drone? Some of the concerns about a CIA drone campaign relate to the personalized nature of targeted killing. All attacks in an armed conflict must, as a matter of basic law and common sense, be targeted. To attack something, whether by shooting a gun at a person or dropping a bomb on a building, is to target it. "Targeted killing," however, refers to a premeditated attack on a specific person. President Franklin D. Roosevelt, for instance, ordered Admiral Yamamoto killed not because he was any Japanese sailor, but because he was the author of "tora, tora, tora" on Pearl Harbor. President Obama, more recently, ordered Osama bin Laden killed not because the Saudi was any member of al Qaeda, but because he was the author of 9/11 who continued to command the terrorist organization. Targeted killing is psychologically disturbing because it is individualized. It is easier for a U.S. operator to kill a faceless soldier in a uniform than someone whom the operator has been tracking with photographs, videos, voice samples, and biographical information in an intelligence file. There is also concern that drones will attack improperly identified targets or cause excessive collateral damage. Targets who hide among peaceful civilians heighten these dangers. Of course, drone strikes should be far more precise than bombs dropped from a piloted aircraft. The lower [\*442] "costs" of drone strikes, however, encourage governments to resort to deadly force more quickly - a trend that may accelerate as drone technology rapidly improves and perhaps becomes fully automated through advances in artificial intelligence. Paradoxically, improved precision could lead to an increase in deadly mistakes. Another concern relates to granting an intelligence agency trigger authority. Entrusting drones to the CIA, an intelligence agency with a checkered history as to the use of force whose activities are largely conducted in secret, heightens concerns in some quarters that strikes may sometimes kill the wrong people for the wrong reasons. If applied sloppily or maliciously, targeted killing by drones could amount to nothing more than advanced death squads. For these and related reasons, the use of killer drones merits serious thought and criticism. Along these lines, many opponents of the reported CIA program have decried it as illegal. Without questioning their sincerity, one can acknowledge the soundness of their tactics. "Law talk" offers them a strong weapon. How could anyone, without shame or worse, support an illegal killing campaign? Illegality is for gangsters, drug dealers, and other outlaws - not the Oval Office.

#### Targeted killing restrictions sap political capital – spills over to other issues

Vladeck 13 (Steve – professor of law and the associate dean for scholarship at American University Washington College of Law, “Drones, Domestic Detention, and the Costs of Libertarian Hijacking”, 3/14, http://www.lawfareblog.com/2013/03/drones-domestic-detention-and-the-costs-of-libertarian-hijacking/)

The same thing appears to be happening with targeted killings. Whether or not Attorney General Holder’s second letter to Senator Paul actually answered the relevant question, it certainly appeared to mollify the junior Senator from Kentucky, who declared victory and withdrew his opposition to the Brennan nomination immediately upon receiving it. Thus, as with the Feinstein Amendment 15 months ago, the second Holder letter appears to have taken wind out of most of the libertarian critics’ sails, many of whom (including the Twitterverse) have now returned to their regularly scheduled programming. It seems to me that both of these episodes represent examples of what might be called “libertarian hijacking”–wherein libertarians form a short-term coalition with progressive Democrats on national security issues, only to pack up and basically go home once they have extracted concessions that don’t actually resolve the real issues. Even worse, in both cases, such efforts appeared to consume most (if not all) of the available oxygen and political capital, obfuscating, if not downright suppressing, the far more problematic elements of the relevant national security policy. Thus, even where progressives sought to continue the debate and/or pursue further legislation on the relevant questions (for an example from the detention context, consider Senator Feinstein’s Due Process Guarantee Act), the putative satisfaction of the libertarian objections necessarily arrested any remaining political inertia (as Wells cogently explained in this post on Senator Paul and the DPGA from November).

#### Disagreements over authority trigger constitutional showdowns – even if the executive wants the plan – it’s about who decides, not the decision itself

**Posner and Vermeule, 10** - \*professor of law at the University of Chicago AND \*\*professor of law at Harvard (Eric and Adrian, The Executive Unbound, p. 75-77)

Showdowns occur when the location of constitutional authority for making an important policy decision is ambiguous, and multiple political agents (branches, parties, sections, governments) have a strong interest in establishing that the authority lies with them. Although agents often have an interest in negotiating a settlement, asymmetric information about the interests and bargaining power of opposing parties will sometimes prevent such a settlement from being achieved. That is when a showdown occurs. Ultimately, however, someone must yield; this yielding to or acquiescence in the claimed authority of another agent helps clarify constitutional lines of authority, so that next time the issue arises, a constitutional impasse can be avoided. From a normative standpoint, constitutional showdowns thus have an important benefit, but they are certainly not costless. As long as the showdown lasts, the government may be paralyzed, unable to make important policy decisions, at least with respect to the issue under dispute. We begin by examining a simplified version of our problem, one involving just two agents—Congress and the executive. We assume for now that each agent is a unitary actor with a specific set of interests and capacities. We also assume that each agent has a slightly different utility function, reflecting their distinct constituencies. If we take the median voter as a baseline, we might assume that Congress is a bit to the left (or right) of the median voter, while the president is a bit to the right (or left). We will assume that the two agents are at an equal distance from the median, and that the preferences of the population are symmetrically distributed, so that the median voter will be indifferent between whether the president or Congress makes a particular decision, assuming that they have equal information.39 But we also will assume that the president has better information about some types of problems, and Congress has better information about other types of problems, so that, from the median voter’s standpoint, it is best for the president to make decisions about the first type of problem and for Congress to make decisions about the second type ofproblem.40 Suppose, for example, that the nation is at war and the government must decide whether to terminate it soon or allow it to continue. Congress and the president may agree about what to do, of course. But if they disagree, their disagreement may arise from one or both of two sources. First, Congress and the president have different information. For example, the executive may have better information about the foreign policy ramifications of a premature withdrawal, while Congress has better information about home-front morale. These different sources of information lead the executive to believe that the war should continue, while Congress believes the war should be ended soon. Second, Congress and the president have different preferences because of electoral pressures of their different constituents. Suppose, for example, that the president depends heavily on the continued support of arms suppliers, while crucial members of Congress come from districts dominated by war protestors. Thus, although the median voter might want the war to continue for a moderate time, the president prefers an indefinite extension, while Congress prefers an immediate termination. So far, we have explained why the president and Congress might disagree about when to terminate the war, but mere policy disagreement does not result in a showdown. Showdowns arise only when there is a disagreement about authority. If Congress believes that the president has the sole authority to terminate the war, then his view will prevail. Congress may try to pressure him or influence him by offering support for other programs desired by the president, or by trying to rile up the public, but these activities are part of normal politics, and do not provoke a constitutional showdown. Similarly, if the president believes that Congress has the sole authority to terminate the war, then Congress’s view will prevail. This outcome is shown in cell 3 in table 2.1. Similarly, no showdown occurs when the two branches agree both about authority and policy—for example, that the president decides, and Congress agrees with his decision (cell 1). The first column represents the domain of normal politics. Showdowns can arise only when Congress and the president disagree about who decides. Here, there are two further possibilities. First, Congress and the president disagree about who decides but agree about the correct policy outcome (cell 2). In these situations, which arise with some frequency, the two branches are often tempted to paper over their differences because an immediate policy choice is not at stake. But sometimes a showdown will occur. We will discuss this special case later. Second, Congress and the president disagree about the policy outcome and about authority (cell 4). In this case, showdowns are likely, because a policy decision must be made, and if the parties cannot agree about what it should be, then they cannot avoid resolving the question of authority. We focus on this case for now.

#### An adverse Court ruling will cause Obama defiance – triggers a Constitutional showdown

**Posner and Vermeule, 10** - \*professor of law at the University of Chicago AND \*\*professor of law at Harvard (Eric and Adrian, The Executive Unbound, p. 207-210)

The 9/11 attack provided a reminder of just how extensive the president’s power is. The executive claimed the constitutional authority to, in effect, use emergency powers. Because Congress provided redundant statutory authority, and the Supreme Court has steadfastly refused to address the ultimate merits of the executive’s constitutional claims, these claims were never tested in a legal or public forum. But it is worth trying to imagine what would have happened if Congress had refused to pass the Authorization for Use of Military Force and the Supreme Court had ordered the executive to release detainees in a contested case. We think that the executive, backed up as it was by popular opinion, would have refused to obey. And, indeed, for just that reason, Congress would never have refused its imprimatur and the Supreme Court would never have stood in the executive’s way. The major check on the executive’s power to declare an emergency and to use emergency powers is—political.

#### The plan is judicial overreaching – it causes executive defiance and draws in Congress

**Fallon, 10** - Professor of Constitutional Law, Harvard Law School (Richard, “THE SUPREME COURT, HABEAS CORPUS, AND THE WAR ON TERROR: AN ESSAY ON LAW AND POLITICAL SCIENCE” 110 Colum. L. Rev. 352, March, lexis)

In the United States today, the Supreme Court can authoritatively resolve constitutional issues within an impressively broad policy space. For example, almost no one questions the Court's mandate to determine the constitutionality of affirmative action programs, gun control legislation, or restrictions on political campaign contributions, however much critics may dislike the conclusions the Court reaches. But the Court would almost as clearly step outside its bounds if it identified constitutional questions entitling it to the last word on what, if any, stimulus policies the government should employ in the face of a sagging economy, what marginal tax rates ought to be, or whether the United States must maintain forces in or withdraw its troops from Iraq or Afghanistan. To take other examples that once were more live, the Court would stray outside the politically acceptable space for judicial review if it were to hold, today, that Social Security or paper money is unconstitutional. n56 In the practically unimaginable event that the Court were to upset settled social and political expectations in such an egregiously disruptive way, its decisions almost surely would not stick. The only question would involve the precise mechanism by which the Court's intolerable rulings would be denied effect - whether, for example, by executive and congressional defiance, a statutory denial of jurisdiction to any court to enforce the intolerable [\*365] decisions, impeachments of Justices who joined the majority opinion, Court-packing, or some combination of these or similar responses.

That the Supreme Court's exercise of judicial review occurs within politically constructed bounds is easy to overlook in ordinary times, but can take on salience in war and emergency. In past wars and emergencies, Presidents have either defied or credibly threatened to defy judicial rulings that they thought would endanger vital national interests - under circumstances in which Presidents could have anticipated that aroused public opinion would have sided with them and against the Court. n57 These presidential acts and threats of defiance were of course anomalous. But equally anomalous are judicial rulings that intrude into the heart of what are broadly understood to be the political branches' domains of discretionary authority, especially with respect to war and national security.

#### The detention decisions just validated the political status quo – they didn’t change executive behavior

**Posner and Vermeule, 10** - \*professor of law at the University of Chicago AND \*\*professor of law at Harvard (Eric and Adrian, The Executive Unbound, p. 35-36)

By 2006, the Bush administration had lost a great deal of credibility both at home and (especially) abroad, in part because of setbacks in Iraq, in part because of scandals, such as Abu Ghraib, and in part because of spectacular incompetence in the management of Hurricane Katrina. Moreover, with the passage of time and the absence of new terrorist attacks in the homeland, the sense of threat waned. Predictably, the judges reasserted themselves. In Hamdan v. Rumsfeld44 in 2006, the Court held that the administration’s military commissions set up to try alleged enemy combatants for war crimes violated relevant statutes and treaties. When Congress reacted by passing the Military Commissions Act in 2006, the Court went on to hold in 2008, in Boumediene v. Bush, that the statute violated the Suspension Clause of the Constitution by denying habeas corpus to detainees at Guantánamo Bay. Even in these cases, however, the Court did not actually order anyone released; in both cases, the result was simply more legal process. There remain sharp pragmatic limits on what courts are willing to do when faced with executive claims of security needs.

Those limits are underscored by recent systematic studies of the post-Boumediene litigation, in which Guantanamo detainees have brought habeas corpus petitions in federal court in the hopes of obtaining release.45 Although there are various ways to interpret the data, we will recount some undisputed points:

1. Overall, “less than four percent of releases from [Guantanamo] have followed a judicial order of release”.46 These numbers may understate the in terrorem effect of judicial oversight, which might cause the government to release detainees in anticipation of litigation; but that hypothesis is belied by the low variation in the rate of releases over time, whose apparent insensitivity to the course of litigation in the courts suggests that the prime motor is internal bureaucratic imperatives rather than legal considerations or fear of judicial oversight.47 Moreover, the 4% figure may actually overstate the effect of judicial oversight, because in some fraction of that subset of cases the government would have released the detainee anyway, when the bureaucratic wheels stopped spinning. It seems safe to conclude that the overwhelming supermajority of releases occur because the government has no interest in holding individuals who are unlikely to be a threat, or because the government incurs political costs from holding detainees, or because the government happens to strike a deal with a foreign nation who will accept the detainee. Judicial oversight is a sideshow.
2. Even in the cases in which the judges “order release,” the actual orders – with only two exceptions as of December 31, 2009—have turned out to be merely hortatory. The judges urge the government to negotiate with foreign nations to find a country willing to accept the detainee at issue,48 but stop short of ordering that the detainee be immediately allowed to walk through the gates of Guantanamo. The judges, leery of the political and policy consequences of ordering possible terrorists to be released, almost always pull their punches at the last second, despite what the headlines report.
3. Releases from Guantanamo slowed dramatically after 2008, when Boumediene was decided and President Obama was elected.49 This may be because the government has already released most of the harmless detainees, and is now down to the hard core of the dangerous. At the same time, however, the number of detainees at the government’s facility in Bagram, Afghanistan has swelled. An alternative (and not necessarily inconsistent) hypothesis, then, is that Obama is not seriously constrained by what the judges are doing, but does face political imperatives to be tough on terrorism, resulting in fewer releases at Guantanamo and new detentions elsewhere. As we discuss in later chapters, presidents have more political freedom to act on their off-side. A conservative president like Nixon can strike a deal with Red China, while a liberal president like Obama can expand detention at Bagram while brushing aside complaints from civil-libertarian elites, whose carping gets no traction with the general public so long as detention is ordered by a president perceived in some general way to be sensitive to claims of liberty. On this hypothesis, the pattern of executive detention, over time, is fundamentally driven by political imperatives, not judicial orders or legal norms.

### 2nc food prices impact

#### T-bond crisis causes food price spikes

**Min 10** – Associate Director for Financial Markets Policy, Center for American Progress (David, "The Big Freeze", 10/28, <http://www.americanprogress.org/issues/2010/10/big_freeze.html)>

A freeze on the debt ceiling could erode confidence in U.S. Treasury bonds in a number of ways, creating further and wider panic in financial markets. First, by causing a disruption in the issuance of Treasury debt, as happened in 1995-96, a freeze would cause investors to seek alternative financial investments, even perhaps causing a run on Treasurys. Such a run would cause the cost of U.S. debt to soar, putting even more stress on our budget, and the resulting enormous capital flows would likely be highly destabilizing to global financial markets, potentially creating more asset bubbles and busts throughout the world.

Second, the massive withdrawal of public spending that would occur would cause significant concern among institutional investors worldwide that the U.S. would swiftly enter a second, very deep, recession, raising concerns about the ability of the United States to repay its debt. Finally, the sheer recklessness of a debt freeze during these tenuous times would signal to already nervous investors that there was a significant amount of political risk, which could cause them to shy away from investing in the United States generally.

Taken together, these factors would almost certainly result in a significant increase in the interest rates we currently pay on our national debt, currently just above 2.5 percent for a 10-year Treasury note. If in the near term these rates moved even to 5.9 percent, the long-term rate predicted by the Congressional Budget Office, then our interest payments would increase by more than double, to nearly $600 billion a year. These rates could climb even higher, if investors began to price in a “default risk” into Treasurys—something that reckless actions by Congress could potentially spark—thus greatly exacerbating our budget problems.

The U.S. dollar, of course, is the world’s reserve currency in large part because of the depth and liquidity of the U.S. Treasury bond market. If this market is severely disrupted, and investors lost confidence in U.S. Treasurys, then it is unclear where nervous investors might go next. A sharp and swift move by investors out of U.S. Treasury bonds could be highly destabilizing, straining the already delicate global economy.

Imagine, for example, if investors moved from sovereign debt into commodities, most of which are priced and traded in dollars. This could have the catastrophic impact of weakening the world’s largest economies while also raising the prices of the basic inputs (such as metals or food) that are necessary for economic growth.

In short, a freeze on the debt ceiling would cause our interest payments to spike, making our budget situation even more problematic, while potentially triggering greater global instability—

perhaps even a global economic depression.

#### Global war

**Brown 7** – Director, Earth Policy Institute, (Lester R., 3-21, <http://www.earth-policy.org/press_room/C68/senateepw07>)

Urban food protests in response to rising food prices in low and middle income countries, such as Mexico, could lead to political instability that would add to the growing list of failing states. At some point, spreading political instability could disrupt global economic progress. Against this backdrop, Washington is consumed with "ethanol euphoria." President Bush in his State of the Union address set a production goal for 2017 of 35 billion gallons of alternative fuels, including grain-based and cellulosic ethanol, and fuel from coal. Given the current difficulties in producing cellulosic ethanol at a competitive cost and given the mounting public opposition to coal fuels, which are far more carbon-intensive than gasoline, most of the fuel to meet this goal might well have to come from grain. This could take most of the U.S. grain harvest, leaving little grain to meet U.S. needs, much less those of the hundred or so countries that import grain. The stage is now set for direct competition for grain between the 800 million people who own automobiles, and the world's 2 billion poorest people. The risk is that millions of those on the lower rungs of the global economic ladder will start falling off as rising food prices drop their consumption below the survival level.

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### AT: Intel

#### Intel sharing is sustainable

NYT ’13 (January 30, “Drone Strike Prompts Suit, Raising Fears for U.S. Allies”)

The issue is more complex than drone-strike foes suggest, the current and former officials said, and is based on decades of cooperation rather than a shadowy pact for the United States to do the world’s dirty work. The arrangements for intensive intelligence sharing by Western allies go back to World War II, said Richard Aldrich, professor of international security at the University of Warwick, when the United States, Canada, Britain, Australia and New Zealand agreed to continue to collaborate. “There’s a very high volume of intelligence shared, some of which is collected automatically, so it’s impossible to track what every piece is potentially used for,” said Mr. Aldrich, who is also the author of a history of the Government Communications Headquarters, the British signal-intelligence agency. Britain’s history and expertise in South Asia means that the intelligence it gathers in Pakistan, Afghanistan and the tribal areas in between is in high demand, Mr. Aldrich said. The arrangement has been focused recently by a chill in relations between the United States and Pakistan, and by the shared war in Afghanistan. Other nations, too, intercept communications in the region that are shared broadly with the United States, he said. In Afghanistan, for example, German and Dutch forces run aggressive electronic interception operations, he said, because their rules on collaborating with local interpreters are less stringent than those of the United States. A spokesman for the coalition forces in Afghanistan, Lt. Col. Lester Carroll, declined to give details about intelligence sharing, saying agreements were classified. But he confirmed that American military forces “do share information with other U.S. government organizations on a need-to-know basis.” Few argue against the notion that European nations, many of which have been attacked by terrorists, have benefited from the drone killing, however controversial, of many of the most hardened Islamic extremist leaders.

#### Cooperation’s inevitable, even with radical states

**Mueller and Stewart 2012** – \*Research Scientist at the Mershon Center for International Security Studies and Adjunct Professor in the Department of Political Science, Ohio State University, \*\*Australian Research Council Professorial Fellow and Professor and Director at the Centre for Infrastructure Performance and Reliability at the University of Newcastle in Australia (Summer, John and Mark, International Security, 37.1, p. 81-110, “The Terrorism Delusion”)

In addition to its delusional tendencies, al-Qaida has, as Patrick Porter notes,¶ a “talent at self-destruction.”24 With the September 11 attacks and subsequent¶ activity, bin Laden and his followers mainly succeeded in uniting the world, including its huge Muslim population, against their violent global jihad.25¶ These activities also turned many radical Islamists against them, including¶ some of the most prominent and respected.26

**No matter how much states around the world might disagree with the United States** on other issues (most notably on its war in Iraq), there is a compelling¶ incentive for them to cooperate to confront any international terrorist¶ problem emanating from groups and individuals connected to, or sympathetic¶ with, al-Qaida. Although these multilateral efforts, particularly by such¶ Muslim states as Libya, Pakistan, Sudan, Syria, and even Iran, may not have¶ received sufficient publicity, these countries have felt directly threatened by¶ the militant network, and their diligent and aggressive efforts have led to important¶ breakthroughs against the group.27 Thus a terrorist bombing in Bali in¶ 2002 galvanized the Indonesian government into action and into making extensive¶ arrests and obtaining convictions. When terrorists attacked Saudis¶ in Saudi Arabia in 2003, the government became considerably more serious¶ about dealing with internal terrorism, including a clampdown on radical clerics¶ and preachers. The main result of al-Qaida-linked suicide terrorism in¶ Jordan in 2005 was to outrage Jordanians and other Arabs against the perpetrators.

In polls conducted in thirty-five predominantly Muslim countries by¶ 2008, more than 90 percent condemned bin Laden’s terrorism on religious¶ grounds.28

In addition, the mindless brutalities of al-Qaida-affiliated combatants in¶ Iraq—staging beheadings at mosques, bombing playgrounds, taking over hospitals,¶ executing ordinary citizens, performing forced marriages—eventually¶ turned the Iraqis against them, including many of those who had previously¶ been fighting the U.S. occupation either on their own or in connection with the¶ group.29 In fact, they seem to have managed to alienate the entire population:¶ data from polls in Iraq in 2007 indicate that 97 percent of those surveyed opposed¶ efforts to recruit foreigners to fight in Iraq; 98 percent opposed the militants’¶ efforts to gain control of territory; and 100 percent considered attacks¶ against Iraqi civilians “unacceptable.”30

### AT: Drones Backlash

#### Their ev is biased – foreign governments privately support drones and there’s no alternative

Byman 13 (Daniel L., Senior Fellow, Foreign Policy – Saban Center for Middle East Policy – Brookings Institute, “Why Drones Work: The Case for Washington's Weapon of Choice,” Brookings Institute, July/August, <http://www.brookings.edu/research/articles/2013/06/17-drones-obama-weapon-choice-us-counterterrorism-byman>)

It is also telling that drones have earned the backing, albeit secret, of foreign governments. In order to maintain popular support, politicians in Pakistan and Yemen routinely rail against the U.S. drone campaign. In reality, however, the governments of both countries have supported it. During the Bush and Obama administrations, Pakistan has even periodically hosted U.S. drone facilities and has been told about strikes in advance. Pervez Musharraf, president of Pakistan until 2008, was not worried about the drone program’s negative publicity: “In Pakistan, things fall out of the sky all the time,” he reportedly remarked. Yemen’s former president, Ali Abdullah Saleh, also at times allowed drone strikes in his country and even covered for them by telling the public that they were conducted by the Yemeni air force. When the United States’ involvement was leaked in 2002, however, relations between the two countries soured. Still, Saleh later let the drone program resume in Yemen, and his replacement, Abdu Rabbu Mansour Hadi, has publicly praised drones, saying that “they pinpoint the target and have zero margin of error, if you know what target you’re aiming at.”

As officials in both Pakistan and Yemen realize, U.S. drone strikes help their governments by targeting common enemies. A memo released by the antisecrecy website WikiLeaks revealed that Pakistan’s army chief, Ashfaq Parvez kayani, privately asked U.S. military leaders in 2008 for “continuous Predator coverage” over antigovernment militants, and the journalist Mark Mazzetti has reported that the United States has conducted “goodwill kills” against Pakistani militants who threatened Pakistan far more than the United States. Thus, in private, Pakistan supports the drone program. As then Prime Minister Yousaf Raza Gilani told Anne Patterson, then the U.S. ambassador to Pakistan, in 2008, “We’ll protest [against the drone program] in the National Assembly and then ignore it.”

Still, Pakistan is reluctant to make its approval public. First of all, the country’s inability to fight terrorists on its own soil is a humiliation for Pakistan’s politically powerful armed forces and intelligence service. In addition, although drones kill some of the government’s enemies, they have also targeted pro-government groups that are hostile to the United States, such as the Haqqani network and the Taliban, which Pakistan has supported since its birth in the early 1990s. Even more important, the Pakistani public is vehemently opposed to U.S. drone strikes.

A 2012 poll found that 74 percent of Pakistanis viewed the United States as their enemy, likely in part because of the ongoing drone campaign. Similarly, in Yemen, as the scholar Gregory Johnsen has pointed out, drone strikes can win the enmity of entire tribes. This has led critics to argue that the drone program is shortsighted: that it kills today’s enemies but creates tomorrow’s in the process.

Such concerns are valid, but the level of local anger over drones is often lower than commonly portrayed. Many surveys of public opinion related to drones are conducted by anti-drone organizations, which results in biased samples. Other surveys exclude those who are unaware of the drone program and thus overstate the importance of those who are angered by it. In addition, many Pakistanis do not realize that the drones often target the very militants who are wreaking havoc on their country. And for most Pakistanis and Yemenis, the most important problems they struggle with are corruption, weak representative institutions, and poor economic growth; the drone program is only a small part of their overall anger, most of which is directed toward their own governments. A poll conducted in 2007, well before the drone campaign had expanded to its current scope, found that only 15 percent of Pakistanis had a favorable opinion of the United States. It is hard to imagine that alternatives to drone strikes, such as seal team raids or cruise missile strikes, would make the United States more popular.

#### Here’s predictive ev – drones are here to stay and foreign countries think there’s no alternative

Byman 13 (Daniel L., Senior Fellow, Foreign Policy – Saban Center for Middle East Policy – Brookings Institute, “Why Drones Work: The Case for Washington's Weapon of Choice,” Brookings Institute, July/August, <http://www.brookings.edu/research/articles/2013/06/17-drones-obama-weapon-choice-us-counterterrorism-byman>)

So drone warfare is here to stay, and it is likely to expand in the years to come as other countries’ capabilities catch up with those of the United States. But Washington must continue to improve its drone policy, spelling out clearer rules for extrajudicial and extraterritorial killings so that tyrannical regimes will have a harder time pointing to the U.S. drone program to justify attacks against political opponents. At the same time, even as it solidifies the drone program, Washington must remain mindful of the built-in limits of low-cost, unmanned interventions, since the very convenience of drone warfare risks dragging the United States into conflicts it could otherwise avoid.

NOBODY DOES IT BETTER

The Obama administration relies on drones for one simple reason: they work. According to data compiled by the New America Foundation, since Obama has been in the White House, U.S. drones have killed an estimated 3,300 al Qaeda, Taliban, and other jihadist operatives in Pakistan and Yemen. That number includes over 50 senior leaders of al Qaeda and the Taliban—top figures who are not easily replaced. In 2010, Osama bin Laden warned his chief aide, Atiyah Abd al-Rahman, who was later killed by a drone strike in the Waziristan region of Pakistan in 2011, that when experienced leaders are eliminated, the result is “the rise of lower leaders who are not as experienced as the former leaders” and who are prone to errors and miscalculations. And drones also hurt terrorist organizations when they eliminate operatives who are lower down on the food chain but who boast special skills: passport forgers, bomb makers, recruiters, and fundraisers.

Drones have also undercut terrorists’ ability to communicate and to train new recruits. In order to avoid attracting drones, al Qaeda and Taliban operatives try to avoid using electronic devices or gathering in large numbers. A tip sheet found among jihadists in Mali advised militants to “maintain complete silence of all wireless contacts” and “avoid gathering in open areas.” Leaders, however, cannot give orders when they are incommunicado, and training on a large scale is nearly impossible when a drone strike could wipe out an entire group of new recruits. Drones have turned al Qaeda’s command and training structures into a liability, forcing the group to choose between having no leaders and risking dead leaders.

Critics of drone strikes often fail to take into account the fact that the alternatives are either too risky or unrealistic. To be sure, in an ideal world, militants would be captured alive, allowing authorities to question them and search their compounds for useful information. Raids, arrests, and interrogations can produce vital intelligence and can be less controversial than lethal operations. That is why they should be, and indeed already are, used in stable countries where the United States enjoys the support of the host government. But in war zones or unstable countries, such as Pakistan, Yemen, and Somalia, arresting militants is highly dangerous and, even if successful, often inefficient. In those three countries, the government exerts little or no control over remote areas, which means that it is highly dangerous to go after militants hiding out there. Worse yet, in Pakistan and Yemen, the governments have at times cooperated with militants. If the United States regularly sent in special operations forces to hunt down terrorists there, sympathetic officials could easily tip off the jihadists, likely leading to firefights, U.S. casualties, and possibly the deaths of the suspects and innocent civilians.

Of course, it was a Navy SEAL team and not a drone strike that finally got bin Laden, but in many cases in which the United States needs to capture or eliminate an enemy, raids are too risky and costly. And even if a raid results in a successful capture, it begets another problem: what to do with the detainee. Prosecuting detainees in a federal or military court is difficult because often the intelligence against terrorists is inadmissible or using it risks jeopardizing sources and methods. And given the fact that the United States is trying to close, rather than expand, the detention facility at Guantánamo Bay, Cuba, it has become much harder to justify holding suspects indefinitely. It has become more politically palatable for the United States to kill rather than detain suspected terrorists.

Furthermore, although a drone strike may violate the local state’s sovereignty, it does so to a lesser degree than would putting U.S. boots on the ground or conducting a large-scale air campaign. And compared with a 500-pound bomb dropped from an F-16, the grenadelike warheads carried by most drones create smaller, more precise blast zones that decrease the risk of unexpected structural damage and casualties. Even more important, drones, unlike traditional airplanes, can loiter above a target for hours, waiting for the ideal moment to strike and thus reducing the odds that civilians will be caught in the kill zone.

Finally, using drones is also far less bloody than asking allies to hunt down terrorists on the United States’ behalf. The Pakistani and Yemeni militaries, for example, are known to regularly torture and execute detainees, and they often indiscriminately bomb civilian areas or use scorched-earth tactics against militant groups.

### AT: Terrorism Impact

#### No retaliation—definitely no escalation

**Mueller 5** (John, Professor of Political Science – Ohio State University, Reactions and Overreactions to Terrorism, http://polisci.osu.edu/faculty/jmueller/NB.PDF)

However, history clearly demonstrates that overreaction is not necessarily inevitable. Sometimes, in fact, leaders have been able to restrain their instinct to overreact. Even more important, **restrained reaction--or even capitulation to terrorist acts--has often proved to be entirely acceptable politically**. That is, there are many instances where leaders did nothing after a terrorist attack (or at least refrained from overreacting) and did not suffer politically or otherwise. Similarly, after an unacceptable loss of American lives in Somalia in 1993, Bill Clinton responded by withdrawing the troops without noticeable negative impact on his 1996 re-election bid. Although Clinton responded with (apparently counterproductive) military retaliations after the two U.S. embassies were bombed in Africa in 1998 as discussed earlier, his administration did not have a notable response to terrorist attacks on American targets in Saudi Arabia (Khobar Towers) in 1996 or to the bombing of the U.S.S. Cole in 2000, and these non-responses never caused it political pain. George W. Bush's response to the anthrax attacks of 2001 did include, as noted above, a costly and wasteful stocking-up of anthrax vaccine and enormous extra spending by the U.S. Post Office. However, beyond that, it was the same as Clinton's had been to the terrorist attacks against the World Trade Center in 1993 and in Oklahoma City in 1995 and the same as the one applied in Spain when terrorist bombed trains there in 2004 or in Britain after attacks in 2005: the dedicated application of police work to try to apprehend the perpetrators. This approach was politically acceptable even though the culprit in the anthrax case (unlike the other ones) has yet to be found. The demands for retaliation may be somewhat more problematic in the case of suicide terrorists since the direct perpetrators of the terrorist act are already dead, thus sometimes impelling a vengeful need to seek out other targets. Nonetheless, the attacks in Lebanon, Saudi Arabia, Great Britain, and against the Cole were all suicidal, yet no direct retaliatory action was taken. **Thus, despite short-term demands that some sort of action must be taken**, experience suggests politicians can often successfully ride out this demand after the obligatory (and inexpensive) expressions of outrage are prominently issued.

#### Retaliation won’t cause global war

**Schuyler 2007** (Dave, “Restating the U.S. Policy of Nuclear Deterrence,” Last Mod Nov 13)

A recent post on nuclear deterrence on American Future drew several comments on another blog. The blogger at American Future, Marc Schulman, outlines the responses in this post. In summary the responses were that a nuclear response to a nuclear terrorist attack was itself terrorism, a nuclear retaliation would inevitably draw other state actors to escalate the exchange, a nuclear retaliation would be collective punishment, and attacking Muslim holy sites would be counterproductive. I agree with this last point but I want to deal with each of the other points in some detail. \* A nuclear response to a nuclear terrorist attack is terrorism.There’s no generally accepted definition of terrorism so before tackling this point I’ll propose one. Ignoring the issue of state actors vs. non-state actors I think that a terrorist attack is an attack on civilians or civilian assets whose purpose is to provoke terror. It has no other tactical or strategic significance. Any nuclear response by the United States would be against military or governmental facilities, sites involved in military production, or command and control. The objective would be to eliminate the possibility of future attacks or the support for those who would engage in future attacks. That such a response would inevitably result in massive civilian casualties is sad. But such a response would not, by definition, be terrorism \* A nuclear retaliation Iran in response to a terrorist nuclear attack would inevitably draw France, Russia, and China to enter the conflict.To believe this you must believe that France, Russia, and China will act irrationally. There is absolutely no reason to believe that this is the case. All three nations know that their intervention against the U. S. would result in total annihilation. There are other issues as well and let’s examine the two distinct cases: Russia on the one hand and France and China on the other. As a major non-Gulf producer of oil Russia would be in a position to benefit enormously in case of a disruption of Gulf oil production or shipment. That being the case they would publicly deplore a retaliation against Iran but privately rejoice. Both France and China are in an extremely delicate position. A nuclear response by either would result in total annihilation and, equally importantly, wouldn’t keep the oil flowing. Lack of a blue water navy means that both nations are completely at the mercy of the United States’s (or more specifically the U. S. Navy’s) willingness to keep shipments of oil moving out of the Gulf. China is particularly vulnerable since it has only about two weeks’ worth of strategic oil reserves. Neither France nor China has any real ability to project military force other than nuclear force beyond their borders. They’d be upset. But they’re in no position to do anything about it.

#### No scenario for nuclear terror---consensus of experts

Matt Fay 13, PhD student in the history department at Temple University, has a Bachelor’s degree in Political Science from St. Xavier University and a Master’s in International Relations and Conflict Resolution with a minor in Transnational Security Studies from American Military University, 7/18/13, “The Ever-Shrinking Odds of Nuclear Terrorism”, webcache.googleusercontent.com/search?q=cache:HoItCUNhbgUJ:hegemonicobsessions.com/%3Fp%3D902+&cd=1&hl=en&ct=clnk&gl=us&client=firefox-a

For over a decade now, one of the most oft-repeated threats raised by policymakers—the one that in many ways justified the invasion of Iraq—has been that of nuclear terrorism. Officials in both the Bush and Obama administrations, including the presidents themselves, have raised the specter of the atomic terrorist. But beyond mere rhetoric, how likely is a nuclear terrorist attack really?¶ While pessimistic estimates about America’s ability to avoid a nuclear terrorist attack became something of a cottage industry following the September 11th attacks, a number of scholars in recent years have pushed back against this trend. Frank Gavin has put post-9/11 fears of nuclear terrorism into historical context (pdf) and argued against the prevailing alarmism. Anne Stenersen of the Norwegian Defence Research Establishment has challenged the idea that al Qaeda was ever bound and determined to acquire a nuclear weapon. John Mueller ridiculed the notion of nuclear terrorism in his book Atomic Obsessions and highlighted the numerous steps a terrorist group would need to take—all of which would have to be successful—in order to procure, deliver, and detonate an atomic weapon. And in his excellent, and exceedingly even-handed, treatment of the subject, On Nuclear Terrorism, Michael Levi outlined the difficulties terrorists would face building their own nuclear weapon and discussed how a “system of systems” could be developed to interdict potential materials smuggled into the United States—citing a “Murphy’s law of nuclear terrorism” that could possibly dissuade terrorists from even trying in the first place.¶ But what about the possibility that a rogue state could transfer a nuclear weapon to a terrorist group? That was ostensibly why the United States deposed Saddam Hussein’s regime: fear he would turnover one of his hypothetical nuclear weapons for al Qaeda to use.¶ Enter into this discussion Keir Lieber and Daryl Press and their article in the most recent edition of International Security, “Why States Won’t Give Nuclear Weapons to Terrorists.” Lieber and Press have been writing on nuclear issues for just shy of a decade—doing innovative, if controversial work on American nuclear strategy. However, I believe this is their first venture into the debate over nuclear terrorism. And while others, such as Mueller, have argued that states are unlikely to transfer nuclear weapons to terrorists, this article is the first to tackle the subject with an empirical analysis.¶ The title of their article nicely sums up their argument: states will not turn over nuclear weapons terrorists. To back up this claim, Lieber and Press attack the idea that states will transfer nuclear weapons to terrorists because terrorists operate of absent a “return address.” Based on an examination of attribution following conventional terrorist attacks, the authors conclude:¶ [N]either a terror group nor a state sponsor would remain anonymous after a nuclear attack. We draw this conclusion on the basis of four main findings. First, data on a decade of terrorist incidents reveal a strong positive relationship between the number of fatalities caused in a terror attack and the likelihood of attribution. Roughly three-quarters of the attacks that kill 100 people or more are traced back to the perpetrators. Second, attribution rates are far higher for attacks on the U.S. homeland or the territory of a major U.S. ally—97 percent (thirty-six of thirty-seven) for incidents that killed ten or more people. Third, tracing culpability from a guilty terrorist group back to its state sponsor is not likely to be difficult: few countries sponsor terrorism; few terrorist groups have state sponsors; each sponsor terrorist group has few sponsors (typically one); and only one country that sponsors terrorism, has nuclear weapons or enough fissile material to manufacture a weapon. In sum, attribution of nuclear terror incidents would be easier than is typically suggested, and passing weapons to terrorists would not offer countries escape from the constraints of deterrence.¶ From this analysis, Lieber and Press draw two major implications for U.S. foreign policy: claims that it is impossible to attribute nuclear terrorism to particular groups or potential states sponsors undermines deterrence; and fear of states transferring nuclear weapons to terrorist groups, by itself, does not justify extreme measures to prevent nuclear proliferation.¶ This is a key point. While there are other reasons nuclear proliferation is undesirable, fears of nuclear terrorism have been used to justify a wide-range of policies—up to, and including, military action. Put in its proper perspective however—given the difficulty in constructing and transporting a nuclear device and the improbability of state transfer—nuclear terrorism hardly warrants the type of exertions many alarmist assessments indicate it should.

#### Combined probability approaches zero

**Schneidmiller 9** (Chris, Experts Debate Threat of Nuclear, Biological Terrorism, 13 January 2009, http://www.globalsecuritynewswire.org/gsn/nw\_20090113\_7105.php, AMiles)

There is an "almost **vanishingly small" likelihood** that terrorists would ever be able to acquire and detonate a nuclear weapon, one expert said here yesterday (see GSN, Dec. 2, 2008). In even the most likely scenario of nuclear terrorism, there are 20 barriers between extremists and a successful nuclear strike on a major city, said John Mueller, a political science professor at Ohio State University. The process itself is seemingly straightforward but exceedingly difficult -- buy or steal highly enriched uranium, manufacture a weapon, take the bomb to the target site and blow it up. Meanwhile, variables strewn across the path to an attack would increase the complexity of the effort, Mueller argued. Terrorists would have to bribe officials in a state nuclear program to acquire the material, while avoiding a sting by authorities or a scam by the sellers. The material itself could also turn out to be bad. "Once the purloined material is purloined, [police are] going to be chasing after you. They are also going to put on a high reward, extremely high reward, on getting the weapon back or getting the fissile material back," Mueller said during a panel discussion at a two-day Cato Institute conference on counterterrorism issues facing the incoming Obama administration. Smuggling the material out of a country would mean relying on criminals who "are very good at extortion" and might have to be killed to avoid a double-cross, Mueller said. The terrorists would then have to find scientists and engineers willing to give up their normal lives to manufacture a bomb, which would require an expensive and sophisticated machine shop. Finally, further technological expertise would be needed to sneak the weapon across national borders to its destination point and conduct a successful detonation, Mueller said. Every obstacle is "difficult but not impossible" to overcome, Mueller said, putting the chance of success at no less than one in three for each. The likelihood of successfully passing through each obstacle, in sequence, would be roughly one in 3 1/2 billion, he said, but for argument's sake dropped it to 3 1/2 million. "It's a total gamble. This is a very expensive and difficult thing to do," said Mueller, who addresses the issue at greater length in an upcoming book, Atomic Obsession. "So unlike buying a ticket to the lottery ... you're basically putting everything, including your life, at stake for a gamble that's maybe one in 3 1/2 million or 3 1/2 billion." Other scenarios are even less probable, Mueller said. A nuclear-armed state is "exceedingly unlikely" to hand a weapon to a terrorist group, he argued: "States just simply won't give it to somebody they can't control." Terrorists are also not likely to be able to steal a whole weapon, Mueller asserted, dismissing the idea of "loose nukes." Even Pakistan, which today is perhaps the nation of greatest concern regarding nuclear security, keeps its bombs in two segments that are stored at different locations, he said (see GSN, Jan. 12). Fear of an "extremely improbable event" such as nuclear terrorism produces support for a wide range of homeland security activities, Mueller said. He argued that there has been a major and costly overreaction to the terrorism threat -- noting that the Sept. 11 attacks helped to precipitate the invasion of Iraq, which has led to far more deaths than the original event. Panel moderator Benjamin Friedman, a research fellow at the Cato Institute, said academic and governmental discussions of acts of nuclear or biological terrorism have tended to focus on "worst-case assumptions about terrorists' ability to use these weapons to kill us." There is need for consideration for what is probable rather than simply what is possible, he said. Friedman took issue with the finding late last year of an experts' report that an act of WMD terrorism would "more likely than not" occur in the next half decade unless the international community takes greater action. "I would say that the report, if you read it, actually offers no analysis to justify that claim, which seems to have been made to change policy by generating alarm in headlines." One panel speaker offered a partial rebuttal to Mueller's presentation. Jim Walsh, principal research scientist for the Security Studies Program at the Massachusetts Institute of Technology, said he agreed that nations would almost certainly not give a nuclear weapon to a nonstate group, that most terrorist organizations have no interest in seeking out the bomb, and that it would be difficult to build a weapon or use one that has been stolen.

#### No interest in WMD

**Mueller 10**—Professor of Political Science and International Relations @ Ohio State. Widely-recognized expert on terrorism threats in foreign policy. AB from U Chicago, MA in pol sci from UCLA and PhD in pol sci from UCLA (John, “Calming Our Nuclear Jitters”, Issues in Science & Technology, 07485492, Winter 2010, Vol. 26, Issue 2, EBSCO, RBatra)

The al Qaeda factor The degree to which al Qaeda, the only terrorist group that seems to want to target the United States, has pursued or even has much interest in a nuclear weapon may have been exaggerated. The 9/11 Commission stated that "al Qaeda has tried to acquire or make nuclear weapons for at least ten years," but the only substantial evidence it supplies comes from an episode that is supposed to have taken place about 1993 in Sudan, when al Qaeda members may have sought to purchase some uranium that turned out to be bogus. Information about this supposed venture apparently comes entirely from Jamal al Fadl, who defected from al Qaeda in 1996 after being caught stealing $110,000 from the organization. Others, including the man who allegedly purchased the uranium, assert that although there were various other scams taking place at the time that may have served as grist for Fadl, the uranium episode never happened. As a key indication of al Qaeda's desire to obtain atomic weapons, many have focused on a set of conversations in Afghanistan in August 2001 that two Pakistani nuclear scientists reportedly had with Osama bin Laden and three other al Qaeda officials. Pakistani intelligence officers characterize the discussions as "academic" in nature. It seems that the discussion was wide-ranging and rudimentary and that the scientists provided no material or specific plans. Moreover, the scientists probably were incapable of providing truly helpful information because their expertise was not in bomb design but in the processing of fissile material, which is almost certainly beyond the capacities of a nonstate group. Kalid Sheikh Mohammed, the apparent planner of the 9/11 attacks, reportedly says that al Qaeda's bomb efforts never went beyond searching the Internet. After the fall of the Taliban in 2001, technical experts from the CIA and the Department of Energy examined documents and other information that were uncovered by intelligence agencies and the media in Afghanistan. They uncovered no credible information that al Qaeda had obtained fissile material or acquired a nuclear weapon. Moreover, they found no evidence of any radioactive material suitable for weapons. They did uncover, however, a "nuclear-related" document discussing "openly available concepts about the nuclear fuel cycle and some weapons-related issues." Just a day or two before al Qaeda was to flee from Afghanistan in 2001, bin Laden supposedly told a Pakistani journalist, "If the United States uses chemical or nuclear weapons against us, we might respond with chemical and nuclear weapons. We possess these weapons as a deterrent." Given the military pressure that they were then under and taking into account the evidence of the primitive or more probably nonexistent nature of al Qaedas nuclear program, the reported assertions, although unsettling, appear at best to be a desperate bluff. Bin Laden has made statements about nuclear weapons a few other times. Some of these pronouncements can be seen to be threatening, but they are rather coy and indirect, indicating perhaps something of an interest, but not acknowledging a capability. And as terrorism specialist Louise Richardson observes, "Statements claiming a right to possess nuclear weapons have been misinterpreted as expressing a determination to use them. This in turn has fed the exaggeration of the threat we face." Norwegian researcher Anne Stenersen concluded after an exhaustive study of available materials that, although "it is likely that al Qaeda central has considered the option of using non-conventional weapons," there is "little evidence that such ideas ever developed into actual plans, or that they were given any kind of priority at the expense of more traditional types of terrorist attacks." She also notes that information on an al Qaeda computer left behind in Afghanistan in 2001 indicates that only $2,000 to $4,000 was earmarked for weapons of mass destruction research and that the money was mainly for very crude work on chemical weapons. Today, the key portions of al Qaeda central may well total only a few hundred people, apparently assisting the Taliban's distinctly separate, far larger, and very troublesome insurgency in Afghanistan. Beyond this tiny band, there are thousands of sympathizers and would-be jihadists spread around the globe. They mainly connect in Internet chat rooms, engage in radicalizing conversations, and variously dare each other to actually do something. Any "threat," particularly to the West, appears, then, principally to derive from self-selected people, often isolated from each other, who fantasize about performing dire deeds. From time to time some of these people, or ones closer to al Qaeda central, actually manage to do some harm. And occasionally, they may even be able to pull off something large, such as 9/11. But in most cases, their capacities and schemes, or alleged schemes, seem to be far less dangerous than initial press reports vividly, even hysterically, suggest. Most important for present purposes, however, is that any notion that al Qaeda has the capacity to acquire nuclear weapons, even if it wanted to, looks farfetched in the extreme. It is also noteworthy that, although there have been plenty of terrorist attacks in the world since 2001, all have relied on conventional destructive methods. For the most part, terrorists seem to be heeding the advice found in a memo on an al Qaeda laptop seized in Pakistan in 2004: "Make use of that which is available … rather than waste valuable time becoming despondent over that which is not within your reach." In fact, history consistently demonstrates that terrorists prefer weapons that they know and understand, not new, exotic ones.

### 2NC Circumvention

#### Even if review occurs, the court hastily grants immunity and always defers to the executive

Murphy and Radsan 9 (Richard, AT&T Professor of Law – Texas Tech University School of Law, and Afsheen John, Professor – William Mitchell College of Law; Assistant General Counsel – Central Intelligence Agency, “Due Process and Targeted Killing of Terrorists,” Cardozo Law Review, November, 32 Cardozo L. Rev. 405, Lexis)

In addition, the doctrine of qualified immunity requires dismissal of actions against officials if a court determines they reasonably believed they were acting within the scope of their legal authority.220 Defendants would satisfy this requirement so long as they reasonably claimed they had authority under the laws of war (assuming their applicability). These standards are hazy, and a court applying them would tend to defer to the executive on matters of military judgment.221

In view of so many practical and legal hurdles, some courts and commentators might be inclined to categorically reject all Bivens-style challenges to targeted killings. In essence, they might view lawsuits related to targeted killing as a political question left to the executive.222 This view parallels Justice Thomas‘s that courts should not second-guess executive judgments as to who is an enemy combatant.223 Contrary to Justice Thomas‘s view, the potency of the government‘s threshold defenses means that targeted-killing cases that make it to the merits would likely involve the most egregious conduct—for example, killing an unarmed Jose Padilla at O‘Hare Airport on a shoot-to-kill order. For these egregious cases, a judicial check on executive authority is most necessary.

### 2NC Latin America

#### Assign this impact zero-risk – Latin America has a disarmament treaty, is a nuclear weapons free zone, and has no country that is considering a nuclear weapon – newest evidence is decisively neg

Beamont 12 (Paul D., ILIP, “An Introduction to the Issue of Nuclear Weapons in Latin America and the Caribbean,” International Law and Policy Institute, December, <http://nwp.ilpi.org/wp-content/uploads/2012/12/BP02-12_LatinAmerica.pdf>)

On the 14 February 2012, the High Representative for Disarmament Affairs for the United Nations Sergio Duarte gave a statement in commemoration of the 45th anniversary of the Signing of the Treaty of Tlatelolco, and the creation of the first nuclear-weapon-free zone (NWFZ) in the inhabited world[1]. Duarte highlighted the role the Treaty played in pioneering the three fundamental pillars that would later be incorporated into the younger but better known global Non-proliferation Treaty (NPT): non-proliferation, disarmament and the promotion of peaceful uses of nuclear energy. Echoing the words of former UN Secretary General U-Thant, Duarte went on to hail the Treaty as a “beacon of light” to the rest of the world, pointing to how Tlatelolco inspired the creation of further NWFZs that now cover the vast majority of the Southern hemisphere[2].

In a time when the international non-proliferation and disarmament regime is in dire straits, with confidence in the Nuclear Non-Proliferation Treaty at historic lows, the regional prohibition treaties have managed to remain relevant and important. In fact, the Treaty of Tlatelolco has, if anything, become significantly stronger over the years, while the NPT is increasingly showing signs of aging. The crisis brewing over Iran’s nuclear program is largely a symptom of growing tension and doubt with regards to the core bargain of the NPT – that those who did not have nuclear weapons would refrain from acquiring such weapons, while those who did committed to eliminate their arsenals. Dissatisfaction amongst the non-nuclear powers has led to disarmament advocates to increasingly look for alternative legal mechanisms to promote to nuclear disarmament. They would be wise to take inspiration from the Treaty Tlatelolco[3].

While the Treaty has now entered into force for all 33 countries in the zone of application, it is important to remember that completion was a long and difficult process. 40 years elapsed between the first proposal of a NWFZ in Latin America in the early 1960s and the final ratification of Cuba in 2002. The eventual success of the process was in a large part testament to the remarkable ingenuity and dedication of the participants in the negotiation process. The eventual treaty text managed to reconcile two wildly conflicting camps and produce a groundbreaking, comprehensive, yet flexible treaty. The Treaty of Tlatelolco established a solid legal base for the norm of non-proliferation in Latin America and moreover established flexible mechanisms for integrating outliers into the regime as and when the opportunities arose. This is how Argentina, Brazil, Chile and Cuba were eventually incorporated into the zone. Currently no Latin American or Caribbean states have nuclear weapons, and none have indicated intent to produce or acquire them.

### Heg Impact d

#### No impact to heg

Friedman 10 Ben, research fellow in defense and homeland security, Cato. PhD candidate in pol sci, MIT, Military Restraint and Defense Savings, 20 July, http://www.cato.org/testimony/ct-bf-07202010.html

Another argument for high military spending is that U.S. military hegemony underlies global stability. Our forces and alliance commitments dampen conflict between potential rivals like China and Japan, we are told, preventing them from fighting wars that would disrupt trade and cost us more than the military spending that would have prevented war. The theoretical and empirical foundation for this claim is weak. It overestimates both the American military's contribution to international stability and the danger that instability abroad poses to Americans. In Western Europe, U.S. forces now contribute little to peace, at best making the tiny odds of war among states there slightly more so.7 Even in Asia, where there is more tension, the history of international relations suggests that without U.S. military deployments potential rivals, especially those separated by sea like Japan and China, will generally achieve a stable balance of power rather than fight. In other cases, as with our bases in Saudi Arabia between the Iraq wars, U.S. forces probably create more unrestthan they prevent. Our force deployments can also generate instability by prompting states to develop nuclear weapons. Even when wars occur, their economic impact is likely to be limited here.8 By linking markets, globalization provides supply alternatives for the goods we consume, including oil. If political upheaval disrupts supply in one location, suppliers elsewhere will take our orders. Prices may increase, but markets adjust. That makes American consumers less dependent on any particular supply source, undermining the claim that we need to use force to prevent unrest in supplier nations or secure trade routes.9 Part of the confusion about the value of hegemony comes from misunderstanding the Cold War. People tend to assume, falsely, that our activist foreign policy, with troops forward supporting allies, not only caused the Soviet Union's collapse but is obviously a good thing even without such a rival. Forgotten is the sensible notion that alliances are a necessary evil occasionally tolerated to balance a particularly threatening enemy. The main justification for creating our Cold War alliances was the fear that Communist nations could conquer or capture by insurrection the industrial centers in Western Europe and Japan and then harness enough of that wealth to threaten us — either directly or by forcing us to become a garrison state at ruinous cost. We kept troops in South Korea after 1953 for fear that the North would otherwise overrun it. But these alliances outlasted the conditions that caused them. During the Cold War, Japan, Western Europe and South Korea grew wealthy enough to defend themselves. We should let them. These alliances heighten our force requirements and threaten to drag us into wars, while providing no obvious benefit.

### China Impact D

#### No lashout – CCP knows it would be suicide and PLA wouldn’t support it

Gilley 4 [Bruce, former contributing editor at the Far Eastern Economic Review, M.A. Oxford, 2004, China’s Democratic Future, p. 114]

Yet the risks, even to a dying regime, may be too high. An unprovoked attack on Taiwan would almost certainly bring the U.S. and its allies to the island's rescue. Those forces would not stop at Taiwan but might march on Beijing and oust the CCP, or attempt to do so through stiff sanctions, calling it a threat to regional and world peace. Such an attack might also face the opposition of the peoples of Fujian, who would be expected to provide logis¬tical support and possibly bear the worst burdens of war. They, like much of coastal China, look to Taiwan for investment and culture and have a close affinity with the island. As a result, there are doubts about whether such a plan could be put into action. A failed war would prompt a Taiwan declaration of independence and a further backlash against the CCP at home, just as the May Fourth students of 1919 berated the Republican government for weakness in the face of foreign powers. Failed wars brought down authoritarian regimes in Greece and Portugal in 1974 and in Argentina in 1983. Even if CCP leaders wanted war, it is unlikely that the PLA would oblige. Top officers would see the disastrous implications of attacking Taiwan. Military caution would also guard against the even wilder scenario of the use of nuclear weapons against Japan or the U.S.47 At the height of the Tiananmen protests it appears there was consideration given to the use of nuclear weapons in case the battle to suppress the protestors drew in outside countries.48 But even then, the threats did not appear to gain even minimal support. In an atmosphere in which the military is thinking about its future, the resort to nuclear confrontation would not make sense.

## 2nr

### 2nr byman

#### Obama already said he was going to talk to Congress about the plan.

Byman and Wittes 6-17-13 (Daniel, professor in the Security Studies Program at Georgetown University and the Research Director of the Saban Center for Middle East Policy at Brookings; and Benjamin, a Senior Fellow in Governance Studies at the Brookings Institution, the Editor in Chief of the Lawfare blog, and a member of the Hoover Institution’s Task Force on National Security and Law; Tools and Tradeoffs: Confronting U.s. Citizen Terrorist suspects Abroad, http://www.brookings.edu/~/media/research/files/reports/2013/07/23%20us%20citizen%20terrorist%20suspects%20awlaki%20jihad%20byman%20wittes/toolsandtradeoffs.pdf)

In his National Defense University speech, Obama seemed to flirt with the idea of imposing judicial review on future such strikes, saying that he had “asked my Administration to review proposals to extend oversight of lethal actions outside of warzones that go beyond our reporting to Congress.” But his embrace was less than fulsome. While “[e]ach option has virtues in theory,” he said, there are “difficulties in practice. For example, the establishment of a special court to evaluate and authorize lethal action has the benefit of bringing a third branch of government into the process, but raises serious constitutional issues about presidential and judicial authority.” He worried that establishing an independent oversight board within the executive branch would “introduce a layer of bureaucracy into national-security decision-making, without inspiring additional public confidence in the process.” He promised nothing more than to “actively engag[e] Congress to explore these—and other—options for increased oversight.”86

### 2nr Jaffer

#### Date last march and only about FOIA requests

Jaffer 13 (Jameel Jaffer, Deputy Legal Director, ACLU, “What the Government Should Disclose About Its Targeted Killing Program,” <https://www.aclu.org/blog/national-security/what-government-should-disclose-about-its-targeted-killing-program>)

The immediate consequence of the appeals court's ruling is that the CIA must answer a Freedom of Information Act request submitted by the American Civil Liberties Union more than three years ago — the agency must disclose records about the program or supply a legally sufficient justification for withholding them. But the ruling should trigger some deeper reflection within the Obama administration. Is the secrecy surrounding the killing program truly necessary? Shouldn't the public know who is being killed, and why?

### carol moore

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

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

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

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

#### Now: google carol moore terrorism and go to her website