## 1nc

### 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.”

#### The affs restriction on executive privilege uniquely shreds polcap

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

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

#### That ruins Obamas position

**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." “Clearly a loss is a loss,” a Senate Democratic aide noted. Publicly, senior party members are seeking to put a firewall between a failed Syria vote — one that Democrats might have a hand in — and fiscal matters. Rep. Gerry Connolly (D-Va.) said Friday that the fear of damaging Obama just eight months into his second term "probably is in the back of people's minds" heading into the Syria vote. But the issue has not percolated enough to influence the debate. "So far it hasn't surfaced in people's thinking explicitly," Connolly told MSNBC. "People have pretty much been dealing with the merits of the case, not about the politics of it — on our side." Moran said he doesn't think the political aftershocks would be the “deciding factor” in their Syria votes. "I rather doubt that most of my colleagues are looking at the bigger picture," he said, "and even if they were, I don't think it would be the deciding factor." Moran said the odds of passing the measure in the House looked slim as of Friday. Other Democrats are arguing that the Syria vote should be viewed in isolation from other matters before Congress. “I think it’s important each of these major issues be decided on its own — including this one,” Rep. Sander Levin (Mich.), senior Democrat on the House Ways and Means Committee, said Friday. With Obama scheduled to address the country Tuesday night, several Democrats said the fate of the Syria vote could very well hinge on the president's ability to change public opinion. “This is going to be a fireside chat, somewhat like it was in the Thirties," Levin said. "I wasn’t old enough to know, one has to remember how difficult it was for President Roosevelt in WWII." Rep. Elijah Cummings (D-Md.), who remains undecided on the Syria question, agreed. "It's very, very important that the case for involvement in Syria not only be made to the members of Congress and the Senate, but it must also be made to the American people," Cummings said Friday in the Capitol. Still other Democrats, meanwhile, are arguing that the ripple effects of a Syria vote are simply too complicated to game out in advance. Some said the GOP has shown little indication it will advance Obama’s agenda even after his reelection, so a Syria failure would do little damage. “There is a constant wounding [of Obama] going on with the Tea Party on budgets, appropriations and the debt ceiling,” said Rep. Sheila Jackson Lee (D-Texas). “I am going to reach out to my colleagues, Tea Party or not, and ask is this really the way you want to project the political process?” Jackson Lee said using Syria to score political points would be “frolicking and frivolity” by the Tea Party. Yet others see a more serious threat to the Democrats' legislative agenda if the Syria vote fails. A Democratic leadership aide argued that Republicans — some of whom are already fundraising on their opposition to the proposed Syria strikes — would only be emboldened in their fight against Obama's agenda if Congress shoots down the use-of-force resolution. "It's just going to make things harder to do in Congress, that's for sure," the aide said Friday. But other aides said Obama could also double down on fighting the cuts from sequestration if he becomes desperate for a win after Syria, and the net effect could be positive. A leading Republican strategist echoed that idea. “Should the President lose the vote in Congress, he will be severely weakened in the eyes of public opinion, the media, the international crowd and the legislative branch," The Hill columnist John Feehery said Friday on his blog.

#### Taking Obama off message undermines the pressure strategy

**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.

#### 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 topicality

#### War power authority IS Commander-in-Chief authority

Linn 00 (Alexander C., JD -- College of William and Mary School of Law, “International Security and the War Powers Resolution,” William & Mary Bill of Rights Journal, 8 Wm. & Mary Bill Rts. J.

725 (2000), <http://scholarship.law.wm.edu/wmborj/vol8/iss3/9/>)

American military deployments are increasingly part of a multilateral U.N. Security Council ("Security Council") effort to counter threats to international security and human rights.2 Arguably, this creates a mandate for a greater centralization of the war power 3 in the Executive, with authority to act swiftly and decisively through the American delegate to the U.N.4 Such an argument seeks to expand executive authority in military affairs by relying on the President's constitutional role as "Commander in Chief of the Army and Navy of the United States, and of the militia of the several States, when called into the actual Service of the United States."5 Alternatively, the trend towards multilateral U.N. military actions may bolster the mandate for Congress to assert a stronger role in the use of the U.S. military to pursue U.N. objectives. If American military involvement is challenged by congressional discontent or even by congressional approval when approval comes too slowly to give certainty to American commitments, the commitment to protect international security may prove unenforceable when the Security Council decides to counter a belligerent state,. This argument seeks to expand legislative authority in military affairs by relying on the legislature's constitutional power to declare war and maintain military forces.6 Arguably, a swift framework for assessing legislative approval would enhance international security by allowing for a more rapid deployment.

[Continues to Footnote 3]

"War Power" is **defined** as "[the constitutional authority of Congress to declare war and maintain armed forces (U.S. Const. art. I, § 8, cls. 11-14), and of the President to conduct war as commander-in-chief (U.S. Const. art. II, § 2, cl. 1)." BLACK'S LAW DICTIONARY 1578-79 (7th ed. 1999).

#### Targeted Killing is an intentional use of lethal force against a specific individual

**Alston 11** – Professor of Law at NYU, (Philip, UN Special Rapporteur on extrajudicial, summary or arbitrary executions from 2004 until 2010, “ARTICLE: The CIA and Targeted Killings Beyond Borders,” 2 Harv. Natand#39;l Sec. J. 283)

There are thus three central requirements for a workable definition. The first is that it be able to embrace the different bodies of international law that apply and is not derived solely from either IHRL or IHL. The second is that it should not prejudge the question of the legality or illegality [\*298] of the practice in question. And the third is that it must be sufficiently flexible to be able to encompass a broad range of situations in relation to which it has regularly been applied. The common element in each of the very different contexts noted earlier is that lethal force is intentionally and deliberately used, with a degree of pre-meditation, against an individual or individuals specifically identified in advance by the perpetrator. n43 In a targeted killing, the specific goal of the operation is to use lethal force. This distinguishes targeted killings from unintentional, accidental, or reckless killings, or killings made without conscious choice. It also distinguishes them from law enforcement operations, e.g., against a suspected suicide bomber. Under such circumstances, it may be legal for law enforcement personnel to shoot to kill based on the imminence of the threat, but the goal of the operation, from its inception, should not be to kill. Although in most circumstances targeted killings violate the right to life, in the exceptional circumstance of armed conflict, they may be legal. This is in contrast to other terms with which "targeted killing" has sometimes been interchangeably used, such as "extrajudicial execution," "summary execution," and "assassination," all of which are, by definition, illegal. n44 Consistent with the detailed analysis developed by Nils Melzer, n45 this Article adopts the following definition: a targeted killing is the intentional, premeditated, and deliberate use of lethal force, by States or their agents acting under color of law, or by an organized armed group in armed conflict, against a specific individual who is not in the physical custody of the perpetrator. n46

#### Restriction on authority must reduce permission to act – the plan doesn’t prevent the conduct of war

**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

#### Vote neg – they make any action relating to targeted killing powers topical, which explodes limits and makes it impossible to draw substantive distinctions between the squo and the plan which destroys all link ground

### 1nc executive cp

#### The President should release an Executive Order committing the branch to Solicitor General Representation and advance consultation with the Office of Legal Counsel regarding the legal basis and justifications for drone strikes.

#### The Department of Justice officials involved should call for providing all relevant executive documents outlining the legal basis and justifications for drone strikes to Congress.

#### The Executive Order should also require written disclosure of these Office of Legal Counsel opinions.

#### The Executive Branch should outline the legal basis and justifications for drone strikes in the area of targeted killing.

#### Executive pre-commitment to DOJ advice solves the aff

**Pillard 2005** – JD from Harvard, Faculty Director of Supreme Court Institute at Georgetown University Law Center, former Deputy Assistant Attorney General in the DOJ (February, Cornelia T., Michigan Law Review, 103.4, “The Unfulfilled Promise of the Constitution in Executive Hands”, 103 Mich. L. Rev. 676-758, http://scholarship.law.georgetown.edu/facpub/189/)

V. ENABLING EXECUTIVE CONSTITUTIONALISM

The courts indisputably do not and cannot fully assure our enjoyment of our constitutional rights, and it is equally clear that the federal executive has an independent constitutional duty to fulfill the Constitution's promise. Executive constitutionalism seems ripe with promise. Yet, it is striking how limited and court-centered the executive's normative and institutional approaches to constitutional questions remain.

One conceivable way to avoid the pitfalls of court-centric executive lawyering on one hand and constitutional decisions warped by political expedience on the other would be to make the Solicitor General and Office of Legal Counsel - or perhaps the entire Department of Justice - as structurally independent as an independent counsel or independent agency.207 Making the SG and OLC independent in order to insulate them from politics presumably would alleviate the "majoritarian difficulty" resulting from their service to elected clients. Promoting fuller independence in that sense does not, however, appear to be clearly normatively attractive, constitutionally permissible, nor particularly feasible. In all the criticism of our current constitutionalism, there is little call for an SG or OLC that would act, in effect, as a fully insulated and jurisprudentially autonomous constitutional court within the executive branch, operating with even less transparency and accountability than the Supreme Court. Moreover, as a practical matter it would be complex and problematic to increase the independence of the SG and OLC. The federal government faces Article II obstacles to formally insulating executive lawyers from politics and institutional pressures, and the president and his administration likely would be less amenable to guidance from such unaccountable lawyers.208

The challenge, rather, is to draw forth from the executive a constitutional consciousness and practice that helps the government actively to seek to fulfill the commitments of the Constitution and its Bill of Rights, interpreted by the executive as guiding principles for government. Adjustments to executive branch constitutional process and culture should be favored if they encourage the executive to use its experience and capacities to fulfill its distinctive role in effectuating constitutional guarantees. There is transformative potential in measures that break ingrained executive branch habits of looking to the Constitution only as it is mediated through the courts, and of reflexively seeking, where there is no clear doctrinal answer, to minimize constitutional constraint. It is difficult fully to imagine what kinds of changes would best prompt executive lawyers and officials to pick up constitutional analysis where the courts leave off, and to rely on the Constitution as an affirmative, guiding mandate for government action; what follows are not worked-out proposals, but are meant to be merely suggestive.

A. Correcting the Bias Against Constitutional Constraint

As we have seen, the SG's and OLC's default interpretive approach to individual rights and other forms of constitutional constraints on government is to follow what clear judicial precedents there are and, where precedents are not squarely to the contrary, to favor interpretations that minimize constitutional rights or other constitutional obligations on federal actors. Those court-centered and narrowly self-serving executive traditions produce a systematic skew against individual rights.

1. Encourage Express Presidential Articulation of Commitment to Constitutional Rights

To the extent that a president articulates his own rights-protective constitutional vision with any specificity, he ameliorates the tension his constitutional lawyers otherwise face between advancing individual rights and serving their boss's presumed interest in maximum governing flexibility. Case or controversy requirements and restrictions against courts issuing advisory opinions do not, of course, apply to the executive's internal constitutional decisionmaking, and presidents can better serve individual rights to the extent that they expressly stake out their constitutional commitments in general and in advance of any concrete controversy."° When the president takes a stand for advancing abortion rights, property rights, disability rights, "charitable choice," a right to bear arms, or full remediation of race and sex discrimination, he signals to his lawyers that they should, in those areas, set aside their default bias in favor of preserving executive prerogative, even if it requires extra executive effort or restraint to do so.

If presented in a concrete setting with a choice between interpreting and applying the Constitution in fully rights-protective ways or sparing themselves the effort where Supreme Court precedent can be read not to require it, government officials typically default to the latter course without considering whether they might thereby be giving short shrift to a constitutional duty. A president's stated commitment to protection of particular rights, however, flips the default position with respect to those rights, acting as a spur to executive-branch lawyers and other personnel to work to give effect to constitutional rights even where, for a range of institutional reasons, the courts would not. A president is thus uniquely situated to facilitate full executive-branch constitutional compliance by precommitting himself to a rights-protective constitutional vision, and thereby making clear that respect for constitutional rights is part of the executive's interest, not counter to it.

#### Solves every reason Congress is good without limiting authority

**Baker, 7 -** Chief Judge to the United States Court of Appeals for the Armed Forces, former Special Assistant to the President and Legal Advisor to the National Security Council (James, IN THE COMMON DEFENSE: NATIONAL SECURITY LAW FOR PERILOUS TIMES, p. 25-27)

Understanding process also entails an appreciation as to how to effectively engage the constitutional process between branches. Unilateral executive action has advantages in surprise, speed, and secrecy. In context, it is also functionally imperative. As discussed in Chapter 8, for example, military command could hardly function if it were subject to interagency, let alone, interbranch application. Unilateral decision and action have other advantages. Advantage comes in part from the absence of objection or dissent and in the avoidance of partisan political obstruction. In the view of some experts, during the past fifteen years, “party and ideology routinely trump institutional interests and responsibilities” in the Congress.6 These years coincide with the emergence of the jihadist threat.

However, there are also security benefits that derive from the operation of external constitutional appraisal. These include the foreknowledge of objection and the improvements in policy or execution that dissent might influence. Chances are, if the executive cannot sell a policy to members of Congress, or persuade the courts that executive actions are lawful, the executive will not be able to convince the American public or the international community.

A sustained and indefinite conflict will involve difficult public policy trade-offs that will require sustained public support; that means support from a majority of the population, not just a president’s political base or party. Such support is found in the effective operation of all the constitutional branches operating with transparency. Where members of Congress of both parties review and validate a policy, it is more likely to win public support. Likewise, where the government’s legal arguments and facts are validated through independent judicial review, they are more likely to garner sustained public support. Thus, where there is more than one legal and effective way to accomplish the mission, as a matter of legal policy, the president and his national security lawyers should espouse the inclusive argument that is more likely to persuade more people for a longer period of time. The extreme and divisive argument should be reserved for the extraordinary circumstance. In short, congressional and judicial review, not necessarily decision, offers a source of independent policy and legal validation that is not found in the executive branch alone.

Further, while the president alone has the authority to wield the tools of national security and the bureaucratic efficiencies to do so effectively, that is not to say the president does not benefit from maximizing his authority through the involvement and validation of the other branches of government. Whatever can be said of the president’s independent authority to act, as the Jacksonian paradigm recognizes, when the president acts with the express or implied authorization of the Congress in addition to his own inherent authority, he acts at the zenith of his powers. Therefore, those who believe in the necessity of executive action to preempt and respond to the terrorist threat, as I do, should favor legal arguments that maximize presidential authority. In context, this means the meaningful and transparent participation of the Congress and the courts.

Risk-taking in the field also increases where the government exercises shared authority. For sure, this statement is hard to demonstrate. The concept is nonetheless real. We know, of course, that Armed Forces’ morale improves with the knowledge of public support. But I am talking as well about the intelligence instrument, and specifically, risk-taking. As reflected in statements made to the National Commission on Terrorist Attacks Upon the United States (9/11 Commission), there is a cultural perception in the intelligence community that there is danger in acting too aggressively when the authority to do so is unclear or subject to political change. Where authority is embedded in statute, intelligence actors are on their surest footing. There can be no legitimate debate as to what was or was not authorized and therefore no excuse for not leaning forward in execution (unless the law itself is written with intentional or inadvertent ambiguity). As President Carter stated when he signed the Foreign Intelligence Surveillance Act (FISA) into law, “it assures that those who serve this country in intelligence positions will have the affirmation of Congress that their activities are lawful.”7

The inclusion of independent checks on executive action also reduces the potential for mistake because the executive takes particular care in what it tells the Congress and what it says in court. War powers reports, for example, may be bland, but they necessitate an internal process before they are submitted that causes senior officials to check their assumptions and their arguments before they send the report to the president and then to the Congress. More generally, the executive process of review tends to be more rigorous and more inclusive of views than when a decision is taken unilaterally, just as an inter-agency review is more inclusive than single intra-agency review, within the executive branch. That does not mean mistakes are frequent, but they tend to be devastating to public diplomacy, and create lasting and sometime erroneous impressions when they do occur, as in the case of the erroneous bombing of the Chinese Embassy during the Kosovo conflict or the rendition of an erroneous subject. Additional checks do not necessarily eliminate mistakes; they diminish the potential for error. And they demonstrate confidence in policy choice and legal arguments and a willingness to account for effect.

### 1nc white paper 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 issue a white paper stating that, in the conduct of its oversight it has reviewed ongoing targeted killing operations and determined that the government is conducting such operations in 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.

#### Statutes not key—the counterplan is an informal check that accomplishes the same thing

Gregory McNeal 13, Associate Professor of Law, Pepperdine University, 3/5/13, “Targeted Killing and Accountability,” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1819583>

Perhaps the most obvious way to add accountability to the targeted killing process is for someone in government to describe the process the way this article has, and from there, defend the process. The task of describing the government’s policies in detail should not fall to anonymous sources, confidential interviews, and selective leaks. Government’s failure to defend policies is not a phenomenon that is unique to post 9/11 targeted killings. In fact, James Baker once noted

"In my experience, the United States does a better job at incorporating intelligence into its targeting decisions than it does in using intelligence to explain those decisions after the fact. This in part reflects the inherent difficulty in articulating a basis for targets derived from ongoing intelligence sources and methods. Moreover, it is hard to pause during ongoing operations to work through issues of disclosure…But articulation is an important part of the targeting process that must be incorporated into the decision cycle for that subset of targets raising the hardest issues…"519

Publicly defending the process is a natural fit for public accountability mechanisms. It provides information to voters and other external actors who can choose to exercise a degree of control over the process. However, a detailed public defense of the process also bolsters bureaucratic and professional accountability by demonstrating to those within government that they are involved in activities that their government is willing to publicly describe and defend (subject to the limits of necessary national security secrecy). However, the Executive branch, while wanting to reveal information to defend the process, similarly recognizes that by revealing too much information they may face legal accountability mechanisms that they may be unable to control, thus their caution is understandable (albeit self-serving).520

It’s not just the Executive branch that can benefit from a healthier defense of the process. Congress too can bolster the legitimacy of the program by specifying how they have conducted their oversight activities. The best mechanism by which they can do this is through a white paper. That paper could include:

A statement about why the committees believe the U.S. government's use of force is lawful. If the U.S. government is employing armed force it's likely that it is only doing so pursuant to the AUMF, a covert action finding, or relying on the President's inherent powers under the Constitution. Congress could clear up a substantial amount of ambiguity by specifying that in the conduct of its oversight it has reviewed past and ongoing targeted killing operations and is satisfied that in the conduct of its operations the U.S. government is acting consistent with those sources of law. Moreover, Congress could also specify certain legal red lines that if crossed would cause members to cease believing the program was lawful. For example, if members do not believe the President may engage in targeted killings acting only pursuant to his Article II powers, they could say so in this white paper, and also articulate what the consequences of crossing that red line might be. To bolster their credibility, Congress could specifically articulate their powers and how they would exercise them if they believed the program was being conducted in an unlawful manner. Perhaps stating: "The undersigned members affirm that if the President were to conduct operations not authorized by the AUMF or a covert action finding, we would consider that action to be unlawful and would publicly withdraw our support for the program, and terminate funding for it."

A statement detailing the breadth and depth of Congressional oversight activities. When Senator Feinstein released her statement regarding the nature and degree of Senate Intelligence Committee oversight of targeted killing operations it went a long way toward bolstering the argument that the program was being conducted in a responsible and lawful manner. An oversight white paper could add more details about the oversight being conducted by the intelligence and armed services committees, explaining in as much detail as possible the formal and informal activities that have been conducted by the relevant committees. How many briefings have members attended? Have members reviewed targeting criteria? Have members had an opportunity to question the robustness of the internal kill-list creation process and target vetting and validation processes? Have members been briefed on and had an opportunity to question how civilian casualties are counted and how battle damage assessments are conducted? Have members been informed of the internal disciplinary procedures for the DoD and CIA in the event a strike goes awry, and have they been informed of whether any individuals have been disciplined for improper targeting? Are the members satisfied that internal disciplinary procedures are adequate?

3) Congressional assessment of the foreign relations implications of the program. The Constitution divides some foreign policy powers between the President and Congress, and the oversight white paper should articulate whether members have assessed the diplomatic and foreign relations implications of the targeted killing program. While the white paper would likely not be able to address sensitive diplomatic matters such as whether Pakistan has privately consented to the use of force in their territory, the white paper could set forth the red lines that would cause Congress to withdraw support for the program. The white paper could specifically address whether the members have considered potential blow-back, whether the program has jeopardized alliances, whether it is creating more terrorists than it kills, etc. In specifying each of these and other factors, Congress could note the types of developments, that if witnessed would cause them to withdraw support for the program. For example, Congress could state "In the countries where strikes are conducted, we have not seen the types of formal objections to the activities that would normally be associated with a violation of state's sovereignty. Specifically, no nation has formally asked that the issue of strikes in their territory be added to the Security Council's agenda for resolution. No nation has shot down or threatened to shoot down our aircraft, severed diplomatic relations, expelled our personnel from their country, or refused foreign aid. If we were to witness such actions it would cause us to question the wisdom and perhaps even the legality of the program."

#### It’s competitive

**Swaine, 10 -** Associate Professor, George Washington University Law School (Edward, “THE POLITICAL ECONOMY OF YOUNGSTOWN” <http://scholarship.law.gwu.edu/cgi/viewcontent.cgi?article=1017&context=faculty_publications>)

Furthermore, Justice Jackson’s framework also suggested that congressional will could be expressed non-statutorily – again, at least insofar as its negative was involved. Assessing Truman’s seizure, Jackson appeared to reason that the absence of circumstances qualifying for Category One or Category Two necessarily meant that Category Three applied; where “the President cannot claim that [his action was] necessitated or invited by failure of Congress to legislate,” he suggested, such an action must be incompatible with the implied will of Congress.104 That implied will might be expressed informally,105 as clarified by passages from the other concurrences to which Justice Jackson expressly subscribed.106 Justices Black and Frankfurter, in particular, each invoked congressional inaction – namely, the fact that Congress had refused amendments to the Taft-Hartley Act that would have clearly given President Truman seizure authority.107 If congressional will can be informally expressed, as by refusing to take action, it suggests the relevance of acts by a subset of Congress rather than Congress as a whole. Individual legislators, certainly, may rise in sufficient opposition to defeat a statutory initiative, and a committee may prevent a bill from making the requisite progress. Presumably other “soft law” measures – like simple resolutions passed by the majority of one house only, or concurrent resolutions passed by both houses but not presented to the President – would be even better indicia.108

#### Politics net benefit

**Harvard Law Review, 11** (“A CHEVRON FOR THE HOUSE AND SENATE: DEFERRING TO POST-ENACTMENT CONGRESSIONAL RESOLUTIONS THAT INTERPRET AMBIGUOUS STATUTES” 124 Harv. L. Rev. 1507, April, lexis)

If Congress wishes to resolve a statutory ambiguity, it always has the option of passing a law via bicameralism and presentment. In reality, however, passing laws is extremely difficult, and often the legislative enactment costs are simply greater than the benefits of resolving the ambiguity correctly. n1 Indeed, these high legislative enactment costs are among the reasons that so many of our statutes set forth broad principles rather than specify concrete requirements: gaining consensus on concrete textual mandates imposes even more costs on the already difficult process of legislation. A future Congress may want to clarify these vague statutory mandates as societal, legal, or technological circumstances change, as the consequences of certain policy choices become more apparent, or as legislators simply resolve their differences of opinion. But the costs of legislating a fix are usually too high. n2 Some leading commentators argue that this problem of statutory ossification due to high legislative enactment costs requires judges to interpret statutes as living documents. Professor William Eskridge claims that a statute’s meaning changes over time, and thus judges should “dynamically” interpret statutes.3 Judge Calabresi argues that judges should “update” obsolete statutes by striking down or ignoring any statute that is “sufficiently out of phase with the whole [contemporary] legal framework so that, whatever its age, it can only stand if a current majoritarian or representative body reaffirms it.”4 However, most commentators have criticized such approaches as putting too much power in the hands of unelected and unaccountable judges.5 Instead, Congress has largely relied on administrative agencies to continually update the policies that implement various statutes. When charged with administering statutes, such agencies often have the authority to interpret the legislation's vague commands by translating them into more precise and concrete rules. n6 Moreover, courts have given great deference to agency interpretations of ambiguous statutes under Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc. n7 These agency interpretations, although the products of a more politically accountable process than judicial interpretations, nonetheless are not as publicly deliberative or as nationally representative as a congressional decision. Worse, many other statutes that are similarly indefinite are not administered by any particular agency, thus leaving courts with the primary responsibility to develop the law - and thus the policy - under these statutes, despite judges' lack of expertise and accountability. n8 But by prohibiting one house of Congress from vetoing agency actions, the Supreme Court, in INS v. Chadha, n9 limited Congress's role in administering statutes, despite its institutional advantages over courts - and, in some respects, over agencies - in developing policy. In a recent article, Professors Jacob Gersen and Eric Posner suggest that courts should pay greater attention to post-enactment congressional resolutions when interpreting statutes. n10 This Note develops their idea by proposing more modest congressional involvement than the legislative veto invalidated in Chadha: courts should defer to a [\*1509] House or Senate resolution that adopts a reasonable interpretation of an ambiguous statute. n11 For statutes not administered by any agency with interpretive authority, such deference to a congressional resolution would improve lawmaking by bringing to bear the legislature's policy expertise and democratic accountability. But even for statutes administered by agencies, this proposal would increase accountability. Further, this proposal would help to restore checks and balances and the Constitution's original allocation of power by making the House and Senate coequal with executive agencies in interpreting ambiguous statutory provisions. Whenever these institutions disagree, courts should simply adopt their own best reading of the statute, de novo. I. Statutes Without Agencies Courts should give Chevron-like deference to any resolution passed by either the House or the Senate that reasonably interprets a statutory ambiguity. When deciding whether to defer to such a congressional resolution, courts should engage in both steps of the Chevron analysis, just as they do for agency interpretations of statutes: First, the statute must be "silent or ambiguous with respect to the specific issue" addressed by the congressional resolution. n12 Second, the resolution's interpretation must be "based on a permissible construction of the statute." n13

### Drone Prolif

#### No impact to drone prolif

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

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

#### Doesn’t outweigh nuclear conflict – their ev just says no risk of prolif, not that nuke war isn’t real or bad

#### Drone prolif is slow and the impact is small

**Zenko ’13** [Micah, Douglas Dillon fellow in the Center for Preventive Action (CPA) at the Council on Foreign Relations (CFR). Previously, he worked for five years at the Harvard Kennedy School and in Washington, DC, at the Brookings Institution, Congressional Research Service, and State Department’s Office of Policy Planning, “Reforming U.S. Drone Strike Policies,” January, Council Special Report No. 65, online]

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

#### US norms mean nothing

**Anderson 11** [Kenneth, 10/9/2011, “What Kind of Drones Arms Race Is Coming?” http://opiniojuris.org/2011/10/09/what-kind-of-drones-arms-race-is-coming/]

By asserting that “we’re” creating it, this is a claim that there is an arms race among states over military drones, and that it is a consequence of the US creating the technology and deploying it — and then, beyond the technology, changing the normative legal and moral rules in the international community about using it across borders. In effect, the combination of those two, technological and normative, forces other countries in strategic competition with the US to follow suit. It sounds like it must be true. But is it? There are a number of reasons to doubt that moves by other countries are an arms race in the sense that the US “created” it or could have stopped it, or that something different would have happened had the US not pursued the technology or not used it in the ways it has against non-state terrorist actors. Here are a couple of quick reasons why I don’t find this thesis very persuasive, and what I think the real “arms race” surrounding drones will be. Unmanned aerial vehicles have clearly got a big push from the US military in the way of research, development, and deployment. But the reality today is that the technology will transform civil aviation, in many of the same ways and for the same reasons that another robotic technology, driverless cars (which Google is busily plying up and down the streets of San Francisco, but which started as a DARPA project), will eventually have an important place in ordinary ground transport. UAVs will eventually move into many roles in ordinary aviation, because it is cheaper, relatively safer, more reliable — and it will eventually include cargo planes, crop dusting, border patrol, forest fire patrols, and many other tasks. There is a reason for this — the avionics involved are simply not so complicated as to be beyond the abilities of many, many states. Military applications will carry drones many different directions, from next-generation unmanned fighter aircraft able to operate against other craft at much higher G stresses to tiny surveillance drones. But the flying-around technology for aircraft that are generally sizes flown today is not that difficult, and any substantial state that feels like developing them will be able to do so. But the point is that this was happening anyway, and the technology was already available. The US might have been first, but it hasn’t sparked an arms race in any sense that absent the US push, no one would have done this. That’s just a fantasy reading of where the technology in general aviation was already going; Zenko’s ‘original sin’ attribution of this to the US opening Pandora’s box is not a credible understanding of the development and applications of the technology. Had the US not moved on this, the result would have been a US playing catch-up to someone else. For that matter, the off-the-shelf technology for small, hobbyist UAVs is simple enough and available enough that terrorists will eventually try to do their own amateur version, putting some kind of bomb on it. Moving on from the avionics, weaponizing the craft is also not difficult. The US stuck an anti-tank missile on a Predator; this is also not rocket science. Many states can build drones, many states can operate them, and crudely weaponizing them is also not rocket science. The US didn’t spark an arms race; this would occur to any state with a drone. To the extent that there is real development here, it lies in the development of specialized weapons that enable vastly more discriminating targeting. The details are sketchy, but there are indications from DangerRoom and other observers (including some comments from military officials off the record) that US military budgets include amounts for much smaller missiles designed not as anti-tank weapons, but to penetrate and kill persons inside a car without blowing it to bits, for example. This is genuinely harder to do — but still not all that difficult for a major state, whether leading NATO states, China, Russia, or India. The question is whether it would be a bad thing to have states competing to come up with weapons technologies that are … more discriminating.

#### Conventional weapons disprove the Caucasus impact

Sultanova, 13 [Neighbourhood Watches as Azerbaijan Arms Up Unable to match Baku’s big spending, Armenia relies on special relationship with Moscow. By Shahla Sultanova, Yekaterina Poghosyan - Caucasus CRS Issue 695, 25 Jul 13,http://iwpr.net/report-news/neighbourhood-watches-azerbaijan-arms]

Azerbaijan’s rapid arms build-up is cause for concern in the region, with some defence analysts warning that it heightens the risk of renewed conflict. President Ilham Aliyev frequently boasts of the amount of money his oil-rich state can afford to spend on weaponry. Appearing at a military parade in Baku on June 26. he took the opportunity to remind everyone that at 3.7 billion US dollars, annual defence expenditure is nearly twice the size of neighbouring Armenia’s entire government budget. A decade ago, Azerbaijan’s defence budget stood at 160 million dollars. “In recent years we have purchased the most sophisticated hardware,” Aliyev said in his address at the parade. “We have purchased about 100 combat and transport helicopters, dozens of combat aircraft, and the most advanced anti-aircraft systems. [Our] armoured vehicles, modern tanks and artillery pieces are capable of destroying any enemy target.” The armoured vehicles rolling past included new tanks bought from Russia. Overhead, 100 military aircraft flew by as 40 naval vessels floated offshore in the Caspian Sea. Aliyev noted that all this hardware was not just for show; it was needed because of the unresolved conflict with Armenia over Nagorny Karabakh. Yashar Jafarli, a defence expert who heads the Baku-based Association of Reserve and Retired Officers, said the arms acquisitions came from traditional suppliers Russia, Ukraine and Belarus, and increasingly also from Israel, Turkey, South Africa and Pakistan. In mid-June, the Moscow paper Vedomosti reported that Russia was supplying armoured vehicles and artillery worth up to one billion US dollars to Azerbaijan. The news was of particular concern to Armenian officials, since Moscow is both a close ally and part of the three-member OSCE group mediating in the Karabakh conflict, but appears happy to profit from Azerbaijan’s spending spree. On a visit to Armenia, Nikolai Patrushev, secretary of Russia’s Security Council, tried to portray the sales as no more than normal business, and argued that it would not change the military balance in the region. Patrushev’s counterpart Artur Baghdasaryan, secretary of Armenia’s National Security Council, also downplayed the significance of the deal. “We must not fall into a panic because Azerbaijan has acquired military equipment from Russia. Azerbaijan buys weapons from other countries as well. Russia has its own relationship with Azerbaijan, and it bases that relationship on its own interests,” Baghdasaryan said. Richard Giragosian, director of the Centre for Regional Studies in Yerevan, said reports of massive arms shipments from Russia had revived fears that the delicate balance of power in the South Caucasus was tipping in Azerbaijan’s favour. It might also indicate an intention to re-take Karabakh by force. The Nagorny Karabakh region was part of Soviet-era Azerbaijan but has been controlled by a local Armenian administration since the early 1990s war that ended in a truce but no peace deal. “Although international reactions to Azerbaijan’s latest procurement of offensive weapons have been largely muted, there is a clear imperative for greater concern over the now shifting balance of power between Armenia and Azerbaijan, which is an inherent threat to the fragile ceasefire,” he said.

#### No escalation—great powers don’t want it

**Kucera 10**—regular contributor to U.S. News and World Report, Slate and EurasiaNet (Joshua, Central Asia Security Vacuum, 16 June 2010, http://the-diplomat.com/2010/06/16/central-asia%E2%80%99s-security-vacuum/)

Note – CSTO = Collective Security Treaty Organization

Yet when brutal violence broke out in one of the CSTO member countries, Kyrgyzstan, just days later, the group didn’t respond rapidly at all. Kyrgyzstan’s interim president, Roza Otunbayeva, even asked Russia to intervene, but Russian President Dmitry Medvedev responded that Russians would only do so under the auspices of the CSTO. And nearly a week after the start of the violence—which some estimate has killed more than 1000 people and threatens to tear the country apart—the CSTO has still not gotten involved, but says it is ‘considering’ intervening. ‘We did not rule out the use of any means which are in the CSTO’s potential, and the use of which is possible regardless of the development of the situation in Kyrgyzstan,’ Russian National Security Chief Nikolai Patrushev said Monday. On June 10-11, another regional security group, the Shanghai Cooperation Organisation, held its annual summit in Tashkent, Uzbekistan. The SCO has similar collective security aims as the CSTO, and includes Russia, China and most of the Central Asian republics, including Kyrgyzstan. But despite the violence that was going on even as the SCO countries’ presidents met in Uzbekistan, that group also didn’t involve itself in the conflict, and made only a tepid statement calling for calm. Civil society groups in Kyrgyzstan and Uzbekistan (much of the violence is directed toward ethnic Uzbeks in Kyrgyzstan, and the centre of the violence, the city of Osh, is right on the border of Uzbekistan) called on the United Nations to intervene. And Otunbayeva said she didn’t ask the US for help. Even Uzbekistan, which many in Kyrgyzstan and elsewhere feared might try to intervene on behalf of ethnic Uzbeks, has instead opted to stay out of the fray, and issued a statement blaming outsiders for ‘provoking’ the brutal violence. The violence has exposed a security vacuum in Central Asia that no one appears interested in filling. In spite of all of the armchair geopoliticians who have declared that a ‘new Great Game’ is on in Central Asia, the **major powers seem** distinctly **reluctant to expand their spheres of influence there**. Why? It’s possible that, amid a tentative US-Russia rapprochement and an apparent pro-Western turn in Russian foreign policy, **neither side wants to antagonize** the other. The United States, obviously, also is overextended in Iraq and Afghanistan and has little interest in getting in the middle of an ethnic conflict in Kyrgyzstan. It’s possible that the CSTO Rapid Reaction Force isn’t ready for a serious intervention as would be required in Kyrgyzstan. (It’s also possible that Russia’s reluctance is merely a demure gesture to ensure that they don’t seem too eager to get involved; only time will tell.)

#### No war—lesson learning and tension management

Irina **Zviagel'skaia**, leading research fellow at the Institute of Oriental Studies, the Russian Academy of Sciences, Moscow, June **2005**. “Russia and Central Asia: Problems of Security,” Central Asia at the End of the Transition, ed. Boris Rumer, <http://books.google.com/books?id=cnXVyW1QIIYC&pg=PA86&lpg=PA86&dq=%22central+asia%22+numerous+challenges+stability&source=web&ots=-3Uve6KFdU&sig=62TKLdSLAgBp6rszCPvbUBtjjVY&hl=en#PPR5,M1>.

Notwithstanding these numerous challenges, in general the countries of Central Asia have demonstrated stability in the course of their existence as independent states. This region, in contrast to the Caucasus, has not witnessed armed conflicts between states, or wars driven by separatist or irredentist movements. To be sure, such movements do in fact exist, and interethnic tensions are constantly felt. The exception, as already noted, is Tajikistan, where a civil war unfolded in the early 1990s. However, it was precisely the **lessons** of Tajikistan that **have been learned** by the regimes in other states. Nowhere else has a single leader permitted the creation of organized opposition. Although differing in the degree of harshness used to repress political opponents, these former leaders of the Communist Party of the Soviet Union are well versed in political-bureaucratic games and have demonstrated a high level of survivability.

#### Congress kills drones

**Sorcher 13** (Sara Sorcher, national security staff writer for National Journal covering the business of war, referencing a poll of national security experts, May 30, 2013, National Security Insiders: It's Possible for Congress to Oversee Drone Program, http://www.nationaljournal.com/insiders-polls/nationalsecurity/national-security-insiders-it-s-possible-for-congress-to-oversee-drone-program-20130311)

Some Insiders, even as they stressed oversight is possible, cast doubt on the extent to which Congress should be involved. "Congress's oversight should be periodic reviews — not daily operational reviews," one Insider said. Another added: "Congress **cannot and should not micromanage**." Others cautioned that lawmakers would need to assert themselves on this issue to achieve oversight responsibilities. It is possible for Congress to keep the executive branch in check, an Insider said, only if members “are willing to use their constitutional power of the purse to enforce their oversight of defense and intelligence programs.” Another 39 percent said proper oversight from Congress is not possible. "Congressional oversight is usually an oxymoron. **The institution lacks the expertise and accountability to objectively evaluate these issues, and they're divided along partisan lines,**" one Insider said. "We need an external blue ribbon commission to take a look at what can/cannot be said/done." Congress is a political animal, another Insider added. "Regrettably, details on drone strikes given to the Senate will inevitably be leaked and made public. This is one of the reasons the framers of the Constitution made the president the commander in chief of the armed forces."

#### 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.

#### Nuclear terrorism is feasible---high risk of theft and attacks escalate

Vladimir Z. Dvorkin ‘12 Major General (retired), doctor of technical sciences, professor, and senior fellow at the Center for International Security of the Institute of World Economy and International Relations of the Russian Academy of Sciences. The Center participates in the working group of the U.S.-Russia Initiative to Prevent Nuclear Terrorism, 9/21/12, "What Can Destroy Strategic Stability: Nuclear Terrorism is a Real Threat," belfercenter.ksg.harvard.edu/publication/22333/what\_can\_destroy\_strategic\_stability.html

Hundreds of scientific papers and reports have been published on nuclear terrorism. International conferences have been held on this threat with participation of Russian organizations, including IMEMO and the Institute of U.S. and Canadian Studies. Recommendations on how to combat the threat have been issued by the International Luxembourg Forum on Preventing Nuclear Catastrophe, Pugwash Conferences on Science and World Affairs, Russian-American Elbe Group, and other organizations. The UN General Assembly adopted the International Convention for the Suppression of Acts of Nuclear Terrorism in 2005 and cooperation among intelligence services of leading states in this sphere is developing.¶ At the same time, these efforts fall short for a number of reasons, partly because various acts of nuclear terrorism are possible. Dispersal of radioactive material by detonation of conventional explosives (“dirty bombs”) is a method that is most accessible for terrorists. With the wide spread of radioactive sources, raw materials for such attacks have become much more accessible than weapons-useable nuclear material or nuclear weapons. The use of “dirty bombs” will not cause many immediate casualties, but it will result into long-term radioactive contamination, contributing to the spread of panic and socio-economic destabilization.¶ Severe **consequences can be caused by sabotaging nuclear power plants, research reactors, and radioactive materials storage facilities. Large cities are especially vulnerable to such attacks. A large city may host dozens of research reactors with a nuclear power plant or a couple of spent nuclear fuel storage facilities and dozens of large radioactive materials storage facilities located nearby.** The past few years have seen significant efforts made to enhance organizational and physical aspects of security at facilities, especially at nuclear power plants. Efforts have also been made to improve security culture. But these efforts do not preclude the possibility that well-trained terrorists may be able to penetrate nuclear facilities.¶ Some estimates show that sabotage of a research reactor in a metropolis may expose hundreds of thousands to high doses of radiation. A formidable part of the city would become uninhabitable for a long time.¶ Of all the scenarios, it is building an improvised nuclear device by terrorists that poses the maximum risk. **There are no engineering problems that cannot be solved if terrorists decide to build a simple “gun-type” nuclear device.** Information on the design of such devices, as well as implosion-type devices, is available in the public domain. It is the acquisition of weapons-grade uranium that presents the sole serious obstacle. Despite numerous preventive measures taken, we cannot rule out the possibility that such materials can be bought on the black market. Theft of weapons-grade uranium is also possible. Research reactor fuel is considered to be particularly vulnerable to theft, as it is scattered at sites in dozens of countries. There are about 100 research reactors in the world that run on weapons-grade uranium fuel, according to the International Atomic Energy Agency (IAEA).¶ A terrorist “gun-type” uranium bomb can have a yield of least 10-15 kt, which is comparable to the yield of the bomb dropped on Hiroshima. The explosion of such a bomb in a modern metropolis can kill and wound hundreds of thousands and cause serious economic damage. There will also be long-term sociopsychological and political consequences.¶ The vast majority of states have introduced unprecedented security and surveillance measures at transportation and other large-scale public facilities after the terrorist attacks in the United States, Great Britain, Italy, and other countries. These measures have proved burdensome for the countries’ populations, but the public has accepted them as necessary. A nuclear terrorist attack will make the public accept further measures meant to enhance control even if these measures significantly restrict the democratic liberties they are accustomed to. Authoritarian states could be expected to adopt even more restrictive measures.¶ If a nuclear terrorist act occurs, nations will delegate tens of thousands of their secret services’ best personnel to investigate and attribute the attack. Radical Islamist groups are among those capable of such an act. We can imagine what would happen if they do so, given the anti-Muslim sentiments and resentment that conventional terrorist attacks by Islamists have generated in developed democratic countries. Mass deportation of the non-indigenous population and severe sanctions would follow such an attack in what will cause **violent protests in the Muslim world**. **Series of armed clashing terrorist attacks may follow**. The prediction that Samuel Huntington has made in his book “The Clash of Civilizations and the Remaking of World Order” may come true. Huntington’s book clearly demonstrates that it is not Islamic extremists that are the cause of the Western world’s problems. Rather there is a deep, intractable conflict that is rooted in the fault lines that run between Islam and Christianity. This is especially dangerous for Russia because these fault lines run across its territory. To sum it up, the political leadership of Russia has every reason to revise its list of factors that could undermine strategic stability.  BMD does not deserve to be even last on that list because its effectiveness in repelling massive missile strikes will be extremely low. BMD systems can prove useful only if deployed to defend against launches of individual ballistic missiles or groups of such missiles. Prioritization of other destabilizing factors—that could affect global and regional stability—merits a separate study or studies. But even without them I can conclude that nuclear terrorism should be placed on top of the list. The threat of nuclear terrorism is real, and a successful nuclear terrorist attack would lead to a radical transformation of the global order.  All of the threats on the revised list must become a subject of thorough studies by experts. States need to work hard to forge a common understanding of these threats and develop a strategy to combat them.

#### Extinction---equivalent to full-scale nuclear war

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

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

#### Turns hegemony

**Bruntstetter 12** Daniel, Assistance Professor of Political Science at the School of Social Sciences at the University of California, "Drones: The Future of Warfare?", April 10, www.e-ir.info/2012/04/10/drones-the-future-of-warfare/

Since President Obama took office, the use of and hype surrounding drones has greatly increased. Obama has conducted more than three times as many drone strikes per year compared to his predecessor in the White House.[1] The increase use of drones points to a potential revolution in warfare, or at least a shift in the perspective of how wars will be fought in the future. As robotics expert P.W. Singer argues, “the introduction of unmanned systems to the battlefield doesn’t change simply how we fight, but for the first time changes who fights at the most fundamental level. It transforms the very agent of war, rather than just its capabilities.”[2] The three major reasons **drones are seen as the future of warfare** are: **they remove the risk to our soldiers, they make fewer mistakes than other weapons platforms, and technology will continue to improve such that drones become even more precise, efficient, and infallible in the future, thus rendering less precise, efficient and fallible human forms of war obsolete**. Drones are thus seen as marking “a step forward in humanitarian technology,” and viewed as “a weapon of choice for future presidents, future administrations, in future conflicts and circumstances of self-defense and vital national security of the United States.”[3] Yet, there has been much criticism of these assertions. Journalists challenge the claim that there are diminished civilian deaths from drone strikes, while just war scholars suggest that drones loosen the moral restraints on the use of force and legal scholars grapple with the relation between drones and international law.[4] Notwithstanding these ethical and legal challenges, and despite what advocates say about their place in the future of armed combat, drones are, like any weapons platform, inherently limited in what they can do. In this brief article, I make three claims to contextualize the idea that **drones are the future of war** to shed light on the circumscribed role they might play in the foreseeable future. First, that drones are an improvement – in terms of providing surveillance capabilities and satisfying the rules of war – compared to previous technology. Their technical advantages (loitering capacity, removal of risk to pilots, and precision) **make them an important addition to any military arsenal**. Second, however, drones are nevertheless limited in their potential. While perhaps the best option to fight Al Qaeda, they will not, due to their technical and tactical limitations, fully replace weapons with greater destructive and evasive capabilities because they are not equipped to respond to all scenarios within the subset of international crises. Third, the extent to which drones are the weapon of the future, they will not, despite the imagination of some pundits, remove entirely the human element from the future of war. Rather, humans, despite the hype surrounding drones, remain an essential piece of the future of war, and are subject to the inevitable risks associated with war. Technical Advantages of Drones The advantages of drones compared to other military options are well publicized, and fall into two categories.[5] In terms of surveillance, drones are capable of slipping across international borders with relative ease without putting human personnel at risk. Their ability to loiter over targets allows them to observe “patterns of life” to provide surveillance data 24/7, identify and track potential targets, and determine the best time to strike to avoid civilian casualties.[6] This leads to the second advantage: drones are claimed to be highly effective at satisfying the rules of war. In terms of lethal use of force, the pinpoint accuracy of their missiles and computer software that models the blast area of each proposed strike greatly reduces collateral damage compared to other weapons systems, and potentially could even **eliminate it.** In the words of one proponent, **drones provide a “limited, pinprick, covert strike” in order “to avoid a wider war**.”[7] Moreover, the removal of pilots from the zone of combat – drones are operated from a facility well removed from where the fighting takes place –arguably **eliminates the threat to our soldiers** and allows drone operators to make better targeting decisions because they do not fear for their own safety. All of this adds up to considerably diminished number of civilian casualties. According to one scholar, **these advantages lead to an “ethical obligation” to employ drones** instead of other more risky tactics. [8] These advantages have, thus far, dictated the use of drones by the United States. Despite a UN Special Committee Review on drones in 2009, and two hearings hosted by the U.S. House of Representatives in 2010 to discuss the moral and legal implications of drones, they have been the weapon of choice in Obama’s “war on Al Qaeda.” Yet, it is important to remember that this success in fighting terrorism should not be taken as evidence of drone effectiveness in all situations.

### Hegemony

#### No relationship between U.S. leadership and global stability

**Fettweis, 10** – National Security Affairs Naval War College (Christopher J.-, April, Survival, “Threat and Anxiety in US Foreign Policy”, Vol. 52 # 2, Informaworld)

One potential explanation for the growth of global peace can be dismissed fairly quickly: US actions do not seem to have contributed much. The limited evidence suggests that there is little reason to believe in the stabilising power of the US hegemon, and that there is no relation between the relative level of American activism and international stability. During the 1990s, the United States cut back on its defence spending fairly substantially. By 1998, the United States was spending $100 billion less on defence in real terms than it had in 1990, a 25% reduction.29 To internationalists, defence hawks and other believers in hegemonic stability, this irresponsible 'peace dividend' endangered both national and global security. 'No serious analyst of American military capabilities', argued neo-conservatives William Kristol and Robert Kagan in 1996, 'doubts that the defense budget has been cut much too far to meet America's responsibilities to itself and to world peace'.30 And yet the verdict from the 1990s is fairly plain: the world grew more peaceful while the United States cut its forces. No state seemed to believe that its security was endangered by a less-capable US military, or at least none took any action that would suggest such a belief. No militaries were enhanced to address power vacuums; no security dilemmas drove insecurity or arms races; no regional balancing occurred once the stabilis-ing presence of the US military was diminished. The rest of the world acted as if the threat of international war was not a pressing concern, despite the reduction in US military capabilities. Most of all, the United States was no less safe. The incidence and magnitude of global conflict declined while the United States cut its military spending under President Bill Clinton, and kept declining as the George W. Bush administration ramped the spending back up. Complex statistical analysis is unnecessary to reach the conclusion that world peace and US military expenditure are unrelated.

#### Structural alt causes overwhelm solvency

**Hudson 11** – chaired professor of IR, Director of the Middle East Institute at the National University of Singapore (Michael, Middle East Policy: A zero-sum game?, http://english.aljazeera.net/indepth/opinion/2011/08/201181681017137387.html)

But wait … you thought this article was about the Middle East! Well, it is - but you can't understand the fatigue and inertia in Washington's policies towards what it considers the most dangerous region of the world without this gloomy preamble.

The other day, following his uninspiring speech to the nation after Standard and Poor's downgrading of US bond ratings, President Obama took a helicopter up to Dover Air Force Base in Delaware to pay his respects to the 30 US special forces soldiers who had been shot down over Afghanistan. These casualties were the largest one-day loss in ten years of war. Bin Laden has been avenged. Afghanistan is now fully Obama's war, but getting out with dignity is proving much more difficult than going in. Meanwhile, officials and experts are expressing growing alarm over the political meltdown in Pakistan - accelerated by the military's humiliation over the US operation against bin Laden.

As for America's other war of choice in Iraq, the US cannot quite figure out whether to go or stay. Every day Iran extends its influence in the country the US once believed was a bulwark against Tehran's regional designs. Prime Minister Nuri al-Maliki's government, rife with corruption and inefficiency, still lacks the legitimacy to stand alone without continuing US military support. Kurdish-Arab tensions remain high, and now Muqtada al-Sadr has reemerged, calling upon his followers to kill any remaining US soldiers.

The public is fed up with these costly involvements in Afghanistan and Iraq - but isn't it lucky that Washington can easily afford them thanks to our robust economy?

Which side of history?

Then there is the so-called "Arab Spring". In a speech last June, Obama declared that the US was going to get on "the right side of history" by supporting the popular uprisings across the Arab world, instead of propping up dictators in hopes of containing Islamist radicalism. The US moved fairly quickly to abandon its "friends" - Ben Ali in Tunisia and Mubarak in Egypt - in those apparently "easy" revolutions. But now it watches uneasily as the new regimes struggle to legitimise themselves against continuing popular protest.

The less "easy" and ongoing upheavals in Libya, Yemen, Bahrain and Syria pose more perplexing problems. In Libya, Obama has come around to "leading from behind" Sarkozy and Cameron, because the Congress and the public are allergic to yet another US military adventure. Washington seems helpless to influence the chaotic situation in Yemen, where al-Qaeda and other anti-American elements are reportedly trying to fill the vacuum left by the injured and absent President Ali Abdullah Saleh.

Bahrain has exposed US inconsistency most dramatically. Verbal scoldings over a particularly brutal crackdown could not convince Arab and Muslim opinion that Washington was not applying a double standard - hardly standing on "the right side of history". The issue here was Saudi Arabia, which dispatched troops to help crush the Bahrain popular protests. King Abdullah - already furious that Washington had "betrayed" Ben Ali and Mubarak - did not conceal his displeasure over US dithering on Bahrain.

The Syrian revolt poses the most serious challenge to Obama. Characteristically, he has been slow to call for regime change because the Assad regime, unpleasant as it is, has been a stabilising element in the always volatile Arab-Israeli conflict. Washington and Tel Aviv both worry about the consequences of chaos as well as the behaviour of a successor regime. Still, the temptation to help bring down Iran's key ally in the eastern Mediterranean as well as weaken Lebanon's Hezbollah is strong, especially since the gross brutality of Assad's response to the protests so far has not stifled them. But the US has little real leverage apart from verbal criticism, and Assad thus far shows no sign of being cowed by Washington.

Indeed, the US, which has dominated almost the entire Middle East for decades, seems now to be a mere bystander to the historic upheavals shaking the region. Despite its pervasive military presence from the Mediterranean to the Gulf, the US lacks the respect that otherwise might give its words more weight.

Perhaps the primary cause of America's declining influence is its stance on the Arab-Israeli conflict. If the US was really serious about getting on "the right side of history" in the Middle East, it would have long since adopted a balanced and proactive stance. Let us say it frankly: this would mean putting tangible pressure on Israel to adhere to the international consensus - land for peace, based on the 1967 lines, in the framework of the 1967 UN Security Council Resolution 242. "Pathetic" does not adequately describe Obama's position on this matter. In fairness, several of his predecessors were almost equally supine.

Does Palestine still matter? It probably will matter even more as populist upheavals reshape the political landscape in the Arab world, as others have observed. Next month the Palestinian president, Mahmoud Abbas, plans to request that the UN General Assembly recognise a Palestinian state. Such a decision requires Security Council approval, and the US undoubtedly will veto the measure. "Voting against the Palestinian state would be a historic, deadly mistake in the record of US President Barack Obama, in whom there was hope for change," said Marwan Barghouti - perhaps the most popular of Palestinian leaders - from his prison cell in Israel recently. "Such a veto will be confronted by millions-strong protests throughout the Arab and Muslim world, indeed throughout the whole world."

Even if he were not overwhelmed by his domestic woes, Obama would find it difficult indeed to exert bold leadership on the Palestinian-Israeli issue. **Even if he wanted** to make the balanced course correction that so many favour, he finds himself hamstrung. His inner circle is too resistant, too close to Israeli interests. And a powerful coalition of the Israel lobby, Christian fundamentalists, "Tea Party" Republicans and policy hawks are calling for much tougher US policies toward Iran and Syria. A recent puff piece on Hillary Clinton in Vanity Fair comments approvingly: "And ever since Obama bollixed up his relations with Israeli Prime Minister Benjamin Netanyahu, in 2010, Hillary has worked overtime to soothe Bibi."

#### Detention alt cause

**Katulis**, Senior Fellow at CAP, **2009** (Brian, his work focuses on U.S. national security policy in the Middle East and South Asia, “Democracy Promotion in the middle east and the Obama administration,” http://tcf.org/publications/pdfs/pb681/Katulis.pdf, DA 8/15/11, atw)

Actions speak louder than words. In addition to changing how it talks about democracy and freedom, the United States must take tangible steps to regain its credibility in a process that one analyst calls “decontamination” from the negative practices associated with the Bush administration’s approach. 10 To reshape perceptions in the Middle East, the United States—including not only the Obama administration, but also members of Congress and representatives of the justice system—should find a solution to the policy question of thousands of detainees and prisoners under U.S. military control in Iraq; it should also continue its work in closing the Guantanamo detention camp and secret prison facilities run by the CIA, as well as abandon the practice of remanding terror suspects to countries with poor human rights records.

The detention of tens of thousands of individuals, many of whom are from the Middle East, outside a transparent international framework for the rule of law reduces American credibility on democratic reform and opens it up to charges of hypocrisy, with critics of U.S. policy pointing out human rights and rule of law abuses justified in the name of fighting the war on terror. As a matter of values and principles, the United States should work with other countries to develop a sustainable and viable justice system that deals with these detainees.

More broadly, the United States should take steps to restore habeas corpus and bring wiretap surveillance efforts back into the framework of the rule of law in the United States. Sending the signal that the United States is cleaning up its act on these fronts is a necessary step for reviving U.S. credibility on democracy promotion in the Middle East. Without some progress on these measures, **anything else** that the new administration tries to do on democracy promotion—whether it is political party building or civil society support, or any of the other traditional programs in the U.S. toolbox—will likely **yield few results** because of the substantial credibility gap. The new administration needs to send a clear message that the United States intends to practice what it preaches by adhering to the legal obligations it assumed in the International Covenant on Civil and Political Rights, the Convention against Torture, and other human rights treaties. Strengthening the legal framework for rule of law will require not only action on the part of the Obama administration but also engagement by leaders in the U.S. Congress. How the United States reintroduces itself to the world—keeping its national security policy in line with the highest human rights standards—will set the framework for how U.S. actions on the democracy promotion front are perceived throughout the Middle East.

#### Legitimacy fails—institutions suck and divergent interests prevent broader cooperation

**Chang 10** – Counsel to the American law firm Paul Weiss and earlier in Hong Kong as Partner in the international law firm Baker & McKenzie. oken at Columbia, Cornell, Princeton, Yale, and other universities and at The Brookings Institution, The Heritage Foundation, the Cato Institute, RAND, the American Enterprise Institute, the Council on Foreign Relations, and other institutions.  He has given briefings at the National Intelligence Council, the Central Intelligence Agency, the State Department, and the Pentagon.  He has also spoken before industry and investor groups including Bloomberg, Sanford Bernstein, and Credit Lyonnais Securities Asia.  Chang has testified before the U.S.-China Economic and Security Review Commission and has delivered to the Commission a report on the future of China’s economy, and has appeared on CNN, Fox News Channel, CNBC, MSNBC, PBS, the BBC, and Bloomberg Television. He has appeared on The Daily Show with Jon Stewart (Gordon G. January 18, “The End of Multilateralism” Vol. 15, No. 17 http://www.weeklystandard.com/articles/end-multilateralism )

Just before Christmas, the U.N. Security Council adopted an arms embargo on Eritrea, which has been supplying weapons to Islamic insurgents in nearby Somalia. In one sense, the strictly worded measure is a symbol of the international community’s determination to stop tragic conflicts in the Horn of Africa. The resolution, however, is years late and could end up having little effect. A similar U.N. embargo on Somalia has not prevented weapons from being freely traded in Mogadishu. The concept of global collective security, unfortunately, has not worked well, either last century or this one. It is no surprise that the United Nations is not meeting important challenges, but even once-successful global institutions are losing effectiveness. The International Monetary Fund, for instance, completely failed to handle—or even anticipate—the global economic downturn. The G-7 and G-8 are now thought to be irrelevant, and the G-20, considered a replacement for these two groupings, has little to show for three grand gatherings in 2008 and 2009. The World Trade Organization has been unable to prevent a resurgence of protectionism, and its Doha Round negotiations, now more than eight years old, have stalled. These negotiations could be the first major trade talks to fail since the 1930s. Last month’s Copenhagen climate change summit, the 15th installment of the once-productive Conference of the Parties talks, flopped even though it was hailed as “the most important meeting in the history of the world.” Weak nuclear rogues like Syria are now getting the better of the once-mighty International Atomic Energy Agency. North Korea has already outsmarted the watchdog organization by covertly building plutonium-core weapons, and Iran is developing an atomic warhead with impunity.  President Obama says the United States cannot solve the world’s problems alone. Maybe that’s true, but sooner or later he has to realize he’s not going to get the help of the world’s other powers. The “international community” is not coming together to solve common problems. This is not how we thought things would work out two decades ago. In the early 1990s, optimistic Western analysts predicted that, with the Soviet Union gone, the world would enter a generally harmonious era. As Francis Fukuyama famously argued, events would continue to occur, but “the evolution of human societies through different forms of government had culminated in modern liberal democracy and market-oriented capitalism.” Because democracies did not fight one another, the reasoning went, the international system would become more manageable. Nations would generally tend to agree with one another on the big issues—or at least manage to get along. In this type of world, multilateralism was not only considered possible, it was thought to be necessary and even desirable. Multilateralism, by its emphasis on consensual action, implicitly delegitimized America’s leading role in defending core Western values. So did the concept of globalization. Trade, the theory went, would lead to open -economies, open economies to prosperity, prosperity to representative governance, and representative governance to peace. In this extraordinarily benign environment, the impersonal forces of history, relentlessly grinding forward, would finish off Communists, autocrats, and bad actors of all stripes. As we now know, the opposite occurred. When the political barriers to trade fell, globalization indeed kicked into high gear, creating unprecedented amounts of wealth and liquidity. But global prosperity also strengthened hardline states, notably China and Russia, giving them the means to resist democratization, pursue aggressive foreign policies, and even bend the international system more to their liking. The Chinese, in particular, are displaying a newfound “sense of triumphalism” (as a senior U.S. official put it to the Washington Post last week) and are acting as if their economic success means they don’t have to listen to anybody. Developing democracies, such as India and Brazil, also gained prominence and a platform to pursue policies that differed from those of the more advanced nations.  The result is a world with many different voices, one where consensus, or even agreement, on important issues is not possible. Simply put, among the 195 nations of the world there is no common view of the troubling events of the day and no accepted approach to handling them. Even though the conditions that gave rise to multilateralism no longer exist, the concept has not only survived but attained the status almost of a geopolitical religion. In this environment, solutions are legitimate only if they are multilateral. Yet because multilateral solutions are becoming increasingly difficult to reach, problems fester. Most of the time, the best the international community can manage are lowest common denominator fixes on matters marginal to global security. It was thus utterly predictable that the Security Council chose last month to deal with Eritrea instead of, say, the Islamic Republic of Iran.

#### Legit not key to heg

Brooks and Wohlforth, 9 (Stephen Brooks and William Wohlforth, both are professors of Government at Dartmouth, “Reshaping the world order: how Washington should reform international institutions,” Foreign Affairs, March-April)

FOR ANALYSTS such as Zbigniew Brzezinski and Henry Kissinger, the key reason for skepticism about the United States' ability to spearhead global institutional change is not a lack of power but a lack of legitimacy. Other states may simply refuse to follow a leader whose legitimacy has been squandered under the Bush administration; in this view, the legitimacy to lead is a fixed resource that can be obtained only under special circumstances. The political scientist G.John Ikenberry argues in After Victory that states have been well positioned to reshape the institutional order only after emerging victorious from some titanic struggle, such as the French Revolution, the Napoleonic Wars, or World War I or II. For the neoconservative Robert Kagan, the legitimacy to lead came naturally to the United States during the Cold War, when it was providing the signal service of balancing the Soviet Union. The implication is that today, in the absence of such salient sources of legitimacy, the wellsprings of support for U.S. leadership have dried up for good. But this view is mistaken. For one thing, it overstates how accepted U.S. leadership was during the Cold War: anyone who recalls the Euromissile crisis of the 1980s, for example, will recognize that mass opposition to U.S. policy (in that case, over stationing intermediaterange nuclear missiles in Europe) is not a recent phenomenon. For another, it understates how dynamic and malleable legitimacy is. Legitimacy is based on the belief that an action, an actor, or a political order is proper, acceptable, or natural. An action - such as the Vietnam War or the invasion of Iraq - may come to be seen as illegitimate without sparking an irreversible crisis of legitimacy for the actor or the order. When the actor concerned has disproportionately more material resources than other states, the sources of its legitimacy can be refreshed repeatedly. After all, this is hardly the first time Americans have worried about a crisis of legitimacy. Tides of skepticism concerning U.S. leadership arguably rose as high or higher after the fall of Saigon in 1975 and during Ronald Reagan's first term, when he called the Soviet Union an "evil empire." Even George W. Bush, a globally unpopular U.S. president with deeply controversial policies,oversaw a marked improvement in relations with France, Germany, and India in recent years - even before the elections of Chancellor Angela Merkel in Germany and President Nicolas Sarkozy in France. Of course, the ability of the United States to weather such crises of legitimacy in the past hardly guarantees that it can lead the system in the future. But there are reasons for optimism. Some of the apparent damage to U.S. legitimacy might merely be the result of the Bush administration's approach to diplomacy and international institutions. Key underlying conditions remain particularly favorable for sustaining and even enhancing U.S. legitimacy in the years ahead. The United States continues to have a far larger share of the human and material resources for shaping global perceptions than any other state, as well as the unrivaled wherewithal to produce public goods that reinforce the benefits of its global role. No other state has any claim to leadership commensurate with Washington's. And largely because of the power position the United States still occupies, there is no prospect of a counterbalancing coalition emerging anytime soon to challenge it. In the end, the legitimacy of a system's leader hinges on whether the system's members see the leader as acceptable or at least preferable to realistic alternatives. Legitimacy is not necessarily about normative approval: one may dislike the United States but think its leadership is natural under the circumstances or the best that can be expected. Moreover, history provides abundant evidence that past leading states - such as Spain, France, and the United Kingdom - were able to revise the international institutions of their day without the special circumstances Ikenberry and Kagan cite. Spainfashioned both normative and positive laws to legitimize its conquest of indigenous Americans in the early seventeenth century; France instituted modern concepts of state borders to meet its needs as Europe's preeminent land power in the eighteenth century; and the United Kingdom fostered rules on piracy, neutral shipping, and colonialism to suit its interests as a developing maritime empire in the nineteenth century. As Wilhelm Grewe documents in his magisterial The Epochs of International Law, these states accomplished such feats partly through the unsubtle use of power: bribes, coercion, and the allure oflucrative long-term cooperation. Less obvious but often more important, the bargaining hands of the leading states were often strengthened by the general perception that they could pursue their interests in even less palatable ways - notably, through the naked use of force. Invariably, too, leading states have had the power to set the international agenda, indirectly affecting the development of new rules by defining the problems they were developed to address. Given its naval primacy and global trading interests, the United Kingdom was able to propel the slave trade to the forefront of the world's agenda for several decades after it had itself abolished slavery at home, in 1833. The bottom line is that the UnitedStates today has the necessary legitimacy to shepherd reform of the international system.

## 2nc

### topicality

#### Disclosure does not limit actions that can be taken by the president – plan avoids the core of topic controversy

**Cluchey 2011** – JD Harvard (7/1, Daniel, The Cornell Policy Review, “Transparency in OLC Statutory Interpretation: Finding a Middle Ground”, http://blogs.cornell.edu/policyreview/2011/07/01/transparency-in-olc-statutory-interpretation-finding-a-middle-ground/)

From a transparency standpoint, the problem with requiring the disclosure of opinions only at the moment of program implementation, of course, is that such a system would leave Congress with no time to question the Executive Branch’s interpretation or intervene in the program before it begins. This can be remedied, however, by making the trigger a retroactive device. Under this system, when the Executive Branch chooses to implement a program that relies on an OLC opinion for its legality, it must disclose the opinion 30 days prior to the commencement of the program for the opinion (and therefore the policy) to be considered lawful by Congress. The decision to execute a new policy would remain the event that triggers mandatory disclosure, but the policy would not enjoy legal support unless and until the OLC opinion had been available to Congress for 30 days, giving lawmakers an appropriate amount of time to review the legal rationale and react accordingly. In essence, this would change the reporting requirement from a disclosure mandate into a rule prohibiting policy programs that rely on undisclosed opinions. The basic standard would then be that no Executive Branch program, the legality of which rests on an OLC opinion concluding for any reason **that the Executive Branch is not bound by a congressional statute**, can be implemented until 30 days after the disclosure to Congress of the OLC opinion from which it derives its legal rationale. A regime that required disclosure of OLC opinions 30 days prior to the implementation of a potentially controversial program would effectively address a number of the concerns raised by both Feingold in the interest of Executive Branch transparency and Mukasey in the interest of protecting OLC candor and Executive communications more generally. Even the most fervent proponent of transparency would recognize that it is the **implementation of a legally spurious program, and not the opinion rationalizing it, that is the true malfeasance to be guarded against.** An OLC opinion that does not instigate a program, no matter how errant its analysis may be, cannot be said to rise to the level of secret law so long as it remains nothing more than the germ of potential secret law — that is to say, a secret opinion declaring that a law does not apply to the Executive Branch can do little harm until it is actually used to justify a secret policy.22 The D.C. Circuit has spoken to this distinction with regard to the Executive Branch, noting in Sterling Drug, Inc. v. FTC that “to prevent the development of secret law within the [Federal Trade Commission], we must require it to disclose orders and interpretations which it actually applies in cases before it” (emphasis added).23 While a semantic argument could be made that the opinions themselves constitute secret law, insofar as they are indeed interpretations of law that bind the Executive Branch,24 **the true danger spoken of when the concept of secret law is invoked is its application in a practice, policy, or program** — an unenforced ‘law’ is no threat until and unless the specter of its enforcement emerges. A reporting trigger tied retroactively to program implementation would protect the institution of OLC even as it increased transparency of the office’s most controversial and consequential opinions. Mukasey’s chief policy concerns with the OLC Reporting Act were that it would deter candid deliberation among Executive Branch lawyers, “chill” the Department of Justice from providing thorough analysis of potentially extralegal policy programs (particularly with regard to the usage of those canons of construction25 specifically contemplated in the bill), discourage actors in charge of decision making from requisitioning OLC when disclosure would be especially unwanted, and, as an overall consequence thereof, “degrade the quality of the resulting legal advice and, thus, the integrity of the government decisionmaking [sic] to which it pertains.” 26 Beginning with the issue of thoroughness, an implementation-triggered **reporting regime would not distinguish between rationales employed by OLC personnel** — disclosure would occur only if an accompanying program was to be implemented, regardless of whether a conclusion of non-applicability was reached by way of the avenues of constitutional avoidance, commander-in-chief powers, a presumption against the application of a statute to the Executive, etc. By tying the reporting trigger to the policy decisions of those Executive Branch officials charged with implementing programs rather than to the legal decisions of lawyers within OLC, the methodology of those lawyers in preparing opinions would be less apt to become contaminated by political concerns over which species of legal reasoning would or would not mandate disclosure. If a conclusion has been reached that the Executive Branch is not bound by a particular statute, OLC personnel will thus have no reason not to provide a thorough analysis or refrain from the use of appropriate canons of construction under a regime where their legal reasoning has no bearing on the disclosure of their opinions.

### rollback

#### XOs are binding on future administrations and cause follow-on

Duncan, Associate Professor of Law at Florida A&M, Winter 2010

(John C., “A Critical Consideration of Executive Orders,” 35 Vt. L. Rev. 333, Lexis)

**Executive orders** can serve the purpose of allowing the President to generate favorable publicity, such as when President Clinton signed an executive order on ethics, n493 and when President George W. Bush signed the first of a series of executive orders to launch his Faith-Based and Community Initiatives. n494 While these orders pay off political debts and thus may seem trivial, they nevertheless **create both infrastructural and regulatory precedents for future administrations**. Hence, they create an avenue for key constituencies of each administration to influence the executive structure as a whole without necessarily permitting that influence to extend to arenas of reserved for Congress. That is, while the President can act more swiftly and precisely to satisfy political commitments, the impact of his action will fall considerably short of analogous congressional action. This in turn serves to satisfy selected constituencies without giving them undue power via the presidency.

#### Executives rely on OLC too much to be flippant

**Morrison 2011** – Professor of Law, Columbia University (Trevor W., Harvard Law Review, ““Hostilities,” the Office of Legal Counsel, and the Process of Executive Branch Legal Interpretation”, 124 HARV. L. REV.F. 62, http://web.law.columbia.edu/sites/default/files/microsites/constitutional-governance/files/Libya-Hostilities-Office-of-Legal-Counsel.pdf)

The White House is one of the main beneficiaries of that reputation. When OLC concludes that a government action is lawful, its conclusion carries a legitimacy that other executive offices cannot so readily provide. That legitimacy is a function of OLC’s deep traditions and unique place within the executive branch. Other executive offices — be they agency general counsels or the White House Counsel’s Office — do not have decades-long traditions of providing legal advice based on their best view of the law after fully considering the competing positions; they have not generated bodies of authoritative precedents to inform and constrain their work; and they do not issue legal opinions that, whether or not they favor the President, are treated as presumptively binding within the executive branch. (Nor should those other offices mimic OLC; that is not their job.) Because the value of a favorable legal opinion from OLC is tied inextricably to these aspects of its work, each successive presidential administration has a strong incentive to respect and preserve them.

#### Err neg—it’s functionally as effective as any other actor

**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. 138-139)

Many of our mechanisms are unproblematic from a legal perspective, as they involve presidential actions that are clearly lawful. But a few raise legal questions; in particular, those that involve self-binding.59 Can a president bind himself to respect particular first-order policies? With qualifications, the answer is “yes, at least to the same extent that a legislature can.” Formally, a duly promulgated executive rule or order binds even the executive unless and until it is validly abrogated, thereby establishing a new legal status quo.60 The legal authority to establish a new status quo allows a president to create inertia or political constraints that will affect his own future choices. In a practical sense, presidents, like legislatures, have great de facto power to adopt policies that shape the legal landscape for the future. A president might commit himself to a long-term project of defense procurement or infrastructure or foreign policy, narrowing his own future choices and generating new political coalitions that will act to defend the new rules or policies. More schematically, we may speak of formal and informal means of selfbinding:

1. The president might use formal means to bind himself. This is possible in the sense that an executive order, if otherwise valid, legally binds the president while it is in effect and may be enforced by the courts. It is not possible in the sense that the president can always repeal the executive order if he can bear the political and reputational costs of doing so.

2. The president might use informal means to bind himself. This is not only possible but frequent and important. Issuing an executive rule providing for the appointment of special prosecutors, as Nixon did, is not a formal self-binding.61 However, there may be political costs to repealing the order. This effect does not depend on the courts’ willingness to enforce the order, even against Nixon himself. Court enforcement makes the order legally binding while it is in place, but only political and reputational enforcement can protect it from repeal. Just as a dessert addict might announce to his friends that he is going on a no-dessert diet in order to raise the reputational costs of backsliding and thus commit himself, so too the repeal of an executive order may be seen as a breach of faith even if no other institution ever enforces it.

### 2nc CP net benefit

#### The aff guarantees a veto and requires an override

Covington 12 Megan Covington(School of Engineering, Vanderbilt University) “Humanities and Social Sciences: Executive Legislation and the Expansion of Presidential Power” Spring 2012 | Volume 8 | © 2012 • Vanderbilt University Board of Trust http://webcache.googleusercontent.com/search?q=cache:K7qBxiQpm5AJ:ejournals.library.vanderbilt.edu/index.php/vurj/article/download/3556/1738+&cd=2&hl=en&ct=clnk&gl=us //Chappell

In actuality, however, Congress is generally unwilling or unable to respond to the president’s use of executive legislation. Congress can override a presidential veto but does not do it very often; of 2,564 presidential vetoes in our nation’s history, only 110 have ever been overridden. 44 The 2/3 vote of both houses needed to override a veto basically means that unless the president’s executive order is grossly unconstitutional – and thus capable of earning bipartisan opposition - one party needs to have a supermajority of both houses. Even passing legislation to nullify an executive order can be difficult to accomplish, especially with Congress as polarized and bitterly divided along party lines as it is today. Congress could pass legislation designed to **limit the power of the president**, but such a bill would be difficult to pass and any veto on it – which would be guaranteed – would be hard to override. In addition, if such legislation was passed over a veto, there is no guarantee that the bill would successfully limit the president’s actions; the War Powers Act does little to restrain the president’s ability to wage war.45 Impeachment is always an option, but the gravity of such a charge would prevent many from supporting it unless the president was very unpopular and truly abused his power.

#### That kills capital

**Slezak, 7 -** Center for the Study of the Presidency Fellow 2006-2007 at UCLA, MA in Security Studies at Georgetown (Nicole, “The Presidential Veto: A Strategic Asset” https://host.genesis4100.net/thepresidency/pubs/fellows2007/Slezak.pdf)

Although the veto offers the president a significant advantage in dealing with a sometimes combative and divisive Congress, James Gattuso discusses four “caveats” that should be considered by presidents when devising a veto strategy. First, presidents should not veto without care, for if Congress overrides it is politically damaging to the president.8 This means that if the president does not garner the required one-third plus one in either house of Congress and his veto is overridden, he will not only lose face, but lose political capital that gives him leverage in dealing with Congress. If the president loses political capital he can put himself at a disadvantage for future interactions with Congress; hence, when vetoing he must consider his support in Congress and the potential ramifications of an override. However, Gattuso adds that worse than having a veto overridden is a president who threatens to veto and does not follow through once Congress has passed legislation.9 This is even more damaging than an override because the president is caught making “empty threats.” Therefore, Congress will continue to produce legislation to their liking rather than revising it because Congress is inclined to believe the president is no longer serious about his veto threats.

#### 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.

### theory

#### The counterplan is a logical policy choice grounded in topic lit

Sinnar, assistant professor of law at Stanford Law School, May 2013

(Shirin, “Protecting Rights from Within? Inspectors General and National Security Oversight,” 65 Stan. L. Rev. 1027, Lexis)

More than a decade after September 11, 2001, the debate over which institutions of government are best suited to resolve competing liberty and national security concerns continues unabated. While the Bush Administration's unilateralism in detaining suspected terrorists and authorizing secret surveillance initially raised separation of powers concerns, the Obama Administration's aggressive use of drone strikes to target suspected terrorists, with little oversight, demonstrates how salient these questions remain. Congress frequently lacks the [\*1029] information or incentive to oversee executive national security actions that implicate individual rights. Meanwhile, courts often decline to review counterterrorism practices challenged as violations of constitutional rights out of concern for state secrets or institutional competence. n1 These limitations on traditional external checks on the executive - Congress and the courts - have led to increased academic interest in potential checks within the executive branch. Many legal scholars have argued that executive branch institutions supply, or ought to supply, an alternative constraint on executive national security power. Some argue that these institutions have comparative advantages over courts or Congress in addressing rights concerns; others characterize them as a second-best option necessitated by congressional enfeeblement and judicial abdication.

### aff authors

Roberts:

what goes undiscussed is Washington’s deliberate failure to establish clear and demonstrable rules for itself that would at minimum create a globally relevant standard

But by keeping legal and policy positions secret, only partially sharing information even with congressional oversight committees

#### Obama can do it – their author is a neg card says cp solves signaling

Zenko, CFR Fellow, 13 (Micah, is the Douglas Dillon fellow in the Center for Preventive Action (CPA) at the Council on Foreign Relations (CFR)., “Reforming U.S. Drone Strike Policies,” http://www.cfr.org/wars-and-warfare/reforming-us-drone-strike-policies/p29736)

In his Nobel Peace Prize acceptance speech, President Obama declared: “Where force is necessary, we have a moral and strategic interest in binding ourselves to certain rules of conduct. Even as we confront a vicious adversary that abides by no rules, I believe the United States of America must remain a standard bearer in the conduct of war.”63 Under President Obama drone strikes have expanded and intensified, and they will remain a central component of U.S. counterterrorism operations for at least another decade, according to U.S. officials.64 But much as the Bush administration was compelled to reform its controversial counterterrorism practices, it is likely that the United States will ultimately be forced by domestic and international pressure to scale back its drone strike policies. The Obama administration can preempt this pressure by clearly articulating that the rules that govern its drone strikes, like all uses of military force, are based in the laws of armed conflict and international humanitarian law; by engaging with emerging drone powers; and, most important, by matching practice with its stated policy by limiting drone strikes to those individuals it claims are being targeted (which would reduce the likelihood of civilian casualties since the total number of strikes would significantly decrease). The choice the United States faces is not between unfettered drone use and sacrificing freedom of action, but between drone policy reforms by design or drone policy reforms by default. Recent history demonstrates that domestic political pressure could severely limit drone strikes in ways that the CIA or JSOC have not anticipated. In support of its counterterrorism strategy, the Bush administration engaged in the extraordinary rendition of terrorist suspects to third countries, the use of enhanced interrogation techniques, and warrantless wiretapping. Although the Bush administration defended its policies as critical to protecting the U.S. homeland against terrorist attacks, unprecedented domestic political pressure led to significant reforms or termination. Compared to Bush-era counterterrorism policies, drone strikes are vulnerable to similar—albeit still largely untapped—moral outrage, and they are even more susceptible to political constraints because they occur in plain sight. Indeed, a negative trend in U.S. public opinion on drones is already apparent. Between February and June 2012, U.S. support for drone strikes against suspected terrorists fell from 83 percent to 62 percent—which represents less U.S. support than enhanced interrogation techniques maintained in the mid-2000s.65 Finally, U.S. drone strikes are also widely opposed by the citizens of important allies, emerging powers, and the local populations in states where strikes occur.66 States polled reveal overwhelming opposition to U.S. drone strikes: Greece (90 percent), Egypt (89 percent), Turkey (81 percent), Spain (76 percent), Brazil (76 percent), Japan (75 percent), and Pakistan (83 percent).67 This is significant because the United States cannot conduct drone strikes in the most critical corners of the world by itself. Drone strikes require the tacit or overt support of host states or neighbors. If such states decided not to cooperate—or to actively resist—U.S. drone strikes, their effectiveness would be immediately and sharply reduced, and the likelihood of civilian casualties would increase. This danger is not hypothetical. In 2007, the Ethiopian government terminated its U.S. military presence after public revelations that U.S. AC-130 gunships were launching attacks from Ethiopia into Somalia. Similarly, in late 2011, Pakistan evicted all U.S. military and intelligence drones, forcing the United States to completely rely on Afghanistan to serve as a staging ground for drone strikes in Pakistan. The United States could attempt to lessen the need for tacit host-state support by making significant investments in armed drones that can be flown off U.S. Navy ships, conducting electronic warfare or missile attacks on air defenses, allowing downed drones to not be recovered and potentially transferred to China or Russia, and losing access to the human intelligence networks on the ground that are critical for identifying targets. According to U.S. diplomats and military officials, active resistance— such as the Pakistani army shooting down U.S. armed drones— is a legitimate concern. In this case, the United States would need to either end drone sorties or escalate U.S. military involvement by attacking Pakistani radar and antiaircraft sites, thus increasing the likelihood of civilian casualties.68 Beyond where drone strikes currently take place, political pressure could severely limit options for new U.S. drone bases. For example, the Obama administration is debating deploying armed drones to attack al-Qaeda in the Islamic Maghreb (AQIM) in North Africa, which would likely require access to a new airbase in the region. To some extent, anger at U.S. sovereignty violations is an inevitable and necessary trade-off when conducting drone strikes. Nevertheless, in each of these cases, domestic anger would partially or fully abate if the United States modified its drone policy in the ways suggested below.

#### Roberts says not SHARING with Congressional comittess is the problem

#### Podesta

the White House is still bobbing and weaving on whether to share with Congress the legal opinions and memorandums governing targeted killing, which include the legal justification for killing U.S. citizens without trial.

As Woodrow Wilson wrote: “The informing function of Congress should be preferred even to its legislative function.”

the administration should make available to the public the criteria justifying the targeted killing of Americans and the safeguards put in place to protect against wrongful death.

#### Washington Post

Quoting Rep. Thornberry about reporting requirement—that's the only reason he says statute—not because of a difference between the cP and plan

Thornberry’s bill runs counter to the trend. He said he’s generally satisfied with the way the administration discloses secret military operations to the Armed Services Committee and covert CIA operations to the House Intelligence Committee, of which he is also a member.

#### Prefer advantage internal links—prove what’s actually necessary

### executive solves

#### Err neg—it’s the final word on legal controversies

McGinnis 93 (John O., Assistant Professor – Benjamin N. Cardozo School of Law, “Models of the Opinion Function of the Attorney General: A Normative, Descriptive, and Historical Prolegomenon,” Cardozo Law Review, October, 15 Cardozo L. Rev. 375, Lexis)

The judiciary is not the only branch of government that offers authoritative constructions of the Constitution and other federal laws. Since the beginning of the Republic, the executive branch has made [\*376] formal pronouncements on constitutional and statutory issues of such a substantial scope and variety that they rival the opinions of the Supreme Court. A public recording of the executive branch's most authoritative legal voice is contained in forty-three volumes of published opinions of the Attorney General and sixteen volumes of published opinions of the Office of Legal Counsel ("OLC") - the office to which the Attorney General now delegates the great majority of his legal opinion writing. n1 These published opinions are only the tip of the iceberg. In OLC's library sit at least five filing cabinets of largely unpublished opinions dating from the time of OLC's creation in 1932. Biographies of former Attorneys General also report the existence of important unpublished opinions and memoranda of advice from past Attorneys General. n2

These opinions comprise the largest body of official interpretation of the Constitution and statutes outside the volumes of the federal court reporters. Moreover, many of the opinions are the final word on the law because judicial resolution of the legal issue is unavailable. Yet, while the Supreme Court's work has been subjected to detailed and disparate analysis by historians, political scientists, and law professors, the opinion work of the Attorney General and his modern principal delegate - the OLC - has never been systematically addressed.

#### We solve targeted killing—our consultation and transparency requirements create a vested interest in accountability—but keeping the authority under Obama is key to effective decision-making

**McNeal 2013** – Associate Professor of Law, Pepperdine University School of Law (Gregory, Georgetown Law Journal, “Targeted Killing and Accountability”, to appear in forthcoming issue as of 9/10/2013 access date, available via SSRN)

Despite this lack of interest, some evidence exists to suggest that presidents do care about how their activities may be viewed by the public. For example, during the war in Kosovo, the possibility of civilian casualties from any given airstrike was seen as both a legal and political constraint.463 Due to this fact, some individual target decisions were deemed to have strategic policy implications that only the president could resolve. 464 Moreover, even in the absence of effective legal constraints of the type described in Section B, and even without evidence of public concern over matters of foreign policy, the president is still constrained by politics and public opinion. 465 The president needs “both popularity, in order to obtain political support for his policies, and credibility, in order to persuade others that his factual and causal assertions are true and his intentions are benevolent.” 466

As mentioned above, as precision has increased, so too has the expectation that civilian casualties will be low or nonexistent.467 Some have even advanced a legal and policy view that the law of armed conflict prohibits collateral civilian casualties.468 Given these expectations, presidents have oftentimes felt compelled to involve themselves to a greater degree in targeting decisions. This involvement brings with it enhanced political accountability. It allows for greater public awareness of military operations and creates direct responsibility for results tied to the commander in chief’s immediate involvement in the decision-making process.469 Successes and failures are imputed directly to the president.

Moreover, there are also functional reasons that may support greater presidential involvement. As Baker observed:

Presidential command is the fastest method I have observed for fusing interagency information and views into an analytic process of decision. This is particularly important in a war on terror where pop-up targets will emerge for moments and strike decisions must be taken in difficult geopolitical contexts with imperfect information. The President is best situated to rapidly gather facts, obtain cabinet-level views, and decide.470

Presidential decision-making brings to light public recognition that the military and intelligence community are implementing rather than making policy. Moreover, when the president chooses to nominate people to assist him in making targeted killing decisions, the nomination process provides a mechanism of political accountability over the executive branch. This was aptly demonstrated by President Obama’s nomination of John Brennan to head the CIA.471 Given Brennan’s outsized role as an adviser to the president in the supervision of targeted killings, his nomination provided an opportunity to hold the president politically accountable by allowing senators to openly question him about the targeted killing process,472 and by allowing interest groups and other commentators to suggest questions that should be asked of him.473

However, none of the examples described answer the question of secrecy and how it can stifle political accountability. Just as secrecy has the potential to hinder accountability, it may also undermine executive power by damaging executive branch credibility. While some arguments can be made to suggest that the executive branch has too great an ability to hide relevant information from courts or the legislature, few have recognized the credibility costs associated with such decisions. 474 One scholarly attempt to describe the credibility problem is the agency approach adopted by Posner and Vermeule, they write:

The president is the agent and the public is the principal. The public cares about national security but also cares about civil liberties and the well-being of potential targets of the war on terror; its optimal policy trades off these factors. However, the public cannot directly choose the policy; instead, it delegates that power to the government and, in particular, the president. The president knows the range of options available, their likely effects, their expected costs and benefits—thanks to the resources and expertise of the executive branch—and so, if he is well-motivated, he will choose the best measures available.475

Understanding the political accountability challenge in this way has a lot of explanatory purchase. It demonstrates that the president requires credibility to act, and to signal his commitment to what the public is interested in, he will need to choose the best measures available to maintain their support. Stated differently, no “president can accomplish his goals if the public does not trust him. This concern with reputation may put a far greater check on the president’s actions than do the reactions of the other branches.” 476 Therefore, choosing the best targeted killing measures is a form of self- binding,477 and exposing information about those measures may come through selective leaks about the targeted killing process,478 greater transparency through speeches,479 or demonstrated successes.480

### global signal

#### Seen as the decisive voice of America, even if Congress hasn’t signed on

Zbigniew Brzezinski, national security advisor under U.S. President Jimmy Carter, 12/3/12, Obama's Moment, www.foreignpolicy.com/articles/2012/12/03/obamas\_moment

In foreign affairs, the central challenge now facing President Barack Obama is how to regain some of the ground lost in recent years in shaping U.S. national security policy. Historically and politically, in America's system of separation of powers, it is the president who has the greatest leeway for decisive action in foreign affairs. He is viewed by the country as responsible for Americans' safety in an increasingly turbulent world. He is seen as the ultimate definer of the goals that the United States should pursue through its diplomacy, economic leverage, and, if need be, military compulsion. And the world at large sees him -- for better or for worse -- as the authentic voice of America. To be sure, he is not a dictator. Congress has a voice. So does the public. And so do vested interests and foreign-policy lobbies. The congressional role in declaring war is especially important not when the United States is the victim of an attack, but when the United States is planning to wage war abroad. Because America is a democracy, public support for presidential foreign-policy decisions is essential. But no one in the government or outside it can match the president's authoritative voice when he speaks and then decisively acts for America. This is true even in the face of determined opposition. Even when some lobbies succeed in gaining congressional support for their particular foreign clients in defiance of the president, for instance, many congressional signatories still quietly convey to the White House their readiness to support the president if he stands firm for "the national interest." And a president who is willing to do so publicly, while skillfully cultivating friends and allies on Capitol Hill, can then establish such intimidating credibility that it is politically unwise to confront him. This is exactly what Obama needs to do now.

### olc stuff that doesn’t appy

#### Counterplan is a reform to create OLC precedent—you should only pay attention to our specific ev

**Morrison 2010** – Professor of Law, Columbia University (Trevor, Columbia Law Review, “STARE DECISIS IN THE OFFICE OF LEGAL COUNSEL”, 110 Colum. L. Rev. 1448, Lexis)

This point is underappreciated. To be sure, there is a substantial literature - generally pitting "judicial supremacy" against "departmentalism" - on the extent to which judicial interpretations of the Constitution [\*1450] ought to bind the other branches, and, conversely, on the weight courts should give to the constitutional judgments of those branches. n4 But those questions all focus one way or another on the courts. What about the role of nonjudicial precedent in nonjudicial legal interpretation, constitutional and otherwise? n5 Do nonjudicial actors called upon to answer legal questions employ anything like a stare decisis rule with respect to their own prior decisions? Should they?

Neither the descriptive nor the normative answer is likely to be uniform across all domains. n6 What is true in Congress may not be true in the Executive Branch. And even within the latter, differences in function, power, and accountability mean that not only the content but also the [\*1451] role of precedent may (and likely should) vary from one executive component and function to the next. Thus, the study of nonjudicial precedent should be context-sensitive. Proceeding from that premise, this Article focuses on the role of precedent in the provision of legal advice by the Justice Department's Office of Legal Counsel (OLC).

Of course, OLC is not just any executive office. For decades, it has been the most significant centralized source of legal advice within the Executive Branch. n7 Exercising authority delegated by the Attorney General, it provides legal advice to the President and other executive components. The questions OLC addresses are often among the most vexing in the Executive Branch. Its answers sometimes take the form of written legal opinions which, together with the legal opinions issued directly by Attorneys General themselves, "comprise the largest body of official interpretation of the Constitution and statutes outside the volumes of the federal court reporters." n8 And because many of the issues addressed by OLC are unlikely ever to come before a court in justiciable form, OLC's opinions often represent the final word in those areas unless later overruled by OLC itself, the Attorney General, or the President.

The role of precedent at OLC has become a matter of increased interest in recent years, spurred in part by the leak in 2004 of an OLC opinion concluding that the federal anti-torture statute only minimally constrained the government's use of "enhanced interrogation techniques" on suspected terrorists. n9 Known colloquially as the "Torture Memorandum," it became the target of withering public criticism and was soon disavowed by the Justice Department. n10 Some critics saw in the [\*1452] opinions an abandonment of what they viewed as OLC's proper role, replaced by a willingness to adopt implausible and even professionally irresponsible legal positions in order to please the client - in that case, the White House Counsel. n11 That in turn prompted broader discussion of the procedures OLC should follow when providing legal advice, including the weight it should accord to its own precedents.

## 1nr

### Overview

#### DA outweighs – the 2ac hasn’t contested that failure to raise the debt ceiling causes a new great depression, filter all impact calculus through the lens of internal link magnitude which based on concession is 100% - proves our turns case args are offense

#### Decline collapses leadership, causes a rise in geopolitical instability, ensures diversionary conflict and fast nuclear escalation, solves all conflict, interdependence is a structural check on escalation – proves our impact outweighs on scope that’s Friedberg - timeframe first, can only die once and the failure to raise the debt ceiling triggers the impact immediately – intervening action remedies legitimacy and drone prolif, but short term collapse makes external action needed to solve impossible

#### Turns credibility, legitimacy and democratic modeling

**AFP, 10/4/13** (“US global clout eroded by shutdown”

<http://www.globalpost.com/dispatch/news/afp/131004/us-global-clout-eroded-shutdown>

America's global standing among both allies and foes is being seriously undermined by the US government shutdown which forced President Barack Obama to cancel a key Asia tour, analysts said Friday. Some even warned that with no sign of a swift resolution in sight, the political dysfunction in the corridors of the world's largest superpower poses a major threat to national security. In a rare foray into US politics, State Department deputy spokeswoman Marie Harf blasted what she called a "damaging" shutdown that "really negatively impacts our standing abroad." Reading damning headlines about the US predicament from Mexican, Indian, Spanish and Taiwanese newspapers, she said: "For a Congress that talks a lot about American exceptionalism, they're sending the exact opposite message all around the world right now." Nations where America's constant drive to push values like democracy, free speech and transparent government is an anathema are likely viewing the self-imposed US paralysis with some glee. For some, such as China, it's a heaven-sent opportunity to portray an image of stable reliability far removed from Washington's chaotic signals. "This sends a message to allies that they're somewhat on their own," said Council on Foreign Relations president Richard Haass, writing on the think tank's website. "It certainly dilutes any appeal of the American political model, and it raises anew questions of American predictability and reliability, which are qualities that are vital to an effective great power." Obama has scrapped trips to two key Asian summits heralded as boosting his administration's much-vaunted Asia pivot, blaming the government shutdown. It is the third time that Obama has cancelled trips to Asia due to domestic woes, and his would-be hosts couldn't hide their disappointment. "China does not care, and frankly neither do US allies, strategic partners and close friends, what the details are, but the bottom line is that as Asia organizes itself, the president of the United States is not able to attend the annual board meeting," said Ernest Bower from the Center for Strategic and International Studies. "The message has been sent."

#### The link alone turns cred

**Roth, 10/1/13** (Zachary, “Obama draws a line” MSNBC, http://tv.msnbc.com/2013/10/01/obamas-test/

Barack Obama has enraged liberals for years, caving to Republicans in big fiscal fights again and again. Then came the shutdown showdown of 2013. This time Obama’s held the line against Republicans, refusing to sign any law that changes Obamacare in exchange for reopening the government. “It is settled and it is here to stay,” Obama said of the healthcare law during a speech Tuesday afternoon. The White House said Obama would veto any piecemeal bills that fund parts of the federal government but don’t end the shutdown as a whole. For the man who ran for president as a post-partisan uniter, it’s a big moment. He’s drawn a line in the sand. The question is: will he hold it? Allies and opponents alike say that he must, if he wants to get anything done over the next two years. He needs to stick to his guns and exert his authority during the coming fights. If he caves, he’s doomed. “From his perspective, he’s got to win this one to show that he’s not a completely powerless president, on the international stage,” John Feehery, a former top aide to Speaker Dennis Hastert who’s now with the lobbying firm QGA, told MSNBC. “He’s got to at least be able to show he can govern.” At the same time, Feehery said Obama might ultimately have to deal to get out of the impasse—perhaps not on Obamacare, but by agreeing to further spending cuts. “The president runs the country, and he’s going to get the lion’s share of the blame,” Feehery said, expressing a widely-held view on the right that an extended shutdown will hurt the president more than the GOP. “And basically taking the position that I’m not going to negotiate doesn’t work with most Americans.” Supporters of the president say he’s been open to discussions on spending and other budget issues—but not when Republicans are using the threat of a government shutdown or a debt default as a bargaining chip. And they don’t expect him to budge from that stance. “He’s always looking to include ideas from the other party,” Michael Feldman, a former congressional liaison for President Clinton and a founding partner of the Glover Park Group, a Washington lobbying firm, told MSNBC. But, he said, “trying to undo the will of the electorate and the American people by holding up the entire federal government is not something you can compromise with.” To the frustration of many progressives, the tendency to talk is rooted deeply in the president’s DNA. During his first presidential campaign, Obama distinguished himself from front-runner Hillary Clinton by stressing his greater willingness to move beyond what he described as outdated partisan divisions and appeal to the better instincts of his adversaries. Once in office, during an earlier fight over lifting the debt ceiling in summer 2011, he acceded to Republican demands for major spending cuts—despite economists’ warnings that they’d hurt the still-fragile recovery. That’s what led to the sequester cuts that have decimated crucial social programs that some of the neediest Americans count on. And at the end of that year, he backed an eleventh hour agreement with congressional leaders that led to further cuts. “Both sides had to make tough decisions,” Obama said of that deal. Obama has also agreed to delay several aspects of the law, including the employer mandate and the creation of state-based exchanges, after critics complained that the original schedule was unworkable. That past willingness to compromise could be undercutting Obama’s position now, by feeding a belief among conservative Republicans that he’ll back down again. “I do think one of the problems he has is that the Tea Party guys all think that he’s going to cave,” Feehery said.

#### Independently kills heg

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.

### 2NC uniqueness wall

#### Obama’s ironclad political capital is forcing the GOP to give in

**Beutler 10/3**/13 (Brian,“Republicans finally confronting reality: They’re trapped!" Salon, <http://www.salon.com/2013/10/03/republicans_finally_confronting_reality_theyre_trapped/>

The catalyzing event appears to have been an hour-plus-long meeting between Obama and congressional leaders at the White House on Wednesday. Senior administration officials say that if the meeting accomplished only one thing it was to convey to Republican leaders the extent of Obama’s determination not to negotiate with them over the budget until after they fund the government and increase the debt limit. These officials say his will here is stronger than at any time since he decided to press ahead with healthcare reform after Scott Brown ended the Democrats’ Senate supermajority in 2010.

There’s evidence that it sunk in.

First, there’s this hot mic moment in which Senate Minority Leader Mitch McConnell tells Sen. Rand Paul, R-Ky., that the president’s position is ironclad.

Then we learn that House Speaker John Boehner has told at least one House Republican privately what he and McConnell have hinted at publicly for months, which is that they won’t execute their debt limit hostage. Boehner specifically said, according to a New York Times report, and obliquely confirmed by a House GOP aide, that he would increase the debt limit before defaulting even if he lost more than half his conference on a vote.

None of this is to say that Republicans have “folded” exactly, but they’ve pulled the curtain back before the stage has been fully set for the final act, and revealed who’s being fitted with the red dye packet.

#### Polling and GOP trial balloons

**Chait, 10/4/13** – politics writer for New York Magazine (Jonathan, New York Magazine, “Yes, the White House Is ‘Winning’” <http://nymag.com/daily/intelligencer/2013/10/yes-the-white-house-is-winning.html>

Still, it is true that the Obama administration is winning the zero-sum contest. One way to measure this is polling, which already shows movement toward the Democratic side. Another way to measure it is that Republicans, who have spent months refusing any budget deal, are suddenly desperate to make a budget deal. A flurry of Republican proposals have been leaked or floated by or to Politico, Jonathan Ward, and Republican adviser Yuval Levin.

Republicans are looking to make a budget deal now because they want to escape the political nightmare they’ve created for themselves. They blustered into a shutdown that corrodes their party brand and cracks the door to flip the House, which ought to be otherwise impregnable in a low-turnout midterm election. They can’t figure out how to back down without winning concessions the Democrats have no incentive to give them. Then they need to lift the debt ceiling, where they’ve raised even loftier expectations, and where the Democrats are even more determined not to be held hostage. Their only way out is to fold everything into a negotiation, give the Democrats something, and hold up whatever they win as a trophy that made it all worthwhile.

#### GOP is shifting, but it’s gradual, so maintaining PC is key

**Mardell, 10/2/13 –** North American editor of BBC News(Mark, “US shutdown: Parties not yet ready to blink” <http://www.bbc.co.uk/news/world-us-canada-24369213>)

All the signs are that neither side is preparing to blink, quite yet. But while the president is staring hard and straight ahead, the Republicans' eyes are beginning to water, and they are glancing at the ground. Obama has a strategy. The Republicans have a problem. They are backing down, albeit very slowly. First they wanted to stop Obamacare. Then delay it. Then delay part of it. That is still their position but they have tried to open a few bits of government, like national parks. Of course they are doing this so they look like reasonable people, seeking compromise. But it is a terrible tactic. Most people aren't that interested in politics and don't pay attention to the details. What the Republicans see as clever just looks messy. The shifting Republican message won't get through, except to their hardline base. On the other hand, Obama has firmly linked this crisis to a much worse one that is coming around the corner. The shutdown is more farce than tragedy. It may be hard to work people up about closed national parks and the plight of government workers in Washington. But the threat not to raise the USA's debt ceiling is, according to most economists, so appalling, and so terrible for the world economy, that they can barely think about it. So it is easy for the president to scare the pants off people about the possibility of Republicans screwing up America's economic future with their games.

### AT: Losers lose

#### Guns – not a thing

**Madhani, 9/23**/13 (Aamer, “Obama swamped by several crises; Shows frustration over gun laws during tribute” USA Today, lexis)

With a series of domestic and international crises coming to a head at once, President Obama made clear on Sunday that he won't be pouring a great deal of his own political capital into reigniting the debate on the country's gun laws. During a memorial service, the president offered warm tributes to the 12 victims of last week's mass shooting at the Navy Yard. But his tone also had an edge of frustration that was absent from his December remarks at the memorial honoring the victims of the tragedy at Sandy Hook Elementary School, the site of the last major mass shooting in the U.S. where 20 young children and 6 adults were slain. There he choked back tears and set the goal -- which would prove to elude him -- of overhauling the nation's gun laws. In Sunday's memorial, he made clear that he's all but given up hope that he can persuade Congress. "By now, though, it should be clear that the change we need will not come from Washington, even when tragedy strikes Washington," said Obama, who has gone through a withering six months in which he has fought with Republicans on gun laws, immigration and Syria and has faced fierce domestic and international criticism over a series of revelations about the National Security Agency's surveillance programs. For Obama, the all-too-familiar moment of serving as consoler-in-chief after yet another mass shooting comes at one of the most difficult periods in his presidency -- leaving him with little time, energy or political capital to re-litigate the gun issue just months after he tried and failed to push Congress to get behind a sweeping overhaul of the nation's gun laws. Among the emerging domestic crises on his plate: The White House is pushing forward with implementation of Obama's signature health care law in the face of a Republican call for repeal; the federal government appears headed toward a shutdown at the beginning of next month; and Obama and the House GOP are at loggerheads over raising the nation's debt limit.

#### Neither is immigration

**Werner, 9/30/13** (Erica, “House Republicans Work Immigration Behind Scenes” ABC News, <http://abcnews.go.com/Politics/wireStory/house-republicans-work-immigration-scenes-20416325>)

The chairman of the House Judiciary Committee, Rep. Bob Goodlatte, has been discussing possible legal status for the estimated 11 million immigrants living in the U.S. illegally. He's also been working with House Majority Leader Eric Cantor, a fellow Virginia Republican, on a bill offering citizenship to immigrants brought illegally to the U.S. as children.

Reps. Raul Labrador, R-Idaho, and Ted Poe, R-Texas, are working on a plan to create a visa program allowing more lower-skilled workers into the country.

Goodlatte and the chairman of the House Homeland Security Committee, Rep. Mike McCaul, R-Texas, hold out hopes for floor action by late October on a series of immigration bills that already have passed their committees.

"I would think that would be the next agenda item in the queue after we're done with this mess," McCaul said this past week, referring to bitter divisions over the health law, the level of government spending and the growing federal debt.

The attention of House GOP leaders seems certain to remain squarely focused on the fiscal disputes until they are resolved, leaving immigration on a back burner for some time to come. But lawmakers and outside advocates insist that three months after the Democratic-led Senate passed a sweeping immigration bill, the issue is showing signs of life in the Republican-run House.

"Despite the appearance that would suggest everyone in Washington is focused on one thing, work is going on on other issues beneath the radar," said Tamar Jacoby, head of ImmigrationWorks USA, a coalition of small businesses that supports comprehensive immigration legislation.

Goodlatte has made it clear he wants to see the issue solved.

Speaker John Boehner, R-Ohio, and other members of the House Republican leadership also support a resolution to an issue that has become a political drag for their party.

While Goodlatte has been outspoken about his desire to get legislation to the floor as soon as possible, House leaders have been more circumspect, adding to the uncertainty about whether or when anything actually will happen.

"Moving immigration forward remains a priority, but right now there's no firm timetable," said Doug Heye, a spokesman for Cantor.

The issue is a top second-term goal for Obama.

### AT: No Internal link/Pc Fails

#### PC is key to rally public pressure against the GOP—it’s not inevitable

**Meet the Press, 9/15/13** (NBC News, lexis) **Woodward = Bob Woodward, investigative journalist.**

GREGORY: Well, we`ll see. But I want to bring up a point with about a minute left. You know, Syria is now going to get mired in whether this agreement is lived up to or not. We`ve got a budget battle that`s brewing again with the debt ceiling. But, you think this is the next crisis that Obama is facing with Congress. Are we going to raise the debt ceiling? Will he negotiate? He says... WOODWARD: And this is really serious. Back in 2011, when the crisis visited them, the Secretary of the Treasury Tim Geithner was running around and saying if we don`t fix this, we could trigger a depression worse than the 1930s. And when I talked to Obama about this, he said, it was the most intense three weeks of his presidency. More than Osama bin Laden and so forth. So -- and the Republicans are out here, a group of them in the House, essentially using extortion and blackmail methods to say, if we don`t defund Obamacare we`re not going to do the routine things of government. PARKER: Well, we`re at a game of chicken at this point. And they are not -- no one thinks they`re going to defund Obama, not even the people pushing for it. And at some point, you know, the Republicans are going to have to blink and they`re going to fund it. If they pass a bill that doesn`t include funding for Obamacare, then the Senate won`t pass the bill and, you know, somebody`s got to blink. We`re not going to shut down government. We can`t. NAVARRO: But let`s be I think fair to the Republicans here. It`s not all Republicans saying let`s shut down the government if we don`t defund Obamacare. So I don`t think it`s fair to paint it as the Republicans, because the Republicans that have been here today, including John McCain, have been very much against this and saying... WOODWARD: Yes, it`s the 40 extremists that`s who`s doing it. PARKER: The insane caucus. WOODWARD: You used it. GREGORY: We`ll leave it there. NAVARRO: You`re going to get a lot of flak from mental health advocates. PARKER: Never had that happen. GREGORY: All right, thank you all very much. We`ll leave it there. Coming up next the future of our economy five years after the biggest financial crisis since the Great Depression. Among our guests, former Treasury Secretary Hank Paulson and CNBC`s Maria Bartiromo along with former Congresswoman Barney Frank on where we are five years later. First our political collector Chuck Todd will be along with his "First Read Sunday." What to look for in the week ahead in politics. Back here in just a moment. GREGORY: We`re back with more politics. Our political director Chuck Todd with his "First Read Sunday." We just talked about the debt ceiling business. You`re looking at it this, this week. That of our poll. CHUCK TODD, NBC NEWS CORRESPONDENT: We did. And we have a poll and we show the initial gauge of the public, the default position is don`t raise it. Look at this, 44 percent say no, 22 percent say yes. The White House pushing back on this poll saying you have to explain it to the people. Well, this is the exact same place the debt ceiling was in April 2011. Now, by the time if hit a crisis point, more of the public moved into in favor of raising the debt ceiling, but what this shows is the president has to use political capital and time to flip these numbers. It`s going to be a lot of work.

#### More qualified ev—partisanship doesn’t make a deal impossible, but messaging and reputation are key

**Binder, 9/25/13 -** professor of political science at George Washington University and a senior fellow at the Brookings Institution(Sarah, “Why the debt limit doomsayers might be wrong” Washington Post,

http://www.washingtonpost.com/blogs/monkey-cage/wp/2013/09/25/why-the-debt-limit-doomsayers-might-be-wrong/

Brian Beutler at Salon has taken the “debt limit freakout caucus” to task. But I think there’s more to be said about “zones of agreement” and whether they are necessary for making legislative deals. Klein is of course correct about the wide gulf between the parties: Keith Poole and Howard Rosenthal’s standard measures of partisan polarization (which capture lawmakers’ policy views and partisan strategy) show no overlap between the political parties. Still, I think we risk overestimating the odds of breaching the debt ceiling if we focus on zones of policy agreement. An alternative view of deal-making does not eliminate uncertainty about whether the parties will reach an agreement to raise the debt limit. But it does suggest that the prospects for a deal might be stronger than we might otherwise expect based on policy grounds alone.

Some thoughts, culled from ongoing project with Frances Lee:

First, policy and politics are always intertwined. This means that deal making is not merely a matter of finding the ideological sweet spot between competing coalitions. Instead, common ground is typically a joint function of policy views and political calculation. Such calculations are multifaceted. Lawmakers must justify any deals to active supporters back home, knowing that their constituents are unlikely to know what is possible or not in Congress. Lawmakers also worry about their reputations: They will not necessarily vote for a deal that they support on policy grounds if the vote could harm their public image. And vice versa: Lawmakers might support a deal that they object to on policy grounds if their support would be helpful to their image. Party reputations also influence the chances of a deal, particularly if individual lawmakers stand to benefit electorally from a favorable party image that might result from reaching agreement. With policy and politics so tightly intertwined, parties can reach a deal even without an overlapping set of policy views. A zone of agreement might be neither necessary nor sufficient for generating a legislative agreement.

Second, I think it’s important to keep in mind that the jurisdiction of Congress is essentially universal. As former Rep. Barney Frank has said, “anything can be the basis for a deal.” If competing coalitions have different priorities, adding each element to a deal provides different lawmakers with alternative reasons to support a deal. Granted, the White House’s stated unwillingness to negotiate over the debt limit complicates a strategy that capitalizes on crafting a deal from parties’ divergent priorities. Even so, the March deal on raising the debt limit is suggestive: Republicans agreed to suspend the debt limit so long as the Senate passed a budget. Coupling different priorities became the basis for a deal– even in the absence of shared policy ground.

Third, even a party’s decision about whether to negotiate is driven by politics. Party leaders inevitably ask: Which party will suffer more politically if a deal is not done? Anticipation of losing the public blame game can drive partisans to the table, even when they disagree about policy. Senate GOP disagreement over whether to risk shutting down the government over funding for Obamacare is a good example. Deals become possible even in the absence of a zone of agreement if the political costs of saying no are too steep. Whether House GOP leaders can convince sufficient numbers of their rank and file to support a clean CR on those grounds remains to be seen, but is likely.

### 2nc link wall

#### **Having to defend authority against Congress derails the agenda**

Kriner 10 Douglas L. Kriner (assistant professor of political science at Boston University) “After the Rubicon: Congress, Presidents, and the Politics of Waging War”, University of Chicago Press, Dec 1, 2010, page 68-69.

While congressional support leaves the president’s reserve of political capital intact, congressional criticism saps energy from other initiatives on the home front by forcing the president to expend energy and effort defending his international agenda. Political capital spent shoring up support for a president’s foreign policies is capital that is unavailable for his future policy initiatives. Moreover, any weakening in the president’s political clout may have immediate ramifications for his reelection prospects, as well as indirect consequences for congressional races.59 Indeed, Democratic efforts to tie congressional Republican incumbents to President George W. Bush and his war policies paid immediate political dividends in the 2006 midterms, particularly in states, districts, and counties that had suffered the highest casualty rates in the Iraq War. 60 In addition to boding ill for the president’s perceived political capital and reputation, such partisan losses **in Congress** only further imperil his programmatic agenda, both international and domestic. Scholars have long noted that President Lyndon Johnson’s dream of a Great Society also perished in the rice paddies of Vietnam. Lacking the requisite funds in a war-depleted treasury and the political capital needed to sustain his legislative vision, Johnson gradually let his domestic goals slip away as he hunkered down in an effort first to win and then to end the Vietnam War. In the same way, many of President Bush’s highest second-term domestic proprieties, such as Social Security and immigration reform, failed perhaps in large part because the administration had to expend so much energy and effort waging a rear-guard action against congressional critics of the war in Iraq.61 When making their cost-benefit calculations, presidents surely consider these wider political costs of congressional opposition to their military policies. If congressional opposition in the military arena stands to derail other elements of his agenda, all else being equal, the president will be more likely to judge the benefits of military action insufficient to its costs than if Congress stood behind him in the international arena.

#### Only legislation does that—the counterplan is voluntary

Samples 11 John Samples (director of the Cato Institute’s Center for Representative Government, adjunct professor at Johns Hopkins University, previous director of Georgetown University Press.) “Congress Surrenders the War Powers: Libya, the United Nations, and the Constitution.” Policy Analysis No. 687. October 27 2011. //CC

But political representation has other facets. It has given voice to public dissatisfaction about wars proper and limited wars. Congress “has historically been actively engaged in debates over the proper conduct of major military initiatives. It has proposed, publicly debated, and voted on various legislative initiatives to authorize or curtail the use of force.” Congress has also held hearings about the conduct of limited and proper wars.215 Many believe that such legislative actions have little effect on the president. Yet such actions can affect the cost-benefit calculations of the president in pursuing or failing to pursue a limited war. Congress can raise the costs of a policy by shaping and mobilizing public opinion against a war, thereby increasing the cost in political capital a president must pay to sustain a policy. Congressional actions also signal disunity (or unity) to foreign actors, who in turn act on their expectations, thereby raising the costs of a limited war. Congressional actions also affect presidential expectations about how the conduct of a war will be received in the legislature; Congress can thus influence presidential policies without directly overturning them.216 Systematic evidence indicates that since 1945 Congress has been able to influence presidential policies through these means.217 Although short of constitutional propriety, congressional voice can matter in war-making. How might congressional voice matter in regard to the current and future practice of limited wars? Congress can constrain presidents by affecting public opinion and thereby raising the costs for presidential policies.

#### No offense—the public trusts Obama—they don’t see a need for Congressional intrusion

Morley 12 Jefferson Morley (staff writer for Salon in Washington and author of the forthcoming book, Snow-Storm in August), “Hatred: What drones sow The hidden and growing danger of Obama's remote air war in Pakistan and Yemen” Salon. TUESDAY, JUN 12, 2012. http://www.salon.com/2012/06/12/hatred\_what\_drones\_sow/ //Chappell

Of course, if the hostility of foreigners is the price of safety most Americans will gladly pay it. Obama’s drone war is politically popular at home. Michael Cohen gloats in Foreign Policy that the “kill list” will not hurt President Obama politically because “Americans don’t just like drone warfare — they love it.” He cites that Washington Post poll in February that found that 83 percent of Americans approve of Obama’s drone policy, including 77 percent of liberal Democrats. But approval is not the same as love, and liberal support for Obama may well resemble conservative support for President Bush’s attack on Iraq in 2003: broad, shallow and short-lived. Only a fraction of all American liberals have been following the issue closely; they’ve got other things closer to home to worry about. It is unlikely that most of the president’s liberal supporters even knew much about the drone war beyond what pollsters told them. It is only since Brennan’s Wilson Center speech in late April that the drone war has been publicly acknowledged in any detail. In the absence of a terror attack on the U.S. territory, it is not surprising that the citizenry trusts **the president’s assurances** that U.S. policy is keeping them safer. Those claims are plausible at one level. Obama’s ferocious extra-constitutional drone war probably has decreased the threat of an attack on American civilians, at least in the short term. Leaving aside its legality, the assassination of Anwar Awlaki last September eliminated the most persistent, creative and charismatic planner of attacks on targets in the U.S homeland.

#### Obama believes he has authority to call shots on drone policy—even if the policy itself is the same, Congressional first move is unacceptable

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.

#### The President has institutional incentives to resist encroachments on authority even if he agrees with the policy

**Posner and Vermeule, 8 -** \*professor of law at the University of Chicago AND \*\*professor of law at Harvard (Eric and Adrian, “Constitutional Showdowns” 156 U. Pa. L. Rev. 991, lexis)

In many historical cases, Congress and the President agree about the policy outcome but disagree about lines of authority. For example, suppose that the executive branch has made a controversial decision, and a suspicious Congress wants the relevant executive officials to testify about their role in that decision. The President believes that Congress has no right to compel the officials to testify, whereas Congress believes that it has such a right. However, the President, in fact, does not mind if the officials testify because he believes that their testimony will reveal that the decision was made in good faith and for good reasons. [\*1016] The President's problem is that, if he allows the officials to testify, Congress and the public might interpret his acquiescence as recognition that Congress has the power to force executive officials to testify. If he refuses to allow the officials to testify, then he preserves his claim of executive privilege but loses the opportunity to show that the decision was made in good faith. In addition, he risks provoking a constitutional impasse in which Congress could eventually prevail - if, as we have discussed, public constitutional sentiment turns out to reject executive privilege in these circumstances. Congress faces similar dilemmas, for example, when it approves of officials nominated by the President for an agency or commission but wants to assert the power in general to impose restrictions on appointments. Political agents have long relied on a middle way to avoid the two extremes of acquiescence, on the one hand, and impasse, on the other. They acquiesce in the decision made by the other agent while claiming that their acquiescence does not establish a precedent. Or, equivalently, they argue that their acquiescence was a matter of comity rather than submission to authority. Are such claims credible? Can one avoid the precedential effect of an action by declaring that it does not establish a precedent - in effect, engaging in "ambiguous acquiescence"? The answer to this question is affirmative as long as the alternative explanation for the action is in fact credible. If, for example, observers agree that the President benefits from the testimony of executive officials, then his acquiescence to a congressional subpoena has two equally plausible explanations: that he independently benefits from the testimony, or that he believes that public constitutional sentiment rejects executive privilege. The response is thus ambiguous, and Congress may be no wiser about what will happen in the future when the President does not wish to permit officials to testify because their testimony would harm him or executive branch processes. If so, the ambiguous nature of the action does not establish a focal point that avoids an impasse in the future. On the other hand, if the President's claim that he benefits from the testimony is obviously false, then his authority will be accordingly diminished. This is why ambiguous acquiescence is not a credible strategy when the President and Congress disagree about the policy outcome. If the President thinks the war should continue, Congress thinks the war should end, and the President acquiesces to a statute that terminates the war, then he can hardly argue that he is acting out of comity. He could only be acting because he lacks power. But an agent can lack authority in more complicated settings where no serious [\*1017] policy conflict exists. If the President makes officials available for testimony every time Congress asks for such testimony, and if the testimony usually or always damages the President, then his claim to be acting out of comity rather than lack of authority eventually loses its credibility. Repeated ambiguous acquiescence to repeated claims over time will eventually be taken as unambiguous acquiescence and hence a loss of authority. For this reason, a President who cares about maintaining his constitutional powers will need to refuse to allow people to testify even when testimony would be in his short-term interest.

### AT: Econ D

#### Global growth solves war

**Royal 10** – Jedediah Royal, Director of Cooperative Threat Reduction at the U.S. Department of Defense, 2010, “Economic Integration, Economic Signaling and the Problem of Economic Crises,” in Economics of War and Peace: Economic, Legal and Political Perspectives, ed. Goldsmith and Brauer, p. 213-215

Less intuitive is how periods of economic decline may increase the likelihood of external conflict. Political science literature has contributed a moderate degree of attention to the impact of economic decline and the security and defence behaviour of interdependent states. Research in this vein has been considered at systemic, dyadic and national levels. Several notable contributions follow.

First, on the systemic level, Pollins (2008) advances Modclski and Thompson's (1996) work on leadership cycle theory, finding that rhythms in the global economy are associated with the rise and fall of a pre-eminent power and the often bloody transition from one pre-eminent leader to the next. As such, exogenous shocks such as economic crises could usher in a redistribution of relative power (see also Gilpin, 1981) that leads to uncertainty about power balances, increasing the risk of miscalculation (Fearon. 1995). Alternatively, even a relatively certain redistribution of power could lead to a permissive environment for conflict as a rising power may seek to challenge a declining power (Werner, 1999). Separately, Pollins (1996) also shows that global economic cycles combined with parallel leadership cycles impact the likelihood of conflict among major, medium and small powers, although he suggests that the causes and connections between global economic conditions and security conditions remain unknown.

Second, on a dyadic level, Copeland's (1996. 2000) theory of trade expectations suggests that 'future expectation of trade' is a significant variable in understanding economic conditions and security behaviour of states. He argues that interdependent states are likely to gain pacific benefits from trade so long as they have an optimistic view of future trade relations. However, if the expectations of future trade decline, particularly for difficult  to replace items such as energy resources, the likelihood for conflict increases, as states will be inclined to use force to gain access to those resources. Crises could potentially be the trigger for decreased trade expectations either on its own or because it triggers protectionist moves by interdependent states.4

Third, others have considered the link between economic decline and external armed conflict at a national level. Blomberg and Hess (2002) find a strong correlation between internal conflict and external conflict, particularly during periods of economic downturn. They write:

The linkages between internal and external conflict and prosperity are strong and mutually reinforcing. Economic conflict tends to spawn internal conflict, which in turn returns the favour. Moreover, the presence of a recession tends to amplify the extent to which international and external conflicts self-reinforce each other. (Blomberg & Hess, 2002. p. 89)

Economic decline has also been linked with an increase in the likelihood of terrorism (Blomberg. Hess. & Weerapana. 2004). which has the capacity to spill across borders and lead to external tensions.

Furthermore, crises generally reduce the popularity of a sitting government. 'Diversionary theory' suggests that, when facing unpopularity arising from economic decline, sitting governments have increased incentives to fabricate external military conflicts to create a 'rally around the flag' effect. Wang (1990, DeRouen (1995). and Blomberg, Hess, and Thacker (2006) find supporting evidence showing that economic decline and use of force are at least indirectly correlated. Gelpi (1997), Miller (1999), and Kisangani and Pickering (2009) suggest that the tendency towards diversionary tactics are greater for democratic states than autocratic states, due to the fact that democratic leaders are generally more susceptible to being removed from office due to lack of domestic support. DeRouen (2000) has provided evidence showing that periods of weak economic performance in the United States, and thus weak Presidential popularity, are statistically linked to an increase in the use of force.

In summary, recent economic scholarship positively correlates economic integration with an increase in the frequency of economic crises, whereas political science scholarship links economic decline with external conflict at systemic, dyadic and national levels.' This implied connection between integration, crises and armed conflict has not featured prominently in the economic-security debate and deserves more attention.

#### Economic decline causes global totalitarianism and turns the case

Tilford 8 — Earl Tilford, military historian and fellow for the Middle East and terrorism with The Center for Vision & Values at Grove City College, served as a military officer and analyst for the Air Force and Army for thirty-two years, served as Director of Research at the U.S. Army’s Strategic Studies Institute, former Professor of History at Grove City College, holds a Ph.D. in History from George Washington University, 2008 (“Critical Mass: Economic Leadership or Dictatorship,” Published by The Center for Vision & Values, October 6th, Available Online at http://www.visionandvalues.org/2008/10/critical-mass-economic-leadership-or-dictatorship/, Accessed 08-23-2011)

Nevertheless, al-Qaeda failed to seriously destabilize the American economic and political systems. The current economic crisis, however, could foster critical mass not only in the American and world economies but also put the world democracies in jeopardy.

Some experts maintain that a U.S. government economic relief package might lead to socialism. I am not an economist, so I will let that issue sit. However, as a historian I know what happened when the European and American economies collapsed in the late 1920s and early 1930s. The role of government expanded exponentially in Europe and the United States. The Soviet system, already well entrenched in socialist totalitarianism, saw Stalin tighten his grip with the doctrine of "socialism in one country," which allowed him to dispense with political opposition real and imagined. German economic collapse contributed to the Nazi rise to power in 1933. The alternatives in the Spanish civil war were between a fascist dictatorship and a communist dictatorship. Dictatorships also proliferated across Eastern Europe.

In the United States, the Franklin Roosevelt administration vastly expanded the role and power of government. In Asia, Japanese militarists gained control of the political process and then fed Japan's burgeoning industrial age economy with imperialist lunges into China and Korea; the first steps toward the greatest conflagration in the history of mankind ... so far ... World War II ultimately resulted. That's what happened the last time the world came to a situation resembling critical mass. Scores upon scores of millions of people died.

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.

#### Leads to global power vacuums—brings every conflict over the brink

**Dadush**, Carnegie International Economics Senior Associate and Director, **12-8-11**

[Uri, Uri Dadush is senior associate and director in Carnegie’s International Economics Program. His work particularly focuses on trends in the global economy, and he is interested in the implications of the increased weight of developing countries for the pattern of financial flows, trade and migration, and the associated economic policy and governance questions. He is the editor of the International Economic Bulletin, and the co-author of Paradigm Lost: The Euro in Crisis (Carnegie report, June 2010), Currency Wars (Carnegie report, September 2011), and of Juggernaut: How Emerging Markets Are Reshaping Globalization (Carnegie book, 2011). "The Long-Term Economic Outlook for the United States and its International Implications", http://www.carnegieendowment.org/2011/12/08/long-term-economic-outlook-for-united-states-and-its-international-implications/84c2#]

In the bad scenario, the eurozone unravels. The European Union still exists, but as an empty shell around a fragmented continent mired in a prolonged depression. Suffering from another global crisis, Japan remains ensnared in its decades-long slump. With the United States increasingly withdrawn, and few countries willing to follow an authoritarian and mercantilist China (assuming it does not adapt quickly to playing a more prominent global role), a large and dangerous global power vacuum is created. There is also a dearth of values and ideas, as the Washington Consensus becomes discredited and the world’s most successful economy, China, is built on a one-party, state-driven system. Progress on climate change, trade reform, financial and monetary system reform, and global governance grinds to a halt, and the trading system may be thrown into reverse by a revival of protectionism. A weaker and less secure international community reduces its aid effort, leaving impoverished or crisis-stricken countries to fend for themselves and, therefore, multiplying the chances of grievance and peripheral conflicts. The United States loses its proportionally greatest influence to regional hegemons—China in Asia and Russia in Eastern Europe and Central Asia—while Western Europe would remain divided and rudderless. The Middle East finds itself riven by numerous rivalries that occasionally erupt into open conflict and oil price shocks. More generally, the absence of leadership and confusion on values makes the reconciliation of disputes more difficult and tempts the strongest to take risks they would not otherwise take. Conclusion Which of the stories is more likely to be realized? I believe the good scenario is the more likely, though many would disagree. What is clear is that the outcome will depend crucially on today’s decisions, and, if mistakes are made, the bad scenario may well materialize. The overriding lesson of these two futures is that there is more at stake in current economic policy debates in Washington and Brussels than most people realize. A return of the United States and European economies to health over a reasonable time frame is vital for preserving the current international order and reestablishing a sound base for continued prosperity and peace.

## 2nr

### uniqueness card

#### Now is unique

**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.